

# True Value. COMMERCIAL CREDIT CARD APPLICATION

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STORE # \_\_\_\_\_

## ORGANIZATION INFORMATION

ORGANIZATION NAME AS IT WILL APPEAR ON THE CARD (Limit of 26 Characters)				FEDERAL TAX ID OR EIN #	CONTRACTOR'S LICENSE NO. (IF APPLICABLE)
TYPE OF BUSINESS	YEARS IN BUSINESS	# OF EMPLOYEES	ANNUAL REVENUE <input type="checkbox"/> OVER \$1 MILLION <input type="checkbox"/> UNDER \$1 MILLION		ESTIMATED MONTHLY PURCHASE AMOUNT \$
BILLING CONTACT			TITLE	PHONE ( )	

By providing your contact information above, you agree to be contacted regarding your account via text message or telephone, including the use of pre-recorded or auto-dialed calls. Standard mobile, message, or data rates may apply.

STREET ADDRESS	CITY	STATE	ZIP
BILLING ADDRESS IF DIFFERENT THAN ABOVE	CITY	STATE	ZIP
FORMER ADDRESS	CITY	STATE	ZIP

EMAIL ADDRESS By providing your e-mail address, you consent for Comenity Capital Bank to share your e-mail address with True Value to be informed of exclusive offers, new arrival, sales events and promotions. You also consent to receive commercial e-mails from Comenity Capital Bank for solicitation, advertising and promotional offers related to your True Value Commercial Credit Card Account.

IS BUSINESS INCORPORATED? YES <input type="checkbox"/> NO <input type="checkbox"/>	<i>If corporation is less than 2 years old, you must complete the Personal Information section and sign by the "X" as a Personal Guarantor below to qualify.</i>	PARENT COMPANY NAME OR OTHER DBA - PLEASE SPECIFY
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IS BUSINESS A PROPRIETORSHIP OR A PARTNERSHIP? YES  NO  *If yes, to qualify you must complete the personal information section and sign by the "X" as Personal Guarantor below.*

## PERSONAL INFORMATION

NAME	SOCIAL SECURITY NUMBER	DATE OF BIRTH
ADDRESS	HOME PHONE ( )	

## BANK REFERENCE (Complete Bank Information Is Required to Process Application)

BANK NAME	COMPLETE ADDRESS	PHONE	ACCOUNT NUMBER
1.		( )	

## TRADE REFERENCES (A Minimum of Two (2) Trade References with six (6) months or more of Activity)

NAME	COMPLETE ADDRESS	PHONE	ACCOUNT NUMBER
1.		( )	
NAME	COMPLETE ADDRESS	PHONE	ACCOUNT NUMBER
2.		( )	

By submitting an application (the "Application") to Comenity Capital Bank ("Bank") for this Commercial Credit Card Account (the "Account"), you represent that the Applicant is a business entity or a qualified religious, education, or other nonprofit entity legally formed and in good standing or a government agency. Applicant agrees that all purchases made on the Account, will solely be for commercial purposes, that is, other than for personal, family or household use, and that the individual signing the Application is an authorized representative of the Applicant with the authority to submit the Application, enter into agreements on behalf of the Applicant and generally commit the Applicant to other binding obligations. On behalf of the Applicant, you certify (i) that all information provided in the Application is true, accurate and complete; (ii) the Applicant agrees to be bound by the Credit Card Agreement, which, if the Applicant is approved by Bank, will be provided with the card issued by Bank; and (iii) the Applicant authorizes Bank to check with credit reporting agencies and other sources Bank deems appropriate in considering the Application and subsequently for purposes of updates, renewals, or collecting on the Account. You understand that there is no binding contract between you and Bank until Bank approves the application.

Authorized Signature \_\_\_\_\_ Name (Printed) \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

I, personal guarantor of the Applicant, acknowledge and agree that, if Comenity Capital Bank ("Bank") approves the Applicant's application for the Account, I will be jointly and severally liable for any and all unpaid amounts that the Applicant may owe Bank under the terms of the Credit Card Agreement ("CCA"). To determine creditworthiness, I authorize Bank to obtain and investigate my personal credit bureau report and financial records, including any bank accounts held jointly or individually in my name. I agree to personally guarantee payment of any and all debt arising under or pursuant to the CCA, including, as permitted under applicable law, reasonable attorney's fees, arbitration fees, court fees, and/or collection costs. I agree that Bank can enforce this guarantee without first proceeding against the Applicant or any other guarantor(s) until such time all amounts due and owing have been paid in full. Bank may send notices and correspondence regarding the Account to Applicant and I will consider them received. I agree to guarantee payment even if the terms of the CCA have been changed. I understand that any negative information, including delinquency, may be reported to the appropriate credit reporting agency, and to True Value.

X _____ Signature of Personal Guarantor (As Required Above)	1. _____	3. _____
	2. _____	4. _____

### ACCOUNT RESTRICTIONS DESIRED

Date \_\_\_\_\_  Resale # \_\_\_\_\_  Tax Exempt ID # \_\_\_\_\_

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Even the most successful contractors can use a helping hand. That's why we recommend a card that works for you — the True Value Commercial Credit Card. Use it every time you shop at True Value for your tools and supplies and get 60 days special financing.

# Apply today & get **60 days**

## No interest if paid in full within 60 days.

Interest will be charged to your account (at the standard, variable APR) from the purchase date if the purchase balance is not paid in full within the promotional period. See Credit Card Agreement for details.





There are costs associated with the use of this credit card account. To obtain information about these costs, call us at 1-866-610-5306 (TDD/TTY 1-888-819-1918) or write to us at Comenity Capital Bank, PO Box 183003 Columbus OH 43218-3003.

**IMPORTANT INFORMATION ABOUT OPENING AN ACCOUNT**

To help the United States Government fight terrorism and money laundering, Federal law requires us to obtain, verify and record information that identifies each business or entity that opens an account or establishes a relationship with us. What that means for you is that you must provide your business name, a street address and a tax identification number to open an account or establish a business relationship.

The **Ohio laws** against discrimination require that all creditors make credit equally available to all creditworthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with this law. **New York Residents:** A consumer credit report may be ordered in connection with the processing of an application, or subsequently with the update, renewal or extension of credit. Upon your request, you will be informed of whether or not a consumer credit report was ordered, and if it was, you will be given the name and address of the consumer-reporting agency that furnished the report. **Rhode Island And Vermont Residents:** A consumer credit report may be ordered in connection with the processing of an application, or subsequently for purposes of review or collection of the account, increasing the credit line on the account, or other legitimate purposes associated with the account. **Wisconsin Residents:** No provision of any marital property agreement, unilateral statement under Section 766.59 of the Wisconsin statutes or court order under Section 766.70 adversely affects the interest of the creditor, Comenity Capital Bank, unless the Bank, prior to the time credit is granted is furnished a copy of the agreement, statement or decree or has actual knowledge of the adverse provision when the obligation to the Bank is incurred.

Notice: The Privacy Policy of Comenity Capital Bank does not apply to the information that may be provided or gathered in connection with your application for a Comenity Capital Bank Commercial Credit Card Account; please see Section 17 of your Commercial Credit Card Account regarding information use and sharing.

<b>Interest Rates and Interest Charges</b>	
<b>Annual Percentage Rate (APR) for Purchases</b>	<b>21.99%</b> This APR will vary with the Market based on Prime.
<b>Penalty APR and When it applies</b>	<b>29.99%</b> This APR will vary with the Market based on Prime.  This APR may be applied to your account if you fail to pay all or part of your minimum payment due by the payment due date for three consecutive Billing Periods.  <b>How long will the Penalty APR Apply?</b> If your APR is increased for this reason, the Penalty APR will apply until such time as any delinquency is cured and you then make six consecutive payments when due.
<b>How to Avoid Paying Interest</b>	Your due date is at least 25 days after the close of each billing cycle. We will not charge you interest on purchases if you pay your entire balance by the due date each month.
<b>Minimum Interest Charge</b>	If you are charged interest, the charge will be no less than \$2.00
<b>For Credit Card Tips from the Consumer Financial Protection Bureau</b>	<b>To learn more about factors to consider when applying for or using a credit card, visit the website of the Consumer Financial Protection Bureau at <a href="http://www.consumerfinance.gov/learnmore">http://www.consumerfinance.gov/learnmore</a>.</b>

<b>Fees</b>	
<b>Set up and Maintenance Fees</b>	
• Annual Fee	<b>None</b>
<b>Penalty Fees</b>	
• Late Payment	<b>Up to \$35</b>
• Returned Payment	<b>Up to \$35</b>

**How We Will Calculate Your Balance:** We use a method called "daily balance (including new purchases)."

**Billing Rights:** Information on your rights to dispute transactions and how to exercise those rights is provided in your account agreement.



# COMENITY CAPITAL BANK TRUE VALUE® COMMERCIAL CREDIT CARD ACCOUNT AGREEMENT

**1. Definitions:** In this Agreement, the words "you," "your" or "Accountholder" refer to the person or entity that signs the Application or on whose behalf the Application is authorized to be signed. "We", "us" and "our" refer to Comenity Capital Bank, 2795 E. Cottonwood Parkway, Suite 100, Salt Lake City, Utah 84121 and any Assignee to which this Agreement and/or the indebtedness hereunder may be assigned. "Account" means the Commercial Credit Card Account with us established by this Agreement and which shall be used for the purchase of merchandise and/or services from True Value (referred to herein as "Seller") for your business use only. "Business Day" means every day except Saturday, Sunday or federal holidays. "Credit Card" or "Card" means the plastic card that you requested under the terms of the application and we issue to you under this Agreement to pay for purchases you may make from Seller from time to time under your Account.

**2. Promise to Pay:** You may buy from the Seller merchandise (including any related services) described in the sales invoice(s) for the cash price(s) shown on such invoice(s). By signing this Agreement, you have requested that we establish this Commercial Credit Card Account for your business use only and that we grant you the right to finance your purchase(s) from the Seller on credit subject to the terms and conditions of this Agreement. If you elect to make purchases under this Account arrangement from time to time, you agree to pay for all purchases charged to your Account, subject to a Finance Charge and all other charges mentioned below, according to the terms and conditions of this Agreement. You understand that we will be unable to determine whether any given purchase charged on your Account was in fact authorized by and for the benefit of the business in whose name the Account is established. You agree that your promise to pay, as contained in the "Promise to Pay" section of this Agreement, will apply to all purchases made by any of you whether or not the purchase was in fact authorized by and for the benefit of that business. You agree that this Account shall be used only for the purchase of merchandise for commercial or business purposes, and not for personal, family or household use. Any Application submitted on behalf of a business shall attest that you are a valid business entity or a qualified religious, educational, or other non-profit entity, or a governmental agency or instrumentality; and that you have authorized (1) the execution of the Application, and (2) the person submitting the Application has any and all necessary authority to execute the Application on your behalf.

**3. Finance Charge/Balance Subject to Finance Charge:**

**A.** There will be no Finance Charge imposed on your purchases in any Billing Period in which (i) there is no Previous Balance or (ii) payments received and credits issued by the Payment Due Date, which is 25 days after the Statement Closing Date shown on your last Statement, equal or exceed the Previous Balance. If the New Balance shown on your last Statement is not paid in full by the Payment Due Date shown on your last Statement, there will be a Finance Charge on each purchase from the date of purchase.

**B.** For each Billing Period, we use a "Daily Balance" to figure Finance Charges on your Account. This is how we figure the "Daily Balance" each day:

i. We start with the beginning balance on your Account each day (including unpaid Finance Charges and fees).

ii. We subtract any payments or credit adjustments and add any new purchases and debit adjustments posted as of that day. This gives us the "Partial Daily Balance" for the day.

iii. We then multiply the Partial Daily Balance for the day by the Daily Periodic Rate of Finance Charge to obtain the "Daily Finance Charge" for the day and add it to the day's Partial Daily Balance. This gives us the "Daily Balance", which will be the beginning balance for the following day.

At the end of each Billing Period, we add together the Daily Finance Charge for each day in the Billing Period to get the total Finance Charge for the Billing Period.

Your Statement will show a Daily Balance, which is the sum of the Partial Daily Balance for each day in the Billing Period divided by the number of days in the Billing Period.

**C.** The Daily Periodic Rate of **FINANCE CHARGE** applicable to your Account will be computed by adding 18.74% to the value of an "Index," and dividing by 365 (The corresponding **ANNUAL PERCENTAGE RATE** will be the Index plus 18.74%). The Index in effect for each Billing Period shall be the highest "Prime Rate" of interest as published in the "Money Rates" section of *The Wall Street Journal* for the calendar month preceding the month in which the Billing Period begins, rounded upward, if necessary, to the nearest .001% ("Index"). An increase or decrease in the Annual Percentage Rate will result in a corresponding increase or decrease in the amount of Finance Charge and may increase the amount of your minimum payment due.

**D. Penalty Rate.** If you fail to pay all or part of your Minimum Payment Due (as described in Section 5) by the Payment Due Date shown on your Statement for three consecutive Billing Periods, we may apply a penalty Annual Percentage Rate ("Penalty Rate") to the existing balance of your Account and to all new purchases beginning on the first day of the first Billing Period thereafter. The Daily Periodic Rate of **FINANCE CHARGE** for the Penalty Rate is **0.08216%** (corresponding **ANNUAL PERCENTAGE RATE** of **29.99%**). The Penalty Rate will apply to your Account until such time as any delinquency is cured and your account is kept in a current and satisfactory status for six (6) consecutive billing periods. On the seventh billing period the Penalty Rate will no longer apply and your Account will be subject to the Daily Periodic Rate of Finance Charge and corresponding Annual Percentage Rate as described above in Section 3C.

**E.** We will charge you a minimum **FINANCE CHARGE** of **\$2.00** for any Billing Period in which a Finance Charge is due.

**F.** Your monthly statement will disclose the applicable Annual Percentage Rate for the Billing Period. If this Agreement accompanies credit cards for your new account, the current initial Daily Periodic Rate of **FINANCE CHARGE** and corresponding **ANNUAL PERCENTAGE RATE** are indicated on the Cardmailer and are incorporated herein by reference. As of February 1, 2013, the initial Daily Periodic Rate of **FINANCE CHARGE**, was **0.06024%**, and the corresponding initial **ANNUAL PERCENTAGE RATE** was **21.99%**. This information may have changed after that date. To find out about changes in the information, call us at 1-866-610-5306 (TDD/TTY 1-888-819-1918) or write us at Comenity Capital Bank, PO Box 183003, Columbus, OH 43218-3003.

**4. When Finance Charges Begin to Accrue:** No Finance Charge will be imposed during a billing period if (a) there is no



Previous Balance shown on your statement or (b) the sum of your payments and credits shown on your statement is at least equal to the Previous Balance. In either case, new Purchases will not incur a Finance Charge in the billing period when they are made or if they are paid within 25 days of the billing date shown on your statement. Otherwise, new Purchases and other debits will incur a Finance Charge from the date of the transaction.

**5. Minimum Monthly Payment:** You may pay all of your Account balance at any time without penalty. You must pay us at least the Minimum Payment Due for each Billing Period by the Payment Due Date shown on your Statement. You agree to pay a Minimum Monthly Payment in an amount (whichever is larger): (a) \$5 or (b) 4.0% (rounded up to the nearest dollar) of the New Balance shown on your Statement plus any amount(s) past due. However, the total minimum payment due on your account will not be less than \$25.00. If your Account balance is less than \$25.00, you must pay your Account balance in full. Your Statement will tell you how much your Minimum Payment must be. You may at any time pay your entire balance in full or more than the Minimum Monthly Payment without penalty. Any payments received after 5:00 p.m. Central Time on any Business Day will be credited on the next Business Day. Payments are due at the address, and by the due date, in each case as shown on your monthly billing statement. If payments are not made at such address, are not denominated in U.S. dollars, or are not accompanied by remittance instructions, application of payments to your Account may be delayed by up to five (5) Business Days.

**6. Promotional Credit Plans:** Your Account may consist of a non-promotional Credit Plan and one or more promotional Credit Plans. We may offer different promotional Credit Plans from time to time. If a promotional Credit Plan is offered at the time you open your account, this Agreement will include information about the terms for the Plan, by use of an insert, attachment, or other written information provided as part of this Agreement. Normal late payment charges, returned check charges and all other provisions apply to any promotional Credit Plan, unless inconsistent with a particular Credit Plan offering. If the promotional Credit Plan purchase isn't paid in full before the promotional period ends, the balance will be transferred to your non-promotional Regular Revolving balance.

Credit Plans offered and their particular features (including but not limited to minimum purchase requirements and Minimum Payment) may vary occasionally at our discretion and include one or more Regular Revolving or Promotional Credit Plans. Regular Revolving Credit Plans are your non-promotional purchases using the Card. Promotional Credit Plans may include Defer Interest, Payment Required.

**All written communications concerning disputed transactions, disputed amounts, including any check or other payment instrument that (a) indicates that the payment constitutes "payment in full" or is tendered as full satisfaction of a disputed amount, or (b) is tendered with other conditions or limitations, must be mailed or delivered to us at the address for billing inquiries shown on the Statement, not the Payment Address.**

**7. Late Payment Fee:** If you do not pay us at least the Minimum Payment Due for each Billing Period or you pay it late, we can add a late fee of up to \$35 your Account. Your payment will be late if we do not receive it by the Payment Due Date shown on your Statement.

**8. Returned Check Fee:** We may impose a Returned Check Fee of up to \$35 if any check or other instrument sent to us in payment of your Account is returned to us unpaid.

**9. Copying Fee:** We may, in our sole discretion, impose a copying fee of \$6 per page for any document you request greater than two requests per year (excluding document requests related to billing disputes).

**10. Alternative Payment Method Fee:** We may offer alternative payment methods which would allow you to make individual payments to your Account over the telephone or through the internet. If you choose to use one of those payment methods, then we will assess the then current fee that we charge for this service. At present, that fee is up to \$15 for each payment made through either of these methods, but it may change. We will disclose the current fee to you (you may withdraw your request if you do not want to pay the fee) before you authorize any payment(s) through either of these alternative methods.

**11. Termination/Change in Terms:** You may at any time terminate your Account and this Agreement. We may, at any time, subject to applicable law, terminate or cancel your Account, with or without notice. In addition, we may, at any time and subject to applicable law: (a) terminate your right to make future Purchases; (b) change your credit limit; (c) change any term or condition of, or add new terms or conditions to, this Agreement relating to your Account; or (d) terminate your Account. Unless prohibited by applicable law, we may apply any changed or new terms to any outstanding balance of your Account on the effective date of the change and to any future balances created after that date. When required by applicable law, we will mail a notice of any change(s) or addition(s) to you. Upon any termination of this Agreement you will continue to be obligated to pay all amounts owing under, and to otherwise perform the terms and conditions of, this Agreement. No change to any term of this Agreement will affect your obligation or the obligation of any Personal Guarantor of this Agreement to pay, in full, all amounts owing under this Agreement or otherwise perform the terms and conditions of the Agreement or any related guaranty.

**12. Default:** Subject to the limitations of applicable law, we may declare that you are in default under this Agreement if you (a) fail to make at least the Minimum Payment when due; (b) violate any other term or condition of this Agreement; (c) become the subject of bankruptcy or insolvency proceedings; or (d) exceed the credit limit; (e) pass away; (f) supply us with misleading, false, incomplete or incorrect information; (g) are unable or unwilling to perform the terms or conditions of this Agreement; (h) fail to supply us with any information we deem necessary; (i) have been identified by third parties, including credit reporting agencies, as having a delinquent account or charge-off with other creditors; (j) default under any other loan or agreement you have with us or any of our affiliates; (k) become incompetent or (l) issue a payment returned unpaid by your bank for any reason on your Account. After your default, and subject to the limitations of applicable law, we have the right to: (i) reduce your credit limit; (ii) terminate your Account, in which case the terms of this Agreement will apply until full payment is received of the amount owing on your Account, including Finance Charges which we will continue to impose to the date of full payment; (iii) require immediate payment of your entire Account balance, all accrued but unpaid Finance Charges (if applicable), and all fees and other charges listed in this Agreement; and (iv)



bring an action to collect all amounts owed. If, after your default, we refer your Account for collection to an attorney who is not our salaried employee, we may, to the extent permitted by applicable law, charge you or collect from you our collection costs, including court costs and reasonable attorneys' fees.

**13. Liability for Unauthorized Use:** (a) **If less than ten Cards are issued to you, the following applies:** Any Card issued on the Account to you by us is issued at your request and you agree to surrender it to us upon demand. You may be liable for the unauthorized use of the Card. Any use of the Card by your employee is deemed to be authorized use until such time as you have notified us, in writing or by telephone, to not honor any further requests from that employee and we have had a reasonable period of time to respond to your request. You agree to promptly notify us if your Card is lost or stolen or of possible unauthorized use of your Card by writing to P.O. Box 183003, Columbus, OH 43218-3003 or by calling us at 1-866-610-5306 (TDD/TTY 1-888-819-1918). You will not be liable for unauthorized use that occurs after you notify us of the loss, theft, or possible unauthorized use and, in any case, your liability for unauthorized use will not exceed \$50. If you orally give us notice concerning loss or theft, you agree to confirm it in writing. You agree that unauthorized use does not include use by a person whom you have given authority to use the Account or Card and that you will be liable for all use by such a person. To terminate that authority, you must notify us at 1-866-610-5306 (TDD/TTY 1-888-819-1918) or write to us at Comenity Capital Bank PO Box 183003 Columbus, Ohio 43218-3003. (b) **If ten or more Cards are issued to you, the following applies:** Any Card issued on the Account to you by us is issued at your request and you agree to surrender it to us upon demand. You will be liable for any unauthorized use of the Card. Any use of the Card by your employee is deemed to be authorized use until such time as you have notified us, in writing or by telephone, to not honor any further requests from that employee and we have had a reasonable period of time to respond to your request. You agree to promptly notify us if your Card is lost or stolen or of possible unauthorized use of your Card by writing to P.O. Box 183003 Columbus, OH 43218-3003 or by calling us at 1-866-610-5306 (TDD/TTY 1-888-819-1918). If you orally give us notice concerning loss or theft, you agree to confirm it in writing. You agree that unauthorized use does not include use by a person whom you have given authority to use the Account or Card and that you will be liable for all use by such a person. To terminate that authority, you must notify us at 1-866-610-5306 (TDD/TTY 1-888-819-1918) or by writing to us at Comenity Capital Bank PO Box 183003 Columbus, Ohio 43218-3003.

**14. Credit Reports and Account Information:** The credit of your business and the personal credit of any Personal Guarantor will be used in making credit decisions. You authorize us to investigate the creditworthiness of your business by obtaining credit reports and making other inquiries, as we deem appropriate. Any Personal Guarantor authorizes us to investigate his/her personal credit history by obtaining consumer credit reports and by making direct inquiries of businesses where his/her accounts are maintained. In the event that this Account is not paid as agreed, we may report the liability of your business and the Personal Guarantor, and the status of this Account, to credit bureaus and others who may lawfully receive such information.

Late payments, missed payments, or other defaults on your account may be reflected in your credit report.

**15. Telephone Monitoring:** If we need to contact you to service your Account or to collect amounts you owe to us, you give direct consent to us, as well as servicers, agents, contractors and collectors of your Account, to communicate with you in any way, such as calling, texting, or e-mail via:

- A. a cell, landline, or text number you provide, use to contact us, or at which we believe we can reach you (even if it is not yours),
- B. any email address you provide to us or one of our merchants,
- C. automated dialer systems and automatic telephone dialing systems,
- D. pre-recorded or artificial voice messages and other forms of communications.

You also agree that these communications aren't unsolicited for purposes of any state or federal law, and you understand that this may result in additional mobile, text message, or data charges.

- To provide you with high-quality service, phone communication with us is monitored and/or recorded.
- You agree that we monitor and/or record any phone calls between you and us.
- Please inform all authorized cardholders of this provision, including anyone acting on your behalf or making payments on this Account.

**16. No Waiver By Us:** We reserve the right, at any time and in our sole discretion, not to impose part or all of any fee or other amount imposed pursuant to this Agreement or not to exercise any of our other rights under this Agreement and, should we do so, we will not waive our right to impose such fee or other amount or exercise the right as set forth in this Agreement in the future. Without limiting the foregoing, we may, at our option: (a) accept late or partial payments or checks or money orders marked "payment in full" or tendered with other conditions or limitations, (b) agree to extend the due date of any payment due under this Agreement for any length of time, (c) release any security interest we have in connection with this Agreement, and/or (d) release any other person responsible under this Agreement, without notifying you or any Personal Guarantor and without releasing you or any Personal Guarantor from your obligation to pay all amounts owing under this Agreement in full, or to otherwise perform the terms and conditions of this Agreement. You and any Personal Guarantor understand and agree that your obligation and the obligation of any Personal Guarantor to pay all amounts owing under this Agreement and otherwise to perform the terms and conditions of this Agreement and any related guaranty are absolute and unconditional.

**17. Information Use and Sharing:** You understand and agree that all information relating to you and/or your Account, including without limitation your application information, the purchases you make on your Account, and your balance and payment information, will be captured by and/or shared with True Value to create and update their customer records and assist them in providing service to you, including True Value's credit program and special promotions. We may also share information about you and your Account with our affiliated companies, our service providers, our assignees, and as otherwise permitted by law.

**18. Change of Address:** You agree to notify us promptly if you



change your principal place of business or billing address. Until we are notified that your address has changed, we will continue to send Statements and other notices to the last address we maintained on your Account.

**19. Cancellation:** You and we have the right to cancel this Agreement and/or your Account as it relates to future purchases. You agree to return all Credit Cards to us upon notice of cancellation. You remain obligated to pay for all purchases made prior to cancellation. We may cancel your Account at our discretion, with or without prior notice.

**20. Credit Approval:** This Account and all purchases made under it are not binding on us until your credit is approved. This Agreement will be considered approved when we give notice of approval to you.

**21. Ancillary Data.** We may capture ancillary data, which includes, but is not limited to, purchase order numbers, tax exempt information, sales draft information, etc., along with transaction information, but whether we capture the ancillary data or not will not impact your obligation to make payment on this Account in accordance with the terms of this Agreement. We also make no representation or warranty regarding the accuracy or completeness of the ancillary data that may be provided to you.

**22. Governing Law:** THIS AGREEMENT IS GOVERNED BY UTAH AND APPLICABLE FEDERAL LAW. THIS IS THE LAW WE ARE SPEAKING OF WHEN WE REFER TO A TERM PERMITTED OR REQUIRED BY APPLICABLE LAW.

**23. Consent to Jurisdiction.** You consent and submit to the exclusive jurisdiction of the state and federal courts located in Salt Lake City, Utah in all controversies arising out of or in connection with your use of the Card and this Agreement

**24. Lost or Stolen Cards.** As allowed by applicable law, we are not responsible for lost or stolen Cards or any unauthorized transactions made with your Card. You agree to give the notice described in the section entitled "Liability for Unauthorized Use" if the Card is lost or stolen. You should do so immediately to minimize your possible losses. See the section entitled "Liability for Unauthorized Use" in this Agreement for additional information concerning your liability for unauthorized use. You also agree, to the extent permitted by law, to cooperate completely with Bank in its efforts to recover funds from unauthorized users and to assist in such unauthorized users prosecution.

**25. Assignment:** We may sell, assign, or transfer all or any portion of your Account or any balances due under your Account without prior notice to you. You may not sell, assign, or transfer your Account or any of your obligations under this Agreement.

**26. Severability:** If any provision of this Agreement is determined to be void or unenforceable under applicable law, rule, or regulation, all other provisions of this Agreement shall still be valid and enforceable.

**27. Entire Agreement:** This Agreement, together with any Application you signed or otherwise submitted in connection with the Account (which is hereby incorporated by reference in this Agreement), constitutes the entire agreement between you and us relating to your Account and supersedes any other prior or contemporaneous agreement between you and us relating to your Account. This Agreement may not be amended except in accordance with the provisions of Paragraph 11 of this Agreement.

**28. Periodic Statements.** Periodic statements of Card transactions will be mailed, via U.S. Mail monthly, unless there are no transactions

in a particular month or you have directed us to provide your statements electronically under such terms and conditions as we may disclose at the time such capability is available.

**29. Examination of Periodic Statements.** You agree to review your periodic statements and to notify us of any erroneous, improper or unauthorized transactions on the Card in accordance with the terms of this Agreement. If your periodic statement indicates transactions that you did not make, notify us immediately, by calling 1-866-610-5306 (TDD/TTY 1-888-819-1918) or writing to Comenity Capital Bank, Customer Service, P.O. BOX 182620, Columbus, Ohio 43218-2620. See the section entitled "Liability for Unauthorized Use" for additional information concerning your liability for unauthorized use.

**30. Sign the Card.** For your own protection, please sign the Card before using it. Your signature on the Card is not a prerequisite to your obligation to pay amounts incurred on your Account.

**31. Application of Payments.** We will apply amounts paid in excess of the minimum payment due first to the balance bearing the highest rate of interest, and then to each successive balance bearing the next highest rate of interest, until the payment is exhausted. However, we will allocate the entire amount paid in excess of the minimum payment due to any balance on which interest is deferred during the last 2 billing cycles immediately preceding the expiration of the promotion period.

**32. Arbitration and jury trial waiver**

**A. Jury Trial Waiver**

**TO THE EXTENT PERMITTED BY LAW, YOU AND WE WAIVE ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF A LAWSUIT ARISING OUT OF OR RELATED TO THIS AGREEMENT. THIS JURY TRIAL WAIVER SHALL NOT AFFECT THE ARBITRATION PROVISION BELOW (INCLUDING THE JURY TRIAL WAIVER CONTAINED THEREIN). YOU AND WE EACH REPRESENT THAT THIS WAIVER IS GIVEN KNOWINGLY, WILLINGLY AND VOLUNTARILY.**

**B. Notice and Cure**

Prior to bringing a lawsuit or initiating an arbitration that asserts a claim arising out of or related to this Agreement (as further defined below, a "Claim"), the party asserting the Claim (the "Claimant") shall give the other party (the "Defendant") written notice of the Claim (a "Claim Notice") and a reasonable opportunity, not less than 30 days, to resolve the Claim. Any Claim Notice to you shall be sent in writing to the address we have in our records (or any updated address you subsequently provide to us). Any Claim Notice to us shall be sent by mail to Comenity Capital Bank, PO Box 182436, Columbus, Ohio 43218-2436 (or any updated address we subsequently provide). Any Claim Notice you send must provide your name, address and account number. Any Claim Notice must explain the nature of the Claim and the relief that is demanded. You may only submit a Claim Notice on your own behalf and not on behalf of any other party. No third party, other than a lawyer you have personally retained, may submit a Claim Notice on your behalf. The Claimant must reasonably cooperate in providing any information about the Claim that the other party reasonably requests.

**C. Arbitration Provision**

**READ THIS ARBITRATION PROVISION CAREFULLY. IF YOU DO NOT REJECT THIS ARBITRATION PROVISION IN ACCORDANCE WITH PARAGRAPH C.1. BELOW, IT WILL BE PART OF THIS AGREEMENT AND WILL HAVE A**



**SUBSTANTIAL IMPACT ON THE WAY YOU OR WE WILL RESOLVE ANY CLAIM WHICH YOU OR WE HAVE AGAINST EACH OTHER NOW OR IN THE FUTURE.**

**1. Your Right to Reject:** If you don't want this Arbitration Provision (and any prior arbitration agreement between you and us ("Prior Arbitration Agreement")) to apply, you may reject it by mailing us a written rejection notice which gives the name of each Cardholder and contains a statement that you (both of you, if more than one) reject the Arbitration Provision of this Agreement. The rejection notice must be sent to us at Comenity Capital Bank, PO Box 182422, Columbus, OH 43218-2422. A rejection notice is only effective if it is signed by you (all of you, if more than one) and if we receive it within thirty (30) calendar days after the date we first provide you with a credit card agreement or written notice providing you a right to reject this Arbitration Provision. Your rejection of this Arbitration Provision will not affect any other provision of this Agreement or your ability to obtain credit.

**2. Parties Subject to Arbitration:** Solely as used in this Arbitration Provision (and not elsewhere in this Agreement), the terms "we," "us" and "our" mean (a) Comenity Capital Bank, any parent, subsidiary or affiliate of the Bank and the employees, officers and directors of such companies (the "Bank Parties"); and (b) any other person or company that provides any services in connection with this Agreement if you assert a Claim against such other person or company at the same time you assert a Claim against any Bank Party.

**3. Covered Claims:** "Claim" means any claim, dispute or controversy between you and us that in any way arises from or relates to this Agreement, the Account, the issuance of any Card, any rewards program, any prior agreement or account. "Claim" includes disputes arising from actions or omissions prior to the date any Card was issued to you, including the advertising related to, application for or approval of the Account. "Claim" has the broadest possible meaning, and includes initial claims, counterclaims, cross-claims and third-party claims. "Claim" does not include disputes about the validity, enforceability, coverage or scope of this Arbitration Provision or any part thereof (including, without limitation, the prohibition against class proceedings, private attorney general proceedings and/or multiple party proceedings described in Paragraph C.7 (the "Class Action Waiver"), the last sentence of Paragraph C.13 and/or this sentence); all such disputes are for a court and not an arbitrator to decide. However, any dispute or argument that concerns the validity or enforceability of the Agreement as a whole is for the arbitrator, not a court, to decide.

**4. Starting an Arbitration:** Arbitration may be elected by any party with respect to any Claim, even if that party has already initiated a lawsuit with respect to a different Claim. Arbitration is started by giving a written demand for arbitration to the other party. We will not demand to arbitrate an individual Claim that you bring against us in small claims court or your state's equivalent court, if any. But if that Claim is transferred, removed or appealed to a different court, we then have the right to demand arbitration.

**5. Choosing the Administrator:** "Administrator" means the American Arbitration Association ("AAA"), 1633 Broadway, 10th Floor, New York, NY 10019, [www.adr.org](http://www.adr.org); JAMS is at 620 Eighth Avenue, 34th Floor, New York, NY 10018, [www.jamsadr.com](http://www.jamsadr.com); or any other company selected by mutual agreement of the parties. If both AAA and JAMS cannot or will not serve and the parties

are unable to select an Administrator by mutual consent, the Administrator will be selected by a court. The arbitrator will be appointed by the Administrator in accordance with the rules of the Administrator. However, the arbitrator must be a retired or former judge or a lawyer with at least 10 years of experience. You get to select the Administrator if you give us written notice of your selection with your notice that you are electing to arbitrate any Claim or within 20 days after we give you notice that we are electing to arbitrate any Claim (or, if you dispute our right to require arbitration of the Claim, within 20 days after that dispute is finally resolved). If you do not select the Administrator on time, we may do it. Notwithstanding any language in this Arbitration Provision to the contrary, no arbitration may be administered, without the consent of all parties to the arbitration, by any Administrator that has in place a formal or informal policy that is inconsistent with the Class Action Waiver.

**6. Court and Jury Trials Prohibited; Other Limitations on Legal Rights: IF YOU OR WE ELECT TO ARBITRATE A CLAIM, YOU WILL NOT HAVE THE RIGHT TO PURSUE THAT CLAIM IN COURT OR HAVE A JURY DECIDE THE CLAIM. ALSO, YOUR ABILITY TO OBTAIN INFORMATION FROM US IS MORE LIMITED IN AN ARBITRATION THAN IN A LAWSUIT. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY ALSO NOT BE AVAILABLE IN ARBITRATION.**

**7. Prohibition Against Certain Proceedings: IF YOU OR WE ELECT TO ARBITRATE A CLAIM: (1) NEITHER YOU NOR WE MAY PARTICIPATE IN A CLASS ACTION IN COURT OR IN CLASS-WIDE ARBITRATION, EITHER AS A PLAINTIFF, DEFENDANT OR CLASS MEMBER; (2) NEITHER YOU NOR WE MAY ACT AS A PRIVATE ATTORNEY GENERAL IN COURT OR IN ARBITRATION; (3) CLAIMS BROUGHT BY OR AGAINST YOU MAY NOT BE JOINED OR CONSOLIDATED WITH CLAIMS BROUGHT BY OR AGAINST ANY OTHER PERSON; AND (4) THE ARBITRATOR SHALL HAVE NO POWER OR AUTHORITY TO CONDUCT A CLASS-WIDE ARBITRATION, PRIVATE ATTORNEY GENERAL ARBITRATION OR MULTIPLE-PARTY ARBITRATION.**

**8. Location and Costs of Arbitration:** Any arbitration hearing that you attend must take place at a location reasonably convenient to you. We will pay any and all fees of the Administrator and/or the arbitrator if applicable law requires us to, if you prevail in the arbitration or if we must bear such fees in order for this Arbitration Provision to be enforced. If you demand an arbitration, we will pay your reasonable attorneys' and experts' fees if you prevail or if we must bear such fees in order for this Arbitration Provision to be enforced. Also, we will bear any fees if applicable law requires us to.

**9. Governing Law:** This Arbitration Provision involves interstate commerce and is governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA"), and not by any state arbitration law. The arbitrator must apply applicable substantive law consistent with the FAA and applicable statutes of limitations and claims of privilege recognized at law. The arbitrator may award any remedy provided by the substantive law that would apply if the action were pending in court (including, without limitation, punitive damages, which shall be governed by the Constitutional standards employed by the courts). At the timely request of either party, the arbitrator must provide a brief written explanation of the basis for the award.

**10. Right to Discovery:** In addition to the parties' rights to obtain discovery pursuant to the arbitration rules of the Administrator, either party may submit a written request to the arbitrator to



expand the scope of discovery normally allowable under the arbitration rules of the Administrator. The arbitrator shall have discretion to grant or deny that request.

**11. Arbitration Result and Right of Appeal:** Judgment upon the arbitrator's award may be entered by any court having jurisdiction. The arbitrator's decision is final and binding, except for any right of appeal provided by the FAA. However, if the amount of the Claim exceeds \$50,000 or involves a request for injunctive or declaratory relief that could foreseeably involve a cost or benefit to either party exceeding \$50,000, any party can, within 30 days after the entry of the award by the arbitrator, appeal the award to a three-arbitrator panel administered by the Administrator. The panel shall reconsider anew any aspect of the initial award requested by the appealing party. The decision of the panel shall be by majority vote. Reference in this Arbitration Provision to "the arbitrator" shall mean the panel if an appeal of the arbitrator's decision has been taken. The costs of such an appeal will be borne in accordance with Paragraph C.8. above.

**12. Rules of Interpretation:** This Arbitration Provision shall survive the repayment of all amounts owed under this Agreement, the closing of the Account, any legal proceeding and any bankruptcy to the extent consistent with applicable bankruptcy law. In the event of a conflict or inconsistency between this Arbitration Provision, on the one hand, and the applicable arbitration rules or the other provisions of this Agreement, on the other hand, this Arbitration Provision shall govern. This Arbitration Provision replaces any Prior Arbitration Agreement.

**13. Severability:** If any portion of this Arbitration Provision, other than the Class Action Waiver, is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force. If a determination is made that the Class Action Waiver is unenforceable, only this sentence of the Arbitration Agreement will remain in force and the remaining provisions shall be null and void, provided that the determination concerning the Class Action Waiver shall be subject to appeal.

**14. Special Payment:** If (1) you submit a Claim Notice in accordance with Section B of the Arbitration and Jury Trial Waiver on your own behalf (and not on behalf of any other party); (2) we refuse to provide you with the relief you request; and (3) an arbitrator subsequently determines that you were entitled to such relief (or greater relief), the arbitrator shall award you at least \$5,100 (plus any fees and costs to which you are entitled).

**FOR BANKRUPTCY NOTIFICATIONS:**

All bankruptcy notices and related correspondence to Comenity Capital Bank should be sent to the following address: Comenity Capital Bank, Bankruptcy Department, PO Box 183043 Columbus, OH 43218-3043.

COMENITY CAPITAL BANK  
Salt Lake City, UT

TVC-APPCCA-02/13