

Code of Practice for Telecommunications Service Contracts

Preamble

This Code of Practice is intended to enhance customer satisfaction levels in respect of the provision of telecommunications services in Hong Kong by improving the clarity of provisions in the telecommunications service contracts.

This Code of Practice represents a minimum set of practices and service providers who adopt this Code of Practice may choose to include other provisions which are not inconsistent with this Code of Practice.

1. Definition

1.1 In this Code of Practice

“**bill cycle**” means each consecutive period of time in respect of which the customer will be billed for use of telecommunications service in that period under a contract;

“**bill cycle date**” means a particular day in a month assigned by the service provider that each bill cycle starts;

“**CAHK**” means the Communications Association of Hong Kong;

“**contract**” means a contract between a service provider and a customer in relation to the provision of one or more telecommunications services to the customer, including services provided after a free-trial period (subject to the requirement in paragraph 4.4);

“**contract with a fixed term**” means a contract under which telecommunications services are provided to the customer over a specific period of time for an agreed price. For the avoidance of doubt, it does not include contract on a month-to-month basis;

“**customer**” means a residential or individual user who acquires a telecommunications service for personal or residential use (that is, not for commercial use) where the service terms are based on a standard form of contract of the service provider; for the avoidance of doubt, a service will be deemed to be acquired for commercial use if the service is registered

under a company/business name or if the service is to be provisioned at a commercial premises;

“Contract Service Charges” means all fees or charges (except Other Charges) payable by customer for the telecommunications services expressly subscribed pursuant to contract and as referred to in paragraph 3.2(e) below;

“date” means a particular day, expressed as a numbered day in a named calendar month in a numbered calendar year;

“day(s)” means calendar day(s);

“final bill cycle” means the bill cycle within which the expiry date of a contract with a fixed term falls;

“OFCA” means the Office of the Communications Authority;

“Other Charges” means the administrative charges and usage based charges payable by a customer for telecommunications services not specifically covered by the contract and as referred to in paragraph 3.2(f) provided that if a customer subscribed to fixed line service, Other Charges shall be those in relation to fixed line services and if a customer subscribed to mobile service, Other Charges shall be those in relation to mobile service;

“service provider” means a telecommunications service provider;

“unsolicited contract” means a contract concluded during unsolicited visits to a customer’s home;

“written confirmation” means a hardcopy or softcopy, as the case may be, of the written contract save that it does not require a customer to sign;

“written contract” means a contract, the terms and conditions of which are in writing, in the form of one or more documents, and which requires the customer’s signature to effect the customer’s :

- (a) application for telecommunications services on the terms and conditions in, and referred to in, the documents; or
- (b) acceptance of telecommunications services on the terms and

conditions in, and referred to in, the documents.

2. General

- 2.1 Service providers who adopt this Code of Practice will state so on their respective websites.
- 2.2 Service providers who adopt this Code of Practice may also state so on their contracts.
- 2.3 Service providers who adopt this Code of Practice will adopt this Code of Practice for all new contracts, and other specified contracts, that are entered into after an effective date to be announced by the individual service provider.
- 2.4 This Code of Practice is available at OFCA's website: <http://www.ofca.gov.hk> and the website of CAHK at <http://www.cahk.hk>.
- 2.5 OFCA and CAHK may publish information in relation to the adoption to this Code of Practice and update the published information on a regular basis.
- 2.6 CAHK, in consultation with its members, will review this Code of Practice periodically taking relevant input from OFCA and other relevant public bodies.

3. Style, format and structure of written contracts

- 3.1 A written contract for the provision of telecommunications services to customers:
 - (a) must be written in plain language and appear in legible print;
 - (b) must be bilingual in Chinese and English, or in either Chinese or English as the customer elects, with the English and Chinese versions of the contract carrying equal legal effect; and
 - (c) must use a print font size of at least 9 point for the body text, footnotes and remarks, and must have adequate contrast with the background.
- 3.2 The principal contract document (for the main service with or without other services) must contain the following features and display them

prominently:

- (a) the name of the company which the customer is contracting with in respect of the provision of all the main telecommunications services covered by the contract (which for the avoidance of doubt, does not include the names of the suppliers of the customer equipment and content services);
- (b) the name of the customer which the company is contracting with;
- (c) the specific service elements that the customer has subscribed to at the time the particular contract was entered into including essential ancillary services, value-added services, or customer equipment, whether a charge for the individual element is made or not;
- (d) in the case of a contract with a fixed term, a target commencement date of the fixed term and the duration of such fixed term (or a target expiry date), and the related information concerning charges pursuant to paragraphs 6.1(a) and 6.1(b) below; and subject to paragraph 6.2 below, an obligation on the service provider to notify the customer about the impending expiry of the term;
- (e) clearly identified Contract Service Charges, being all fees or charges (except Other Charges) payable by customer for the telecommunications services expressly subscribed pursuant to the contract, including:
 - (i) any deposit amount and the circumstances when the deposit is refundable or may be applied by the service provider;
 - (ii) any prepayment amount and the circumstances when the prepayment is refundable or is to be off set from the charges;
 - (iii) any waivable charges and the circumstances when the waivable charges may apply;
 - (iv) all service establishment and/or installation charges;
 - (v) any subsequent charges if the customer's usage exceeds the service entitlement included in the Contract Service Charges;
- (f) specified common categories of Other Charges; i.e administrative charges (being lost and replacement charges) and usage based charges/rates (such as IDD, roaming, international SMS) and where information on such charges/rates can be obtained (e.g. hotline) and, in the case of a contract with a fixed term, whether such charges/rates

will be subject to change during the term;

- (g) specified customer's service entitlement in respect of Contract Service Charges;
- (h) specified arrangements for termination of contract by customers and charges, if any, which may apply to termination or early termination;
- (i) specified arrangements for extension of term and renewal of the term of the contract or replacement of the contract;
- (j) the terms and conditions of the contract that can be changed unilaterally by the service provider, and the arrangements for any such change to be implemented;
- (k) the arrangements which the service provider must make available for customers, without undue cost or inconvenience to them, to return any customer equipment upon the expiry, termination or cancellation of the contract;
- (l) for service provided in respect of particular locations, arrangements for customers to request the service to be relocated to other locations, and the arrangements when the relocation is not feasible; and
- (m) pursuant to paragraph 5, information relating to a cooling-off period which applies to unsolicited contracts.

3.3 Where a written contract has been signed by a customer, a copy of the signed contract must be given to the customer within a reasonable time thereafter.

3.4 Paragraphs 3.1 to 3.4 do not apply where the customer is not required to be registered as a customer for the enjoyment of the service (such as where the customer purchases a pre-paid SIM card for mobile services or a pre-paid calling card for IDD services, or the service provider provides a free Wi-Fi card to the customer for trial).

4. Contracts other than in writing

4.1 Where a contract is entered into other than by means of a physical document (physical document for this purpose shall include online application) such as by telephone (which for the avoidance of doubt, does

not include WAP application through the customer's handset), the service provider must within a reasonable time thereafter, (which is targeted to be within 10 working days after the expiry or termination of the applicable cooling-off period) give the customer a written confirmation in English or Chinese, as the customer elects, of the service acquired or maintained.

4.2 The written confirmation will be dispatched by post, or by the optional reasonable means offered by the service provider as agreed by the customer (such as where the customer has subscribed for the Internet service, the service provider can send an email to alert customers to check the written confirmation online).

4.3 Paragraphs 4.1 and 4.2 do not apply:

(a) where the customer is not required to be registered as a customer for enjoyment of the service (such as where the customer purchases a pre-paid SIM card for mobile services or a pre-paid calling card or where the service provider provides a free Wi-Fi card to the customer for trial); or

(b) where the service concerned is a service which is subsequently subscribed in addition to the main service under the same existing contract, provided that the service provider shall make available reasonable means for the customer to check (on any day) the contract terms of such service as described in paragraph 3.2 including any specific terms applicable to the customer.

4.4 A customer shall have the choice whether to accept and use a free-trial service. Where the free-trial service may become chargeable after the free-trial period expires, the service provider shall explain to the customer any arrangements for opting out when the free-trial service is offered and it must not put the customer to inconvenience or involve him/her incurring any cost in respect to exercising the opt-out request. This Code applies to services provided after the free-trial period.

5. Cooling-off period for unsolicited contracts

5.1 An unsolicited contract must provide for a cooling-off period during which the customer may cancel the contract without incurring any payment liability or any other obligation whatsoever.

5.2 A cooling-off period must be not less than seven days from the date the

customer enters into the unsolicited contract.

- 5.3 The arrangements for customers to cancel the unsolicited contract during the cooling-off period must be specified in the contract and must not put them to inconvenience or involve them incurring anything other than incidental costs reasonably and properly incurred in the communication of the cancellation.
- 5.4 An unsolicited contract may provide for the cooling-off period to be waived by customers at the time they sign the contract, provided that the waiver requires customers to specifically indicate that they understand the benefit of the cooling-off period, and that they nevertheless elect to waive the period without inducement on behalf of the service provider.
- 5.5 A cooling-off period does not apply in the following circumstances:
- (a) where a customer is not required to be registered as a customer for enjoyment of the service (such as where the customer purchases a pre-paid SIM card for mobile services or a pre-paid calling card, or the service provider provides a free Wi-Fi card to the customer for trial);
 - (b) where the service is subsequently subscribed in addition to the main service under the same existing contract; or
 - (c) where the contract is extended, the contract term is renewed or the contract is replaced unless the extension, renewal and replacement (as the case may be) is concluded during an unsolicited visit to the customer's home.
- 5.6 Subject to paragraph 5.7, a cooling-off period shall cease to apply upon the occurrence of any of the following events, or the expiry of the cooling-off period as required under paragraph 5.2 above, whichever is earlier:
- (a) once the service has been provisioned;
 - (b) once the service provider commences the physical provisioning of the service (including by arrangement with a third party);
 - (c) once the network terminating unit, customer premise equipment or user device or any promotional gift supplied in connection with the service has been collected by or delivered to the customer;

- (d) 3 days before the scheduled completion date of the number porting as agreed by the customer; or
 - (e) after a quality control confirmation call in respect of the contract concerned has been made provided that:
 - (i) the service provider shall inform the customer clearly, and the customer acknowledges his awareness, that the quality control confirmation call will terminate the cooling-off period; and
 - (ii) the quality control confirmation call is made more than one hour after the unsolicited contract has occurred. (if the call is made within the hour the cooling off period will remain in force until the earlier of its expiry or the occurrence of an event mentioned in paragraph 5.6(a) to (d)).
- 5.7 For the purpose of paragraph 5.6, the service provider shall inform the customer clearly, and the customer acknowledges his awareness, that, in the relevant contract or otherwise, prior to conclusion of contract that (i) the cooling-off period will cease to apply once the event(s) mentioned in paragraph 5.6(a)-(e) that is/are applicable to the customer occur(s); and (ii) when those event(s) will occur (based on the experience of the service provider, acting reasonably), and shall keep evidence of the notification and the customer's acknowledgement, such as a written copy or audio recording of the telephone conversation.
- 5.8 Notwithstanding the above, the service provider has the flexibility to implement a better cooling-off period arrangement that provides additional protection to the customers, e.g. the service provider is encouraged to provide a cooling-off period which is more than seven days from the date the customer enters into the contract and for contracts concluded over other sales channels besides the unsolicited visits.

6. Expiry of Contract with a Fixed Term

- 6.1 Contracts with a fixed term must comply with the following requirements:
- (a) the contract must state the target commencement date of the term and the duration of the term (or a target expiry date), and it must clearly differentiate those dates from other dates for the provision or cessation

of service, or in respect of which the customer may have a payment obligation, or dates relating to the customer's electing to extend the term, renew the contract or enter into a replacement contract;

- (b) where the target commencement date specified in accordance with paragraph 6.1(a) above does not align with the first bill cycle date then:
 - (i) the first bill cycle date must be clearly stated in the contract or, if this is not possible (for example because the bill cycle date will only be allocated subsequently), then the period between the target commencement date and the first bill cycle date should not exceed one month and the bill cycle date once available should be communicated to the consumer as soon as practicable; and
 - (ii) the contract must set out clearly and in reasonable detail how the customer will be charged for the services in the periods between the target commencement date and the first bill cycle date, as well as between the expiry date of the fixed term and the last date of the final bill cycle, for example by stating the fee or charge which will be used (same fee or charge as during the fixed term, standard contract fee or charge or other) and whether the charge will be applied pro rata or not for the period after the expiry date of the fixed term;
- (c) the contract must oblige the service provider to notify the customer of the impending expiry of the term of the contract, no more than 60 days and no less than 30 days before the date the contract expires;
- (d) the contract must specify whether service will continue to be provided to the customer after the expiry date:
 - (i) pending renewal, extension, or replacement of the contract; or
 - (ii) pending the customer notifying termination; or
- (e) if service is to continue after expiry of the term, the contract must specify the charges (e.g., at the prevailing market rate) which will be payable by the customer, as well as any changes which may apply to the service provision or to the customer's previous rights, obligations,

or benefits or if the charges or if changes cannot be confirmed or specified at the time the contract is entered into, such charges or changes, if applicable, shall be notified to the customer not less than 30 days prior to the contract renewal date.

- 6.2 For the avoidance of doubt, paragraph 6.1 only applies to contracts with a fixed term and paragraph 6.1(c) does not apply where the service provider has made available reasonable means for the customer to check (on any day) the expiry date of contract.

7. Termination by Customer

- 7.1 Contracts must provide customers with a right of termination, which includes the following features:

- (a) the customer must not be obliged to give the service provider more than one month's prior notice of termination;
- (b) the arrangements for termination must not cause inconvenience to customers or involve unreasonable delay or involve them incurring anything other than incidental costs reasonably and properly incurred in effecting the notice. For example, the service provider is encouraged to, where appropriate, (1) make the service termination form available on website for download, (2) accept any written termination request, (3) acknowledge the receipt of any verbal, written or in person service termination request promptly, and (4) handle the termination request promptly without unreasonable delay; and
- (c) the fact that a specific charge may apply in the event of early termination, such as payment of an amount for a gift or device provided to the customer and the amount of such gift and device, any administration fee and the actual amount payable by customer for the remainder of the term.

- 7.2 For the purpose of paragraph 7.1(b), the service provider shall make available reasonable means without unreasonable delay for the customer to obtain (on any day) information in relation to, and exercise the right of, termination.

- 7.3 Where the customer exercises the right of termination in respect of any severable service element pursuant to the terms of contract, such termination shall not affect the force and effect of the contract in respect of

the surviving service elements.

8. Extension or renewal of a term or replacement of a contract

- 8.1 The provisions of a contract providing for extension or renewal of the term of a contract or replacement of the contract, must provide that the arrangements for customers indicating their agreement include their receiving a written confirmation, in English or Chinese as the customer elects.
- 8.2 The contract must provide for the written confirmation to be dispatched by post, or by the optional reasonable means offered by the service provider as agreed by the customer (such as where the customer has subscribed for the Internet service, the service provider can send an email to alert customers to check the written confirmation online), within a reasonable time after the contract term is extended, renewed or a contract is replaced.
- 8.3 Paragraphs 8.1 and 8.2 do not apply where the contract term is extended, renewed or a contract is replaced with the agreement of the customer upon the same terms as, or on terms more favourable than, those of the original written contract or confirmation, provided that the service provider shall keep evidence of the customer's agreement on such extension, renewal or replacement, such as audio recording of the telephone conversation, and shall make available reasonable means for the customer to check (on any day) the contract terms as described in paragraph 3.2 including any specific terms applicable to the customer.
- 8.4 Automatic extension or renewal of the term of a contract shall be subject to paragraph 7.1 and shall not be effective unless the customer has specifically indicated in writing, or specifically confirmed if the contract is entered into otherwise than in writing, his acceptance of the automatic extension or renewal of the term, provided that the service provider must keep evidence of the customer's agreement on such automatic extension or renewal such as audio recording of the telephone conversation.
- 8.5 For the avoidance of doubt, references to "extension" and "renewal" in paragraph 8 refers to extension or renewal (as the case maybe) of a contract for a specified fixed term after expiry of a fixed term, but does not include any extended provision of service on a month-to-month basis referred to under paragraph 6.1(c).

9. Unilateral variation of terms and conditions

- 9.1 If a contract includes provisions allowing the service provider to unilaterally change the terms and conditions of the contract, those provisions must include the following features:
- (a) the terms and conditions which can be changed unilaterally by the service provider;
 - (b) in the event that the change will (i) result in an increase in a Contract Service Charges or (ii) have a substantial and adverse impact on the service enjoyed by a substantial number of customers, the service provider must use reasonable means to give not less than 30 days' prior notice to the affected customers before effecting the change;
 - (c) in the event that the change will result in an increase in an Other Charges (save for charges for IDD or roaming services provided that the service providers have informed the customers that such charges are subject to changes from time to time³), the service provider must inform the affected customers of the change on its website or such other means as it considers appropriate not less than 30 days prior to effecting such change; and
 - (d) the provisions must permit the customer to terminate the contract, by notice no more than 15 days prior to the change coming into effect, without the customer incurring any charges of any kind in respect of that termination (other than incidental costs), in the event that:
 - (i) there is any increase in the Contract Service Charges (save for charges that are no longer applicable to the customers after they have installed or subscribed to the service such as service establishment/installation charges, deposit amount, prepayment amount or any waivable charges);
 - (ii) there is an increase in those Other Charges which is obliged to incur for the continued use of the subscribed service by the customer (e.g. replacement charges for lost SIM cards) (save for charges for IDD or roaming services² provided that the

² This may include future services where the costs of providing fluctuate and are significantly dependent on third parties beyond the control of service providers.

service providers have informed the customers that such charges are subject to changes from time to time) which is more than HK\$30 or 30% of the amount of the monthly Contract Service Charges, whichever is higher; or

- (iii) if the customer can demonstrate that the change to the contract terms will result in a substantial and adverse impact to the service that he/she has acquired.

10. Return of Customer Equipment to Service Provider

10.1 Where customer equipment provided to the customer by the service provider is required to be returned upon the expiry, termination or cancellation of the contract, the contract must specify the manner in which the customer equipment is to be returned by the customer which must not put customers to inconvenience or involve their incurring anything other than incidental costs reasonably and properly incurred in effecting the return.

11. Customer Moving Location

11.1 Where a contract provides for services to be provided in respect of a particular location, the service provider must advise the customer the following.

- (a) the customer shall have the right to request the services provisioning to be relocated to another location that he/she resides provided that he/she must produce proof, to the satisfaction of the service provider, to demonstrate that he/she is residing at the relocated address;
- (b) the service provider will use its reasonable endeavours to relocate the service provisioning;
- (c) the service provider will advise the customer as soon as practicable upon its satisfaction of the proof as mentioned in paragraph (a) above whether it is feasible to provide the service at the relocated premises and any applicable charges;
- (d) if it is not feasible to provide the service at the relocated premises due to the absence of network coverage, the customer shall have the right to choose to continue to use the service at the same location or

terminate the contract. The termination charge should be calculated by a formula or be a specific maximum amount. This charge should be communicated to the customer before he/she signs the contract;

- (e) in the event that the customer chooses to terminate the contract under paragraph (d) above, the amount of termination charges, if applicable, shall only include (i) the installation charges incurred or waived and the value of any upfront gift that was given to the customers; and (ii) on a pro rata basis, the value of any benefits given to a customers on the basis of his/her agreement to use the service in question for the specified term, including but not limited to discounted monthly fee. For the avoidance of doubt, such termination charges shall not include any monthly service charges for the remaining contract period. However, the service provider may reduce or waive any termination charges as it sees fit and at its sole discretion which may take into consideration any benefits that have been given to the customer e.g. upfront gift, remaining contract period and any other circumstances provided that the customer must produce proof to the satisfaction of the service provider as specified in paragraph (a) above.

12. Others

12.1 In this Code, where the terms or words “**reasonable means**” or “**inconvenience**” appear, they should include the following requirements on the service provider:

- (a) the service provider shall provide reasonable means so that the customer may make enquiry about the contract terms, expiry date, termination or relocation information. Such means may include but not limited to online enquiry, telephone enquiry or shop enquiry, and any other means that may be provided by the service provider;
- (b) where the customer makes the enquiry by telephone, the service provider shall endeavour to answer the call within the time pledged in accordance with its published customer charter or customary practice related to its subscription enquiry;
- (c) the service provider shall provide information about contract terms, expiry date, termination or relocation as soon as practicable and through the means (so far as practicable) that was used by the

customer to make the enquiry in the first place, or any other means as agreed by the customer and the service provider;

- (d) where the contract term requires the submission of written notice for termination or relocation in prescribed form, the service provider shall provide the form to the customer as soon as practicable upon request by fax, post, email, online download or collection at shop. The customer may return the form by any of the above means as agreed by the customer and the service provider;
- (e) in respect of opt-out arrangement during free-trial period or cancellation during cooling-off period the need of submission of written opt-out or cancellation notice shall be dispensed with if so requested by the customer and the opt-out or cancellation arrangement shall be effected by other effective means (including arrangement by telephone or online means or at shop at the choice of the customer, or any other means as agreed by the customer and the service provider) subject to proper verification of identity of the customer; and
- (f) where the contract term requires the return of customer equipment, the service provider shall allow the customer to return the equipment to its designated office, shop or centre at the choice of the customer.

12.2 In computing time for the purpose of this Code of Practice, a period of days from the happening of any event shall be deemed to be inclusive of the day on which the event happens. For example, where a contract is signed at noon on Day 1, the customer may (subject to other provisions) exercise his cancellation right during a seven-day cooling-off period at any time on or before end of Day 7. Similarly, where a number porting is scheduled to complete at noon on Day 7, the cooling-off period (subject to other provisions) shall cease to apply at the start of Day 5.

12.3 This Code of Practice is concerned only with the minimum requirements that service provider has agreed to meet in their form of service contract, and it does not preclude service providers from including other provisions which are not inconsistent with this Code of Practice.

電訊服務合約實務守則

序言

本實務守則旨在令電訊服務合約的條文更清晰，提升客戶對香港電訊服務的滿意程度。

本實務守則為最基本做法的藍本，採用本實務守則的服務供應商可選擇在合約中加入不牴觸本實務守則的其他條文。

1. 定義

1.2 在本實務守則中：

“計帳周期”指服務供應商按照合約，就客戶在每段連續時期內使用的電訊服務向其收取費用的該段時期；

“計帳周期日期”指一個月的某特定日期，而該天被服務供應商指定為每個計帳周期的開始日；

“聯會”指香港通訊業聯會；

“合約”指服務供應商與客戶之間有關一項或多項電訊服務的合約，包括免費試用期之後的服務（第4.4段另有訂定）的合約；

“固定期限合約”指在一段指定時期內以協定價格向客戶提供電訊服務的合約。為免生疑問，按月續期的合約不包括在內；

“**客戶**”指根據服務供應商的標準格式合約而得到電訊服務作個人或住宅用途（即非作商業用途）的住宅或個別用戶；為免生疑問，如服務是以公司／商業名義登記，或服務是提供予商業處所，則一律視作用於商業用途；

“**合約服務收費**”指客戶根據合約和如下文第3.2(e)段所述，使用該客戶明確訂用的電訊服務時須繳付的所有費用或收費（“其他收費”除外）；

“**日期**”指某一天，以曆年內的曆月中的一個曆日表示；

“**天**”指日曆天；

“**最後計帳周期**”指涵蓋固定期限合約到期日在內的計帳周期；

“**通訊辦**”指通訊事務管理局辦公室；

“**其他收費**”指客戶就使用其合約內並沒有明確包含的電訊服務時所須繳付的行政費及按用量計算的收費，並如下文第3.2(f)段所述。如客戶訂用固網服務，其他收費則僅限於與固網服務有關的費用；如客戶訂用流動服務，其他收費則僅限於與流動服務有關的費用；

“**服務供應商**”指電訊服務供應商；

“非應邀合約”指在非應邀到訪客戶住所期間訂立的合約；

“書面確認”指無須客戶簽署的書面合約副本或電子副本（視情況而定）；

“書面合約”指以書面形式列明條款及條件的合約，包含一份或多份文件，並須由客戶簽署以確認下列事宜—

(a) 客戶根據文件所載和所述的條款及條件申請電訊服務；或

(b) 客戶根據文件所載和所述的條款及條件接受電訊服務；

2. 總則

2.1 採用本實務守則的服務供應商會於其網站說明已採用本實務守則。

2.2 採用本實務守則的服務供應商亦可於其合約內說明已採用本實務守則。

2.3 採用本實務守則的服務供應商，會為所有在其各自公佈的生效日期後所訂立的新合約及其他指定合約，採用本實務守則。

2.4 本實務守則載於通訊辦網站：<http://www.ofca.gov.hk>和聯會網站：<http://www.cahk.hk>。

2.5 通訊辦和聯會可公佈關於供應商採用本實務守則的資料，並可定期更新所公佈的資料。

2.6 聯會在諮詢其會員後，將參考通訊辦和其他相關公共機構的相關意見，定期檢討本實務守則。

3. 書面合約的文體、版式及結構

3.1 向客戶提供電訊服務的書面合約

- (a) 須以淺白文字撰寫和以清楚易讀的字體編印；
- (b) 須中英文版本兼備，或按客戶選擇使用中文或英文版本，中文與英文版本合約須具備相同的法律效力；以及
- (c) 須以最少9點大小的印刷字體印刷正文、註腳和備註，並與背景有足夠的對比。

3.2 主體合約文件（用於主要服務，不論是否有附加其他服務）須包含和清晰顯示以下項目：

- (a) 跟客戶訂立合約提供合約涵蓋的所有主要電訊服務的公司名稱（為免生疑問，不包括客戶設備供應商和內容服務供應商的名稱）；
- (b) 跟公司訂立合約的客戶名稱；

- (c) 客戶在該合約訂立時所訂用的具體服務項目，包括主要附帶服務、增值服務或客戶設備，不論個別項目是否需要收費；
- (d) 如合約是固定期限合約，須清楚訂明該固定期限合約的目標生效日期和合約的期限（或目標到期日期），及根據下文6.1（a）及6.1（b）段所述有關收費的資料；以及如符合下文6.2段所述情形，服務供應商有責任通知客戶有關合約即將期滿；
- (e) 清楚指明合約服務收費，即客戶根據合約明確訂用電訊服務而須繳付的所有費用或收費（其他收費除外），包括：
 - (i) 任何按金的金額，以及按金在什麼情況下退回或可被服務供應商動用；
 - (ii) 任何預繳款項的金額，以及預繳款項在什麼情況下退回或用以抵銷收費；
 - (iii) 任何可豁免的費用，在什麼情況下可獲豁免費用；
 - (iv) 所有設置及／或安裝服務的費用；
 - (v) 客戶因用量超逾合約服務收費所涵蓋的用量而須繳付的費用；
- (f) 清楚指明其他收費的類別，即行政費（遺失及更換收費）和按用量收費／費用（例如國際直撥電話、漫遊、國際短訊服務）；有關收費／費用的資料可從何處（例如熱線）索取；如合約是固定期限合約，須指明有關收費／費用會否在合約期內有所更改；

- (g) 清楚指明客戶就合約服務收費可享用的服務；
- (h) 客戶可終止合約的指定安排，以及終止或提前終止合約的費用（如有的話）；
- (i) 延長合約期和續約或更換合約的指定安排；
- (j) 服務供應商可單方面更改的合約條款及條件，以及作出相關更改的安排；
- (k) 服務供應商在合約期滿、終止或取消時必須為客戶作出交還客戶設備的安排，當中不得收取不當的費用或對客戶造成不便；
- (l) 就特定地點提供的服務，清楚指明因應客戶要求把服務遷往其他地點的安排，以及當服務遷址不可行時的安排；以及
- (m) 根據下文第5段所述，清楚指明適用於非應邀合約的冷靜期的資料。

3.3 客戶在簽署書面合約後，須在合理的時間內獲發一份經簽署的合約副本。

3.4 第3.1至3.4段並不適用於無需登記便可享用服務的客戶（例如客戶就流動電話服務購買預繳智慧卡，或就國際直撥電話服務購買預繳電話卡，或客戶獲服務供應商提供免費Wi-Fi試用卡）。

4. 非書面合約

4.2 以實體文件以外的方式（此處所指的實體文件包括網上申請），如經電話（為免生疑問，不包括經客戶手機無線應用協議(WAP)應用程式的網上申請）訂立合約，服務供應商須在其後一段合理時間內（目標是在適用冷靜期屆滿或終止後十個工作天內），按照客戶的選擇，把所提供或維持服務的中文或英文書面確認交予客戶。

4.2 書面確認將以郵遞或服務供應商提供的其他經客戶同意的合理方法送遞給客戶（舉例說，如客戶訂用互聯網服務，服務供應商可發出電郵，提醒客戶在網上查閱書面確認）。

4.3 第 4.1 和4.2 段不適用於以下情況：

- (a) 客戶無需登記便可享用的服務（例如客戶就流動電話服務購買預繳智慧卡，或購買預繳電話卡，或客戶獲服務供應商提供免費Wi-Fi試用卡）；或
- (b) 有關服務是在現有主要服務合約訂立之後再訂用的服務，但服務供應商須向客戶提供合理的方法，以（在任何一日）查閱第3.2段所述服務的合約條款，包括任何適用於客戶的特定條款。

4.4 客戶可自由決定是否接受或使用免費試用服務。若免費試用服務

在免費試用服務期後可能會收費，服務供應商須在提出免費試用服務時向客戶解釋可選擇不接受的任何安排，亦不得對作出不接受要求的客戶造成不便或令客戶承擔任何費用。本實務守則適用於免費試用服務期後的服務。

5. 非應邀合約的冷靜期

5.3 非應邀合約須訂明一段冷靜期，客戶可於其間取消合約而無須繳付任何費用或承擔任何其他法律責任。

5.4 冷靜期須不少於七天，自與客戶訂立非應邀合約的日期起計算。

5.3 非應邀合約須訂明在冷靜期內讓客戶取消合約的安排，而在取消合約的溝通過程中，不得對客戶造成不便，或最多只能向他們徵收與取消合約相關、合理及適當招致的費用。

5.4 非應邀合約可訂定客戶在簽署合約時同意豁免冷靜期，惟豁免條款須要求客戶明確表示儘管他們明白冷靜期對他們的好處，但在沒有服務供應商勸誘下，仍然選擇豁免冷靜期。

5.5 冷靜期不適用於以下情況：

(a) 對於客戶無需登記便可享用的服務（例如客戶就流動電話服務購買預繳智慧卡，或購買預繳電話卡，或客戶獲服務供應商提供免費Wi-Fi試用卡）；

- (b) 有關服務是在現有主要服務合約訂立之後再訂用的服務；或
- (c) 延長合約期、續約或更換合約（視乎情況而定），除非有關延長合約期、續約或更換合約的安排是在非應邀到訪客戶住所期間訂立。

5.6 如符合第5.7段所述情形，在出現以下情況或根據上文第5.2段期滿時（以較早的為準）冷靜期不再適用：

- (a) 服務一旦已開始提供；
- (b) 服務供應商一旦已實質地開始為提供服務進行安裝或設置工作（包括已與第三方作出安排）；
- (c) 因訂用服務而提供的網絡終端裝置、用戶室內設備或用戶裝置、或任何宣傳禮品一旦已由客戶收取或送達客戶；
- (d) 經由客戶同意的號碼轉攜完成日的三天前；或
- (e) 已就有關合約向客戶打出服務確認通話，但：
 - (iii) 服務供應商須清楚通知客戶，而客戶亦須確認知道在完成服務確認通話後，冷靜期即會終止；以及
 - (iv) 服務確認通話在非應邀合約訂立後超過一個小時後向客戶打出（如該服務確認通話是在合約訂立後一個小

時內向客戶打出，冷靜期則仍然有效，直至冷靜期結束或出現第 5.6(a)至(d)段所述的情況，以較早出現的情況為準）；

5.7 就第5.6段而言，服務供應商須在相關合約或通過合約以外的方式清楚通知客戶，而客戶亦須確認知道，在訂立合約前，(i)一旦第5.6(a)至(e)段所提及的情況發生，客戶可享的冷靜期便會終止；以及(ii)該等情況會於何時發生（根據服務供應商合理的相關經驗下）。服務供應商亦須備存有關通知證據和客戶的確認，例如書面副本或電話談話的錄音。

5.8 儘管上文所述，服務供應商可彈性推行更佳的冷靜期安排，為客戶提供額外的保障，例如服務供應商可提供自與客戶訂立合約日期起計超過七天的冷靜期，以及為透過非應邀到訪以外的其他銷售渠道所訂立的合約提供冷靜期。

6. 固定期限合約期滿

6.1 固定期限合約須符合下列要求：

(a) 合約須訂明合約期的目標生效日期及合約期限（或目標到期日期），並須清楚區別提供／終止服務或客戶可能須履行付款責任的日期，或有關客戶選擇延長合約期、續約或更換合約的日期；

(b) 如根據上文6.1(a)段訂定的目標生效日期與首個計帳周期日期不一致，則：

- (i) 須在合約內清楚述明首個計帳周期日期，或如未能這樣做的話（例如由於計帳周期日期只能在之後定出），則目標生效日期與首個計帳周期日期之間的期間不應超過一個月，以及在定出計帳周期日期後，在可行的情況下盡快告知客戶；以及
- (ii) 須在合約內清楚列明在目標生效日期與首個計帳周期日期之間的期間，以及在固定期限合約期滿日與最後計帳周期最後一天之間的期間，會如何就有關服務向客戶收取費用，並提供合理詳情，例如述明將收取的費用或收費方式（與固定期限合約期內的費用或收費相同、標準合約費用或收費，或其他），以及會否在固定期限合約期滿日之後的期間按比例收取費用；
- (c) 合約須訂定服務供應商在合約期滿日前不多於60天及不少於30天，通知客戶合約即將期滿；
- (d) 合約須訂明服務在合約期滿日之後會否繼續向客戶提供：
 - (i) 以待續約、延長或更換合約；或
 - (ii) 以待客戶通知終止服務；或
- (e) 如服務在合約期滿之後繼續提供，合約須訂明客戶應付的費用（例如按當前的市場價格計算），以及對服務的提供或客戶原先的權利、責任或利益會否有任何更改，或如在訂立合

約時不能確認或訂明有關費用或更改，須在續約日期前不少於30天通知客戶有關費用或更改（如適用）。

- 6.2 為免生疑問，第6.1段只適用於固定期限合約期。如服務供應商已提供合理的方法，讓客戶（在任何一日）翻查合約期滿日期，第6.1(c)段便不適用。

7. 客戶終止合約

- 7.1 合約須訂定客戶有終止合約的權利，包括：

- (a) 客戶無須就終止合約給予服務營辦商多於一個月的預先通知；
- (b) 終止合約的安排不得對客戶造成不便，或涉及不合理的拖延，或如按通知終止合約，最多只能向客戶徵收相關、合理及適當招致的費用。例如，建議服務供應商應在適當情況下(1) 在網站提供終止服務申請表，以供客戶下載；(2) 接受任何書面終止服務要求；(3) 迅速認收任何口頭、書面或親身提出的終止服務要求；以及(4) 迅速處理有關的終止服務要求，不得作出不合理的拖延；以及
- (c) 須清楚訂明提早終止合約可能須付特定費用，例如客戶須就獲贈禮品或獲提供設備繳付費用和相關的金額、任何行政費用，以及客戶就合約剩餘期數應付的實際款額。

- 7.2 就第7.1(b)段而言，服務供應商須提供合理的方法，讓客戶（在

任何一日) 取得有關終止合約的資料和行使終止合約的權利，不得作出不合理的拖延。

7.3 當客戶根據合約條款行使權利終止任何可分割的服務項目時，此終止不會影響合約其他項目的效力及作用。

8. 延長合約期或續約或更換合約

8.1 有關延長合約期或續約或更換合約的條文須訂定，對表示同意的客戶的安排須包括讓客戶收到書面確認，由客戶選擇有關確認為英文本還是中文本。

8.2 合約須訂定在延長合約期、續約或更換合約後的一段合理時間內，書面確認將以郵遞或服務供應商提供的其他經客戶同意的合理方法送遞給客戶（舉例說，如客戶訂用互聯網服務，服務供應商可發出電郵，提醒客戶在網上查閱書面確認）。

8.3 如得到客戶的同意按原來書面合約或確認的相同條款或更優惠條款延長合約期、續約或更換合約，而服務供應商有備存有關客戶同意延長合約期、續約或更換合約的證據（例如電話談話錄音），並提供合理的方法，讓客戶（在任何一日）翻查第3.2段所述的合約條款（包括任何適用於客戶的特定條款），第8.1及8.2段便不適用。

8.4 自動延長合約期或續約受制於第7.1段。除非客戶在原來書面合約上已特意表明，或在以書面以外的方式訂立合約時特意確認接受自動延長合約期或續約，而服務供應商有備存有關客戶同意自

動延長合約期或續約的證據（例如電話談話錄音），否則不可為該客戶自動延長合約期或續約。

- 8.5 為免生疑問，第8段提述的“延長合約期”和“續約”指在固定合約期屆滿後，以指定的固定合約期延長合約期或續約（視屬何情況而定），但不包括第6.1(c)段提及的按月延長提供服務。

9. 單方面更改條款及條件

- 9.1 如合約包括容許服務供應商單方面更改任何合約條款或條件的條文，該些條文須包括以下特點：

- (a) 可由服務供應商單方面更改的指明條款及條件；
- (b) 如有關更改會(i)導致服務合約收費增加或(ii)對大量使用該服務的客戶有重大及負面的影響，服務供應商須使用合理方法，在有關更改生效前給予受影響客戶不少於30天的預先通知；
- (c) 如有關更改會導致其他收費增加（國際直撥電話或漫遊服務收費除外，但服務供應商須通知客戶有關收費可能會不時更改³），服務供應商須在有關更改生效前不少於30天，在其網站或通過其認為合適的其他方法，就有關更改通知受影響的客戶；以及

³ 這包括日後提供的服務，而提供這些服務的成本會大受第三者的影響而出現波動，並不在服務供應商的控制範圍內。

- (d) 條文須容許客戶在下列的情況發生時，給予不多於更改生效前15天的預先通知以終止合約，而客戶無須就終止合約承擔任何費用（直接相關費用則除外）：
- (i) 合約服務收費的增加（不包括該些於客戶安裝或訂用服務後不再適用於該客戶的費用，例如服務設立／安裝費、按金款額、預繳費用款額或任何可被豁免之費用）；
 - (ii) 其他費用的增加，而該等費用則為客戶要繼續使用其訂用服務時所必須繳付的（例如補發遺失智慧卡的費用）（國際直撥電話或漫遊服務收費除外，但服務供應商須通知客戶有關收費可能會不時更改³），同時該等費用的增加幅度須超過港幣30元，或等同每月合約服務費款額的30%，以較高者為準；或
 - (iii) 客戶能證明更改合約條款會對他／她所使用的服務帶來重大及負面的影響。

10. 向服務供應商交還客戶設備

- 10.1 如服務供應商向客戶提供的設備須在合約期滿、終止或取消時交還，合約須訂明客戶交還設備的方法，在交還設備時不得對客戶造成不便，或最多只能向客戶徵收相關、合理及適當招致的費用。

11. 客戶遷址

- 11.1 如合約是關於在某指定地點提供服務，服務供應商須告知客戶下

列事項：

- (a) 客戶有權要求搬遷該服務至他／她居住的另一個地點，但他／她必須向服務供應商提供滿意的證明，以證實他／她將確實居住在該地址；
- (b) 服務供應商會合理地盡力在擬搬遷至的處所提供服務；
- (c) 服務供應商如滿意上述(a)段提及的證明，會盡快通知客戶能否在擬搬遷至的處所提供服務，以及任何適用的費用；
- (d) 如服務供應商因未有網絡覆蓋而無法在擬搬遷至的處所提供服務，客戶有權選擇繼續在原址使用服務或終止合約。終止服務收費應以某公式計算或是指明的最高金額。客戶在簽約前應獲告知這項收費；
- (e) 如客戶選擇根據上述(d)段終止合約，終止服務的費用款額(如適用)應僅包括(i)涉及或已被豁免的安裝費及已經給予客戶的任何迎新禮品的價值；以及(ii)按比例計算根據客戶同意在訂明的合約期內使用有關服務而給予他／她的任何利益的價值，包括但不僅限於優惠月費。為免生疑問，有關終止服務的費用不會包括剩餘合約期的任何服務月費。然而，如客戶根據上述(a)段所述，提供令服務供應商滿意的證明，服務供應商可在其認為合適時，酌情因應任何已給予客戶的優惠(例如迎新禮品)，剩餘的合約期數，以及任何其他情況下，減少或豁免有關的終止服務費用。

12. 其他

12.1 在本實務守則，“合理的方法”和“不便”的字或詞須包含以下對服務供應商的要求：

- (a) 服務供應商須提供合理的方法，讓客戶查詢合約條款、約滿日期、終止合約或搬遷地址的資料。這些方法可包括但不限於網上查詢、電話查詢或店舖查詢，以及服務供應商可能提供的其他方法；
- (b) 如客戶使用電話查詢，服務供應商須盡量在其公佈的客戶約章內承諾的時間內，或在其接聽訂購服務查詢一般所須的時間內，接聽客戶的電話；
- (c) 服務供應商須在切實可行範圍內，盡快以客戶查詢的方法或客戶與服務供應商同意的其他方法提供合約條款、約滿日期、終止合約或搬遷地址的資料；
- (d) 如合約規定須以訂明的表格遞交終止或遷址的書面通知，服務供應商須在切實可行範圍內，在客戶要求後盡快以傳真、郵寄、電郵、網上下載或在店舖提供該表格。客戶亦可以上述經客戶及服務供應商雙方同意的方法交回表格；
- (e) 關於免費試用期後選擇不接受服務的安排及冷靜期內取消合約，服務供應商須因應客戶要求免除以書面遞交不接受通

知或取消通知的需要，並以其他有效方法（包括客戶可以自由選擇使用電話、網上或在店舖辦理，或經客戶與服務供應商雙方同意的其他方法）及適當核實客戶資料情況下處理不接受服務或取消合約的安排；以及

- (f) 如合約條款訂定客戶交還設備，服務供應商須容許客戶以其自由選擇的方法，到服務供應商的指定辦公室、店舖或中心交還設備。

12.2 就本實務守則關於計算時間而言，事件發生的當天將被包括在計算內。例如：合約在第一天的中午簽訂，客戶可（受限於其他條文下）在七天冷靜期內第七天或之前的任何時間內行使取消權利。同樣地，當號碼轉攜被安排在第七天中午完成，冷靜期（受限於其他條文下）在第五天的開始不再適用。

12.3 本實務守則就服務合約而言，只屬服務供應商同意符合的最低要求，無礙服務供應商增訂其他沒有抵觸本實務守則的條文。

香港通訊業聯會

二零一四年十月三十一日