

Thunderchild First Nation



**INFORMATION PACKAGE FOR
MEMBERSHIP REGARDING:**

**TREATY 6 AGRICULTURAL BENEFITS
CLAIM SETTLEMENT**

Introduction

The purpose of this Information Package is to inform members of Thunderchild First Nation (“Thunderchild” or the “First Nation”) on matters related to the Thunderchild First Nation Treaty 6 Agricultural Benefits Claim Settlement Agreement (the “Settlement Agreement”).

This package provides an overview of the historical basis and legal basis of the Claim, an overview of its procedural history, a summary of the proposed Settlement Agreement and answers to frequently asked questions regarding the settlement agreement.

THUNDERCHILD FIRST NATION TREATY 6 BENEFITS CLAIM

Historical Basis of the Claim

Treaty 6 and the Survey of the IR No. 115

- In 1876, Canada entered into Treaty 6 with the Plains and Wood Cree and other tribes in what is now the central regions of Alberta and Saskatchewan.

- The text of Treaty 6 States:

“It is further agreed between Her Majesty and the said Indians, that the following articles shall be supplied to any Band of the said Indians who are now cultivating the soil, or who shall hereafter commence to cultivate the land, that is to say: Four hoes for every family actually cultivating; also, two spades per family as aforesaid: one plough for every three families, as aforesaid; one harrow for every three families, as aforesaid; two scythes and one whetstone, and two hay forks and two reaping hooks, for every family as aforesaid, and also two axes; and also one cross-cut saw, one hand-saw, one pit-saw, the necessary files, one grindstone and one auger for each Band; and also for each Chief for the use of his Band, one chest of ordinary carpenter's tools; also, for each Band, enough of wheat, barley, potatoes and oats to plant the land actually broken up for cultivation by such Band; also for each Band four oxen, one bull and six cows; also, one boar and two sows, and one hand-mill when any Band shall raise sufficient grain therefor. All the aforesaid articles to be given once and for all for the encouragement of the practice of agriculture among the Indians.”

- Immediately after the signing of Treaty 6, Canada's Treaty Commissioners informed government officials that the Cree signatories were eager to commence cultivation of their reserve land and emphasized the importance of providing them with the livestock and agricultural implements promised under Treaty without delay.
- In August of 1879, the Thunderchild Band adhered to Treaty 6. After adhesion, the Thunderchild Band was forced by the live on the Moosomin Reserve by the Department of Indian Affairs
- Reports of the impending extinction of the buffalo, causes Lieutenant Governor and Indian Superintendent of the North-West David Laird to warn that the situation is becoming grave, and the Treaty 6 people were requesting provisions in the face of

famine. Laird warned the government that they would be soon faced with three choices: (1) help the Indians farm and raise stock; (2) feed them; or (3) fight them.

- In the Spring of 1881, a reserve for Thunderchild was surveyed approximately 75 km North-West of the Moosomin Reserve. The reserve was surveyed at a significant shortfall when compared to the actual entitlement of the Thunderchild Band. The Band did not move to this reserve for several more years.
- On June 18, 1881, Thunderchild's Indian Agent Hayter Reed, reports to the Indian Commissioner that he ensured the policy of "no work no pay" was carried out strictly.
- In the summer of 1881, the Governor General, the Marquis of Lorne, tours the North-West and is presented with grievances from the Treaty 6 bands. The chiefs spoke of their starvation, primarily about starvation and lack of farm implements and livestock. They requested cattle, a reaper, thrasher, access to grist mills, winter clothing and medical assistance.
- Beginning in 1883, the Department of Indian Affairs drastically reduced funding, which negatively impacted the progress achieved by a number of Bands in farming.
- In his November 15, 1883, report, Deputy Superintendent of Indian Affairs Vankoughnet reported to John A. MacDonald that Thunderchild wanted to improve his own reserve and that he considered the work he did on Moosomin's Reserve to be of no value to his band.
- The Annual Report of the Department of Indian Affairs stated that the three Bands living on Moosomin's Reserve (including the Thunderchild Band) had achieved some moderate success in initial farming operations.
- In 1884 a second survey redefined the boundaries of the Thunderchild reserve adding 8.5 square miles of hay lands to the north side of the North Saskatchewan River.
- In 1884, a group of Cree Chiefs in the Battleford and Carlton areas sent a list of grievances to the Crown regarding its failure to provide the promised Treaty 6 Agricultural Benefits.
- In 1884 the Thunderchild Band is largely settled on the resurveyed reserve. In his Annual Report as Indian Commissioner, Dewdney states:

The result of their work this summer, has been 90 acres broken and cropped, much of it brushed, and it resembles a well kept farm... This band will be held up as a pattern to those

who are still unsettled, and who fear they will not be able to provide for themselves, with the assistance given them by the government.

- The 1884 returns are reported as 120 bushels of wheat, 320 bushels of barley, 45 bushels of potatoes and 200 bushels of turnips. The Band had 10 oxen; it is not clear if they were received under Treaty or on loan. The Band also privately owned 10 horses.
- In the wake of the Northwest Rebellion, the Thunderchild Band is unilaterally labeled as “rebels” or “disloyal.” There was no evidence that the Chief or members of the Band played any role in the hostilities.
- The 1885 returns are reported as only 1.5 bushels of potatoes being harvested.
- Although the Crown’s failure to provide the tools and implements promised under Treaty 6 made the transition to agriculture extremely difficult for the Band, it was the imposition of the Crown’s “Indian Agricultural Policies” in the aftermath of the 1885 Northwest Resistance which ensured that the premise of the treaty promise was frustrated entirely. These policies included:
 - The Home Farm Program: Initiated in 1879, farming instructors were sent to live on reserves and establish model farms, allegedly to teach farming skills. Instructors were generally incompetent, appointed based on nepotism rather than skill.
 - The Permit System: introduced in the early 1880s and intensified in 1885, this policy was designed to ensure that indigenous farmers could never reach the level of economic success of settler farmers by restricting access to all off-reserve markets.
 - The Pass System: This policy forced Indians to stay on their reserve without a “pass” from a Department Official.
 - The Birtle System: the “cattle-on-loan” program which took the authority to manage livestock away from Indian farmers by centralizing cattle ownership of all government supplied cattle with the Department.
 - The Peasant Farming Policy: required Indian farmers use out-of-date technologies in farming operations rather than industrialized technology. Under this policy, families were expected to have an acre of wheat, an acre of roots and vegetables and the product of a cow or two in order to achieve a frugal economic

self-sufficiency. This was completely at odds with the purpose of the Treaty 6 promise to provide the foundation to transition to an agricultural economy. The policy was intended to reduce expenditures on rations by the government, not to assist in a transition to agriculture.

- In the last decades of the 1800's the Thunderchild Band utilized agricultural implements and tools, however many of these items were not provided under Treaty 6, but were rather bought by individual Indians, loaned, shared between reserves or agencies, or otherwise acquired outside of the Crown's Treaty obligations.
- Canada's harsh and repressive policies amplified the impact of the broken treaty promises and completely undermined the transition to an agricultural economy.

THUNDERCHILD FIRST NATION TREATY 6 BENEFITS CLAIM

Legal Basis of the Claim

Pursuant to the terms of Treaty 6, Canada was required to provide agricultural benefits and instruction to facilitate each signatory Bands' transition to a self-sufficient agricultural economy.

The Treaty 6 Agricultural Benefits Claim arises from Canada's failure to provide the full complement of promised benefits and instruction owing to the Thunderchild First Nation, including:

- The failure to provide agricultural implements, tools, livestock, and seed for the cultivation and encouragement of agriculture.
- The failure to provide agricultural instruction, information, and education about agricultural practices, techniques, tools and equipment, livestock, and crops, to enable members of the Nation to transition to a self-sufficient agricultural economy.
- The implementation of discriminatory policies that negatively impacted the Band's ability to succeed in agriculture.

THUNDERCHILD FIRST NATION TREATY 6 BENEFITS CLAIM

Procedural History

- **January 2013:** Claim drafted and filed in Federal Court under former legal counsel. No meaningful progress is made while this matter sat with the Federal Court.
- **September 12, 2019:** Thunderchild retains Maurice Law to take all necessary steps to advance and resolve the Claim.
- **December 2, 2019:** Thunderchild Treaty 6 Benefits Claim filed with Canada under the Specific Claims Policy.
- **June 9, 2020:** Canada confirms the Claim has passed “early review” process and the Claim is formally deemed as filed with Minister. Under the Specific Claims Policy, Canada has 3 years from this date to review and assess the Claim.
- **June 9, 2022:** Thunderchild sends proposal to Canada to negotiate and settle the Claim on an expedited basis.
- **May 29, 2023:** Canada offers to seek a mandate to settle the Claim.
- **June 2023:** Parties negotiate and attend negotiation meetings.
- **September 13, 2023:** The Crown sends an offer to settle the Claim for \$155,400,000.
- **September – November 2023:** Parties negotiate terms of Settlement Agreement.
- **November 27, 2023:** Terms of Thunderchild First Nation Treaty 6 Benefits Claim Settlement Agreement are agreed to by the Parties.

THUNDERCHILD FIRST NATION TREATY 6 BENEFITS CLAIM

Summary of the Proposed Settlement Agreement

Overview

The *Thunderchild First Nation Treaty 6 Agricultural Benefits Settlement Agreement* is an agreement to settle Thunderchild First Nation's Treaty 6 Agricultural Benefits Claim against Canada fully and finally.

This Agreement does not impact any of Thunderchild First Nation's other Specific Claims.

This Agreement it does not and cannot alter any Treaty 6 rights of Thunderchild First Nation or its members in any way.

If the terms of this proposed agreement are acceptable to members and approved at a ratification vote, the Chief and Council of Thunderchild First Nation and the Minister of Crown-Indigenous Relations and Northern Affairs will sign the Settlement Agreement.

Compensation would be paid to Thunderchild within 45 days of the Minister signing the Settlement Agreement.

Once the Settlement Agreement is signed, it is a binding agreement on both Canada and the First Nation. When Canada pays compensation, the Treaty 6 Agricultural Benefits Claim will fully and permanently, be resolved.

The full Settlement Agreement is included in this information package for your review. It is a complex legal document written by lawyers.

As a result, we have drafted the following summary and explanation of each section contained within the Settlement Agreement. This document can be used as a guide to better understand the Settlement Agreement.

Summary of Key Clauses in the Settlement Agreement

Preamble

- The Recitals (or "Whereas" section) of a legal document is intended to provide an explanation of the wider context of the agreement. The Recitals contained in the Settlement Agreement provide the history of the Claim and highlight that the Settlement Agreement is a full, fair, and final settlement of the Claim.

- The Settlement Agreement does not alter the Treaty relationship between the First Nation and Canada, and does not affect or alter any Aboriginal and Treaty 6 rights as affirmed by s. 35 of the Constitution Act, 1982.
- The Settlement Agreement *only relates to the* Treaty 6 Agricultural Benefits Claim. The Settlement Agreement does not prevent Thunderchild First Nation from pursuing any other claims against the federal Crown. All other claims relating to other breaches of treaty, rights, laws, contracts or any other agreements between Thunderchild First Nation and the Federal Crown can still be pursued.

Article 1: Definitions and Schedules

- This section provides definitions of key terms used in the Settlement Agreement.

Article 2: Purpose

- Articles 2.1 and 2.2 describe the purpose of the Settlement Agreement, which is to provide equitable compensation to Thunderchild First Nation for Canada's failure to provide Agricultural Benefits and Instruction. Equitable compensation is owing to Thunderchild First Nation because of the Crown's breach of fiduciary duty. Equitable compensation is monetary damages that seek to put the claimant in the position it would have been "but for" the Crown's unlawful conduct.
- The other purpose of the Settlement Agreement as described in this section is to fully and finally resolve Canada's obligations to the Nation and resolve any outstanding liability arising from the Treaty 6 Agricultural Benefits Claim.
- The remainder of Article 2 provides additional context for the Agreement and how it may relate to Thunderchild First Nation's other specific claims. The gist of these Articles is that the parties are able to refer to this settlement while negotiating other settlements, although Thunderchild *is not providing any release of liability* for Canada in relation to any other claims.

Article 3: Compensation

- If the Settlement Agreement is ratified, the total amount of compensation to be paid by Canada to Thunderchild First Nation for the Treaty 6 Agricultural Benefits Claim is \$155,400,000.

- Article 3.5 states that the compensation is not “Indian Moneys,” meaning the provisions of the *Indian Act* relating to the management of Indian Moneys belonging to First Nations will not apply to the compensation funds.

Article 4: Release

- This Article sets out what is being fully and finally resolved through this settlement agreement.
- By accepting the Settlement Agreement Thunderchild First Nation is releasing Canada from any liability regarding this Claim, as well as various other items that relate to the mechanics of the settlement.
- Article 4.3 states that Thunderchild First Nation can still advance any and all other claims against Canada.

Article 5: Indemnity

- By settling this claim, Thunderchild First Nation is agreeing to indemnify Canada if someone later tries to recommence the same claim against Canada.
- This means that if Thunderchild First Nation, a member, or any third party was to bring the same claim against Canada for the issues that are being resolved by the Thunderchild First Nation Treaty 6 Agricultural Benefits Settlement Agreement, Canada will have to notify Thunderchild of any such Claim and Thunderchild can choose to participate in any such claim.
- Thunderchild First Nation chooses not to participate in any such lawsuit and Canada ultimately settled that lawsuit, Canada has the option (but not the obligation) to seek to recover some of its costs from Thunderchild First Nation.

Article 6: Dismissal of Proceedings

- Thunderchild First Nation agrees to abandon or discontinue the Federal Court Action in respect of the Treaty 6 Agricultural Benefits Specific Claim against Canada.

Article 7: Ratification

- Ratification requires 25% plus one of the eligible voters to cast ballots in the Ratification Vote (a “Quorum”).

- If a Quorum votes and the majority of the votes are in favour of the Settlement Agreement and Trust Agreement, then the ratification passes.
- If a Quorum votes and the majority of the votes are reject the Settlement Agreement and Trust Agreement, then the ratification fails.
- If *less* a Quorum casts ballots in the Ratification Vote, but a majority of the votes cast are in favour of the Settlement Agreement and the Trust Agreement, a second Ratification Vote may be called.
- If the Settlement Agreement and Trust Agreement are approved by a majority of voters in a second vote, then the ratification passes.

Article 8: Conditions to Execution by Canada

- Certain steps must be satisfied before Canada will execute the Settlement Agreement and pay compensation to Thunderchild First Nation. This includes the Ratification of the Settlement Agreement and the Trust Agreement, execution of a Band Council Resolution approving the terms and conditions of the Settlement Agreement, the execution of the Settlement Agreement by Thunderchild First Nation Chief and Council, the Minister’s execution of the Settlement Agreement, the set-up of the Trust Account and direction to Canada to pay the compensation into the Trust Account, and Canada’s receipt of all other required documents including the Solicitor’s Certificate and Financial Advisor’s Certificate.

Article 9: Execution

- If ratified by membership, the Settlement Agreement is signed by Chief and Council of Thunderchild First Nation and sent to the Minister of Crown-Indigenous Relations and Northern Affairs for signature. Once signed by the Council and the Minister, the Settlement Agreement is considered “fully executed.”

Article 10: Effective Date of Settlement Agreement

- The Settlement Agreement will come into effect and bind the parties on the date in which the Settlement Agreement is executed by Canada.

Article 11: Representations & Warranties

- Representations and Warranties are legal acknowledgements by Thunderchild First Nation that are certified by the Nation as a pre-condition to executing the Settlement Agreement.
- Article 11.1(a) is particularly significant as it is a legally binding acknowledgement that Thunderchild First Nation will utilize the Compensation for the long-term investment and sustainable benefit of the Thunderchild First Nation. This reflects the language and purpose of the Trust Agreement.
- Thunderchild First Nation also represents and warrants that it held Information Meetings and retained independent legal and financial advice regarding the Settlement Agreement and Trust Agreement.

Article 12: Dispute Resolution

- If a dispute arises in relation to the interpretation of the Settlement Agreement, Thunderchild First Nation and Canada must try to resolve it through dispute resolution before applying to the court.

Article 13: Programs and Services

- This Article states that ratifying this Settlement Agreement and accepting the Compensation will not affect the ability of the First Nation or any of its Members to be eligible to apply for, or continue to have access to funding for programs and services offered by Canada.

Article 14: Non-Derogation

- The Settlement Agreement will not in any way abrogate, derogate, or alter any existing Aboriginal Treaty rights of the First Nation as recognized and affirmed by Treaty 6 and section 35 of the Constitution Act, 1982.

Article 15: Amendments

- The Settlement Agreement may only be amended upon approval through the same ratification procedures as the Settlement Agreement was approved.
- Administrative amendments to correct typos or minor issues can be made by way of an agreement between the Parties.

Article 16: Notice

- This section includes contact information for the parties.

Article 17: General Provisions

- This section includes principles to assist in the interpretation of the Settlement Agreement.

Schedules

- The remaining attachments to the Settlement Agreement set out the technical form of documents such as the Ballot Question; the Form of Band Council Resolutions for Direction to Pay; Certificate of Independent Legal Advice; the Certificate of Independent Financial Advice; the form for Band Council Resolutions for the settlement of this Claim and attaches the Declaration of Claim filed at the Tribunal (which is referentially incorporated into the definition of Claim).

THUNDERCHILD FIRST NATION LEGACY TRUST

If the Ratification Vote is successful, the compensation will be deposited into the Thunderchild First Nation Legacy Trust (the “Legacy Trust”). To ensure that the Treaty Benefits Claim compensation and the First Nation’s existing Trust moneys are put to their best use, the Council is proposing to amend and consolidate the First Nation’s existing trusts, including the Thunderchild Treaty Land Entitlement Trust, the Thunderchild 1908 Surrender Trust, and the Piyesiw Awasis Trust into the Legacy Trust. By voting “yes” on the ballot question for the Claim Settlement, you will be voting to approve the terms of the consolidated Legacy Trust.

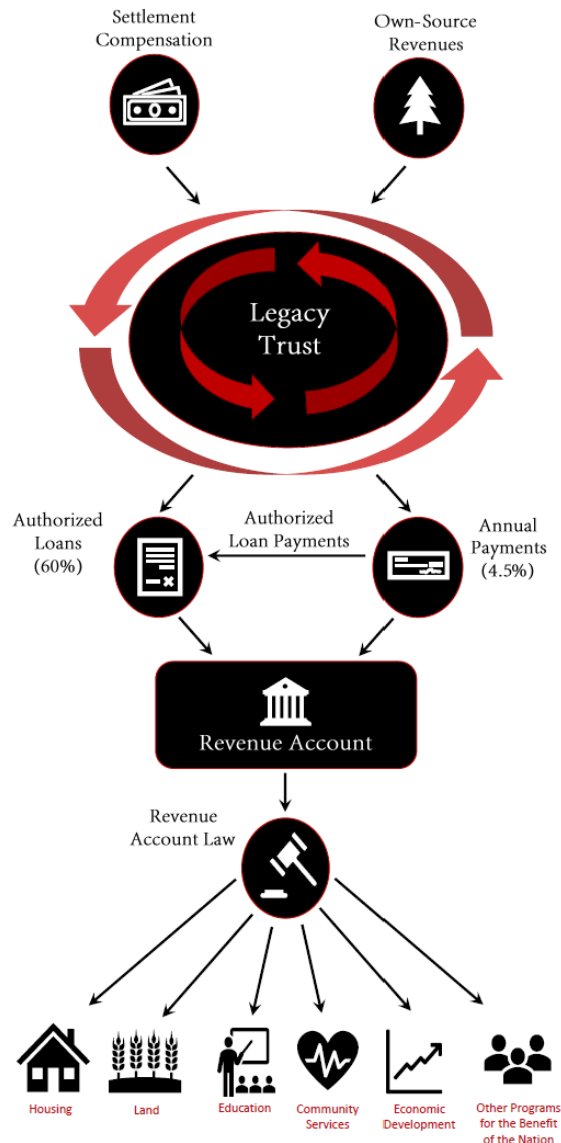
At its core, the Legacy Trust is a specialized investment vehicle which is designed to promote the First Nation’s economic independence. Moneys deposited into the Legacy Trust are governed by a legal framework of the First Nation’s own design with oversight provided by an independent corporate trustee. The Legacy Trust improves access to affordable financing and ensures that any moneys deposited are preserved, protected, and invested for the long-term use and benefit of the First Nation – as long as the sun shines and the rivers flow.

The Legacy Trust is designed to accommodate moneys from a variety of sources, including specific claim settlements, capital and revenue moneys held by the Crown, existing trust moneys, lease income, royalties, gaming revenues, own source revenues, and other moneys which the First Nation may contribute from time to time. Moneys deposited into the Legacy Trust are overseen and by an independent corporate trustee, in this case, CIBC Trust, who owes fiduciary duties to the First Nation. Trust Property is then invested by expert investment managers (chosen and retained by the First Nation), who aim to receive annual returns of 7-8%, without exposing the investment portfolio to unreasonable risks.

The Legacy Trust includes detailed protections to ensure that moneys are spent appropriately for the benefit of the First Nation. The entire value of Trust Property cannot be accessed at any time. Instead, the First Nation can access Authorized Loans of up to 60% of the value of Trust Property and the Trustee is obligated to make a 5.5% Annual Payment to the First Nation for the first five (5) years following payment of the compensation, and 4% Annual Payment every year thereafter. The Authorized Loan Payments cannot exceed 90% of the Annual Payment which means that the First Nation cannot borrow more than it can afford to repay. The balance of the Annual Payment (i.e., the other 10%) can be spent by the First Nation in accordance with the rules set out in the Thunderchild Legacy Trust Revenue Account Law (the “*Revenue Account Law*”).

The amount of the Authorized Loans and the Annual Payment will both increase as the value of Trust Property grows over time. Excess investment returns earned after the Annual Payment is paid to Thunderchild are re-capitalized (i.e. kept in the Trust) to ensure that the value of the Legacy Trust grows over time. This, in turn, allows the First Nation to access larger Authorized Loans and Annual Payments.

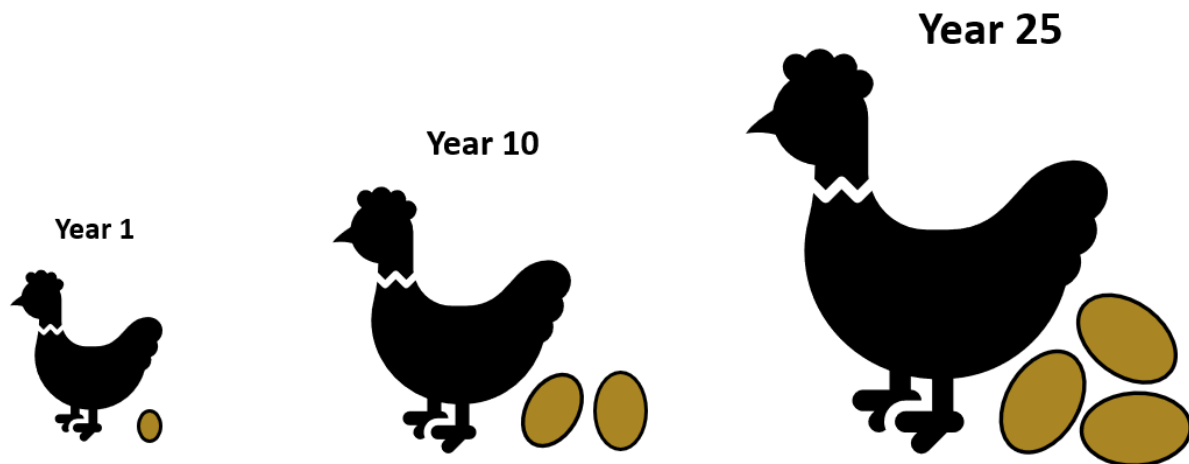
The Legacy Trust structure balances the needs of current and future generations. Current members benefit from immediate access to financing in the form of Authorized Loans and a sustainable Annual Payment. Future members benefit from long-term growth of Trust Property, including access to larger Authorized Loans and increased Annual Payments. The following diagram provides a high-level overview of how the Legacy Trust is structured:



Goose that Lays the Golden Eggs

The Legacy Trust works a lot like the goose that lays the golden eggs. Recall the story about a lucky farmer who comes into possession of a goose that lays one golden egg per day. Initially, the farmer is satisfied with his good fortune, but eventually becomes dissatisfied and convinces himself that if he splits open the goose, he will discover an enormous sum of gold that he may have all at once. He goes on to kill the goose, only to find no gold inside. The farmer ends up with nothing.

The same idea applies to the Legacy Trust. In this case, the golden goose represents the compensation deposited to the Trust, and the golden eggs represent the income received from investment of the compensation (the Annual Payment and funds used to pay Authorized Loans). If the First Nation simply spent the compensation outright, the moneys would be gone forever; doing so would be equivalent to killing the golden goose. Instead, the Legacy Trust is designed to protect and grow the goose, (i.e. Trust Property) so that the First Nation can access more golden eggs (i.e. larger Authorized Loans and Annual Payments from the Legacy Trust to Thunderchild).



Protections

The Legacy Trust includes detailed protections to ensure that moneys deposited into the Legacy Trust are preserved, protected, and invested for the long-term use and benefit of members. Specific protections include:

- an independent corporate trustee is appointed to oversee and administer the Legacy Trust;

- the value of all Authorized Loans cannot exceed 60% of the total value of Trust Property at the time the loans are made;
- the Annual Payment is set at 5.5% of the total value of Trust Property for the first five (5) years, and 4% every year thereafter;
- moneys deposited into the Legacy Trust must be managed in accordance with:
 - the Trust Agreement;
 - The Investment Policy; and
 - the prudent investor principle in *The Trustee Act, 2009*, SS 2009, c T-23.01
- any amendment which could encroach upon or erode the trust capital is not permitted; and
- moneys distributed from the Legacy Trust, including the proceeds of any Authorized Loan and the Annual Payment, must be spent for the benefit of our members in accordance with the *Revenue Account Law*.

These protections ensure that the Trust Capital cannot be accessed or withdrawn by any Chief and Council (present or future) at any one time without violating the terms of the Trust. These protections also ensure that moneys distributed from the Legacy Trust are only spent for the benefit of members.

Investments

The investment provisions of the Legacy Trust are extremely important because they are designed to grow the Trust over time, without exposing the investment portfolio to excessive risk.

The Legacy Trust aims to generate average annual returns of 7-8%. By retaining high-quality Investment Managers, the First Nation can earn higher yields when market conditions are favourable. Since the 1950's, the benchmark rate of return for a balanced investment portfolio has been approximately 9-10%. As long as the Legacy Trust is earning 7% or more, the value of Trust Property will likely outpace inflation and grow over time.

To achieve this objective, the First Nation works with an Investment Manager to prepare an Investment Policy which governs the Legacy Trust's investment portfolio. Among other things, the Investment Policy sets out the policies, objectives, and framework for the investment of Trust Property and includes such matters as the performance objectives of investment management, risk tolerance, asset allocation limits, permitted categories of

investments, and any restrictions on the quantity and quality of investments. By adopting a balanced portfolio, the Trust Property can be insulated from significant losses, insofar as possible. Again, the goal is to maximize returns without exposing the portfolio to undue risk.

Once the Investment Policy is approved, the Trustee works with the Investment Manager to place the investments. The Investment Managers are generally industry leaders with experience and expertise in the discretionary management of investment portfolios for large endowments, pension funds, and high-net worth individuals. Once the moneys are invested, the Trustee monitors the investment portfolio to ensure compliance with the Investment Policy. The Trustee will also work with the Investment Manager to provide regular reporting to the First Nation regarding the performance of the investments. The Trustee does not choose the Investment Manager – the First Nation chooses the Investment Manager based on their track record and expertise.

Authorized Loans

Through the Legacy Trust, the First Nation can also access Authorized Loans to fund special projects, economic development opportunities, and other similar activities as set out in the Revenue Account Law. The amount of all Authorized Loans (at the time they are made) cannot exceed 60% of the Value of Trust Property and the amount of all Authorized Loan Payments must be less than 90% of the Annual Payment to avoid depletion of the Trust. The amount that the First Nation can borrow will grow alongside the value of Trust Property.

Members often ask why the First Nation would take out an Authorized Loan when it could simply spend the money held in trust and not pay any interest. This is based on the misconception that all debt is bad, but there is a difference between “good debt” and “bad debt”.

Credit card debt, for example, is “bad” debt, due to its extremely high interest rate. On the other hand, low interest debt that allows Trust Property to be invested so that it can grow and generate income that exceeds the cost of borrowing would be “good debt”. Authorized Loans fall into the “good debt” category because the Trust is designed to earn more on its investments than the cost of borrowing needed to make the Authorized Loan Payments. This structure allows the First Nation to access Authorized Loans of up to 60% of the trust’s value without actually spending any of the trust capital. Again, the idea is to live off the golden eggs forever, instead of eating the goose, which can only happen once.

For example:

- Imagine that you borrow \$100, invest the money, and make a 6% return (Total: \$106 million)
- If you borrowed the money at 4% interest, the total cost of borrowing would be \$4 (Total after payment of interest: \$102)
- The loan could then be paid off entirely, but you would be left with \$2 more than you started with.

Accountability and Reporting

The Trustee and Investment Managers are required to provide regular reports to the First Nation and these reports must be made available to the membership. The Trustee is also responsible for reviewing the performance of the Investment Managers at regular intervals. Within 120 days of the end of each fiscal year, the Trustee must also appoint an Auditor to audit the financial information of the Legacy Trust. In addition, the Trustee is required to attend one (1) community information meeting per year to present the annual report and financial statements for the Legacy Trust to members.

Distributions to Members

If the Ratification Vote is successful, a Per Capita Distribution (the “Distribution”) will be made to each Member.

Each Thunderchild Adult who is alive on the Eligibility Date will be entitled to receive a one-time Distribution of twenty-five thousand dollars (\$25,000).

Each Thunderchild Minor will receive:

- An initial payment of five thousand dollars (\$5,000); and
- A lump sum payment of twenty thousand dollars (\$20,000) plus 4% interest compounded annually from the Compensation Date until the Thunderchild Minor reaches eighteen (18) years of age.

The initial \$5,000 payment will be paid to the parents of the Thunderchild Minor. Once such Minor turns 18 years of age, they will be required to submit a package of documents, including photo identification to the Trustee, following which they will receive the amount owing.

THUNDERCHILD FIRST NATION

TREATY 6 BENEFITS CLAIM SETTLEMENT AGREEMENT

FREQUENTLY ASKED QUESTIONS

What happens if Thunderchild First Nation Does Not Ratify the Settlement Agreement?

In the event that the Settlement Agreement is rejected, Canada's offer is off the table, and Thunderchild First Nation can return to litigate the Claim before the Specific Claims Tribunal. Legal counsel has advised that it is highly unlikely that the First Nation will achieve a better result if the matter was pursued through litigation, though resolving the Claim in litigation will likely take several years.

How can we tell if this is a good deal that is fair to the First Nation?

It is the view of Chief and Council that Thunderchild First Nation will be better off with the proposed Settlement Agreement than without it, and that the benefits from the proposed Settlement Agreement far outweigh the risks of litigation and the benefits if Thunderchild First were ultimately successful in court.

It should be noted that this settlement is consistent with the approach taken in the previously settled Treaty 4, Treaty 6 and Treaty 8 "cows and ploughs" claims.

What happens if Thunderchild First Nation Ratifies the Settlement Agreement?

In the event the ratification vote is successful, Canada and Thunderchild First Nation will take the necessary steps (as set out in the Settlement Agreement) to finalize and ratify the Settlement Agreement. The \$155.4 million will ultimately be transferred to the Trust within 45 days after the Minister signs the Settlement Agreement and the long-standing Treaty 6 Agricultural Benefits Claim will be deemed concluded.

What happens if Thunderchild First Nation Ratifies the Settlement Agreement and later is unsatisfied with the amount awarded?

The Release and Indemnity clauses discussed above would be relied on by in court Canada to defend against any subsequent claim in relation to the Treaty 6 Agricultural Benefits Claim.

Will the Settlement Agreement affect our Aboriginal and treaty rights or other Federal Funding?

No. The proposed Settlement Agreement does not affect Thunderchild First Nation's existing Aboriginal or treaty rights or any other claims against Canada. The First Nation can still pursue any other specific claim not settled in the Settlement Agreement. The First Nation can also go to court to seek validation or enforcement of any other treaty and Aboriginal rights that they believe have not been recognized, affirmed, or honoured by Canada.

Does Thunderchild First Nation have an ongoing right to “cows and ploughs” payments?

This issue did not form part of the Claim. This Claim was advanced as a specific claim. As a specific claim, by definition, a claimant can only seek damages for past breaches of Treaty 6 by Canada. Thunderchild First Nation did not and could not file a specific claim for ongoing treaty benefits under the Specific Claims Policy and the *Specific Claim Tribunal Act*. The Specific Claims Policy and the Settlement Agreement are both clear that nothing in the Specific Claims Process or in the Settlement Agreement can alter any of Thunderchild First Nation's or its members' rights under Treaty 6.

Like the entitlement to reserve lands, Canada has always taken the position that that the entitlement to cows and ploughs is a one-time entitlement based on the written text of Treaty 6. The text of Treaty 6 states that the agricultural benefits listed in the treaty were to be provided by Canada “*once and for all for the encouragement of the practice of agriculture among the Indians.*” If a future lawsuit for ongoing benefits was pursued, Canada would likely seek to rely on the text of the treaty to support its position that there is no ongoing right, and that they would also likely argue that any such claim would be barred by the Release Clause (Article 4) in this Agreement.