

Prakas on Unfair Contract Term

The Prakas on Unfair Contract Term (“**Prakas**”) was adopted on 1 March 2022 to protect the consumer rights against any excessive exploitation of profits and situations in relation to the contractual relationship between consumers and business operators via standard contract for the provision of goods and/or services in the Kingdom of Cambodia.

Matter	Description
Scope of Application	Apply to all type of standard form contract made for the provision of goods and/or services in the Kingdom of Cambodia to the consumers as defined under the Law on Consumer Protection.
Definition	<ul style="list-style-type: none"> – Substantial Clause refers to any substantial clause or term of the standard form contract that are important for the consumers or the consumer deems important for the formation of the contract and the business operator should have been aware of the importance of such clause. – Unfair Contract Clause refers to any clause of the standard form contract creating an excessive disadvantage to consumers. – Standard Form Contract: refers to a contract or any material clause of a contract which is/are pre-formulated by the business operator for the provision of goods and/or services to the consumer without allowing the consumer to negotiate, to revise or to influence in whatever form.
Requirement for Standard Form Contract	<ul style="list-style-type: none"> – Substantive Requirement: The contract shall be (1) made in written form, (2) in Khmer language (foreign language can be made upon the voluntary of the consumer) and (3) consisted of all minimum standard information as required under Law on Consumer Protection. – Explanatory Requirement: The business operator is required to explain, indicate, and give a clear information to consumers.
Unfair Contract Clause	The business operator is restricted from including any and all unfair clause as below: <ul style="list-style-type: none"> – Any clause excluding or limiting the liabilities of the business operator on the guarantee of the services and/or goods as provided under the Civil Code; – Any clause granting the right to the business operator to materially change or modify the type quantity, price and quality of goods and/or services without prior consent from the consumer; – Any clause granting the right to the business operator to change any Substantial Clause of the Standard Form Contract without prior consent from or notice to the consumer; and – Any Clause granting the right to the business operator to unilaterally and arbitrarily interpret or to terminate the contract with his or her own discretion.
Evaluation and Assessment of Excessive Benefits	The evaluation on the excessive benefit shall be assessed with the strictly consideration to the dominance of economic, social situation, ignorance, inexperience, other circumstances that deemed necessary for formation of contract; and other conditions as may be determined under the special laws and regulations.
Requirement for Change of Contract	The change of substantial clause shall require the written consent of the consumer. For any change of the contract terms other than the substantial clause, the business operator shall provide a written notification to the consumer.
Preliminary Review and Complaint	<ul style="list-style-type: none"> – Competent Authorities for Preliminary Review: (i) National Committee for Consumer Protection (“NCCP”), and (ii) any other sectoral competent regulator. – Competent Authorities for the Receipt of Complaint: (i) the NCCP and (ii) any other sectoral competent regulator.
Rescission and Ratification	The consumer may rescind or ratify any clause of excessive benefit and Unfair Contract Clause in accordance with the procedure and requirement as provided under Article 360, 362 and 363 of the Civil Code by signing or affixing his or her thumbprint on a written rescission or ratification form separate to the Standard Form Contract. Such rescission and ratification of all consumers of the business operator shall waive the liabilities of the business operator under this Prakas.