



**Business Credit Application**

Applicant Name:		Bayer Technology License #:
Legal Business Name:		SSN (Required) and FEIN (if applicable):
Legal Form Under Which Business Operates: *Corp. / LLC <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/>		Date of Birth (and # Years in Business, if Corp or LLC)
State of Formation:		
If Partnership, list names of partners:		
_____		
_____		
Mailing Address: (City, State, Zip)		
Email Address:		Primary Phone:
Requested Credit Limit: \$	Sales Representative's Name:	WGS Retail Location:

**Bank Reference:**

**Trade References:**

Institution Name:	Company Name:	Company Name:
Contact Name:	Contact Name:	Contact Name:
Address:	Address:	Address:
Phone:	Phone:	Phone:
Account #:	Account Opened Since:	Account Opened Since:
	Credit Limit:	Credit Limit:
	Current Balance:	Current Balance:

I hereby certify that the information contained herein is complete and accurate. I hereby authorize and instruct West Gains Seed, Inc. to obtain and review my personal and business credit report. I understand and agree that West Gains Seed, Inc. intends to use such credit report and the information furnished above to determine the amount and conditions of the credit to be extended. Furthermore, I hereby authorize the financial institutions listed in this credit application to release necessary information for which credit is being applied for in order to verify the information contained herein. The authorization hereunder is valid and perpetual until revoked by Applicant in writing.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Credit Applications, along with a fully executed Credit and Sales Service Agreement, should be emailed directly to: [credit@westgainsseed.com](mailto:credit@westgainsseed.com)  
 \*Corporations, LLCs or Partnerships are required to submit a Personal Guaranty along with the Credit Application and Credit and Sales Service Agreement.

Rev. 10.19



## CREDIT AND SALES SERVICE AGREEMENT

This Credit and Sales Service Agreement (the "Agreement") is by and between WEST GAINES SEED, INC. (hereafter "WGS"), a Texas corporation, and the undersigned Purchaser (hereafter "Purchaser") having his (its) principal place of residence or business at \_\_\_\_\_ (Address).

In CONSIDERATION of being extended credit, now or in the future, for purchases of products or services from WGS, the undersigned Purchaser agrees as follows:

1. Purchaser assumes responsibility for payment of all purchases of products or services (hereafter "Products" or "Services") made by the Purchaser or his (its) agents for which credit is extended by WGS and agrees to pay all applicable sales or similar taxes not collected and paid by WGS.

2. Purchaser agrees that full payment for Products is due upon the due date set forth in WGS's invoice reflecting such purchase. In the event the purchase price of each product item or service is not paid in full by the due date noted in said monthly statement, a finance charge be added and will be calculated by multiplying the average daily balance by the monthly periodic rate of one and one-half percent (1.5%) per month, corresponding to an annual percentage rate of eighteen percent (18%), or the maximum rate allowed by law, whichever is less.

3. In the event the Purchaser fails to make payments as required under this Agreement, the account may be considered by WGS, at its option, to be in default, and WGS may elect to declare any amounts outstanding immediately due and payable, and the Purchaser shall be responsible for the payment of all costs of collection incurred by WGS, including expenses and reasonable attorney's fees in such event, or in the event of any other legal action or other resolution proceeding.

4. **TEXAS GROWERS: NOTICE OF AGRICULTURAL LIEN. THE SALE OF AGRICULTURAL SEED PURSUANT TO THIS AGREEMENT IS SUBJECT TO CHAPTER 128, TEXAS AGRICULTURE CODE. FAILURE TO PAY THE AGREED OR REASONABLE CHARGES FOR THE SEED WHEN DUE MAY RESULT IN THE ATTACHMENT OF A LIEN TO THE PROCEEDS OF THE AGRICULTURAL PRODUCTS PRODUCED WITH THE AID OF THE SEED.**

5. WGS shall have the right to accelerate and declare all of the Purchaser's outstanding balance to be immediately due and payable and to exercise all rights and remedies accorded it by applicable law, upon the occurrence of any one or more of the following events: (a) any representation or warranty made or deemed made by the Purchaser whether herein or in its WGS Credit Application, proves to have been incorrect in any material respect on or as of the date made or deemed made, (b) (i) the Purchaser commences any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Purchaser shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Purchaser any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days.

6. WGS is expressly authorized to investigate any references and other information furnished by the Purchaser or by any other person or entity pertaining to the Purchaser's creditworthiness including, but not limited to, obtaining an individual or business credit report from time to time. Further, WGS may, at any time, revoke the Purchaser's privilege of purchasing on credit with respect to future purchases of products or services.

7. Purchaser may request from time to time that WGS deliver Products to a location or an address, rather than Purchaser having to pick up Products at WGS's facility. Purchaser hereby authorizes WGS to deliver Products at a location or address designated by or for Purchaser and agrees to be responsible for the full payment for all such products so delivered by WGS.

8. By signing this Agreement, Purchaser agrees to be responsible for and will make payment to WGS for all purchases of Products pursuant to this Agreement, regardless of any change in the name or organization, or any transfer in interest of the Purchaser (i.e. any change(s) from the original status of the Purchaser to or from an individual, partnership, corporation, trust, LLC, Association or any other entity or legal structure). Purchaser shall promptly notify WGS in writing, by certified mail, return receipt requested, addressed to Credit Manager, WEST GAINES SEED, INC., 5013 122<sup>nd</sup> Street, Lubbock, Texas 79424 upon the occurrence of any such change(s) and the particulars thereof.

9. LIMITATIONS ON WARRANTY AND LIMITATION OF LIABILITY AND REMEDIES. It is understood and agreed that the following Limitations on Warranty, Liability, and Remedies apply to purchases made by the Purchaser:

- A. SEED. The only warranty of WGS regarding seed is that the seed conforms to the label description on the date of the test shown on the label.
- B. DISCLAIMER OF WARRANTIES. WGS MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING ANY PRODUCTS SOLD HEREUNDER OR THE PROVIDING OF SERVICES, EXCEPT THE EXPRESS WARRANTY SET FORTH ABOVE, AND HEREBY DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS OF THE PRODUCTS OR SERVICES FOR ANY PARTICULAR PURPOSE OR WARRANTY AGAINST INFRINGEMENT, AND NO SUCH WARRANTIES SHALL BE IMPLIED BY LAW OR OTHERWISE.
- C. EXCLUSIVE REMEDY. The exclusive remedy against WGS for any cause of action relating to any recommendation, sale, handling, use or performance of the above products or the providing of services is a claim for actual damages and in no event shall damages or any other recovery of any kind against WGS exceed the price for the specific products or services which cause the alleged loss, damage, injury, or other claim. **WGS SHALL NOT BE LIABLE FOR AND PURCHASER AGREES THAT ANY AND ALL CLAIMS AGAINST WGS FOR SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR EXPENSES, OF ANY NATURE, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR INCOME, AND CROP OR PROPERTY LOSS, CROP DAMAGE, WHETHER OR NOT BASED ON WGS'S NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION ARE WAIVED.**

No liability hereunder shall be asserted unless any loss, damage, injury or other claim is reported to WGS in writing within thirty (30) days after discovery, and the failure to give notice to WGS of any claim within such period shall constitute an absolute unconditional waiver of such claim.

10. Purchaser agrees that all Products are purchased for Purchaser's own use. To the extent, if any, Purchaser's use of such Products is for or involves others, Purchaser agrees that paragraph 8 above shall also apply to such third parties, and Purchaser will hold harmless and indemnify WGS for any loss in excess thereof.

11. WGS may, from time to time, offset any obligation of the Purchaser under this Agreement against any obligation for the payment of money WGS may have to the Purchaser.

12. If any clause or provision of this Agreement is found to be invalid or is incapable of being enforced by any rule of law or public policy, all other clauses and provisions shall, nevertheless, remain in full force and effect. This Agreement constitutes the entire agreement with respect to the subject matter hereof and any oral representations are hereby superseded.

13. WGS may, at any time, amend the provisions of this Agreement upon notice mailed to the Purchaser at this last known address, and the purchase of any Products subsequent to the effective date of such amendment shall constitute an acknowledgement and acceptance by the Purchaser of such amendment.

14. Purchaser may not assign its rights or obligations under this Agreement. WGS may assign its rights or obligations under this Agreement without further consent.

15. The parties acknowledge that the transaction that is the subject matter of this Agreement bears a reasonable relation to the State of Texas and agree that the laws of Texas will govern their rights and duties.

**PURCHASER:**

DATE: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

SS# or EIN# (Required): \_\_\_\_\_



PERSONAL GUARANTY TO CREDIT AND SALES SERVICE AGREEMENT

In consideration of granting credit to or continuing credit to Purchaser \_\_\_\_\_ (hereafter "Purchaser") by WEST GAINES SEED, INC. (hereafter "WGS"), a Texas corporation, the undersigned ("Guarantor"), irrevocably and unconditionally guarantees payment of Purchaser's indebtedness to WGS, whether the indebtedness or other liability arises by notes, discounts, overdrafts, or in any other manner whatsoever, together with reasonable attorney's fees, costs, and expenses incurred by WGS in enforcing any and all of such indebtedness or the terms of that certain Credit and Sales Service Agreement (the "Agreement") between WGS and Purchaser.

This Guaranty is made on the following terms and conditions:

- 1. This is a continuing Guaranty and all indebtedness of Purchaser, including indebtedness issued under the terms of the Agreement, is presumed to have been created in reliance on this Personal Guaranty. The term "indebtedness" includes all liabilities, direct or contingent, joint, several, or independent, of the Purchaser now or hereafter existing, due or to become due, or held or to be held by WGS for its own account or as agent for another or others, whether created directly, indirectly, or acquired by assignment or otherwise.
2. In the event of the death of Guarantor, the obligation of the deceased will continue in full force and effect against Guarantor's estate as to all indebtedness that has been created or incurred by the Purchaser before the time when WGS received written notice of the death.
3. Guarantor agrees that, should the status of the Purchaser change, this Guaranty will continue and also cover the indebtedness of the Purchaser under the new status, according to the terms set out in this Guaranty.
4. The Guarantor waives notice of acceptance of this Guaranty and notice of any and all liability to which it may apply, and waives presentment, demand of payment, protest, notice of dishonor, or nonpayment of any such indebtedness, suit, or taking of any other action by WGS against Guarantor, and any other notice to any party including the Guarantor. Furthermore, in order to give full effect to the provisions of this Guaranty, the Guarantor waives all suretyship and other rights inconsistent with this Guaranty, which might otherwise be available to Guarantor.
5. WGS will not be required to pursue any other remedies before invoking the terms of this Guaranty, and will not be required to join Purchaser in any action to enforce its right to receive payment of the indebtedness, or any other right under this agreement. No delay on the part of WGS in exercising any of its options, powers, or rights, or partial or single exercise thereof, shall constitute a waiver of that right.
6. Guarantor agrees that, from time to time, WGS may take the following actions without in anyway releasing, modifying, or discharging Guarantor's liability under this Guaranty:
a. Extend Purchaser's time to pay any or all obligations.
b. Settle with or discharge Purchaser.
c. Modify the nature of Purchaser's obligation in any regard.
d. Substitute, release, or impair any security provided in connection with any indebtedness of Purchaser.
7. Any modification of this Guaranty or any waiver of its provisions will be ineffective unless made in a writing signed by WGS.
8. The invalidity or unenforceability of this Guaranty, in part or in whole, will not affect the guaranteed indebtedness or any security for that indebtedness.
9. This Guaranty and the rights and obligations of WGS and of the Guarantor are to be governed and construed in accordance with the laws of the State of Texas.
10. Guarantor grants WGS the continuing right to check Guarantor's personal credit history at any time Purchaser is indebted to Guarantor.
11. This Guaranty will inure to the benefit of the transferee, assignee, or holder of the principal debt. However, all indebtedness to WGS will first be paid in full, before the assignee of any debt guaranteed will receive any benefit of this contract of Guaranty.

Date: \_\_\_\_\_

GUARANTOR:

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

SS#: \_\_\_\_\_