



# Furst-McNess Company (and/or any of its Divisions) Credit Application and Sales Agreement

Official Name of Business/Applicant:

\_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ Cell Phone \_\_\_\_\_

\_\_\_\_\_

Other:

Is this a (one of these boxes must be checked)  Corporation  Partnership  Sole Proprietorship  Other \_\_\_\_\_

Do you have judgements or legal proceedings currently pending, or have you ever been in bankruptcy?  Yes  No If yes, please attach particulars.

Livestock Type \_\_\_\_\_ Own \_\_\_\_\_ Lease \_\_\_\_\_ Custom Fed \_\_\_\_\_ Number of Acres Owned \_\_\_\_\_ Rented \_\_\_\_\_

Milk/Livestock Shipped To: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Ship To Location (If Different):

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Are you or your organization tax exempt?  Yes  No  
\*\*\*If yes, please attach a State Tax Exempt Certificate.\*\*\*

\_\_\_\_\_

Primary Email Address

Bank/Lender References:

\_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Account Number(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Account Number(s) \_\_\_\_\_

Trade References:

\_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

I hereby warrant that everything I have stated in this Credit Application and Sales Agreement is true, correct and accurate to the best of my knowledge. Furst-McNess Company is authorized as it deems necessary to obtain or exchange any information required from any source necessary to evaluate this Credit Application and Sales Agreement. Any entity so contacted by Furst-McNess Company is hereby authorized by Applicant to provide Furst-McNess Company with such information. Furst-McNess Company's right to obtain this information is continuing and Furst-McNess Company may obtain information from time to time as in its sole discretion it deems necessary.

By my signature I further acknowledge that I have read and understand each of the additional terms and conditions of sale as set forth in the remainder of this Credit Application and Sales Agreement and do expressly agree to each and every term therein, including all releases, waivers, and disclaimers, with respect to warranties, damages, and claims as provided for therein.

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**NOTICE: ADDITIONAL SALES TERMS FOLLOW WHICH WILL GOVERN YOUR PURCHASES, PLEASE READ CAREFULLY.**

## Additional Terms and Conditions of Sale

### **Accuracy**

The applicant (hereinafter "Buyer") hereby warrants that the above information is accurate as of this application and that Furst-McNess Company may rely upon the same to determine the Buyer's credit worthiness.

### **Invoicing**

Furst-McNess Company will furnish Buyer with an invoice for each shipment or sale made pursuant to this Agreement, which will state the terms of sale ("Terms") for each such sale and when payment is due. Buyer agrees to pay Furst-McNess Company in full within the Terms specified on the invoice.

### **Default**

If Buyer fails to pay Furst-McNess Company in accordance with this Agreement, Furst-McNess Company may declare the entire balance of Buyer's account and all unpaid invoices immediately due and payable and may foreclose any security interest or lien which Furst-McNess Company may have been granted by contract or at law to secure Buyer's obligations under this Agreement. If any unpaid balance is referred for collection to an attorney or agency, Buyer agrees to pay, to the extent permitted by law, in addition to any damages, fees and finance charges available to Furst-McNess Company under this Agreement or otherwise at law or equity, reasonable attorney or agency fees plus any court costs and expenses incurred by Furst-McNess Company in enforcing this Agreement and any invoices related thereto.

### **Finance Charges**

If Buyer fails to pay any invoice by its respective due date, Buyer agrees to pay a **LATE PAYMENT CHARGE** which shall accrue on the unpaid balance of each such unpaid invoice, from each such invoice's date until the respective invoice is paid in full. The **LATE PAYMENT CHARGE** shall accrue at a rate equal to the lesser of an **ANNUAL PERCENTAGE RATE of EIGHTEEN PERCENT (18%)**, per annum, or the highest rate allowed by law.

### **Insufficient Funds**

If Buyer presents a payment to Furst-McNess company that is returned due to insufficient funds, a **SERVICE CHARGE of \$50** will be assessed.

### **DISCLAIMER OF WARRANTIES & LIMITATIONS OF REMEDIES**

**FURST-MCNESS COMPANY WARRANTS ONLY THAT THE FEED SOLD HEREUNDER WILL HAVE THE SPECIFIED WARRANTIES AS REQUIRED BY LAW. YOU AGREE THAT YOU ARE BUYING FEED AND/OR PRODUCTS "AS IS" FROM FURST-MCNESS COMPANY AND THAT THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHER WARRANTIES, EXPRESS OR IMPLIED, COVERING THE FEED OR PRODUCT SOLD BY FURST-MCNESS COMPANY. BUYER ASSUMES ALL RISK AND LIABILITY FOR RESULTS OBTAINED BY THE USE OF THE GOODS COVERED BY THIS AGREEMENT, WHETHER USED SINGLE OR IN COMBINATION WITH OTHER PRODUCTS. BUYER'S REMEDIES UNDER THIS AGREEMENT SHALL BE LIMITED TO REJECTION AND REPLACEMENT OF OR ADJUSTMENT FOR DEFECTIVE GOODS. BUYER'S REMEDIES SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE DEFECTIVE GOODS. BUYER FURTHER ACKNOWLEDGES THAT VARIATIONS IN FEED CAN OCCUR FROM SHIPMENT TO SHIPMENT AND ACCEPTS ALL RIGHTS, LIABILITIES AND COSTS ASSOCIATED THEREWITH AND EXPRESSLY RELEASES FURST-MCNESS COMPANY FROM ANY RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.**

### **Permitted Substitutions**

Buyer acknowledges that Furst-McNess Company, from time to time, in its sole discretion, may substitute ingredients of reasonably equivalent nutritional value in all Products purchased by Buyer, including all bagged, proprietary, or customer designated custom formula feeds and Buyer expressly agrees to accept all risks with respect to such substitutions (including risks of injury or production losses to its livestock, including without limitation its dairy herd) that may result therefrom. Furst-McNess Company is hereby expressly authorized to make such substitutions without further notice to Buyer.

### **Severability**

All agreements hereunder are severable, and in the event any of them shall be held to be invalid, this Agreement shall be interpreted as if such invalid agreement were not contained therein.

### **ARBITRATION**

**Any disputes, controversies, claims, disagreements, and/or matters arising out of or relating to the services rendered by Furst-McNess Company or other products sold by Furst-McNess Company, based upon personal or bodily injury or damage to real or personal property shall be submitted to and finally resolved by arbitration administered under the Arbitration Rules of the National Grain and Feed Association then in effect and the award rendered by the arbitrators shall be final, binding, nonappealable, and may be entered and enforced in any court having jurisdiction thereof. The arbitrators shall not have the power or authority to award punitive, exemplary, treble, liquidated, consequential or indirect damages. Each party hereby waives the right to such damages, and agrees to receive only those actual damages directly resulting from the claim asserted.**

**Any and all disputes, disagreements, controversies, and/or other matters in question as to fees, accounts, and/or collection of fees are specifically excluded from this Arbitration Agreement.**

### **Entire Agreement**

This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter herof and supercedes all prior agreements and understandings, oral or written, among the parties hereto with respect to the subject matter hereof.

### **Choice of Law**

This Agreement shall be governed by the laws of the State of Illinois.