



2019

Great Lakes Hops Proprietary Hops License Agreement Between Great Lakes Hops and Customer - Grower

GLH Proprietary Select Hops, hereinafter referred to as “Select Hops”, are owned by Great Lakes Hops, Inc. hereinafter referenced as “GLH”, a privately-owned Michigan corporation. GLH has invested considerable time and money to develop Select Hops cultivars and has the intent to protect and pursue its investment by securing trademarks and logos.

ALL FORMS OF SELF-PROPAGATION ARE STRICTLY PROHIBITED.

Hop customer – grower, hereinafter referred to as “GROWER” desires to purchase Great Lakes Hops Proprietary Select Hops cultivar(s) to grow and market finished products such as cones, pellets, extracts, or derivatives thereof.

Before a GROWER can purchase and grow GLH Select Hops cultivars, the GROWER must: (1.) be a current approved GLH grower member in good standing or simultaneously submit a GLH Membership Application and Agreement (attached as Exhibit B), and further agree, by signing this License Agreement, (2.) to use only the individual Select Hop cultivar Trademark names and Logo in connection with Select Hop cultivars and any derived products, and (3.) to pay certain Royalty, Trademark and Logo fees, as set forth below.

In consideration of the mutual promises set forth below, GLH and the Grower agree to the following terms of this License Agreement:

1. **License Grant.** Subject to the terms contained in this Agreement, GLH grants to Grower, and Grower accepts, a limited-scope, non-exclusive, non-assignable, revocable license for Intellectual Property to grow Select Hop cultivars. “Intellectual Property” includes GLH’s intellectual property interests existing now, or in the future, in the individual Select Hop cultivars, including but not limited to GLH’s business plans, technical documents, legal documents, trade secrets, names, designs, logos, trademarks and or other indicia, plant breeding rights, plant patents and any improvements (including sport varieties), inventions, enhancements, adaptations or modifications made before or during the term of this Agreement. By purchasing these hops, becoming a member of GLH and signing this Agreement, **Grower agrees to grow and market GLH Select Hop cultivars and any derivatives thereof using only identified Trademarks and Logos. Modifications to; or use of other names and marks in connection with production from GLH Select Hop cultivars is expressly prohibited.** Grower further agrees to protect any GLH licensed hop cultivars from transference, sales, or dissemination of any propagated plants, crowns, or rhizomes from their hopyard(s).



1.1 Grant “As-Is”. The grant of rights under this Agreement is made “AS-IS”, without warranty of any kind, except that GLH warrants the Trademark and Logo are comprised of original works that, to the best of GLH’s knowledge, do not infringe upon, violate or misappropriate any intellectual property right of any third party.

1.2 Acknowledgment of GLH’s Ownership. GROWER agrees the Intellectual Property is owned by GLH alone. GROWER will not attempt to claim or represent to others that GROWER has any of GLH’s rights in the Intellectual Property as GROWER’s own, including any propagation or transference of the Select Hop cultivars to others, without first obtaining the express, prior written consent and authorization of GLH to do so. GLH reserves the right to make a final determination as to whether a specific use of the Intellectual Property is acceptable. GROWER further agrees it will not use or authorize the use of any configuration, trademark, trade name or other designation confusingly like GLH’s hop cultivar names or the Trademarks associated with them.

2. Permitted Use of the Trademark and Logo. **GROWER may use the Trademark and Logo on all labels, containers, packages, tags and displays, in all print advertisements and literature, in all television and radio commercials, on its website or other social media, and on any other materials used in relation to its marketing of Select Hop cultivars and derived products (“Trademark Displays”).** GROWER will use commercially reasonable efforts to insure that the Trademark Displays will contain appropriate legends, markings and notices as GLH may require from time to time. Except where size restrictions preclude it, in or on all packaging, literature and advertisements (i) the most prominent reference to any of the Trademarks shall include the registered trademark symbols ® or ™ and (ii) the statement that individual Select Hop cultivar names are the trademarks of GLH. In addition, GROWER will cause to appear on all Trademark Displays any notices that may be required by law or regulation. GROWER will not use the Trademark and Logo in any way that would jeopardize the goodwill associated with the Trademark and Logo. Upon GLH’s commercially reasonable request, GROWER will submit to GLH, at GROWER’s expense, a true representation or example of any proposed use of the Trademarks, in any visible or audible medium, including proposed packaging, displays, advertisements and promotional materials depicting, referring to, or otherwise used in relation to the Trademarks and Logos, prior to use.

2.1 Transference of this Agreement – see also section 32. Default

GROWER agrees all GROWER’s agents, or third parties, such as brokers of the derived finished products will adhere to the terms this Agreement and all its provisions. GLH has all legal remedies including to confiscate and or destroy any products found to be in violation of this agreement at the GROWERS expense.

3. **Term. This Agreement shall remain in effect for 20 years from its Effective Date, which is the date hop planting stock is delivered to the GROWER.**

4. **Fees and Royalties**. In exchange for the grant of this License Agreement, GROWER agrees to pay the following fees and royalties based on U.S. dollars:



4.1 **Trademark, & Royalty Fees.** Fees for each specific growing year will be due on or before January 1st of that growing year for years 2 through 20 of the Term according to the following schedule:

Upon Purchase of the plants	\$1 due per hop plant
Growing years 2 and 3	20 cents per hop plant per year
Growing years 4 – 20	30 cents per hop plant per year
After 20 years	Royalty payments end

4.2 All royalty fees charged are in addition to the initial plant purchase price of Select Hop plant material. Initial plant purchase price is subject to change.

4.3 The Licensee may opt out of growing a Select Hop Cultivar without penalty at the end of a growing season prior to paying royalties for the following growing season. GLH reserves the right to verify removal of the Select Hops cultivar a grower is choosing to discontinue growing. Previously collected royalties as well as royalties collected for the upcoming growing season are non-refundable.

5. **Sports, Mutations and derivatives.** GROWER agrees they will not register or otherwise seek protection for GLH Select Hop cultivars or any improvement, development, sports, mutations, essentially derived from these proprietary hop cultivars. GROWER will immediately disclose to GLH any improvements to, or developments of Select Hop cultivars, including any sport or mutation. Any improvement, development, sport or mutation shall become the exclusive property of GLH. Should the Parties agree a superior strain of a Select Hop cultivar has occurred, the superior strain shall enter commerce as an improved replacement of the original Select Hop cultivar under the same name and shall be subject to all terms and conditions set forth in this Agreement, including the payment of fees and royalties.

6. **Right of inspection.** GROWER agrees to allow GLH or its agents to enter and inspect at any reasonable time the GROWER's premises and plantings to ensure compliance with this Agreement and GROWER shall authorize and instruct GROWER's employees to fully cooperate in any such entry or inspection. Refusal to allow inspection will result in immediate termination of this agreement.

7. **Default & Termination.** If GROWER defaults in the performance of any material provision of this Agreement, GLH may give written notice of the default to Grower. If Grower fails to cure the default within thirty (30) calendar days (the "Cure Period") to the reasonable satisfaction of GLH, GLH may sue for specific performance, an injunction, or any other equitable or legal remedy, as the situation warrants. Examples of material defaults include, but are not limited to, any action or inaction by GROWER that is harmful to GLH's reputation, GLH's rights in and to the Trademarks and Logos, or the value of the Trademarks and Logos. If the default by GROWER of any of the terms of this Agreement is not corrected during the Cure Period, the grant of rights to the GROWER under this Agreement is immediately terminated. In this event,



or upon termination of this Agreement for any reason, GROWER agrees to destroy all plants, cutting, rhizomes, seed and other material capable of reproduction, originating from the existing plant matter. GLH may also pursue all legal remedies available, to the full extent of applicable law, for the recovery of further damages, including without limitation, incidental, consequential, punitive, statutory, and infringement damages, lost profits and all forms of injunctive relief.

8. **Indemnification.**

8.1 **Indemnification by GROWER.** GROWER will defend, indemnify and hold GLH, its officers, directors, agents, lawyers, employees and any of its related entities (an “GLH Indemnified Party”) harmless against any and all legal actions, suits, proceedings, hearings, governmental investigations, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, penalties, fines, costs, liabilities, obligations, taxes, liens, losses, expenses, and fees, including litigation costs and reasonable attorneys’ fees and expenses (“Adverse Consequences”) an GLH Indemnified Party will suffer resulting from, arising out of or related to: (1.) any breach or alleged breach of any warranty, representation or covenant made by GROWER in this Agreement; (2.) the operations by GROWER, including without limitation product liability matters; (iii) any use of the Trademarks by GROWER, its agents, employees, and/or any other individual or entity acting on GROWER’s behalf, not in conformance with this Agreement, and/or (iv) the negligence or willful misconduct of GROWER or anyone acting on behalf of GROWER.

8.2 **Indemnification by GLH.** GLH shall defend, indemnify and hold GROWER, its shareholders, officers, directors, agents, lawyers, employees and any of its related entities (a “GROWER Indemnified Party”) harmless against any and all Adverse Consequences a GROWER Indemnified Party may suffer resulting from, arising out of, or related to: (i) any breach or alleged breach of any warranty, representation or covenant made by GLH in this Agreement, or (ii) any claim by a third party that GROWER’s use of any of the Trademarks infringes upon the rights of the third party. Notwithstanding the foregoing, GLH will not be liable for any Adverse Consequences to the extent the Adverse Consequences result from GROWER’s violation of any material provision of this Agreement, including those relating to proper use of the Trademarks, if the Adverse Consequences would have been avoided in the absence of such violation.

9. **No Third-party Beneficiaries.** Under no circumstances will any customer of GROWER or any other person, firm or other entity be considered a third-party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement.

10. **Disclaimer of Warranties, Limitation of Liability.**

10.1 Except for the limited warranty in section 2, GLH makes no representations or warranties of any nature, express or implied, in connection with this agreement, the trademarks or any other matter, including without limitation all warranties of merchantability, title and fitness for a particular purpose. GLH will under no circumstances have any liability to the grower or any



third parties for lost revenues, lost profits, loss of business, or any indirect, special, consequential, or punitive damages of any nature, or any products liability.

10.2 Except for each party's indemnification obligations under section 8.1 and 8.2, neither party shall be liable for any indirect, punitive special, incidental, or consequential damages (including damages for loss of business, profits, or investment, or the like), in any way arising out of or as a result of growing GLH Select Hop Cultivars, use of trademarks, or this agreement, whether based on breach of contract, breach of warranty, tort (including negligence, product liability or otherwise), cost of cover or any other pecuniary loss arising out of the use of or inability to use the verified products, even if it has been advised of the possibilities of such damages and even if a remedy set forth is found to have failed its essential purpose.

11. Miscellaneous.

11.1 No Waiver. No waiver of any provision of this Agreement will be effective unless in writing and signed by an authorized officer of the Party against which the waiver will be sought. No failure to exercise, delay in exercising or single or partial exercise of any right, power or remember by GLH will constitute a waiver of, or will preclude any other or further exercise of, the same or any other right, power or remedy by GLH. Any waivers granted to Purchaser by GLH must be approved by authorized agents of GLH.

11.2 Governing Law. This Agreement will be governed by and construed in accordance with the laws of Michigan without giving effect to principles of conflicts of laws.

11.3 Attorney fees. In any legal action arising out of this agreement, or arising from the infringement of GLH rights, GLH is entitled to reasonable attorney fees and costs.

11.4 Notices. All notices, consents and other communications under or regarding this Agreement will be in writing and will be deemed to have been received on the earlier of (1.) the date of actual receipt, (2.) three days after being mailed by first class, postage pre-paid, certified mail, return receipt requested, or (3.) if by next-day delivery service, upon such delivery. Any notice may be given by email, provided that a signed written original is sent by one of the foregoing methods within 24 hours thereafter.

11.5 Assignment, Binding on Successors, Heirs and Assigns. Any assignment by either party of this Agreement without the prior written consent of the other Party (which will not be unreasonably withheld) will be void. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, heirs and permitted assigns.

11.6 Enforcement. The existence of any claim against GROWER or GLH will not constitute a defense or bar to the enforcement of this Agreement. If any provision of this Agreement is found to be illegal or unenforceable, the remaining provisions of this Agreement will remain in full force without regard to the illegal or unenforceable provision.

11.7 Amendment. This Agreement sets forth the entire understanding between the parties with respect to the subject matter and supersedes all prior oral or written proposals, negotiations,

understandings or agreements between the Parties. Any modifications to this Agreement must be made in writing and signed by both Parties.

12. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. The Parties agree that signatures transmitted electronically, whether sent via facsimile or as attached files via email or by other means (for example, a PDF), will be acceptable to bind the Parties and will not in any way affect the Agreement's validity.

Witness the execution and delivery of this Agreement by our signatures:

GROWER authorized representative

By:
Its:

Date

Phone

Address

Email Address

City/State/Zip Code

GREAT LAKES HOPS, INC.
A Michigan agricultural corporation

By: Lynn Kemme
Its: Executive Director

Date

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