

## **Text of contractual rights of action for possible inclusion in MI 45-103**

### **Right to Cancel**

The offering memorandum must contain a right of withdrawal that

- (a) permits the purchaser to cancel the agreement to purchase the securities, and
- (b) is exercisable by the purchaser delivering a notice to the issuer not later than midnight on the 2<sup>nd</sup> business day after the purchaser signs the agreement to purchase the securities.

### **Rights of Action**

The offering memorandum must contain a right of action against the issuer for rescission or damages that

- (a) is available to the purchaser if the offering memorandum, or any record incorporated or deemed to be incorporated by reference into the offering memorandum, contains a misrepresentation, without regard to whether the purchaser relied on the misrepresentation,
- (b) is enforceable by the purchaser delivering a notice to the issuer
  - (i) in the case of an action for rescission, within 180 days after the purchaser signs the agreement to purchase the securities, or
  - (ii) in the case of an action for damages, the earlier of:
    - A. 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
    - B. 3 years after the date the purchaser signs the agreement to purchase the securities,
- (c) is subject to the defence that the purchaser had knowledge of the misrepresentation,
- (d) in the case of an action for damages, provides that the amount recoverable
  - (i) must not exceed the price at which the securities were offered, and
  - (ii) does not include all or any part of the damages that the issuer proves does not represent the depreciation in value of the security resulting from the misrepresentation, and
- (e) is in addition to and does not detract from any other right of the purchaser.