Global Corporate Real Estate Guide - United Arab Emirates

Leases

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# What are the usual forms of leases?

**Dubai**

In Dubai, to register a short-term lease on the Ejari system, the lease must be in the form of the mandatory Unified Ejari Tenancy Contracts, which is a template lease that must be used and can be supplemented by additional terms and conditions.

Long-term leases that are required to be registered with the Dubai Land Department do not need to be in a particular format.

**Abu Dhabi**

In Abu Dhabi, short-term leases are to be registered with the Tawtheeq and long-term leases (over four years and under 25 years) are to be registered with Tamleeq.

# Are lease provisions regulated or freely negotiable?

**Dubai**

In Dubai, there are several free zone areas such as Jebel Ali Free Zone Authority, National Industries Park and Dubai Investment Park where the leases are standard and nonnegotiable.

**Abu Dhabi**

In Abu Dhabi, the ADGM provides a standard form of lease that may be negotiable.

In both Abu Dhabi and Dubai, leases between private landlords and tenants are freely negotiable.

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

A usufruct right ends after 50 years, unless another period is specified in the deed establishing the right. The maximum term for a musataha right is 50 years with a right to extend for a further 50 years. The maximum term for a lease is 99 years. Short-term leases must not exceed 10 years (or four years in Abu Dhabi) and can be renewed on expiry, if the new lease does not exceed 10 years (or four years).

# What are the usual lease terms?

The duration of the term is a matter for commercial negotiation. Tenants will usually ask for a longer term where the tenant has to incur substantial expenses in the fitting out and decoration of the premises concerned.

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

In Dubai, the tenant has an automatic right to renew the lease. However, the landlord can object to the renewal of a lease and request the eviction of the tenant on expiry of the lease in the following circumstances:

Urban development in the emirate mandated the demolition of the property

Renovation or carrying out overall maintenance

Demolition of the property and rebuilding thereof

Recovery of the property for their own private use

# On what grounds may a lease be terminated?

A lease will usually terminate under any of the following circumstances:

Either the landlord or the tenant fundamentally breaches the lease.

The tenant sublets without the landlord’s permission.

The tenant fails to pay rent within the stipulated period.

# Must rents be paid in local currency?

Rent is often specified in Emirati dirhams or US dollars. Unless specified otherwise in the lease, the tenant has to pay rent in Emirati dirhams.

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

The manner of payment of rent is a matter that the parties are free to agree. Rent is usually paid quarterly by way of postdated cheques or via electronic transfer.

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

Leases often contain a rent review clause. Rent review will generally be carried out at contractually specified intervals during the term or toward the end of the term for determining the rent for the renewed term in cases where the tenant exercises its option to renew.

The general purpose of a rent review clause is to ascertain the level of market rent. A rent review clause will usually provide for the new rent to be agreed between the parties, and if the parties fail to reach an agreement, the rent will be determined by an independent valuer (a valuation surveyor, usually) as expert.

**Dubai**

In Dubai, Decree No. (43) of 2013 Determining Rent Increase for Real Property in the Emirate of Dubai provides that when reviewing real property lease contracts, the maximum percentage of rent increase will be as follows:

No rent increase where the rent of the property unit is up to 10% less than the average rental value of similar units

5% of the rent of the property unit, where the rent is 11% to 20% less than the average rental value of similar units

10% of the rent of the property unit, where the rent is 21% to 30% less than the average rental of similar units

15% of the rent of the property unit, where the rent is 31% to 40% less than the average rental value of similar units

20% of the rent of the property unit, where the rent is more than 40% less than the average rental value of similar units

**Abu Dhabi**

Abu Dhabi Law No. (20) of 2006 as amended, entitles the landlord to increase the rent by a maximum rate of 5% of the existing rate of the rental amount.

# What are the basic obligations of landlords and tenants?

Some basic obligations of a landlord include the following:

Permitting the tenant to have quiet possession and enjoyment of the premises during the lease term

Delivering the premises to the tenant in a condition consistent with the agreed handover condition

Paying property tax in respect of the premises

Some basic obligations of a tenant include the following:

Paying rent in accordance with the lease

Paying all rates and outgoings in respect of the premises, except those for which the landlord is liable

Using the premises for permitted use under the lease

Keeping and maintaining the premises in good, clean, tenantable and proper repair and condition

Allowing the landlord to enter the premises at reasonable times to view the state of repair or to see if repairs need to be carried out

Not doing anything to prejudice the title of the landlord

Returning vacant possession of the premises at the end of the lease term in the conditions as when leased to them or in such other conditions as the parties may agree in the lease

Indemnifying the landlord for the loss or damage caused by defective or damaged condition of the premises or owing to spread of fire or smoke or leakage of liquid

Effecting and maintaining comprehensive insurance cover in respect of the premises against damage by perils and also public liability insurance cover

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

A leasehold is an interest in land that is freely alienable. The most typical types of transactions relating to a leasehold interest are assignment of the interest and subletting.

Practically speaking, a lease will almost invariably restrict the tenant’s freedom to deal with the leasehold interest, although the extent of such restriction varies between agreements.

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

Usually, a lease will contain an abatement of rent clause, which provides that the rent or a fair proportion thereof will be suspended from the occurrence of damage or destruction or order until the premises or the building will again be rendered fit for occupation or accessible, or until the demolition order or closing order is lifted (as the case may be). If the premises or the building have not been reinstated within a predetermined period, either party has the right to terminate the lease.

# Who is usually responsible for insuring the leased premises?

There is usually an express provision in a lease that specifies the landlord’s obligation to insure the structure of the exterior of the premises and the common areas and the tenant’s obligations to insure the nonstructural interiors of the leased premises and third-party liabilities.

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

A lease will generally survive a subsequent sale of the leased premises and the terms and conditions of the lease will typically be transferred to the new owner.

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

An existing lease is generally binding on the mortgagee and any sale by the mortgagee will be subject to that lease.

Where a lease is created after a sale, the mortgage deed will require the mortgagor to obtain the mortgagee’s consent before creating the lease. If consent is obtained, then the lease will not be challenged.

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