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## **Contracts - 2023**

You should understand your legal rights and duties before you enter or sign a contract.

### **What is a contract?**

A contract is an agreement between two or more persons, or between persons and companies, to do a particular thing. Usually, a seller agrees to deliver a product or do a service, and you agree to pay money. A contract may be oral or in writing. Some contracts must be in writing. A written contract may look very formal and official. A written contract also may be handwritten on a plain sheet of paper. A contract states the rights and duties of you and the seller.

### **What does signing a contract mean?**

When you sign a contract, it means you read it, understood it, and agreed with it. This is usually true even if you have not or could not read it. This usually is true even if you were physically or mentally impaired. If you do not understand a contract, get individual legal advice before you sign.

### **Can a contract be changed after it is signed?**

If you want to change a contract, you need to do that before you sign it. You should not rely on the seller's explanation. You may ask to add or remove terms to a contract. You and the seller should initial each change before anyone signs. After a contract has been signed, it cannot be changed unless you and the seller sign and date the changes.

### **What are some things to avoid having in a contract?**

First, if the seller is unwilling to negotiate changes before signing, this may be a good warning that you should not do business with this seller.

Some sellers will put in their contracts language saying that, in case of a future dispute you can't have a jury trial, you have to sue far away, or can't even sue at all. If the seller will not change this language, then you should take your business elsewhere.

Other things the seller may insist on that are usually not to your advantage are mandatory arbitration and liquidated damages. Mandatory arbitration means that you have to try to settle

any disputes through a decision maker other than a judge in court. Such a person usually favors the seller and not you. You should be especially careful to not agree to giving up your rights to sue in court.

Liquidated damages means the amount of money the seller will automatically get from you if they say you breached the contract. Sometimes the courts rule liquidated damages to be an illegal penalty. You should avoid signing a contract with liquidated damages because it may mean you're giving up a chance to dispute amounts owed.

### **What are some contract “do’s” and “don’ts”?**

1. Never sign a contract with blank spaces.
2. You should never depend on an oral promise made by the seller. Oral promises usually don't affect the written contract. You must insist all promises be written into the contract.
3. If you are writing your own contract, use simple language that all parties can easily understand. If the contract is written by another party, make certain you understand exactly what has been written. This is your last chance to ask any questions, make any changes, or change your mind about agreeing to the contract.
4. If you don't understand the document, don't sign it.
5. Make certain that the document has a title clearly showing that it is a “CONTRACT.”
6. Make certain the names of all the parties involved in the contract, and all of their contact information, are clearly listed and correctly spelled.
7. Make certain the date is clearly written and correct.
8. Each page should be initialed by all parties, and signed in blue or black ink so the signatures will copy clearly.
9. Always get a signed copy of the contract and save it. This is your only proof of the terms of your agreement.
10. Always get a signed and dated receipt for any payment, and save it. This may be your only proof that you have paid. Money orders are hard to trace. Cash payments cannot be proved without a receipt.

### **What is “buying on credit”?**

You can pay for things two ways. You can pay in full. You also can finance over time. When you buy on time, the seller is giving you credit. This is the same as a loan. In return, you promise to pay the amount of the loan plus interest. If you finance over time, the total cost increases. This is because you also are paying for the cost of credit.

If you finance over time, be sure you read, understand, and agree with everything on all of the papers, before you sign anything. The papers should tell you the following things.

- The exact price you are paying.
- Any down payment or trade in.
- The amount you are financing.
- The finance charge (the dollar amount the credit will cost you).
- The annual percentage rate (APR), which is the rate of interest stated as a yearly rate.
- The number and amount of payments.
- The date the payments are due.
- The total sales price (the sum of the monthly payments, plus any down payment or trade in).

### **What happens when two people sign a contract?**

When two or more persons sign a contract or loan, it generally sets forth “joint and severable liability.” This means the seller has many ways to collect the debt. The seller may collect the debt from one debtor entirely. The seller may collect the debt from the other debtor entirely. The seller may collect some of the debt from each debtor, as long as the seller collects no more than the entire debt.

If you pay more than your ½ share of a debt, you may file a lawsuit for “contribution” against the other person who signed contract. You may be able to get a judgment against the other person for the excess amount you paid.

### **What is “co-signing” a contract?**

If you are asked to co-sign a contract or loan, be sure you understand what that means. Before you co-sign, the seller or lender must give you a notice. It must say the following things:

“You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn’t pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

“You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

“The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.

“This notice is not the contract that makes you liable for the debt.”

### **Should I co-sign a contract?**

When you are asked to co-sign, you are being asked to take a risk that a business will not take. The seller or lender would not ask you to co-sign if the other person signing the contract were a good risk. Despite the risk, there may be times when you want to co-sign. Before you co-sign you should think about the following things:

- Be sure you can afford to pay the entire amount owed. If you are asked to pay and cannot, you could be sued. Also, your credit rating could be hurt.
- Even if you are not asked to pay, your owing on the debt may keep you from getting other credit you need.
- Before you put up property to stand good for the debt, be sure you understand what could happen. If the debt is not paid, you could lose these items.

### **Can a contract be cancelled after it is signed?**

Once you sign a contract, it is valid and enforceable right away. Usually, there is no right to cancel. Generally, you cannot get out of a contract by refusing to accept, or by returning, what you bought. In the following cases, there is a “three day right to cancel.”

- A home solicitation sale, or door-to-door sale. This means any sale or lease away from the seller’s place of business.
- A home mortgage not used to buy the house.

In these cases, the seller must give you the following things.

- A contract with the date of sale, and the seller’s name and address.
- A statement telling you about your right to cancel within 3 business days.
- A “notice of cancellation” form which you can use to cancel the contract.

If you want to cancel, you must sign, date, and return the notice of cancellation form. You must do this within 3 business days. Saturday counts as a business day. You should send the notice of cancellation by certified mail, return receipt requested. You should copy the notice of cancellation, and save it. You should save the certified mail receipt. You also should save the green return receipt.

### **What contracts must be in writing?**

Some contracts must be in writing. This includes the following contracts.

- An agreement to buy a house or land.
- An agreement to rent a house or land for more than one year.
- An agreement to buy something from a merchant for \$500 or more.
- An agreement not to be done within one year.
- An agreement to pay someone else’s debt.