

CONTRACTS

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Rules of the City Of New York: Title 6

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Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of 2012.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 5: UNFAIR TRADE PRACTICES
SUBCHAPTER A: CONSUMER PROTECTION LAW
PART 4: CONTRACTS AND GENERAL BUSINESS PRACTICES

§ 5-01. Definitions.

Consumer. “Consumer” means an individual who buys or leases consumer goods or services, and that individual's co-obligor or surety.

Consumer goods and services. “Consumer goods and services” means goods or services (including credit) that are primarily for personal, household, or family purposes.

Item. “Item” means goods and services.

Legal name. “Legal name” means:

- (1) the true corporate name of a corporation; or
- (2) the name of at least one partner of a partnership; or
- (3) the name of at least one owner of a business that is not a corporation or a partnership.

Seller. “Seller” means any individual or business that offers to sell or lease consumer goods or services. “Seller” includes manufacturers, wholesalers, and others who are responsible for any act or practice regulated by this code.

§ 5-31. Future Services Contracts.

- (a) *Definition.* A contract for consumer services that will be provided on a continuing basis is a “contract for future consumer services.” However, this section does not apply to:
 - (1) boarding accommodations;
 - (2) travel arrangements made less than a year in advance;
 - (3) the sale of goods which include warranties of service and repair;
 - (4) services by non-profit educational institutions.
- (b) *Liability for cancellation.* A consumer who cancels a contract for future services cannot be charged more than the full contract price. However, up to the amount of the full contract price, the consumer may be charged the total of the following amounts:
 - (1) 5 percent of the cash price, or \$50, whichever is less;
 - (2) the cost to the seller for any goods the consumer used or the consumer is keeping;
 - (3) the portion of the full contract price representing services received by the consumer (if a consumer cancels a contract for lessons by missing consecutive lessons that represent at least 25 percent of the lessons in the entire course, those missed lessons up to 25 percent can be treated as services received by the consumer).

- (c) *Prompt refunds.* If a buyer has paid a seller more money than this section allows a seller to keep, the seller must refund the extra payment, or make a refund available, within ten days of cancellation.
- (d) *Cancellation.* Cancellation occurs when:
 - (1) the consumer mails the seller notice of intent to cancel; or
 - (2) the seller actually knows the consumer intends to cancel; or
 - (3) the consumer misses consecutive lessons that represent at least 25 percent of an entire course, and the consumer does not inform the seller in writing that he or she intends to remain enrolled.
- (e) *Notice.* The seller's contract form must conspicuously disclose the seller's refund policy, and must contain the following notice in a prominent place: IF YOU CANCEL THIS CONTRACT (THE SELLER) MAY KEEP ONLY 5% OF THE CASH PRICE UP TO A MAXIMUM OF \$50, PLUS A PORTION OF THE CONTRACT PRICE BASED UPON THE LESSONS OR SERVICES YOU HAVE USED. YOU MAY NOTIFY (THE SELLER) OF YOUR INTENT TO CANCEL BY MAIL, ADDRESSED TO (THE SELLER) AT (SELLER'S ADDRESS).

§ 5-33. Transactions Negotiated in Spanish.

- (a) *Scope.* This section applies to the purchase or lease of consumer goods and services by means of an agreement to pay in installments.
- (b) When essential parts of a consumer agreement are negotiated in Spanish, the consumer must be given a Spanish translation of any documents related to the agreement. This requirement includes:
 - (1) any document which the consumer signs;
 - (2) any document containing the merchant's policy on refunds, cancellations or exchanges;
 - (3) any document containing terms and conditions of the agreement;
 - (4) any guarantees or warranties given by the merchant;
 - (5) any exclusion or modification of express or implied warranties.
- (c) The consumer need not be given a Spanish translation of any document which the consumer will receive at a later date, such as monthly bills and sales slips for charge account purchases.

§ 5-34. Contract Cancellations.

- (a) A contract for consumer goods or services may not be described as non-cancellable, unless the seller has performed all its obligations at the time the consumer signs the contract.
- (b) A contract that complies with § 5-34(a) may describe the fee or penalty that will be imposed if the consumer cancels, or may state that the consumer who does not perform his or her obligations under the contract will be responsible to the seller for damages.