

# GUIDELINES FOR THE STANDARD SALES CONDITIONS FOR CONSUMER PURCHASES OF GOODS OVER THE INTERNET



## Introduction

The Standard Sales Conditions for Consumer Purchases of Goods over the Internet ("Sales Conditions") have been developed by the Consumer Authority with the purpose of ensuring that e-commerce is carried out in compliance with applicable consumer legislation, including the Consumer Purchases Act,<sup>1</sup> the Cancellation Act<sup>2</sup> and E-Commerce Act.<sup>3</sup>

"Consumer purchase" refers to sales of goods from a trader to a consumer who is not primarily acting as part of a commercial undertaking.

The Sales Conditions and these guidelines are recommended for use in the sale of goods over the Internet.

These guidelines elaborate upon and give examples for the Consumer Authority's Sales Conditions on the basis of Norwegian consumer legislation. The guidelines are meant as a practical aid, and are therefore organised according to the contents of the Sales Conditions.

The Sales Conditions are Version 2.0 of October 2015. These guidelines, the Sales Conditions and any updated versions will be available on our website, [www.consumerauthority.no](http://www.consumerauthority.no). The guidelines are not an exhaustive overview of all requirements that apply to online shops. Traders are responsible for staying informed regarding changes to conditions and legislation regulating e-commerce, so that the sales conditions in their online shops comply with Norwegian law at all times.

## General overview of the Sales Conditions

### Purchaser's access to and consent to the Sales Conditions

According to the Cancellation Act, Section 14 and Section 8, subsection 1, and the E-Commerce Act, Sections 8 and 11, the Purchaser shall have easy access to the sales conditions of the online shop.

#### EXAMPLE:

At the bottom of each page in the online shop are the words "Sales Conditions". Clicking on these words will bring up a page showing the conditions in their entirety.

**SALES CONDITIONS**




The purchaser must *actively* accept the terms of the Sales Conditions in the ordering section before concluding a binding contract. Pre-ticked boxes are not sufficient, and may mean that the concluded contract will not be binding.

#### EXAMPLE:

Before the purchase is complete, a box appears which can be ticked. Next to the box is written: "Yes, I accept the Sales Conditions." Clicking on "Sales Conditions" will bring up a page showing the conditions in their entirety.

☐ YES, I ACCEPT THE SALES CONDITIONS



1) Act of 21 June 2002 No. 34 relating to consumer purchases.

2) Act of 22 June 2014 No. 27 relating to the duty of disclosure regarding and right to cancel distance contracts and off-premises sales.

3) Act of 23 May 2003 No. 25 relating to certain aspects of electronic commerce and other information society services.

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## 1] Contract

Norwegian consumer legislation is mandatory, unless conditions are agreed on that are more favourable to the consumer than those implied by the law; see the Consumer Purchases Act, Section 3 and Cancellation Act, Section 3.

The basis of the contract consists of the information the Purchaser receives in the payment solution, along with these standard terms and conditions. Deviations from these standard terms and conditions that are favourable to the consumer are permitted by direct correspondence between Purchaser and Seller. In instances where the contract does not supply a direct solution to a certain issue, the contract must be complemented with relevant statutory provisions.

Section 8 of the Cancellation Act lists information that the contract shall include in all circumstances, and the information the Purchaser has the right to receive before a contract is concluded. The Seller must itself find out whether further informational requirements follow from legislation other than that which these guidelines deal with.

Individual informational requirements regarding the good itself and different alternatives offered by the Seller (e.g. delivery) must be presented in the ordering solution.


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## 2] Parties

Section 8 of the E-Commerce Act and Section 8, subsection 1, letter d of the Cancellation Act require the trader to supply the trader's name, VAT registration number, geographical address, email address and other information that makes it possible for the consumer to come into direct contact with the trader. The address at which the trader is established shall be stated, but if this is different than the trader's registered business premises, this also shall be stated. If someone is acting on behalf of a trader, the identity and address to the entity acting on behalf of the trader shall be stated, so that e.g. the consumer knows where to direct any claims. This information shall be stated on the website.

A link to this information should be provided on every single page on the Seller's website; see the legislative history (Prop. to the Odelsting no. 31 [2002-2003]). It is not sufficient for the information to only be available on the homepage.

The consumer shall be able to come into direct contact with the Seller. The Consumer Authority recommends that the Seller state the telephone number or use a chat solution on the website to fulfil this requirement. A chat solution must have a maximum wait time of 30 to 60 minutes on all business days.

### Filling in the contact information in the Sales Conditions

The Seller is itself responsible for updating Section 2 of the Sales Conditions, stating the name, contact address, email address, VAT registration number and telephone number.

## 3] Prices

The total price shall include all taxes, fees and delivery costs. It is recommended that the individual costs that make up the total price be specified in the ordering solution.

### EXAMPLE:

Information is given in the ordering solution concerning the price of the good (including VAT, environmental tax and other taxes) and shipping costs. This is added up into the **total price** payable by the Purchaser.

**TOTAL**, including shipping and taxes: **NOK 600**

**PAY NOW**



If the trader fails to inform about any additional costs for the good or services (e.g. shipping), the consumer does not have to pay them.

For subscription services that are paid with a fixed amount, both the total price per settlement period and the total monthly cost shall be stated.

### EXAMPLE:

A trader that delivers its products every three months for a fixed amount of NOK 600 must state the total price per settlement period (NOK 600) and the monthly cost (NOK 200). Any fees, such as shipping, must be included in the total price.

Monthly price, including shipping: NOK 200  
**TOTAL PRICE FOR 3 MONTHS: NOK 600**

**PAY NOW**



If the good is ordered from overseas, and customs and import duties are involved that are difficult to calculate in advance, the trader is required to inform the Purchaser in a clear and understandable manner that customs and import duties are *in addition to* the stated price, along with stating the method for calculating the additional costs.

## 4] Conclusion of contract

When a contract is concluded on the Internet and binds the consumer to pay, the trader shall *clearly and in an accentuated form* make the consumer aware of the information stated in Section 8, subsection 1, letters a, e and n of the Cancellation Act immediately before the consumer places the order; see the Cancellation Act, Section 16, subsection 1. This information includes the most important properties of the good, the total price, and if a subscription contract is concluded, the terms for cancelling the contract.

In practice, this means that the information shall be presented in such a way that the consumer can view and read it in the ordering solution without having to perform an action, such as opening a new window with the information or scroll down the page to see the information. The information shall therefore be so close to the ordering button and with a font size large enough that the consumer cannot fail to discern the information. Furthermore, no other text should appear between the ordering button and the information that must be given, which might interfere with the consumer's discerning the information.

Products with widely known properties may be sold without detailed information on the most important properties of the good. The purchaser shall receive the information that can be considered relevant and necessary for the decision to purchase.

### EXAMPLE 1:

A physical book may be sold without detailed information. An e-book, however, may require otherwise, since the properties of e-books and e-readers (such as program compatibility and use limitations) are less widely known than the properties of physical books.

#### TITLE OF E-BOOK

Only compatible with Kindle e-readers  
NOK 98, includes shipping

ORDER

### EXAMPLE 2:

The most important properties of contact lenses may be that they are coloured one-day lenses with a power of -3.25.

#### 60 COLOURED ONE-DAYLENSES

Colour: green. Power: -3.25  
NOK 298, includes shipping



The E-Commerce Act, Section 11, subsection 1, letter b requires traders to inform the consumer on the various technical stages one must go through in order to conclude a purchasing contract electronically. Section 16 of the Cancellation Act requires certain information that is decisive for the consumer, including the total price and the central conditions of subscription contracts, to be stated clearly and in an accentuated form immediately before the consumer completes the purchase. The Consumer Authority recommends that this information be included in the stage in which the consumer is directed to review his/her order, i.e. the part where the consumer checks the shopping basket before the order button is clicked and the contract concluded. In addition, information on e.g. price and whether goods are being sold on the basis of a subscription must of course be stated clearly and in an accentuated form in the marketing of the products, i.e. in the presentation of the products on the trader's website.

### Requirement for an order button

Section 16 of the Cancellation Act also requires the trader to ensure that the consumer expressly acknowledges that the order entails an obligation to pay. Failure to comply with this provision will mean that there is no binding contract and no payment may be charged; see the Cancellation Act, Section 16, subsection 3. Traders that send goods anyway will be in conflict with Section 11 of the Marketing Control Act, which forbids the delivery of goods with a demand for payment without prior agreement.<sup>4</sup>

4) Act of 9 January 2009 No. 2 relating to the control of marketing and contract terms and conditions, etc.

If the order is placed by activating a button or other function, the button or function shall be marked in an easily readable manner with the words "order with an obligation to pay" or corresponding text.

The order button can be marked in different ways, as long as it clearly conveys the fact that the consumer binds him/herself to pay by clicking the button.

ORDER WITH AN OBLIGATION  
TO PAY



### When binding contracts are concluded

Contracts are concluded when an offer is placed that is then accepted. For online shops, this normally means that the Purchaser navigates to the Seller's webpage and finds the good he/she would like to purchase. The Purchaser then puts the good into the shopping basket, accepts the conditions for purchase, selects a payment method and sends off the order (accepts the Seller's offer). A binding contract will have been concluded once the customer has sent his/her order.

However, a party is not bound by the contract if there are orthographical or typological errors in the offer from the Seller in the ordering solution of the online shop or in the Purchaser's order, and the other party realised or should have realised that such an error was present.

The fact that the contract is binding means that the purchase may be asserted by one of the parties, and basically that one is obligated to deliver/purchase the good at the agreed price.

In the event of any restrictions on delivery, such as the good being sold out, the Purchaser shall be clearly informed of this no later than at the start of the ordering process.

The ordering solution shall facilitate the discovery of errors, changes to an order and/or cancellation of an order before a binding contract is concluded; see the E-Commerce Act, Section 11, subsection 3.

### Order confirmation

The Seller shall without undue delay send an electronic confirmation to the Purchaser that the order has been received; see the E-Commerce Act, Section 12, subsection 1.

The Purchaser should be encouraged to check the order confirmation and report any errors. The Purchaser cannot be bound to do this.

### Confirmation of concluded contract

In addition to the order confirmation required by the E-Commerce Act, the Cancellation Act, Section 18 requires the Seller to give the Purchaser a confirmation of the contract that has been concluded within a reasonable amount of time after the contract has been concluded. The confirmation shall be given on a durable medium and at the latest by the time when the goods are delivered. A durable medium is every arrangement that allows the consumer or trader to save information in such a way that the information is available in the future in unaltered form. This can be on paper, in an email or in some other document in electronic form. Neither a link to the concluded contract nor the possibility to print out the contract from a website will be sufficient.

The confirmation shall contain the information that Section 8 of the Cancellation Act requires the Seller to give the Purchaser before the contract is concluded, unless it has previously been supplied to the Purchaser in a durable medium. In practice, this will constitute the written contract between Purchaser and Seller.

#### EXAMPLE:

The Purchaser receives an order confirmation by email immediately after ordering that confirms that the order has been received. In addition, he/she receives a confirmation of the concluded contract and the information the Seller is required to give according to the Cancellation Act (in practice, the contract between the parties).



The information and cancellation form required by the Cancellation Act may be sent separately from the order confirmation.

## 5] Payment

No later than at the start of the ordering process, the Seller shall clearly and plainly state the payment methods accepted so that the Purchaser avoids starting an order that cannot be completed because he/she lacks the relevant payment methods.

### EXAMPLE:

The Purchaser may choose between two different payment methods. After the Purchaser has chosen his/her preferred method, information is given on when payment will take place, or when funds will be charged from one's account.



The Seller may reserve the amount in the Purchaser's account until the good is sent. This money will not be available to the Purchaser, but remain in the Purchaser's possession.

If the amount is charged before the good is sent, the payment will be considered an advance payment. The Seller must have a particular need to require advance payments, e.g. when a purchased good is made to the Purchaser's specifications. The need for liquidity will not be considered sufficient grounds for advance payment. When the Seller requires advance payment, the Purchaser must be clearly informed of this in the ordering process.

### Purchases made by minors

Minors can purchase goods over the Internet as long as they themselves control the funds.

There is little doubt that, as a rule, funds from a minor's bank account are at his/her disposal if the minor has been issued a bankcard associated with the account. The guardian must give consent when the bank activates a minor's bank card for purchases over the Internet.

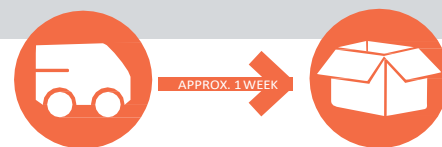
If the Purchaser is under 18, he/she may not pay for the good via post-delivery invoicing. This is because post-delivery invoicing will cause the minor to incur debt, which is forbidden under the Guardianship Act, Section 9; see also Section 40.<sup>5</sup>

## 6] Delivery

The Purchaser shall be informed of alternative delivery methods and their features before the purchase is completed.

### EXAMPLE:

The Purchaser may choose between different delivery methods. After the Purchaser has chosen the delivery method, information is given on how long it usually takes for the Purchaser to receive the good.



Delivery has occurred once the Purchaser, or someone whom he/she has assigned to receive or transport the good, has become aware that the good is at their disposal at the place of delivery.

If the Seller has an agreement with a courier for shipment of the good to the Purchaser, delivery only occurs once the good is handed over to the Purchaser, not when it is handed over to the courier.

Delivery has occurred once the Purchaser or courier with whom the Purchaser has an agreement has taken control of the good. Delivery has occurred if the good has been placed in the Purchaser's mailbox or if, upon agreement with the Purchaser, it has been delivered to the workplace, at a neighbour's, or in the Purchaser's garage.

Delivery has not occurred, however, when the good is delivered to the post office or a business. Delivery only occurs once the Purchaser has collected the good.

<sup>5</sup>) Act of 26 March 2010 No. 9 relating to guardianship.



## 7] Product risk

In a sale in which the Seller dispatches the good, the risk for the good is transferred to the Purchaser once the good has been delivered to him/her as per Section 6. If the consumer has asked a third party to receive or pick up the goods on his/her behalf, the risk is transferred once this party has taken possession of the goods.

If the good is lost or damaged before physical possession is taken, the Seller bears responsibility. If the good is lost or damaged after physical possession is taken, the Purchaser bears the risk. If the consumer chooses his/her own courier to perform the transport assignment, and this transport alternative was not offered by the Seller, the risk is transferred to the consumer once his/her own courier has taken possession of the good.



## 8] Right to cancel

The right to cancel means that the Purchaser may for any reason return a good to the Seller even if it is not defective. The consumer may also cancel a purchase before the good has been delivered. Reference is made to the Consumer Council's Guidelines on the right to cancel (in Norwegian).

### Information form and cancellation form

The trader must give the consumer sufficient information on the good and the right to cancel. It is recommended that this information be given by filling in a form that has been drawn up by the Ministry.<sup>6</sup> If the form is used, the requirements for information on the right to cancel will be considered fulfilled.<sup>7</sup> The form shall be sent to the consumer on paper, by email or another durable medium. The burden of proof that the information requirement under the Cancellation Act has been fulfilled lies with the Seller.

In contracts where the consumer has a right to cancel, the consumer shall receive a *cancellation form*.<sup>8</sup> The Ministry has drawn up a cancellation form that can be used. The form shall be sent to the consumer on paper, by email or another durable medium. It will not be enough to show that the form is available on the trader's website. When exercising the right, the consumer may choose between using the form he/she received or submitting another unambiguous declaration.

Examples of such forms are available (in Norwegian) at <http://www.signform.no/dss/>. The visual design and manner in which the information is presented may be customised as long as all the requirements of the Cancellation Act are met. The Consumer Authority recommends that the available forms be used as far as possible.

### Purchaser's right to examine the good

In order to decide whether to exercise the right to cancel, the Purchaser has the right to examine the good. An appropriate checking or testing of the good to determine its nature, properties and function will not nullify the right to cancel, nor will it give grounds for compensation arising from the examination. This right is comparable to the examinations one is permitted when buying goods in a shop, such as trying on an article of clothing.

If the checking or testing goes beyond what is reasonable and necessary, however, the Purchaser may be responsible for any reduction in the good's original value. This reduction in value will often consist of the costs for washing or repairing the good. If the good can no longer be sold as new, the reduced value will correspond to the objective loss of income suffered by the Seller in selling it used or, if necessary, disposing of it.

In order for the Seller to demand compensation from the consumer for the reduction in value, the Seller must have given the consumer information on the right to cancel.<sup>9</sup>



6) Cancellation Act, Section 8, subsection 5; see Regulation relating to the duty of disclosure and right to cancel etc., Section 2.

7) Cancellation Act, Section 8, subsection 2

8) Cancellation Act, Section 8, subsection 5; see Regulation relating to the duty of disclosure and right to cancel etc., Section 1.

9) Cancellation Act, Section 25, subsection 3.



## Return costs

The Purchaser must cover the direct costs associated with returning the good, unless otherwise agreed. Direct costs are shipping or transport costs, along with any other direct expenses such as the purchase of new shipment packaging. They do not include any administrative costs the trader incurs as a result of the good being returned.

However, the Purchaser shall not cover the return costs if the Seller has not informed him/her of this obligation prior to the conclusion of the contract.

## Exemptions from the right to cancel

If the contract is exempt from the right to cancel according to Section 22 of the Cancellation Act, this must be communicated to the Purchaser prior to the conclusion of the contract. This provision exempts a number of contracts, including:

- *The delivery of goods that deteriorate or quickly reach their expiry date*

Examples include fresh food items or cut flowers. Health food products are not included in this exemption.

- *Goods produced to Purchaser's specifications*

These are purchases in which goods are produced according to consumer specifications, or when the good is made with a clear personal feature. Examples include a set of made-to-measure curtains or a cabinet produced according to the consumer's requirements.

The reason for this exemption is that the right to cancel can cause the trader significant losses, since it would be impossible or quite difficult to sell the good to others. The exemption is not however intended to cover standard goods that the trader, in order to avoid storage costs, only produces after an order comes in from a consumer who makes certain minor choices.

This exemption shall be interpreted narrowly. The purchase of mass-produced goods with the year stamped on them is not covered, even if it would be difficult to sell the good the following year, so the right to cancel must be retained. The trader sells this type of good at its own risk.

- *Sealed goods that are not suited for return for reasons of health or hygiene*

This exemption applies if the seal is broken after delivery. Examples include health food products, cosmetics, underwear and bathing suits.

A seal is a special type of packaging that protects the good and serves to ensure the good has not been opened. An example is a plastic film that envelops the product.

- *Sealed sound/video recordings or software*

This exemption applies if the seal is broken after delivery. Examples include CDs or DVDs.

As mentioned, the Seller has a duty of disclosure prior to the conclusion of the contract if the contract is exempt from the right to cancel, and if there are any circumstances in which the right to cancel may be lost; see the Cancellation Act, Section 8, subsection 1, letter k. When selling these kinds of sealed goods, the trader will therefore have a duty to disclose before the conclusion of the contract that the right to cancel is nullified if the seal is broken after delivery.

Note that the Seller's duty of disclosure according to Section 8 of the Cancellation Act applies regardless of whether the purchase is exempt from the right to cancel according to Section 22.

## 9] Delays and non-delivery: the Purchaser's rights and time limit to make a claim

In addition to what follows from Section 9 in the Sales Conditions, the Purchaser's rights in the event of a delay are regulated in Chapter 5 of the Consumer Purchases Act. The more detailed limits for the remedy that can be demanded for breach of contract in each individual case will depend on a specific assessment. Reference is made to the Consumer Disputes Commission's practices (in Norwegian) for determining the elements that will be relevant for each remedy, as well as where the threshold lies.

If the Purchaser has attempted to resolve the matter with the Seller without success, and the good has been paid for with a credit card, the Purchaser may choose to make a claim directly to the creditor.<sup>10</sup>



## 10] Defective goods: the Purchaser's rights and time limit to give notice

In addition to what follows from Section 10 in the Sales Conditions, the Purchaser's rights in the event of a defect are regulated in Chapter 6 of the Consumer Purchases Act. The more detailed limits for the remedy that can be demanded for breach of contract in each individual case will depend on a specific assessment. Reference is made to the Consumer Disputes Commission's practices (in Norwegian) for determining the elements that will be relevant for each remedy, as well as where the threshold lies.

If the Purchaser has attempted to resolve the matter with the Seller without success, and the good has been paid for with a credit card, the Purchaser may choose to make a claim directly to the creditor.

## 11] Seller's rights in case of Purchaser's breach of contract

In addition to what follows from Section 11 in the Sales Conditions, the Seller's rights in the event of a Purchaser's breach of contract are regulated in Chapter 9 of the Consumer Purchases Act. The more detailed limits for the remedy that can be demanded for breach of contract in each individual case will depend on a specific assessment. Reference is made to the Consumer Disputes Commission's practices (in Norwegian) for determining the elements that will be relevant for each remedy, as well as where the threshold lies.

However, some mention should be made of the size of the fee the Seller may demand for uncollected, non-prepaid items. The fee shall cover at maximum the Seller's actual outlay for delivering the good to the Purchaser. This will include the shipping costs (both ways), as well as a reasonable fee corresponding to the actual expenses the Seller has incurred in connection with the order. Such a fee may not be charged to purchasers under 18, since in practice this will cause the minor to incur debt.

## 12] Warranties

Any warranties give rights to the consumer beyond those he/she has in accordance with mandatory legislation, either with respect to time or scope.<sup>11</sup> The trader is required to present information about warranties, giving notice and the right to cancel with a layout that makes it clear to the consumer that these are three different rights, and how they are interrelated. Furthermore, Section 23 of the Marketing Control Act sets requirements on the layout for warranty terms.



<sup>10)</sup> Act of 25 June 1999 No. 46 relating to financial contracts and financial assignments, Section 54 b.

<sup>11)</sup> Consumer Purchases Act, Section 18 a.

## 13] Personal data

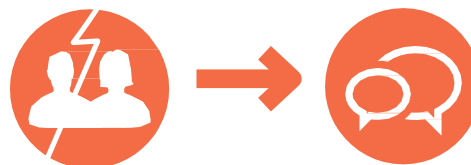
The Seller may only obtain the Purchaser's national identity number if there is an objective need for positive identification, e.g. if the Seller has an objective need to perform a credit check on the Purchaser.

The Consumer Authority recommends the creation of a privacy policy that is easy to access in the online shop. This policy should e.g. contain information on the personal data that is gathered and why, what the data is used for and whether the website uses cookies. It should also inform the Purchaser that he/she has the right to access his/her own personal data and can demand that it be rectified or erased, and how the Purchaser can complain about the processing of his/her own personal data. We recommend that the Seller become familiar with and follow the Data Protection Authority's guidelines on privacy policies (in Norwegian): <http://www.datatilsynet.no/regelverk-og-skjema/lage-nye-losninger/personvernerklaeringer/>

The personal data of purchasers under 15 cannot be gathered, unless the Seller has the consent of a parent or guardian. The Seller may only send marketing communications by means of direct electronic communication methods (e.g. text message, email etc.) if the Purchaser has given voluntary, express and informed consent to it, or in the context of an established customer relationship. In a customer relationship, the marketing may only relate to the trader's own goods, services or other products corresponding to those on which the customer relationship is based. We recommend that the Seller become familiar with the rules for direct electronic marketing (in Norwegian): <http://www.forbruker-tilsynet.no/>

## 14] Conflict resolution

If an amicable resolution is not reached after mediation by the Consumer Council of Norway, the parties may request that the Consumer Council bring the dispute before the Consumer Disputes Commission. Decisions by the Consumer Disputes Commission are final one month after they are pronounced. Before the decision becomes final, the parties may bring the dispute before the district court. As a rule, the case shall be brought before the consumer's court of domicile.<sup>12</sup>



<sup>12)</sup> Act of 17 June 2005 No. 90 relating to mediation and procedure in civil disputes (The Dispute Act), Sections 4-5 (7).