

AIRCRAFT FINANCE ONLINE

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THAILAND

Worachai Bhicharnchitr, Principal Partner¹

REGISTRATION

1. REGISTRATION OF AIRCRAFT/HELICOPTERS/AIRCRAFT ENGINES

Is there a Register of Aircraft?

Yes. In Thailand, the requirements for the registration of aircraft² are set forth in the Air Navigation Act 1954 (the Air Navigation Act) which also empowers the Minister of Transport³ to, inter alia, appoint competent authorities and issue Ministerial Regulations in carrying out the provisions of the Act. The Civil Aviation Board⁴ is authorised to advise and make policy recommendations to the Minister regarding civil aviation and to issue regulations pursuant to the Act.

THA 1.1

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The law in this chapter is up to date to July 2023.

² In this Act “aircraft” means, and includes, all machines maintaining themselves in the atmosphere, through the reaction of the air, except objects as exempted by Ministerial Regulations, which comprise:

- (a) all kinds of kites which are used as toys or for sport;
- (b) balloons or toy-balloons having a volume not exceeding one cubic metre;
- (c) small airplanes which are used as toys;
- (d) machines maintaining themselves in the atmosphere through reaction of the air against ground, e.g. Hovercraft Ekranoplanes;
- (e) water vehicles maintaining themselves in the atmosphere through reaction of the air from ground effect (Wing in Ground Effect Craft type A); and
- (f) water vehicles in (e) with ability to temporarily maintain themselves in the atmosphere through reaction of the air in order to evade obstacles provided that such maintenance must not higher than 150 metres from the water surface (Wing in Ground Effect Craft type B).

See the *Thai Government Gazette* Vol.122 Pt 52 Kor, 2 July 2005.

³ The Minister of Transport controls the registration of all aircraft. The Minister has the power to appoint officials, fix registration fees and issue Ministerial Regulations. The Minister considers each application for registration on a case by case basis according to the Ministerial Regulations.

⁴ The Civil Aviation Board (composed of the Minister of Transport acting as Chairman, the Permanent Secretary of the Ministry of Transport, the Air Chief Marshal and seven other members appointed by the Prime Minister’s Cabinet Council acting as members and the Director-General of the Civil Aviation Authority of Thailand (CAAT) acting as a member and as secretary) is primarily an advisory body set up to assist the Minister in the execution of the Act.

What aircraft (including helicopters) may be registered? Is it possible to register engines separately (either as part of the aircraft or as a spare engine)?

THA 1.2

Under the Air Navigation Act, “aircraft” means, and includes, all machines maintaining themselves in the atmosphere, through the reaction of the air, except objects as exempted by Ministerial Regulations as follows:

- (a) all kinds of kites which are used as toys or for sport;
- (b) balloons or toy-balloons having a volume not exceeding one cubic metre;
- (c) small airplanes which are used as toys;
- (d) machines maintaining themselves in the atmosphere through the reaction of the air against ground, e.g. Hovercraft Ekranoplanes;
- (e) water vehicles maintaining themselves in the atmosphere through the reaction of the air from ground effect (Wing in Ground Effect Craft type A); and
- (f) water vehicles in (e) with the ability to temporarily maintain themselves in the atmosphere through the reaction of the air in order to evade obstacles—provided that such maintenance must not be higher than 150m from the water’s surface (Wing in Ground Effect Craft type B).

A qualified person can apply for registration of an aircraft in Thailand. The Air Navigation Act provides that:

“The person who applies for aircraft registration, whether he be a natural or a juristic person, shall be a Thai national. In the event of a partnership or a limited company or a public company, it shall be registered under Thai law with its head office situated in Thailand, and

- (1) In the case of an ordinary partnership, all its partners shall be Thai nationals;
- (2) In the case of a limited partnership, all its partners with unlimited joint liability, regardless of their number, shall be Thai nationals, and not less than 51 per cent of the capital of such partnership shall belong to natural persons of Thai nationality;
- (3) In the case of a limited company or a public limited company, there shall be no shares of the bearer category. The majority of the directors shall be Thai nationals and not less than 51 per cent of all the shares shall be held by persons of the following categories, singly or collectively:
 - (a) Natural persons of Thai nationality;
 - (b) A ministry, sub-ministry or government department;
 - (c) A limited company or a public limited company not less than 51 per cent of all the shares of which are held by a ministry, sub-ministry or government department;
 - (d) A limited company or a public limited company not less than 51 per cent of all the shares of which are held by natural person(s) of Thai nationality;
 - (e) Other juristic persons prescribed in the Ministerial Regulation.

In the case of an association, such shall be registered under Thai law with the head office situated in Thailand, and its rules must have been approved by the Director General of the Civil Aviation Authority of Thailand (CAAT).”¹

It is not possible to register engines separately (either as part of the aircraft or as a spare engine).

¹ Air Navigation Act 1954 s.31 as amended by Air Navigation Act (No.10) 1999.

What documentation and consents are required for registration?

The application form set out in THA Appendix A must be completed and submitted to CAAT by the operator of the aircraft together with any other information which CAAT may require to determine the qualifications of the applicant. Along with the application form itself, documentation which proves the specified particulars on the application form (especially the ownership of, or a possessory right to, the aircraft) should be submitted. Also, documentation showing that the applicant is qualified to register an aircraft (i.e. that it is a natural or juristic person specified in THA 1.2) should be included.

THA 1.3

What particulars are recorded in the Register?

The registration form requires the provision of the following particulars:¹

THA 1.4

- (a) the type of aircraft;
- (b) the overall dimensions of the aircraft;
- (c) description of the engines;
- (d) name and address of manufacturer;
- (e) manufacturer's serial number;
- (f) date of manufacture;
- (g) whether the aircraft has previously been registered in Thailand and, if so, the registration mark;
- (h) whether the aircraft is registered in any place outside Thailand and, if so, the full particulars of such registration;
- (i) full name, address and email address of owner;
- (j) name, address and email address of possessor; and
- (k) usual station of the aircraft.

Upon registration, CAAT will issue a Certificate of Registration.² In addition to a valid Certificate of Registration, the following authorisations and licenses are required in order for the aircraft to be flown within Thailand:³

- nationality and registration marks and an aircraft identification plate;
- certificate of airworthiness;
- journey log book;
- license of each of the flight personal, e.g. pilot flight navigator engineer, flight radio telephone operator, air traffic controller, flight dispatcher, etc);
- communication radio license;
- passenger manifest, in case of an international passenger flight;
- cargo manifest, in case of an international cargo flight; and
- other items specified in the Ministerial Regulations.

¹ See Application Form at THA Appendix A.

² See Certificate of Registration form at THA Appendix B.

³ Air Navigation Act 1954 s.16 as amended by Air Navigation Act (No.11) 2008.

What are the opening hours and registration fees?

THA 1.5 CAAT¹ is open to the public between 8.30am and 12.00pm, and 1.00pm and 4.30pm, Monday to Friday, excluding certain holidays.² The fees in respect of aircraft registration are as follows:³

- aircraft with a maximum take-off weight exceeding 100,000kg = baht 50,000 each;⁴
- aircraft with a maximum take-off weight exceeding 25,000kg but not exceeding 100,000kg = baht 30,000 each;
- aircraft with a maximum take-off weight exceeding 5,700kg but not exceeding 25,000kg = baht 20,000 each;
- aircraft with a maximum take-off weight exceeding 500kg, but not exceeding 5,700kg = baht 8,000 each; and
- aircraft with a maximum take-off weight not exceeding 500kg = baht 1,000 each.

Fees may be waived for foundations approved by the Minister of Transport and Communications.

Can the Register be amended?

THA 1.6 CAAT reserves the right to amend the Register at any time in order to keep it up to date. Any changes in registered particulars should be communicated to CAAT immediately by the registrant in order to keep the registration valid.

What is the effect of registration?

THA 1.7 Registration allows the aircraft to be lawfully utilised in Thailand, subject to the issue of the authorisations and licenses referred to in THA 1.4. The Certificate of Registration is not a document of title to the aircraft. The law of Thailand makes no provision for the issue by the Government of documents of title in respect of aircraft. If the aircraft owner is not the operator of the aircraft, then, the names and addresses of both the aircraft owner and aircraft operator may be stated on the Certificate of Registration and there may also be included on the Certificate a reference to the operator's right to use the aircraft (e.g. pursuant to a lease agreement).

¹ Registration inquiries may be made to the Civil Aviation Authority of Thailand, 333/105 Lak Si Plaza, Khampaengphet 6 Road, Talat Bangkhen, Lak Si, Bangkok 10210, Thailand. Tel: +66(0)2 568 8800; Fax: +66(0) 2 568 8844; Email: saraban@caat.or.th.

² Thai Government holidays include, but are not limited to: 1 January, New Year's Day, February (late) or March (early) (full-moon day), Makha Bucha (date varies), 6 April, Chakri Day, 12–14 April, Songkran Festival, May, Ploughing Festival (date varies), 4 May, Coronation Day, May/June (full-moon day), Wisakha Bucha (date varies), 3 June, HM The Queen's Birthday, July (late)/August (early) (full-moon day), Buddhist Lent Day (date varies), 28 July, HM The King Rama 10's Birthday, August, Asarnha Bucha Day (date varies), 12 August, HM The Queen Sirikit's Birthday, 13 October, HM The late King Rama 9 Memorial Day, 23 October, Chulalongkorn Day, 5 December, HM The late King Rama 9's Birthday, 10 December, Constitution Day, 31 December, New Year's Eve. (Note: when a holiday occurs on a Saturday or Sunday it is normally observed on the following Monday but in rare case on the preceding Friday.)

³ Ministerial Regulations (issued under the Air Navigation Act 1954) Stipulating Fee according the Air Navigation Law BE 2549 (AD 2006).

⁴ Since 2 July 1997, the value of the Thai baht has been being under a managed float system and the Baht's value in relation to the US dollar has depreciated significantly. In July 2023, the Baht's average value was 35.109 Baht to US \$1.

How is deregistration effected?

The aircraft may be voluntarily deregistered by surrendering the Certificate of Registration to CAAT. The act of surrender automatically disqualifies the aircraft operator from using the aircraft in Thailand.

THA 1.8

The Certificate of Registration will become invalid by operation of law upon:¹

- (a) any change in the ownership of the aircraft where the owner has applied for registration (or any change in the possession of the aircraft where the possessor has applied for registration);
- (b) in the event that the person who registered the aircraft fails to continue to satisfy the pre-requisites in THA 1.2;
- (c) the ownership or right of possession of the aircraft not being in accordance with the registered particulars;
- (d) the aircraft sustaining damage such that it becomes unserviceable;
- (e) the Certificate of Airworthiness for the aircraft having expired over six months previously; or
- (f) the aircraft having been lost for a period of over three months.

In the case of (a)–(e), the registrant registering the aircraft shall surrender the Certificate of Registration to the relevant official without delay.

Can a Deregistration Certificate be obtained on registration?

No. Advance deregistration is not possible. Deregistration can only be accomplished in accordance with THA 1.8.

THA 1.9**Can an airline based in Thailand operate foreign registered aircraft (for example, under Chicago Convention 83bis arrangements)?**

When an airline based in Thailand brings in an aircraft registered in a country being a contracting State to the Chicago Convention—to operate the aircraft pursuant to a lease agreement or other similar arrangements—and Thailand has an agreement with the country of registration of the aircraft, on the transfer of the responsibility of the aircraft from the country of registration to Thailand under the said Convention, it shall be deemed that the said aircraft is registered under the Thailand Air Navigation Act 1954 (as amended by Air Navigation Act (No.14) 2019 s.33/1).

THA 1.10**2. REGISTRATION OF AIRCRAFT MORTGAGES****Is there a register of mortgages or rights over aircraft?***Mortgages over Thai registered aircraft*

No. The Civil and Commercial Code of Thailand s.703² specifically enumerates the categories of movable objects which may be mortgaged. Aircraft are not enumer-

THA 2.1

¹ Air Navigation Act 1954 s.32.

² Civil and Commercial Code of Thailand s.703, as amended by the Civil and Commercial Code Amendment Act (No.14) BE2548 (AD2005) s.6, provides that:

“Immovables of any kind can be mortgaged. The following movables can also be mortgaged provided they are registered according to law:

- (1) Ships of five tons and over.
- (2) Floating houses.
- (3) Beasts of burden.
- (4) Any other movables with regard to which the law may provide registration for that purpose.”

ated as such. Only where Thai law provides for the registration of mortgages are mortgages allowed. Thai law makes no provision for the registration of aircraft mortgages, nor has any provision been created as a result of powers legislatively granted to particular Ministries.¹

Thailand's legislature has not addressed as yet, the area of mortgages in connection with aircraft. As Thailand increases its level of commerce with other nations, the need for specific legislation in this area may bring about the changes needed.

Mortgages over foreign registered aircraft

Aircraft mortgages registered in other countries do not create preferential rights under Thai law in favour of the mortgagee over other creditors of the mortgagor if the aircraft is sold at auction, regardless of whether the mortgagee sues in Thailand to have the aircraft seized and the mortgage enforced or seeks to have a foreign judgment in respect of the mortgage enforced in Thailand. See also THA 11.

What documentation and consents are required for registration?

THA 2.2 Not applicable. See THA 2.1.

What are the opening hours and registration fees?

THA 2.3 Not applicable. See THA 2.1.

Can the Register be amended?

THA 2.4 Not applicable. See THA 2.1.

Will registration secure priority for the mortgagee?

THA 2.5 Not applicable. See THA 2.1.

What is the effect of registration and does it need to be renewed?

THA 2.6 Not applicable. See THA 2.1.

How is deregistration effected?

THA 2.7 Not applicable. See THA 2.1.

Is it possible to register a mortgage or rights over a helicopter on the Register?

THA 2.8 Not applicable. See THA 2.1.

¹ The Machinery Registration Act 1971 permits the registration of title to machinery of the type prescribed under Ministerial Regulations issued under the Act. Once machinery is registered under the Act then mortgages may be registered over such machinery. No provision is made in the Regulations for registration of title to aircraft.

AIRCRAFT MORTGAGES

3. TYPES OF AIRCRAFT MORTGAGES

What types of aircraft mortgage are possible under the laws of Thailand? What are their essential characteristics? What are their respective advantages and disadvantages?

Not applicable. See THA 2.1.

THA 3

4. LAW GOVERNING THE MORTGAGE

What law will govern the validity of the mortgage?

Not applicable. See THA 2.1.

THA 4

5. MORTGAGE GOVERNED BY FOREIGN LAW

If the parties to the mortgage stipulate that the mortgage will be governed by the laws of a foreign country, would a Thai court uphold such a clause?

No. Since aircraft mortgages are not provided for under the law of Thailand, stipulations by parties, even those domiciled in Thailand, will not be recognised.

THA 5

However, while Thailand does not recognise foreign aircraft mortgages per se, it does not leave the creditor without any recourse to recover the debt so long as the mortgagor itself is also the debtor in respect of the debt secured by the aircraft mortgage—and not merely a third party mortgaging the aircraft to secure another person's debt. The creditor's claim in respect of such debts will be recognised as a non-preferential claim over an unsecured debt since the mortgage will not be recognised as a secured transaction (as it would be in the country where the aircraft was registered). A mortgagee will have no claim against a mortgagor in Thailand when the aircraft mortgage was registered in another country if the mortgagor is not the primary debtor in respect of the debt secured by the aircraft mortgage, but is merely the third party surety. Therefore, all subsequent responses in reference to questions about the enforcement of foreign aircraft mortgages will be given in terms of the applicable laws regarding a creditor's rights generally in relation to an unsecured transaction.

6. MORTGAGE TERMS

What are the general terms of an aircraft mortgage under the laws of Thailand? Are there any special terms such a mortgage should contain?

Not applicable. See THA 2.1.

THA 6

7. SPARE PARTS

Under the laws of Thailand can spare parts, including future parts, be subject to the mortgage? Are any special formalities required? If such parts cannot be mortgaged what other forms of security are available to the mortgagee in relation to them?

No. Spare parts are considered part of the aircraft, and are, thus, not mortgagable.

THA 7

8. EXECUTION AND PERFECTION OF MORTGAGES

Are there any special execution formalities, such as (i) witnessing the mortgage; (ii) attesting the mortgage, that is the witness signing when present at the execution of the mortgage; (iii) making the mortgage by way of deed; (iv) notarising the mortgage; (v) legalising (consularising) the mortgage; (vi) translating the mortgage; or (vii) stamping the mortgage; and any significant costs, such as stamp duty or certification fees, associated with mortgages of aircraft under the laws of [enter jurisdiction]? Can a mortgage be executed by electronic signature?

THA 8.1 Not applicable. See THA 2.1.

What additional formalities are required to perfect the status of the mortgage?

THA 8.2 Not applicable. See THA 2.1.

9. STATUTORY FEES, CHARGES, TAXES

Are there any statutory fees, charges or taxes payable in respect of the creation or perfection of the mortgage?

THA 9.1 Not applicable. See THA 2.1.

Are principal, interest and any other amounts payable under a loan secured against an aircraft to a lender which is not incorporated nor resident for tax purposes in Thailand subject to withholding tax or other deduction?

THA 9.2 Remittance of interest to the lender not carrying on a business in Thailand is subject to a 15% withholding tax unless an exemption or lower rate applies under a relevant double tax treaty.

Is a contractual obligation for the borrower to pay an amount equal to such withholding or deduction so that the lender receives an amount as if such withholding or deduction did not apply (a “gross-up payment”) valid and enforceable under the laws of Thailand?

THA 9.3 Such a contractual obligation is valid and enforceable under the laws of Thailand.

10. RENEWAL OF REGISTRATION

Will the registrations in respect of the mortgage remain valid throughout the tenure of the mortgage or will they require renewing? If so, what will be the approximate cost of renewal?

THA 10 Not applicable. See THA 2.1.

11. CONVENTIONS

Has Thailand ratified:

THA 11.1 (a) Chicago Convention of 1944 on International Civil Aviation (Chicago Convention)?
(b) 1948 Convention on the International Recognition of Rights in Aircraft (Geneva Convention)?

(c) 1933 Convention for the Unification of Certain Rules Relating to the Precautionary Arrest of Aircraft (1933 Rome Convention)?

(d) Convention on International Interests in Mobile Equipment and Protocol thereto on Matters specific to Aircraft Equipment (Cape Town Convention) and, if so, which Contracting State declarations has it made?

(e) Any of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the Geneva Protocol on Arbitration Clauses of 1923 or the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927?

(f) Hague Convention of 1961 related to the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents?

Thailand is a signatory to, and has ratified, the Chicago Convention¹ and has ratified the Geneva Convention.²

Thailand is not a signatory to, nor has it ratified, the 1933 Rome Convention and the Cape Town Convention.

Thailand acceded to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards on 21 December 1959.

Thailand has ratified the Geneva Protocol on Arbitration Clauses of 1923 since 3 September 1930.

Thailand has ratified the Geneva Convention on Execution of Foreign Arbitral Awards of 1927 since 7 July 1931.

Thailand is not a signatory to, nor has it ratified, the Hague Convention of 1961 related to the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents.

It should be noted that, under Thailand's legal system, the ratification and accession of an international treaty or convention does not automatically make said treaty or convention a part of Thailand's national law. To do so, the provisions of the treaty or convention must specifically be enacted into Thai law. This has not occurred in the case of the mortgage recognition provisions of the Geneva Convention. Therefore, although Thailand has ratified the Geneva Convention, the Thai courts will not recognise an aircraft mortgage in accordance with the provisions of the same because Thai law does not mandate such recognition.

Has Thailand implemented the Cape Town Convention as a matter of domestic law? Have there been any judicial proceedings in or decisions of the English courts regarding the interpretation or the application of the treaty?

No, Thailand has not implemented it and there are no such judicial proceedings or decisions.

THA 11.2

12. POSSESSION BY THE MORTGAGEE INCLUDING INSOLVENCY

On the occurrence of an event of default under the mortgage, can the mortgagee take possession of the aircraft without judicial intervention?

No. A creditor must give written notice to a debtor of its intent to enforce the mortgage and give the debtor a reasonable time to perform his obligation which

THA 12.1

¹ Thailand deposited its instrument of ratification of the Chicago Convention on 4 April 1947.

² Thailand's adherence to the Geneva Convention was effective on 8 January 1968.

time must not be less than 60 days of the receiving date of the notice, failing which the creditor can then enter an action for the property to be seized by the court.¹

No unilateral action against the debtor's property is permitted. Unilateral seizure by a creditor may expose the creditor to possible criminal, or civil, liability.

If the owner or operator of the aircraft enters into insolvency protection, can the mortgagee enforce its rights under the mortgage and/or over the aircraft?

THA 12.2 Since the aircraft mortgage is not recognised under the laws of Thailand, the mortgagee can enforce its right under the bankruptcy proceeding by filing the petition for repayment as an unsecured, non-preferential, creditor only.

13. JURISDICTION

In what circumstances would a Thai court have jurisdiction over an action brought by the mortgagee to obtain possession of the aircraft and secure payment of the mortgage debt?

THA 13 A Thai court would have jurisdiction over an action brought by a creditor to obtain possession of the debtor's property (including a mortgaged aircraft) and secure repayment of the debt:

- when the debtor is domiciled in Thailand or the cause of action arose in Thailand;²
- when the creditor is a Thai citizen or is domiciled in Thailand, and the debtor is not domiciled in Thailand and the cause of action did not arise in Thailand.³

14. JUDICIAL PROCEDURE FOR POSSESSION

Upon an event of default under the mortgage what is the judicial procedure for the mortgagee to obtain possession of the aircraft both before and subsequent to judgment? What will be the cost of initiating proceedings? Will a bond or other security be required? Are there any summary or expedited proceedings available?

THA 14 For a creditor to obtain possession of the aircraft, it must, first, notify the defaulting debtor in writing that it is in default and that it must perform its obligations immediately. Secondly, the creditor must give the debtor either a "reasonable" time to perform the obligation after such notice is received, or that period of time as is otherwise provided for in the relevant contract. After this period, the creditor must enter an action with the relevant Thai court for judgment, ordering the seizure of the property and its sale at public auction.⁴

Thai law affords two types of injunctive relief (termed "orders for protective measure") to facilitate the safekeeping of the mortgaged aircraft. The property may

¹ Civil and Commercial Code of Thailand s.728, as amended by the Civil and Commercial Code Amendment Act (No.20) BE2557 (AD2014) s.6.

² Civil Procedure Code of Thailand s.4(1).

³ Civil Procedure Code of Thailand s.4 ter.

⁴ Civil and Commercial Code of Thailand s.728, as amended by the Civil and Commercial Code Amendment Act (No.20) BE2557 (AD2014) s.6.

either be seized by an executing officer *or* a temporary injunction may be granted, ordering the defaulting debtor to cease from any further use of the aircraft.¹

In order to obtain injunctive relief, the following requirements must be satisfied:

- all applications for injunctive relief must be made to the Thai court with which the suit was originally filed; and
- the application must be based on reasonable grounds at the time of filing.

If a seizure of property is requested, the court must be satisfied that the debtor intends to dispose of, transfer or remove the property from Thai jurisdiction; or some other reasonable grounds for seizure exist.

If a temporary injunction is requested the court must be satisfied that the debtor intends to continue in breach of agreement; or that the debtor intends to dispose of, transfer or remove the property from the jurisdiction; or that the property will be wasted or damaged.²

The injunction may be expedited by serving a copy of the application on the debtor after which the debtor can defend itself in court.³ The injunctive order will remain effective until judgment is given.⁴ The debtor may apply to the court to request that the injunctive order be removed until judgment is given.⁵ The debtor is entitled to compensation (whether it is ultimately victorious or not) if it appears that, in issuing the injunctive order, the court was mis-led by a fraudulent or careless claim by the creditor.⁶

Emergency injunctions are, also, available in appropriate circumstances. In such a situation, the application will be examined without delay. If the court determines that the application is well-founded, an injunction will be issued at once. If the application for an emergency injunction is dismissed, such a dismissal is final, though the creditor may then file an application for an ordinary injunction.⁷ An injunction may be executed without prior service on the debtor.⁸

Where the relief applied for can be expressed in monetary terms, the Thai court filing fees are determined at a rate of 2.0% of the amount in dispute—not to exceed baht 200,000 for an amount not exceeding baht 50,000,000 and a rate of 0.1% for the amount in dispute exceeding baht 50,000,000.⁹

The court may require the plaintiff to deposit, as security, any sum it sees fit before it will issue an order granting seizure or attachment. This deposit is required to insure the mortgagor against any loss incurred by false, malicious or mistaken accusation.¹⁰

¹ Civil Procedure Code of Thailand s.254.

² Civil Procedure Code of Thailand s.255.

³ Civil Procedure Code of Thailand s.256.

⁴ Civil Procedure Code of Thailand s.260.

⁵ Civil Procedure Code of Thailand s.261.

⁶ Civil Procedure Code of Thailand s.263.

⁷ Civil Procedure Code of Thailand s.267.

⁸ Civil Procedure Code of Thailand s.269.

⁹ Civil Procedure Code of Thailand Sch.I, as amended by the Civil Procedure Code Amendment Act (No.24), BE 2551 (AD 2008).

¹⁰ Civil Procedure Code of Thailand s.257.

15. LENGTH OF TRIAL AND ARBITRATION

How long will the trial of the action take?

THA 15.1 The plaintiff in a civil action has seven days from the time the complaint is filed to request that a competent officer effect service on the defendant. The defendant, then, has 15 days to file the answer, if the defendant receives the complaint served by the officer. However, if the defendant refuses, or fails, to receive the complaint, the court will order the officer to post the complaint at the premises of the defendant, in which case the defendant will have 30 days from the date of posting to file an answer. The plaintiff has 15 days to answer any counter-claims filed in the answer. If the counterclaim is posted at the plaintiff's premises by the court officer, then the plaintiff will have 30 days to file the answer after the posting date. Oral arguments are allowed once in court, but written arguments may be presented at any time before the judgment is given.¹

A judgment of a court of first instance will usually take one and a half years to be given. If the judgment is appealed to the Court of Appeal (the intermediate appellate court), the subsequent judgment will, usually, take around three years to be given, with a similar waiting period for judgments from the Supreme (Dika) Court—the highest appeals court.

What is the likely timing for enforcing an arbitral award?

THA 15.2 An arbitral award is not automatically enforced by the court of jurisdiction in Thailand, but is subject to Thai legal principles and Thai legal procedures. The party to whom the arbitral award is rendered in its favour must file a lawsuit in the court of jurisdiction in Thailand, in order to enforce the arbitral award within three years from the award rendering date. Also, any party not agreeing with the arbitral award still has the right to file a lawsuit in the court of jurisdiction in Thailand, in order to revoke the arbitral award within 90 days from the award rendering date. The court timing thereof will be the same as mentioned in THA 15.1.

16. DOCUMENTS FOR POSSESSION AND SALE

What documents will the court require for:

- THA 16**
- (a) **The taking of possession of the aircraft?**
 - (b) **The sale of the aircraft?**

Taking possession of the aircraft

A Thai court will require, in addition to any testimony the creditor can provide, any evidence which will prove that the claim and the application are reasonably grounded and that injunctive relief is necessary. This typically will include, inter alia, the original financing and mortgage agreements between the debtor and creditor, evidence of default by the debtor and proof that a notice of default and a demand for performance was given to the debtor.

¹ Civil Procedure Code of Thailand ss.170–186.

The sale of the aircraft

In addition to the documents needed for a court ordered seizure, the creditor would need to provide the executing officer with a certified copy of the court judgment. Also, the decree before a sale at auction would have to have been executed.

17. SALE OF THE AIRCRAFT

May the mortgagee sell the aircraft prior to judgment being given, and if so, what is the procedure?

No, creditors may not apply for sale of the aircraft until a final judgment from the relevant Thai court has been given. **THA 17**

After receiving a judgment in its favour, a creditor must, then, direct the executing officer to file an application for a court order authorising the executing officer to sell the property of the debtor at auction.¹ Five days after the court issues the authorising order, the executing officer may proceed with the sale.²

18. CLAIMS RANKING PRIOR TO MORTGAGE

What claims would rank prior to the mortgage?

All costs of execution will be deducted from the sale proceeds before the distribution of the same to the creditor.³ Claims by prior judgment creditors against the debtor, outstanding mechanics' liens, claims for sales expenses—and the Revenue Department's claim for taxes in arrears owed by the debtor (if any)—will have priority over a creditor's unsecured debt. **THA 18**

19. JUDGMENT CURRENCY

In the event of a judicial sale of the aircraft will judgment be given in the currency of the debt if that currency differs from legal tender in Thailand?

A judgment of a Thai court may be given in foreign currency according to the complaint. However, the losing party can select to pay the judgment debt in Thai baht at the Bank of Thailand's exchange rate on the actual date of debt payment.⁴ **THA 19**

¹ Civil Procedure Code of Thailand s.306.

² Civil Procedure Code of Thailand s.308.

³ Civil Procedure Code of Thailand s.319.

⁴ Civil and Commercial Code of Thailand s.196.

20. REMITTAL OF PROCEEDS ABROAD

In the event of the mortgagor recovering the debt, whether through court process or by means of private sale, can the proceeds be freely remitted abroad? Is any foreign exchange control, central bank or other official consent required? If there is, under what circumstances would this be withheld? How long would such consent take to obtain? Will there be any restrictions on the export of the aircraft?

Transfer of proceeds

THA 20

Permission to convert into a foreign currency and to remit abroad the proceeds of a court sale of a mortgaged aircraft should be routinely obtainable at any licensed commercial bank in Thailand, upon presentation to the bank of documents showing the necessity of making payment in a foreign currency to a person abroad, together with the presentation of the prescribed exchange control forms.¹ For this purpose a copy of the final court judgment and decree ordering the public sale of the aircraft and related documentation arising from such sale should be sufficient. In the event that the commercial bank refuses to authorise the remittance abroad of the sale proceeds, the bank would refer the matter to the Bank of Thailand and, in practice, such permission should be granted within a few days of application. We are aware of no circumstances where permission would be withheld.

Export of the aircraft

To export the aircraft, the creditor should notify the Air Transport Control Division of CAAT as to the planned departure of the aircraft. The creditor should apply for a permit to fly the aircraft out of the country. The Certificate of Registration must be returned to CAAT and export formalities must be completed with the Customs Department. This means that the creditor must file “export entry” forms together with supporting documentation. No customs duties or taxes in relation to the export of the aircraft will be required.

21. RECOGNITION OF FOREIGN JUDGMENT

Were the mortgage to be subject to the jurisdiction of a foreign court and were judgment to be given by that court, would the judgment be recognised and enforced by the courts of Thailand? Are there any prerequisites to such enforcement? Would the Thai courts enforce such a judgment without a rehearing of the issues? Would a Thai court enforce a foreign decree or other executive act confiscating the aircraft regardless of the mortgagee’s security interest in it?

Recognition of a foreign judgment

THA 21

Foreign money judgments are not automatically recognised, or enforced, in Thailand, but are subject to Thai legal principles and Thai procedure. For example, a foreign judgment that is contrary to the good morals and/or public order of Thailand will not be enforced.² Nor will any foreign judgment based on an act which—while giving rise to liability in the country of origin—is not considered wrongful under

¹ Notice of the Exchange Control Officer, dated 1 April 1991, issued pursuant to the Exchange Control Act 1942, Nos 9 and 10.

² Civil and Commercial Code of Thailand s.150.

the laws of Thailand.¹ It should be noted that there are no specific agreements between Thailand and other nations regarding the enforcement of foreign money judgments. Nor is there any specific law providing for the enforcement of such judgments.

Chain of certification

To be sued on and referred to as evidence in Thai courts, foreign money judgments must be in the form of certified copies. These copies must be submitted (together with a translation into the Thai language of the judgment) as well as documentation evidencing the chain of certification. The judgment should be certified by the court which gave judgment and there must be a chain of authentication which should, ultimately, bear the certification of the Thai Ministry of Foreign Affairs. A typical chain of certification and authentication of a foreign money judgment from a State court in the US would be:

- the Clerk of Court issues a certified true and complete copy of the judgment under the signature and seal of the court;
- the Secretary of State annexes a certificate (bearing the signature and State Seal) to the effect that the Clerk of Court is a clerk of court of law and record with an official seal, and that the certified copy of the judgment is signed by the Clerk of Court and bears the seal of the court;
- the US Secretary of State annexes a certificate, bearing Department of State Seal, to the effect that the annexed document is under the Seal of the stated State;
- the Secretary of the Royal Thai Embassy in Washington DC annexes a certificate of legalisation of the annexed Seal of the United States Department of State; and
- the Thai Ministry of Foreign Affairs in Bangkok certifies as genuine the signature of the Secretary of the Royal Thai Embassy.

Certification of an aircraft

The fact, or the amount, of a creditor's security interest in the aircraft would not, usually, have any importance in a Thai court's decision whether to confiscate an aircraft.

22. GOVERNMENT INTERFERENCE

In what circumstances would the executive organs of Government seize the aircraft or otherwise a power of expropriation so as to defeat or substantially impede the mortgage's entitlement? In what circumstances would the executive order or refuse to permit the deregistration of the aircraft from the Thai Nationality Register of Civil Aircraft or refuse to permit the registration of the mortgage in the Aircraft Mortgage register?

The Thai military has the power to requisition aircraft in certain circumstances, such as times of war, national emergency, martial law, or for purposes of military training in which the public must participate. Compensation or damages must be paid for such requisition according to the average cost or rental value of the aircraft,

THA 22

¹ Act on Conflict of Laws 1938 s.15.

together with any expenses for delivery of the aircraft.¹ In addition, if it is suspected that an aircraft is involved in a violation of the law or may cause damage to the country, the competent Air Force officer has the authority to, inter alia, seize the aircraft as evidence in any court proceedings. However, the aircraft must be released if the prosecutor issues a final order not to proceed with the case, if the case becomes final, or if it is found that there was no intention to violate the law and no wrongful act was committed.²

We are aware of no circumstances where the Executive would order, or refuse to permit, the deregistration of an aircraft from the Thai Aircraft Registry.

AIRCRAFT LEASING

23. LEASING OF AIRCRAFT

Is there a Register in which leases may be registered? May only certain types of lease be registered?

THA 23.1 No. There is no register in Thailand for the purposes of officially recording leases of aircraft, and the parties to such leases do not need to give notice to, or receive the approval of, CAAT or any other governmental authority. However, as referred to in THA 1.7 the Certificate of Registration of an aircraft may state the names and addresses of both the aircraft owner and the aircraft operator, together with reference to the lease agreement giving rise to the operator's right to use the aircraft.

What documentation and consents are required for registered?

THA 23.2 Not applicable. See THA 23.1.

What are the opening hours and registration fees?

THA 23.3 Not applicable. See THA 23.1.

Can the Register be amended?

THA 23.4 Not applicable. See THA 23.1.

What is the effect of registration?

THA 23.5 Not applicable. See THA 23.1.

How is deregistration effected?

THA 23.6 Not applicable. See THA 23.1.

Will deregistration powers of attorney and/or Cape Town Irrevocable Deregistration and Export Request Authorisations (IDERAs) be enforceable?

THA 23.7 Not applicable. See THA 23.1.

Is it possible to register the lease of a helicopter in the Register?

THA 23.8 Not applicable. See THA 23.1.

¹ Military Requisition Act 1987 ss.10–12, 33, 42, 43, 55.

² Act on Treatment of Unlawful Aircraft 1976 ss.6 and 8.

24. TYPES OF AIRCRAFT LEASE

What types of aircraft lease are possible under the laws of Thailand? What are their essential characteristics?**THA 24**

No specific legislation or regulations exist in Thailand concerning aircraft leases and, therefore, such leases are governed by general provisions of law relating to the hire of property as set forth in the Civil and Commercial Code of Thailand.¹ Although oral leases may be enforceable, due to their nature and complexity, aircraft leases in Thailand are typically concluded in writing.

The provisions of law on the hire of property are divided into four sections, namely:

- general provisions;
- duties and liabilities of the lessor;
- duties and liabilities of the lessee; and
- extinction of a contract of hire.

Some of the major provisions of law on the hire of property which should be considered in negotiating and drafting an aircraft lease governed by Thai law are as follows:

- Unless otherwise provided by the lease, the lessee cannot sub-let or transfer its rights in the aircraft to a third person. If the lessee acts contrary to this provision, the lessor may terminate the lease.
- The lessor must deliver the leased aircraft in a good state of repair, failing which the lessee may terminate the lease. The lessor is liable for defects in the leased aircraft which impair its value or fitness for ordinary purposes, or for the purposes of the lease—whether or not the lessor knew of the existence of the defect. However, the lessor will not be so liable if the lessee knew (or should have known) of the defect at the time of the lease, or if the defect was apparent at the time of delivery of the aircraft and the lessee accepted the aircraft without reservation.
- The lease may contain a non-liability clause stipulating that the lessor is not liable for defects in the leased aircraft. However, unless otherwise stated in such clause, the lessor will not be exempt from repayment of the rental price. A non-liability clause, in any case, cannot exempt the lessor from the consequences of its own acts or of facts which it knew and concealed.
- Except for expenses for ordinary maintenance and minor repairs, the lessor is obligated to reimburse the lessee for necessary and reasonable expenses incurred by it in preserving the aircraft.
- The lessee must take reasonable care of the leased aircraft and perform ordinary maintenance and minor repairs. The lessee cannot use the leased aircraft for unusual purposes or for purposes other than those prescribed in the lease.
- The lessee must allow the lessor (or its agents) to inspect the leased aircraft at reasonable times and intervals.
- The lessee must inform the lessor if the leased aircraft is in need of repair by the lessor, if a preventive measure is required for avoiding danger to the leased aircraft or if a third party encroaches on, or claims a right over, the leased aircraft.

¹ Civil and Commercial Code of Thailand ss.537–571.

- The lessee may not alter the leased aircraft without the lessor's permission and the lessee must return the leased aircraft to the lessor in good condition upon termination of the lease, unless it can prove that it was not in good repair at the time of delivery.
- The lessee is liable for loss or damage to the leased aircraft occurring through its own fault or its sub-lessee, but it is not liable for loss or damage resulting from proper use of the leased aircraft.

The provisions summarised above, together with other sections of the Civil and Commercial Code of Thailand concerning the hire of property, will apply in the absence of contrary terms and conditions stipulated by the parties in the lease. Thus, there is considerable leeway in fashioning different types of aircraft lease depending on the intention of the parties, provided that the terms and conditions thereof are not contrary to the public order or good morals of the people of Thailand.

It is important to distinguish between a lease and a hire-purchase agreement (i.e. a conditional sale agreement) under Thai law. A hire-purchase agreement for an aircraft is void unless it is made in writing. It is defined as an agreement whereby the aircraft owner leases the aircraft with the promise to sell it to, or that it will become the property of, the lessee, conditionally upon the lessee making a certain number of payments. A hire-purchase agreement for an aircraft may be terminated by the lessee at any time on redelivery of the aircraft at its own expense to the owner. The owner of the aircraft may terminate the hire-purchase agreement in the event of default in two successive payments or the breach of any material part of the agreement by the lessee. In such case, the lessor forfeits all prior payments made to the lessor, who is entitled to resume possession of the aircraft.¹

25. LAW GOVERNING THE LEASE

What law will govern the validity of the lease? If the parties to the lease stipulate that the lease will be governed by the laws of a foreign country, would a court in Thailand uphold such a clause?

THA 25

The parties to an aircraft lease are free to stipulate the governing law of the same. If the law selected is other than the law of Thailand, a Thai court, generally, would uphold and enforce such a law so long as it has some relation to the circumstances of the lease, it is proven to the satisfaction of the court, and it is not considered contrary to the public order or good morals of the people of Thailand. If the intention of the parties as to the choice of law is not specified and cannot be ascertained, then, the applicable law will be the law common to the parties if they are of the same nationality. If the parties are not of the same nationality, then the law of the place where the lease was entered into will govern. Where the lease is made at a distance, it will be deemed to have been made at the place where notice of acceptance reaches the offeror. If such place cannot be ascertained, the law of the place where the lease is to be performed will govern.²

¹ Civil and Commercial Code of Thailand ss.572–574.

² Act on Conflict of Laws 1938 s.13.

26. LEASE TERMS AND INSURANCES

Are there any special terms that an aircraft lease governed by the laws of Thailand should contain?

Most aircraft leases in Thailand involve a foreign lessor and a Thai lessee. As a result, they usually follow the practice of Anglo-American legal systems by including detailed terms and conditions. As discussed in THA 24, Thai law affords the parties flexibility in drafting an aircraft lease to suit their needs, and Thai courts tend to enforce unambiguous contractual terms unless public policy dictates otherwise. Therefore, it is beneficial, in most cases, to detail in the lease the parties' agreement to the greatest extent possible. By way of example, a typical Thai aircraft lease contains, inter alia, the following basic provisions:

THA 26.1

- term of the lease;
- charges and financial provisions;
- delivery of the aircraft;
- title and registration of the aircraft;
- maintenance and maintenance expenses;
- taxes;
- indemnification and insurance;
- loss, damage or government requisition of the aircraft;
- warranties and covenants of lessor and lessee;
- disclaimers of warranties;
- events of default; and
- terms of re-delivery of the aircraft.

Are there any special documentary conditions precedent to the leasing of an aircraft (including the execution of the lease agreement and the physical or constructive delivery of the aircraft) which a lessor should require?

There is no such special documentary condition precedent except under the general provisions of law relating to the hire of property as set forth in the Civil and Commercial Code of Thailand (CCC), s.538, where the lease of an aircraft will not be enforceable unless there is some written evidence signed by the party liable. Both physical, and constructive, delivery of the aircraft is acceptable.

THA 26.2**Are any licences or other authorisations required of a lessor under the laws of Thailand for the leasing of aircraft?**

No, there are no licenses or other authorisations required of the lessor for the leasing of aircraft.

THA 26.3**Is there a doctrine of strict liability or equivalent statutory regime in Thailand which applies to lessors or owners of aircraft (or aircraft engines) for any aviation related incidents?**

There is strict liability under CCC s.437. It applies only to the possessors or controllers of vehicles—including aircraft—for any damage and/or injury caused by vehicles unless they can prove that such damage and/or injury results from force majeure or from the fault of the injured person. If the aircraft is under the possession or control of the lessee, this strict liability does not apply to the lessors or owners.

THA 26.4

Are there any legal or regulatory requirements for lessors or owners of aircraft (or aircraft engines) to place or to retain insurances (including re-insurances) with insurers incorporated in Thailand?

THA 26.5 There are no such legal or regulatory requirements for the lessors, or owners, of aircraft. Only the lessee is required to provide insurances as designated by CAAT.

Is a “cut-through clause” pursuant to which a re-insurer agrees to pay any insurance proceeds payable under the re-insurances directly to the original insured party and not to the re-insured party valid and enforceable under the laws of Thailand?

THA 26.6 Yes, it is valid and enforceable under Thai law.

Is it possible to assign by way of security or otherwise create a security interest in respect of the rights under a lease of an aircraft, including rentals and other payments?

THA 26.7 The lessee may assign, or create, a security interest by way of registration of the business security agreement with Thailand Department of Business Development pursuant to the Thailand Business Security Act 2015.

Is it possible under the laws of Thailand to assign the rights or to novate (or otherwise transfer) the rights and obligations under a lease of an aircraft?

THA 26.8 Yes, it is possible. In case of the assignment of the rights and obligations under the aircraft lease by the owner, or lessor, to another person, this does not have legal effect to the aircraft’s registration with CAAT. However, the lessee must notify such an assignment to CAAT for recording a change in the aircraft’s owner. In case of an assignment of the rights, and obligations, of the lessee to another person, such will cause the aircraft’s registration to be null and void because the aircraft’s registration is personal to the specific lessee. The new lessee shall be required to re-register the aircraft with CAAT.

27. SPARE PARTS

Under the laws of Thailand can spare parts, including future parts, be subject to the lease? Are any special formalities required?

THA 27 No. Spare parts, including future parts, cannot be subject to an aircraft lease unless they are physically attached to the aircraft.

28. EXECUTION AND PERFECTION OF LEASES

Are there any special execution formalities, such as (i) witnessing the lease; (ii) attesting the lease, that is the witness signing when present at the execution of the lease; (iii) making the lease by way of deed; (iv) notarising the lease; (v) legalising (consularising) the lease; (vi) translating the lease; or (vii) stamping the lease; and any significant costs, such as stamp duty or certification fees, associated with leases of aircraft under the laws of Thailand? Can a lease be executed by electronic signature?

THA 28.1 Under the general provisions of law relating to the hire of property as set forth in CCC s.538, the lease of an aircraft will not be enforceable unless there is some written evidence signed by the party liable. However, due to the complexity of the terms and conditions of the aircraft lease, it is beneficial, in most cases, to detail in the

lease the parties' agreement to the greatest extent possible and to have the lease signed by the authorised representatives of both of the contracting parties in the presence of witnesses.

However, in case where the lease agreement will be executed outside Thailand and it will be used in court proceeding, there will be additional formalities on chain of certification, i.e. (i) the lease agreement must be notarised by a notary public in the jurisdiction where the lease agreement is executed; (ii) the notarised lease agreement must be legalised by a Royal Thai Consul in the same jurisdiction; and (iii) the Thai Ministry of Foreign Affairs in Bangkok will certify as genuine the signature of the Royal Thai Consul; also, the notarised and legalised lease agreement shall be translated into the Thai language. For stamp duty, see THA 29 below. Under the Thailand Electronic Transaction Act 2001 the lease agreement can be executed by means of an electronic signature.

What additional formalities are required to perfect the status of a lease, such as registration?

There are no formalities required to perfect the status of an aircraft lease in Thailand. A lease that is otherwise valid according to Thai law will be enforceable without any additional procedures or registration with any other government authority.

THA 28.2

Do any of the above formalities apply to powers of attorney (deregistration or otherwise)?

There are no formalities to apply to powers of attorney.

THA 28.3

Do any of the above formalities apply to assignments of the rights or novations of the rights and obligations under a lease (or any other form of lease transfer agreement)?

There are no specific formalities to apply to such assignments or novations. However, under the general provisions of CCC, in the case of the assignment, or novation, of rights and/or obligations under the lease, the assigning party shall be required to send written notice to, or to obtain the written consent of, the other party to the lease.

THA 28.4

29. CHARGES AND TAXES

Are there any fees, charges or taxes payable in respect of the creation of an aircraft lease or its registration? What is the tax effect of different types of lease?

Fees and charges

There are no fees or charges payable in Thailand in respect of the creation of an aircraft lease.

THA 29.1

Taxes

Withholding tax

Lease rentals paid by a lessee from or in Thailand to a lessor which comprises a foreign legal person and which is not carrying on business in Thailand are subject to 15% withholding tax,¹ unless an exemption or lower rate applies under a relevant double tax treaty.²

The lessor will not be subject to further Thai tax thereon. Lease rentals paid by a lessee which is a legal person from, or in, Thailand to a lessor which is a legal person deemed to be carrying on business in Thailand is subject to 5% withholding tax,³ and the lessor is entitled to a tax credit for the amount withheld against its Thai corporate income tax liability. Remittances of after-tax profits by the Thailand branch office of a foreign lessor which is a legal person carrying on business in Thailand, to its head office outside Thailand, is subject to 10% withholding tax.⁴

Capital allowances

As the owner of an aircraft, a lessor carrying on business in Thailand is permitted to claim a deduction for the wear and tear and depreciation of the aircraft, in order to compute net profits for Thai corporate income tax purposes. The deduction must be made in proportion to the period of time since acquiring the aircraft. However, it may not exceed 20% of the value of the aircraft's cost per year, except in certain circumstances. For deductions in respect of the cost of acquiring lease rights in an aircraft, if there is no written lease (or if there is a written lease which permits

¹ Revenue Code s.70 and Income Tax Sch.2(b).

² Thailand has double tax treaties in effect with the following 61 countries:

Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Bulgaria, Cambodia, Canada, Chile, China, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hong Kong, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, South Korea, Kuwait, Laos, Luxembourg, Malaysia, Mauritius, Myanmar, Nepal, the Netherlands, New Zealand, Norway, Oman, Pakistan, the Philippines, Poland, Romania Russian Federation, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Chinese Taipei, Tajikistan, Turkey, Ukraine, the United Arab Emirates, the UK of Great Britain and Northern Ireland, the US, Uzbekistan and Vietnam.

Under Thailand's tax treaties, rental income on aircraft is:

- (a) treated as business profits in treaties with Belgium, Bulgaria, Cambodia, Cyprus, Denmark, Estonia, France, Germany, Hong Kong, Ireland, Israel, Italy, South Korea, Kuwait, Mauritius, Myanmar, the Netherlands, Norway, Poland, Seychelles, Singapore, South Africa, Tajikistan, the UK and the US;
- (b) treated as royalties in treaties with Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Canada, Chile, China, Czech Republic, Finland, Hungary, India, Indonesia, Laos, Luxembourg, Malaysia, Nepal, New Zealand, Oman, Pakistan, the Philippines, Romania, Russian Federation, Slovenia, Sri Lanka, Spain, Sweden, Switzerland, Chinese Taipei, Turkey, Ukraine, the United Arab Emirates, Uzbekistan and Vietnam; and
- (c) not treated as a royalty but expressly excluded as business profit, in a treaty with Japan.

If the lessor is resident in a country in (a) and does not have a permanent establishment in Thailand, the rental income, being business profits, is not subject to income tax in Thailand and there is no tax withheld from rent payments.

The withholding tax on rental income subject to the treaties in (b), which is considered a royalty, is effectively 15% when paid to residents of those countries without a permanent establishment in Thailand. This withholding constitutes the lessor's sole Thailand income tax liability for rent. Because aircraft rental income is not given a withholding tax rate in Thailand's tax treaty with Japan, the Revenue Code withholding tax rate of 15% applies to rent paid to a resident of Japan without a permanent establishment in Thailand. This is the Japanese lessor's only income tax payment due in Thailand on the rental.

³ Ministerial Regulation No.144 (issued under the Revenue Code) art.2(7).

⁴ Revenue Code s.70 bis and Income Tax Sch.2d.

continued renewals) the deduction may not exceed 10% of the value of the lease rights per year. If there is a written lease with no renewal clause (or with a renewal clause restricting renewals to a specific duration) the percentage rate of the maximum permissible deduction per year is determined by the ratio of 100 divided by the total sum of the years of the initial and renewal terms of the lease. In no case may the deduction deplete the entire value of the cost of the aircraft or the lease rights, as the case may be.¹

Corporate income tax

A lessor which is a legal person deemed to be carrying on business in Thailand will be subject to 20% corporate income tax on net profits arising from its leasing business.² Such a rate of corporate income tax shall be reduced and collected at the following rates, however. More specifically, a company or a juristic partnership (i) with paid-up capital on the last day of the accounting period not exceeding Baht five million; and (ii) revenue in the fiscal year period of not exceeding Baht 30 million will bear a tax rate of:

- 0% of the net profit, on the portion not exceeding Baht 300,000;
- 15% of the net profit, on the portion exceeding Baht 300,000 but not exceeding Baht three million; and
- 20% of the net profit, on the portion exceeding Baht three million.

Such a reduction of income tax rates will be enforced on the net profit of a company or a juristic partnership occurring in the accounting period which begins on, or after, 1 January 2017 onwards.³

Non-Thai lessors who are not carrying on business in Thailand are only subject to a 15% withholding tax on rental payments made from, or in, Thailand and, in such a case, the 20% corporate income tax does not apply.

Value added tax (VAT)

Rental payments for the lease of aircraft used in Thailand are subject to 7% VAT.⁴ If the lessor carries on business in Thailand, the lessee must pay the VAT to the lessor who, then, remits it to the Revenue Department. If the lessor resides outside Thailand and is not recorded for VAT registration, the lessee must remit the VAT directly to the Revenue Department on behalf of the lessor. Rental payments for the lease of aircraft from Thailand for use outside Thailand may be eligible for 0% VAT, depending on the circumstances of the lease.⁵

Stamp duty

No stamp duty is payable in respect of the creation of an aircraft lease.

¹ Royal Decree No.145 (issued under the Revenue Code) ss.4 and 8.

² Revenue Code s.67 and Income Tax Sch.2(a), as amended by the Revenue Code Amendment Act (No.42) BE 2559 (AD2016), to be enforced on the net profit of the company or juristic partnership occurred in the accounting period which begins on or after 1 January 2016 onwards.

³ Royal Decree Nos.530 and 603 (issued under the Revenue Code).

⁴ Revenue Code s.80, Royal Decree No.440 (issued under the Revenue Code) s.4, and the Municipality Revenue Act 1954 s.12 bis.

⁵ Revenue Code s.80/1(2).

Are there any fees, charges or taxes payable in respect of the assignment of the rights or the novation of the rights and obligations under a lease (or any other form of lease transfer agreement)?

THA 29.2 There are no such fees, charges or taxes or any other form of lease transfer agreement.

Are rentals or other amounts payable under a lease of an aircraft to a lessor which is not incorporated nor resident for tax purposes in Thailand subject to withholding tax or other deduction?

THA 29.3 See the third paragraph in corporate income tax section above.

Is a contractual obligation for the lessee to pay an amount equal to such withholding or deduction so that the lessor receives an amount as if such withholding or deduction did not apply (a “gross-up payment”) valid and enforceable under the laws of Thailand?

THA 29.4 Such a contractual obligation is valid and enforceable under the laws of Thailand.

Are there any customs duties, import and export taxes or similar charges payable in respect of the lease of an aircraft and if so, is the lessor liable for these? What about spare aircraft engines?

THA 29.5 To import the aircraft, the lessee should notify the Air Transport Control Division of CAAT in advance as to the planned arrival of the aircraft. The lessee (not the lessor) will be liable for processing customs formalities for importing the aircraft - including the payment of the import tax for aircraft at the rate of 5% (tariff code no. 8802) and spare aircraft engines at the rate of 10% (tariff code no. 8407.10.00)—unless there is exemption by means of the Ministry of Finance’s announcement—plus, value added tax at the rate of 7%.

To export the aircraft, the creditor or lessor should notify the Air Transport Control Division of CAAT as to the planned departure of the aircraft. The creditor or lessor should apply for a permit to fly the aircraft out of the country. The Certificate of Registration must be returned to CAAT and export formalities must be completed with the Customs Department. This means that the creditor must file “export entry” forms together with supporting documentation. No customs duties or taxes in relation to the export of the aircraft will be required.

30. RENEWAL OF REGISTRATION

Will any registrations in respect of the lease remain valid throughout the lease term or will they require renewal? If so, what will be the approximate cost of renewal?

THA 30 Not applicable. See THA 23.1.

31. POSSESSION BY THE LESSOR INCLUDING INSOLVENCY

On the occurrence of an event of default under the lease, can the lessor take possession of the aircraft without judicial intervention?

THA 31.1 No. If the lessee acts contrary to the terms of the lease, the lessor may notify the lessee to comply with the lease. If the lessee fails to comply, the lessor may terminate

the lease¹ and demand that the lessee return possession of the aircraft. Where the lessee refuses to return possession of the aircraft to the lessor after termination, the lessor must enter an action for the property to be seized by the court.

No unilateral action to take possession of the aircraft from the lessee is permitted, unless specifically provided for in the lease. Unilateral seizure by the lessor may expose the lessor to possible criminal or civil liability.

If the lessee enters into insolvency protection, may the lessor enforce its rights under the lease and/or over the aircraft and terminate the lease?

The lessor may terminate the lease and file the petition with the insolvency officer of the lessee (i.e. the receiver) for repayment of the due and unpaid rentals within two months from the date of publication of the absolute receivership order. However, the case where the lessor is outside Thailand, the insolvency officer may grant an extension of time for a period not exceeding two months under Thailand Bankruptcy Act 1940 s.91, as amended. Further, the lessor can file its opposition (directed to the insolvency officer) against the insolvency officer's seizure of the aircraft. Upon receipt of such an opposition, the insolvency officer shall proceed with an examination of the matter and render an order (decision). In case where the order (decision) is not in favour of the lessor, the lessor shall have the right to file the petition to the court against the insolvency officer for repossession of the aircraft under the Thailand Bankruptcy Act 1940 s.158, as amended.

THA 31.2

If the lessee enters into insolvency protection and retains the aircraft, will it or its insolvency officer be required to pay rentals as they fall due and otherwise perform the terms of the lease?

No, the lessee will be prohibited from managing its business and assets—including paying rentals and performing the terms of the lease. The insolvency officer is not required to pay rentals to the lessor or to perform the terms of the lease. What the lessor can do is to file a petition for re-payment of the due rentals.

THA 31.3

If the lessee enters into insolvency protection, will its insolvency officer be able to claim against the lessor for any payments made by the lessee as security for its obligations under the lease, including any letter of credit issued in favour of the lessor?

The insolvency officer has the authority to claim it from the lessor.

THA 31.4

If the lessee enters into insolvency protection, will any power of attorney (including a deregistration power of attorney) granted by the lessee continue to be enforceable, including if it is stated to be irrevocable?

No, the power of attorney will not be enforceable since the lessee is legally prohibited to do any transaction with respect to its properties and business.

THA 31.5

¹ Civil and Commercial Code of Thailand s.554.

Are letters of credit preferable to cash deposits (for example, due to insolvency regime and ability of insolvency administrator to seek clawback of deposits)?

THA 31.6 A letter of credit is a legal instrument under which the lessor may claim money pursuant to the terms and conditions of the letter of credit. However, it is not deemed to be a cash deposit.

Can deposits be applied/set-off if an airline goes into insolvency?

THA 31.7 Deposits are money that the recipient (lessor) has obligation to return to the lessee under the terms and conditions of the deposit. Therefore, the lessor can set-off a deposit against due and unpaid rentals, by giving written notice of set-off to the insolvency officer.

32. JURISDICTION

In what circumstances would a court in Thailand have jurisdiction over an action brought by the lessor to obtain possession of the aircraft?

THA 32 See THA 13, substituting “lessor” for “creditor” and “lessee” for “debtor”.

33. JUDICIAL PROCEDURE FOR POSSESSION

Upon an event of default under the lease what is the judicial procedure for the lessor to obtain possession of the aircraft both before and subsequent to judgment? What will be the cost of initiating proceedings? Will a bond or other security be required? Are there any summary or expedited proceedings available?

THA 33 For a lessor to obtain possession of the aircraft, it must notify the defaulting lessee in writing that it is in default and that it must comply with the lease agreement. If the lessee fails to comply with such notice, the lessor may terminate the lease¹ and demand that the lessee return possession of the aircraft. Where the lessee refuses to return the aircraft to the lessor after termination, the lessor must enter an action with the court for judgment ordering the seizure of the aircraft and its return to the lessor.

With respect to the procedures and requirements for obtaining injunctive relief and the deposit of security with a Thai court, see THA 14. However, an order for protective measures to seize the aircraft is not available to the lessor and the lessor may only seek a temporary injunction to order the defaulting lessee to cease further use of the aircraft.

34. LENGTH OF TRIAL AND ARBITRATION

How long will the trial of the action take?

THA 34.1 See THA 15.

What is the likely timing for enforcing an arbitral award?

THA 34.2 An arbitral award is not automatically enforced by the court of jurisdiction in Thailand. However, it is subject to Thai legal principles and to Thai legal procedure. Any party not agreeing with the arbitral award still has the right to file a lawsuit

¹ Civil and Commercial Code of Thailand s.554.

with the court of jurisdiction in Thailand, to revoke the arbitral award. The timing thereof will be the same as mentioned in THA 15.1 above.

35. DOCUMENTS FOR POSSESSION

What documents will the court require for the taking of possession of the aircraft?

A Thai court will require, in addition to any testimony the lessor can provide, evidence to prove that the claim and the application are reasonably grounded and that injunctive relief is necessary. This typically will include, inter alia, the original lease, evidence of default by the lessee and proof that notices of default and termination of the lease were given to the lessee.

THA 35

36. CLAIMS RANKING PRIOR TO THE LESSOR

What claims would rank prior to the lease?

In terms of claims against the aircraft itself, the lessor, as the owner, will have priority in the event of a dispute with the lessee.

THA 36

In the event of the non-payment of rent by the lessee pursuant to a lease, the lessor's claim in respect of such a debt will be recognised as a non-preferential claim over an unsecured debt. The lessor's claim would be subordinate to the claims of judgment creditors and creditors with preferential rights under Thai law and it will rank evenly with other creditors having unsecured, non-preferential, claims against the lessee.

37. JUDGMENT CURRENCY

In the event of damages being sought by the lessor under the lease will judgment be given in the currency of the lease if that currency differs from legal tender in Thailand?

See THA 19.

THA 37

38. REMITTAL OF PROCEEDS ABROAD

In the event of the lessor recovering any debt under the lease, can the proceeds be freely remitted abroad? Is any foreign exchange control, central bank or other official consent required? If there is, under what circumstances would this be withheld? How long would such consent take to obtain? Will there be any export restrictions on the export of the aircraft?

See THA 20, except that, in this situation, the Thai licensed commercial bank may require documentation for remittance in the form of a copy of the lease and the final court judgment against the lessee.

THA 38

39. RECOGNITION OF FOREIGN JUDGMENT

Were the lease to be subject to the jurisdiction of a foreign court and were judgment to be given by that court, would the judgment be recognised and enforced by the courts of Thailand? Are there any prerequisites to such enforcement? Would courts in Thailand enforce such a judgment without a rehearing of the issues? Would a court in Thailand enforce a foreign decree or other executive act confiscating the aircraft regardless of the lessor's ownership of it?

THA 39 See THA 21.

40. GOVERNMENT INTERFERENCE

In what circumstances would the executive organs of Government seize the aircraft, or otherwise exercise a power of expropriation so as to defeat or substantially impede the lessor's ownership of it? In what circumstances would the executive order or refuse to permit the deregistration of the aircraft from the Thailand Nationality Register of Civil Aircraft?

THA 40 See THA 22.

41. ANTI-BRIBERY AND CORRUPTION

Are there any specific anti-bribery and/or corruption laws in Thailand that a lessor or financier of aircraft needs to be aware of, including limitations on gifts and entertainment of customers or government officials?

THA 41 There is an Act Supplementing the Constitution on Anti-Corruption 2018 (Anti-Corruption Act 2018), replacing the Act Supplementing the Constitution on Anti-Corruption 1999 (Anti-Corruption Act 1999). It prohibits any person giving—and it prohibits state officials, foreign state officials, and international organisation officials from receiving—gifts, either in the form of tangible assets or other benefits, except for those they are legally entitled to receive. Also, those received per a moral obligation, in line with the rules, and the amounts, designated by the National Anti-Corruption Commission. A violator will be liable to imprisonment not exceeding five years, or a fine of THB 100,000, or both. The definition of person who commits bribery has been expanded to include foreign juristic entities that are registered abroad and operate a business in Thailand. Juristic entities can be liable for an offense if a bribe is provided by an “associated person” for the benefit of juristic entities—which includes representatives, employees, agents, affiliates, etc. Juristic entities will be liable to a fine of, at least, the amount of the benefit received, but not more than double that amount. The Anti-Corruption Act 2018 allows juristic entities to reduce their liability by proving fundamental internal control guidelines were in place.

42. SPECIFIC ENGINE LEASING QUESTIONS

Accession of Title

THA 42.1 (a) If an aircraft engine owned by party A is affixed on an aircraft owned by party B, does the law regard such aircraft engine as being owned by party B?

Yes, it is.

(b) If an aircraft engine owned by party A is affixed on an aircraft owned by party B and such aircraft is mortgaged to party C, does the law regard such aircraft engine as being subject to party C's mortgage?

An aircraft mortgage is not recognised under the laws of Thailand. See THA 2.1.

Helicopter Engines

Does Thailand law recognise a separate interest in helicopter engines that can be registered and/or secured while on-wing or off-wing? If relevant in this jurisdiction, please consider that under the Cape Town Convention, helicopter engines are arguably considered part of the aircraft when they are installed.

THA 42.2

Thai law does not recognise a separate interest in helicopter engines that can be registered and/or secured under mortgage. Thailand has not ratified the Cape Town Convention.

General Comments on Aircraft Engines

Please identify any specific issues related to aircraft engines that affect the answers you have given to the previous questions related to leasing or financing of aircraft.

THA 42.3

None.

43. AIRCRAFT SALES

Are there any special execution formalities for an agreement for sale and/or any title transfer instrument in respect of an aircraft, such as (i) witnessing the agreement; (ii) attesting the agreement, that is the witness signing when present at the execution of the agreement; (iii) making the agreement by way of deed; (iv) notarising the agreement; (v) legalising (consularising) the agreement; (vi) translating the agreement; or (vii) stamping the agreement; and any significant costs, such as stamp duty or certification fees, associated with agreements for sale and/or title transfers of aircraft under the laws of Thailand? Can an agreement for sale and/or any title transfer instrument in respect of an aircraft be executed by electronic signature?

Under the general provisions of law relating to the sale of property as set forth in CCC s.456, the sale of an aircraft will not be enforceable unless there be some written evidence signed by the party liable. However, due to the complexity of the terms and conditions of the sale of an aircraft, it is beneficial, in most cases, to detail in the sale the parties' agreement to the greatest extent possible and to have the sale agreement signed by the authorised representatives of both parties in the presence of witnesses.

THA 43.1

However, in case where the sale agreement will be executed outside Thailand and will be used in the court proceedings, there will be additional formalities in the form of a chain of certification, i.e. (i) the sale agreement must be notarised by a notary public in the jurisdiction where it is executed; (ii) the notarised sale agreement must be legalised by a Royal Thai Consul in the same jurisdiction; and (iii) the Thai Ministry of Foreign Affairs in Bangkok will certify as genuine the signature of the Royal Thai Consul; the notarised and legalised sale agreement shall be translated

into Thai language. No stamp duty is payable re respect of the creation of the sale of an aircraft. Under the Thailand Electronic Transaction Act 2001, the sale agreement can be executed by means of an electronic signature.


What additional formalities are required to perfect the status of the agreement for sale and/or any title transfer instrument in respect of an aircraft, such as registration?

THA 43.2 There are no formalities required to perfect the status of an agreement for sale and/or any title transfer instrument in respect of an aircraft. The sale agreement is valid and enforceable without any additional procedures or registration with any government authority. However, in case where the sold aircraft is registered with CAAT in the name of the seller, the purchaser will have to re-register the aircraft with CAAT in its name. In the case where the sale aircraft is registered with CAAT in the name of the lessee under the lease agreement with the owner (the seller), the lessee will have to notify such change in the aircraft's title to CAAT, to record the purchaser as new owner.

Are there any fees, charges or taxes payable in respect of the sale of an aircraft?

THA 43.3 No fees, charges or taxes are payable in respect of the creation of the sale of an aircraft if the seller is incorporated outside Thailand and does not carry on its business in Thailand.

THA APPENDIX A

ฝ่ายสมควรเดินอากาศและวิศวกรรมการบิน 333/105 อาคารลัสซีเพลซ่า ถนนกำแพงเพชร 6 แขวงตลาดบางเขน เขตหลักสี่ กรุงเทพฯ กรุงเทพฯ 10210 โทร. 0 2568 8800 ต่อ 4103	 CAAT สำนักงานการบินพลเรือนแห่งประเทศไทย The Civil Aviation Authority of Thailand	Airworthiness and Aircraft Engineering Dept. 333/105 Lak Si Plaza, Khamphaeng Phet 6 Rd., Talat Bang Khen, Lak Si, Bangkok 10210 Tel 0 2568 8800 Ext. 4103
APPLICATION FOR CERTIFICATE OF REGISTRATION คำร้องขอใบสำคัญการจดทะเบียนอากาศยาน		
คำแนะนำ (Instructions): กรุณากรอกคำร้องให้ครบถ้วนด้วยภาษาอังกฤษตัวพิมพ์ใหญ่ จากนั้นนำส่งคำร้องและเอกสารที่เกี่ยวข้องมายัง นพท. หรือยื่นผ่านระบบ EMPIC (Please complete all parts of this form in English with BLOCK CAPITALS and submit to CAAT via E-mail or CAAT-EMPIC)		
1. เครื่องหมายสัญญาติและทะเบียนที่ผู้ขอได้จองไว้แล้ว (Reserved Registration Mark) หากไม่ได้จองไว้เว้นว่าง (If no registration mark previously reserved, please leave blank)		
HS-□□□□ หรือ (or) U-□□□□ กรณีอากาศยานเบาพิเศษ / Ultralight		
2. รายละเอียดอากาศยาน (Aircraft Details)		
หมายเลขใบรับรองแบบอากาศยาน (Type Certificate Number) (หากไม่มีให้เว้นว่าง If no Type Certificate, leave blank)		
ชื่อของผู้สร้าง (Name of Manufacturer)		
ที่อยู่ของผู้สร้าง (Address of Manufacturer)		
วัตถุประสงค์การใช้อากาศยาน (Proposed Purpose)	<input type="checkbox"/> เพื่อการพาณิชย์ (Commercial) <input type="checkbox"/> ส่วนบุคคล (Private) <input type="checkbox"/> อื่น ๆ โปรดระบุ (Other - Please Specify)	
ประเภทอากาศยาน (Category of Aircraft)	<input type="checkbox"/> เครื่องบิน (Aeroplane) <input type="checkbox"/> บอลลูน (Balloon) <input type="checkbox"/> อากาศยานปีกหมุน (Helicopter) <input type="checkbox"/> อื่น ๆ โปรดระบุ (Other)	
แบบอากาศยาน (Aircraft Type and Model)		
หมายเลขชุดที่ผู้สร้างกำหนด (Aircraft Serial Number)		
สร้างเสร็จเมื่อ เดือน/ค.ศ. (Date of Manufacture)	(Month/Year)	
น้ำหนักสูงสุดเมื่อบินขึ้น (Maximum Take Off Weight) กิโลกรัม (Kilograms)		
ชื่อผู้สร้างเครื่องยนต์ (Engine Manufacturer)		
แบบเครื่องยนต์ (Engine Type and Model)		
จำนวนเครื่องยนต์ (Number of Engines)		
ประเภทเครื่องยนต์ (Category of Engine)	<input type="checkbox"/> Turbo Jet <input type="checkbox"/> Turbo Prop <input type="checkbox"/> Piston <input type="checkbox"/> อื่น ๆ โปรดระบุ (Other)	
หมายเลขชุดของเครื่องยนต์ (Engine Serial Number)	Engine 1 Serial Number..... Engine 2 Serial Number..... Engine 3 Serial Number..... Engine 4 Serial Number.....	

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ชื่อผู้สร้างใบพัดและแบบใบพัด (Propeller Manufacturer and Model)	
หมายเลขชุดของใบพัด (Propeller Serial Number)	Propeller 1 Serial Number..... Propeller 2 Serial Number.....
จำนวนผู้โดยสารที่บรรทุกได้ (Maximum Passengers Carried)	
ชื่อเจ้าของอากาศยาน (Name of Owner)	
ที่อยู่ของเจ้าของอากาศยาน (Address of Owner)	
อากาศยานลำนี้เคยจดทะเบียนในประเทศไทยหรือไม่ (Has the aircraft previously been registered in Thailand?)	<input type="checkbox"/> เคย (Yes) ระบุทะเบียน (Registration Mark) <input type="checkbox"/> ไม่เคย (No)
อากาศยานเครื่องนี้เคยจดทะเบียน ณ ที่อื่นใด นอกประเทศไทยหรือไม่ (Has the aircraft been previously registered in another State?)	<input type="checkbox"/> เคย (Yes) ประเทศ (State)..... ระบุทะเบียน (Registration Mark)..... <input type="checkbox"/> ไม่เคย (No)
สถานที่เก็บตามปกติของอากาศยาน (Aircraft Parking Place)	
3. รายละเอียดผู้จดทะเบียน (Applicant Details)	
ชื่อผู้จดทะเบียน (Name of Applicant)	
ที่อยู่ผู้จดทะเบียน (Address of Applicant)	
จดทะเบียนในฐานะ (Registered as)	<input type="checkbox"/> เจ้าของ (Owner) <input type="checkbox"/> ผู้ครอบครอง (Possessor)
ที่อยู่ไปรษณีย์อิเล็กทรอนิกส์ (E-mail Address)	
หมายเลขโทรศัพท์ (Telephone Number)	
4. กรณีอากาศยานเบาพิเศษ กรุณาระบุสังกัด - สมาคม/ชมรม/มูลนิธิ/หน่วยงานราชการ (For Ultralight, please specify name of the member of the Flying Club/Group/Foundation/Government Unit/State Enterprise)	
ข้าพเจ้าขอรับรองว่ารายการที่แจ้งไว้ในคำร้องนี้เป็นความจริงทุกประการ I declare that the information provided herein and documents submitted with this application are true in every respect.	
..... วันที่ยื่นคำร้อง (Date of Applicant) ตำแหน่ง (Title)
ลายมือชื่อและชื่อเต็มของผู้ยื่นคำขอ (Signature and Full Name of Applicant)	

เอกสารและหลักฐานที่ผู้ขอต้องเตรียมให้เจ้าหน้าที่พิจารณาประกอบการจดทะเบียน โปรดทำเครื่องหมายในช่องว่าง
(Required additional documentation - Select the applicable boxes below)

- 1. หนังสือร้องขอและคำร้องจดทะเบียนอากาศยานครบถ้วนและถูกต้อง
(Intention letter and application form fully completed)
- 2. หนังสือแจ้งผลการจองทะเบียนอากาศยาน (ถ้ามี)
(Form: AIR-FM-CER-CR-201 Confirmation of Reservation of Registration Mark from CAAT) (if any)
- 3. เอกสารหลักฐานแสดงว่ามีกรรมสิทธิ์ในอากาศยานหรือมีสิทธิครอบครองในอากาศยานของผู้จดทะเบียน
(Documents showing ownership or possession of the aircraft)

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- 4. เอกสารแสดงกรรมสิทธิ์ของผู้ให้เช่าอากาศยาน เช่น หลักฐานการซื้อขายหรือหลักฐานอื่นใดที่แสดงว่าผู้ให้เช่าอากาศยานมีสิทธิ์นำอากาศยานมาทำการเช่า (Proprietary documents from the lessor, i.e. aircraft bill of sale or other documents showing the lessor right to lease)
- 5. กรณีที่ผู้จดทะเบียนอากาศยาน หรือ ผู้มีอำนาจจัดการแทนนิติบุคคล มิได้เป็นผู้ดำเนินการด้วยตนเอง จะต้องหนังสือมอบอำนาจให้เป็นผู้ดำเนินการแทนเกี่ยวกับการจดทะเบียนอากาศยานและออกใบสำคัญสมรรถนะอากาศยาน (Where the applicant or person with company authority is not shown, the authorised person must carry a Power of Attorney to process the Aircraft Registration and Certificate of Airworthiness)
- 6. หลักฐานการจดทะเบียนอากาศยานจากรัฐเจ้าของทะเบียนเดิม หรือหลักฐานอื่นยืนยันว่าไม่เคยจดทะเบียนจากรัฐผู้ผลิตอากาศยาน (Confirmation of cancellation from the Foreign State Registry or any document to prove that the aircraft has not been registered)
- 7. เครื่องหมายสัญชาติและทะเบียนเป็นไปตามข้อกำหนดของสำนักงานการบินพลเรือนแห่งประเทศไทย ฉบับที่ 27 (Registration Mark and Registration must comply with Requirement of The Civil Aviation Authority of Thailand No. 27 - Aircraft Nationality and Registration Mark)
- 8. กรณีที่ผู้ขอเป็นบุคคลธรรมดา ให้แนบสำเนาบัตรประจำตัวประชาชน (In the case of an individual person, submit a copy of the identification card)
- 9. กรณีที่ผู้จดทะเบียนในนามบริษัทจำกัด หรือ นิติบุคคล (In the case of registration as a Company or Juristic Person)
 - A. หนังสือรับรองของนายทะเบียนหุ้นส่วนบริษัท แสดงการจดทะเบียนเป็นนิติบุคคล และรายชื่อกรรมการของบริษัท (Submit registrar credentials showing corporate registration and list of corporate names)
 - B. หนังสือบริคณห์สนธิและข้อบังคับฉบับตีพิมพ์ (Submit Memorandum of Association and published regulations)
 - C. บัตรประจำตัวประชาชนของกรรมการของบริษัท (Submit identification cards of company board)
 - D. บัญชีรายชื่อผู้ถือหุ้น แสดงสัญชาติและจำนวนหุ้นซึ่งผู้ถือหุ้นมีอยู่ในวันยื่นคำขอ (Submit list of shareholders showing nationality and percentage of shareholding at registration date)
- 10. กรณีที่ผู้จดทะเบียนในนามสมาคม (In case of registration as an Association)
 - A. หนังสือรับรองของนายทะเบียนสมาคม แสดงการจดทะเบียนเป็นนิติบุคคล (Submit registrar credentials showing association registration)
 - B. ข้อบังคับของสมาคม ซึ่งได้รับอนุมัติจากคณะกรรมการการบินพลเรือน (Submit Association regulations, which have been approved by CAAT)
 - C. สำเนาบัตรประชาชนของกรรมการสมาคม (Submit copy of identification cards of association board)
- 11. กรณีที่ผู้ขอเป็นหน่วยราชการหรือรัฐวิสาหกิจ (In the case of registration by Government and State Enterprises)
 - A. เอกสารที่แสดงการจัดตั้งนิติบุคคล (Submit documents showing corporate registration)
 - B. สำเนาบัตรประชาชนของหัวหน้าหน่วยงาน (Submit identification card of Head of Department)

สำหรับเจ้าหน้าที่ (Official use only)

- 1. ได้ตรวจหลักฐานการชำระเงินค่าธรรมเนียม (Verify proof of fee payment)
- 2. ในกรณีเป็นผู้จดทะเบียนในฐานะผู้มีสิทธิครอบครอง (มาตรา 30) ได้ตรวจหลักฐานการได้รับอนุมัติจากผู้อำนวยการสำนักงานการบินพลเรือนแห่งประเทศไทยให้จดทะเบียนไทย (In the case of Registration as a possessor (Section 30), verify evidence or documents of acceptance from the Director General)
- 3. ได้ตรวจสอบคุณสมบัติและเอกสารประกอบคำขอครบถ้วน (Verify qualifications and documents)
- 4. ได้ตรวจอากาศยานแล้วเป็นตามข้อกำหนดของสำนักงานการบินพลเรือนแห่งประเทศไทย ฉบับที่ 27 (Verify aircraft physical check found satisfactory and complies with the Requirement of The Civil Aviation Authority of Thailand No. 27)

ลงชื่อผู้ตรวจสอบ (Name of Inspector).....

ตำแหน่ง (Position).....

วันที่ (Date).....

THA APPENDIX B

แบบใบสำคัญการจดทะเบียนแนบท้ายข้อกำหนดของสำนักงานการบินพลเรือนแห่งประเทศไทย ฉบับที่ ๒๓ ว่าด้วยการจดทะเบียน การรับจดทะเบียน และการโอนทะเบียนอากาศยาน

 ประเทศไทย THAILAND สำนักงานการบินพลเรือนแห่งประเทศไทย THE CIVIL AVIATION AUTHORITY OF THAILAND ใบสำคัญการจดทะเบียน CERTIFICATE OF REGISTRATION			เลขที่ NO.
1. สัญชาติและเครื่องหมายทะเบียน NATIONALITY AND REGISTRATION MARKS	2. ผู้สร้างและชื่อแบบอากาศยานของผู้สร้าง MANUFACTURER AND MANUFACTURER'S DESIGNATION OF AIRCRAFT	3. หมายเลขของอากาศยาน AIRCRAFT SERIAL NUMBER	
4. ชื่อเจ้าของ NAME OF OWNER			
5. ที่อยู่ของเจ้าของ ADDRESS OF OWNER			
6. ใบสำคัญการจดทะเบียนฉบับนี้ให้ไว้เพื่อแสดงว่า อากาศยานที่กล่าวแล้วข้างบนนี้ ได้จดทะเบียนในประเทศไทยแล้ว ตามอนุสัญญาการบินพลเรือนระหว่างประเทศ ลงวันที่ ๗ ธันวาคม พุทธศักราช ๒๔๘๗ และตามพระราชบัญญัติการเดินอากาศ พุทธศักราช ๒๕๐๗ IT IS HEREBY CERTIFIED THAT THE ABOVE DESCRIBED AIRCRAFT HAS BEEN DULY ENTERED ON THE REGISTER OF THAILAND IN ACCORDANCE WITH THE CONVENTION ON INTERNATIONAL CIVIL AVIATION DATED 7 DECEMBER, 1944 AND WITH THE AIR NAVIGATION ACT B.E. 2497.			
วันที่ออกให้ DATE OF ISSUE		พนักงานเจ้าหน้าที่ COMPETENT OFFICIAL	
หมายเหตุ* REMARKS			
ใบสำคัญการจดทะเบียนฉบับนี้ไม่ใช่หลักฐานยืนยันการเป็นเจ้าของอากาศยานตามกฎหมาย (THIS CERTIFICATE OF REGISTRATION IS NOT PROOF OF LEGAL OWNERSHIP.)			

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* ในกรณีที่ผู้ลงทะเบียนเป็นผู้ครอบครองอากาศยาน จะระบุชื่อและที่อยู่ของผู้ครอบครองไว้ในช่องหมายเหตุ ดังนี้

ชื่อของผู้ครอบครอง
NAME OF POSSESSOR

ที่อยู่ของผู้ครอบครอง
ADDRESS OF POSSESSOR