

Internet Sales Contract Harmonization Template

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Definitions¹

1 In this [indicate Act or Regulation],

- (a) "consumer" means [**generally, a consumer is an individual who receives or has the right to receive goods or services from a supplier as a result of a purchase, lease or other arrangement**]²;
- (b) "consumer transaction" means the supply of goods or services by a supplier to a consumer as a result of a purchase, lease or other arrangement;
- (c) "goods" means [**generally, goods are any personal property that is used primarily for personal, family or household purposes**]³;
- (d) "internet" means the decentralized global network connecting networks of computers and similar devices to each other for the electronic exchange of information using standardized communication protocols⁴;
- (e) "internet sales contract" means a consumer transaction formed by text-based internet communications;
- (f) "services" means [**generally, services are any services offered or provided primarily for personal, family or household purposes**]⁵;

¹For consistency with existing legislation, each jurisdiction will need to determine what definitions are necessary.

²See, for example, section 1(1)(b) of Alberta's Fair Trading Act (SA 1998 c-F-1.05).

³See, for example, section 1(1)(e) of Alberta's Fair Trading Act (SA 1998 c-F-1.05).

⁴See, for example, section 127 of Manitoba's The Consumer Protection Act (C.C.S.M. c. C2000).

⁵See, for example, section 1(1)(k) of Alberta's Fair Trading Act (SA 1998 c-F-1.05).

- (g) “supplier” means [generally, a supplier is a person who in the course of the person’s business provides goods or services to consumers]⁶.

Application

2 [Each jurisdiction will need to determine the scope of the template, including determining whether certain classes of businesses⁷ or certain types of goods and services, or both, should be excluded from all or some of the provisions.]

Disclosure of information

3(1) A supplier must do the following before a consumer enters into an internet sales contract:

- (a) disclose to the consumer the following information:
 - (i) the supplier’s name and, if different, the name under which the supplier carries on business;
 - (ii) the supplier’s business address and, if different, the supplier’s mailing address;
 - (iii) the supplier’s telephone number and, if available, the supplier’s e-mail address and facsimile number;
 - (iv) a fair and accurate description of the goods or services being sold to the consumer, including any relevant technical or system specifications;
 - (v) an itemized list of the price of the goods or services being sold to the consumer and any associated costs payable by the consumer, including taxes and shipping charges;
 - (vi) a description of any additional charges that may apply to the contract, such as customs duties and brokerage fees, whose amounts cannot reasonably be determined by the supplier;
 - (vii) the total amount of the contract or, where the goods or services are being purchased over an indefinite period, the amount of the periodic payments under the contract;
 - (viii) the currency in which amounts owing under the contract are payable;

⁶See, for example, section 1(1)(l) of Alberta’s Fair Trading Act (SA 1998 c-F-1.05).

⁷There may be several reasons why the proposals should not apply to a particular class of business. For instance, a consumer’s rights and remedies in respect of a particular transaction may be addressed in another Act or regulation.

- (ix) the terms, conditions and method of payment;
 - (x) the date when the goods are to be delivered or the services are to begin;
 - (xi) the supplier's delivery arrangements, including the identity of the shipper, the mode of transportation and the place of delivery;
 - (xii) the supplier's cancellation, return, exchange and refund policies, if any;
 - (xiii) any other restrictions, limitations or conditions of purchase that may apply;
- (b) provide the consumer with an express opportunity to accept or decline the contract and to correct errors⁸ immediately before entering into it.

(2) For the purposes of subsection (1), a supplier is considered to have disclosed to the consumer the information described in subsection (1)(a) if the information is

- (a) prominently displayed in a clear and comprehensible manner, and
- (b) made accessible in a manner that ensures that
 - (i) the consumer has accessed the information, and
 - (ii) the consumer is able to retain and print the information.

Copy of internet sales contract

4(1) A supplier must provide a consumer who enters into an internet sales contract with a copy of the contract in writing or electronic form within 15 days after the contract is entered into.

(2) The copy of the internet sales contract under subsection (1) must include

- (a) the information described in section 3(1)(a),
- (b) the consumer's name, and
- (c) the date the contract was entered into.

(3) For the purposes of subsection (1), a supplier is considered to have provided the consumer with a copy of the internet sales contract if the copy is

- (a) sent by e-mail to the e-mail address provided by the consumer to the supplier for the provision of information related to the contract,

⁸This reflects the Uniform Electronic Commerce Act's provision on error correction.

- (b) sent by facsimile to the facsimile number provided by the consumer to the supplier for the provision of information related to the contract,
- (c) mailed or delivered to an address provided by the consumer to the supplier for the provision of information related to the contract,
- (d) actively transmitted to the consumer in a manner that ensures that the consumer is able to retain the copy, or
- (e) provided to the consumer in any other manner by which the supplier can prove that the consumer has received the copy.

Cancellation of internet sales contract

5(1) A consumer may cancel an internet sales contract in the following circumstances:

- (a) at any time from the date the contract is entered into until 7 days after the consumer receives a copy of the contract if
 - (i) the supplier does not disclose to the consumer the information described in section 3(1)(a), or
 - (ii) the supplier does not provide to the consumer an express opportunity to accept or decline the contract or to correct errors immediately before entering into it;
- (b) within 30 days from the date the contract is entered into if the supplier does not provide the consumer with a copy of the contract pursuant to section 4.

(2) In addition to the cancellation rights under subsection (1), a consumer may cancel an internet sales contract at any time before delivery of the goods or the commencement of the services under the contract if

- (a) in the case of goods, the supplier does not deliver the goods within 30 days from the delivery date specified in the contract or an amended delivery date agreed on by the consumer and the supplier, either in writing or in electronic form, or
- (b) in the case of services, the supplier does not begin the services within 30 days from the commencement date specified in the contract or an amended commencement date agreed on by the consumer and the supplier, either in writing or in electronic form.

(3) If the delivery date or commencement date is not specified in the internet sales contract, a consumer may cancel the contract at any time before the delivery of the goods or the commencement of the services under the contract if the supplier does not deliver the goods or begin the services within 30 days from the date the contract is entered into.

(4) For the purposes of subsections (2) and (3),

- (a) a supplier is considered to have delivered the goods under an internet sales contract if
 - (i) delivery was attempted but was refused by the consumer at the time that delivery was attempted, or

- (ii) delivery was attempted but not made because no person was available to accept delivery for the consumer on the day for which reasonable notice was given to the consumer that the goods were available to be delivered;
- (b) a supplier is considered to have begun the services under an internet sales contract if
 - (i) commencement was attempted but was refused by the consumer at the time that commencement was attempted, or
 - (ii) commencement was attempted but did not occur because no person was available to enable the services to begin on the day for which reasonable notice was given to the consumer that the services were available to begin.

Court may provide relief against cancellation

6 If in the opinion of the [indicate level of court] it would be inequitable for an internet sales contract to be cancelled under section 5, the court may make any order it considers appropriate.⁹

Notice of cancellation

7(1) An internet sales contract is cancelled under section 5 on the giving of a notice of cancellation in accordance with this section.

(2) A notice of cancellation may be expressed in any way as long as it indicates the intention of the consumer to cancel the internet sales contract.

(3) The notice of cancellation may be given to the supplier by any means, including, but not limited to, personal service, registered mail, telephone, courier, facsimile and e-mail.

(4) Where the notice of cancellation is given other than by personal service, the notice of cancellation is deemed to be given when sent.

Effect of cancellation

8(1) A cancellation of an internet sales contract under section 5 operates to cancel the contract as if the contract had never existed.

(2) A cancellation of an internet sales contract under section 5 also operates to cancel

- (a) any related consumer transaction,
- (b) any guarantee given in respect of consideration payable under the contract, and

⁹Jurisdictions may want to provide a list of examples of inequitable situations for illustrative purposes.

- (c) any security given by the consumer or a guarantor in respect of consideration payable under the contract,

as if the contract had never existed.

(3) Where credit is extended or arranged by the supplier, the credit contract is conditional on the internet sales contract whether or not the credit contract is a part of or attached to the internet sales contract, and if the internet sales contract is cancelled, that cancellation has the effect of cancelling the credit contract as if the internet sales contract had never existed.

Responsibilities on cancellation

9(1) If an internet sales contract is cancelled under section 5, the supplier must, within 15 days from the date of cancellation, refund to the consumer all consideration paid by the consumer under the contract and any related consumer transaction, whether paid to the supplier or another person.

(2) If goods are delivered to a consumer under an internet sales contract that is cancelled under section 5, the consumer must, within 15 days from the date of cancellation or delivery of the goods, whichever is later, return the goods to the supplier unused and in the same condition in which they were delivered.

(3) The consumer may return the goods under subsection (2) by any method that provides the consumer with confirmation of delivery to the supplier.

(4) The supplier must accept a return of goods by a consumer under subsection (2).

(5) The supplier is responsible for the reasonable cost of returning goods under subsection (2).

(6) Goods that are returned by the consumer under subsection (2) otherwise than by personal delivery are deemed for the purposes of that subsection to have been returned when sent by the consumer to the supplier.

(7) Any breach of the consumer's obligations under this section is actionable by the supplier as a breach of statutory duty.

Recovery of refund

10 If a consumer has cancelled an internet sales contract under section 5 and the supplier has not refunded all of the consideration within the 15-day period referred to in section 9(1), the consumer may recover the consideration from the supplier as an action in debt.

Consumer's recourse re credit card charges

11(1) A consumer who has charged to a credit card account all or any part of the consideration payable under an internet sales contract or related consumer transaction may request the credit card issuer to cancel or reverse the credit card charge and any associated interest or other charges where the consumer has cancelled the contract under section 5 and the supplier has not refunded all of the consideration within the 15-day period referred to in section 9(1).

(2) A request under subsection (1) must be in writing or electronic form and contain the following information:

- (a) the consumer's name;
- (b) the consumer's credit card number;
- (c) the expiry date of the consumer's credit card;
- (d) the supplier's name;
- (e) the date the internet sales contract was entered into;
- (f) the dollar amount of consideration charged to the credit card account in respect of the internet sales contract and any related consumer transaction;
- (g) a description of the goods or services sufficient to identify them;
- (h) the reason for cancellation of the internet sales contract under section 5;
- (i) the date and method of cancellation of the internet sales contract.

(3) The credit card issuer must

- (a) acknowledge the consumer's request within 30 days of receiving it, and
- (b) if the request meets the requirements of subsection (2), cancel or reverse the credit card charge and any associated interest or other charges within 2 complete billing cycles of the credit card issuer or 90 days, whichever first occurs.

(4) A request under subsection (1) may be given to the credit card issuer by any means, including, but not limited to, personal service, registered mail, courier, facsimile and e-mail.

(5) Where the request is given other than by personal service, the request is deemed to be given when sent.

Offence

12 A contravention of section 9(1) or 11(3) is an offence for the purposes of [indicate section of relevant Act].