



Sheridan County Weed and Pest Control District

2667 Aero Loop
Sheridan, WY 82801
(307) 672-3740

Leafy Spurge Management Agreement

Leafy Spurge Management Agreement Number: _____

This Leafy Spurge Management Agreement (the “Agreement”) is entered into this _____ day of _____, 20____, between Sheridan County Weed and Pest Control District (the “District”) and _____ (hereinafter, “Operator”). In consideration of the terms and conditions hereof, Operator hereby agrees to participate in a cooperative program for the control of Leafy Spurge according to the terms of this Agreement, and the District hereby agrees to provide Leafy Spurge control assistance according to the terms of this Agreement.

1. **The District’s Authority.** The Wyoming Weed and Pest Control Act provides authority for Weed and Pest Control Districts of the State of Wyoming to enter cost-share agreements for the control of declared weeds and pests, including leafy spurge. Wyoming statutes also provide authority to Weed and Pest Control Districts to implement special management programs and integrated management systems for controlling leafy spurge. (*See* Wyo. Stat. § 11-5-303). This Agreement is made pursuant to those authorities.

2. **District’s Responsibilities Contingent.** The District’s responsibilities are contingent upon the District’s receipt of adequate funds from those sources enumerated by Wyo. Stat. § 11-5-303.

3. **Management Plan.** Each party’s rights and obligations under this Agreement are supplemented by the Management Plan bearing the same “Leafy Spurge Management Plan Number” as the “Leafy Spurge Management Agreement Number” supplied above (the “Management Plan”), which is incorporated herein by reference. The Management Plan sets forth the lands which this Agreement applies to, the number of acres believed to be infested by leafy spurge, and the integrated management plan. The integrated management plan sets forth the methodology by which Operator and the District will control leafy spurge on the lands set forth in the Management Plan, including but not limited to education, preventive measures, physical methods, biological agents, pesticide methods, cultural methods, and management. Leafy Spurge Custom Treatment Proposals (whether ground treatment proposals or aerial treatment proposals) approved by Operator and the District constitute elements of a Management Plan for the year contemplated by a particular Treatment Proposal. In formulating the Management Plan, the following conditions shall apply:



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- (a) The District may provide herbicide to Operator at no cost, and in these instances, Operator is required to apply the herbicide, or hire a third party to apply the herbicide, according to the Management Plan.
- (b) The parties may choose to share the costs of carrying out the Management Plan. In these instances, Operator shall be responsible for a percentage of the cost of carrying out the Management Program on Operator's lands, not to exceed twenty percent (20%) of the cost of the Management Plan. The District shall be responsible for the remainder. Provided, however, in the event the Operator or applicable landowner is a state or federal agency owning lands or administering lands, which are untaxed for the purposes of the Wyoming Weed and Pest Control Act, said entity shall contribute to the total cost of the Management Plan as provided for herein.
- (c) The type and amount of herbicides or other materials used shall be determined by the District, in consultation with Operator.
- (d) All herbicides shall be applied by persons properly licensed by the State of Wyoming.

4. **Operator's Responsibilities.** By entering this Agreement, Operator hereby agrees to undertake the following responsibilities and obligations:

- (a) Cooperate with the District to implement the Management Plan;
- (b) Provide the District with the access described in Section 7 of this Agreement;
- (c) Maintain control of any leafy spurge infestation present as of the execution of this Agreement, so that the infestation does not become more dense than it was at the execution of this Agreement;
- (d) Provide the District with annual records reflecting how the Management Plan has been carried out; and
- (e) Operator shall not transport, move, or otherwise distribute forage, hay, or any other substance infested with leafy spurge to areas that are not infested with leafy spurge.



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5. **The District's Responsibilities.** Upon executing this Agreement, the District hereby agrees to undertake the following responsibilities and obligations:

- (a) Cooperate with Operator to implement the Management Plan;
- (b) Undertake those obligations outlined in the Management Plan;
- (c) Complete a baseline inventory showing leafy spurge infestations on Operator's lands; and
- (d) Contribute funding according to the Management Plan.

6. **Duration of the Agreement.** This Agreement is for a term of five years, beginning on the date supplied above. This Agreement may only be renewed by the parties in a written instrument signed by both parties. This Agreement is binding upon the heirs, successors, and assigns of Operator.

7. **The District's Right of Access.** Operator shall allow the District and its employees, agents, independent contractors, or other representatives access to the lands which are the subject of this Agreement, for the purposes of inspecting, surveying, appraising the results of treatments, and to provide technical assistance in the application of herbicides.

8. **Default.** If Operator should fail to perform the covenants and conditions herein contained when due, then Operator shall be in default of Operator's obligations under this Agreement.

In the event of default, the District may, in addition to any other remedies available at law or in equity:

- (a) take possession of any herbicide provided by the District or purchased with funds provided by the District under this Agreement;
- (b) demand reimbursement in full for any funds paid by the District under this Agreement, up to a maximum of twenty percent (20%) of the cost of the Management Plan;
- (c) terminate this Agreement.



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9. **Attorney's Fees.** The District shall be entitled to recover from Operator all costs and reasonable attorney's fees incurred in enforcing this Agreement, or arising from a breach of this Agreement, whether such costs or fees are incurred in litigation or otherwise.

10. **Nonwaiver.** The failure by Operator or the District to require strict performance of any provision hereof shall not be construed as a waiver of Operator's or the District's subsequent breach; Operator and the District may nevertheless, seven calendar days after providing written notice demanding performance, enforce this Agreement upon the breach by Operator or the District of any of the terms and conditions hereof contained. Nonetheless, Operator and the District may waive some or all obligations under this Agreement; any such waiver may only be made in a writing signed by both parties. Time is the essence hereof.

11. **Modification.** This Agreement contains the entire agreement of the parties with respect to the matters contained herein. Any modification of this Agreement must be in writing and signed by both parties.

12. **Sovereign Immunity.** The District does not waive sovereign immunity or governmental immunity by entering into this Agreement, and specifically retains immunity and all defenses available to it pursuant to the Wyoming Governmental Claims Act and all other state law, to the maximum extent provided by law.

13. **Release of District.** To the maximum extent permitted by law, Operator releases, waives and discharges District, its employees, agents, and representatives, ("released parties") from all liability for any and all loss or damage arising out of or related to this Agreement and/or the Management Plan, including without limitation, loss or damage arising from the use of herbicide or application thereof, and Operator agrees that the released parties shall have no liability for such loss or damage. In no cases shall the District be liable for lost profits or consequential damages.

14. **Hold Harmless.** To the maximum extent permitted by law, Operator shall indemnify, defend, and hold District, its employees, agents, and representatives, ("Indemnified Parties") harmless from any and all claims arising from the Agreement and/or the Management Plan and shall hold Indemnified Parties harmless from and against any and all claims arising from any negligence of Operator or any of Operator's agents, contractors, employees, representatives, officers, managers, members, owners, or invitees



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and from any and all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought hereon.

15. **Governing Law, Venue, Jurisdiction, and Severability.** This Agreement is governed and construed in accordance with the laws of the State of Wyoming. Venue for any action brought under or related to this Agreement will be in Sheridan County, Wyoming, and the parties submit to the personal jurisdiction of the Court of proper jurisdiction in Sheridan County, Wyoming, and waive objection to venue in such court. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provision shall be enforced as written to the extent permitted by law.

Signed: _____
Operator

Date: _____

By: _____

Signed: _____
District

Date: _____

By: _____