Global Corporate Real Estate Guide - Brazil

Leases

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

# What are the usual forms of leases?

The following are the usual forms of leases:

Commercial leases

Most commercial offices, retail space and standard industrial space are available only through a commercial lease. Most commercial lease transactions commence with an offer to lease, which contains the business terms agreed on by the parties, including the space, term, rent and any tenant inducements. Commercial leases typically require tenants to be responsible for their proportionate share of property taxes, insurance, common operating expenses and common area utilities. Tenants are further responsible for all costs associated with their own occupancy including personal property taxes, janitorial services and all utility costs. In a retail lease (mostly in shopping center leases), a tenant may also be required to pay rent based on a percentage of its sales. In a built-to-suit type of lease, early termination by the tenant is contingent on the payment of contractual penalties not exceeding the aggregate amount of rent maturing until the end of the term originally agreed.

Residential leases

Residential leases are regulated by federal legislation, which will override the terms of the lease contract, regardless of the intention of the parties.

# Are lease provisions regulated or freely negotiable?

Except for the matters deemed as public policy (as provided under Brazilian real estate lease law, such as the mandatory renewal in commercial leases and the right of first refusal, just to mention the most relevant ones), leases can be freely negotiated.

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

There is no maximum term for leases. However, if the landlord is a married individual and the lease term exceeds 10 years, the consent of the landlord’s spouse is required.

# What are the usual lease terms?

Residential leases are generally entered into for a term of 30 months, as such term grants the landlord certain termination rights. Commercial leases are generally entered into for a term of five years, as they grant tenants certain rights to renew. Some landlords try to enter into a lease of less than five years to avoid mandatory renewal.

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

For commercial leases with a term equal to or greater than five years (or if the sum of successive terms is equal to or greater than five years), among other legal requirements, the tenant may demand a lease extension for a term equal to the expired term.

# On what grounds may a lease be terminated?

A landlord can only terminate a lease under limited circumstances, such as if the tenant breaches the lease and the breach is not cured or if urgent repairs required by public authorities that cannot be performed with the tenant occupying the real estate. In case of a breach of payment of rent, for instance, the tenant may have certain rights to cure default as provided in the lease law. In case of residential leases entered into for a term of 30 months, after the end of the term, the landlord may terminate the lease for convenience. In case of commercial leases effective for an indefinite term, both parties may terminate the lease for convenience by means of 30-day prior notice (or the prior notice period agreed under the contract, if it is longer than 30 days). Tenants, on the other hand, can always terminate leases for convenience at any time on prior notice and payment of a penalty (in an amount agreed under the contract or fixed by a court).

# Must rents be paid in local currency?

Yes. Pursuant to Brazilian real estate lease law, even if the landlord is a foreigner, rent must be paid in Brazilian currency.

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

Rent is typically paid on a monthly basis. Rent can be required to be paid in advance; in which case the landlord cannot require a guarantee from the tenant for the payment of the rent. Temporary residential leases usually provide for the rent to be paid in advance.

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

Rent can be increased due to inflation every 12 months. In addition, rent can be reviewed three years after the start date of the lease if it is not aligned with market value for similar real properties in the region.

# What are the basic obligations of landlords and tenants?

The following is usually required of landlords:

Repair and maintain the structure of the property

Grant the tenant the use of the property and hold the tenant harmless from disturbances in its use

Pay for non-ordinary maintenance fees (in case of condominium)

The following are usually required of tenants:

Pay rent on time

Offer a guarantee to secure payment of rent

Keep the property in good order and return it in the same condition (regular wear and tear is exempted)

Give the landlord access (often by appointment) for inspections and landlord’s work

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

Tenants are generally allowed to assign the lease or sublet the premises, provided that they obtain the landlord’s consent.

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

If the premises are substantially damaged or destroyed by an act of God, the lease is often terminated. Rent generally abates according to the extent of the damage or destruction.

If the premises are damaged or destroyed due to causes attributed to the tenant, then the tenant may be liable for repairs or replacement.

# Who is usually responsible for insuring the leased premises?

The landlord is usually responsible for insuring the leased premises and recovers the cost from the tenant.

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

Tenants are granted the right of first refusal if the owner sells the leased premises. If the right is not exercised, the tenant may have the right to maintain the existing lease in effect under the following circumstances:

The agreement establishes that it will continue in force in case of sale to third parties

The agreement was entered into for a fixed term

It is registered before the relevant matrícula

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

The lease will survive at the option of the lender or buyer (in case of an auction resulting from foreclosure), unless the lease agreement is registered at the relevant matrícula.

©Copyright © 2025 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.