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Kingdom of Cambodia

Nation -- Religion -- King

Law of Personal Property Leasing

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1. Scope and definitions.

(a) This Law covers only leases of movable tangible personal property. Such articles are known as “goods”. The term “goods” does not include:

(i) real estate, or

(ii) fixtures (tangible personal property which has been permanently affixed to real estate), or

(iii) intangible personal property (such as stocks and bonds), or

(iv) services of any kind.

(b) A “lease” is a written contract under which one party, the “lessor,” transfers the right to possess and use the goods to another party, the “lessee,” for a specific period of time, the “term” of the lease.

(c) For the purposes of this law only, a “merchant” is a legal or natural person who regularly deals in particular types of goods or who, by virtue of his occupation, has special knowledge or skill relating to the characteristics of goods.

2. Warranty of title. Every lease contains implied warranties from the lessor that:

(a) The lessor owns sufficient property rights in the goods so that the lessor has the legal power to enter into and perform all of his obligations under the lease; and

(b) The lessor is legally competent to enter into the lease; and

(c) As long as the lessee performs his duties under the lease, during the term of the lease neither the lessor nor any third party will be

legally entitled to interfere with the lessee's rights to possess and use the goods as set forth in the lease.

These warranties cannot be altered, disclaimed by the lessor, or waived by the lessee.

3. Implied warranties made by merchants. A merchant who leases any goods must make the following two implied warranties:

(a) A warranty of "merchantability" which means that the goods:

(i) Are at least of fair average quality and would be accepted by other merchants without objection in the usual trade in such goods.

(ii) Are fit for the ordinary purposes for which such goods are usually sold or leased.

(iii) Are adequately packaged and labeled.

(iv) Conform to any description or statement of fact on the label of the goods.

(b) A warranty of fitness for a particular purpose, which exists only if the merchant lessor knows of a particular purpose for which the goods are being leased and the lessee relies on the merchant's skill or judgment to recommend or select the goods for that purpose.

(c) These warranties will not be made if they are expressly, specifically and conspicuously disclaimed in writing in the lease. These warranties may also be limited rather than completely disclaimed if the limitation appears specifically and conspicuously in writing in the lease.

4. Express warranties made by merchants. A merchant who leases any goods makes the following warranties unless they are expressly, specifically and conspicuously disclaimed or limited in writing in the lease.

(a) If technical specifications have been agreed to by the parties, the merchant lessor warrants that the goods will conform to them.

(b) If a sample or model has been shown to the lessee, the merchant lessor warrants that the goods will conform to them.

(c) If there have been neither technical specifications nor samples nor models, the merchant lessor warrants that the goods will conform to any general description of them made by him.

(d) In the event of any conflict among any of these matters, the characteristics of samples or models will prevail over general descriptions, and the characteristics of agreed technical specifications will prevail over both general descriptions and samples or models.

5. Relationship of multiple warranties. Warranties shall be construed to be cumulative and consistent with each other. In the event of any conflict between any express warranty and any implied warranty, the express warranty will prevail.

6. Limitation of certain remedies allowed. The written lease may expressly provide that the obligation of the lessee to pay rent shall be absolute and is not subject to cancellation, suspension, delay or reduction under any circumstances. The written lease may also provide that the lessee may not deduct from any rent payments any damages or other amount claimed arising out of any breach of an express or implied warranty or any other claim, but must first pay the rent in full and then sue the lessor or other appropriate party to recover damages.

7. Assignment of other warranties. Every lease contains an implied provision which assigns, from the lessor to the lessee, for the term of the lease, the benefit of all warranties made to the lessor from the manufacturer, dealer or any other person concerning the goods. Unless the warranty's terms prohibit it, the lessee may enforce the warranty in his own name and for his own benefit directly against the party making the warranty. If the warranty prohibits enforcement in this fashion, then the lessor must

cooperate with the lessee in enforcing the warranty for the benefit of the lessee, but the lessee shall be responsible for all expenses incurred in connection with enforcement of the warranty. The provisions of this Article may not be altered, disclaimed or waived by any agreement between lessor and lessee.

8. Marking of goods.

(a) If the nature of the goods makes it practical to do so, the lessor shall mark the goods in a way that durably and conspicuously indicates that the lessor is the owner of the goods. If the lessor fails to do so, he shall be liable for any loss or wrongful transfer of the goods which is caused solely by his failure to do so.

(b) The lessee shall not alter, conceal or deface the lessor's markings in any way or permit anyone else to do so. The lessee shall be liable for any loss or wrongful transfer of the goods which is caused by his breach of this obligation.

9. Liability for loss or damage to goods. Except as expressly provided in writing in the lease, during the term of the lease and until the goods are returned to the lessor or otherwise delivered in accordance with the lessor's instructions, the lessee shall be liable to the lessor for any loss, damage or destruction of the goods beyond reasonable and normal wear and tear.

10. Liability for injury to person or property. Unless the lease expressly provides otherwise in writing:

(a) The lessee shall be directly responsible for injury to any person or property caused by the goods or arising out of the lessee's use or possession of the goods.

(b) The lessee shall indemnify and hold the lessor completely harmless from any claims for injury to person or property caused by the goods which are asserted by any party against the lessor.

(c) As stated in Article 7, the lessee shall have the benefit of all warranties made by the manufacturer of or dealer in the goods (including warranties made by the lessor as a merchant). If an injury to any person or property is caused by breach of any such warranty, then the lessee may sue the party making the warranty to recover any damages paid by the lessee to the injured party.

11. Financing statements. If the lease expressly so provides, the lessee must execute and deliver to the lessor a Financing Statement covering the goods and the lessor may file the Financing Statement pursuant to the provisions of the Law of Secured Transactions. In that case, all the provisions of the Law of Secured Transactions shall apply to the lease transaction with the lessor being treated as the Creditor; the lessee being treated as the Owner; and the amount due which is secured by the Financing Statement being the amount of rent due under the lease.

12. Inspection and acceptance of goods. The lessee has a right to inspect and test any goods delivered to him pursuant to a lease before accepting the goods as conforming to the lease, but the lessee may not use the goods until and unless he has accepted the goods.

13. Lessee's obligation to make payments.

(a) During the term of the lease lessee shall promptly pay to lessor, or to any other party lessor specifies, all installments of rent and all other payments required by the lease as they fall due.

(b) Unless the lease provides otherwise:

(i) The lessee's obligation to pay rent continues to the end of the term even if the goods are lost, stolen, destroyed or otherwise become useless to the lessee at any time during the term of the lease.

(ii) A default in any payment of rent makes all future sums payable as rent become immediately due and payable.

(iii) The lessee may not deduct from the rent payable to the lessor, or any payments due to any third party under the lease, any amounts due or claimed to be due from lessor to lessee or from the third party to lessee.

14. Subleasing. If the lessee subleases the goods to a sublessee, their rights and duties to each other shall be governed by this Law with all references to “lessor” deemed to refer to the “sublessor” and all references to the “lessee” deemed to refer to the “sublessee”.

(a) Unless the lease provides otherwise, a lessee may not sublease the goods without the express written consent of the lessor, given in advance.

(b) A sublease may not continue beyond the expiration of the original term of the lease or grant the sublessee any rights inconsistent with the rights of the lessor.

(c) No sublease of the goods shall alter or affect in any way the rights of the lessor unless the lessor expressly consents in writing to such an alteration or modification of his rights.

15. Assignment of rights; sale of goods during lease term.

(a) During the term of the lease, the lessor may assign his right to receive rent from the lessee to any third party by giving written notice of such assignment to the lessee. The lessee may not assign his obligation to pay rent unless the lessor consents in writing.

(b) At any time during the term of the lease the lessor may sell the goods which are the subject of the lease, but the new owner must respect all rights of the lessee under the lease.

16. Location of goods. The lease may specify the location or locations where the goods are to be kept during the term of the lease and the lessee is liable if the goods are removed from that location. Unless the lease

specifically permits the lessee to do so, he shall not allow the goods to be removed from the Kingdom of Cambodia during the term of the lease.

17. Goods not to become fixture. During the term of the lease the lessee must take all steps required to prevent the goods from becoming permanently affixed to any real estate.

18. Lessee to pay certain taxes.

(a) Unless the lease expressly provides otherwise, during the term of the lease the lessee must pay all taxes and fees of any kind imposed on the possession, use, operation, location or income generated by the goods.

(b) Unless the lease expressly provides otherwise, during the term of the lease the lessee shall not be liable for any income or other taxes imposed on lessor's gross or net income derived from leasing the goods. These taxes are the sole responsibility of the lessor.

19. Maintenance and repairs. Unless the lease expressly provides otherwise, during the term of the lease the lessee shall keep the goods in reasonable operating order and shall perform, at his own expense, all necessary maintenance and repairs to the goods.

20. Return of goods at end of term. Unless the lease provides otherwise, the lessee must return the goods, at lessee's expense, to the lessor at the end of the lease term in the same condition the lessee received it, normal and reasonable wear and tear only excepted.

(a) The lease may provide that lessee is to deliver the goods to a third party at the end of the lease term, but unless the lease expressly provides otherwise the lessee shall not be obligated to pay more to do so than it would cost him to return the goods to the lessor.

(b) Unless the lease expressly provides otherwise, all alterations, additions, modifications and improvements to the goods during

the term of the lease shall become the property of lessor at the end of the term with no additional payment due from lessor.

(c) The lease may grant the lessee the option to buy the goods during the term of the lease or at the end of the term, or an option to extend the term of the lease.

(d) In the event the lessee fails or refuses to return the goods to the lessor or to a third party as the lessor directs at the end of the term, the lessor may recover, in addition to all other damages allowed by law, the greater of:

(i) the rent stated in the lease; or

(ii) the fair market rental value of the goods

from the end of the term until the goods are returned to the lessor.

21. Lessor's right to perform for lessee. In the event the lessee defaults on any obligation to a third party imposed on him by the lease, the lessor may, at his option, perform lessee's obligation after giving reasonable advance notice to lessee that he intends to do so. If lessor does so, lessee is obligated to compensate lessor for the full cost of his performance of lessee's obligations.

22. Enforcement of lessor's rights. If the lessee has defaulted on any payment due to the lessor or has committed any other material breach of the lease and remains in default, the lessor may take any reasonable and peaceful steps against the lessee or any third party to recover the goods covered by the lease.

(a) If the lessor exercises his remedies without first obtaining the assistance of the appropriate court, he may not use force or the threat of force or harm to any person or property to recover the goods.

(b) If the lessor seeks the assistance of the court in recovering the goods, he may take such steps as the court authorizes him to take.

23. Repeal of inconsistent laws. All laws which are inconsistent with this law, specifically including Articles 100 through and including 111 of Decree 38D (October 28, 1988) as far as they concern leases of personal property, are hereby repealed.