**Lecture No. 1 "Purchase and sale and its types"**

Lecture questions:

1. The concept of a contract of sale. Elements and content of the contract of sale.

2. Types of purchase and sale agreement:

- retail purchase and sale;

- delivery agreement;

- contract agreement;

- power supply contract;

- sale of the company;

- a barter agreement.

1. The concept of a contract of sale. Elements and content of the contract of sale.

In accordance with Article 406 of the Civil Code of the Republic of Kazakhstan, a contract of sale is an obligation by virtue of which "one party (seller) undertakes to transfer property (goods) to the ownership, economic management or operational management of the other party (buyer), and the buyer undertakes to accept this property (goods) and pay a certain amount of money for it (price)".

The parties to the contract of sale are the seller and the buyer. The seller under the contract of sale is the owner of the goods or the owner of another property right, as well as a person who has the right to dispose of the property on the basis of the contract or the law. The buyer can be any person recognized as a subject of civil legal relations.

The subject of the contract of sale is a commodity – any things, both movable and immovable, individually defined, as well as certain generic characteristics, as well as property rights. A contract may be concluded for the purchase and sale of goods available to the seller at the time of conclusion of the contract, as well as goods that will be created or purchased by the seller in the future, unless otherwise established by legislative acts or does not follow from the nature of the goods. The condition of the goods is considered agreed if the contract allows you to determine the name and quantity of goods (essential conditions).

The quantity of goods to be transferred to the buyer is stipulated by the contract in the appropriate units of measurement or in monetary terms. The condition on the quantity of goods can be agreed upon by establishing in the contract the procedure for determining it.

The condition of the quality of the goods is essential. The seller is obliged to transfer to the buyer the goods, the quality of which corresponds to the contract. In the absence of conditions on the quality of goods in the contract, the seller is obliged to transfer to the buyer goods suitable for the purposes for which such goods are usually used. If the seller, at the conclusion of the contract, was informed by the buyer about the specific purposes of the purchase of the goods, the seller is obliged to transfer to the buyer the goods suitable for use in accordance with these purposes.

When selling goods according to the sample and (or) according to the description, the seller is obliged to transfer to the buyer the goods that correspond to the sample and (or) description.

The completeness of a product is the presence in it of all the necessary components (aggregates, assemblies, parts, etc.). A set of goods is a certain set of heterogeneous goods functionally and structurally related to each other. Unless otherwise provided by the contract and does not follow from the essence of the obligation, the seller is obliged to transfer to the buyer all the goods included in the package at the same time.

An assortment is an association (grouping) of homogeneous goods distinguished by types, models, sizes, colors, and other characteristics. The assortment condition is not essential for the purchase and sale, but civil law establishes the seller's liability for violation of this condition.

The price of the goods is an essential condition of the contract, if this is expressly provided for by law. The buyer is obliged to pay for the goods at the price stipulated in the contract, as well as to perform at his own expense the actions that, according to legislative acts, the contract or the requirements usually imposed, are necessary for making the payment.

The term of the contract of sale of the contract of sale, as a general rule, is not an essential condition, but for certain types of purchase and sale can be defined as essential (n-r, purchase and sale on credit with installment payment).

The requirements for the form of the contract of sale are determined by the general requirements of civil legislation for the form of transactions.

The content of the contract of sale is determined by the set of rights and obligations of the parties.

Seller's responsibilities:

1) transfer the goods to the buyer together with accessories and documents, in a certain quantity and assortment, corresponding completeness within the prescribed period;

2) transfer the goods of the established quality;

3) release the goods from the rights of third parties;

4) provide the goods with containers and packaging;

5) to check the quality of the goods and provide guarantees of the quality of the goods;

6) other obligations by agreement of the parties.

Buyer's responsibilities:

1) accept the goods;

2) pay for it.

2. Types of purchase and sale agreement:

- retail purchase and sale

Under a retail sale agreement, a seller engaged in entrepreneurial activity for the sale of goods undertakes to transfer to the buyer goods usually intended for personal, family, home or other use unrelated to entrepreneurial activity. The retail purchase and sale agreement is public.

- delivery agreement

According to the delivery contract, the seller (supplier), who is an entrepreneur, undertakes to transfer the goods produced or purchased by him to the buyer for use in business activities or for other purposes not related to personal, family, home and other similar use within a specified period or time.

- contract agreement

According to the contract agreement, the producer of agricultural products undertakes to transfer the agricultural products grown (produced) by him to the supplier - the person who purchases such products for processing or sale.

- power supply contract

According to the energy supply contract, the energy supplying organization undertakes to supply energy to the subscriber (consumer) through the connected network, and the subscriber undertakes to pay for the received energy, as well as to comply with the regime of its consumption provided for in the contract, to ensure the safety of operation of the energy networks under its jurisdiction and the serviceability of the devices and equipment used by it related to energy consumption.

- sale of the company

Under the contract of sale of the enterprise, the seller undertakes to transfer the enterprise as a whole as a property complex to the buyer, with the exception of rights and obligations that the seller does not have the right to transfer to other persons.

- a barter agreement.

Under the barter agreement, each of the parties undertakes to transfer one product to the ownership, economic management, operational management of the other party in exchange for another (Article 501 of the Civil Code of the Republic of Kazakhstan).

The rules on the purchase and sale agreement apply accordingly to the barter agreement, since this does not contradict the rules of this chapter and the essence of the barter. In this case, each of the parties is recognized as the seller of the goods that it undertakes to transfer, and the buyer of the goods that it undertakes to accept in exchange.

As a general rule, the goods to be exchanged are assumed to be equivalent, and the costs of their transfer and acceptance are carried out in each case by the party that bears the corresponding obligations.

In cases where, in accordance with the contract, the exchanged goods are recognized as unequal, the party obliged to transfer the goods, the price of which is lower than the price of the goods provided in exchange, must pay the difference in prices immediately before or after fulfilling its obligation to transfer the goods, unless otherwise provided by the contract. The right of ownership of the exchanged goods passes to the parties acting as buyers under the barter agreement, simultaneously after fulfilling the obligations to transfer the corresponding goods to each of the parties, unless otherwise provided by legislative acts or the contract.

Lecture No. 2 "Rent"

Lecture questions:

1. The concept of an annuity contract. The content and form of the rent agreement.

2. Permanent rent.

3. Lifetime annuity.

4. Lifelong maintenance with a dependent.

An annuity agreement is an agreement under which one party (the recipient of the annuity) transfers property to the other party (the payer of the annuity), and the payer of the annuity undertakes, in exchange for the property received, to periodically pay the recipient an annuity in the form of a certain amount of money or the provision of funds for its maintenance in another form.

Types of rent agreement:

1) permanent rent, which allows the establishment of the obligation to pay rent indefinitely;

2) a lifetime annuity, when the obligation to pay rent is established for the lifetime of the annuity recipient. A lifetime annuity can be established on the terms of the lifelong maintenance of a citizen with a dependent.

The form of the rent agreement. An annuity contract is subject to notarization, and an annuity contract providing for the alienation of immovable property for the payment of rent is also subject to state registration.

Rent is one of the types of encumbrances, rent encumbrances the right to a land plot, as well as an enterprise, building, structure or other immovable property transferred for its payment. In the case of alienation of such property by the payer of rent, his obligations under the rent contract are transferred to the acquirer of the property.

When transferring the right to a land plot or other immovable property for rent payment, the recipient of the rent acquires the right of pledge to this property as security for the obligation of the payer of the rent.

An essential condition of the contract providing for the transfer of a sum of money or other movable property for the payment of rent is a condition establishing the obligation of the payer of rent to provide security for the fulfillment of his obligations or to insure in favor of the recipient of rent the risk of liability for non-fulfillment or improper fulfillment of these obligations.

Lecture No. 3 "Property hiring (rent)"

Lecture questions:

1. The concept and types of obligations for the transfer of property to temporary possession, use. Property lease agreement. Its concept, content. The main types of property hiring.

2. Term, form of the property lease agreement.

3. Rights and obligations under the property lease agreement.

4. Termination of the property lease agreement.

5. Financial lease agreement (leasing).

6. Rental of vehicles.

7. Rental of buildings and structures. Enterprise lease.

8. Rental.

Under the agreement of a property lease (lease), the landlord undertakes to provide the tenant with property for a fee for temporary possession and use.

The subject of the property lease agreement. Enterprises and other property complexes, land plots, buildings, structures, equipment, vehicles and other things that do not lose their natural properties in the process of their use (non-consumable things) can be transferred to property hiring. The object of a property lease may also be the right of land use, the right of subsurface use and other property rights, unless otherwise provided by legislative acts.

Terms of the property lease agreement. The property lease agreement must contain data that allows you to establish the property to be transferred to the employer as an object of property lease.

In the absence of these data in the contract, the condition of the object to be transferred to the property lease is considered uncoordinated by the parties, and the corresponding contract is not concluded.

The parties to the property lease agreement. The right to lease the property belongs to its owner. Landlords may also be persons authorized by legislative acts or by the owner to lease property.

Employers can be any persons with civil legal capacity.

Form of property lease agreement

A property lease agreement for a period of no more than one year (and if at least one of the parties to the contract is a legal entity, regardless of the term, must be concluded in writing.

The contract of property lease of immovable property is subject to state registration, unless otherwise established by law. A property lease agreement between citizens for a period of up to one year may be concluded orally.

The property lease agreement, which provides for the subsequent transfer of ownership of the property to the employer, is concluded in the form provided for in the contract of sale of such property.

Term of the property lease agreement

The property lease agreement is concluded for a period determined by the contract. If the property lease agreement is concluded without specifying the term, it is considered concluded for an indefinite period. The fee for the use of the hired property is paid by the employer in the manner, terms and in the form established by the contract, unless otherwise established by legislative acts.

The fee is set for all the hired property as a whole or separately for each of its component parts in the form of:

1) defined in a fixed amount of payments made periodically or at a time;

2) the established share received as a result of the use of hired property, products, fruits or income;

3) provision of certain services by the employer;

4) transfer by the employer to the lessor of the thing stipulated by the contract into ownership or rent;

5) imposing on the employer the costs stipulated by the contract for the improvement of the hired property.

The parties may provide in the contract for a combination of these forms of payment for the use of property or other forms of payment.

The legislation also regulates the specifics of certain types of property lease agreements:

- rental agreements;

- leasing;

- rental of buildings, structures;

- rental of vehicles;

- lease of the enterprise;

- rental housing;

- gratuitous use of property, etc.

Lecture summary: Lease agreement (general provisions)

Under the lease (property lease) agreement, the lessor (lessor) undertakes to provide the lessee (lessee) with property for a fee for temporary possession and use or for temporary use, and the lessee undertakes to pay rent.

The lease agreement is consensual, mutual and paid.

The essential condition is its subject (individually-defined, non-consumable and irreplaceable things, because at the end of the contract term, the tenant must return the property in the same form and condition in which he received it, taking into account wear and tear).

The contract must contain data that allows you to definitely identify the property to be transferred to the lessee as a rental object. In the absence of these data in the contract, it is considered not concluded.

Parties: lessor – the owner of the property or a person authorized by law or the owner to lease the property; lessee - a person interested in obtaining the property for use (citizens and legal entities, as well as the state, municipalities).

Contract form: a lease agreement for a period of less than 1 year, and also, if at least one of the parties to the contract is a legal entity, regardless of the term, must be concluded in simple written form. The real estate lease agreement is subject to mandatory state registration.

If the contract provides for the subsequent transfer of ownership of the leased property to the lessee, then it is concluded in the form provided for the purchase and sale of such property.

The term of the lease agreement is not an essential condition. It is determined by the agreement of the parties. In the absence of a condition on the term of the contract, it is considered concluded for an indefinite period. Each of the parties has the right to withdraw from the contract at any time, but at the same time it must warn the other party when renting movable property - for 1 month, when renting immovable property - for 3 months.

The price of the contract is not its essential condition. In the event that the rent is not set by the contract, the usual rent is applied.

Types of lease agreement:

• 1) rental agreement;

• 2) rental of vehicles with and without crew;

• 3) rental of buildings and structures;

• 4) rental of residential premises;

• 5) enterprise leases;

• 6) financial lease (leasing) agreement.

Obligations of the lessor:

• 1) to provide the other party with the property corresponding to the contract and the purpose of the property;

• 2) transfer the property in due time. If the term of the contract is not defined, then within a reasonable time;

• 3) warn the lessee about the rights of third parties to the leased property (easement, right of pledge);

• 4) to carry out capital repairs of property – restoration of the main parts of the leased property, without which the latter cannot be used for its intended purpose;

• 5) reimburse the lessee for the cost of inseparable improvements made with the consent of the lessor and at the expense of the lessee, unless otherwise provided by the lease agreement.

The lessee is obliged to:

• 1) use the leased property personally, using the property only for its intended purpose;

• 2) to pay a fee for the use of the property in a timely manner, the amount, procedure, conditions and term of payment of which is determined by the contract. Rent can be set in a fixed amount of payments; in the form of a share of products, income or fruits; provision of services; the imposition of costs to improve the leased property;

• 3) upon termination of the lease agreement, return the property to the lessor in the condition in which he received it, taking into account normal wear and tear or in the condition stipulated by the contract;

• 4) maintain the leased property in good condition, carry out maintenance at their own expense and bear the costs of maintaining the property, unless otherwise provided by law or the lease agreement.

The lessee has no right to sublet the leased property without the lessor's consent, as well as to pledge the lease rights and make them as a contribution to the authorized capital of business partnerships and companies.

Lecture summary: Features of the vehicle rental agreement

Under a lease agreement (chartering for a time) of a vehicle with a crew, the lessor provides the lessee with a vehicle for a fee for temporary possession and use and provides services for its management and technical operation on its own.

The rules on the renewal of the lease agreement for an indefinite period and on the preferential right of the lessee to conclude a lease agreement for a new term do not apply to vehicle rental agreements.

The contract must be concluded only in writing, regardless of its term, by drawing up a single document signed by the parties, or by exchanging documents through communication.

An object is a vehicle of any type of transport, i.e. a complex technical device for the transportation of goods, passengers and luggage, moving in space.

The lessor is obliged to manage and maintain the technical operation of the vehicle on his own, maintain the proper condition of the leased vehicles, carry out current and major repairs, transfer the necessary accessories, ensure the normal safe operation of the vehicle, bear the costs of paying for the services of the crew, insure the vehicle or liability for damage that may be caused by this vehicle.

The lessor is responsible for the damage caused to third parties by the rented vehicle, its mechanisms, devices, equipment. He has the right to submit to the lessee a recourse claim for compensation of the amounts paid to third parties if he proves that the damage was caused by the fault of the lessee.

Under the lease agreement of a vehicle without a crew, the lessor presents the vehicle to the lessee for a fee for temporary possession and use without providing services for its management and technical operation. It must be concluded in writing regardless of its term. The rules on registration of lease agreements do not apply to it.

The purpose of the contract is to obtain possession and use of vehicles and independent implementation of its technical and commercial operation.

The lessee is obliged to maintain the proper technical condition of the vehicle during the entire term of the contract, to carry out current and major repairs; to manage and operate the leased vehicle on his own; to bear the costs of maintaining the vehicle, its insurance, including liability insurance, as well as the costs associated with its operation, unless otherwise provided by the contract; be liable for damage caused to third parties during operation.

He has the right to submit to the lessee a recourse claim for compensation of the amounts paid to 3 persons if he proves that the damage was caused by the fault of the lessee.

The lessee has the right to sublet the vehicle without the consent of the lessor, unless otherwise provided by the contract.

Lecture summary: Lease agreement for enterprises, buildings, structures

Under the lease agreement of the enterprise, the lessor undertakes to provide the lessee for a fee for temporary use and ownership of the enterprise as a whole as a property complex used for business activities.

The subject is an enterprise as a single property complex related to immovable property and including fixed and current assets, rights to use natural resources, excluding rights, as well as claims and debts.

The contract is concluded in writing by drawing up a single document signed by the parties. Failure to comply with the form entails its invalidity. The contract is subject to state registration and is considered concluded from the moment of such registration.

The essential condition (other than the subject) is the price (rent).

Obligations of the lessor:

• 1) provide the property to the lessee in a condition corresponding to the terms of the contract and the purpose of the property by drawing up a transfer act;

• 2) reimburse the lessee for the cost of the inseparable improvements made to the rental property, regardless of the lessor's permission for such improvements, unless otherwise provided by the contract.

The lessor may be relieved of such obligation by the court if he proves that the costs of these improvements increase the value of the leased property disproportionately to the improvement of its quality and operational properties or that the principles of good faith and reasonableness are violated in the implementation of such improvements.

Obligations of the lessee:

• 1) during the entire term of the contract to maintain the company in proper technical condition, including its current and major repairs;

• 2) bears expenses related to the operation of the leased enterprise, unless the contract provides otherwise;

• 3) upon termination of the contract, the leased property complex must be returned in the same condition in which it was received, according to the transfer act.

If this does not entail a reduction in the value of the enterprise, the lessee may, without the consent of the lessor, sell, exchange, provide for temporary use and loan tangible assets, sublet them, unless otherwise provided by the contract. This rule does not apply to land and natural resources.

Under the lease agreement of a building or structure, the lessor undertakes to transfer the building or structure to the tenant for temporary possession and use or for temporary use.

The subject is buildings and structures. The form is written, by drawing up one document signed by the parties. Failure to comply with this form entails the invalidity of the contract. If the contract is concluded for a period of at least one year, it is subject to state registration and is considered concluded from the moment of such registration.Under this agreement, the rights to the land plot necessary for the use of the building or structure, or part of it, are simultaneously transferred. If the land plot does not belong to the lessor by right of ownership, the lease of buildings and structures is allowed without the consent of the owner of the land plot, if this does not contradict the terms of use of this plot established by law or an agreement with its owner.

The price is an essential condition – the rent, the amount of which must be stipulated by the contract. It also includes a fee for the use of the land on which it is located.

The transfer of a building or structure and its acceptance by the lessee is carried out according to a transfer act or other transfer document signed by the parties. The evasion of one of the parties from signing a document on the transfer of a building or structure is considered as the refusal of the parties to fulfill their duties.

Lecture summary: Financial lease (leasing)

Under a financial lease agreement (leasing agreement), the lessor undertakes to acquire ownership of the property specified by the lessee from a seller determined by him and provide the lessee with this property for a fee for temporary possession and use for business purposes. In this case, the lessor is not responsible for the choice of the rental item and the seller.

The contract may provide that the choice of the seller and the purchased property is carried out by the lessor.

Subject - any non-consumable items used for business activities (except land plots and other natural objects). Accordingly, not only movable, but also immovable property can be leased.

In addition to the subject of the contract, the essential conditions are the term of the contract, the price of the contract, the order of balance sheet accounting of the leased item.

Signs of a leasing agreement:

• 1) whether the lessor has a financing purpose;

• 2) acquisition by the lessor of the property that is leased after the conclusion of the lease agreement;

• 3) use of leased property by the lessee for business purposes;

• 4) provision of property under the lease agreement for the possession and use of the lessee.

Parties: lessor, which may be a leasing company licensed to lease property; lessee – a legal entity engaged in entrepreneurial activity, or sole proprietor; seller of property transferred under a leasing agreement, which may be any capable person who owns this property.

Types of contract:

• 1) depending on the duration of the lease agreement: long-term is concluded for a period of 3 years or more; medium-term is concluded for a period of 1.5 to 3 years; short-term - less than 1.5 years;

• 2) financial, operational, refundable, full, clean.

The content of the contract consists of the rights and obligations of the parties to the contract. The lessor is charged with the obligation to acquire the property chosen by the lessee from the seller indicated by him on the basis of the purchase and sale agreement. The lessor, when purchasing property for the lessee, is obliged to notify the seller that the property is intended to be leased to a certain person. The lessor is also obliged to ensure that the leased property is transferred to the lessee in a condition that complies with the terms of the contract and the purpose of the property. The tenant is charged with the risk of accidental death or damage to the leased property. This risk passes to him at the time of the transfer of the leased property, unless otherwise stipulated by the contract. The lessee does not have the right to terminate the contract with the seller without the consent of the lessor. If the property is not transferred to the lessee within the time specified in the contract, the lessee has the right to demand termination of the contract and compensation for damages in case of delay due to circumstances for which the lessor is responsible.

Lecture summary: Residential lease agreement

Under the contract, one party (the landlord) – the owner of the dwelling or an authorized person – undertakes to provide the other party (the tenant) with a dwelling for a fee in possession and use for living in it.

Legal essence: consensual, reimbursable, bilateral.

Parties: the landlord is any subject of law, i.e. the owner and the employer are a common subject of law - a citizen.

Types:

• - commercial (issued by a regular contract);

• - social - relations are regulated by the norms of the LC and articles of the Civil Code (the standard form of the contract approved by the government).

Subject: living room - an isolated living room suitable for living.

Reasons for occurrence:

• - social - the decision of the governing body and the contract;

• - commercial - contract.

Form: the contract is concluded in writing.

The term of the contract:

o - social - indefinite;

o - commercial - urgent no more than 5 years.

Accommodation of citizens in residential premises:

o - social - as a family member, with the agreement of other members and the landlord;

o - commercial - permanent resident, accommodation after the conclusion of the contract - with the agreement of the landlord.

Payment for housing:

o - social - according to tariffs, taking into account social status and income, compensations and subsidies are paid;

o - commercial - payment by agreement of the parties, unilateral change is not allowed.

Change of the contract:

o - social - at the request of the employer and family members;

o - commercial - change of the employer is possible at the request of another resident member, in case of death of the landlord - with the agreement of a new one.

Lecture summary: Rights and obligations of the parties under the residential lease agreement

In commercial hiring, the employer, as a general rule, is one person, and citizens living together with him are permanent residents. After the conclusion of the contract, citizens can move in with the consent of the landlord, conclude a contract with him and bear joint responsibility and be tenants.

According to social employment, the living family members are dreamers, regardless of whether they have concluded a contract or not.

The employer is obliged to:

• 1) use the residential premises provided to him under the contract and its equipment for its intended purpose, take care of the residential premises and keep it in proper condition. He cannot carry out the reconstruction and reconstruction of residential premises without the consent of the landlord;

• 2) pay monthly rent and utility fees;

• 3) produce in a timely manner (at least once every 5 years) current repairs;

• 4) follow the rules of the hostel;

• 5) move to another room for the duration of major repairs;

• 6) when leaving for another permanent place of residence, vacate the living space and hand it over in proper condition to the landlord according to the act.

The employer has the right to:

• 1) use the living room for living in it;

• 2) instill other citizens into the occupied premises;

• 3) retain the rented premises in case of temporary absence;

• 4) to rent out the premises;

• 5) to exchange residential premises;

• 6) terminate the agreement at any time;

• 7) require the lessor to fulfill his obligations under the contract.

Lecture No. 3. Certain types of property lease agreements

There is no clear classification criterion in the existing division of types of property hiring into types, fixed by the Civil Code of the Republic of Kazakhstan; most likely, the need for a more complete coverage of rental relations, which mainly develop in modern sectors of the economy, was taken as a basis. At first glance, in some cases, the property in respect of which the contract is concluded is taken as the basis for the allocation of a separate type of hiring. On this basis, the rental of an enterprise, rental of buildings and structures, rental of vehicles, rental of housing are distinguished. At the same time, this is not the only thing that distinguishes them from each other, the subject composition differs, whether it is entrepreneurial or non-entrepreneurial, the specific content, the distribution of risks between the parties, etc. The above also applies to other types of property lease (lease), leasing, household rental, land lease, etc.

At the same time, their classification is not an end in itself. All types of property lease agreements quite get along within the framework of the already developed classification of contracts.

Let's turn to the consideration of certain types of property hiring. The Civil Code of the Republic of Kazakhstan immediately after the general provisions on property lease (lease) contains norms on leasing (Articles 565 - 572). Apparently, this was not done by chance. This is explained by the importance of leasing relations in the existing market infrastructure. According to the assessment of H.A. Rakhmankulov, leasing can become an alternative to the planned system of distribution of material goods that existed in the USSR. At the same time, it has certain advantages, the consumer receives the equipment without significant initial costs.

In addition, the terms of periodic payments for the equipment received for use come, as a rule, after its commissioning.

In the Law of the Republic of Kazakhstan "On Financial Leasing" adopted on July 5, 2000, financial leasing (leasing) is defined as a type of investment activity. The importance of investments for raising the economy has been repeatedly emphasized by the President of the Republic of Kazakhstan N.A. Nazarbayev, there is an appropriate legislative framework for investment activities. The above law is an important addition to it.

In the civil law literature, a special place is traditionally given to leasing contracts among other property hire contracts.2 In general, there are certainly all the necessary prerequisites for this. It is enough, at least, that a more complex structure of relations develops within the framework of a leasing agreement than under other lease relations. Some features are dictated by the fact that leasing is assessed as an investment activity, etc.

Initially, leasing originated in the USA in the middle of the last century. Currently, it has been used in almost all countries, and in some of them, which do not have special legislative regulation, it has found recognition in judicial practice.

Under the lease agreement, the lessor undertakes to acquire ownership of the property specified by the lessee and provide the lessee with this property for temporary possession and use for business purposes for a fee.

Thus, two legal relations are implemented simultaneously within the framework of leasing: 1) purchase and sale with the participation of the seller (who is a third party) and the lessor; 2) lease with the participation of the lessor and the lessee.

However, this does not limit the legal relations of the parties to the leasing agreement, certain rights and obligations also arise between the seller and the lessee.

In addition, leasing is characterized by the fact that the lessor party has the purpose of carrying out financial activities. The new legislative regulation of leasing takes this into account. Moreover, the lessor, as a person who has invested money in the subject of leasing, the legislation provides quite large privileges. For example, the lessor may receive a fee up to a period providing depreciation of at least 80% of the value of the leased item or exceeding it. The special position of the lessor is also manifested in the fact that he is granted the right to exercise control over the fulfillment by the lessee of the terms of the leasing agreement (clause 11 of the Law of the Republic of Kazakhstan "Financial Leasing"). Due to the fact that leasing is assessed as an investment activity, there are also additional guarantees for the lessor in this regard. In case of bankruptcy of the lessee, the leased item is not included in the bankruptcy estate.

The essence and features of financial leasing are also manifested through its specific characteristics. There are different forms of financial leasing. These include: a) internal leasing. In this form of leasing, the lessor and the seller are residents of the Republic of Kazakhstan; b) international leasing. In its implementation, the lessor or lessee is a non-resident of the Republic of Kazakhstan. The law, however, is silent on what form leasing should be attributed to when the seller is a non-resident, most likely an international one.

Types of financial leasing are: 1) return leasing is a type of leasing in which the seller sells the leased item to the lessor with the condition of receiving the leased item back as the lessee; 2) bank leasing is a type of leasing in which the bank acts as the lessor; 3) full leasing is a type of leasing in which the maintenance of the leased item and its current repairs are carried out by the lessor; 4) net leasing is a type of leasing in which the maintenance of the leased item and its current repairs are carried out by the lessor.

Thus, financial leasing is characterized by the medium- and long-term nature of contracts, depreciation of the full or most of the cost of equipment. Along with it, there is a so-called operational leasing, characterized by a shorter contract period, which is less than the service life of the product. With it, incomplete depreciation of equipment occurs. After that, it can be leased again or returned to the lessor. This type of leasing is offered mainly by equipment manufacturers, trading companies.

Thus, we see that leasing can cover a wide range of relationships. It provides great opportunities to choose a suitable lease term, a certain set of rights and obligations of the parties.

The leasing agreement is a bilateral agreement, although its participants are always three entities: the seller, the lessor, the lessee. The absence of a seller would mean that the contractual relationship is simply a property hire, without pronounced features. When concluding a leasing agreement, two contractual legal relations inevitably arise - a purchase and sale agreement and a lease agreement.

Under the first contract, the legal relationship between the seller and the lessee arises indirectly through the lessor, the contract of sale is partially concluded in his favor (not in relation to the transfer of ownership, but according to the requirements related to the quality of the goods). This is logical, since the final link of the consumer is the lessee. In turn, the sale of property, at least through leasing, is also in the interests of the seller. Therefore, there is no particular difference to whom he will be responsible, to the lessor or the lessee. The seller is also obliged to comply with the legislation governing liability for defects of goods. There is nothing fundamentally new in this, if we compare the situation in the leasing agreement with the manufacturer's liability to the consumer under the retail sale agreement, which, nevertheless, is not a party to the contract with the manufacturer.

The need for such a legal structure is also due to the fact that the subject of a leasing agreement is often a specific property - complex equipment, for the quality of which only its manufacturer can be fully responsible. Therefore, in the end, in the lease agreement, lease relations coexist with the rights of the lessee transferred to him under the contract of sale. It is this combination of rights and obligations that turns out to be the most acceptable for all its participants and characterizes its (leasing agreement) feature in a number of other property lease agreements. I would like to note that, of course, rental relations in leasing prevail over those relations that arise from the contract of sale.

The lease agreement must be concluded in writing, since it refers to those property lease agreements that are concluded between business entities.

The essential terms of the lease agreement, in addition to the terms of the object, include a number of other conditions. The lessor must agree with the lessee on the identity of the seller of the property. The contract itself must also provide for the conditions and term of the transfer of property to the lessee, the amount and frequency of payments, and the term of the contract. If the transfer of property to the ownership of the lessee was implied, then conditions should be provided for the transfer of ownership.

Elements of the leasing agreement. The parties to the leasing agreement are the lessor and the lessee. The lessor is a participant in a leasing transaction who, at the expense of the attracted and (or) own money, acquires ownership of the leased object and transfers it to the lessee under the terms of the leasing agreement. Lessors can be legal entities and individuals who are individual entrepreneurs. The participation of non-commercial legal entities in leasing agreements as lessors should be extremely limited, since it will contradict their statutory goals, because, as already noted, the leasing agreement mediates financial activities, and of a specialized nature.

The lessee is a participant in the leasing transaction who accepts the leased item for business purposes under the terms of the leasing agreement. They can also be legal entities and individuals engaged in entrepreneurial activities.

The third party to the transaction is the seller who sells the leased item to the lessor on the basis of a purchase and sale agreement and (or) a leasing agreement for the purpose of its further transfer to the lessee under the terms of the leasing agreement.

The seller can simultaneously act as the lessee of the leased item (return lease) (Article 2 of the Law of the Republic of Kazakhstan "On Financial Leasing"). As we can see from this definition, the content of the purchase and sale agreement should be determined by the content of the lease agreement being concluded.

The subject of the lease agreement may also be non-consumable items suitable for business purposes. These include buildings, structures, machinery, equipment, inventory, vehicles, etc. Securities and natural resources cannot be the subject of leasing (Part 2 of Article 566 of the Civil Code of the Republic of Kazakhstan, paragraph 2, Article 4 of the Law of the Republic of Kazakhstan "On Financial Leasing"). Legislative acts may establish other restrictions on the use of certain categories of things and land plots as a leasing item.

The content of the lease agreement. The lessor is obliged to: 1) to acquire ownership from the seller of an item agreed with the lessee for transfer to the lessee on the terms of the lease agreement. At the same time, he is obliged to notify the seller in writing at the conclusion of the purchase and sale agreement that the item is intended for leasing to a certain lessee under the terms of the leasing agreement. Thus, the identity of the lessee and the terms of the lease agreement are of interest to the seller. Getting an idea of them allows the seller to calculate their possible risks, assess the purpose of the property, etc.; 2) ensure that the leased item is provided to the lessee. The transfer of the leased item to him is carried out by the seller.

At the same time, the lessor, when acquiring property for the lessee, must notify the seller that the property is intended for leasing to a certain person. The leased item is transferred to the location of the lessee, unless otherwise provided by the lease agreement or the contract of sale. Other features of the transfer may also be specified directly in the lease agreement. In particular, it may be provided that the transfer of the leased item is made by the lessor himself.

The lessor has the right to indisputably claim the leased item in the following cases: a) if the use of the leased item by the lessee does not comply with the terms of the lease agreement or the purpose of the leased item;

b) if the lessee restricts the lessee's access to the leased item;

c) if the lessee does not make lease payments two or more times in a row after the expiration of the term established

by the lease agreement.

A number of other rights and obligations of the lessor are the same as in ordinary property lease agreements. For some features, the rights and obligations of the lessee and the lessee coincide.

The features of the rights of the lessee are as follows: 1) the lessee has the right to make demands to the seller regarding the quality and completeness of the leased item, the timing of its delivery and in other cases of improper performance of the contract concluded between the seller and the lessor; 2) to demand replacement of the leased item when the leased item is delivered with significant violations that prevent the use of the leased item for its intended purpose.

The lessee is obliged to provide unhindered access to the leased item.

From the moment of transfer of the property, the risk of accidental loss or damage to the property that is the subject of leasing passes to the lessee. This also expresses the entrepreneurial nature of the leasing agreement. The contract may provide for a different distribution of the risk of accidental death or damage to such property. The lease agreement provides for the liability of the parties of the lessor, the lessee and the seller. The seller of the leased item is directly liable to the lessee for the execution of the contract of sale concluded between the seller and the lessor, in particular, with respect to the quality and completeness of the leased item, its delivery dates and in other cases of improper performance of the contract by the seller. In relations with the seller, the lessee and the lessor act as joint creditors. Unless otherwise provided by the contract, the lessor is not liable to the lessee for the seller's fulfillment of the requirements arising from the contract of sale, except in cases where the right to choose the seller lies with the lessor. In the latter case, the lessee has the right, at his choice, to make claims arising from the contract of sale, both directly to the seller of the property and to the lessor, who are jointly and severally liable to him. If the lessor violates the obligation to notify the seller of the leasing of the property that is the subject of sale, the lessor bears full responsibility to the lessee for the fulfillment by the seller of the requirements arising from the contract of sale. Modification and termination of the lease agreement. At the request of one of the parties, the lease agreement may be amended or terminated prematurely in court. The grounds for early termination are generally based on general provisions, they are significant violations of the terms of the contract on the part of both the lessor and the lessee.

Lease agreement for enterprises, buildings and structures. An enterprise lease agreement and a lease agreement for buildings and structures are considered by civil law as separate types of a property lease agreement. The norms devoted to them are contained in Sections 3 and 4 of the Civil Code of the Republic of Kazakhstan, respectively. What they have in common is that both of these contracts are concluded regarding the rental of real estate. At the same time, the enterprise is a special type of immovable property - a property complex, the purpose of the enterprise also differs from the purpose of other types of immovable property, respectively, there are differences in the content of these contracts.

Under the lease agreement of the enterprise, the lessor undertakes to provide the lessee, for a fee, for the temporary possession and use of the enterprise as a whole as a property complex, including the right to the company name and (or) the commercial designation of the rightholder for commercial information, as well as for other objects of exclusive rights provided for in the contract - a trademark, a service mark (complex exclusive rights), except for those rights and obligations that the lessor does not have the right to transfer to other persons.

The lease agreement of the enterprise is a consensual, mutual and paid contract. Unlike the general provisions on the property lease agreement, which provide for the possibility of providing property both for possession and use, and only for the use of the tenant, the rules on the lease agreement imply the transfer of the enterprise only to the possession and use of the tenant. This is due to the fact that the tenant, being an entrepreneur, becomes entirely responsible for the safety of the enterprise as a property complex.

The form of the enterprise lease agreement. This agreement is concluded in accordance with the legislation in a simple written form. Unlike other contracts concluded in writing, an enterprise lease agreement, as well as an enterprise purchase and sale agreement, is concluded by drawing up a single document signed by the parties. Failure to comply with the required simple written form of the lease agreement of the enterprise entails its invalidity. Moreover, the exchange of letters and faxes, etc. in accordance with Article 575, it will not be considered a conclusion in the proper form. The lease agreement of the enterprise is subject to state registration and is considered concluded from the moment of such registration.

The legislation does not stipulate directly the requirements for the essential terms of the lease agreement of enterprises. At the same time, the condition of the subject in this case is even more important than in ordinary property lease agreements and it is necessary to specify all the components of the transferred property complex. In addition, it is necessary to take into account the rule of paragraph 2 of Article 583 of the Civil Code of the Republic of Kazakhstan, which provides that the rules on the lease of buildings and structures apply to the lease of enterprises. Based on this, the essential terms of the lease agreement of enterprises should include the amount of rent.

Elements of the enterprise agreement. The parties to the lease agreement of the enterprise can be any subjects of civil rights - individuals and legal entities. Mainly, business entities enter into such relations. Landlords may be, with the consent of the owner, legal entities that own property on the right of economic management or operational management, or a trustee of the property. In some cases, landlords may be individuals – non-entrepreneurs who own an enterprise as a property complex on the right of ownership. The State and administrative-territorial units can also lease enterprises.

Tenants are commercial legal entities or individual entrepreneurs. Non-commercial legal entities may lease enterprises to carry out permitted business activities. A tenant can also be an individual who is only planning to carry out entrepreneurial activities. In any case, the subject matter of the contract, especially on the part of the lessee, will be determined by the entrepreneurial purpose of the property complex being leased. The legislation does not provide for the fractional provision of an enterprise for rent to several persons, if this still took place, then the general provisions on property rental, on the lease of buildings and structures, but not on the lease of enterprises, will apply. A plurality of persons on the part of the lessee should be distinguished from fractional leasing of the enterprise.

The subject of the contract is an enterprise. It, as already discussed earlier (under the contract of sale of enterprises), includes all types of property necessary for its functioning: buildings, structures, equipment, inventory, raw materials, products, the right to land, rights, claims, debts, as well as the right to a brand name, trademarks marks and other intellectual property. Thus, the structure of enterprises includes two groups of objects of civil rights:

1) things;

2) property rights.

This requires compliance with the legal regime of things and the legal regime of property rights, including the regime for the exercise of intellectual property rights, when transferring property to lease. The peculiarity of the transfer of the rights of claim under the lease agreement is that the lessee acquires them on behalf of the lessor and he also has the right of Lease, not the right of ownership, for this or that property obtained as a result of the fulfillment of the debt by the debtors of the lessor. Objectively, generic consumable items that are part of the property complex of the enterprise cannot be leased. Accordingly, in this case, relations arise that are comprehensively regulated by the lease agreement of enterprises, but resemble loan relations in content, the Lessee acquires ownership of ancestral things and is obliged to return the same property or its monetary equivalent in due time. On the other hand, the rights and obligations of the borrower and the lender regarding the payment of remuneration under the loan agreement are absent in the traditional form here.

The rights of the lessor obtained by him on the basis of a license to engage in a particular activity are not subject to transfer to the lessee, unless otherwise provided by law.

In the event that the company is transferred with debts, the lessor is obliged to notify his creditors in writing before concluding the lease agreement. In case of disagreement with the transfer of debt, creditors have the right, within three months from the date of receipt of the notification, to demand from the lessor the termination or early fulfillment of the relevant obligations and compensation for losses. If any of these claims are not presented within the specified period, the creditor is recognized as having consented to the transfer of the corresponding debt to the lessee.

The content of the enterprise lease agreement. The lessee, as well as under other property lease agreements, is obliged to transfer the property to the lessee. The lessor is subject to encumbrances related to the preparation of the transfer of the enterprise for lease. Its transfer is carried out according to the transfer act. The drafting and submission for signing of the transfer act is carried out by the lessor and at his expense. If the company had debts and the lessor's creditors demanded from the lessee the termination or early fulfillment of obligations, then it can be transferred to the lessee only after the completion of settlements with creditors.

The main obligations of the lessee are to use the leased enterprise in accordance with the terms of the contract and the purpose of the property included in it and to pay rent.

Taking into account the entrepreneurial nature of the lease agreement, the enterprises have significantly expanded the powers of the lessee to dispose of the property that is part of the enterprise. Within the meaning of Article 578 of the Civil Code of the Republic of Kazakhstan (although it is not specified), the lessee has the right to lend, sell, exchange tangible assets related to working capital without the consent of the lessor, since, as already noted, he has the right to own such property. At the same time, it is required that this entails a reduction in the value of the enterprise. Fixed assets may be transferred by the lessee for temporary use, subleased, or the lease rights to such property may be transferred to another person. Such disposal of the property by the lessee should not lead to infringement of the rights of other persons. If the interests of the lessor or other persons are damaged, the lessee will be obliged to compensate it. The lessee's rights to dispose of the property may be limited by contract or legislation.

Payment for the use of leased property is made in accordance with the terms of the contract, if they are not provided for in the contract, then in accordance with the norms of the Civil Code providing for the procedure and forms of payment under the property lease agreement. The most likely forms of payment will be cash payment and payment by allocating a certain part of the products. In addition, the tenant who has made improvements to the property has the right to set them off against the rent.

The lessee also, without the consent of the lessor, has the right to make changes to the composition of the leased property complex, to carry out its reconstruction, expansion, technical re-equipment, increasing its value, unless otherwise provided by the lease agreement. Granting the right to improve the property to such an extent is due to the fact that the possibility of profit by the lessee from the use of the property is directly related to the need to use economical, energy-saving new technologies in the production process, thus the improvement of the property directly covers the interests of the lessor.

Decisions to improve the property taken by the tenant should be competent, reasonable, his material costs should be justified in terms of increasing the productivity coefficient, reducing the consumption of materials, saving on wages by reducing the required maintenance personnel, etc. The lessor may be relieved by the court from the obligation to reimburse the lessee for the cost of inseparable improvements to the leased property if he proves that the lessee's costs for these improvements increase the value of the leased property disproportionately to the increase in its operational properties or the principles of good faith and reasonableness were violated during the implementation of such improvements.

In general, the lessee has the right to be reimbursed for the cost of inseparable improvements to the leased property, regardless of the lessor's permission for such improvements. The lessee may be limited by the contract in the right to make improvements.

Improvement of the appearance of buildings, landscaping, major repairs of office premises should not belong to the category of improvements that give the tenant the right to reimbursement of their cost. This should be directly reflected in the legislation.

The fate of separable improvements is decided in accordance with the rules of paragraph 1 of Article 555 of the Civil Code of the Republic of Kazakhstan.

The burden of property maintenance is distributed in a specific way under the lease agreement of the enterprise. Unless otherwise provided by the contract, it is entirely the responsibility of the lessee. The lessee of the enterprise is obliged to support the enterprise during the entire term of the contractThe facility is in proper technical condition, including its current and major repairs. The lessee must also bear the costs associated with the operation of the leased property. Since the production of capital repairs of the enterprise is defined as the obligation of the lessee, accordingly, he is not entitled to reimbursement of the costs of capital repairs.

Upon termination of the lease agreement of the enterprise, and it is terminated in accordance with the general provisions on the termination of property lease agreements, the enterprise as a whole as a property complex must be returned to the lessor. In this case, the obligation to prepare the enterprise for transfer to the lessor, including the preparation and submission for signing of the transfer act, lies with the lessee and is carried out at his expense.

The lessee, being a business entity, bears innocent responsibility for the safety of the property transferred to him and can be released from liability if he proves that the destruction and damage to the property was the result of force majeure circumstances.

Rental of buildings and structures. Under the lease agreement of a building or structure, the lessor undertakes to transfer the building or structure to the tenant for temporary possession and use.

Unlike an enterprise lease agreement, this agreement can be both entrepreneurial and non-entrepreneurial in nature. Buildings, as well as structures, can have different functional purposes and be used for cultural, scientific, charitable purposes, for educational activities, etc.

The form of the lease agreement for buildings and structures. The form of this agreement corresponds to the form of the enterprise lease agreement. The essential terms of the lease agreement for buildings and structures include the terms of the subject and the amount of rent.

In addition to the norms of the Civil Code, relations on the lease of buildings and structures are also regulated by the Rules for Leasing objects of the state non-residential fund, approved by the resolution of the Department of State Property and Privatization of the Ministry of Finance of the Republic of Kazakhstan dated October 20, 1998 N 613.

Elements of a lease agreement for buildings and structures. The subjects of this agreement are any individuals and legal entities. On the part of the lessee, either the owners of the property or other persons authorized by law or by the contract for the delivery of the property act. In cases where real estate owned by the State is leased, not transferred to the balance sheet of state institutions or enterprises, an authorized body participates in the contract on behalf of the state or an administrative-territorial unit.

The subject of the lease agreement for buildings and structures. It includes any buildings and structures that can be used, including for housing, but the tenant does not hire them for the purpose of living, for example, if the tenant rents a multi-storey residential building for the purpose of renting apartments to tenants.

The rules for leasing objects of the state-owned non-residential fund define the subject of this type of lease in a slightly different way. In accordance with paragraph 5, paragraph 1 of these rules, the state non-residential fund is state buildings, premises and structures not included in the housing stock. In accordance with clause 6, clause 1 of the rules, rental objects include: 1) premises, detached buildings and structures, regardless of departmental affiliation (balance); 2) built-in premises in residential buildings, regardless of their departmental affiliation.; 3) buildings and structures that are monuments of architecture, history and culture; 5) premises transferred from the state housing stock to non-residential; b) premises that came under the jurisdiction of the territorial bodies of the Department of State Property and Privatization of the Ministry of Finance of the Republic of Kazakhstan in another legal way.

Those buildings that are monuments of history and culture (are in exclusive state ownership) are provided for rent if there is agreement on the conditions of their use and operation. If these buildings are classified as having national or world significance, then approval with the competent state body of the Republic of Kazakhstan is required. The delivery of buildings classified as local significance is carried out in coordination with the relevant departments of local executive bodies.

Leasing of buildings and structures entails the temporary land use for the same period of the land plot that is occupied by buildings and structures and intended for their operation. In the case when a land user does not have the right to alienate the right of land use belonging to him to other persons, he does not have the right to alienate buildings and structures located on this site as well.

The price under the lease agreement (rental price) of buildings and structures cannot be determined in accordance with the commonly applied rates, therefore it must be fixed directly in the contract. The contract may determine the final amount of rent. In some cases, it can be determined by calculation, being set for a unit of leased area or by another indicator, for example, for renting one separate room, if the rented premises have the same area. At the same time, the final amount of rent is determined based on the actual size of the building or structure transferred to the tenant. When renting buildings and structures owned by the state, the rent does not include payments for utilities, deductions for current and major repairs, payments for maintenance of the object. These payments are paid by tenants directly to departmental security, operational, communal, sanitary and Other services.

Also, the lease agreement for state buildings and structures should contain a provision on quarterly revision of the amount of rent, taking into account the level of inflation. The lessor is obliged to inform the lessee quarterly of the coefficient of increase in the amount of rent, taking into account inflation, as well as other factors.

The content of the lease agreement for buildings and structures. As well as under lease agreements of enterprises, under lease agreements of buildings and structures, the transfer of a building or structure by the lessor and its acceptance by the lessee is carried out according to a transfer act or other transfer document signed by the parties. The obligation to draw up a transfer act (transfer document) may be assigned by contract to one of the parties, since

The Civil Code does not specify whose duty it is to draw it up, if a dispute arises, an analogy with the norms on the lease agreement of the enterprise will apply. The lessor's obligation to draw up a transfer document is provided for in clause 35 of the Rules for Leasing objects of the state non-residential Fund. The general provisions on the lease of buildings and structures do not specify the terms of the transfer of the object to the lessee, they must also be provided for in the contract, and if there are no terms in the contract, then the transfer must be carried out within a reasonable time. According to the above rules, the lessor is obliged to ensure the transfer of the object within no more than a month after the signing of the lease agreement between them.

In addition to transferring the object to the lessee, the lessor is obliged to refrain from performing actions that prevent the lessee from owning and using the property (building, structure) in accordance with the terms of the contract.

The main obligations of the lessee will be the obligations to use the subject of the lease in accordance with the terms of the contract, to maintain this property, to prevent its deterioration and to return it to the lessor in due time. The return of buildings (structures) is also carried out on the basis of a transfer act.

Rental of vehicles. Section 5 of the Civil Code of the Republic of Kazakhstan regulates specific rental relations - vehicle rental relations with the crew. The existence of relations with the provision of management and technical operation services and the specifics of the subject of the contract itself, which is a vehicle, are the reason for the separate allocation of this type of property lease. Moreover, the presence of a crew provided by the lessor is still decisive in its content. So in accordance with part 2 of art . 594 of the Civil Code of the Republic of Kazakhstan, the rental of a vehicle without the provision of management and technical operation services (rental of vehicles without a crew) is regulated by the general provisions on property hiring.

The basis of the legal regulation of this agreement is the relevant norms of the Civil Code of the Republic of Kazakhstan, covered by Articles 585-594, at the same time, the specifics of renting individual vehicles with the provision of management and technical operation services can be established by legislative acts regulating relations related to the ownership and use of certain types of transport.

Despite the external similarity in some cases, it is necessary to distinguish the agreements related to the vehicle rental agreement with the crew. For example, according to the Rules for the Implementation of Irregular Air Transportation on International and Domestic Air lines

The charter agreement of the Republic of Kazakhstan is an agreement under which one party, the charterer, undertakes to provide the other party, the charterer, for a fee or remuneration, all or part of the capacity of one or more aircraft for one or more flights for transportation. In this case, we are talking about a contract of carriage with lease elements. In contrast, the chartering contract for a time entails the transfer of the vehicle to the lessee.

Under the lease agreement (chartering for a time) of a vehicle with the provision of management and technical operation services, the lessor is obliged to provide the lessee with a vehicle for a fee for temporary possession and use and to provide services for its management and technical operation on its own. The vehicle rental agreement with the crew is a real contract.

This agreement is designed to serve a diverse range of needs of citizens and organizations for the consumption of transport services related to the transportation of people and goods. At the same time, the nature of the rights arising from the lessee in relation to the vehicle allows him to make the most optimal (full) use of his capabilities without incurring any significant responsibility for the technical condition of the vehicle.

Economically, a vehicle rental agreement with a crew is also beneficial for the lessor's side, since along with the commercial use of his property, he is given the opportunity to additionally implement paid services related to the technical operation of the leased property. This type of lease agreement is concluded in writing regardless of its term. If the vehicle is a property equated to immovable property, then in cases where the term of the right to use it will exceed a year, the right to lease is subject to state registration.

The term of the vehicle rental agreement with the crew. It can be concluded for a certain period of time. The rental period is not limited. In this regard, it is necessary to take into account the views on the terms of employment that we outlined earlier. Vehicle rental agreements with the crew can be concluded without specifying the term (for an indefinite period).

The rules that provided for the pre-emptive right of the original tenant to renew the contract and renew the lease agreement for an indefinite period, when neither party expressed its intention to terminate the contractual relationship (Articles 557 and 558 of the Civil Code of the Republic of Kazakhstan), do not apply to the lease agreement of vehicles with a crew (paragraph 2 of Article 585 of the Civil Code of the Republic of Kazakhstan).

**Lecture No. 4 "Contract agreement"**

Lecture questions:

1. The concept of obligations for the production of works, their difference from other civil obligations.

2. The concept of a contract. Its elements and content.

3. Rights and obligations of the parties.

4. Execution of the contract. Liability of the parties for violation of the terms of the contract.

5. Types of contract.

Under the contract, one party (contractor) undertakes to perform certain work on the instructions of the other party (customer) and deliver its result to the customer within the prescribed period, and the customer undertakes to accept the result of the work and pay for it (pay the price of the work). The work is performed at the risk of the contractor, unless otherwise provided by legislative acts or contract.

The parties to the contract are the customer and the contractor.

The quality of the work. The work performed by the contractor must comply with the terms of the contract, and in their absence or incompleteness - the requirements usually imposed on the work of the appropriate kind.

The contract specifies the price of the work to be performed or the ways to determine it. In the absence of such instructions in the contract and the failure to reach the consent of the parties, the price is set by the court, based on the prices usually applied for similar work, taking into account the necessary expenses incurred by the parties. The price of the work can be determined by making an estimate.

The contract specifies the initial and final deadlines for the work. By agreement between the parties, the contract may also provide for deadlines for the completion of certain stages of work (interim deadlines).

Types of contract:

- household contract;

- contract for the production of design and survey work;

- contract for the production of research, development and technological works.

Lecture No. 5 "Paid provision of services"

Lecture questions:

1. The concept and types of obligations to provide services.

2. The concept and content of the contract for the provision of paid services.

3. Execution of the contract for the provision of paid services.

4. Unilateral refusal to perform a contract for the provision of paid services.

Under the contract for the provision of paid services, the contractor undertakes to provide services on the customer's instructions (to perform certain actions or carry out certain activities), and the customer undertakes to pay for these services.

The subject of the contract. Under the contract for the provision of paid services, communication services, medical, veterinary, audit, consulting, information services, training services, tourist services and others can be provided, with the exception of services named in the Civil Code of the Republic of Kazakhstan.

The contract for the provision of paid services is characterized by the principle of personal performance. Unless otherwise provided by the contract for the provision of paid services, the contractor is obliged to provide the services personally.

Payment for services. The customer is obliged to pay for the services rendered to him in the terms and in the manner specified in the contract for the provision of paid services.

In case of impossibility of performance caused by the fault of the customer, the services are subject to payment in full, unless otherwise provided by legislative acts or a contract for the provision of paid services.

**Lecture No. 6 "Transport obligations"**

Lecture questions:

1. Transport contracts: concept, types, general characteristics.

2. The concept and types of the contract of carriage.

3. The procedure for concluding and form of the contract of carriage.

4. General characteristics of liability for carriage obligations.

5. Cargo transportation contract.

6. Contract of carriage of passengers and baggage.

7. The contract of the transport expedition. Other auxiliary transport contracts.

8. Contracts for the organization of transportation.

Transport obligations occupy a special place in the system of civil law regulation, which is associated with their special role in the market economy. Transport obligations are obligations for the movement of goods, passengers, from luggage to the destination, as well as obligations servicing transportation.

Types of transport contracts:

1) The contract of carriage of goods. According to the cargo transportation contract, one party (carrier) undertakes to deliver the cargo entrusted to it by the other party (sender) to the destination and issue it to the person authorized to receive the cargo (recipient), and the sender undertakes to pay a fee for the cargo transportation, according to the contract;

2) The contract of carriage of passengers. Under the contract of carriage of a passenger, the carrier undertakes to transport the passenger to the destination, and in the case of baggage delivery by the passenger, also deliver the baggage to the destination and give it to the person authorized to receive the baggage; the passenger undertakes to pay the fare, and when baggage is delivered, also for baggage transportation.

3) The chartering contract. Under the charter agreement, one party (the charterer) undertakes to provide the other party (the charterer) with all or part of the capacity of one or more vehicles for one or more flights for the carriage of passengers, baggage and cargo for a fee.

4) Contract for the organization of transportation. The carrier and the shipper, if it is necessary to carry out systematic transportation, can conclude long-term contracts on the organization of transportation. Under the contract on the organization of cargo transportation, the carrier undertakes to accept, and the shipper undertakes to present the goods for transportation in the stipulated volume within the established time.

5) Contracts between transport organizations. Agreements may be concluded between organizations of various modes of transport on the organization of work to ensure the transportation of goods (nodal agreements, contracts for centralized delivery (export) of goods, and others).

6) The contract of the transport expedition. Under the freight forwarding contract, one party (the forwarder) undertakes, for remuneration and at the expense of the other party (the client - sender or recipient of the cargo), to perform or organize the performance of services related to cargo transportation specified in the freight forwarding contract, including concluding a cargo transportation contract (contracts) on behalf of the client or on its own behalf. As additional services, the contract of a transport expedition may provide for the implementation of such operations necessary for the delivery of cargo as obtaining documents required for export or import, performing customs and other formalities, checking the quantity and condition of cargo, its loading and unloading, payment of duties, fees and other expenses imposed on the sender, storage of cargo, its receiving at the destination, as well as performing other operations and services.

**Lecture No. 7 "Insurance"**

Lecture questions:

1. The concept of insurance, insurance activity, insurance market.

2. Branches, classes, forms of insurance.

3. The concept and content of the insurance contract.

4. The procedure for concluding the contract and its form.

5. The parties to the contract, their rights and obligations.

6. Fulfillment of the insurance obligation. Liability of the parties under the insurance contract.

Under the insurance contract, one party (the policyholder) undertakes to pay the insurance premium, and the other party (the insurer) undertakes, upon the occurrence of an insured event, to make an insurance payment to the policyholder or another person in whose favor the contract has been concluded (the beneficiary), within the amount determined by the contract (the insurance amount).

Insurance is carried out on the basis of an insurance contract or on the basis of membership in a mutual insurance company.

The forms of insurance are:

1) according to the degree of obligation - voluntary and mandatory;

2) according to the object of insurance - personal and property;

3) on the grounds of the insurance payment - accumulative and non-accumulative.

In order to license insurance activities, legislative acts may provide for a different classification.

The object of insurance can be any interest of a legal entity or a citizen. Illegal interests of the policyholder are not subject to insurance.

The form of the contract. The insurance contract is concluded in writing by:

1) drawing up by the parties of one document;

2) the policyholder's accession to the standard conditions (insurance rules) developed by the insurer unilaterally (the contract of accession), and the insurer's issuance of an insurance policy to the policyholder;

3) in another way that allows documenting the existence of the will of the parties to conclude the contract and reach an agreement on all its essential terms.

The contents of the insurance contract must include:

1) the name, location and bank details of the insurer;

2) surname, first name, patronymic (if any) and place of residence of the policyholder (if it is an individual) or its name, location and bank details (if it is a legal entity);

3) indication of the object of insurance;

4) indication of the insured event;

5) the amount of the insured sum and the procedure and timing of the insurance payment;

6) the amount of the insurance premium, the procedure and terms of their payment;

7) the date of conclusion and term of the contract;

8) instructions about the insured and the beneficiary, if they are participants in the insurance relationship;

9) number, series of the contract (insurance policy);

10) cases and procedure for making changes to the terms of the contract;

11) terms of payment and the amount of the redemption amount (for cumulative insurance).;

12) by agreement of the parties, other conditions may be included in the contract.

**Lecture No. 8 "Loan. Banking service agreement. Factoring"**

Lecture questions:

1. The concept and types of loan agreement. Rights and obligations of the parties under the loan agreement.

2. Financing for the assignment of a monetary claim (factoring).

3. Banking Service Agreement:

- Bank account agreement;

- Bank deposit agreement;

- Money transfer.

Financial liabilities are liabilities arising in connection with the circulation of funds, their movement on the market. The category of these obligations includes a loan agreement, financing for the assignment of a monetary claim, banking services.

Under the loan agreement, one party (the lender) transfers, and in the cases provided for by this Code or the contract, undertakes to transfer ownership (economic management, operational management) to the other party (the borrower) money or things defined by generic characteristics, and the borrower undertakes to promptly return to the lender the same amount of money or an equal number of things of the same kind and quality.

Under the financing agreement for the assignment of a monetary claim, one party (financial agent) transfers or undertakes to transfer money to the disposal of the other party (client), and the client cedes or undertakes to cede to the financial agent his monetary claim to a third party arising from the relationship of the client (creditor) with this third party (debtor).

Under the banking service agreement, one party (the bank) undertakes to provide banking services on behalf of the other party (the client), and the client undertakes to pay for these services, unless otherwise provided by the agreement. The banking service agreement is divided into:

1) bank account agreement;

2)money transfer agreement;

3) bank deposit agreement;

4) other types of contracts stipulated by the legislation or agreement of the parties.

**Lecture 9 "Storage. An errand. Commission. Actions without instructions".**

Lecture questions:

1. The concept and content of the storage agreement. Types and form of storage agreement.

2. Separate types of storage.

3. The concept and content of the contract of assignment.

4. Activity without an assignment.

5. Commission agreement.

Within the framework of a special part of civil law, the legal nature of such obligations is studied, which formalize the provision of factual and legal services. Among them, it is customary to include a storage agreement, instructions, commissions.

Under the storage agreement, one party (the custodian) undertakes to keep the thing transferred to it by the other party (the depositor) and return this thing safely.

Types of storage regulated by the norms of the Civil Code of the Republic of Kazakhstan:

- storage of valuables in the bank;

- pawnshop storage;

- storage in a commodity warehouse;

- storage in the cloakrooms of organizations;

- storage in storage chambers of transport organizations;

- sequestration, etc.

Contracts of assignment and commission are related in legal nature and belong to the category of obligations to provide legal services, while having certain features.

Under the contract of assignment, one party (attorney) undertakes to perform certain legal actions on behalf and at the expense of the other party (principal). According to the transaction made by the attorney, the rights and obligations arise directly from the principal.

Under the commission agreement, one party (the commission agent) undertakes, on behalf of the other party (the commitee), to make one or more transactions on its own behalf at the expense of the commitee for a fee

Actions without instructions, other instructions or the pre-promised consent of the interested person in order to prevent harm to his person or property, to fulfill his obligations or in his other non-legitimate interests (actions in someone else's interest) must be performed based on the obvious benefit or benefit and the actual or probable intentions of the interested person, with the necessary care and discretion.

**Lecture 10 "Trust management of property. Comprehensive business license (franchising)"**

Lecture questions:

1. Institute of trust management of property.

2. Subjects and objects of trust management of property.

3. The contract of trust management of property.

4. The concept and elements of a franchise agreement.

5. Restrictive terms of the franchise agreement. Responsibility of the licensor.

6. The contract of complex business sublicense.

7. Termination of the franchise agreement. Succession in the contract.

Trust management of property is a relatively new legal institution for Kazakhstan civil law. When establishing a trust management of property, the trustee undertakes to manage on his own behalf the property transferred to his possession, use and disposal, unless otherwise provided by the contract or legislative acts, in the interests of the beneficiary.

Trust management of property arises (is established) on the basis of:

1) transactions (in particular, under an agreement, under a will, in which the executor of the will (trustee) is appointed;

2) court decisions (in case of bankruptcy, establishment of guardianship over the property of an incompetent, missing or declared deceased citizen and in other cases provided for by legislative acts);

3) an administrative act (when establishing guardianship over the property of a minor who has died; when an entrepreneur enters the civil service and in other cases provided for by legislative acts).

Subjects of trust management of property.

1) The founder may be the owner, as well as a subject of other property rights or a competent authority authorized to transfer property to trust management.

2) Any person may be a trustee, unless otherwise provided by legislative acts. The appointment of a trustee can be made only with his consent.

3) The beneficiary (the person in whose interests the property is managed) may be any person who is not a trustee, as well as the state or administrative-territorial unit.

The object of trust management may be any property, including money, securities and property rights, unless otherwise provided by legislative acts.

Under the contract of trust management of property, one party (the founder of the trust management) transfers the property to the other party (the trustee) for trust management, and the other party undertakes to manage this property in the interests of the person specified by the founder (beneficiary).

Under a comprehensive business license agreement, one party (the integrated licensor) undertakes to grant the other party (the integrated licensee), for a fee, a set of exclusive rights (the license complex), including, in particular, the right to use the licensor's brand name and protected commercial information, as well as other objects of exclusive rights (trademark, service mark, patent, etc.), stipulated by the contract, for use in the licensee's business activities.

The comprehensive business license agreement provides for the use of the licensor's license complex, business reputation and commercial experience to a certain extent (in particular, with the establishment of a minimum and (or) maximum volume of use), with or without specifying the territory of use, in relation to a certain field of activity (sale of goods received from the licensor or produced by the user, implementation of other commercial activity, performance of works, provision of services).

**Lecture 11 "Competitive obligations"**

Lecture questions:

1. The concept and basis of obligations arising from unilateral actions, their difference from other obligations.

2. Obligations arising from the public promise of a reward. The content and types of obligations from the public promise of the award.

3. The concept and content of the competition.

4. Fulfillment of obligations arising from the competition.

5. Tender. Auction.

Competitive obligations occupy an intermediate position between contractual and non-contractual obligations in civil law, based on their dual legal nature.

The concept of a competitive obligation. In a competitive obligation, its initiator, on the basis of the subject matter and initial conditions of the competition determined by him, makes an offer to participate in it to an indefinite or certain circle of persons and undertakes to pay the established remuneration to the winner of the competition and (or) conclude an agreement with him corresponding to the content of the competitive obligation.

Types of competitive obligations:

- public promise of a reward;

- auction;

- tender;

- conducting games, betting, lotteries, sweepstakes.

**Lecture 12 "Obligations for compensation of harm"**

Lecture questions:

1. The concept and content of non-contractual obligations, their types.

2. The concept and content of obligations arising as a result of causing harm.

3. Conditions of liability for causing harm. The scope and nature of compensation for harm.

4. Liability for damage caused by state bodies, local self-government bodies, as well as their officials.

5. Liability for damage caused by a source of increased danger.

6. Compensation for damage caused to the life and health of a citizen.

7. Compensation for moral damage.

8. Compensation for damage caused by minors and incapacitated citizens.

9. Compensation for damage caused by defects in goods, works, services.

Obligations arising from causing harm (law enforcement, tort) are non-contractual obligations, since they arise not from a contract, but from the fact of causing harm. The Civil Code of the Republic of Kazakhstan defines the grounds for liability for causing harm.

Civil legislation regulates various cases of liability arising in connection with the infliction of harm, as well as establishes the specifics of its compensation:

1) causing harm in a state of necessary defense and extreme necessity;

2) compensation for damage by the person who insured his liability;

3) liability for damage caused by state bodies, local self-government bodies, as well as their officials;

4) liability for damage caused by a source of increased danger;

5) compensation for damage caused to the life and health of a citizen;

6) compensation for moral damage;

7) compensation for damage caused by minors and incapacitated citizens;

8) compensation for damage caused by defects in goods, works, services, etc.

**Lecture 13 "Intellectual Property Law"**

Lecture questions:

1. The concept of intellectual property rights. Its institutions.

2. The concept of copyright and related rights, their international legal protection.

3. Subjects of copyright, their personal and property rights. Objects of copyright.

4. Patent law. Patent legislation of the Republic of Kazakhstan.

5. Rights to breeding achievements.

6. Rights to the topology of integrated circuits.

7. The right to protect undisclosed information from illegal use.

8. Means of individualization of participants in civil turnover, goods and services.

Intellectual property law is one of the most important sub-branches of civil law, which includes the following legal institutions:

1) copyright and related rights;

2) patent law;

3) rights to breeding achievements;

4) rights to integrated circuit topologies;

5) the right to protect undisclosed information from illegal use;

6) means of individualization of participants in civil turnover, goods and services.

Intellectual property law is a set of legal norms regulating the creation and use of intellectual property rights (works of science, literature, creativity, inventions, utility models and industrial designs, etc.)

**Lecture 14 "Inheritance Law"**

Lecture questions:

1. The concept, meaning and grounds of inheritance.

2. Opening of the inheritance. The place and time of the opening of the inheritance.

3. Objects of hereditary succession.

4. Citizens who do not have the right to inherit.

5. Acceptance of inheritance. Refusal of inheritance.

6. Division of hereditary property.

7. Liability of heirs for the debts of the testator.

Inheritance is the transfer of the property of a deceased citizen (testator) to another person (persons) - the heir (heirs). The inheritance of a deceased citizen passes to other persons on the terms of universal succession as a whole and at the same time, unless otherwise follows from the rules of this section.

Grounds of inheritance. Inheritance is carried out by will and (or) by law. Civil legislation establishes the priority of inheritance by will. Inheritance by law takes place when there is no will or does not determine the fate of the entire inheritance, as well as in other cases established by civil law.

The inheritance includes property belonging to the testator, as well as rights and obligations, the existence of which does not cease with his death. The inheritance does not include rights and obligations that are inextricably linked with the identity of the testator:

1) the rights of membership in organizations that are legal entities, unless otherwise established by legislative acts or contract;

2) the right to compensation for damage caused to life or health;

3) rights and obligations arising from alimony obligations;

4) the rights to pension payments, allowances and other payments on the basis of legislative acts on labor and social security;

1) personal non-property rights not related to property rights.

Personal non-property rights and other intangible benefits belonging to the testator may be exercised and protected by heirs.

The time and place of the opening of the inheritance. The inheritance is opened as a result of the death of a citizen or the declaration of his deceased. The time of the opening of the inheritance is the day of the testator's death, and when declaring him dead - the day of entry into force of the court decision declaring the citizen dead, unless another day is specified in the court decision.

The place of opening of the inheritance is the last place of residence of the testator, and if it is unknown - the location of the property or its main part.

The heirs under the will and the law may be citizens who are alive at the time of the opening of the inheritance, as well as conceived during the life of the testator and born alive after the opening of the inheritance. Legal entities created before the opening of the inheritance and existing at the time of the opening of the inheritance, as well as the state, can be heirs under the will.

Within the framework of inheritance law, such institutions as testamentary refusal, assignment of an heir, execution of a will, protection of hereditary property and its management are also studied.

**Lecture 15 "Private International Law"**

Lecture questions:

1. Definition of the law to be applied to civil relations complicated by a foreign element

2. The concept and meaning of conflict of laws rules:

- Conflict of laws rules on property rights;

- The law applicable to the form of the transaction, statute of limitations, power of attorney;

- The law applicable to contractual obligations;

- The law applicable to non-contractual obligations;

- Conflict of laws rules of intellectual property law;

- Determination of the applicable law to inheritance relations.

Private international law has been included in the structure of civil law (special part) relatively recently, with the adoption of the current Civil Code of the Republic of Kazakhstan. This innovation was generated by modern realities, when in practice cases of marriages with foreign citizens, international adoption, conclusion of foreign economic contracts, etc. are not uncommon.

In the current situation, private international law is called upon to regulate civil law relations with a foreign element through conflict of laws rules.