

## ROYAL KRAM

WE

PREAH KARONA PREAH BAT SAMDECH PREAH BOROMNEATH **NORODOM SIHAMONI** SAMAN PHAUM CHEAT SASSNA REAKHATAK KHATEIYA KHEMRA ROTH REAS PUTITRA THOR REAM MOHA KHA SAT KHEMREACHNEA SAMO HO PHEAS CAMPUCHEA EK REACH ROTH BORONAK SANTIE SEREI VIBOLA KHEMRA SREY PHI REAS PHEAS CHAO KRONG KAMPUCHEA THIBAKDEY.

- Having understood the constitution of the Kingdom of Cambodia.
- Having understood the Royal kret **នស/រកក/០៩០៨/១០៥៥** dated Sept. 25, 2008 on the appointment of the government of the Kingdom of Cambodia.
- Having understood the Royal Kram **No2/rs/94** dated July 20, 1994 to declare the law on the Preparation and Execution of the Ministry.
- Having understood the Royal **Kram នស/រកក/០១៩៦/២៧** dated July26, 1996 to declare the law on Preparation and Execution of Cambodia National Bank.
- 
- Having understood to pay homage to the information of Samdech Akach Moha Sena Badey Dechhor **HUN SEN** Prime Minister of **Cambodia**.

### To Declare

The law on financial lease, which was approved by parliament on May 27, 2009 at the parliamentary session 2, and similarly in session 4 of the Senate, together forming consensus of minds regarding this law in the special session on June10, 2009, has the complete meaning as follows:

### Section I

#### General Disposition

#### Article 1

This law has the purpose of determining the rights and obligation regarding operation and issuing measures to protect such rights of all the parties to a financial lease.

#### Article 2

This law has purpose to develop the banking, financial and enterprise systems in order to promote financial leases equally, safely, effectively and productively in compliance with the evolution of the economy of the Kingdom of Cambodia.

#### Article 3

The scope of this law to covers the financial leasing of movable objects within the Kingdom of Cambodia alone.

#### Article 4

Technical terms are used in this law have the definition as follow:

- **Lessor:** Refers to the physical or juristic person who transfers the responsibility and use right of movable objects to Lessee.
- **Lessee:** Refers to the physical or juristic person who receives the responsibility and using rights from Lessor.
- **Movable Objects:** Refer to property, machinery, and all equipment excluding land and buildings.
- **Duration:** Refers to the duration as stated in the financial lease agreement that the lessee is permitted to manage and use the rented movable objects.
- **Lease:** Refers to the operation that Lessor has approved of in the agreement with Lessee. The Lessee has the right to manage and use the movable objects in said period by paying a fee-by-period or by an equivalent fee. The Lease must be included any continuing lease.
- **Continuing Lease:** Refers to the operation of movable objects, which are rented by the first lessee and are being continued by another party while the Lease Agreement is still valid.
- **Financial Lease:** Refers to the lease for the first time period of one year or more in duration which is not alterable, such as by:
  - a- Lessee clearly clarifying the movable objects and choosing a supplier but not necessarily depending on the skills and judgment Lessor.
  - b- Lessor buys the Movable Objects for leasing to Lessee according to the Financial Lease Agreement.

If there is any continued renting of the rented movable objects from the same Lessor, the continued renting can be said to be the Financial Lease Agreement.

The lease can be a Financial Lease without considering:

- a- Whether the payment for the Lease Fee is or is not calculated according to the devaluation or some part of the devaluation of the Movable Object, or
- b- Whether Lessee has or does not have an option or thereafter has received the option of buying or continuing to rent the movable object for an additional period.
- **Pre-Payment:** Refers to the amount of period payment by Lessee while or prior to starting the lease. The Pre-Payment is not the Mortgage.
- **Mortgage:** Refers to the amount of money which is paid by Lessee and is owned by Lessor to make sure that Lessee performs his/her obligation completely and frequently based on the Financial Lease Agreement.
- **Supplier:** Refers to the physical or juristic person who

\*\*\*text missing\*\*\*

- **Supply Agreement:** Refers to the agreement in which Lessor buys the movable object, which is leased to the Lessee.
- **Financial Lease Agreement:** Refers to the agreement that Lessor buys a movable object, which is chosen by Lessee from Supplier and Leases it to the Lessee and allows the Lessee to pay within determined period.

## Section 2

### Financial lease agreement

#### Article 5

The Financial Agreement must be written signed by Lessor and Lessee and must determine a notice period and conditions for all concern parties related to the rented Movable Object. Financial Lease Agreement is not required to be notarized except as required by law.

#### Article 6

Agreement must meet the following conditions for a Financial Lease Agreement unless stated within the Agreement:

- A- Description of Movable Objects which are rented;
- B- Amount of money, determination period, and the duration of payment;
- C- The starting date of Financial Lease; and
- D- The signature of Lessor and Lessee

#### Article 7

Financial Lease Agreement can make stipulations regarding Mortgages or the Payment Fee or both. The Lessee Mortgage may or may not be acceptable in accordance with the Financial Lease Agreement itself.

In the case that the Financial Lease Agreement doesn't have any stipulations regarding the use of Mortgages, such Mortgages should not receive any interest and must be transferred to Lessee after the Lessee has completed the obligations fully under the Financial Lease within the defined period. The Pre-Payment fee is not required in order to receive interest. The mortgage and pre-payment can be cash per the approval of both parties.

#### Article 8

If the Financial Lease Agreement states that the Movable Object must carry a notice declaring that it belongs to the Lessor or is subject to a lease from Lessor, such a sign shall be concealed significantly or not visible by any person besides the Lessor or the Lessor's representative.

Should any damage cause the sign to be indiscernible, Lessee must inform the Lessor in writing immediately, otherwise Lessee will be considered to have withdrawn the notice without permission. However, Lessee is not responsible under this Article if the Lessor fails to change the notice after being informed by the Lessee.

#### Article 9

If Lessor and Lessee agree to have payments made in kind through bartering such as with products, services, or alteration of the Movable Objects condition, the value of such transaction must be determined in market currency equivalents agreeable to both parties and stated in the Financial Lease Agreement. **(Some words obscured by stamp)**

Under the Financial Lease Agreement, the Lessee accepts the use of the Movable Object for a period of at least 1 year. At the end of the Agreement, Lessee may or may not purchase outright the Movable Object as the Lessor is providing Lessee with a means to use the Movable Objects, and not providing Lessee with a means to become the owner of said Property.

## Section 3

## **Rights and Obligations of the Lessor**

### **Article 10**

During and after the duration of the Financial Lease, Lessor remains the owner of the Movable Objects despite the fact that possession has been transferred to Lessee or other parties.

### **Article 11**

Lessor is responsible for payment of tariffs and other tax obligations in accordance with the law, and registration of the Movable Object except as provided otherwise by written agreement.

### **Article 12**

Lessor must pay for Movable Objects to Supplier should Lessee agree to accept the Movable Objects without conditions.

### **Article 13**

Lessor must guarantee that the Movable Object is usable by Lessee without any interference throughout the period of the Financial Lease Agreement as long as Lessee performs the Lessee's obligations under the Agreement.

### **Article 14**

Lessor is not responsible to pay for damages by a Third Party on the Movable Objects.

### **Article 15**

Should the Lessee breach the Financial Lease Agreement, Lessor has the following additional rights along with those specified in the Agreement:

i) Lessor can make a claim against Lessee to pay the remaining amount for the rest of the Agreement Duration including damages and interest;

ii) Lessor can make a claim to accelerate future payments and reacquire possession of the Movable Objects in the following cases:

- Lessee breached the Financial Lease Agreement through non-payment for two periods;
- Lessee breaches any other part of the Financial Lease Agreement and does not remedy such breach within 10 days of the Lessor's notice of such a breach.
- Lessee has a guarantor/sponsor who becomes insolvent and Lessee is unable to find a substitute within 30 days of Lessor's request in writing for such a substitute;
- Even if the Financial Lease Agreement has been terminated prior to its expiration, Lessor can :
  - Claim to get back the Movable Objects without any petition to a court if such a claim is done without violence
  - Claim payment for a debt for damage to the Movable Object, including additional expenses, due to the fault of the Lessee. The Financial Lease Agreement can stipulate the calculation method for such a situation and can be implemented by both parties except if this calculation method causes serious harm to the Lessor while being implemented by the Lessee.
  - If necessary, Lessor can request the intervention of a court to obtain the Object from Lessee by attaching documents and evidence showing breach of the Financial Lease Agreement.

#### **Article 18**

Lessor has the right to request Lessee to damages or for the loss of the Movable Object during its use by Lessee.

#### **Article 19**

Lessor can demand the Lessee to buy insurance for the Movable Objects up until the time that the object is returned to Lessor even if that exceeds the duration of the Financial Lease Agreement.

If the Lessee fails to buy said insurance, the Lessor has the right but not the obligation to buy it and the Lessee must repay Lessor.

#### **Article 20**

The Movable Objects is not the property of Lessee. Should the Lessee become insolvent and enter bankruptcy, the Lessor has the right to confiscate the property and seek payment in the liquidation process by the court.

#### **Article 21**

The Lessor can transfer or delegate authority of the rented Movable Objects under the Financial Lease Agreement to any other party without approval by the Lessee. This transfer does not allow the Lessor to avoid any obligations or alter the Financial Lease Agreement.

The Financial Lease Agreement may state that the Lessee agrees to not make any claims against the person granted the authority by the Lessor.

#### **Article 22**

In the case of bankruptcy by the Lessor, creditors of the Lessor or other concerned parties have rights no greater than that of the Lessor under the FINANCIAL LEASE AGREEMENT.

### **Section 4**

#### **Rights and Obligations of the Lessee**

#### **Article 23**

Lessee is obligated to receive the Movable Objects if it is given in the right manner and right time as per the Supply Agreement. If it is not given, is given later or not in the manner set forth in the Supply Agreement without prior approval of the Lessee, the Lessee has the right to reject the delivery of said Movable and claim to the Supplier to immediately remedy the situation in accordance with the FINANCIAL LEASE AGREEMENT, but does not have the right to terminate or alter the FINANCIAL LEASE AGREEMENT.

Lessor has the right for performance by the Supplier in accordance with the Supply Agreement but is not liable for damages caused by failure or breach by the Supplier.

#### **Article 24**

Acceptance of the delivery of the Movable Object can be written or in a manner as follows:

- i) After Lessee has already checked the Movable Object and confirmed it to be acceptable, even it is not in compliance with the Supply Agreement;
- ii) Lessee didn't inform Supplier or Lessor within the time stated in the supply agreement about the issues or breach so as to allow the Supplier or Lessor to resolve such matters;
- iii) Financial Lease Agreement states that Lessee ....

#### **Article 25**

According to the Financial Lease Agreement, Lessee has an obligation to make payment in accordance with the Financial Lease Agreement upon informally receiving said Movable Object.

#### **Article 26**

Lessee has the obligation to use the Movable Object in compliance with rules, measures and regulations in effect at that time in consideration of its technical condition. The Lessee is also obligated to care for and maintain the Movable Object in a good manner so that it remains in a usable condition except if otherwise specified under the Financial Lease Agreement.

#### **Article 27**

Should the Lessee not purchase the Movable Object nor extend the Financial Lease Agreement at the end of the Duration, the Lessee is obligated to return the Movable Object in its original condition except for normal wear and tear.

#### **Article 28**

Lessee is responsible for losing the Movable Objects up to the time it is returned to the Lessor.

#### **Article 29**

Lessee must place a hypothec or lean upon the Movable Objects or cause the creation of any other such burden on the Movable Objects.

Lessee is obligated to provide written notice to the Lessor concerning the current location or changing of the location of the Movable Object unless otherwise stipulated in the Financial Lease Agreement.

#### **Article 30**

The obligation of the Supplier in accordance with the Supply Agreement also involves the Lessee if the Lessee is a party to the Supply Agreement and the Movable Object is supplied directly to the Lessee. However, the Supplier is not responsible to any changes to the Agreement between the Lessee and Lessor:

Lessee's rights in the supply agreement, which is approved by the Lessee, must not be altered by any changes to the Supply Agreement unless the Lessee approves of such changes.

#### **Article 31**

Lessee may not re-lease, alter or transfer the operation rights over the Movable Object or any other rights under Financial Lease Agreement without prior written approval of the Lessor, and may not allow the acquisition of such rights by a third party without the written approval of the Lessor. Any action in breach of this obligation is invalid and not supported under the law.

#### **Article 33**

The National Bank of Cambodia shall play the role of regional administrating authority for Financial Leases, and the National Bank of Cambodia shall :

- i) issue, suspend or revoke licenses for the operations under Financial Lease Agreement and shall determine the procedure and protocols for issuing such licenses;
- ii) provide release order to implement laws which are permitted;
- iii) set capital limitations;
- iv) set classifications for credit and the provision of capital;

- v) set accounting systems and involved standards;
- vi) control and regularly verify documents within a necessary timeframe at the location of the enterprise participating in the Financial Lease; and
- vii) punish with disciplinary measures participants as set forth in Article 35 of this law.

#### **Article 34**

The operations of the Financial Lease Agreement can be implemented by banking and financial institutions which have received a banking license from the National Bank of Cambodia. This operations can also be performed by enterprises involved in the Financial Lease established under this law. The Financial Lease enterprises will not be permitted to do any other operations other than those set forth in the Financial Lease.

### **Section 5**

#### **Penalties**

#### **Article 35**

If the Financial Lease enterprise has violated the law or is involved in the regulation of their own activities, or did not follow councils or court injunctions, the administrating authority can punish said enterprise as follows:

- warning;
- stop operations in order to determine the scope of activities;
- suspend through temporary injunction the management with or without appointing temporary management;
- force the resignation of management with or without appointing temporary management;
- place the enterprise under temporary governance; and
- confiscate the operating license and cease operation immediately.

### **Section 6**

#### **Transitory Dispositions**

#### **Article 36**

Any enterprise engaged in financial lease operations without any qualifications must request a license from the Regional Administrating Authority within 12 months of the enacting of this law.

#### **Article 37**

This law takes priority over any other laws or dispositions not in compliance with this law.

#### **Article 38**

This law shall be put into effect with haste.

Signed the 20 June, 2009