Global Corporate Real Estate Guide - Thailand

Leases

| Contents |
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| To generate table of contents, right-click here and select **Update Field.** |

# What are the usual forms of leases?

General lease

The lease of real property must have some written evidence signed by the party liable, otherwise it is not enforceable by action. A lease that is for more than three years or for the lifetime of the landlord or tenant shall be made in writing and registered at the competent land registry office, otherwise it is enforceable only for three years. The duration of the lease cannot exceed 30 years. If it is made for a longer period, it shall be reduced to 30 years. The lease may be renewed, but its duration must not exceed 30 years from the time of renewal.

Lease of real property for commerce and industry

The duration of such lease is for more than 30 years but must not exceed 50 years. The lease shall be made in writing and registered by the competent land registry office. The lease may be renewed upon expiration, but its duration must not exceed 50 years from the agreement date. This form of lease is available only to land categorized by the city planning law as commercial or industrial zone.

Lease of land for agriculture

This form of lease is enforceable by action even without written evidence signed by the party liable. If the written evidence does not specify a lease period, or if the specified period is less than two years, it shall be extended to two years. If there is no written evidence, the lease period shall be six years. The rent of such lease can be paid with an agricultural product. Moreover, the lease does not terminate on the ground of the tenant’s death. The successor or the heir of the tenant may, within 60 days, demand continuity of the lease.

# Are lease provisions regulated or freely negotiable?

Lease provisions by an operator who leases five or more property units (i.e., rooms, houses, condominium units, and apartments — with the exception of dormitories and hotels) to individual tenants for residential purpose are regulated by the consumer protection law.  Agreements for such residential lease must include provisions required by the regulations. The regulations also forbid these agreements from having certain types of provisions.

For other types of leases, their provisions are freely negotiable. However, the lease of real estate is not enforceable by action unless there is some written evidence signed by the party liable. If such lease is for more than three years or for the lifetime of the landlord or tenant, it is enforceable only for three years unless it is made in writing and registered at the competent land registry office.

# Is there a maximum term for leases? Can these be extended?

The duration of a lease of real property cannot exceed 30 years. If it is made for a longer period, the period shall be reduced to 30 years. The lease may be renewed, but its duration must not exceed 30 years from the time of renewal. Nevertheless, a lease agreement can be made for the duration of the lifetime of the landlord or the tenant.

However, the law permits a lease agreement of real property for commercial and industrial purposes to be made for a period over 30 years, but not exceeding 50 years. The lease may be renewed for a duration not exceeding 50 years from the time of renewal. Such duration is applicable only to land located in the areas zoned by city planning law as commercial or industrial zone.

# What are the usual lease terms?

This depends on the purpose of the lease.

# Are there instances where tenants may demand an extension of the lease?

No.

# On what grounds may a lease be terminated?

A landlord can generally terminate the lease under the following circumstances:

The tenant breaches the terms of the lease, including non-payment of rent.

The tenant sublets or transfers his/her rights of the property, in whole or in part, to a third person without the consent of the landlord.

The tenant uses the property for purposes other than those that are ordinary and usual, or that have been provided in the agreement, provided that warning must be given before termination.

The tenant fails to generally take care of or fails to normally maintain or conduct petty repairs to the property, provided that warning is given before termination.

# Must rents be paid in local currency?

The parties may agree to pay rent in other currencies.

# Is rent paid on a monthly basis? Is it required to be paid in advance?

This will depend on the agreement of the parties.

# How is rent reviewed? Are there limits to the increase in rent?

No.

# What are the basic obligations of landlords and tenants?

The following is usually required of landlords:

Deliver the property to the tenant in a good condition

Repair and maintain the structure of the property

Pay half of the agreement registration fees

Reimburse to the tenant any necessary and reasonable expense incurred by the tenant for the maintenance of the property, except those for ordinary maintenance and petty repairs

The following is usually required of tenants:

Pay rent and half of the agreement registration fees

Generally take care of and ensure ordinary maintenance and petty repairs of the property

Inform the landlord if the structure needs to be repaired, if a preventive measure is required to avoid danger or if an unauthorized person trespasses on the property

Allow the landlord to access the property (often by appointment) for inspections and landlord’s work

Return the property in good condition upon termination or end of the agreement.

# What provisions or restrictions typically apply to the transfer of the lease by the tenant? May a tenant sublet the leased premises?

A tenant shall not sublet the leased premises or transfer his/her rights to a third person, in whole or in part, unless consent of the landlord is granted. If the tenant sublets the premises or transfers the lease without the landlord’s consent, the landlord shall have a right to terminate the agreement.

# What happens in the event of destruction of the leased premises?

If the leased premises is wholly destroyed, the lease agreement shall be concluded, regardless of whether the destruction is due to the fault of any contracting party or an act of God.

# Who is usually responsible for insuring the leased premises?

The landlord is responsible for insuring the leased premises. Moreover, for certain types of buildings, the landlord, occupier or operator of the building is required to arrange for liability insurance against the life, body and property of third persons.

# Will the lease survive if the owner sells the leased premises?

Lease agreements survive and are binding upon the new owner.

# Will the lease survive if the leased premises are foreclosed?

Lease agreements survive and are binding upon the new owner.

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