

# **CAYUGA NATION HEMP PLAN**

**Established by the Cayuga Nation Council**

## INTRODUCTION

The Agricultural Improvement Act of 2018 (the “Act”) provides an opportunity for Indian Nations to engage in hemp production following approval of a “Nation plan” submitted directly to the United States Department of Agriculture on a government-to-government basis and consistent with the federal government’s unique relationship with Indian Nations.

The Act also recognizes that Indian Nations, not the federal government, can and should assume primary regulatory authority over hemp production within their jurisdictions. To assume that regulatory authority, the Indian Nation must submit a hemp plan to the USDA under which the Indian Nation monitors and regulates the production of hemp within its jurisdiction. An Indian Nation’s plan must contain the following:

- A practice to maintain relevant information regarding land on which hemp is produced in the territory of the Indian Nation, including a legal description of the land, for a period of not less than three calendar years;
- A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the territory of the Indian Nation;
- A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of the Act and products derived from those plants;
- A procedure to comply with enforcement as set forth in the Act;
- A procedure for conducting annual inspections of, at a minimum, a random sample of hemp produced to verify that hemp is not produced in violation of the Act;
- A procedure for submitting the information required by the Act, as applicable, to the USDA not more than 30 days after the date on which the information is received; and
- A certification that the Indian Nation has the resources and personnel to carry out the practices and procedures described above.

The Cayuga Nation (“Nation”) is a federally recognized Indian Nation, and meets the definition of an Indian Tribe eligible to participate in the production of hemp as defined in the Act. The Nation desires to have primary regulatory authority over the production of hemp in the territory of the Nation. The Cayuga Nation Hemp Plan has been drafted by the Nation to assert tribal sovereignty and to regulate hemp as an agricultural commodity in compliance with federal and Nation laws. Consistent and in compliance with the requirements of the Act, and the Interim Final Rules promulgated by the Department of Agriculture at 7 C.F.R. Part 990 *et seq.*, the Nation hereby adopts the following Cayuga Nation Hemp Plan (the “Nation Plan”).

## Section 1. Definitions

“Applicant” means a person, or a person who is authorized to sign for a business entity, who submits an application to the Nation to participate in the Nation Plan.

“Acceptable hemp THC level” means when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of the Nation’s Hemp Plan is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/-0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of plan compliance. This definition of “acceptable hemp THC level” is not meant to affect either the statutory definition of hemp in the 2018 Farm Bill (codified at 7 U.S.C. § 1639o(1)) or the definition of “marihuana” in the Controlled Substances Act (codified at 21 U.S.C. § 802(16)).

“Cannabis” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

“Conviction” means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For purposes of the Nation’s Hemp Plan, a conviction is expunged when the conviction is removed from the individual’s criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction.

“Cultivating or cultivation” means planting, growing, producing, and harvesting a plant or crop for market.

“DEA” means the United States Drug Enforcement Administration.

“Decarboxylated” means the completion of the chemical reaction that converts THC-acid (“THC-A”) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-A.

“Decarboxylation” means the removal or elimination of carboxyl group from a molecule or organic compound.

“Delta-9 tetrahydrocannabinol or THC” means the primary psychoactive component of cannabis. For the Nation Hemp Plan, delta-9-THC and THC are interchangeable.

“Dry weight basis” means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

“Gas chromatography or GC” means a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. GC relies on heat for separating and analyzing compounds that can be vaporized without decomposition.

“Geospatial location” means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

“Handle or handling” means to harvest or store hemp plants or hemp plant parts prior to the delivery of such plants or plant parts for further processing. “Handle or handling” also includes the disposal of cannabis plants that are not hemp for purposes of chemical analysis and disposal of such plants.

“Hemp” means the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 THC concentration of not more than 0.3 percent on a dry weight basis. “Hemp” includes hemp products.

“Key participants” means a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

“Licensee” means an individual or business entity possessing a license issued by the Nation to cultivate, handle, produce, or process hemp.

“Nation” means the Cayuga Nation, a federally recognized Indian nation.

“Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with this Nation Plan.

“Phytocannabinoid” means cannabinoid chemical compounds found in the cannabis plant, two of which are delta-9 THC and cannabidiol (“CBD”).

“Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.

“Postdecarboxylation” means in the context of testing methodologies for THC concentration levels in hemp a value determined after the process of decarboxylation that determines the total potential delta-9 THC content derived from the sum of the THC and THC-A content and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, gas chromatography, through which THC-A is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THC-A intact, and requires a conversion calculation of that THC-A to calculate total potential THC in a given sample.

“Process” or “processing” means converting an agricultural commodity into a marketable form.

“Produce” or “producing” means to grow hemp plants for market, or for cultivation for market, in the United States.

“Producer” shall mean any individual or entity licensed or authorized under the Nation Plan to cultivate, handle, produce, or process hemp.

“Prohibited variety” means a variety or strain of hemp excluded from the Territory.

“Territory” means “Indian Country” as defined in 18 U.S.C. 1151 and shall include all those lands within the boundaries of the Cayuga Nation reservation.

“USDA” means the United States Department of Agriculture.

“Variety” means a subdivision of a species that is uniform, in the sense that the variations in essential and distinctive characteristics are describable, stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties, and distinct, in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.

## Section 2. Licensing

### 2.1 Application

(a) Any person producing or intending to produce hemp on the Territory must have a valid license prior to producing, cultivating, handling, processing, or storing hemp. A valid license means the license is unexpired, unsuspended, and unrevoked. Any person who does not hold a valid license from the Nation shall not produce, cultivate, handle, process, or store hemp on the Territory.

(b) Any person who wishes to engage in the cultivating, handling, or processing of hemp on the Territory, including employees and contractors, shall submit to the Nation annually a complete license application. An applicant must be at least 18 years of age.

(c) Applicants must submit a complete application to the Nation before the application will be accepted or considered. All applications must be complete in every material detail. All applications must include all attachments or supplemental information required by the current forms supplied by the Nation. The application and attached materials will become the property of the Nation. A license must be renewed annually.

(d) The Nation may impose a fee to cover the costs of licensing and regulation. If imposed, all applications must be accompanied by a full remittance for the whole amount of the fee. The Nation may refuse to accept an incomplete application or an application without the required fee.

(e) An applicant shall submit, at a minimum, his or her full name, mailing address, telephone number, and email address. If the applicant represents a business entity, the applicant shall submit the full name of the business, the jurisdiction of formation, the principal business address, the full name of the person who will have the power to bind the entity, his or her title and email address, and the employer identification number (“EIN”) of the business. The applicant must also submit the legal description of the area where hemp will be cultivated, handled, produced, or processed. Any application that is missing required information may be denied.

(f) All applicants for initial licensure shall provide a photograph and be fingerprinted for a fingerprint-based criminal history record check. A renewal applicant must provide a photograph and be fingerprinted if requested by the Nation. Any applicant may be required to establish his or her identity and age by official documents. Applicants may be required to sign an authorization to release information as prescribed by the Nation. All applicants shall undergo and pay for an annual criminal background check. A temporary license may be issued pending completion of the criminal background check. Licenses are not automatically renewed.

(g) A license modification is required if there is any change to the information submitted in the application including, but not limited to, sale of a business, the production, handling, or storage of hemp in a new location, or a change in the key participants producing under a license.

(h) The Nation reserves the right to deny a license for any reason.

(i) Licenses may not be transferred or assigned.

## 2.2 Badges

(a) The Nation shall assign each producer with a license or authorization identifier in a format prescribed by USDA. Licenses may not be sold, assigned, transferred, pledged, or otherwise disposed of, alienated or encumbered.

(b) All licensed persons will receive a badge. The badge may be the license. The Nation shall acquire a machine for making picture identification badges that will include license numbers. All persons in a hemp production area shall display on his or her chest a license identification badge or a visitor badge at all times. A licensee shall not alter, obscure, damage, or deface the badge in any manner. All badges will remain the property of the Nation and may be suspended or revoked for violation of this Nation Plan or other Nation law.

### 2.3 False Statements

(a) All applicants shall submit information to the Nation in a full, faithful, truthful, and fair manner. The Nation will deny an application where the applicant has made intentional or purposeful misstatements, omissions, misrepresentations, or untruths in the application or in connection with the applicant's background investigation. This type of conduct may be considered as the basis for additional administrative action against the applicant and it may also be the basis for criminal charges against the applicant.

(b) An applicant shall not have and shall not make any false statements or representations to a representative of the Nation or a law enforcement agency.

### 2.4 Hemp Production and Record Keeping

(a) The Nation shall collect, maintain, and report to the USDA relevant, real-time information for each producer licensed or authorized to produce hemp on the Territory. This information shall include:

- (1) For each new producer who is an individual and is licensed or authorized under the Nation Plan, the full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available);
- (2) For each new producer that is an entity and is licensed or authorized under the Nation Plan, the full name of the entity, the principal business location address, license or authorization identifier, and the full name, title, and email address (if available) of each key participant;
- (3) A legal description of the land on which the producer will produce hemp on the Territory, including, to the extent practicable, its geospatial location; and
- (4) The status and number of the producer's license and authorization.

(b) Producers shall maintain records of all hemp plants acquired, produced, handled, or disposed of as will substantiate any required reports. All records and reports shall be maintained for at least three years.

(c) All records shall be made available for inspection by the Nation’s inspectors, auditors, or their representatives during reasonable business hours. The following records must be made available:

- (1) Records regarding acquisition of hemp plants;
- (2) Records regarding production and handling of hemp plants;
- (3) Records regarding storage of hemp plants; and
- (4) Records regarding disposal of all cannabis plants that do not meet the definition of hemp.

(d) All reports and records required to be submitted to the Nation or USDA which include confidential data or business information, including but not limited to information constituting a trade secret or disclosing a trade position, financial condition, or business operations of the particular licensee or their customers, shall be received by, and at all times kept in the custody and control of, one or more employees of the Nation or USDA or their representatives. Confidential data or business information may be shared with applicable federal, state, tribal, or local law enforcement or their designee in compliance with the Agricultural Marketing Act of 1946, as amended.

(e) The Nation may limit the size, location, capacity, and hours of operation of hemp production areas depending on adverse impacts on the Nation, environment, and surrounding area. Authorized representatives of the Nation and Nation law enforcement may enter hemp production areas at any time for any reason to inspect said areas.

(f) Hemp shall not be cultivated, handled, produced, or processed in or adjacent to any structure that is used for residential purposes or within 1,000 feet of a school, church, or public recreation area.

## 2.5 License Suspension

(a) The Nation may issue a notice of suspension to a producer if the Nation or its representative receives some credible evidence establishing that a producer has engaged in conduct violating a provision of the Nation Plan or failed to comply with a written order from the Nation related to negligence as defined herein.

(b) Any producer whose license has been suspended shall not handle or remove hemp or cannabis from the location where hemp or cannabis was located at the time when the Nation issued its notice of suspension, without prior written authorization from the Nation.

(c) Any person whose license has been suspended shall not produce hemp during the period of suspension. A producer whose license has been suspended may be required to complete a corrective action plan to fully restore the license.



## 2.6 License Revocation

The Nation shall immediately revoke the license of a hemp producer if such producer pleads guilty to, or is convicted of, any felony related to a controlled substance, made any materially false statement with regard to the Nation Plan to the Nation or its representatives with a culpable mental state greater than negligence, is found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence, or has negligently violated the Nation's Hemp Plan three times within five years. An exception applies to a hemp producer that was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.

## Section 3. Inspection and Sampling

### 3.1 Annual Inspections

The Nation shall conduct annual inspections of, at a minimum, a random sample of hemp to verify that hemp is not produced in violation of the Act or the Nation Plan.

### 3.2 Selecting Samples for Testing

(a) The delta-9-THC content for hemp produced pursuant to the Nation Plan shall not exceed the acceptable hemp THC level. The Nation will test all hemp produced for THC compliance. The Nation will inspect and sample 100% of all hemp lots to be harvested.

(b) The method used for sampling from the flower material of the cannabis plant must be sufficient at a confidence level of 95% that no more than 1% of the plants in the lot would exceed the acceptable hemp THC level. The method used for sampling must ensure that a representative sample is collected that represents a homogeneous composition of the lot. Samples of hemp plant material from one plot shall not be commingled with hemp plant material from other lots.

### 3.3 Collection of Samples

(a) The hemp to be selected for sampling shall be determined by a representative of the Nation. The Nation shall collect, handle, and retain samples from each plot in accordance with the Nation Plan. All samples become the property of the Nation and are non-returnable. The material selected for sampling will be determined by the Nation, not the producer.

(b) A producer shall report in writing to the Nation at least 15 days before an expected harvest date a crop is about to be harvested. The Nation's receipt of a harvest notification triggers a site inspection and sample collection by a Nation inspector.

(c) An inspector shall contact the producer to confirm the field's location and schedule a time for inspection and sample collection prior to harvest. During a scheduled sample collection, the producer or an authorized representative of the producer shall be present at the growing site.

(d) Nation inspectors shall be provided with complete and unrestricted access to all hemp, and other cannabis plants, if any, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, producing, processing, or storage of hemp and other cannabis plants, if any, and all locations listed in the producer license.

(e) A separate sample must be taken from each non-contiguous plot of a given variety. A separate sample must be taken for each variety. Samples shall be secured in a paper bag (to allow for air-drying during transport).

(f) Cuttings will be collected to make one representative sample. The Nation inspector shall clip the top 20 cm of the hemp plant's flower, including female floral material. The Nation inspector shall take cuttings from at least five hemp plants within the plot and place the complete sample in a paper bag. The bag shall be sealed by folding over the top once and stapling the bag shut. The sample will be transported to the Nation for drying and storage.

(g) The Nation inspector shall label the sample container with a sample ID. The sample ID must include the last four numerical digits of the license number, date (MMDDYY), and a two-digit sequential sample number assigned by the inspector.

(h) The sample shall be transported to the Nation for storage in a secure area. The entire sample will be sent to the testing lab for analysis.

(i) A producer shall not harvest any crop prior to samples being taken. The producer shall then harvest the crop not more than 15 days following the date of sample collection by the Nation. If the producer fails to complete the harvest within 15 days of sample collection, a secondary sample of the lot shall be required to be submitted for testing. The cost of all testing shall be paid by the producer.

(j) Harvested lots of hemp plants shall not be commingled with other harvested lots or other material without prior written permission from the Nation. Floral materials harvested for phytocannabinoid extraction shall not be moved beyond the processor, or commingled, or extracted, until the Nation releases the material.

(k) The licensee shall be notified within 30 days of sampling of the status of the testing and eligibility of the harvested materials to leave the Territory and/or move into market. Any producer may request additional testing at its cost if it is believed that the original delta-9 THC concentration level test results were in error.

### 3.4 Testing Procedures

(a) Testing shall be completed by a DEA-registered testing lab not affiliated with any producer on the Territory. Test results will be reported to the Nation.

(b) The testing must be able to accurately identify whether the sample contains a delta-9 THC content concentration level that exceeds the acceptable hemp THC level. The procedure

must include a validated testing methodology that uses postdecarboxylation or other similarly reliable methods. The testing methodology must consider the potential conversion of THC-A in hemp into THC and the test result measures total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this Section include gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported by a dry weight basis.

(c) Any test of a representative sample resulting in higher than the acceptable hemp THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with the Nation Plan. Plots tested and not certified by the DEA-registered lab at or below the acceptable hemp THC level may not be further handled, processed, or enter the stream of commerce. The Nation shall ensure the lot is disposed of in accordance with the Nation's Hemp Plan and with the Controlled Substances Act and DEA regulations. The Nation will notify USDA of its intent to dispose of non-conforming plants and verify disposal by submitting required documentation.

(d) Analytical testing for purposes of detecting the concentration levels of THC shall meet the following standards:

- (1) Laboratory quality assurance must ensure the validity and reliability of test results;
- (2) Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose), and that the laboratory can successfully perform the testing;
- (3) The demonstration of testing validity must ensure consistent, accurate analytical performance;
- (4) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of the Nation Plan; and
- (5) An effective disposal procedure for hemp plants that are produced that do not meet the requirements of the Nation Plan. The Nation will be in accordance with DEA reverse distributor regulations found at 21 CFR § 1317.15, as amended.

(e) Measurement of uncertainty must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

(f) The Nation shall promptly notify the USDA by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp in the

Nation Plan and attach the records demonstrating the appropriate disposal of all of those plants and materials in the lot from which the representative samples were taken.

#### Section 4. Disposal of Plants

##### 4.1 Disposal Based on Test Results

(a) In the event test results show an acceptable hemp THC level greater than permitted hereunder, that harvest must be segregated from other harvested plots and remain segregated. Leaf and floral material from the harvest of that lot must then be destroyed.

(b) If a variety is designated as a prohibited variety, the Nation shall require the licensee to surrender without compensation the entire harvest and any unharvested crop, any live plants, and all germplasm of this variety to the Nation for destruction by composting or burning.

(c) If the Nation reasonably believes the producer intended to grow hemp with a delta-9 THC concentration in excess of the acceptable hemp THC level, the Nation may suspend or revoke a license, exclude the licensee from the Territory, and report the matter to the USDA.

##### 4.2 Destruction

(a) The Nation shall destroy hemp found to have an acceptable hemp THC level greater than permitted hereunder, hemp located in an area that is not licensed by the Nation, or hemp not properly accounted for in required reporting to the Nation or USDA.

(b) So long as in compliance with the Controlled Substances Act and DEA regulations, hemp may be destroyed by burning or by composting where it is made unusable and rendered indistinguishable from any other plant material.

##### 4.3 Hemp Production and Record Keeping

(a) The Nation shall collect, maintain, and report to the USDA relevant, real-time information for all hemp produced on the Territory, including the Hemp Disposal Report and Test Results Report, as set forth at 7 CFR 990.70(b) and (c). This information shall include a legal description of the land on which the producer will produce hemp on the Territory, including, to the extent practicable, its geospatial location; and

(1) The status and number of the producer's license and authorization.

(b) Producers shall maintain records of all hemp plants acquired, produced, handled, or disposed of as will substantiate any required reports. All records and reports shall be maintained for at least three years.

(c) All records shall be made available for inspection by the Nation's inspectors, auditors, or their representatives during reasonable business hours. The following records must be made available:

- (1) Records regarding acquisition of hemp plants;
- (2) Records regarding production and handling of hemp plants;
- (3) Records regarding storage of hemp plants; and
- (4) Records regarding disposal of all cannabis plants that do not meet the definition of hemp.

(d) All reports and records required to be submitted to the Nation or USDA pursuant hereto which include confidential data or business information, including but not limited to information constituting a trade secret or disclosing a trade position, financial condition, or business operations of the particular licensee or their customers, shall be received by, and at all times kept in the custody and control of, one or more employees of the Nation or USDA or their representatives. Confidential data or business information may be shared with applicable federal, state, Nation, or local law enforcement or their designee in compliance with the Agricultural Marketing Act of 1946, as amended.

(e) The Nation may limit the size, location, capacity, and hours of operation of hemp production areas depending on adverse impacts on the Nation, environment, and surrounding area. Authorized representatives of the Nation and Nation law enforcement may enter hemp production areas at any time for any reason to inspect said areas.

(f) Hemp shall not be cultivated, handled, produced, or processed in or adjacent to any structure that is used for residential purposes or within 1,000 feet of a school, church, or public recreation area.

## Section 5. Enforcement Procedures

### 5.1 Negligent Violation

(a) A hemp producer on the Territory shall be subject to a corrective action plan if the hemp producer negligently fails to provide a legal description of land on which hemp is cultivated, handled, or processed, negligently fails to obtain a license or other required authorization to produce hemp, or negligently produces hemp with an acceptable hemp THC level greater than permitted hereunder, provided however it is not a negligent violation if the hemp producer makes reasonable efforts to grow hemp with a THC concentration of not more than 0.5%.

(b) A hemp producer subject to a corrective action plan shall comply with such plan to correct the negligent violation and the plan shall include, at a minimum, (1) a reasonable date by which the hemp producer shall correct the negligent violation, (2) steps to correct each negligent violation, and (3) a requirement that the hemp producer shall periodically report to the Nation on compliance of the hemp producer with Nation law related to hemp for a period of not less than the next two calendar years from the date of the negligent violation. The Nation shall conduct an

inspection to determine if the corrective action plan has been implemented as submitted. If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan must be submitted with a heightened level of quality control, staff training, and quantifiable action measures.

(c) A hemp producer that negligently violates Nation law related to hemp shall not as a result of that violation be subject to any criminal enforcement action. A hemp producer that negligently violates Nation law related to hemp three times in a five-year period shall be ineligible to cultivate, handle, produce, or process hemp on the Territory for a period of five years beginning on the date of the third violation.

## 5.2 Other Violations

If the Nation determines that a hemp producer has violated Nation law related to hemp with a culpable mental state greater than negligence, the Nation shall immediately report the producer to the U.S. Attorney General and the chief law enforcement officer of the Nation, as applicable.

## 5.3 Felony Conviction

A person with a felony conviction relating to a controlled substance is subject to a 10-year ineligibility restriction on producing hemp hereunder from the date of the conviction. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date. For producers that are entities, key participants of the producer will be subject to the felony conviction restriction for purposes of this Nation Plan.

## 5.4 False Statement

Any person who materially falsifies any information contained in an application to produce hemp on the Territory shall be ineligible to produce hemp on the Territory.

## 5.5 Site Access and Reporting

(a) The Nation shall provide information about licensed cultivating, handling, producing, and processing site locations to representatives of federal law enforcement as requested.

(b) Licensed producers shall have no reasonable expectation of privacy with respect to buildings or sites where hemp is located. A licensed producer, whether present or not, shall permit a representative of the Nation or Nation law enforcement to enter premises where hemp is located with or without cause and with or without advanced notice.

(c) The Nation shall submit to the USDA, not more than 30 days after the date on which the information is received, contact information for each hemp producer including name, telephone number, email address, mailing address, a legal description for each plot, field, facility,

or other place where hemp is licensed to be cultivated, handled, produced, or processed, and for each hemp producer the status of his, her, or its license. The Nation shall also submit to the USDA any changes in the above listed information within 30 days after the date of receipt of changes to the information from a hemp producer.

(d) All hemp must be cultivated, handled, produced, and processed in a secure area located on the Territory. The secure area must be enclosed with a fence and may only be accessed by licensed persons, authorized visitors, emergency personnel, and law enforcement. Signs should be posted throughout the area that read: “THIS IS HEMP (not marijuana)” or words to that effect. Other signs should be posted that read: “DO NOT ENTER” or words to that effect. All areas of ingress and egress to the enclosed area shall be locked. Failure to comply with the following may be grounds for license suspension, revocation, or denial.

(e) All areas where hemp is cultivated, handled, produced, or processed must be kept in a clean, orderly, and sanitary condition. Litter and waste must be properly stored and removed.

(f) No person shall disclose confidential information, which is information not generally known to the public, unless required to do so by applicable law. Licensees shall not obtain or utilize confidential information the licensee is not lawfully entitled to acquire or possess.

(g) All producers licensed to produce hemp on the Territory shall report hemp crop acreage with the USDA Farm Service Agency and shall provide, at minimum, the following information:

- (1) Street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced. If a producer operates in more than one location, that information shall be provided for all production sites;
- (2) Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp; and
- (3) License or authorization identifier.

(h) All producers licensed to produce hemp on the Territory shall also report to the Nation total acreage of hemp planted, harvested, and, if applicable, disposed. The Nation shall collect this information and report it to the USDA Agricultural Marketing Service.

## 5.6 Auditing

(a) Producers may be audited by the Nation. The audit may include a review of records and documentation, and may include site visits to farms, fields, greenhouses, storage facilities, or other locations affiliated with the producer's hemp operation. The inspection may

include the current crop year, as well as any previous crop year(s). The audit may be performed remotely or in person.

(b) Audit verifications may be performed once every three years unless otherwise determined by the Nation. If the results of the audit find negligent violations, a corrective action plan must be established.

(c) The producer's operational procedures, documentation, and recordkeeping, and other practices, may be verified during the onsite audit verification. The auditor may also visit the production, cultivation, or storage areas for hemp listed on the producer's license.

(d) The auditor shall assess whether required reports, records, and documentation are properly maintained for accuracy and completeness.

(e) Audit reports will be issued to the licensee within 60 days after the audit is concluded. If the Nation determines under an audit that the producer is not compliant, the Nation shall require a corrective action plan. The producer's implementation of a corrective action plan may be reviewed by the Nation during a future site visit or audit.