

# WINNEBAGO TRIBE OF NEBRASKA

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## RESOLUTION #24-181

### APPROVING AMENDMENTS TO WINNEBAGO TRIBAL HEMP PLAN AND CERTIFICATION FOR SUBMISSION TO U.S. DEPARTMENT OF AGRICULTURE

- WHEREAS,** the Winnebago Tribe of Nebraska is a Federally recognized Indian tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984) (25 U.S.C. § 476) as amended by the Act of June 15, 1935 (49 Stat 378); and
- WHEREAS,** pursuant to Article IV Section 1(c) of the Winnebago Tribal Constitution, and its inherent powers of self-government, the Tribal Council is vested with the power, *inter alia*, “To safeguard and promote the peace, safety, morals, and general welfare of the Tribe”; and
- WHEREAS,** pursuant to Article IV, Section 1(e), of the Winnebago Tribal Constitution and its inherent powers of self-government, the Tribal Council is vested with the power, *inter alia*, “to manage all economic affairs and enterprises of the Tribe”; and
- WHEREAS,** pursuant to Article IV, Section 1(1) of the Winnebago Tribal Constitution and its inherent powers of self-government, the Tribal Council is vested with the power, *inter alia*, “to adopt resolutions regulating the procedure of the Tribal Council, tribal officials and other tribal agencies”; and
- WHEREAS,** pursuant to Article IV, Section 1(n) of the Winnebago Tribal Constitution and its inherent powers of self-government, the Tribal Council is vested with the power, *inter alia*, “to encourage the commerce of the community and discover markets for the sale of all products of the tribal members”; and
- WHEREAS,** pursuant to Article IV, Section 1(0) of the Winnebago Tribal Constitution and its inherent powers of self-government, the Tribal Council is vested with the power, *inter alia*, “to charter subordinate organizations for economic or political purposes and to regulate the activities of cooperative associations”; and
- WHEREAS,** under Public Law 115-334, the Agriculture Improvement Act of 2018 (“2018 Farm Bill”), the U.S. Department of Agriculture published Interim Final Rule, 84 FR 58522, and began accepting and approving State and Tribal Plans for primary regulatory authority over domestic hemp production; and
- WHEREAS,** hemp is a commodity that can be used for numerous industrial and horticultural purposes including fabric, paper, construction materials, food products, cosmetics, production of cannabinoids (such as cannabidiol or CBD), and other products; and
- WHEREAS,** the Winnebago Tribe of Nebraska Tribal Council approved Resolution #20-91 on February 3, 2020, approving its Tribal Hemp Plan (“Hemp Plan”) for submission to the U.S. Department of Agriculture (“USDA”); and
- WHEREAS,** in accordance with the Interim Final Rule, the USDA approved the Tribe’s Hemp Plan on May 7, 2020; and



- WHEREAS,** the Tribal Council adopted Title 8, Article 3 of the Winnebago Tribal Code establishing the Winnebago Hemp Program as an instrumentality of the Tribe to be directed by the Hemp Oversight Licensing Commission, as provided under section 8-304 of the Code; and
- WHEREAS,** in accordance with the Code, the Tribal Council appointed a Hemp Oversight and Licensing Commission to oversee and implement the Code and Hemp Plan; and
- WHEREAS,** in 2021 the USDA published the Final Rule, 86 FR 5596, which modifies the requirements under and supersedes the Interim Final Rule; and
- WHEREAS,** the Hemp Oversight and Licensing Commission, in consultation with General Counsel and the USDA, has made proposed amendments to the Hemp Plan to reflect updated licensing requirements and to bring it into compliance with the requirements of the Final Rule; and
- WHEREAS,** the USDA must approve amendments to the Hemp Plan made in accordance with the Final Rule; and
- WHEREAS,** the Winnebago Tribe of Nebraska, pursuant to Section 297B(a)(2)(A)(vii) of the 2018 Farm Bill, certifies it has the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297B(a)(2) of the 2018 Farm Bill; and
- WHEREAS,** the Winnebago Tribal Council has reviewed Hemp Oversight and Licensing's proposed amendments to the Hemp Plan and has determined that such amendments are needed to conform to the requirements under the Final Rule.

**NOW, THEREFORE BE IT RESOLVED** that the Winnebago Tribal Council hereby adopts the amendments to the Winnebago Tribe of Nebraska Hemp Plan as set forth in the attachment hereto and approves the same for submission to the USDA.

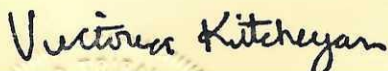
**BE IT FINALLY RESOLVED,** that the amendments shall become effective immediately.

#### C E R T I F I C A T I O N

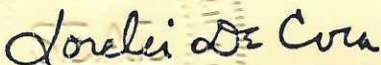
We, the undersigned Officers of the Winnebago Tribal Council, hereby certify that on August 21, 2024; at a meeting duly convened by the Winnebago Tribal Council, voted to adopt the above Resolution by a vote of 5 for, 0 against, 0 abstentions with the Chairwoman not voting and 3 member(s) absent

Dated this 21<sup>st</sup> day of August, 2024.

Attest:



Chairwoman, Winnebago Tribal Council



Secretary, Winnebago Tribal Council

**WINNEBAGO TRIBE OF NEBRASKA  
UNITED STATES DEPARTMENT OF AGRICULTURE  
TRIBAL HEMP PLAN**

**I. INTRODUCTION**

The Agriculture Improvement Act of 2018, Public Law No. 115-334, Title X, §10113 (“Farm Bill”), amended the Agricultural Marketing Act of 1946 (“Act”) to allow domestic hemp production in the United States. The Winnebago Tribe of Nebraska (the “Tribe”) is a federally-recognized Indian Tribe as defined in Section 297A(2) of the Act. Under Section 297B(a)(1) of the Act, an Indian Tribe may have primary control over the production of hemp within the Indian Tribe’s territory if the Tribe submits a plan to the U.S. Department of Agriculture (“USDA”) and the Secretary approves it. The USDA issued the Final Rule, 86 FR 5596, which supersedes the Interim Final Rule, 84 FR 58522, under the authority of the Act to establish rules and regulations governing hemp production. Therefore, the Tribe submits this Tribal Hemp Plan (“Hemp Plan”) to monitor and regulate the production of hemp on the Winnebago Indian Reservation.

It is the declared policy of the Tribe that hemp is a valuable agricultural crop and commodity that can be cultivated within the exterior boundaries of the Winnebago Indian Reservation. The purpose of this Hemp Plan is to:

- promote the cultivation of hemp and the development of new and/or expansive commercial markets through the sale of hemp products to the maximum extent permitted by law;
- regulate hemp as an agricultural commodity in compliance with federal and Tribal law; and
- protect the political integrity, economic security, health and welfare, and public safety of the Tribe, its Tribal Members, and the local communities within its Territory.

The Tribe has drafted this Hemp Plan to regulate the production of hemp in compliance with federal and Tribal law. The Tribe has signed a resolution authorizing this Hemp Plan and included the required certification to be submitted to the USDA. Under Section 297B(a)(2), a Tribal plan must include:

1. A practice to maintain relevant information regarding land on which hemp is produced;
2. A procedure for testing delta-9 tetrahydrocannabinol concentration levels of hemp produced;
3. A procedure for the effective disposal of hemp plants and products;
4. A procedure to comply with enforcement procedures;
5. A procedure for conducting annual inspections of a random sample of hemp producers;
6. A procedure for submitting section 297C(d)(2) information to the Secretary of Agriculture; and
7. A certification from the Indian Tribe that it has resources and personnel to carry out the Tribal plan.

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## II. JURISDICTION

For purposes of this Hemp Plan, the Tribe's jurisdiction includes all lands within the exterior boundaries of the Winnebago Indian Reservation, and Indian country as defined in 18 U.S.C. § 1151 (a), (b), and (c). The Tribe shall also have jurisdiction over Ecommerce transactions emanating from or to the jurisdiction of the Tribe.

Any person who uses land anywhere within the exterior boundaries of the Winnebago Indian Reservation and any person who enters into agreements or understandings with the Tribe or its members and residents by commercial dealings, contracts, leases, licenses, permits, intergovernmental agreements, or other arrangements, commercial or otherwise, shall be deemed to have entered into a consensual relationship with the Tribe or its members subject to the jurisdiction of the Tribe.

The Tribe may not prohibit the transportation or shipment of lawfully produced hemp through its jurisdiction.

## III. DEFINITIONS

1. "Acceptable hemp THC Level" or "Federally-defined THC level for hemp" means the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol ("THC") content concentration level on a dry weight basis that produces a distribution or range that includes 0.3% or less.

2. "Applicant" means a person or entity, who applies for a License and Permit.

3. "Commercial sale" means the sale of a product in the stream of commerce at retail or at wholesale, including online sales.

4. "Corrective Action Plan" or "CAP" means a plan established by the Tribe to correct a negligent violation, including: (a) a date for correcting the negligent violation; (b) a requirement to periodically report to the Tribe regarding compliance with this Plan for at least the next two (2) calendar years; and (c) that the Tribe shall conduct inspections to determine if a CAP has been implemented.

5. "Cultivate" or "cultivating" means planting, watering, growing, and harvesting a hemp plant or crop.

6. "Disposal" means an activity that transitions the non-compliant hemp into a non-retrievable or non-ingestible form. Such activities include plowing, tilling, or disking plant material into the soil; mulching, composting, chopping, or bush mowing plant material into green manure, burning plant material, burying plant material into the earth and covering it with soil.

7. "Global Positioning System ("GPS") coordinates" means latitude and longitude coordinates derived from a global positioning system.

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8. “Handling” means possessing or storing hemp plants for any time period on premises owned, operated, or controlled by a Licensee to cultivate or process hemp. Handling also includes possessing or storing hemp plants in a vehicle for any time period other than during its actual transport from the premises of a Licensee to the premises of another Licensee. Handling does not include possessing, storing, or transporting finished hemp products.

9. “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total THC concentration of not more than 0.3% on a dry weight basis, or as otherwise defined in federal law.

10. “Hemp product” means a finished product with the Federally defined THC level for hemp, that is derived from, or made by, processing a hemp crop, and that is prepared in a form available for commercial sale.

11. “Key participant” means a person or persons who have a direct or indirect financial interest in the entity producing hemp. A key participant also includes persons in a corporate entity at executive levels including chief executive officer, chief operating officer and chief financial officer.

12. “Law enforcement agency” means the Winnebago Tribe of Nebraska Police Department, United States Drug Enforcement Administration (“DEA”), or other federal law enforcement agency or drug suppression unit but does not include any state law enforcement agency except in those cases where the Tribe and State have entered into a cross-deputization agreement.

13. “License” means a valid certificate, in a specified format prescribed by the USDA, issued by the Winnebago Tribe of Nebraska to cultivate, handle, store, process, transport, or market hemp.

14. “Licensed hemp producer” or “Licensee” means the Winnebago Tribe of Nebraska or person licensed by the Tribe to cultivate hemp within the exterior boundaries of the Winnebago Indian Reservation.

15. “Lot” means a contiguous area containing the same variety or strain of cannabis throughout the area in a field, greenhouse, indoor growing structure, or buildings where hemp will be cultivated, handled, stored, or processed, which can include a field name or building name.

16. “Lot identification” means the unique identifier established by an Applicant for each unique GPS coordinates where hemp will be cultivate, handled, stored, or processed, which can include a field name or building name.

17. “Measurement of Uncertainty (“MU”)” means the parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

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18. “Permit” means a Tribally-issued certificate that authorizes a Licensee to plant, cultivate, handle, process, or store hemp, any part of hemp, or hemp products in a specifically described location.

19. “Person” means an individual who is an enrolled member of the Winnebago Tribe of Nebraska or a partnership, corporation, limited liability company, association, postsecondary institution, or other legal entity that is at least 51% owned by a member or members of the Winnebago Tribe of Nebraska, or by the Winnebago Tribe of Nebraska.

20. “Process” or “processing” means to convert any portion of a hemp crop into a hemp ingredient, hemp product, or other marketable form.

21. “Remediation” refers to the process of rendering non-compliant cannabis into a compliant form. Remediation can occur by removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds. Remediation can also occur by shredding the entire plant into a biomass-like material.

22. “Reservation” means the reservation of the Winnebago Tribe of Nebraska.

23. “Testing facility” means a DEA-registered laboratory that must include a validated testing methodology that uses postdecarboxylation, including gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported on a dry weight basis. The registered laboratory may also be an accredited ISO/IEC 17025 facility, the standard published by the International Organization for Standardization (the “ISO”) titled “General requirements for the competence of testing and calibration laboratories”, or an accreditation standard approved by the Winnebago Tribe of Nebraska.

24. “THC” means delta-9 tetrahydrocannabinol concentration.

25. “Tribal Court” means the courts of the Winnebago Tribe of Nebraska as established pursuant to the Tribe’s Constitution and Bylaws and Tribal Code.

26. “Tribal Police” shall mean the Winnebago Tribe of Nebraska Tribal Police Department.

27. “Tribe” means the Winnebago Tribe of Nebraska, which is recognized as eligible by the United States Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as a federally recognized tribe and are recognized as possessing powers of self-governance.

28. “Winnebago Hemp Program” means the Winnebago Tribe of Nebraska office, program, agency, commission, or department responsible for the oversight and implementation of this Hemp Plan as designated by the Winnebago Tribal Council.

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#### IV. LICENSE REGISTRATION

An Applicant who wishes to cultivate, process, handle, transport, or store hemp within the Tribe's jurisdiction must possess a valid License to do so. The Tribe shall determine the appropriate number of hemp Licenses allowed within the exterior boundaries of the Reservation. The Tribe shall adopt a uniform licensing application form and a process for approval or denial of Licenses. Any business that provides products or services related to the hemp industry shall be organized under the Winnebago Tribe of Nebraska's Tribal Code. A Licensee who has had a License terminated shall not be eligible to reapply to the Winnebago Hemp Program for a period of five (5) years from the date of License termination. Applicants must undergo a nationwide criminal background check as part of an application for Licensing. The Tribe may require other background checks. When applying for a License, any owners, directors, and managers with signature authority, must each submit to relevant background checks. The Winnebago Hemp Program will review each applicant's background check report to verify eligibility pursuant to this Hemp Plan. The Tribe may collect fees that are reasonable in the processing of License applications. Failure to pay the License fees will result in the denial of an application.

1. Hemp License applications shall include at a minimum:

- a. Applicant's full name, residential address, telephone number, and e-mail address, if available;
- b. If Applicant is a business entity, the full legal name of the business, employer identification number ("EIN") of the business, the principal business location address, the key participants, the full name of the Applicant with signature authority, title, and e-mail address;
- c. Documentation showing a valid ownership, tenancy, or other legal interest in the proposed location;
- d. Street address, legal description and GPS coordinates for each lot, greenhouse, or building where hemp will be cultivated, handled, processed, or stored;
- e. Information regarding any other hemp cultivating or processing facility owned or licensed by Applicant that is licensed in any other jurisdiction;
- f. Proof of insurance that includes worker's compensation insurance and general liability insurance; and
- g. Business and operations plan that includes: (i) proposed acreage or indoor square footage to be planted or used for processing; (ii) description of facility proposed and number of employees; (iii) name of proposed facility manager; (iv) security plan with security system(s) and lighting plan showing outside lighting, and centrally alarmed and monitored security system service agreements; (v) list of pesticides and chemicals proposed for use; (vi) description and plan of all equipment and methods employed to stop any impact to adjacent uses including assurances of no odor detected from outside the location; (vii) disposal plan of hemp and related by-products; (viii) statement of previous farming experience; and (ix) planned source of seeds.

2. Any application missing the required information shall be subject to denial. The Tribe shall notify the Applicant via e-mail. If an application is not corrected or supplemented within

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thirty (30) calendar days after the Tribe's notification to the Applicant, the Tribe shall deny the application.

3. The Tribe shall notify Applicants by letter or e-mail whether the application has been conditionally approved or denied. If the Tribe sends a letter to the Applicant, it will be to the address listed on the application.

4. A License is valid for one (1) year from the date of issuance by the Winnebago Hemp Program. Licenses are non-transferable and are not permitted for resale.

5. A Licensee seeking to renew their License upon expiration must submit a new License application and undergo a new nationwide criminal background check.

**A. Other License Requirements and Restrictions**

1. Licensees must comply with all applicable requirements under the Winnebago Tribe of Nebraska Tribal Code, including, but not limited to, business registration, taxation, and zoning laws.

2. Licensees shall not engage in any activity permitted under this Hemp Plan within 100 feet of a school or other location primarily populated by minors, except as is necessary for the transportation of hemp or hemp products within the boundaries of the Reservation.

3. A Licensee may not, in connection with their License, employ or partner with any person who has been convicted of a felony related to a controlled substance under tribal, state, or federal law, or who would otherwise be ineligible from participating in the Winnebago Hemp Program in accordance with this Plan.

4. An individual Licensee, or key participant if Licensee is a business, must be: (a) at least nineteen (19) years of age; and (2) an enrolled member of the Winnebago Tribe of Nebraska.

**V. SITE REGISTRATION**

As a component of the License application, each Applicant shall submit a site registration application for a Permit. A Permit is required for each location site where hemp is cultivated, handled, processed, or stored. The Winnebago Hemp Program shall adopt a uniform permitting application and process for approval or denial of location Permits. Permits may only be issued to Licensees. No Licensee shall have the expectation of privacy with respect to any location site that is issued a Permit. Licensees, whether present or not, shall allow representatives of the Tribe, Tribal Police, and/or federal law enforcement agencies access to the location site with or without cause and with or without advance notice. The Winnebago Hemp Program may collect fees that are reasonable to process location Permit applications and location site modifications. Non-payment of fees shall result in an application for a Permit to be denied.

1. The site registration application shall include, at a minimum:



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- a. The street address and legal description of each lot, greenhouse, or building where hemp is produced;
- b. If hemp is produced or is intended to be produced in a lot: (i) GPS coordinates at the approximate center of the lot; (ii) number of square feet or acres of each lot; (iii) and a map of the production area showing clear boundaries of the lot.
- c. If hemp is produced or is intended to be produced in a greenhouse or other building: (i) GPS coordinates at the approximate center of the greenhouse or building; (ii) approximate dimension or square feet of the greenhouse or building; and (iii) a map of the production area showing clear boundaries of the greenhouse or building.

2. A Permit is valid for one (1) year from the date of issuance by the Winnebago Hemp Program, but shall expire upon the date of Licensee's License if terminated or not renewed. Permits are non-transferable and are not permitted for resale.

## **VI. RECORDS**

1. The record retention and reporting requirements of the Winnebago Hemp Program under this Hemp Plan are, at a minimum, as follows:

- a. Retain information about locations including the legal description, and lot identification information for every location where the Winnebago Hemp Program has approved hemp to be cultivated for a period of three (3) years;
- b. Retain information about approved cultivating, processing, handling, and storage locations to share with the Tribe, Tribal Police, and other law enforcement agencies whose representatives request registered lot information, including the legal descriptions and GPS coordinates for a period of three (3) years;
- c. Retain all applications for licensure, grants and denials of Licenses, receipt of fees, distribution of fees, and revenues to the Tribe for a period of three (3) years;
- d. Submit a quarterly report to the Tribal Council summarizing the Winnebago Hemp Program's official actions, activities, investigative reports, and reports received about any hemp business; and
- e. Submit to the USDA, by the first of each month, a report providing the contact information and the status of the License or other authorization issued for each producer covered under the individual Hemp Plan.

Reports required of the Winnebago Hemp Program shall be submitted to the USDA via its online information sharing system, Hemp eManagement Platform ("HeMP"). Reports required of Licensees to the Farm Service Agency ("FSA") shall be submitted to and in a form prescribed the applicable local office, and to the Winnebago Hemp Program in a form prescribed by the same via email to: [HempCommission@winnebagotribe.com](mailto:HempCommission@winnebagotribe.com).

2. Not more than thirty (30) days after receiving and compiling the following information, the Winnebago Hemp Program shall submit to the Agricultural Marketing Service ("AMS")/USDA by the first of each month, the Tribal Hemp Production Report providing the

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contact information and the status of the License or other authorization issued for each Licensee, whether an individual or entity:

- a. the Licensee's full legal (and common) name;
- b. the Licensee's telephone number, e-mail address, residential or business address, mailing address, or another form of contract information;
- c. the lot identification for each field, facility, or other place where hemp is licensed to be cultivated;
- d. the License number issued by the Winnebago Hemp Program;
- e. whether the Licensee's License is in good standing; and
- f. the Licensee's EIN if Licensee is a business.

3. No later than December 15 of each year, the Winnebago Hemp Program shall submit to the AMS/USDA an annual report containing the following information: (a) total planted acreage; (b) total harvested acreage; and (c) total acreage disposed of and remediated.

4. A Licensee shall report their hemp crop acreage to the FSA. The Licensee must provide, at a minimum: (a) street address and GPS coordinates for each lot or greenhouse where hemp will be produced; (b) acreage and indoor square footage dedicated to production of hemp; and (c) License identification. The Licensee will submit the FSA 578 form to the Winnebago Hemp Program within thirty (30) days of submission to the FSA.

5. A Licensee shall submit a complete and current Planting Report form to the Winnebago Hemp Program within fifteen (15) days after every planting, including replanting, of seeds or propagules in an outdoor lot. Each Report shall identify: (a) the correct variety name of seeds as designated upon approval of an acquisition request or as approved by the Winnebago Hemp Program; (b) the Lot identification as listed in the Licensee's application; and (c) the primary intended use of the harvest for each planting.

6. A Licensee who does not plant hemp in an approved outdoor lot listed in the Licensee's application shall submit a Planting Report on or before May 31, stating that hemp has not been and shall not be planted at that location.

7. A Licensee shall submit a complete and current Greenhouse/Indoor Planting Report form to the Winnebago Hemp Program within fifteen (15) days after establishing plants at an indoor location. Each Report shall identify: (a) the correct variety name of seeds as designated upon approval of an acquisition request or as approved by the Winnebago Hemp Program; (b) the lot identification as listed in the Licensee's application; and (c) the primary intended use of the harvest for each planting.

8. In addition to the initial Greenhouse/Indoor Planting Report, a Licensee with an approved greenhouse or indoor growing location Permit shall submit quarterly reports for each lot identification to the Winnebago Hemp Program. These reports are due no later than March 31, June 30, September 30, and December 31. All required forms, reports, and records submitted to

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the Tribe shall be kept for a minimum of three (3) calendar years. Licensees and the Winnebago Hemp Program are each responsible for storing such records.

9. A Licensee shall submit a complete and current Harvest/Destruction Report form to the Winnebago Hemp Program at least thirty (30) days prior to the intended harvest date or intended destruction date of a failed crop. The harvest must occur within thirty (30) days or a new compliance sample must be pulled and tested.

10. For the purpose of information sharing with law enforcement, the Winnebago Hemp Program shall collect the following information to provide to the Secretary of Agriculture: (a) the contact information for each Licensee; (b) a legal description of the land on which hemp is cultivated by each Licensee; and (c) for each Licensee, the status of their License or other required authorization from the Tribe; and (d) any changes to the status.

## **VII. SAMPLING AND TESTING FOR DELTA-9 THC CONCENTRATION**

Standard sampling guidelines are specified for field and indoor sampling of hemp. States and Tribes shall develop their own sampling protocols in accordance with §990.3. Hemp cultivated from each registered lot must be tested for THC concentration prior to harvest by a DEA-registered testing facility at the Licensee's expense. A Licensee shall not remove a harvest from a lot that has not been sampled and tested for compliance with the allowable THC concentration levels on a dry weight basis. A Licensee must arrange for a trained sampling agent to collect samples from the top 5-8 inches of flower material from the cannabis plants and ensure the sampling of each lot occurs no more than thirty (30) days prior to harvest for the purpose of determining that the harvest does not exceed allowable THC concentration levels on a dry weight basis. The USDA's Sampling Guidelines for hemp Issued January 15, 2021, are incorporated herein by reference and shall act as the Sampling Protocols for trained sampling agents. Should the Winnebago Hemp Program develop alternative sampling protocols, the Hemp Plan will be resubmitted to the USDA for approval.

Except for samples collected by the Winnebago Hemp Program for auditing and inspection, purposes, all samples collected to determine compliance with this Hemp Plan shall be collected by a trained sampling agent.

Sampling agents will be trained using the USDA's Sampling Agent Training course and Refresher course or through a training program created by the Winnebago Hemp Program. A list of trained sampling agents will be made available to Licensees by email or other notification. Sampling agents shall have complete and unrestricted access to any lot, registered land area, or facility used for hemp production and handling during normal business hours.

### **A. Standard Sampling Protocols.**

The method used for sampling must ensure that the flower material sample is collected that represents a homogeneous composition of the lot. Samples of hemp plant material from one lot shall not be commingled with hemp plant material from other lots. During a scheduled sample

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collection, the Licensee or an authorized representative of the Licensee shall be present at the registered lot.

Compliance testing for hemp cultivated under this Hemp Plan shall be conducted by testing facilities registered by the DEA and may also have an ISO/IEC 17025 accreditation, the standard published by the International Organization for Standardization or an accreditation standard approved by the Tribe and submitted through an updated Hemp Plan. The testing procedure must include a validated testing methodology that uses postdecarboxylation. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (“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 include, gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported on a dry weight basis. The USDA’s Guidelines for Testing issued January 15, 2021, are incorporated herein by reference.

The test results shall identify the lot identification and be certified directly to the Winnebago Hemp Program by the testing facility prior to harvest. Each Licensee must ensure the laboratory conducting the test of the sample reports the test results for all samples tested to the USDA. If a laboratory consistently fails to provide compliance testing results to the USDA or to the Winnebago Hemp Program, Licensees will be instructed that compliance tests will no longer be accepted from that laboratory under the Winnebago Hemp Program. For each sample tested pursuant to this Hemp Plan, the Licensee shall obtain a certificate of analysis from a testing facility that includes, at a minimum:

- a. License number of the Licensee;
- b. full legal name of the Licensee;
- c. address of the Licensee;
- d. lot identification number for the sample;
- e. information identifying the hemp as a sample tested by the laboratory and provided by the Licensee;
- f. name of the laboratory;
- g. DEA registration number of the laboratory for testing;
- h. the report date and dates the hemp was sampled, and tested, and the testing methodology used to analyze the sample;
- i. the THC concentration levels contained in the sample;
- j. identification of a pre-harvest or remediation test; and
- k. a statement indicating whether the sample contained a THC concentration level more than the federally-defined limit of THC concentration level, including MU.

The Winnebago Hemp Program must promptly notify the USDA, either via HeMP or electronic or certified mail, of any samples from a registered lot that do not meet the definition of hemp and a record demonstrating the disposal of all plants and materials from the sampled lot.

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**B. Annual Inspections of a Random Hemp Sample.**

The Tribal Police and the Winnebago Hemp Program shall have the authority to conduct random inspections of Licensees and all Permits to verify compliance with all requirements of the License issued. Inspection may include sampling by the Tribe's inspectors for testing to determine THC concentration levels in hemp or hemp products or any other Tribally defined purpose. Inspections may be conducted at any time during regular business hours. Inspectors shall be granted unrestricted access to the site. All samples collected by the Tribe's inspectors shall become property of the Tribe and no compensation shall be owed by the Tribe for such samples. The Winnebago Hemp Program shall keep test results for all hemp and hemp products tested for a minimum of three (3) years. Testing of hemp shall be conducted pursuant to standards adopted by the Tribe using post-decarboxylation for the testing of total delta-9 THC concentration. The Winnebago Hemp Program will conduct at least one (1) random inspection per year, but may conduct additional inspections based on number of Licensees. The random inspection may be an onsite inspection of Permitted locations, desk audit inspection of records, or upon a report of hemp being cultivated without a license or permit.

**VIII. DISPOSAL OF HEMP PLANTS AND PRODUCTS**

Hemp that contains a higher THC concentration level than the federally defined limit shall be subject to disposal or remediation by the Licensee in this Hemp Plan and all applicable federal, tribal, state, and local laws, regulations, rules, and other requirements. All plants in the lot shall either be remediated to bring the lot under the acceptable hemp THC concentration level, or all plants shall be disposed of in a manner that renders it non-retrievable. Lots tested and not certified by the DEA-registered laboratory at or below the acceptable hemp THC level may not be further handled, or processed, or enter the stream of commerce.

If hemp contains a higher THC concentration level than the federally-defined limit, the harvest shall be promptly disposed of or remediated by the Licensee at the growing location. Disposal of non-compliant hemp plants may be accomplished by performing any one or combination of the following on-farm activities: plowing under, mulching / composting, disking, bush mowing, deep burial, and burning. Remediation of non-compliant hemp plants may be accomplished by: (1) separating and destroying non-compliant flowers, while retaining stalks, leaves, and seeds; or (2) shredding the entire hemp plant to create "biomass."

Under option (1): Material retained after floral destruction must be retested for compliance. Seeds saved from remediation shall not be used for propagative purposes.

Under option (2): All flowers, buds, trichomes, leaves, stalks, seed, and all plant parts from a lot should be chopped or shredded in such a way as to create a homogenous, uniform blend of the lot called "biomass." Lots should be kept separate and not be combined during this process. This biomass shall be resampled and retested to ensure the biomass material tests within an acceptable THC concentration level before it may enter the stream of commerce in accordance with §990.3(d) and §990.27(c). If the biomass tests above the acceptable THC concentration level



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is non-compliant hemp and must be destroyed through one of the disposal options provided herein. Seeds saved from remediation shall not be used for propagative purposes.

Licensees shall have fourteen (14) calendar days from the date of notification of test results higher than the federally defined THC concentration for hemp to contact the Winnebago Hemp Program in writing and apply for retesting or propose disposal or remediation. All non-compliant hemp plant material and hemp products derived therefrom must be remediated or disposed of in a manner approved and verified by the Tribe. Verification may include in-person disposal verification by a law enforcement agency, Tribal representatives, the Winnebago Hemp Program staff, or alternative requirements that direct Licensees to provide pictures, videos, or other proof that disposal occurred successfully. Hemp subject to disposal or remediation shall not be removed from the location. Except for hemp seeds rendered non-viable, all hemp subject to disposal or remediation shall not be added to or processed into any consumable product.

Any Licensee that fails to submit a Crop Destruction Report shall have its License revoked, shall be banned from participating in the Winnebago Hemp Program in the future, and shall be subject to a civil penalty of up to \$2,500. A Licensee, whose hemp must be destroyed, is required to submit a Crop Destruction Report at least fifteen (15) days prior to the proposed crop destruction. The Crop Destruction Report shall contain the following:

1. Lot identification of the hemp crop to be destroyed;
2. Variety/strain of the hemp crop;
3. Date of proposed destruction;
4. Proposed method of destruction;
5. Whether the destruction will be a complete destruction of all hemp at the site;
6. Photos of the hemp site proposed for destruction;
7. License number of the Licensee; and
8. Licensee's signature.

The Commission shall promptly notify the USDA via HeMP of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and include test results for the same. The Winnebago Hemp Program will save records demonstrating the appropriate disposal of all of those plants and materials in the lot for not less than three (3) years.

Test results from informal testing conducted throughout the growing season shall not be reported to the USDA.

## **IX. VIOLATIONS AND ENFORCEMENT PROCEDURES**

If the Winnebago Hemp Program determines that the Licensee has negligently violated the requirements of this Hemp Plan, including: (1) failing to provide a legal description of land on which the Licensee cultivates hemp; (2) failing to obtain a License or other required authorization from the Tribe, as applicable; and (3) producing *Cannabis sativa* L. with a tetrahydrocannabinol concentration level exceeding 1.0%.

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Licensed cultivators do not commit a negligent violation under this Section IX if they make reasonable efforts to grow hemp and grow *Cannabis sativa* L. that does not have a total THC concentration of more than 1.0% on a dry weight basis.

A Licensee who receives a negligent violation determination shall comply with a CAP established by the Winnebago Hemp Program to correct the negligent violation. The CAP will include, at a minimum, the following terms: (1) a reasonable date by which the Licensee shall correct the negligent violation; and (2) a requirement that the Licensee shall periodically report to the Winnebago Hemp Program on its compliance with this Hemp Plan for a period of not less than the next two (2) years from the date of the negligent violation. A Licensee that negligently violates this Hemp Plan shall not, as a result of that violation, be subject to any criminal enforcement action by the federal or Tribal government. A Licensee that negligently violates this Hemp Plan three (3) times in a 5-year period shall be ineligible to produce hemp for a period of five (5) years beginning on the date of the third violation. The Winnebago Hemp Program shall conduct an inspection to determine if the CAP has been implemented as submitted. A Licensee shall not receive more than one (1) negligent violation per growing season.

If the Winnebago Hemp Program determines that a Licensee within the exterior boundaries of the Reservation has violated this Hemp Plan with a culpable mental state greater than negligence, the Winnebago Hemp Program shall immediately report the Licensee to: (1) the United States Attorney General; (2) the chief law enforcement officer for the Tribal Police; and (3) the Tribe's General Counsel.

Any person, including a key participant, with a State or Federal felony conviction relating to a controlled substance is subject to a 10-year ineligibility restriction on participating in the Tribal Plan and producing hemp 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. Any producer growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by 7 U.S.C. § 5940 before October 31, 2019, shall be exempted from this section. Any applicant who materially falsifies any information in the Winnebago Hemp Program's application shall be deemed ineligible to participate in the Winnebago Hemp Program.

## **X. TRIBAL CERTIFICATION**

The Tribe certifies that it has the resources and personnel to carry out its responsibilities under this Hemp Plan.