



AMERICAN PLANT FOOD CORPORATION
PO BOX 584 GALENA PARK TEXAS 77547
T: 800-634-2861 / 713-675-2231

PURCHASER'S AGREEMENT

Date _____

Business Name _____

Mailing Address _____

Shipping Address _____

Telephone _____ Fax _____ Email _____

Ownership Type: ___ Corporation ___ Limited Liability Company ___ Partnership ___ Sole Proprietor/Individual

Applicant Name (majority owners, if an entity) Mailing address:

Previous Address _____ Age _____

Nature of Business _____ Years in Business _____

Credit request (30 day requirement) \$ _____ Estimated annual tonnage _____

Financial Statements available _____ Yes _____ No _____ Gross business income _____

Last season purchased fertilizer from: _____

TRADE REFERENCES:

Name of Creditor _____ Address _____

Name of Bank _____ Address _____

Purchaser (the Business named above) agrees to pay American Plant Food Corporation ("APF") at the address above in Harris County, Texas all amounts invoiced plus a LATE PAYMENT CHARGE OF 1 ½% per month, which is an annual percentage rate of 18% simple interest, never to exceed the maximum non-usurious interest rate permitted by Texas law, on any invoice outstanding thirty days or more from the date of the invoice. If any invoice remains delinquent in excess of sixty days, all credit privileges will be cancelled. Payments will be applied first to any late charges and then to outstanding invoices.

PURCHASER HAS READ all of the Agreement Terms and Conditions on pages 1 – 2 of this Agreement, including the reference to NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The Purchaser agrees that all such terms and conditions are part of this Agreement and that this Agreement supersedes any prior agreements and is the complete and exclusive Agreement between the parties.

American Plant Food Corporation

Purchaser's Signature

Title: _____

Title: _____

**PURCHASER'S AGREEMENT
AGREEMENT TERMS AND CONDITIONS**

1. USE OF PRODUCT. APF sells chemical products to be used solely as fertilizer for commercial agricultural purposes. APF's products must be used only by experienced personnel. If said products are not properly handled, applied and used, then damage to person or property could result and a waiver of any warranty will occur.
2. WARNING. Keep products out of reach of children. Products may be fatal if swallowed and may be absorbed through skin. Do not breathe dust, fumes, or spray mist. Avoid contact with skin, eyes, and clothing. Wash body and clothing thoroughly after handling products and avoid contamination of feed and food stuffs. Product may be flammable or combustible. Do not store or use near heat, open flame or other source of ignition.
3. DISCLAIMER OF WARRANTIES. There are NO WARRANTIES on the part of, or made by, APF, the selling dealer, or any other person with respect to any product manufactured, designed, or sold by APF directly or through a dealer, except as to the chemical content described on the container or APF's invoice, sales, shipping or delivery forms or tickets (within standard tolerances recognized in the chemical manufacturing industry). Purchaser shall notify APF of any nonconformance within twenty (20) days following receipt of product. Time is of the essence. APF AND SELLING DEALER SPECIFICALLY DISCLAIM ANY OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, SUITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.
4. LIMITATION OF LIABILITY. Purchaser agrees that Purchaser's sole and exclusive remedy (and not cumulative of any provided by the Texas Business and Commerce Code Chapter 2) and APF's sole liability for damages against APF, arising from breach of contract, breach of warranty, negligence, product liability, or any other cause, is limited to either the refund of the purchase price, or replacement of any products covered by this Agreement which do not conform to the written specifications set forth at the time of delivery. APF SHALL NOT BE LIABLE OR ASSUME RESPONSIBILITY TO PURCHASER OR TO ANY PERSON WHO SHALL PURCHASE FROM PURCHASER OR USE ANY PRODUCTS SUPPLIED PURSUANT TO THIS AGREEMENT FOR ANY LOSS OF TIME, LOSS OF PRODUCT, DAMAGE TO CROPS, DAMAGE TO REALTY, INCONVENIENCE, COMMERCIAL LOSS, LOSS OF USE OF REVENUE, COSTS, LOST PROFITS, OR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE EVEN IF CAUSED OR CONTRIBUTED TO BY THE FAULT OR NEGLIGENCE (ACTIVE OR PASSIVE) OF APF. Purchaser bears the risk of loss of the products once the product leaves APF's facility. APF is entitled to a security interest in the products until Purchaser has paid for the products.
5. **PURCHASER'S WAIVER OF DTPA CONSUMER RIGHTS. Purchaser hereby waives Purchaser's rights, if any, under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 et. seq., Texas Business & Commerce Code ("DTPA"), a law that gives consumers special rights and protections. After consultation with an attorney of Purchaser's own selection, Purchaser voluntarily consents to this waiver. Purchaser acknowledges that Purchaser was represented by legal counsel in seeking or acquiring the services or goods related to this Agreement, that Purchaser's legal counsel was not directly or indirectly identified, suggested or selected by APF or an agent of APF, and that the Purchaser is not in a significantly disparate bargaining position with APF.**
6. SOLE AGREEMENT. Purchase and acceptance of delivery of all APF products, whether in bulk or in containers or packages, are made expressly conditional upon the acceptance of this Agreement. All invoices, sales, shipping and delivery forms evidencing the identity, amount, purchase price and date of delivery are subject to and governed by this Agreement. Any modification of this Agreement must be in writing and signed by the parties to this Agreement. This Agreement constitutes the entire Agreement between the parties governing all sales or deliveries of products manufactured and/or sold by APF. There are no oral agreements between the parties to this Agreement. This Agreement is not assignable by Purchaser unless separately agreed to in writing by the President of APF. To the extent permitted by applicable law, any provision of this Agreement which is prohibited or unenforceable in Texas shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
7. GOVERNING LAW, JURISDICTION, VENUE, AND ATTORNEY'S FEES. Texas law shall govern the construction, interpretation and enforcement of this Agreement and all other contractual relations between the parties to this Agreement. Exclusive jurisdiction and venue for any disputes between the parties shall be exclusively in the state or federal courts located in Harris County, Texas. The Court shall award reasonable and necessary attorney's fees to the prevailing party in any dispute involving this Agreement or invoices related to this Agreement.
8. WAIVER OF JURY TRIAL. THE PURCHASER AND/OR GUARANTOR DOES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR WITH RESPECT TO THIS AGREEMENT OR GUARANTY OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR RELATING OR INCIDENTAL HERETO. THE PURCHASER AND/OR GUARANTOR DOES HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF APF HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT APF WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION.
9. PERSONAL GUARANTY. In consideration of the extension of credit to Purchaser by APF, and for value received, the following individual ("Guarantor") personally, absolutely, irrevocably, unconditionally, continuously, and jointly and severally guarantees to APF the timely payment of any obligation owed by Purchaser to APF. This Guaranty is a guaranty of payment and not of collection. APF shall be under no obligation to institute suit, exercise rights or remedies or take any other action against Purchaser or any other person liable with respect to any of the obligations of Purchaser or resort to any collateral security held by Purchaser to secure any of the obligations as a condition precedent to the Guarantor being obligated to perform as agreed in this Agreement. Guarantor hereby waives any and all rights which Guarantor may have by statute or otherwise which would require APF to do any of the foregoing. This Guarantor further agrees that this Guaranty shall not be discharged, impaired or affected by any defense (other than the full payment of the obligations hereby guaranteed in accordance with the terms of this Agreement) that the Guarantor may or might have as to Guarantor's respective undertakings, liabilities and obligations hereunder, each and every such defense being hereby waived by the undersigned Guarantor.

GUARANTOR