



RETAIL INSTALMENT CREDIT AGREEMENT/ SECURITY AGREEMENT

EE-NY04-R

Preferred Credit, Inc. - 628 Roosevelt Road, St. Cloud, MN 56301 ZIP Line: 877-878-1079 Customer Service: 800-972-0825

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT - 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. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

Form with fields for DATE, BUYER, SELLER, PCI ACCOUNT NO., CO-BUYER, SALE, and signature lines for Buyer and Co-Buyer.

Table with 2 columns: Description and Value. Rows include Interest Rates and Interest Charges (21.99%), Transaction Fees (None), and Penalty Fees (\$20).

How We Will Calculate Your Balance: We use a method called "average 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.

- 1. Definitions: In this Retail Instalment Credit Agreement ("Agreement"): The word "Account" refers to the account that is established with the Seller, and their successors or assigns, that is the subject of this Agreement.
2. Account: This Agreement applies to your retail charge purchase of goods and services from us.
3. Promise to Pay: In return for extending credit to you on this Account from time to time, each of you agrees to pay for all purchases any of you charge on this Account, and all other charges mentioned below, according to the terms of this Agreement.
4. Billing: You will be billed monthly for credit purchases from us, as shown on a Charge Slip signed by you (or completed at your direction), and for any previous unpaid balance as required by Applicable Law.
5. Payment: You have the right to pay your entire balance in full or more than the Minimum Monthly Payment at any time.
6. Interest Charges: Unless you are offered a Promotional Credit Plan as described below, and as not otherwise prohibited by Applicable Law, Interest Charges will begin to accrue upon delivery of the merchandise you purchase.

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"average daily balance" of your Account (including current transactions) and multiplying the result by the number of days in the billing period. To get the "average daily balance" we take the beginning balance of your Account each day, add any new purchases, and subtract any payments or credits. This gives us the daily balance. Then, we add up all the daily balances for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the "average daily balance." Your daily periodic rate and the corresponding Annual Percentage Rate are indicated in the chart below. The daily periodic rate will be the annual rate divided by 365 (366 in a leap year).

Applicable Law	Daily Periodic Rate	Corresponding ANNUAL PERCENTAGE RATE	By your initials below, you acknowledge Interest Charges will be imposed in amounts or rates not to exceed those in the chart to the left unless otherwise stated on your Charge Slip.
NY	0.0603%	21.99%	

Notwithstanding the above, if we receive payment in full for the unpaid balance on your Account prior to the date we next send a monthly periodic statement of account, no additional Interest Charges will be imposed for the current billing period.

**7. Minimum Monthly Interest Charge:** As not prohibited by Applicable Law, if the Interest Charge that results from the application of the above stated daily periodic rate (the "Calculated Interest Charge"), is less than \$0.70, we will impose a minimum monthly **INTEREST CHARGE** of \$0.70. If we receive payment in full for the unpaid balance on your Account prior to the next billing date, we will not impose a minimum additional Interest Charge for that billing period.

**8. Minimum Monthly Payment:** You will make payments of at least the total Minimum Monthly Payment each month as required by our monthly periodic statements of account. Your total Minimum Monthly Payment will consist of: (1) any past due amounts, and (2) a regularly scheduled Minimum Monthly Payment. The regularly scheduled Minimum Monthly Payment will be the greater of: (a) \$25; or (b) the highest regularly scheduled Minimum Monthly Payment shown on any Charge Slip you execute, not to exceed 3.5% of the Account balance immediately following the first or any subsequent purchase on your Account.

**9. Promotional Credit Plans:** In addition to purchases that accrue Interest Charges and require monthly payments as described previously in this Agreement, as part of this Account, Promotional Credit Plans may be offered from time to time on specific additional purchases for qualified buyers. Purchases made under these Promotional Credit Plans may have different interest charge calculations and required minimum payments. A Promotional Credit Plan is strictly limited by its terms and the terms and conditions of the special promotion to which it relates. In addition, the benefits of a Promotional Credit Plan will expire and all accrued Interest Charges in these plans will be added to your Account if you fail to pay the promotional balance by the end of the promotional period or you are in default for a period of 60 or more days during the promotional period. The special promotions that may be offered include:

**9.a. Same as Cash Plan:** If you pay the full purchase price before the expiration date of a Same as Cash Plan, as indicated on your monthly periodic statement of account, and pay the Minimum Monthly Payment each billing period when due, no Interest Charges will be imposed on the purchase. If such payments are not made, Interest Charges from the date of delivery will be added to your Account either when you fail to make a payment within 60 days of the due date or, at the end of the Same as Cash Plan period if any portion of the promotional balance remains outstanding.

**9.a.1. How Payments Are Applied When Same as Cash Plan is In Effect:** Unless otherwise required by Applicable Law, during the two billing cycles immediately preceding expiration of the Same as Cash Plan period, any amount paid in excess of the minimum payment due will be allocated first to the balance subject to the Same as Cash Plan and any remaining portion to any other balances. We may offer Same as Cash Plan periods of 6 months, 9 months, 12 months or of different lengths that we will announce from time to time.

**10. Application of Payments:** Unless otherwise required by Applicable Law, payments except down payments, shall be applied first to past due Minimum Monthly Payments, beginning with the oldest, then to the current Minimum Monthly Payment, and then to other unpaid late fees, costs and fees arising under this Agreement.

**11. Other Charges:**

**11.a. Late Fees:** You will pay the maximum late fee allowed (which you agree we will add to the balance due on your Account) for payments not made on time, calculated as Applicable Law allows. The statutory time period for imposition of a Late Fee is 10 days after the due date ("Due Date") for each payment not received on the scheduled Due Date. Currently, the maximum late fee allowed is \$20. Notwithstanding the preceding provisions, you will not be charged more than the amount of the required minimum periodic payment due immediately prior to the assessment of the late payment fee.

**11.b. Returned Check Charge:** You will pay a returned check charge (which you agree we will add to the balance due on your Account) if any check, negotiable order of withdrawal, share draft, or item you give us for payment under the Agreement is dishonored for any reason by the bank or other institution on which it is drawn. We will impose the maximum returned check charge as Applicable Law allows. Currently, that amount is \$20.

Notwithstanding the preceding provisions, you will not be charged more than the amount of the required minimum periodic payment due immediately prior to the date on which the payment is returned or otherwise dishonored. If your payment is returned unpaid, you authorize us to make a one-time electronic fund transfer from your account to collect a fee as provided above.

**12. Security Agreement:** You grant us a purchase money security interest in each household good purchased with this Account ("Goods") for a price of \$200 or more to the full extent not prohibited by Applicable Law (including the Uniform Commercial Code which may require that we sign, file or record one or more UCC financing statements, fixture filings or other documents to perfect or otherwise protect this security interest). You will, on request, take all reasonable actions requested by us to preserve and protect the Goods and our security interest in the Goods. You also agree to take all reasonable actions requested by us to establish, determine the priority of, perfect, continue the perfection of, terminate or enforce our security interest in the Goods and our rights under this Agreement. In addition to other rights we may have under this Agreement, if you do not make payments as agreed, this security interest allows us to take actions not prohibited by Applicable Law governing security interests in the Goods. You also agree to keep the Goods installed at the address you provided in your credit application and to not remove or alter the Goods without our prior written consent. You may lose the Goods if you do not meet your obligations to us under this Agreement. We have not (and will not) take any security interest to secure repayment of obligations under this agreement apart from an interest in goods as set forth herein, even when a financing statement is filed. Accordingly, we do not maintain any interest in your dwelling or real property and waive any right we (or our assignee) may have to foreclose on real property pursuant to any applicable real property foreclosure laws.

**13. Default:** If you fail to make any payment when due, or if the prospect of your payment, performance, or our realization of collateral is significantly impaired, to the extent not prohibited by Applicable Law, and subject to any notice required by Applicable Law, we may declare the full remaining balance immediately due and payable. We may also repossess any article of merchandise in which we retain a security interest if we do so peacefully and the law allows it. Notwithstanding the preceding provisions, in the event of a late payment or nonpayment, we will not declare the full remaining balance immediately due and payable or repossess any article of merchandise if, within ten days of the date on which the installment was due, we receive payment together with any late fees. If you fail to pay within 10 days of the due date, we may, at our option, declare the full remaining balance immediately due and payable, to the extent permitted by Applicable Law. Unless we are required by Applicable Law to provide you a notice of a right to cure, you agree that we do not have to give you notice that we intend to demand or are demanding immediate payment of all you owe. If the Account is referred to an attorney who is not our salaried employee and we bring suit against you to collect the amount you owe and we are the prevailing party, you agree to pay our reasonable attorneys' fees (not to exceed 20% of the amount due and payable) and court costs as permitted by Applicable Law. You also agree to pay our collection costs and costs incurred in taking the collateral, holding it, preparing it for sale, and selling it, as not prohibited by Applicable Law.

**14. Canceling or Reducing Your Credit Limit:** We have the right at any time to limit or terminate the use of your Account and raise or lower your credit limit without giving you advance notice. Some purchases will require prior authorization, in which case you may be asked to provide identification. If our authorizations system is unavailable, we may not be able to authorize a transaction, even if you have sufficient credit. We will not be liable to you if this

happens. We are not responsible for the refusal of anyone to accept or honor an addition to this Account. In addition, even if you cancel the use of your Account, you are still responsible for any Account balances incurred by an authorized user that remain unpaid.

**15. Change in Terms:** You agree that we may amend the terms of this Agreement, subject to any notice required by Applicable Law. To the extent not prohibited by Applicable Law, any new terms may be applied to any balance existing on the Account at the time of the change, as well as subsequent transactions.

**16. No Oral Modifications:** You agree that we are not bound by any oral agreements or oral modifications to this Agreement.

**17. Home Sale Disclosure Laws:** Home Sale Disclosure laws govern this transaction. The Home Sale Disclosure law applicable to this Agreement is New York's Door-to-Door Sales Protection Act, NY Pers. Prop. Law §§ 425 *et seq.*

**18. Delay in Taking Action:** We will not lose any of our rights under this Agreement if we delay taking action for any reason. To the extent not prohibited by Applicable Law, we may take other action not described in this Agreement, and by doing so will not lose our rights under this Agreement.

**19. Severability:** If any provision of this Agreement is found to be unenforceable, all other provisions shall remain in full force and effect.

**20. Applicable Law:** Federal and New York law apply to this Agreement.

**21. Telephone Recording:** You understand and agree that for our mutual protection, we may electronically record any of your telephone conversations conducted with Seller or Seller's assigns, including Preferred Credit, Inc. (PCI), without further notice to the parties to such conversations. These telephone conversations include all conversations between you and Seller or Seller's assigns communicated via traditional telephone wire and wireless devices such as cordless and cellular phones. You acknowledge and consent to the retention of and use of such recordings by Seller or Seller's assigns, their employees, representatives and agents of all information and data obtained in any recorded conversation for purposes of settling disputes as well as for ongoing quality assurance programs.

**22. Communications:** You expressly authorize us or our agents to contact you at any phone number (including mobile, cellular/wireless, or similar devices), fax number, or email address, you provide at any time, for any lawful purpose. The ways in which we may contact you include live operator, automatic telephone dialing systems (auto-dialer), prerecorded message, text message, fax, or email. Such lawful purposes include, but are not limited to: obtaining information; account transactions or servicing-related matters; suspected fraud or identity theft; collection on the Account; and providing information about special products and services. You agree to pay any fee(s) or charge(s) that you may incur for incoming communications from us or outgoing communications to us, to or from any such number, or email address, without reimbursement from us.

**23. Credit Investigation and Reporting:** You agree that we may investigate your credit in connection with the initial extension, review, or collection of your Account. You agree that we may examine employment and income records, verify your credit references, and report to credit reporting agencies, merchants, and other creditors the status and payment history of your Account. A negative credit report may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

#### ARBITRATION PROVISION

**This Arbitration Provision significantly affects your rights in any dispute with us. Please read this Arbitration Provision carefully before you sign it.**

- 1. EITHER YOU OR WE MAY CHOOSE TO HAVE ANY DISPUTE BETWEEN US DECIDED BY ARBITRATION AND NOT IN COURT.**
- 2. IF A DISPUTE IS ARBITRATED, YOU AND WE WILL EACH GIVE UP OUR RIGHT TO A TRIAL BY THE COURT OR A JURY TRIAL.**
- 3. IF A DISPUTE IS ARBITRATED, YOU WILL GIVE UP YOUR RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US.**
- 4. THE INFORMATION YOU AND WE MAY OBTAIN IN DISCOVERY FROM EACH OTHER IN ARBITRATION IS GENERALLY MORE LIMITED THAN IN A LAWSUIT.**
- 5. OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION.**
- 6. EVEN IF A DISPUTE IS ARBITRATED, WE CAN STILL REPOSSESS YOUR MERCHANDISE IF YOU DO NOT HONOR YOUR AGREEMENT AND YOU OR WE MAY SEEK PROVISIONAL REMEDIES FROM A COURT.**

Any claim or dispute, whether in contract, tort or otherwise (including the interpretation and scope of this clause and the arbitrability of any issue), between you and us or our employees, agents, successors or assigns, which arises out of or relates in any manner to the purchase and financing of the merchandise under the Agreement or any resulting transaction or relationship (including any such relationship with third parties who do not sign the Agreement) shall, at your or our election (or the election of any such third party), be resolved by neutral, binding arbitration and not by a court action. Any claim or dispute is to be arbitrated on an individual basis and not as a class action, and **you expressly waive any right you may have to arbitrate a class action (this is called the "class action waiver")**. You may choose the applicable rules of either the American Arbitration Association (1-800-778-7879), JAMS (800-352-5267) or any other nationally recognized arbitration organization, subject to our approval, and if the arbitration organization selected by you is unwilling to serve, we shall select the arbitration organization. We waive the right to require you to arbitrate an individual (as opposed to a class) claim if the amount you seek to recover, including attorneys' fees and expenses, is less than \$7,500 or the maximum jurisdiction the venue of a state court providing for the resolution of small claims. You may obtain a copy of the rules of these organizations by calling the numbers indicated or by visiting their web sites.

The arbitrators shall be attorneys or retired judges and shall be selected in accordance with the applicable rules. The arbitration award shall be in writing, but without a supporting opinion. The arbitration hearing shall be conducted in the federal district in which you reside. If you demand arbitration first, you will pay one half of any arbitration filing fee. We will pay the rest of the filing fee, and the whole filing fee if we demand arbitration first or if the arbitrator determines that applicable law requires us to do so or that you are unable to do so or that we must do so in order for this Arbitration Provision to be enforceable. We will pay the arbitration costs and fees for the first day of arbitration, up to a maximum of eight hours. **We will also pay any fees and charges that the arbitrator determines that we must pay in order to assure that this Arbitration Provision is enforceable.** The arbitrator shall decide who shall pay any additional costs and fees.

The arbitrator's award shall be final and binding on all parties, except in the event where either there is a "take nothing" award or the award is in excess of \$100,000 either party may request a new arbitration under the rules of the arbitration organization by a three-arbitrator panel.

This Arbitration Provision relates to a contract that evidences a transaction involving interstate commerce. Any arbitration under this Arbitration Provision shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1 *et seq.*). If a court should determine that the transaction did not involve interstate commerce, the parties agree that this Arbitration Provision shall be governed by state law.

If any part of this Arbitration Provision other than the Class Action Waiver is found by a court or arbitrator to be unenforceable, the remainder shall be enforceable. This Arbitration Provision shall survive the termination of any contractual agreement between you and us, whether by default or repayment in full.

You may elect to opt-out of the arbitration provision only by notifying us in writing at Preferred Credit, Inc., 628 Roosevelt Road, St. Cloud, MN 56301 within 30 days from the date in which you signed this Agreement, and including in the notice your name, address and account number and a clear statement that you do not wish to resolve disputes through arbitration. No one else may sign the rejection notice for you. Your rejection notice also must not be sent with any other correspondence. Rejection of arbitration will not affect your other rights or responsibilities under this Agreement. If you reject arbitration, neither you nor we will be subject to the arbitration provisions for this Agreement. Rejection of arbitration for this Agreement will not constitute rejection of any prior or future arbitration provision between you and us.

**NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

**NOTICE TO THE BUYER: 1. Do not sign this credit agreement before you read it or if it contains any blank space. 2. You are entitled to a completely filled in copy of this credit agreement.**

Your signature(s) below mean that (a) you have read and understand the terms and conditions as set forth on all pages of this Agreement; (b) you agree to the terms of this Agreement; (c) you will pay any advances made under this Agreement according to its terms and (d) you have received a completely filled in copy of this Agreement. Keep this Agreement to protect your legal rights.

### RETAIL INSTALMENT CREDIT AGREEMENT

BUYER:		BUYER SIGNATURE:	
CO-BUYER :		CO-BUYER SIGNATURE:	
SELLER: [Company Name] [Address] [Phone] [Email]	SALE: Sales Rep: [Representative]  PCI Client No.: [####]	SELLER SIGNATURE:	

**Your Billing Rights. Keep This Notice For Future Use. This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.**

#### **What To Do If You Find A Mistake On Your Statement**

If you think there is an error on your statement, write to us at: Preferred Credit, Inc., 628 Roosevelt Road, St. Cloud, MN 56301.

In your letter, give us the following information:

- **Account information:** Your name and account number.
- **Dollar amount:** The dollar amount of the suspected error.
- **Description of problem:** If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us:

- Within 60 days after the error appeared on your statement.
- At least 3 business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You must notify us of any potential errors in writing. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.

#### **What Will Happen After We Receive Your Letter**

When we receive your letter, we must do two things:

1. Within 30 days of receiving your letter, we must tell you that we received your letter. We will also tell you if we have already corrected the error.
2. Within 90 days of receiving your letter, we must either correct the error or explain to you why we believe the bill is correct.

#### **While we investigate whether or not there has been an error:**

- We cannot try to collect the amount in question, or report you as delinquent on the amount.
- The charge in question may remain on your statement, and we may continue to charge you interest on that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

#### **After we finish our investigation, one of two things will happen:**

- **If we made a mistake:** You will not have to pay the amount in question or any interest or other fees related to that amount.
- **If we do not believe there was a mistake:** You will have to pay the amount in question, along with the applicable interest and fees. We will send you a statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.

If you receive our explanation but still believe your bill is wrong, you must write to us within 10 days telling us that you still refuse to pay. If you do so, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we reported you as delinquent, and we must let those organizations know when the matter has been settled between us.

If we do not follow all of the rules above, you do not have to pay the first \$50 of the amount you question even if your bill is correct.

#### **Your Rights If You Are Dissatisfied With Your Account Purchases:**

If you are dissatisfied with the goods or services that you have purchased with your Account and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase.

To use this right, all of the following must be true:

1. The purchase must have been made in your home state or within 100 miles of your current mailing address, and the purchase price must have been more than \$50. (Note: Neither of these are necessary if your purchase was based on an advertisement we mailed to you, or if we own the company that sold you the goods or services.)

2. You must have used your Account for the purchase. Purchases made with cash advances from an ATM or with a check that accesses your account do not qualify.
3. You must not yet have fully paid for the purchase.

If all of the criteria above are met and you are still dissatisfied with the purchase, contact us in writing at: Preferred Credit, Inc., 628 Roosevelt Road, St. Cloud, MN 56301.

While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe an amount and you do not pay, we may report you as delinquent.

**ASSIGNMENT – OFFICE USE ONLY**

**Assignment by Seller:** For Value Received: Seller sells and assigns this Retail Charge Agreement (the "Agreement") to Preferred Credit, Inc., 628 Roosevelt Road, St. Cloud, MN 56301, the assignee, its successors and assigns, including all of Seller's rights, title, and interest in this Agreement. Assignee has full power to take all legal and other actions, which Seller could have taken under this Agreement. The undersigned acknowledges that this Assignment incorporates by reference the terms of the Finance Agreement between the undersigned and Preferred Credit, Inc. including but not limited to the representations, warranties, liabilities, conditions and obligations of the undersigned contained therein.

X

(Corporate, Firm or Trade Name of Seller)

(Owner, Officer or Firm Member)

**THIS DOCUMENT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF US BANK NATIONAL ASSOCIATION.**