

## 2021 HEMP GROWER RESEARCH PARTNER AGREEMENT

This Hemp Grower Research Partner Agreement (“Research Partner Agreement”), dated \_\_\_\_\_, between the State of New York, acting by and through the New York State Department of Agriculture and Markets (the “Department”) and (the “Research Partner”),

**WHEREAS**, pursuant to Title 7 U.S.C. § 5940 and New York State Agriculture and Markets Law § 505, et seq., the Commissioner of the Department is authorized to approve sites for the study of the growth and cultivation, sale, distribution, transportation and processing of hemp and products derived from such hemp as part of an agricultural pilot program conducted by the Department; and

**WHEREAS**, the Department has been conducting an agricultural research pilot program as provided for in 7 U.S.C § 5940 and New York State law (the “Research Program”) and has decided to continue its Research Program for the cultivation and growing of hemp through January 1, 2022, as recently authorized by amendment of 7 U.S.C. Section 5940;

**WHEREAS**, the Research Partner has sought authorization to grow hemp in the 2021 season; and

**WHEREAS**, the Department has agreed to accept the Research Partner’s application to conduct agricultural research pursuant to the scope of work set forth in the Research Partner’s application, under the terms and conditions set forth herein,

**NOW THEREFORE**, in consideration of the mutual covenants, terms and conditions set forth herein, the parties agree as follows:

### SCOPE OF RESEARCH

1. The Research Partner may commence the research described in the Research Partner’s scope of work as set forth in the Research Partner’s grower application, dated \_\_\_\_\_, (the “Scope of Work”), which research may continue up to and including January 1, 2022, unless this Research Partner Agreement is suspended or terminated as set herein, or extended by further written agreement.
2. The Research Partner’s authority is limited to the research set forth in the Scope of Work, to which the Research Partner shall strictly adhere, except as otherwise authorized pursuant to Paragraph 4, herein.
3. The Department reserves the right to monitor the Research Partner’s compliance with the Scope of Work, which monitoring shall include, without limitation, the

right to: reasonable access to the registered premises, periodic, unannounced inspections, sample and test plants and product, inspect the books and records of the Research Partner, and promptly receive information reasonably requested of the Research Partner with respect to the research project and/or the Research Partner's operations.

4. The Research Partner shall obtain prior written approval from the Department before implementing any modifications to the Scope of Work, including, without limitation, any modification of the research focus, scope, locations or size described in the Scope of Work and any changes to any site at which the research is being conducted (including the location of additional facilities, changes or additions to any field, greenhouse, building and/or GPS coordinate).
5. Should the Research Partner seek to conduct additional hemp research separate and distinct from that which is described in the Scope of Work, the Research Partner shall make new application for such other research project and obtain the Department's approval in writing prior to conducting the proposed additional research. Should the Research Partner seek to process hemp beyond minimal processing for an agricultural product authorized by this agreement, further authorization from the State may be required depending on the proposed processing. This agreement does not authorize the processing of hemp to concentrate or extract its cannabinoids, or to create product, whether in intermediate or final form used for human consumption for its cannabinoid content. Such activities, among others, are regulated pursuant to Article 33-B of the Public Health Law.

#### **PARTIES CONDUCTING RESEARCH**

6. At all times during the term of this Research Partner Agreement, and with respect to the obligations surviving its expiration, suspension or termination of the Research Partner Agreement as set forth herein, the Research Partner shall remain responsible for the performance under this Research Partner Agreement. If requested by the Department, the Research Partner shall present evidence of its continuing legal authority to do business in New York State, integrity, experience, satisfactory performance, ability and/or organizational and financial capacity to perform the Scope of Work.
7. Upon the Research Partner's execution of this Research Partner Agreement, the Research Partner shall attach as Exhibit 1, a schedule setting forth the Research Partner and all individuals in control of the Research Partner, having substantial management responsibilities, and/or providing material assistance in performing or assisting the Scope of Work for the authorized activities (including proposed independent contractors and agents), listing for each such person: the individual's relationship to the Research Partner; any felony or drug-related misdemeanor

conviction within the last ten years; and/or any felony or drug-related misdemeanor charge pending as of the date of the submission of the executed Research Partner Agreement to the Department. In the event there is a change to the information provided under this paragraph during the term of the Research Partner Agreement, the Research Partner shall provide written notification to the Department of the updated information within ten days of its occurrence.

- 8.** Upon the Department's request, any person listed or that should have been listed on Exhibit 1 shall provide fingerprints in the form and manner required by the Department and all necessary consents for the Department to obtain a criminal background check on that individual.
- 9.** A felony or drug-related misdemeanor conviction and/or a felony or drug related misdemeanor arrest during the term of this agreement for those listed or that should have been listed on Exhibit 1 may result in the Department's refusal to enter into, or a decision to suspend and/or terminate the Research Partner Agreement.
- 10.** The Research Partner shall notify the Department of its intention to engage any independent contractor or agent to perform any significant or substantial portion of the Scope of Work prior to the retention of such subcontractor. The Department reserves the right to approve any such contractor or agent and shall have the right require the Research Partner to provide reasonably requested information concerning the proposed contractor or agent to determine whether the individual or entity is a responsible service provider. Upon the Department's request, the Research Partner shall provide copies of all contracts relating to the performance of work described in the Scope of Work.
- 11.** The Research Partner, notwithstanding any subcontracting, shall remain responsible and liable for all work performed by all contractors and/or agents performing work with respect to the Scope of Work.
- 12.** The Department retains the discretion to, among other things: (a) determine what persons, entities, and sites may continue to participate in the Research Program; and (b) de-certify and de-register a site used to grow, cultivate or process hemp at any time, following an opportunity to be heard.
- 13.** It is understood and agreed that the legal status of the Research Partner (including its employees, agents, partners, or contractors) is that of an independent contractor and, in no manner, shall the Research Partner be deemed an employee or agent of the State of New York and, therefore, the Research is not entitled to any of the benefits associated with State employment.

## **REPORTS, PUBLICATION AND INTELLECTUAL PROPERTY**

- 14.** The Research Partner shall file an annual report summarizing the results of the research described in the Scope of Work for the 2021 growing season and share any data related to the growth, cultivation, sale, distribution, transportation during the course of that research, including, without limitation, the dates of harvest of each variety planted, the amount of each variety harvested, and the disposition and/or use of the hemp crop and the economic viability of the project. The annual report for 2021 shall be submitted to the Department no later than December 31, 2021.
- 15.** The State shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, data and materials required to be reported to the Department with respect to the Research Partner's agricultural research pilot or the results and accomplishments achieved.
- 16.** All rights and title to intellectual property created, invented or discovered exclusively by the Research Partner in connection with the Research Program shall vest in the Research Partner. All rights and title to intellectual property created, invented or discovered exclusively by one or more New York State employees without the use of the Research Partner's resources shall vest in New York State. All rights and title to intellectual property created, invented or discovered jointly by one or more employees of the Research Partner and one or more employees of New York State with the use of Research Partner resources shall be jointly owned by the Research Partner and New York State.

## **CONFIDENTIALITY**

- 17.** Any data or records marked as confidential may be used or maintained only for the limited purposes of the Research Program. The parties agree that: (a) the Department's obligation under this section may be limited by the requirements of the Freedom of Information Law or other applicable provisions of state and federal law; and (b) the parties shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa; State Technology Law § 208).
- 18.** The Research Partner consents to: (a) the Department providing information to law enforcement agencies about the hemp research activities taking place at the agricultural pilot program sites; (b) entry onto all premises where hemp plants, product or materials are located by the Department, with or without cause, with or without advance notice, for inspection, sampling, testing or any other purpose relating to the research being conducted.

## RISKS OF INDUSTRIAL HEMP RESEARCH

19. Pursuant to Title 7 U.S.C. § 5940 and New York State Agriculture and Markets Law § 505, et seq., the Department has been granted the authority and has decided to undertake an agricultural research pilot program with respect to hemp as provided for under Federal and New York State law. The Research Partner acknowledges that absent participation in the Research Program or the United States Department of Agriculture's hemp licensing program, the conduct of the research described herein may constitute a violation of federal and/or state law.
20. The Research Partner is aware that the federal and state regulatory environment surrounding hemp is in transition and it is anticipated that a different regulatory structure from that set forth in this Research Partner Agreement may be established following the USDA's finalization of regulations concerning the growth and cultivation of hemp.
21. Section 7605(b) of the 2018 Farm Bill provides for the repeal of the 7 U.S.C. § 5940 Legitimacy of Industrial Hemp Research program on January 1, 2022, which, by operation of law, would end the statutory authorization of the Research Program. Should a Research Partner intend to engage in the research set forth in the Scope of Work or commercial cultivation of hemp following the termination of the Research Partner Agreement, the Research Partner will be required to qualify for and obtain other state or federal authorization to grow and cultivate hemp.
22. The Department expressly reserves the right, at its sole discretion, to eliminate, modify and/or add requirements concerning the research project or end the research pilot program, upon sixty-day written notice.
23. The Research Partner has made and shall continue to make its own independent determination with respect to its legal obligations under federal and state law and nothing in this Research Partner Agreement shall be construed as the Department's position or determination as to how any product produced hereunder should be categorized and/or regulated under federal law.
24. The Research Partner represents that it is aware of the federal and state statutes governing the proposed research project, including any applicable guidance.
25. The Research Partner represents that it is aware of its obligation to comply with all current and future local, state, and federal laws and regulations applicable to, among other things, the growth, cultivation and processing of hemp in connection with its growing and cultivation.
26. The Research Partner acknowledges the inherent risk associated with participation in a research program focusing on a new crop. By entering the Research Partner

Agreement and agreeing to perform the Scope of Work, the Research Partner assumes and bears sole responsibility for financial or other losses that may result from the Research Partner's choice to participate as a researcher under the Research Program.

27. The Research Partner represents that it has sought whatever legal or other advice it believes to be appropriate and is not relying upon the Department's approval of its research proposal or any other statement or conduct by the Department in connection with the Research Partner's evaluation of any legal or other risk to which the Research Partner may be exposed in undertaking its research.
28. The Research Partner acknowledges that: (a) the Research Partner is responsible for its research and its hemp crop; (b) the Department's approval of the Research Partner's application does not constitute an endorsement, approval or warranty, express or implied, as to the hemp grown or sold under the authorization of the Research Partner Agreement; and (c) the Department expressly disclaims any warranty of merchantability or fitness for a particular purpose for any product grown or sold pursuant to this Research Partner Agreement.
29. The Research Partner agrees that the Department is not responsible for reimbursing or compensating it for any actual loss and/or loss of anticipated profits resulting from the Research Partner's involvement with or participation in the Research Program.

#### **GROWTH AND CULTIVATION STANDARDS**

30. Prior to planting, the Research Partner shall provide the Department with a list of the amounts of seeds and plants to be planted for each variety that will be planted by or on behalf of the Research Partner and the amount of seed to be planted for each variety.
31. A harvest report form shall be submitted to the Department at least twenty (20) days prior to the expected harvest date. However, if planting does not occur, cultivation is discontinued, and/or a crop fails, the Research Partner shall inform the Department of any such events as soon as possible, but in no event later than fifteen days after the reportable event.
32. The Research Partner shall prepare, maintain, and make available to the Department, upon request, a record that sets forth an accurate inventory of hemp plants and seeds and shall reasonably ensure that the hemp seed and/or plants that are possessed, grown, or cultivated meet the definition of hemp.

- 33.** The Research Partner is responsible for the routine testing of the hemp it produces to ensure that the delta-9 tetrahydrocannabinol content does not exceed 0.3 percent, on a dry weight basis.
- 34.** The Research Partner shall immediately make available to the Department such records relating to sampled specimens having a concentration of more than 0.3 percent of delta-9 tetrahydrocannabinol on a dry weight basis, in a form and at a location satisfactory to the Department.
- 35.** The Research Partner shall promptly dispose of all cannabis in its possession reasonably believed, based upon the results of regulatory or other sampling, to have a concentration of more than 0.3 percent of delta-9 tetrahydrocannabinol, on a dry weight basis.
- 36.** The Research Partner consents to the forfeiture or destruction, without compensation, of cannabis or cannabis products found by the Department to have a measured delta-9 tetrahydrocannabinol content of more than 0.3 percent on a dry weight basis. The Research Partner further consents to the Department's sampling, testing and inspection, without compensation, of any hemp material identified by the Department at the location described in the Scope of Work for the purpose of verifying the delta-9 tetrahydrocannabinol content of the hemp material grown, cultivated and/or possessed by the Research Partner.
- 37.** The Department shall have full access to all premises, buildings, factories, farms, vehicles, cars, boats, airplanes, vessels, containers, packages, barrels, boxes, and/or cans for the purpose of enforcing the provisions of this Research Partner Agreement. Department representatives may, at such locations, examine cannabis and cannabis products and may open any package and/or container reasonably believed to contain cannabis and cannabis products, to determine whether such products are consistent with applicable law or regulation.
- 38.** The Department may quarantine cannabis on the registered premises or other locations or buildings used by the Research Partner in connection with the growth and cultivation of hemp at the registered premises when it has reason to believe that the cannabis does not meet the definition of hemp set forth in § 505(1) of the Agriculture and Markets Law, or is otherwise in violation of or does not meet a standard set forth in applicable law, regulation or the Research Partner Agreement. The quarantine may be put into effect by: (1) delivering written notice directing the owner or custodian of hemp not to distribute, dispose of, or move that commodity without the written permission of the Department or (2) by placing a tag or other appropriate marking on the product or commodity or adjacent thereto that provides and requires that such product must not be distributed, disposed of, or moved without the Department's written permission,

or (3) by otherwise informing the owner or custodian thereof that such condition must be complied with, followed by written notice of the quarantine.

39. The Department may seize cannabis and cannabis products by taking physical possession of such products when it has substantial evidence to believe that that the commodity does not meet the definition of hemp set forth in subdivision (1) of § 505 of Agriculture and Markets Law, or is otherwise in violation of, or does not meet a standard set forth in applicable law, regulation, and/or the Research Partner Agreement.
40. Subsequent to a quarantine or seizure as herein authorized, the Department shall promptly give the owner or custodian of the cannabis or cannabis products an opportunity to be heard as to why such cannabis should not be ordered destroyed. The Department shall, thereafter, consider all the relevant evidence and information presented and shall decide whether such seized or quarantined cannabis should be destroyed. The Department's determination may be reviewed as provided for in Article Seventy-eight of the Civil Practice Law and Rules.
41. It is the responsibility of the Research Partner to ensure that any product grown and cultivated pursuant to this Research Partner Agreement is safe for human or animal consumption or use. To the extent the Research Partner undertakes any testing that raises a concern about the safety of any product being grown or cultivated pursuant to this Research Partner Agreement, such testing results shall be provided to the Department as soon as possible, and in no event later than three days of the Research Partner's receipt of such results.
42. The Research Partner is solely responsible for any statements made with respect to the hemp it grows or cultivates.

#### **SUSPENSION AND TERMINATION**

43. The Department, in its sole discretion, reserves the right to suspend any or all activities under this Research Partner Agreement if it discovers information and has reasonable cause to believe that the Research Partner has failed to abide by any of its terms. In the event of such suspension, the Research Partner shall be given written notice outlining the particulars of such suspension and the opportunity to oppose the suspension through the submission of affidavits, documents and/or written legal argument within fifteen (15) days of the issuance of the suspension. Upon delivery of such notice, the Research Partner shall comply with the terms of the suspension order forthwith. Activity under this Research Partner Agreement may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the Research Partner Agreement.

44. This Research Partner Agreement may be terminated by either party without cause upon ninety (90) days prior written notice. In no event shall any suspension or termination by the Department constitute or be deemed a breach of contract, and, therefore, no liability shall be incurred by or arise against the State, its officers or employees for actual losses, anticipated lost profits and/or any other damages.
45. The Department may terminate the Research Partner Agreement if the Research Program is altered or terminated by legislative, judicial or executive action.
46. When it is determined that the Research Partner has failed to abide by any of the terms of this Research Partner Agreement, upon written notice and following a reasonable opportunity to be heard, the Commissioner or his or her designee may terminate this Research Partner Agreement, for cause, without any payment or compensation due to any party. The Research Partner shall have the opportunity to oppose the termination through the submission of affidavits, documents and written legal argument within fifteen (15) days of the delivery of the notice.
47. Upon termination of the Research Partner Agreement, the Research Partner has no further authorization and/or right to grow, cultivate or harvest hemp. The terminated Research Partner shall cooperate with the Department with respect to providing it access to the Registered Premises or other locations or buildings used by the Research Partner in connection with the growth and cultivation of hemp. Upon termination of the Research Partner Agreement, the Department may direct the disposal or disposition of the crop, with no right of compensation for the Research Partner.

#### **LIABILITY**

48. The Research Partner is responsible and fully liable for the actions of its employees, agents, partners, or subcontractors and shall fully defend, indemnify, and hold harmless the State, its officers, and employees from suits, actions, proceedings, claims, losses, damages, and costs of every name and description relating to any and all accidents, personal injury and damage to real or personal tangible property caused by any intentional act or negligence of the Research Partner, or its employees acting within the scope of their employment, agents, partners and/or subcontractors in connection with this Research Partner Agreement, without limitation; provided, however, that the Research Partner shall not be obligated to indemnify the State, its officers, or employees for any claim, loss, damage, or cost arising from this Research Partner Agreement to the extent caused by the negligent act, failure to act, gross negligence, or willful misconduct of the State, its officers, or employees.
49. The State shall not be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from this Research Partner Agreement, its suspension and/or its termination.

## **TAXES**

50. In the performance of any work under the Research Partner Agreement, the Research Partner will be responsible for all applicable federal, state, and local taxes and for all FICA contributions that the Research Partner may be required to make on its own behalf or on behalf of its employees, agents, partners, or subcontractor.

## **FORCE MAJEURE**

51. Neither party hereto will be liable for losses, defaults, or damages under this Research Partner Agreement that result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this agreement, due to or because of acts of God, a public enemy, acts of government, earthquakes, floods, strikes, civil strife, terrorism, fire, epidemic, pandemic or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform, provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause. Notwithstanding the occurrence of any event described above, the Department's right of access to the Registered Premises shall not be denied.

## **ASSIGNMENT/CHANGE OF CONTROL**

52. This Research Partner Agreement is not assignable or transferrable by the Research Partner.

## **NOTICES**

53. Any notice or communication by any party to the other required or permitted hereunder shall be in writing and shall be deemed duly served as of: (a) the date it is delivered by hand; (b) three business days after having been mailed by certified mail, postage prepaid, return receipt requested; or (c) the next business day after having been sent for delivery on the next business day, shipping prepaid, by a nationally recognized overnight courier, in each case to the receiving party at \_\_\_\_\_, or at such other address as a party may designate by written notice to the other party sent in the manner set forth herein.

**SEVERABILITY**

54. In the event that any one or more of the provisions of this Research Partner Agreement shall for any reason be finally determined to be unenforceable, such provision will have no effect on the validity of the remainder of this agreement, which shall then be construed as if such unenforceable provision had never been written or was never contained in the agreement.

**SURVIVAL**

55. The provisions of Section 15 (Publication), Sections 16 (Publicity/Intellectual Property), Sections 17, 18 (Confidentiality), Sections 48, 49 (Liability) and Section 50 (Taxes) of this Research Partner Agreement shall survive its suspension or termination.

**ENTIRE AGREEMENT**

56. This Research Partner Agreement and any referenced exhibits constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings of the parties, whether written or oral, with respect to the subject matter hereof. No statement, promise, condition, understanding, inducement or representation, oral or written, express or implied that is not contained herein shall be binding or valid. This Research Partner Agreement may not be changed, modified or altered in any manner except by an instrument in writing executed by the Department and the Research Partner.

**IN WITNESS WHEREOF**, the parties hereto have executed this Research Partner Agreement as of the day and year first written above, and the persons signing this agreement represent and warrant that they are duly authorized to sign on behalf of the respective parties.

**THE STATE OF NEW YORK,**  
acting by and through the Commissioner of  
the Department of Agriculture and Markets

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:  
Title:  
Date:

Name:  
Title:  
Date:



ACKNOWLEDGEMENT FOR INDIVIDUALS

STATE OF NEW YORK    )  
  ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 2021, before me personally appeared \_\_\_\_\_, to me known, who being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_, and is the Research Partner described herein, who executed the foregoing Research Partner Agreement .

Notary Public

\_\_\_\_\_

SAMPLE