

sears® Commercial **1**ne®

Account Application

Merchant Use Only				Credit Services Use Only
Unit #	Associate #	Scopes #	Assigned Credit Line	Purchasing Account #
Submitted by		Phone #	Notes	Exp. Date

Please read the following before completing this form:

Applicant represents that the information given in this Application is complete and accurate on behalf of each of the Owner Entities ("Owners") on the listing sheet and authorizes Citibank, N.A. and any of their servicers, administrators, successors or assignees ("User") to investigate your credit histories, personal credit histories, credit bureau reports, consumer credit reports, credit references, and other lawful sources (Collectively, "Credit Information") any User deems appropriate in considering any Application and subsequently in connection with any credit evaluations, updates, renewals, or extensions of credit or reviewing or collecting the account, or for any other legal purpose. You also agree and consent that any User at any time may review and share Credit Information and information about a User's experiences or transactions with you or relative to your performance under this Agreement with any Users (or companies related to any of them by common ownership or control), credit bureaus or other parties that may lawfully receive such information, except as otherwise set forth in the Sears Commercial One Terms and Conditions. **Read the attached agreement and sign the "signature" section below before submitting this application.** This Application and the accompanying Sears Commercial One Terms & Conditions are referred to collectively as the "Agreement."

All areas with an asterisk (*) must be completed

Step 1: Account Type (Please choose one)*

- | | |
|---|--|
| <input type="checkbox"/> Monthly Statement Account <ul style="list-style-type: none"> • Monthly billing statement – includes Monthly Summary Statement and Supplemental Itemized Detail • Payments are applied to the total outstanding balance | <input type="checkbox"/> Daily Invoice Account <ul style="list-style-type: none"> • Receive invoices as transactions occur – includes Daily Invoice and Open Items Account Summary • Payments are applied to individual invoices |
|---|--|

Special Handling Instructions (Please check if applicable) Purchase Orders

Step 2: Billing Information

Applicant ("Customer") Company Name (Full Legal Name)*		Doing Business As (DBA)	
Federal Tax ID # (Required)*		Date Established (MM/YYYY)*	Annual Revenue*
Organization Type* <input type="checkbox"/> Embassy <input type="checkbox"/> Non-Profit <input type="checkbox"/> Government <input type="checkbox"/> Financial Institution <input type="checkbox"/> Other Business Type If a financial institution, specify the type: <input type="radio"/> Bank <input type="radio"/> Non-Bank <input type="radio"/> Funds <input type="radio"/> MSB (Money Service Business)		Legal Type* <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Corporation <input type="checkbox"/> Government/School/Embassy <input type="checkbox"/> Limited Liability <input type="checkbox"/> Partnership	
Parent Company (If Applicable)	# of Employees	Owner(s) Name(s)*	
Business Street Address (No P.O. Box)*	City*	State*	Zip*
Billing Address (if different from Business Address)*	City*	State*	Zip*
Billing Contact Name*	Purchasing Manager		
Billing Phone #†	Billing Fax #	Purchasing Phone #†	Purchasing Fax #

†By giving us a cell number or a number later converted to a cell number, you agree that we or our service providers can contact you at that number by autodialer, recorded or artificial voice, or a text. Your phone plan charges may apply.

Billing Email Address Purchasing Email Address

If you provide an email address, Citibank, N.A. may use your email address to contact you about your account and to tell you about useful products and services. You are also providing your email address to Sears Holdings Corporation, which may use it to send you offers and news about the latest merchandise, promotions, and sales.

Credit Line Requested* D&B #
 (Financial statements may be required for credit line requests greater than \$25,000)

*Required

Step 3: Credit Cards (please choose the option that best fits your needs)

Corporate Account Number **without** Employee name(s)

Number of plastic cards* 1 2 3 4

(Indicate the number of cards desired, up to 4. To acquire more cards, please contact customer service after your account has been established. Buyer full name and date of birth will be required when calling.)

Corporate Account Number **with** Authorized Purchaser/Employee name(s)

Each cardholder will be issued plastic with a unique card number.

List the Employee/Cardholder name(s) below (mandatory if cards are requested with employee names):

1	First Name	Middle Initial	Last Name
2	First Name	Middle Initial	Last Name
3	First Name	Middle Initial	Last Name
4	First Name	Middle Initial	Last Name

*If left blank, no plastic cards will be issued. Account number notification will be provided on a paper card and sent via mail to your billing address.

Step 4: Authorized Officer Signature (required)

When opening an account, Federal regulations require that we obtain, verify, and record information for Beneficial Owners of an entity customer. These are key individuals who control or who own the company, at a level of 25% or greater ownership, for this application. After your application is submitted, we may seek additional information about these individuals and the legal entity.

What is an Authorized Officer? An Authorized Officer is a member of a business entity who has been formally empowered by that entity to enter into borrowing arrangements with financial institutions and is a controlling party of the business entity. A controlling party of a legal entity is someone with significant responsibility to control, manage, or direct the entity. Examples include: Senior Manager, General Partner, Owner, Chief Executive, President/Chairperson, Treasurer, Vice President. You must be an Authorized Officer of the business to submit this application.

NOTICE TO THE CUSTOMER: (1) DO NOT SIGN THIS APPLICATION AND AGREEMENT BEFORE YOU READ IT. (2) YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS AGREEMENT. KEEP THIS AGREEMENT TO PROTECT YOUR LEGAL RIGHTS. (3) ANY PERSON SIGNING THIS APPLICATION AND TERMS & CONDITIONS REPRESENTS THAT (i) THE CUSTOMER IS A VALID BUSINESS ENTITY IN GOOD STANDING UNDER THE LAWS OF THE JURISDICTION OF ITS ORGANIZATION, A QUALIFIED RELIGIOUS, EDUCATIONAL OR OTHER NON-PROFIT ENTITY, OR A GOVERNMENT AGENCY OR INSTRUMENTALITY; (ii) ALL PURCHASES UNDER THIS AGREEMENT WILL BE MADE FOR OTHER THAN PERSONAL, FAMILY OR HOUSEHOLD USE AND (iii) THE CUSTOMER HAS DULY AUTHORIZED (A) THE EXECUTION OF THIS APPLICATION AND (B) THE PERSON SIGNING THIS APPLICATION TO EXECUTE THIS APPLICATION ON ITS BEHALF.

Applicant represents that the person signing below is a representative of the Applicant who is duly authorized to apply for credit and then establish an Account and to enter into this agreement on Applicant's behalf. By signing above and below, each of Applicant, Guarantor and (except with respect to governmental agencies and not-for-profits) each individual signing on Applicant's behalf (i) agree to be bound by the terms and conditions of this Application and the Sears Commercial One Account Terms and Conditions which are incorporated into and made a part of this Application, (ii) certify that the information provided herein is accurate and complete, (iii) authorize Creditor to check with or to investigate from time to time any or all of each of their credit histories, credit reporting agencies or bureaus, credit references and other lawful sources, (iv) authorize creditor to report to or provide credit information relating to any or all of them and the status of the Account to credit reporting agencies, bureaus and others who may lawfully receive such information and (i) release Creditor from any claims arising out of the conduct authorized above. Applicant agrees that there is no binding contract until Applicant's credit is approved by Creditor. Creditor may require the execution of one or more security instruments or the receipt of additional information from Applicant or Guarantor in order to process this Application. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. This means that we will ask for your name, address, date of birth, and other information that will allow us to identify you when you open an account. In addition, the bank must obtain the business' legal name, its street address, and its taxpayer identification number. We may also ask to see your driver's license or other identifying documents; and obtain identification information about you or any employees you add to your account. I, on behalf of the applicant, understand and agree that by submitting this application, I am also giving all contact information to Sears Holdings Corporation and its affiliates ("Sears") for their use in marketing products and services to me. I am giving consent to release all application and supplemental application financial information, including but not limited to taxpayer identification or employer identification number, to Sears so that if for any reason Citibank, N.A. cannot act immediately on my request, Sears can use the application and supplemental application information provided to see if there may be another credit opportunity immediately available to the applicant.

BY SIGNING BELOW, APPLICANT ACKNOWLEDGES THAT IT HAS READ AND RECEIVED A COPY OF THE APPLICATION AND THE ATTACHED AGREEMENT.

Signature of Company's Authorized Officer	Date	First Name	Initial	
Last Name	Home Address (No P.O. Box)			
City	State	Zip	Date of Birth	Social Security #**

Besides the Authorized Officer, does this business also have any individuals who own, directly or indirectly, 25 percent or more of the equity interests of this business?

Yes[§] No

I am an Authorized Officer and Controlling Party of the Business (and the person whose information is provided above) with the authority to bind the Business to the Terms and Conditions. I will provide the evidence of such authorization upon request. By checking the box, I hereby certify, to the best of my knowledge, that the information provided above (including the information for Beneficial Ownership and Controlling Party) is complete and correct.

[§]If you answered YES to the above question, you may be contacted for additional information.

^{**}Not applicable to Foreign Embassy/U.S. Government

Step 5: Personal Guarantor Signature

(All partnerships and proprietorships, regardless of length of establishment, and in business less than 2 years MUST complete this section. Must be same person as Step 4 above.)

UNDERSIGNED GUARANTOR MUST BE ONE OF THE FOLLOWING (Owner/Sole Proprietor/General Partner/Corporate Officer):

PERSONAL GUARANTY: In consideration of the establishment of an Account and each of the Owners for the Applicant by either Citibank, N.A., any of their servicers, administrators, successors or assignees, or any assignee of either the Agreement, this Account or any receivable arising under your Account (each a "Creditor"), the undersigned Guarantor hereby agrees unconditionally, absolutely and irrevocably to personally guarantee payment of all amounts hereafter due on the Account opened pursuant to the Agreement upon demand, without requiring Creditor to make demand and/or proceed first to enforce payment against the Owners also liable on the Account, in the event of any default under the Agreement that governs the Account. The undersigned hereby waives any notices regarding the Agreement or this Guaranty, and agrees that this Guaranty shall be applicable until the Agreement has terminated and all amounts due thereunder shall have been paid in full. Creditor will use Guarantor's personal credit in making credit decisions with respect to the establishment of an Account for Applicant. Guarantor authorizes Citibank, N.A. and any of their servicers, administrators, successors or assignees or any assignee of this Agreement, of your Account or of any receivable arising under your Account (each a "User") to investigate Guarantor's creditworthiness, credit history, personal credit history, credit bureau reports, consumer credit reports, and credit references by obtaining credit reports and making other direct inquiries (including of businesses where Guarantor's accounts are maintained) and other lawful sources as any User may deem appropriate ("Credit Information") in considering any Application and subsequently in connection with any credit evaluations, updates, renewals or extensions of credit or for reviewing or collecting on the account, or for any other legal purpose. Guarantor also agrees that any User may at any time review and share Credit Information and information about a User's experiences or transactions with Guarantor or relative to Guarantor's performance hereunder with any User's (or companies related to any of them by common ownership or control), credit bureaus or other parties that may lawfully receive such information except as otherwise provided in the Sears Commercial One Terms and Conditions and Guarantor's liability for and the status of Applicant's account to credit bureaus and others who may lawfully receive such information. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. This means that we will ask for your name, address, date of birth, and other information that will allow us to identify you when you open an account. In addition, the bank must obtain the business' legal name, its street address, and its taxpayer identification number. We may also ask to see your driver's license or other identifying documents; and obtain identification information about you or any employees you add to your account.

PERSONAL GUARANTOR MUST BE OWNER/SOLE PROPRIETOR, GENERAL PARTNER, OR CORPORATE OFFICER.

Signature of Personal Guarantor	Date	Home Phone†	Social Security #	Annual Income
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†By giving us a cell number or a number later converted to a cell number, you agree that we or our service providers can contact you at that number by autodialer, recorded or artificial voice, or a text. Your phone plan charges may apply.

SEARS COMMERCIAL ONE TERMS AND CONDITIONS

- 1. GENERAL:** In this Agreement, the words “You,” “Your” and “Customer” refer, as appropriate, to the person or entity for which an Account is established under this Agreement, any personal guarantor of this Agreement and any authorized user of the Account, including any person who signs an Application for an Account and/or the person or entity on whose behalf such Application is signed. “Account” means any Commercial Transaction Statement Account or Commercial Invoice Account, as applicable, established in accordance with this Agreement. The words “We,” “Us”, “Our” and “Creditor” refer to Citibank, N.A., and any assignee to which this Agreement is assigned. Citibank, N.A. is located in Sioux Falls, SD. “Card” means the plastic or paper charge card that We may issue to You under this Agreement. “Merchant” means Sears, Roebuck and Co. and Sears authorized affiliates. Your use of Your Account constitutes Your acceptance of this Agreement. Your signature on any sales memorandum, purchase order, sales slip, sales invoice or other or different form (“Sales Memorandum”), any application, personal guaranty, account verification form, acceptance certificate or any other document in connection with this Account constitutes Your signature on this Agreement, as amended from time to time. Credit card offers are intended for residents of, and this is not an offer for the credit card to individuals outside of, the United States and its Territories.
- 2. ACCOUNT FOR COMMERCIAL PURPOSES ONLY:** If Your application is approved, a commercial account will be opened in the name of the business specified in the Application. **Your Account will be established solely for business, commercial or organizational purposes on behalf of Your business. You warrant, represent and agree that You will not use Your Account (or allow Your Account to be used) for personal, family or household (collectively, “consumer”) purposes.** You understand and agree that this Agreement is not intended to be subject to state and federal laws governing consumer transactions. You also understand and agree that We will be unable to determine whether any given transaction conforms to this Section 2. You agree that a breach by You of the provisions of this Section 2 will not affect Our right to (i) enforce Your promise to pay all amounts owed under this Agreement regardless of the purpose for which any particular transaction is in fact made or (ii) use any remedy legally available to Us, even if that remedy would not have been available had the Account been established as a consumer account. You warrant and represent to Us that You are (i) a valid business entity in good standing under the laws of the jurisdiction of Your organization; (ii) a qualified religious, educational, or other non-profit entity; or (iii) a government agency or instrumentality; and that You have duly authorized acceptance of this Agreement, including by use of the Account.
- 3. PROMISE TO PAY:** You promise to pay all amounts owed under this Agreement, including any finance and late charges, and other charges that may be applicable from time to time. You understand and agree that We will be unable to determine whether any particular transaction on Your Account was in fact authorized by You and/or made for Your benefit, and You specifically agree that You will pay for all transactions made on Your Account, whether or not such transactions were in fact duly authorized by You or made for Your benefit. Your obligations under this Agreement are absolute and unconditional.
- 4. CUSTOMER IDENTIFICATION:** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. This means that we will ask for your name, address, date of birth, and other information that will allow us to identify you when you open an account. In addition, the bank must obtain the business’ legal name, its street address, and its taxpayer identification number. We may also ask to see your driver’s license or other identifying documents; and obtain identification information about you or any employees you add to your account.
- 5. COMMERCIAL TRANSACTION STATEMENT ACCOUNTS:** If Your Account is approved by Us as a Commercial Transaction Statement Account, You may purchase goods and/or services from Merchant as described in Sales Memoranda. You agree to pay Us the amounts shown on such Sales Memoranda. We will send You periodic billing statements (“Billing Statement”) reflecting such Sales Memoranda.
- 6. COMMERCIAL INVOICE ACCOUNTS:** If Your Account is approved by Us as a Commercial Invoice Account, You may purchase goods and/or services from Merchant as described in Sales Memoranda. You agree to pay Us the amounts shown on such Sales Memoranda. We will send You an invoice (“Invoice”) for each transaction.
- 7. CHARGES:** No late charges or other charges will be applied to Your Account unless and until We notify You, in accordance with applicable law, of the addition of any applicable late charges or other charges. If any transaction governed by this Agreement is subject to a law that sets maximum charges, and that law is finally interpreted so that the late charges or other charges collected or to be collected in connection with this Agreement exceed the permitted limits, then (i) any such charge will be reduced by the amount necessary to reduce the charge to the permitted limit and (ii) any sums already collected from You that exceed the permitted limits will be refunded. We may elect to make such a refund by crediting Your Account or by making a direct payment to You.
- 8. CREDITS AND PAYMENTS:** (a) Refunds. Cash refunds will not be made for goods or services purchased with the Account. Refunds will be made only by a credit to the Account. (b) Method of Payment. You agree to repay all amounts owed on the account and to make all payments in Proper Form. A payment is in Proper Form if it is (1) made in U.S. dollars drawn on federally insured depositor financial institution located in the U.S. or Puerto Rico, (2) sent to the processing address specified on your Account Statement, and (3) accompanied by the remittance portion of Your Account Statement. Payments in Proper Form received by Us in accordance with the instructions on the back of Your Billing Statement, will be credited as of the day of receipt. Payments in Proper Form received after that time will be considered not to have been received as of that date for all purposes of the Agreement, and will instead be considered to have been received as of the next business day. Our business days are Monday through Friday, excluding federal holidays. Crediting to Your Account may be delayed up to five days if payment is not in Proper Form, including if it is received at any location other than the processing address specified on Your Account Statement.

In addition to any applicable Finance Charges, We may charge a late payment fee if any payment is not received or credited by the required time and date. Although We will credit Your payments as described in this section, Your available Credit Line, if one is assigned to the Account, may not be restored for several days after We receive Your payment. (c) Conditional Payments. Any conditional check, money order or any other instrument tendered with a restrictive endorsement or as full satisfaction of a disputed debt must be sent to Our address for billing error notices, shown on each Account Statement, and must conspicuously state on the face of that payment or in an accompanying letter that it is tendered for this purpose. If You make payment in any other way and We accept it, We will not have waived Our right to collect any amount from You owing under this Agreement. (d) Application of Payments. The order in which payments are applied to individual transactions on Your Account is determined by the timing and type of charge. Generally, payments received will be applied in the following order: billed Finance Charges, previous balances, and then to current balances.

- 9. PAYMENTS; DISPUTED AMOUNTS:** Payments, in good funds, are due at the address (“Payment Address”) and by the payment due date (“Payment Due Date”) shown on Your Billing Statement or Invoice. However, if payments are not made at the Payment Address, are not denominated in U.S. dollars, or are not accompanied by remittance instructions, application of payments to Your Account may be delayed. **To the extent permitted by applicable law, if We accept any late payment or partial payment, whether or not marked as payment in full, that acceptance will not affect the due date of any other payment due under this Agreement, nor will it act as an extension of time or a waiver or satisfaction of any payment or amount then remaining unpaid. It will also not modify any of Our rights under this Agreement. All written communications concerning disputed amounts, including any check or other payment instrument that (i) indicates that the payment constitutes “payment in full” of the amount owed, (ii) is tendered with other conditions or limitations or (iii) is otherwise tendered as full satisfaction of a disputed amount, must be mailed or delivered to Us at the address for billing inquiries shown on Your Billing Statement or Invoice, not Your Payment Address.** You agree that We may send Your Billing Statements or Invoices to You at Your principal place of business/billing address as shown on Our records from time to time.
- 10. ACCOUNT TERMS:** You agree that any transaction on Your Account will be governed and controlled solely by this Agreement. Except as may be provided from time to time in Sections 5 and 6 hereof, any other or conflicting terms set out in any Sales Memorandum, including but not limited to any references on Your Sales Memorandum to Your agreement to pay to (or according to the terms provided by) Merchant, any other authorized dealer or vendor of goods/services, or any other issuer (including Mastercard or Visa), will not apply, even though such Sales Memorandum may be submitted to or accepted by Us in connection with a transaction.
- 11. AUTHORIZATION:** You may be required to execute further documentation. Some transactions will require Our prior authorization and You may be asked to provide identification which We deem sufficient. If Our authorization system is not working properly, We may not be able to authorize a transaction, even if You have sufficient available credit. We will not be liable to You if any of these events happen.
- 12. INVESTIGATION AND REPORTING; INACCURATE INFORMATION:** Your credit and the personal credit of any personal guarantor will be used in making credit decisions. You authorize Us to investigate Your creditworthiness by obtaining credit reports and making other inquiries as We deem appropriate. Any individual that has signed an application for commercial credit with Us on Your behalf and any personal guarantor of Your Account authorizes Us to investigate his/her personal credit history by obtaining consumer credit reports and by making direct inquires of businesses where his/her accounts are maintained. You also agree that We may report Your performance under this Agreement to credit bureaus and others who may lawfully receive such information. Any individual that has signed an application for commercial credit with Us on Your behalf and any personal guarantor of Your Account agrees that in the event that Your Account is not paid as agreed, We may report his/her liability for and the status of Your Account to credit bureaus and others who may lawfully receive such information. If You, any individual that has signed an application for commercial credit with Us on Your behalf, or any personal guarantor of Your Account believe that We have information about any of You that is inaccurate or that We have reported or may report credit reporting agency information about any of You that is inaccurate, please notify Us of the specific information that any of You believe is inaccurate by writing to Us at Sears Commercial One Credit Services, P.O. Box 6057, Sioux Falls, SD 57117-6057.
- 13. LIMITING OR TERMINATING YOUR CREDIT:** We may advise You of a “Credit Line” on Your Account, which We may raise, lower, or cancel at any time, and You promise not to allow the outstanding balance of Your Account to exceed this Credit Line. We have the right at any time to limit or terminate the use of Your Account, or to terminate this Agreement as it relates to future transactions, without giving You advance notice. You may terminate this Agreement at any time, upon 60 days prior advance written notice to Us, with respect to future use of the Account. If You or We terminate this Agreement, You agree to pay the outstanding balance of the Account according to the applicable terms of this Agreement and that all of Our rights will continue in full force until all of Your obligations are fully satisfied. You may revoke the Account privileges of any individual authorized to use the Account by notifying Us in writing.
- 14. CARD:** You may request that a Card be issued to You if We make one available. We may elect to issue a Card to You but are not obligated to do so. You agree to send Us or to destroy any Cards issued to You upon our request. You also agree to notify Us promptly if any Cards We issue to You are lost or stolen. You may be liable for any unauthorized use of Your Card until You notify Us in writing at Sears Commercial One Credit Services, P.O. Box 6282, Sioux Falls, SD 57117-6282, or by calling Credit Services at (800) 599-9712, of loss, theft, or unauthorized use. **We may request Your reasonable cooperation in connection with any loss, theft or unauthorized use, including written confirmation from You of any such instance Your notification to Us was made orally.** Subject to the requirements of applicable law, We may cancel Your Account if You

fail to notify Us immediately of any loss, theft or unauthorized use. **You will not be liable for unauthorized use that occurs after You notify Us orally or in writing at the address or phone number specified in this paragraph of the possible unauthorized use. Your liability for unauthorized use will not exceed \$50 (unless applicable law permits a higher limitation, in which case it shall be the higher limitation), except, however, in the event that We issue 10 or more Cards to You, Your liability for any unauthorized use shall be without limitation.**

- 15. TAX EXEMPT TRANSACTIONS:** We will honor tax exempt transactions with proper documentation. You agree to make the Merchant aware of such transactions. If sales taxes appear on Your Billing Statement or Invoice, You agree to take Your Billing Statement or Invoice to the Merchant for an adjustment.
- 16. CHANGES TO THE AGREEMENT:** We may add new term(s) or change any term(s) of this Agreement at any time, including, for example, if applicable, adding finance charges, late charges or other charges. We will give You notice of any change in accordance with applicable law. Unless prohibited by applicable law, any new or changed terms may at Our option be applied to any balance existing in the Account at the time of the change, as well as to any subsequent transactions. No change to any term of this Agreement will eliminate Your obligation or the obligation of any personal guarantor of Your Account to pay, in full, all amounts owing under this Agreement or otherwise perform the terms and conditions of this Agreement or any related guaranty.
- 17. CHANGE OF ADDRESS AND GOVERNING LAW:** You agree that initially Your principal place of business/billing address is the address to which We sent this Agreement or, if this Agreement was originally attached to an Application, the address specified in that Application. You agree to notify Us promptly if You change this address. Until We receive notice of a new address, We may continue to send Billing Statements or Invoices and other correspondence to the address shown on Our records. Federal law and the law of South Dakota, where we are located, govern the terms and enforcement of this Agreement.
- 18. SEVERABILITY:** If any provision of this Agreement is invalid or unenforceable under applicable law, that provision will be considered totally ineffective to that extent, but the remaining provisions of this Agreement will not be affected.
- 19. DEFAULT; COLLECTION COSTS; ACCELERATION:** You will be in default under this Agreement if any of the following events occur: (i) We do not receive any payment due under this Agreement, or any related guaranty, when the payment is due, (ii) You violate any other obligations, representations or warranties under this Agreement or make any false disclosures in any application or guaranty executed in connection with this Agreement, (iii) You change Your form of business organization or there is a change in control of Your business, including without limitation a change in voting ownership of 15% or more, (iv) You are insolvent, declare bankruptcy or similar proceedings are commenced by or against You, or (v) You die, dissolve or cease to do business, or (vi) any information You provide is incorrect, incomplete or misleading. If You are in default, We may exercise any or all rights and remedies available under law, equity or as provided herein. In addition to the full amount owed and any allowable court costs, if Your Account is referred to an attorney who is not Our salaried employee to collect the amount You owe, You agree to pay Our reasonable attorney's fees and other costs of collection to the fullest extent permitted by applicable law.
- 20. EXTENSIONS AND RELEASES:** We may agree to extend the due date of any payment due under this Agreement for any length of time or release any other person or entity liable under this Agreement without notifying You of this extension or release and without releasing You from any of Your obligations under this Agreement or any related guaranty.
- 21. DELAY IN ENFORCEMENT:** You agree that We can delay enforcing any of Our rights under this Agreement, any related guaranty, or applicable law, one or more times, without losing any of Our rights in the future. Even if We do not enforce Our rights or remedies at any one time, We may enforce them at a later time.
- 22. CERTAIN WAIVERS:** You waive Your right to "presentment" and "notice of dishonor". "Presentment" means the right to require Us to demand payment of amounts due under this Agreement. "Notice of dishonor" means the right to require Us to give notice to other persons that amounts due under this Agreement have not been paid. You also waive Your right to demand for payment, protest, notice of protest, and all other notices and demands, to the fullest extent permitted by applicable law.
- 23. PHONE CALLS:** We and Our servicers or agents may contact You by telephone or electronic means regarding the Account, including the use of an automatic dialing-announcing device. We and our servicers or agents may listen to and record any phone conversations with You for training purposes or to evaluate the quality of service, or as otherwise permitted by law. You agree that We may contact You about Your Account without advance notice from Us.
- 24. MARKETING INFORMATION:** As authorized by law, You give Us permission to furnish information about You (usually only Your name, address, and other identifying data) to other persons who may use this information to solicit You for products or services.
- 25. SHARING INFORMATION WITH AFFILIATES AND OTHERS:** As permitted by applicable law, We may share with third parties (including merchant) information about Our experiences or transactions with You. We also may share additional information with companies related to Us by common ownership or affiliated with Us by corporate control.
- 26. ENTIRE TERMS AND CONDITIONS:** This is the entire Agreement, including any Application or acceptance certificate You sign which is hereby incorporated by reference, between You and Us and no oral changes can be made. A copy or reproduction of this Agreement sent or delivered to You constitutes an original of this Agreement for evidentiary purposes.
- 27. ASSIGNMENT:** You may not assign any of Your rights or obligations under this Agreement without our prior written permission. We are not required to give You our written permission. Without Your consent or prior notice to You, We may assign, in whole or in part, any or all of our rights and interests in and under this Agreement and any related guaranties.
- 28. SPECIAL PAYMENT PLANS:** From time to time We may offer You special promotional terms ("Special Payment Plans") that, subject to specified conditions, reduce any applicable charges or fees under this Agreement or otherwise modify the terms of

this Agreement with respect to certain qualifying purchases. If You use Your Account in accordance with the terms of a special Payment Plan, You agree (i) to the terms of the Special Payment Plan and (ii) that no formal amendment of this Agreement will be necessary. The standard provisions of this Agreement apply to any Special Payment Plan, unless otherwise provided under the Special Payment Plan offering, and will continue to apply to any and all transactions that are not subject to a Special Payment Plan.

- 29. FINANCIAL INFORMATION:** You, upon request, will provide Us with any additional financial information.
- 30. JURY WAIVER:** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE AND YOU WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION HERE AFTER BROUGHT AND RELATED IN ANY WAY TO THIS AGREEMENT AND YOUR ACCOUNT, UNDER ANY THEORY OF LAW OR EQUITY.
- 31. LIMITATION OF REMEDIES:** To the extent permitted by applicable law, (i) each Billing Statement or Invoice will be presumed correct unless You provide written notice to Us as the address for billing inquires shown on Your Billing Statement or Invoice specifying any error within 30 days of closing date shown on the Billing Statement or the Invoice date, as applicable; (ii) unless We agree, You will continue making payments in full compliance with Billing Statements or Invoices, as applicable; (iii) any claims or defenses relating to merchandise, goods and/or services purchased using Your Account, including, but not limited to, claims or defenses regarding breach of warranty, failure to deliver or otherwise, may not be asserted against Creditor unless otherwise agreed; and (iv) You hereby waive all of Your existing and future rights of set-off, offset, counterclaim and recoupment. In any dispute, except as set forth in Section 18 above, You and We are limited to actual and direct damages, and You and We waive all other damages including any consequential, punitive, and exemplary damages.

32. ARBITRATION

PLEASE READ THIS PROVISION OF THE AGREEMENT CAREFULLY. IT PROVIDES THAT ANY DISPUTE MAY BE RESOLVED BY BINDING ARBITRATION. ARBITRATION REPLACES THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO A JURY AND THE RIGHT TO INITIATE OR PARTICIPATE IN A CLASS ACTION OR SIMILAR PROCEEDING. IN ARBITRATION, A DISPUTE IS RESOLVED BY AN ARBITRATOR INSTEAD OF A JUDGE OR JURY. ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN COURT PROCEDURES.

Agreement to Arbitrate: Either you or we may, without the other's consent, elect mandatory, binding arbitration for any claim, dispute, or controversy between you and us (called "Claims").

Claims Covered

What Claims are subject to arbitration? All Claims relating to your account, a prior related account, or our relationship are subject to arbitration, including Claims regarding the application, enforceability, or interpretation of this Agreement and this arbitration provision. All Claims are subject to arbitration, no matter what legal theory they are based on or what remedy (damages, or injunctive or declaratory relief) they seek. This includes Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other sources of law; Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; and Claims made independently or with other claims. A party who initiates a proceeding in court may elect arbitration with respect to any Claim advanced in that proceeding by any other party. Claims and remedies sought as part of a class action, private attorney general or other representative action are subject to arbitration on an individual (non-class, non-representative) basis, and the arbitrator may award relief only on an individual (non-class, non-representative) basis.

Whose Claims are subject to arbitration? Not only ours and yours, but also Claims made by or against anyone connected with us or you or claiming through us or you, such as a co-applicant or authorized user of your account, an employee, agent, representative, affiliated company, predecessor or successor, heir, assignee, or trustee in bankruptcy.

What time frame applies to Claims subject to arbitration? Claims arising in the past, present, or future, including Claims arising before the opening of your account, are subject to arbitration.

Broadest interpretation. Any questions about whether Claims are subject to arbitration shall be resolved by interpreting this arbitration provision in the broadest way the law will allow it to be enforced. This arbitration provision is governed by the Federal Arbitration Act (the "FAA").

What about Claims filed in Small Claims Court? Claims filed in a small claims court are not subject to arbitration, so long as the matter remains in such court and advances only an individual (non-class, non-representative) Claim.

What about debt collections? We and anyone to whom we assign your debt will not initiate an arbitration proceeding to collect a debt from you unless you assert a Claim against us or our assignee. We and any assignee may seek arbitration on an individual basis of any Claim asserted by you, whether in arbitration or any proceeding, including in a proceeding to collect a debt. You may seek arbitration on an individual basis of any Claim asserted against you, including in a proceeding to collect a debt.

How Arbitration Works

How does a party initiate arbitration? The party filing an arbitration must choose one of the following two arbitration firms and follow its rules and procedures for initiating and pursuing an arbitration: American Arbitration Association or JAMS. Any arbitration hearing that you attend will be held at a place chosen by the arbitration firm in the same city as the U.S. District Court closest to your then current billing address, or at some other place to which you and we agree in writing. You may obtain copies of the current rules of each of the arbitration firms and forms and instructions for initiating an arbitration by contacting them as follows:

American Arbitration Association
800-778-7879 (toll-free)
Website: www.adr.org

JAMS
800-352-5267 (toll-free)
Website: www.jamsadr.com

At any time you or we may ask an appropriate court to compel arbitration of Claims, or to stay the litigation of Claims pending arbitration, even if such Claims are part of a lawsuit, unless a trial has begun or a final judgment has been entered. Even if a party fails to exercise these rights at any particular time, or in connection with any particular Claims, that party can still require arbitration at a later time or in connection with any other Claims.

What procedures and law are applicable in arbitration? A single, neutral arbitrator will resolve Claims. The arbitrator will be either a lawyer with at least ten years experience or a retired or former judge, selected in accordance with the rules of the arbitration firm. The arbitration will follow procedures and rules of the arbitration firm in effect on the date the arbitration is filed unless those procedures and rules are inconsistent with this Agreement, in which case this Agreement will prevail. Those procedures and rules may limit the discovery available to you or us. The arbitrator will take reasonable steps to protect customer account information and other confidential information if requested to do so by you or us. The arbitrator will apply applicable substantive law consistent with the FAA and applicable statutes of limitations, will honor claims of privilege recognized at law, and will have the power to award to a party any damages or other relief provided for under applicable law. You or we may choose to have a hearing and be represented by counsel. The arbitrator will make any award in writing and, if requested by you or us, will provide a brief statement of the reasons for the award. An award in arbitration shall determine the rights and obligations between the named parties only, and only in respect of the Claims in arbitration, and shall not have any bearing on the rights and obligations of any other person, or on the resolution of any other dispute.

Who pays? Whoever files the arbitration pays the initial filing fee. If we file, we pay; if you file, you pay, unless you get a fee waiver under the applicable rules of the arbitration firm. If you have paid the initial filing fee and you prevail, we will reimburse you for that fee. If there is a hearing, we will pay any fees of the arbitrator and arbitration firm for the first day of that hearing. All other fees will be allocated as provided by the rules of the arbitration firm and applicable law. However, we will advance or reimburse your fees if the arbitration firm or arbitrator determines there is good reason for requiring us to do so, or if you ask us and we determine there is good reason for doing so. Each party will bear the expense of that party's attorneys, experts, and witnesses, and other expenses, regardless of which party prevails, but a party may recover any or all expenses from another party if the arbitrator, applying applicable law, so determines.

Who can be a party? Claims must be brought in the name of an individual person or entity and must proceed on an individual (non-class, non-representative) basis. The arbitrator will not award relief for or against anyone who is not a party. If you or we require arbitration of a Claim, neither you, we, nor any other person may pursue the Claim in arbitration as a class action, private attorney general action or other representative action, nor may such Claim be pursued on your or our behalf in any litigation in any court. Claims, including assigned Claims, of two or more persons may not be joined or consolidated in the same arbitration. However, applicants, co-applicants, authorized users on a single account and/or related accounts, or corporate affiliates are here considered as one person.

When is an arbitration award final? The arbitrator's award is final and binding on the parties unless a party appeals it in writing to the arbitration firm within fifteen days of notice of the award. The appeal must request a new arbitration before a panel of three neutral arbitrators designated by the same arbitration firm. The panel will consider all factual and legal issues anew, follow the same rules that apply to a proceeding using a single arbitrator, and make decisions based on the vote of the majority. Costs will be allocated in the same way they are allocated for arbitration before a single arbitrator. An award by a panel is final and binding on the parties after fifteen days has passed. A final and binding award is subject to judicial review and enforcement as provided by the FAA or other applicable law.

Survival and Severability of Terms

This arbitration provision shall survive: (i) termination or changes in the Agreement, the account, or the relationship between you and us concerning the account; (ii) the bankruptcy of any party; and (iii) any transfer, sale or assignment of your account, or any amounts owed on your account, to any other person or entity. If any portion of this arbitration provision is deemed invalid or unenforceable, the entire arbitration provision shall not remain in force. No portion of this arbitration provision may be amended, severed or waived absent a written agreement between you and us.

IMPORTANT NOTICES

NOTICE TO THE CUSTOMER: (1) DO NOT SIGN THIS AGREEMENT OR USE YOUR ACCOUNT TO ACCEPT THIS AGREEMENT BEFORE YOU READ THIS AGREEMENT OR IF THIS AGREEMENT CONTAINS ANY BLANK SPACES. (2) YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS AGREEMENT. KEEP THIS AGREEMENT TO PROTECT YOUR LEGAL RIGHTS. (3) ANY PERSON USING THE ACCOUNT REPRESENTS THAT (i) THE CUSTOMER IS A VALID BUSINESS ENTITY IN GOOD STANDING UNDER THE LAWS OF THE JURISDICTION OF ITS ORGANIZATION, A QUALIFIED RELIGIOUS, EDUCATIONAL OR OTHER NON-PROFIT ENTITY, OR A GOVERNMENT AGENCY OR INSTRUMENTALITY; (ii) ALL TRANSACTIONS UNDER THIS AGREEMENT WILL BE MADE FOR OTHER THAN PERSONAL, FAMILY OR HOUSEHOLD USE; AND (iii) THE CUSTOMER HAS DULY AUTHORIZED THE ACCEPTANCE OF THIS AGREEMENT.