

# Finance Lease Law



## Introductory Chapter

### Definitions

#### Article 1

The following terms and phrases – wherever mentioned in this Law – shall have the meanings assigned thereto unless the context requires otherwise:

**Law:** Finance Lease Law.

**Regulations:** Implementing Regulations of this Law.

**SAMA:** Saudi Arabian Monetary Agency.

**Governor:** Governor of Saudi Arabian Monetary Agency.

**Contract:** Finance lease contract.

**Lessor:** A joint stock company licensed to offer finance lease.

**Lessee:** A person holding the right to use the leased asset under a contract.

**Producer:** Producer of the leased asset.

**Supplier:** Supplier of the leased asset.

**Leased asset:** Any asset that can be leased whether real estates, movables, rights, services and intangible rights such as intellectual property rights.

**Basic maintenance:** The maintenance indispensable to the original asset as per norm.

**Operational maintenance:** The maintenance needed for the continuation of the asset's benefit as per norm.

**Contract register:** A register for finance lease contracts concluded or executed in the Kingdom, sales contracts resulting from finance lease and any amendments thereto in accordance with the provisions of this Law.

## Chapter One

### Finance Lease Contract

#### Article 2

1. The finance lease contract is a contract under which the lessor leases fixed or movable assets, rights, services or intangible rights in the lessor's capacity as owner or owner of proceeds thereof, or a person able to own or produce such assets, provided that the lessor has obtained such assets for the purpose of leasing them, as a business, to a third party, as specified by Regulations.
  
2. Without prejudice to provisions governing Real Estate Ownership by Non-Saudis, ownership of leased assets may be conveyed to the lessee pursuant to the provisions of the contract either by stipulating that ownership conveyance is conditional on paying the dues of the contract, paying such dues plus a certain amount, promising to sell for a nominal price, paying the price agreed upon in the contract, paying the value of the leased asset at the time of concluding the sale contract, or by way of gift.

#### Article 3

A written or electronic contract shall be concluded between the lessor and the lessee and shall include information relating to contracting parties, leased asset and its condition, lease amount, payment terms as well as contract terms and conditions. The contract and any amendments thereto shall be registered in the contract register in accordance with the provisions of this Law.

#### Article 4

Prior to concluding the contract, the lessee may determine the specifications of the asset to be leased with the supplier, producer or contractor. The lessee shall be liable for any consequences resulting from determining asset specifications.

If such specifications were determined with the approval of the lessor, such specifications shall be binding to the lessor only within the limits of such approval.

#### Article 5

If the lessor authorizes the lessee in writing to directly receive the leased asset from the supplier, producer or contractor as per the conditions and specifications set out in the contract, such receipt shall be by virtue of a record establishing the conditions of the leased asset. The lessee shall be responsible *vis-à-vis* the lessor for any information about the leased asset stated in said record. If the supplier, producer or contractor refuses to sign the record, the lessee may refuse receipt of such asset.

## **Article 6**

1. The lessee shall make the agreed lease payments on dates set in the contract regardless to whether the lessee benefits from the leased asset, unless the failure to benefit is caused by the lessor.
2. A condition to advance the maturity dates of future lease payments to be made by the lessee in case of default is permissible, provided such payments do not exceed the number of defaulted payments.
3. Part of the lease payments may be advanced, and the advance lease payments shall be refunded in case of failure to deliver the leased asset or benefit therefrom for a reason not attributed to the lessee.

## **Article 7**

1. The lessee shall use the leased asset for the agreed purposes within the ordinary use and shall be responsible for performing the operational maintenance at his own expense according to prevailing technical practices. The basic maintenance shall be performed by the lessor unless agreed to be performed by the lessee. In such case, the basic maintenance shall be limited to wear and tear rather than inherent defect or fault in the leased asset.
2. The lessee shall promptly notify the lessor at his address of any occurrence that prevents whole or partial use of the leased asset, in accordance with the Regulations.

## **Article 8**

The lessee may not make any alterations or modifications to the leased asset without a written consent by the lessor. Such consent shall determine the nature and scope of such alterations or modifications and the party responsible for the cost.

## **Article 9**

1. The lessee shall not be liable for loss of the leased asset unless caused by deliberate act or negligence on his part. If such loss is due to deliberate act or negligence on the part of the lessee, he shall be liable to pay the value of the leased asset at the time of loss save for what is covered by insurance.
2. The lessor shall be liable for the consequences of loss if caused by the lessor or by force majeure.
3. The lessor shall be responsible to obtain cooperative insurance on the leased asset and shall not require it from the lessee.

## **Article 10**

Tradable securities may be issued against the lessor's rights in accordance with regulations and rules issued by the Capital Market Authority.

**Article 11**

The lessee may assign the contract to another lessee upon the lessor's approval. The Regulations shall stipulate provisions governing such assignment.

**Article 12**

1. The lessor may affix any information to the leased moveable asset to protect it, including the lessor's name and the contract registration number in the contract register.
2. The lessor, or designee, may inspect the leased asset to ascertain the continuity of possession by the lessee and examine its condition, provided this is not harmful to the lessee as provided for in the Regulations and the contract.

**Article 13**

1. If the possession, operation or management of the asset subject of the contract requires obtaining a license, the lessee may apply to the competent authority to obtain such license based on the registered contract in accordance with the provisions of this Law. The license may be issued in the name of the lessor with an indication that the leased asset is in the possession of the lessee under the contract. This shall be specified in the Regulations.
2. Unless agreed otherwise, the lessee shall bear all statutory fees for obtaining the license and renewal thereof.

**Article 14**

The lessee shall be liable for damages resulting from use of the leased asset.

**Article 15**

If the lessor sells the leased asset to a third party, ownership of said asset shall be transferred encumbered by the contract.

**Article 16**

The lessee may not accord rights against ownership of the asset nor pledge it to a third party without the written approval of the lessor.

**Article 17**

If the leased asset is a moveable asset, it shall remain as such even if it turns into a fixed asset or is attached to a real estate.

## Chapter Two

### Contract Register

#### Article 18

1. Without prejudice to the provisions of the Companies Law, a joint stock company or more shall be incorporated pursuant to a license from SAMA to register contracts. Such joint stock company shall undertake the following;
  - a- Prepare a register for contracts without prejudice to the provisions of the Real Estate Registration Law;
  - b- Register contracts which include information on the leased assets and related rights;
  - c- Disclose contract records to the licensed finance entities upon the written approval of the lessor.
2. Participation in the incorporation and ownership of the contract registration company provided for in Paragraph 1 of this Article shall be restricted to companies licensed to offer finance leasing. SAMA shall regulate increase of the capital of the contract registration company– by new licensed companies joining in the ownership of said company– and distribution of profits subject to Companies Law and Capital Market Law and its Regulations.
3. The Regulations shall regulate procedures for entry into the register of the contract registration company, the title deed of personal properties, other information required for registration, amendment and cancellation procedures, right of disclosure to third parties, retention period, registration information uniformity, exchange and access as well as fees for services offered.

#### Article 19

- 1- Without prejudice to the provisions governing acquisition of real estates, ownership of the leased assets by the lessor vis-à-vis third parties shall be established by contract registration in accordance with this Law and its Regulations.
- 2- In the event of securitization, the lessor shall take measures for endorsement in the contract register in accordance with rules and measures set out in the Regulations.
- 3- Amendments made to the contract, whether to terms or parties thereto, may be invoked against third parties only from the date of endorsement of such amendments in the register.

#### Article 20

Subject to Article 9 of this Law, the lessee shall hand over the leased asset– in the condition agreed upon in the contract – to the lessor upon contract termination, revocation or expiration, unless the lessee opts for ownership of the leased asset subject of the contract.

## **Article 21**

The lessor may stipulate the right to revoke the contract and repossess the leased asset if the lessee defaults in making the due payments in accordance with the Regulations in a manner ensuring fairness between the parties to the contract.

## **Article 22**

1. The contract shall terminate upon total loss of the leased asset.
2. In case of a partial loss of the leased asset that undermines use thereof, and the lessor fails to restore the leased asset to its earlier condition or replace it with a similar asset acceptable to the lessee, the lessee may terminate the contract or agree with the lessor to continue with the contract and amend the rent value in proportion to such loss. In case of contract continuity without change, no payment shall be required for the repair period unless the lessor compensates the lessee during such period with another asset equal to the leased asset.
3. If the lessee is prevented from the full use of the leased asset by an act of a competent authority for a reason not attributed to the lessee, the contract shall terminate and no rent shall be payable as of the date of such prevention.
4. The Regulations shall, upon termination of the contract during the terms of the lease, set the criteria determining the entitlements of each party in an equitable manner according to Sharia principles, taking into account any due insurance compensation.

## **Article 23**

The lessee may, in case of bankruptcy declaration of the lessor or liquidation of the business thereof, continue implementing the contract as per its terms or return the leased asset with the approval of the receiver or the liquidator.

## **Chapter Three** **Violations and Disputes**

## **Article 24**

The competent court shall resolve disputes arising from application of the provisions of this Law and its Regulations and shall impose penalties provided for in this Law.

## **Article 25**

1. In case of failure to hand over the fixed leased assets in any of the events specified in this Law, the lessor may request the competent court to issue a ruling to this effect. The court shall decide on such request within a maximum period of 30 days from the date of filing the request.
2. Pursuant to the provisions of this Law, the lessor may repossess movable assets from the lessee in the events where such right of repossession is stipulated in the contract

between the two parties. Repossession shall be overseen by specialized firms licensed by the Ministry of Justice in accordance with the Enforcement Law.

#### **Article 26**

Without prejudice to any severer penalties provided for in another law, any person who conceals the information affixed to the leased asset, alters the marks of the leased asset or the specifications thereof as recorded in the relevant registry, or sells or pledges the leased asset without the written consent of the lessor shall be penalized, depending on the gravity of the violation, with a fine not exceeding one-fourth the value of the leased asset, or imprisonment for a period not exceeding three months, or both.

### **Chapter Four**

#### **Concluding Provisions**

#### **Article 27**

The Governor shall, in agreement with the Minister of Justice, issue the Implementing Regulations of this Law within 90 days from the date of issuance.

#### **Article 28**

This Law shall enter into force after 90 days from the date of publication in the Official Gazette.