

# GERBER FEED SERVICE, INC.

## Credit Application

### APPLICANT COMPANY INFORMATION:

Date of Application: \_\_\_\_\_ Years In Business: \_\_\_\_\_ Monthly Credit Requested: \_\_\_\_\_

Farm Legal Name: \_\_\_\_\_ Owners Social Security #: \_\_\_\_\_

Owners Name: \_\_\_\_\_ Tax Exempt  Yes  No Multiple Locations  Yes  No

Business Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Shipping Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone: \_\_\_\_\_ 2<sup>nd</sup> Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Is applicant a:  Corporation  Proprietorship  Partnership  Other Explain: \_\_\_\_\_

If Partnership or Corporation, please give name and address of other owner(s)

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: \_\_\_\_\_

### TRADE REFERENCES: (Please provide at least three)

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

### BANK REFERENCE:

Name of Bank: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Have you ever filed for bankruptcy? \_\_\_\_\_ When? \_\_\_\_\_ Are there any judgments or lawsuits filed or pending lawsuits? \_\_\_\_\_

### APPLICANT STATEMENT:

I agree to pay the full purchase price for all goods, materials, equipment and/or services purchased from Gerber Feed Service, Inc. ("Gerber Feed") within thirty (30) days of the invoice date shown on each invoice. If I do not make a full payment within thirty (30) days of the invoice date shown on any invoice, I agree that, in addition to any unpaid balance of principal, I will be subject to and hereby agree to pay a service charge of one and one half percent (1.5%) per month (18% APR), in addition to Gerber Feed's attorney's fees incurred in collecting all delinquent account balances. I further agree to be bound by Gerber Feed's Credit Policy and all of the terms and conditions set forth on both sides of any and all Gerber Feed invoices or monthly account statements. My signature below indicates that I have read, understood, agree and covenant to be bound by all the terms set forth in this Application, Gerber Feed's Credit Policy and Gerber Feed's invoices and account statements and that all information I have provided herein is true and accurate. I hereby authorize the credit references named herein, in addition to any credit service companies or bureaus, to release any and all requested and financial and credit information known to them to Gerber Feed to be used for the purpose of evaluating this Application for Credit.

X \_\_\_\_\_  
Signature Date

X \_\_\_\_\_  
Signature Date

The undersigned personally and irrevocably guarantees payment of all the above-named applicant's debt obligations owed to Gerber Feed, whether now existing or hereafter incurred, including all service charges and reasonable attorney's fees, as consideration for Gerber Feed extending credit to the above-named applicant.

X \_\_\_\_\_  
Signature Date

X \_\_\_\_\_  
Signature Date

3094 Moser Road - Box 509 - Dalton, Ohio 44618 - Phone 330.857.4421 or 800.358.9872

GERBER FEED SERVICE, INC.  
DALTON, OHIO

CREDIT POLICY

You must pay in full all purchases when an order is either placed or picked up/delivered UNLESS you have been approved for credit and a "30 DAY ACCOUNT" has been established in your name. If a "30 day account" is approved, you may then "charge" your orders to your account and must pay for them according to the terms of this CREDIT POLICY and the terms of your signed credit application.

To be approved for a "30 day account", you will need to fully complete and sign a credit application and personal guarantee (if applicable). The credit application will be reviewed and subsequently approved or denied by our CREDIT MANAGER. Credit applications can be obtained at our business office or from our sales staff or on our web page [www.GerberFeed.com](http://www.GerberFeed.com).

IF YOU DO NOT FULLY COMPLETE AND SIGN A CREDIT APPLICATION, OR IF YOUR CREDIT APPLICATION IS DENIED, ALL PURCHASES WILL BE ON A "CASH BASIS".

TERMS OF AN APPROVED "30 DAY ACCOUNT"

- You will receive an invoice for your purchases upon delivery/pick up.
- You will receive a monthly account statement detailing your account balance.
- There is a 3% cash discount on purchases paid for within 7 days from the date of invoice. All previous invoices are to be paid in full to be eligible for the cash discount.
- ALL PURCHASES ARE DUE IN FULL WITHIN 30 DAYS FROM THE DATE OF EACH INVOICE. At 31 days after purchase, the invoice is considered to be PAST DUE.
- A finance charge of 1.5% per month (18% per year) will be added to all balances not paid in full within 30 days from the date of invoice.
- COLLECTION OF PAST DUE ACCOUNTS WILL BE ENFORCED.
- All terms are subject to change without notice.

All "30 day account" balances are expected to be paid in full within 30 days from the date of purchase. Gerber Feed Service reserves the right to terminate ALL credit privileges if your account is not maintained within the terms of this Credit Policy.

Credit terms extending beyond a "30 day account" basis will need to be made as a special request and may require additional financial information, a signed note, a formal repayment plan and collateral.

Questions regarding this credit policy should be directed to Credit Manager at 800-358-9872 or 330-857-4421.

# GERBER FEED SERVICE, INC. TERMS AND CONDITIONS OF SALE

1. **SALE, SALE, AND DELIVERY OF SELLER'S GOODS ARE CONDITIONED ON THE BUYER'S ACCEPTANCE OF THE DESCRIPTION AND OTHER TERMS AND CONDITIONS OF SALE SET FORTH ON THE FACE OF THIS FORM AND THIS REVERSE SIDE. NO ADDITIONAL OR DIFFERENT TERMS OFFERED BY BUYER SHALL BE OR BECOME PART OF THIS ORDER, AND ANY SUCH TERMS ARE HEREBY REJECTED. THE TERMS AND CONDITIONS AS STATED HEREIN SHALL NOT BE MODIFIED WITHOUT THE EXPRESS WRITTEN APPROVAL OF SELLER. FAILURE OF BUYER TO IMMEDIATELY OBJECT IN WRITING TO THESE TERMS AND CONDITIONS SHALL BE DEEMED ACCEPTANCE HEREOF AND SHALL CONSTITUTE A WAIVER OF ANY PRIOR OR SUBSEQUENT TERMS OR CONDITIONS REQUESTED BY BUYER.**

2. **PRICES.** All prices for Products are subject to change or withdrawal without notice. Unless otherwise stated by Seller, prices, terms of payment and pricing policies will be those set forth in Seller's published price list or Seller's pricing policies in effect at the time of shipment. Specially ordered goods are not subject to cancellation without the written consent of the Seller.

3. **CREDIT APPROVAL.** All sales and shipments are subject at all times to credit approval by Seller. Credit approval may be suspended or revoked at any time without notice to Buyer.

4. **TAXES.** Any taxes which Seller may be required to pay or collect upon the sale, delivery, storage, processing, use or consumption of any of the Products covered hereby shall be for the account of Buyer who shall promptly pay the amount thereof to Seller upon demand.

5. **WARRANTY.** SELLER MAKES NO REPRESENTATIONS, GUARANTEES, OR WARRANTIES, EXPRESS OR IMPLIED (INCLUDING, BUT NOT LIMITED TO A WARRANT OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), IN CONNECTION WITH THE MANUFACTURE OR SALE OF GOODS OR MATERIALS. ALL GOODS AND MATERIALS ARE SOLD, SUBJECT TO BUYER'S INSPECTION AND JUDGMENT, IN AN AS IS CONDITION, AND USAGE THEREOF IS DONE AT BUYER'S SOLE RISK. NO EMPLOYEE, DISTRIBUTOR, OR REPRESENTATIVE IS AUTHORIZED TO CHANGE THIS IN ANY WAY OR GRANT ANY WARRANTY ON BEHALF OF SELLER.

The absence of Seller's warranty is not intended to limit any warranties by a Manufacturer which are available to Buyer. The Seller shall not be responsible for any damage resulting to or caused by the products by reason of improper storage, alteration of products, neglect or abuse, or attempt to use its products for other than the customary usage or operate its products intentionally or otherwise at other than design specifications or rated capacity.

THE BUYER SHALL HAVE NO REMEDY AGAINST SELLER. THE EXCLUSIVE REMEDY OF BUYER, WHETHER IN CONTRACT, TORT, UNDER ANY WARRANTY, OR OTHERWISE, SHALL BE AGAINST THE MANUFACTURER, AND THAT REMEDY, IF ANY, SHALL BE IN LIEU OF ALL OTHER REMEDIES. SELLER SHALL NOT BE LIABLE FOR COST OF REMOVAL AND/OR INSTALLATION OR BE RESPONSIBLE FOR DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE.

## 6. PERFORMANCE.

Seller shall not be held responsible for any delay in performance of any contract made on the basis of this document resulting in whole or in part from or made impossible or impracticable by any cause beyond the control of Seller, including, but not limited to, fire, explosion, accident, breakdown, strike, adverse weather conditions, failure or refusal of any carrier to transport materials, delay in transport thereof, failure of any source of supply to honor orders within time period, customarily or heretofore experienced by Seller in the trade, shortage or lack of material, fuel, power, transportation media, sale or transfer of manufacturing facilities, embargo or any act of God or action or request of any governmental authority, failure or refusal or any carrier or contractor, any contingency or delay or failure or cause beyond Seller's control.

## 7. SHIPPING.

Specified shipping dates are based upon Seller's estimates, are approximations only and cannot be guaranteed. Seller shall have no responsibility or liability for damages that may be incurred due to delay in shipment of Products.

## 8. PATENTS.

The Buyer shall hold the Seller harmless and indemnify it against any expense, or loss resulting from infringements of patents or trademarks arising from compliance with designs, specifications or instructions furnished by the Buyer.

## 9. SERVICE CHARGE.

A charge of 1 1/2 percent per month (18 percent annually) will be charged on all past-due amounts where permitted by applicable state and federal law. In the event a charge of 1 1/2 percent per month may not be charged under applicable state or federal law, then the maximum amount of service charge permitted under applicable state or federal law shall be charged.

## 10. INSOLVENCY.

If in the sole judgment of Seller the credit of Buyer shall have or is likely to become impaired, or it appears to Seller that it does not have a reasonable expectation of being paid at the time and in the amount specified in this Agreement, without additional expense or delay, or both, then Seller may at its option retain title to the goods manufactured or retain possession of Buyer's goods on which services have been performed until paid in cash or cancel the contract and receive such amount as provided in paragraph 11 above unless Seller receives reasonable assurances of Buyer's ability to perform.

## 11. BANKRUPTCY.

In the event of any voluntary or involuntary proceedings against the Buyer in bankruptcy or insolvency, or in the event of any proceedings for the appointment of a receiver, trustee or assignee for the benefit of creditors of the property of the Buyer, Seller may immediately assert any of its legal rights with respect to this contract, or at Seller's option, cancel the same unless Seller receives reasonable assurances of Buyer's ability to perform.

## 12. PAYMENT.

Terms of payment are as specified on the front side hereof. Sales tax, transportation, and labor are not subject to cash discounts. Cash discounts shall be allowed only within the discount period as specified. If not specified, the net amount shall be due 30 days following the date of invoice.

## 13. DELIVERY POLICY.

Products ordered by Buyer at a location or locations specified by Buyer, without obtaining Buyer's signature on a delivery ticket or invoice at the delivery location. Buyer further agrees that Seller's monthly account statements shall be conclusive as to the Seller's actual delivery and Buyer's receipt and acceptance of all goods and materials indicated thereon, unless Buyer objects in writing within ten (10) days of the date of the statement on which the invoice first appears. Notwithstanding the foregoing, however, Seller's failure to reflect any sale, transaction or credit on any statement shall not limit or otherwise affect Seller's ability to later adjust Buyer's account balance to reflect said sale, transaction or credit.

## 14. RECOVERY OF LEGAL FEES AND COSTS.

In the event it becomes necessary for Seller to file a lawsuit to enforce any of the terms and provisions hereof and Seller is granted a judgment wholly or partly in its favor, Seller shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney's fees and court costs incurred in such suit.

## 15. NO MODIFICATION.

These terms and conditions, as set forth herein, shall constitute the sole agreement between Buyer and Seller. Any changes which Buyer requests shall be authorized only if in writing signed by Seller. These terms and conditions shall be binding upon and inure to the benefit of the respective parties, their successors, representatives and assigns.

## 16. GOVERNING LAW.

This contract and any questions with respect to the construction, validity, and interpretation to perform it shall be governed by and determined in accordance with the laws of the State of Ohio. This contract shall be deemed to be executed in the State of Ohio and is to be performed in Wayne County, Ohio, by reason of the payment(s) required to be made to the Seller in Wayne County, Ohio.

## 17. PARTIAL INAPPLICABILITY.

Should any term or condition above, or any portion thereof, be invalid or inapplicable, the balance of such terms and conditions shall govern.

## 18. NON-WAIVER.

Any waiver or failure of Seller to require strict compliance with the provisions of this order in any respect shall not be deemed a waiver of Seller's right to insist upon strict compliance in other respects or thereafter in the same respect.

## 19. CORRECTIONS.

Seller reserves the right to make corrections caused by any typographical, clerical, or other inadvertent mistakes, or from changes necessary because of incomplete or inaccurate information received from Buyer.

## 20. VENUE.

The Buyer covenants and agrees that any legal action or lawsuit brought to enforce any of the terms and provisions hereof shall be venued in Wayne County, Ohio.

## 21. JURISDICTION.

The Buyer covenants and agrees that jurisdiction of any legal action or lawsuit brought to enforce any of the terms and provisions hereof shall be in the state and/or federal courts of the State of Ohio.

## 22. LIMITATION ON ENFORCEMENT OF REMEDIES.

No action or suit to enforce Buyer's rights or remedies arising from any sale shall be commenced later than one year from the date of shipment.