

## SERVICE CONTRACT

THIS SERVICES CONTRACT is made and entered into as of February 1, 2025, by and between Westervelt Timber Management LLC and Nutrien Ag Solutions, Inc. ("Contractor").

### W I T N E S S E T H:

**WHEREAS**, Westervelt requires certain services as further described in Section 1 below be performed and Contractor is engaged in the business of providing such services.

**NOW, THEREFORE**, for good and valuable consideration, and intending to be legally bound, Westervelt and Contractor hereby agree as follows:

1. **SCOPE OF WORK.** In accordance with the terms of the "Service Contract General Conditions" attached hereto (which, together with the terms on the face of this Services Contract constitute the "Agreement"), Contractor agrees to furnish all supervision, labor, tools, equipment, services and materials, unless specifically excepted, necessary to complete the performance of the services herein (the "Work") on certain property owned or managed by Westervelt that is more particularly described on **Appendix "A&B"** attached hereto and incorporated herein:
  - (a) To apply the fertilizer as described in Appendix "A" evenly distributed across each row of planted pine seedlings, using properly maintained equipment appropriate for the job.
  - (b) To furnish the equipment necessary to perform the work in a safe efficient manner, and shall furnish, at its sole expense, all the necessary motor vehicles relative to operation of equipment, and such other equipment, supplies and all other material and supplies in order that a proper application of such chemicals might be accomplished.
  - (c) To furnish personnel required to properly mix, supply to sites, load, and apply the said fertilizer in a safe and efficient manner.
  - (d) To apply all fertilizer in such a manner and under such weather conditions so as to assure even distribution and complete coverage of the target area, and to assure that the fertilizer is not applied outside the target area boundaries defined by Westervelt. Fertilizer coverage will equal or exceed 95% of treatment acres with no single untreated area to exceed 1/2 acre in size or 2% of the total tract acreage.
  - (f) To keep a daily record of pounds of fertilizer applied to each tract.
  - (h) To maintain a hazard communication program.
- 1) Contractor further covenants and agrees to provide Westervelt, at Westervelt's request, all documentation reasonably necessary, as determined in Westervelt's sole and absolute discretion, to confirm Contractor's performance of the Work, which may include, but shall not be limited to:
  - (a) Certify all chemicals used for the Work have properly mixed, supplied to sites, loaded, and applied in a safe and efficient manner and in accordance with Westervelt's requirements;
  - (b) Certify the daily record of pounds of fertilizer applied to each tract;
  - (c) Provide a hazard communication program.

Contractor shall use all reasonable efforts to provide such requested documentation as soon as possible, but no later than ten (10) business days after initially being requested by Westervelt.

In connection with Contractor performing the Work, Westervelt agrees:

(a) To furnish to Contractor such maps, drawings, shapefiles and/or photographs that reasonably identify the acreage to be treated. It is Contractor's responsibility to confirm understanding of the documentation.

2. **TERM.** Contractor agrees to perform services described in Section 1 above from February 1, 2025, ("Beginning Date") to May 31, 2025 ("Ending Date").

3. **PRICING AND RELATED PROVISIONS**

a. See attached Appendix A & B

4. **WESTERVELT TIMBER MANAGEMENT LLC agrees to pay CONTRACTOR** for application, labor, materials, & services in accordance with the pricing, terms, and conditions set forth herein. Terms shall be net thirty (30) days from the date of invoice. Westervelt shall not be required to make any payments hereunder until such time as CONTRACTOR shall have completed the performance of the services contracted for to the satisfaction of WESTERVELT.
5. **MIGRANT WORKERS.** Do you employ Migrant and Seasonal Agricultural Workers to perform the work required under the Forest Cultural Treatment Contract attached hereto? If yes, provide the information requested in "**Exhibit A**".

yes

☒ no

Initial TS

CONTRACTOR: Nutrien Ag Solutions, Inc.

WESTERVELT TIMBER MANAGEMENT LLC

By: 

By: 

Name: Tim Smith

Name: Dave Donaldson

Its: Sr. Director

Its: VP & General Manager, Forest Resources

## SERVICES CONTRACT GENERAL CONDITIONS

### 1) **PAYMENT TERMS**

The Agreement price as stated in this Agreement is the total amount payable by Westervelt for the performance of the Work described herein. If the Agreement price is paid through progress payments, such progress payments shall be based upon Work completed, which shall be evidenced by such documents as Westervelt may reasonably require of Contractor. Under no circumstances shall Westervelt be required to make more than one progress payment per month. Upon notice from Contractor that performance of the Agreement is complete, Westervelt will inspect the Work and will notify Contractor of any deviations, defects, or deficiencies in the Work, which such inspection reveals. Westervelt shall not be liable to make a final payment to Contractor until Contractor shall have corrected such deviations, defects, and deficiencies to the satisfaction of Westervelt. Neither any progress payment nor the final payment nor any other act of acceptance by Westervelt shall constitute an acceptance of Work not in accordance with the Contract Documents. If payment by Contractor is based upon time and materials, Contractor shall be required to furnish Westervelt with a list of labor classifications with wage rates and a list of equipment rental rates that will be applicable to Work performed hereunder. Contractor shall be required to furnish Westervelt a daily report of labor and equipment charges incurred during the preceding day. No invoice for time and materials will be paid until such daily reports are submitted and approved in writing by Westervelt. For purposes of this Agreement, the "Contract Documents" consist of this Agreement, any drawings, plans, specifications, addenda, scope of work or other documents issued by Contractor to and agreed upon by Westervelt in connection with this Agreement and the Work provided hereunder. To the extent that there is a conflict or inconsistency between this Agreement and any other Contract Document, the terms and conditions of this Agreement shall supersede and govern the Work.

Contractor warrants that title to all Work covered by an application for payment, and upon completion of all Work required under this Agreement, will pass to Westervelt no later than the time of payment. Contractor further warrants that upon submittal of an application for payment, all Work for which Contractor has been previously paid shall be free and clear of liens, claims, security interests or encumbrances in favor of Contractor, subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

Upon final completion of and payment by Westervelt of all Work required under this Agreement (and at any time otherwise required by Westervelt), Contractor shall provide Westervelt and cause any and all subcontractors to provide Westervelt, with executed releases and waivers of any and all liens, claims, security interests or encumbrances in favor of Contractor, subcontractors, material suppliers, or other persons or entities that have provided labor, materials and equipment relating to the Work.

### 2) **TIME**

All time limits stated herein are of the essence of this Agreement. Any request for an extension in the Agreement time shall be made in writing and delivered to Westervelt for Westervelt's approval. Neither party shall be liable for delays caused by acts of God, an act of government, fire, flood, accident, war, labor disputes, or epidemics. If the parties agree, the Agreement time may be extended where delays are due to any other causes beyond the control of the parties.

### 3) **INDEMNITY**

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless Westervelt, its agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, except to the extent that such claims, liabilities, damages, actions, costs and expenses arise solely from the negligence or misconduct of the Westervelt.

**4) INSURANCE**

a) In addition to any insurance Contractor deems in its interest to purchase because of risks assumed under this Agreement or otherwise, Contractor shall maintain in force at its own expense: (i) all insurance required by any applicable federal, state or local statutes, laws, rules or regulations; and, (ii) the following forms of insurance coverage at least in the amounts specified. Additionally, Contractor shall maintain such forms of insurance as required by this paragraph for the longer of: (i) 5 years or (ii) the statute of limitations applicable to this Agreement. Contractor agrees to have Westervelt and Suwanee Pine, LLC designated as an additional insured under all insurance policies of Contractor acquired or maintained to fulfill the requirements for insurance imposed by this paragraph of this Agreement. Contractor waives any and all rights of recovery against Westervelt and Westervelt for any loss or damage covered by any insurance acquired or maintained by Contractor for its benefit (including all rights that might otherwise accrue to any subrogee) where such waiver does not void Contractor's insurance.

- i) Commercial Public Liability – without limiting endorsements
  - (1) Limits of Liability –
    - \$1,000,000 each occurrence
    - \$2,000,000 general aggregate
    - \$2,000,000 products – completed operations aggregate
    - \$1,000,000 personal injury
    - \$5,000 medical payments
  - (2) Policy shall include the following types of coverage:
    - (a) Premises & Operations
    - (b) Independent Contractors
    - (c) Products & Completed Operations
    - (d) Explosion, Collapse and Underground (XC&U)
    - (e) Contractual Liability: This insurance shall include standard contractual liability coverage of the hold harmless and indemnification provisions set forth in this Agreement in favor of the Owner.
    - (f) Contractor's coverage shall be primary
- ii) Automobile Liability – Comprehensive Form (including contractual liability endorsement)
  - (1) Limits of Liability – \$1,000,000 each accident (combined single limit for bodily injury and property damage)
  - (1) Policy shall include owned, non-owned and hired vehicles

Upon execution of this Agreement and at such other times as Westervelt may request, to provide Westervelt and Westervelt with a complete schedule of the vehicles insured under Contractor's insurance or any sub-contractor.

Westervelt reserves the right to periodically inspect the vehicles used by Contractor in performing the services contracted for herein, and Contractor's use of any vehicle not included on the schedule of vehicles provided to Westervelt and not covered by Contractor's insurance, as required herein, may result in the immediate termination of this Agreement at the sole discretion of Westervelt. Westervelt reserves the right to require Contractor to increase the amounts of coverage set forth above during the term hereof by providing thirty (30) days' notice to Contractor. If Contractor fails to increase such coverage, Westervelt reserves the right to immediately terminate this Agreement.

- iii) Workmen's Compensation – Statutory
  - (1) Employer's Liability -
    - \$1,000,000 each accident
    - \$1,000,000 disease – policy limit
    - \$1,000,000 disease – each employee
    - Voluntary Compensation Endorsement

## iv) Aviation Liability

Contractor shall procure and keep in force, or cause to be procured and kept in force for each of its subcontractors, where applicable, a policy or policies of aviation physical damage and liability insurance providing property and liability coverage for damage or destruction to or caused by any type of aircraft used in the performance of the Work.

The physical damage insurance shall provide coverage for not less than the actual cash value. The liability insurance shall provide coverage of no less than \$2,000,000 combined single limit of liability for bodily injury, property damage and personal injury per occurrence. Umbrella and excess policies utilized to achieve the required total limit of coverage shall comply with all insurance requirements, terms and provisions set forth in the Agreement for the applicable type of coverage.

This insurance shall include commercially reasonable deductibles not to exceed \$10,000 per occurrence. Higher deductible shall be declared to Westervelt for its prior approval.

## v) Contractor's Pollution Legal Liability Insurance

(1) Limits of Liability – \$1,000,000 per claim

## vi) Umbrella

Limit of Liability - \$5,000,000 per occurrence  
 \$5,000,000 aggregate  
 Self-Insured Retention - \$10,000  
 Employer's Liability in Excess of \$100,000

b) **PROPERTY INSURANCE**

Westervelt will provide property coverage on its property. Coverage is not extended to Contractor under Westervelt's coverage. Additionally, Westervelt reserves the right to hold Contractor responsible for any damage incurred to Westervelt's property.

c) **DAMAGE TO CONTRACTOR'S PROPERTY**

Contractor shall maintain, at its own expense, insurance coverage against the loss or destruction of any and all of the equipment, tools, and other property owned or used by it in connection with the Work. Contractor waives subrogation rights against Westervelt. Further, if Contractor desires to store any its equipment, tools and other property on Westervelt's property, Contractor hereby agrees (i) to exercise reasonable care and diligence in storing its equipment, tools and other property on Westervelt's property, and (ii) to indemnify and hold harmless Westervelt, and its respective directors, officers, agents, employees, and assigns and each of them (collectively, the "Indemnities") from and against all liabilities, claims, damages, losses and expenses, including but not limited to, all court costs and attorney's fees, arising out of or in any way resulting from Contractor's storage of its equipment, tools and other property on Westervelt's property. Such obligation shall not be construed to negate, abridge or otherwise limit any other right or obligation of indemnity that otherwise exists in favor of any Indemnitee. In the event and to the extent that a claim is made by an employee of Contractor against an Indemnitee, the intent of the parties is that Contractor will indemnify each such Indemnitee to the same extent as if such claim were made by a nonemployee of Contractor, irrespective of any statute or judicial decision otherwise disallowing such indemnity. Accordingly, in addition to the above provisions and in order to render the parties' intent and this Agreement fully enforceable, Contractor, in a claim hereunder by Westervelt, or any of its officers, agents, directors, employees, contractors, or assigns, hereby waives any and all defenses or immunity Contractor may have under the Workmen's Compensation Laws of any state, or any statute or judicial decision pertaining thereto, and Contractor consents to a cause of action for indemnity hereunder.

**d) CERTIFICATES OF INSURANCE**

At least five (5) days prior to the commencement of the Work hereunder, Contractor shall furnish to Westervelt insurance certificates evidencing that all insurance required herein is in full force and effect and naming Westervelt as an additional insured or loss payee, as applicable. All such certificates and policies of insurance required herein shall include evidence of or contain an endorsement specifying that such insurance it will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to Westervelt. Contractor shall not begin any portion of the Work until all certificates of insurance have been provided to Westervelt.

**5) SAFETY DEVICES AND REGULATIONS**

Contractor shall have all responsibility for initiating, maintaining and supervising all safety programs and precautions in connection with the Work performed under this Agreement. Contractor agrees that it is performing the Work at its own risk and understands and agrees that the safety of all persons employed by Contractor and/or any other persons who enter upon Westervelt's premises for reasons relating to the Work to be provided by Contractor shall be the sole responsibility of Contractor. Contractor specifically agrees to abide by and observe all federal, state and local laws and regulations pertaining to safety, as well as OSHA, which are applicable to the Work being performed, and further agrees that all Work furnished under the Agreement shall be equipped by Contractor with all proper safety devices for the protection of workmen. Contractor shall provide and maintain applicable signs containing safety instructions and warnings relating to fires, smoking, the storage of flammable liquids, and methods of transmitting fire alarms.

**6) INSPECTION**

Westervelt shall have access to and the right (but not the duty) in its sole discretion to inspect all Work from time to time for final acceptance in order to ascertain whether Contractor has fully and faithfully performed its obligations hereunder. Such inspections are for the purpose of monitoring progress of the Work to ensure proper adherence to plans, specifications, and this Agreement, and Westervelt does not undertake to supervise or insure safety in connection with Contractor's performance of this Agreement. Contractor agrees that if Westervelt at any time finds the Work to be unsatisfactory in quality and/or quantity, Contractor will promptly correct the situation. If after one (1) working day from notification of unsatisfactory performance Westervelt is not satisfied with the performance of Contractor, Westervelt may terminate the balance of the Agreement immediately.

**7) CHANGES IN THE WORK**

Without invalidating this Agreement, Westervelt may, at any time or from time to time, order additions, deletions or revisions in the Work. These changes in the Work will be authorized by written change orders. All such Work shall be executed under and subject to the terms and conditions of this Agreement. If any change order causes an increase or decrease in the Agreement price, Westervelt and Contractor will negotiate an adjustment of the Agreement price. No adjustment of the Agreement price for changes in Work will be allowed unless Westervelt has consented in writing to the change.

**8) RELATIONSHIP OF THE PARTIES/SUPERVISION AND SUPERINTENDENTS**

Contractor shall at all times be an independent contractor with respect to the Work and will not be acting as an agent, employee or servant of Westervelt. Any Work provided by Contractor shall be carried on by Contractor according to its own methods subject only to specifications and agreements outlined in this Agreement. Contractor will supervise and direct work efficiently and with his best skill and attention. Contractor shall have exclusive control of the means, methods, techniques, sequences and procedures of Work. Contractor shall be solely responsible for the acts of its agents, employees, servants and subcontractors during the performance of this Agreement. Contractor will keep on the Work at all times during its progress a competent

resident superintendent satisfactory to Westervelt. The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be binding as if given to Contractor.

**9) WORKMANSHIP, LABOR, AND MATERIALS**

Contractor shall perform all Work hereunder in a good and workmanlike and lien free manner and to the satisfaction of Westervelt. Contractor further guarantees and warrants that the Work shall be performed and completed in accordance with generally accepted industry standards, practices, and principles applicable to the Work, including performing the Work in accordance with state's most recently published Best Management Practices (BMPs) for Forestry, to the extent applicable. If deviations, defects, or deficiencies in the Work are not remedied to the satisfaction of Westervelt within a reasonable time after Westervelt's having given Contractor notice of such, or if Contractor shall fail or neglect to perform any of its obligations under this Agreement, then Westervelt, without any prejudice to any other right or remedy, may correct any such deviations, defects, or deficiencies itself, and Contractor agrees to reimburse Westervelt for the entire cost thereof either by way of deduction from any payment then or thereafter to be made to Contractor or by payment of the invoice of Westervelt thereof.

Contractor shall perform all Work hereunder in such a manner that does not pose a threat of harm to Westervelt's property or interfere with or hinder Westervelt's operations or the operations of other contractors. Contractor agrees to keep the Work premises free of waste material and rubbish caused by his Work or that of his subcontractors. Contractor further agrees to remove all such waste material and rubbish on the termination of the Agreement, together with all his tools, equipment, machinery and surplus materials. If Contractor fails to perform this requirement, Westervelt may have this Work performed at Contractor's expense.

Contractor warrants that if any materials or equipment are furnished under this Agreement, such materials and equipment will be new (unless otherwise specified) and free from faults or defects for a period of one year, commencing with the date of final payment under this Agreement. Contractor further warrants that all materials, equipment, and work furnished under this Agreement will be in compliance with the provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued hereunder, and that Contractor shall hold and save harmless Westervelt from all damages or penalties assessed against Westervelt as a result of Contractor's breach of this warranty.

All guarantees or warranties of materials furnished to Contractor or any subcontractor by any manufacturer or supplier shall be deemed to run for the benefit of Westervelt. Contractor shall and does hereby assign to Westervelt the benefits of all warranties and guarantees including any such warranties and guarantees of subcontractors (or the subcontracts themselves if necessary to perfect such assignment), but such assignment shall not relieve Contractor of its warranty obligations to Westervelt under the Agreement or at law.

**10) SUBCONTRACTORS**

Contractor shall not subcontract Work without prior written consent of Westervelt, and such consent shall not relieve contractor from full responsibility and liability for the Work and for the due performance of all the terms and conditions of this Agreement. Rejection by Westervelt of any proposed subcontractor shall not obligate Westervelt for additional costs. Contractor shall furnish Westervelt a copy of all subcontracts at least 10 days prior to commencement of Work hereunder. Nothing in the Contract Documents shall create any contractual relationship between any subcontractor and Westervelt to pay or to see to the payment of any moneys due any subcontractor. Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of Westervelt.

**11) PERMITS**

Contractor will secure and pay for all permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the Work.

**12) LAWS AND REGULATIONS**

Contractor will give all notices, make no unlawful or offensive use of the property and shall comply with applicable laws, ordinances, rules, and regulations of federal, state, and local governments, and any other public authorities having jurisdiction over said property, including, but not limited to, the Department of Labor, Occupational Safety and Health Administration and its enforcement of the Occupational Safety and Health Act of 1970 ("OSHA"), and any amendments thereto. Without limiting any other indemnity provision set forth in this Agreement, Contractor further agrees to indemnify and hold harmless Westervelt and its respective officers, directors, agents and employees (each of them collectively referred to here as "Indemnitees") from and against all liabilities, claims, fines, damages or expenses, including reasonable attorney's fees arising out of contractor's, its agents, employees, subcontractors, or assigns, failure to comply with any such law, ordinance, rule or regulation.

**13) TERMINATION**

If Contractor is adjudged a bankrupt or makes an assignment for the benefit of his creditors, or if a trustee or receiver is appointed for Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, or if he fails to supply sufficient skilled workmen or suitable materials or equipment, or if he fails or neglects to perform any of the Work in a good and workmanlike manner or otherwise fails to comply with any provisions of this Agreement including, but not limited to the breach of any warranty or representation, or if he fails to make prompt payments to subcontractors or for labor, materials or equipment, or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if he otherwise violates any provision of the Contract Documents, then Westervelt may, without prejudice to any other right or remedy, terminate the services of Contractor and take possession of the project and all of materials and equipment to be incorporated into the project and finish the Work by whatever method it may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Agreement price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to Contractor. If such a cost exceeds such unpaid balance, Contractor will pay the difference to Westervelt. Where Contractor's services have been so terminated by Westervelt, said terminations shall not affect any rights of Westervelt against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys by Westervelt due Contractor will not release Contractor from liability.

Furthermore, Westervelt may terminate this Agreement at any time without cause and finish the Work in any manner suitable to Westervelt. In such event, Westervelt and Contractor shall attempt to negotiate a mutually satisfactory settlement of the Agreement price. If the parties fail to agree on a settlement amount, Contractor shall be entitled to recover expenses incurred in connection with the performance of the Agreement at its termination plus a reasonable profit, provided the amount recoverable plus the cost to complete the Work shall in no event exceed the total Agreement price.

**14) TAXES**

Contractor shall pay all contributions, taxes and premiums payable under federal, state and local laws measured upon the payroll of employees engaged in the performance of the Work under this Agreement, including FICA and unemployment compensation premiums, and all excise, transportation, occupational, and other taxes applicable under this Agreement.



**15) CONFIDENTIAL INFORMATION**

During the course of this Agreement, information that is confidential or proprietary to one party (the "**Disclosing Party**") may be disclosed to the other party (the "**Receiving Party**"), including, but not limited to, product designs, structural details, construction and installation methods, sales, cost and other unpublished financial information, product and business plans, advertising revenues, usage rates, advertising relationships, projections, marketing plans and business data (collectively, the "**Confidential Information**"). The parties agree that the existence of, and terms and conditions of, this Agreement and the Scope of Work shall be considered Confidential Information for the purposes of this Section. Confidential Information shall not include information: (i) that was in the public domain, or which subsequently becomes part of the public domain, except by the wrongful disclosure hereunder by the Receiving Party; (ii) that was in the Receiving Party's possession prior to receipt of the same hereunder and was not acquired from a third party under any obligation of confidentiality with respect to such information; (iii) that was received by the Receiving Party from a third party who had a right to make such disclosure; (iv) that can be proven to have been independently developed by the Receiving Party; (v) that is approved in writing for release by the Disclosing Party; or (vi) that a party has been compelled to produce by subpoena or other legal process, provided that such compelled party gives the other party prompt notice of such legal process and cooperates with the other party in seeking a protective order or other appropriate protection. Each party agrees: (i) that the Receiving Party shall treat the Disclosing Party's Confidential Information as confidential and will take reasonable precautions to prevent unauthorized disclosure or use of the Disclosing Party's Confidential Information, such precautions taken being at least as great as the precautions taken to protect its own Confidential Information (but in no case less than reasonable care); (ii) that the Receiving Party will not disclose the Disclosing Party's Confidential Information to any third party without the Disclosing Party's prior written authorization; (iii) that the Receiving Party will not use the Disclosing Party's Confidential Information except for the purpose of providing Services or fulfilling obligations under this Agreement; (iv) that the Receiving Party will promptly return any documents, models, software storage devices, audio tapes, video tapes, or prototypes embodying the Disclosing Party's Confidential Information upon request; and (v) that the Receiving Party will limit disclosure of Confidential Information to those officers and employees of the Receiving Party and any other authorized persons requiring such disclosure to perform Work under this Agreement, in which case the Receiving Party shall notify its employees, officers, and such other authorized persons of their confidentiality obligations with respect to the Confidential Information and shall require such employees, officers and other authorized persons to comply with the obligations in this Section.

**16) RECORDS**

Contractor agrees to keep itemized records with respect to all aspects of the Work (the "Records"), such Records to be the sole property of Westervelt. On termination of this Agreement, final completion of the Work or on demand of Westervelt at any time, Contractor shall deliver to Westervelt the Records that are in the possession of Contractor or under the control of Contractor and that are the property of Westervelt or relate to the Work.

**17) MISCELLANEOUS PROVISIONS**

The parties further agree as follows:

- a) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.
- b) This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understanding, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waived, amended or added to except by a writing signed by the party against which the enforcement of such modification, waiver, amendment or addition is or may be sought.
- c) If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect and

shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

- d) This Agreement shall be construed and interpreted in accordance with the laws of the State of Alabama without regard to principles of conflicts of law. The parties may enforce any claim arising out of this Agreement in any state court or federal court located in Tuscaloosa County, Alabama. For the purpose of any action or proceeding instituted with respect to any such claim, both parties to this Agreement hereby irrevocably submit to the jurisdiction of such courts.
- e) The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.
- f) This Agreement shall not be assignable by either party without the prior written consent of the other.
- g) The agreements contained herein shall not be construed in favor of or against either party, but shall be construed as if both parties prepared this Agreement.
- h) Wherever in this Agreement the context so requires, references to the masculine shall be deemed to include the feminine and neuter, and reference to the singular shall be deemed to include the plural.
- i) Contractor's execution of this Agreement and the performance thereof is within Contractor's duly authorized powers and the individual executing this Agreement is fully authorized by any and all corporate action by Contractor.

## Appendix A

## Tract Listing

## Establishment Granular Fertilization- Skidder Application

Rx: 125 lbs DAP 25 Micros Per Acre

Tract Name	Cover Type	Acres
7220011-107 FMU 246	PLB22	34.8
7220046-102 FMU 230	PLB22	33.0
7220051-105 FMU 238	PLB22	42.4
7220059-104 FMU 237	PLB22	27.4
7230011-132 FMU 232	PLB22	129.8
7230022-137 FMU 236	PLB22	74.5
7230040-138 FMU 241	PLB22	196.5
7230081-139 FMU 242	PLB22	97.8
7230107-136 FMU 235	PLB22	58.7
7230116-135 FMU 234	PLB22	71.0
	<b>TOTAL</b>	<b>765.9</b>

## Establishment Granular Fertilization- Skidder Application

Rx: 125 lbs DAP Per Acre

Tract Name	Cover Type	Acres
Myles	PLB22	178.0
	<b>TOTAL</b>	<b>178.0</b>

## Maintenance Granular Fertilization- Skidder Application

Rx: 100 lbs DAP, 250 lbs UREA Per  
Acre

Tract Name	Cover Type	Acres
7210016-301 B5	PLB18	105.8
7210103-303 Hubert Harrington	PLB18	140.2
7210106-302 B10	PLB18	131.7
7220058-216 C18	PLB18	95.0
7220072-213 Indian Bay	PLB18	115.7
7220075-215 Gopher Lope	PLB18	96.5
7220083-214 HWY 94	PLB18	33.1
7230027-271 Tap Deloach	PLB18	171.3
7230035-274 Sandy Ford	PLB18	67.1
7230079-273 GA Sink	PLB18	193.6
7230117-272 FL Line	PLB18	26.3
7230120-270 C14	PLB18	40.4
	<b>TOTAL</b>	<b>1216.8</b>

Appendix B  
Tract Pricing

**Fert Rate:** 125 lbs DAP, 25 lbs Micros Per Acre  
**Turnkey Pricing:** \$\$84.00/ Acre

**Fert Rate:** 125 lbs DAP Per Acre  
**Turnkey Pricing:** \$69.00/ Acre

**Fert Rate:**100 lbs DAP, 250 lbs UREA Per Acre  
**Turnkey Pricing:** \$143.00/ Acre