

**THE CIVIL CODE OF THE RUSSIAN FEDERATION Part One No. 51-FZ of November 30, 1994, Part Two No. 14-FZ of January 26, 1996, Part Three No. 146-FZ of November 26, 2001 and Part Four No. 230-FZ of December 18, 2006 (with the Additions and Amendments of February 20, August 12, 1996, October 24, 1997, July 8, December 17, 1999, April 16, May 15, November 26, 2001, March 21, November 14, 26, 2002, January 10, March 26, November 11, December 23, 2003, June 29, July 29, December 2, 29, 30, 2004, March 21, May 9, July 2, 18, 21, 2005, January 3, 10, February 2, June 3, 30, July 27, November 3, December 4, 18, 30, 2006, January 26, February 5, April 20, June 26, July 19, 24, October 2, 25, November 4, 29, December 1, 6, 2007, April 29, 2008)**

## **Part One**

### **Section I. The General Provisions**

#### **Subsection 1. The Basic Provisions**

##### **Chapter 1. The Civil Legislation**

###### **Article 1. Chief Principles of the Civil Legislation**

1. The civil legislation shall be based on recognizing the equality of participants in the relationships regulated by it, the inviolability of property, the freedom of agreement, the inadmissibility of anybody's arbitrary interference into the private affairs, the necessity to freely exercise the civil rights, the guarantee of the reinstatement of the civil rights in case of their violation, and their protection in the court.

2. The citizens (natural persons) and the legal entities shall acquire and exercise their civil rights of their own free will and in their own interest. They shall be free to establish their rights and duties on the basis of an agreement and to define any terms of the agreement, which are not in contradiction with legislation.

The civil rights may be restricted on the basis of the Federal Law and only to the extent, to which it shall be necessary for the purposes of protecting the foundations of the constitutional system, morality, the health, the rights and the lawful interests of other persons, of providing for the defence of the country and for the state security.

3. The commodities, services and financial means shall move unhindered throughout the entire territory of the Russian Federation. Restrictions on the movement of commodities and services shall be imposed in conformity with the Federal Law, if this is necessary to provide for security, and to protect the human life and health, the environment and the cultural benefits.

## **Article 2. Relations Regulated by the Civil Legislation**

1. The civil legislation determines the legal position of civilian participants, the grounds for the appearance and the procedure for exercising the right of ownership and the other real rights, the rights to the results of intellectual activity and to the equated to it means for the individualisation of intellectual rights), regulates the contractual and other liabilities, as well as the other property and personal non-property relations, based on the equality, the autonomy of the will and the property independence of the participants.

Both the citizens and the legal entities may be the participants of the relations, regulated by the civil legislation. The Russian Federation, the subjects of the Russian Federation and the municipal entities may also participate in the relations, regulated by the civil legislation (Article 124).

The civil legislation shall regulate relations between the persons, engaged in business activities or in those performed with their participation, proceeding from the fact that the business activity shall be an independent activity, performed at one's own risk, aimed at systematically deriving a profit from the use of the property, the sale of commodities, the performance of work or the rendering of services by the persons, registered in this capacity in conformity with the law-established procedure.

The rules, laid down by the civil legislation, shall be applied toward relations with the participation of foreign citizens, of persons without any citizenship, and also of foreign legal entities, unless otherwise stipulated by the Federal Law.

2. The inalienable human rights and freedoms, and the other non-material values shall be protected by the civil legislation, unless otherwise following from the substance of these non-material values.

3. Unless otherwise stipulated by legislation, the civil legislation shall not be applied toward the property relations, based on the administrative or the other kind of authoritative subordination of one party to the other party, including toward the taxation and other financial or administrative relations.

## **Article 3. The Civil Legislation and the Other Acts, Containing the Civil Legislation Norms**

1. In conformity with the Constitution of the Russian Federation, the civil legislation shall be within the jurisdiction of the Russian Federation.

2. The civil legislation shall be comprised of the present Code and of the federal laws (hereinafter referred to as the laws), adopted in conformity with it, which regulate the relations, indicated in Items 1 and 2 of Article 2 of the present Code.

The norms of the civil legislation, contained in the other laws, shall correspond to the present Code.

3. The relations, indicated in Items 1 and 2 of Article 2 of the present Code, shall also be regulated by the Decrees of the President of the

Russian Federation, which shall not be in contradiction with the present Code and with the other laws.

4. On the grounds and in execution of the present Code and of the other laws, and of the Decrees of the President of the Russian Federation, the Government of the Russian Federation shall have the right to adopt decisions, containing the norms of the civil law.

5. If the Decree of the President of the Russian Federation or the decision of the Government of the Russian Federation proves to be in contradiction with the present Code or with the other law, the present Code or the corresponding law shall be applied.

6. The operation and implementation of the norms of the civil law, contained in the Decrees of the President of the Russian Federation and in the decisions of the Government of the Russian Federation (hereinafter referred to as the other legal acts), shall be defined by the rules of the present chapter.

7. The ministries and the other federal executive power bodies may issue the acts, containing the norms of the civil law, in the cases and within the limits, stipulated by the present Code, by the other laws and by the other legal acts.

#### **Article 4. Operation of the Civil Legislation in Time**

1. The acts of the civil legislation shall not be retroactive and shall be applied toward the relations, which have arisen after they have been put in force.

The operation of the law shall be extended toward the relations, which have arisen before it has been put in force, only in the cases, directly stipulated by law.

2. Concerning the relations, which have arisen before the civil legislation act has been put in force, it shall be applied toward the rights and duties, which have arisen after its being put in force. The relations of the parties by the agreement, signed before the civil legislation act has been enforced, shall be regulated in conformity with Article 422 of the present Code.

#### **Article 5. The Customs of the Business Turnover**

1. The custom of the business turnover shall be recognized as the rule of behavior, which has taken shape and is widely applied in a certain sphere of business activities, and which has not been stipulated by legislation, regardless of whether it has or has not been fixed in any one document.

2. The customs of the business turnover, contradicting to the provisions of legislation or to the agreement, obligatory for the participant in the given relationship, shall not be applied.

#### **Article 6. Application of the Civil Legislation by Analogy**

1. In cases when the relations, stipulated in Items 1 and 2 of Article 2 of the present Code are not directly regulated by legislation or by an agreement between the parties, while the custom of the business turnover that would be applicable to them does not exist, and if this is not in contradiction with their substance, the civil legislation shall be applied, which regulates similar relations (the analogy of the law).

2. If it is impossible to apply the similar law, the rights and duties of the parties shall be defined, proceeding from the general principles and the meaning of the civil legislation (the analogy of the right), and also from the requirements of honesty, wisdom and justice.

#### **Article 7. The Civil Legislation and the Norms of International Law**

1. The generally recognized principles and norms of international law and the international treaties of the Russian Federation, shall be, in conformity with the Constitution of the Russian Federation, a component part of the legal system of the Russian Federation.

2. The international treaties of the Russian Federation shall be directly applied toward the relations, indicated in Items 1 and 2 of Article 2 of the present Code, with the exception of the cases, when it follows from the international treaty that for it to be applied, a special intra-state act shall be issued.

If the rules, laid down in the international treaty of the Russian Federation, differ from those stipulated by the civil legislation, the rules of the international treaty shall be applied.

### **Chapter 2. Arising of the Civil Rights and Duties, the Exercising and Protection of the Civil Rights**

#### **Article 8. The Grounds for the Arising of the Civil Rights and Duties**

1. The civil rights and duties shall arise from the grounds, stipulated by the law and by the other legal acts, as well as from the actions of the citizens and of the legal entities, which, though not stipulated by the law or by such acts, still generate, by force of the general principles and of the meaning of the civil legislation, the civil rights and duties. In conformity with this, the civil rights and duties shall arise:

1) from the law-stipulated contracts and other deals, and also from the contracts and other deals, which, though not stipulated by the law, are not in contradiction with it;

2) from the acts of the state bodies and of the local self-government bodies, which are stipulated by the law as the grounds for the arising of the civil rights and duties;

3) from the court ruling, which has established the civil rights and duties;

4) as a result of the acquisition of property on the grounds, admitted by the law;

- 5) as a result of creating the works of science, literature and art, of making inventions and producing other results of the intellectual activity;
- 6) as a result of inflicting damage to another person;
- 7) as a consequence of an unjust enrichment;
- 8) because of other actions performed by the citizens and the legal entities;
- 9) as a result of the events, with which the law or the other legal act connects the arising of the civil legislation consequences.

2. The rights to the property, liable to the state registration, shall arise from the moment of the registration of the corresponding rights to it, unless otherwise stipulated by the law.

### **Article 9. Exercising of the Civil Rights**

1. The citizens and the legal entities shall exercise the civil rights they possess at their own discretion.

2. The refusal of the citizens and of the legal entities to exercise the civil rights they possess shall not entail the termination of these rights, with the exception of the law-stipulated cases.

### **Article 10. The Limits of Exercising the Civil Rights**

1. Not admissible shall be actions by the citizens and the legal entities, performed with the express purpose of inflicting damage to another person, as well as the abuse of the civil rights in other forms.

Not admissible shall also be the use of the civil rights for the purpose of restricting the competition, as well as the abuse of the dominating position on the market.

2. In case of the person not abiding by the requirements, stipulated in Item 1 of the present Article, the court of justice, the arbitration court or the arbitration tribunal shall have the right to reject this person's claim for the protection of the right he possesses.

3. In the cases when the law makes the protection of the civil rights dependent on whether these rights have been exercised in wisdom and honesty, the wisdom of actions and the honesty of the participants in the civil legal relations shall be presumed.

### **Article 11. Protection of the Civil Rights in the Court**

1. The violated or disputed civil rights shall be protected by the court of justice, the arbitration court or the arbitration tribunal (hereinafter referred to as the court), in conformity with the liability of the cases to these bodies' jurisdiction, established by the procedural legislation.

2. Protection of the civil rights in the administrative order shall be effected only in the law-stipulated cases. The decision, adopted administratively, may be disputed in the court.

### **Article 12. The Ways of Protecting the Civil Rights**

The civil rights shall be protected by way of:

- the recognition of the right;
- the restoration of the situation, which existed before the given right was violated, and the suppression of the actions that violate the right or create the threat of its violation;
- the recognition of the disputed deal as invalid and the implementation of the consequences of its invalidity, and the implementation of the consequences of the invalidity of an insignificant deal;
- the recognition as invalid of an act of the state body or of the local self-government body;
- the self-defence of the right;
- the ruling on the execution of the duty in kind;
- the compensation of the losses;
- the exaction of the forfeit;
- the compensation of the moral damage;
- the termination or the amendment of the legal relationship;
- the non-application by the court of an act of the state body or of the local self-government body, contradicting the law;
- using the other law-stipulated methods.

#### **Article 13.** Recognition as Invalid of an Act of the State Body or of the Local Self-Government Body

A non-normative act of the state body or of the local self-government body, and also, in the law-stipulated cases, a normative act, which does not correspond to the law or to the other legal acts and which violates the civil rights and the law-protected interests of the citizen or of the legal entity, may be recognized by the court as invalid.

In case the act has been recognized by the court as invalid, the violated right shall be liable to restoration or to protection by the other means, stipulated by Article 12 of the present Code.

#### **Article 14.** The Self-Defence of the Civil Rights

The self-defence of the civil rights shall be admissible.

The methods of the self-defence shall be proportionate to the violation and shall not go beyond the limits of actions that are necessary to suppress it.

#### **Article 15.** Compensation of the Losses

1. The person, whose right has been violated, shall be entitled to demand the full recovery of the losses inflicted upon him, unless the recovery of losses in a smaller amount has been stipulated by the law or by the agreement.

2. Under the losses shall be understood the expenses, which the person, whose right has been violated, made or will have to make to

restore the violated right, the loss or the damage done to his property (the compensatory damage), and also the undeceived profits, which this person would have derived under the ordinary conditions of the civil turnover, if his right were not violated (the missed profit).

If the person, who has violated the right of another person, has derived profits as a result of this, the person, whose right has been violated, shall have the right to claim, alongside with the compensation of his other losses, also the compensation of the missed profit in the amount not less than such profits.

#### **Article 16. Compensation of the Losses Caused by the State Bodies and by the Local Self-Government Bodies**

The losses, inflicted upon the citizen or upon the legal entity as a result of illegal actions (the inaction) on the part of the state bodies, of the local self-government bodies or of the officials thereof, including the issue by the state body or by the local self-government body of an act, which is not in correspondence with the law or with the other legal act, shall be liable to compensation by the Russian Federation, by the corresponding subject of the Russian Federation, or by the municipal entity.

### **Subsection 2. The Persons**

#### **Chapter 3. The Citizens (Natural Persons)**

##### **Article 17. The Legal Capacity of the Citizen**

1. The capability to possess the civil rights and to perform duties (the civil legal capacity) shall be recognized as equally due to all the citizens.

2. The citizen's legal capacity shall arise at the moment of his birth and shall cease with his death.

##### **Article 18. The Content of the Citizens' Legal Capacity**

The citizens may possess the property by the right of ownership; may inherit and bequeath the property; may engage in business and in any other activities, not prohibited by the law; may set up legal entities - on their own or jointly with other citizens and legal entities; may effect any deals, which are not in contradiction with the law, and take part in obligations; may select the place of residence; may enjoy the rights of the authors of the works of science, literature and art, of inventions and of other law-protected results of the intellectual activity; and may also enjoy other property and personal non-property rights.

##### **Article 19. The Name of the Citizen**

1. The citizen shall acquire and exercise the rights and duties under his own name, which includes the surname and the name proper, as well

as the patronymic, unless otherwise following from the law or from the national custom.

In the cases and in the order, stipulated by the law, the citizen shall have the right to make use of a pseudonym (an assumed name).

2. The citizen shall have the right to change his name in conformity with the law-stipulated procedure. The citizen's change of the name shall not be the ground for the termination or the change of his rights and duties, which he has acquired under his former name.

The citizen shall be obliged to take the necessary measures to inform his debtors and creditors about the change of his name and shall take the risk of the consequences that may arise in case these persons have no information on the change of his name.

The citizen, who has changed his name, shall have the right to demand that the corresponding changes be introduced, at his own expense, into the documents, formalized in his former name.

3. The name, acquired by the citizen at his birth, as well as the change of his name, shall be liable to registration in conformity with the procedure, laid down for the registration of the acts of the civil state.

4. The acquisition of the rights and duties under the name of another person shall not be admitted.

5. The damage caused to the citizen as a result of an illegal use of his name shall be liable to compensation in conformity with the present Code.

In case the citizen's name has been distorted or used in the ways or in the form, infringing upon his honor, dignity or business reputation, the rules shall be applied, stipulated by Article 152 of the present Code.

#### **Article 20.** The Place of the Citizen's Residence

1. The place, where the citizen resides permanently or most of the time, shall be recognized as the place of his residence.

2. The place of residence of the young minors, who have not reached 14 years of age, or of the citizens who have been put under the guardianship, shall be recognized as the place of residence of their legal representatives - the parents, the adopters or the guardians.

#### **Article 21.** The Active Capacity of the Citizen

1. The capability of the citizen to acquire and exercise by his actions the civil rights, to create for himself the civil duties and to discharge them (the civil active capacity) shall arise in full volume with the citizen's coming of age, i.e., upon his reaching the age of 18 years.

2. In case the law admits the right to enter into a marriage before reaching the age of 18 years, the citizen, who has not reached the law-stipulated age of 18, shall acquire the active capacity in full volume from the moment of his entering into a marriage.

The active capacity, acquired as a result of entering into a marriage, shall be retained in full volume in case the marriage is dissolved before the citizen's reaching the age of 18 years.

In case the marriage is recognized as invalid, the court may pass a decision on the underaged spouse being deprived of the full active capacity as from the moment fixed by the court.

**Article 22. Inadmissibility of Depriving the Citizen of His Legal and Active Capacity and of the Restriction Thereof**

1. No one citizen shall be restricted in his legal and active capacity, with the exception of the cases and in conformity with the procedure, stipulated by the law.

2. The failure to observe the law-stipulated terms and procedure for the restriction of the citizens' active capacity or of their right to engage in business or in any other activity shall entail the invalidation of the act of the state or of another body, which has established the corresponding restriction.

3. The full or the partial renouncement by the citizen of his legal or active capacity, and the other deals, aimed at the restriction of his legal or active capacity, shall be insignificant, with the exception of the cases, when such deals are admitted by the law.

**Article 23. The Citizen's Business Activity**

1. The citizen shall have the right to engage in business activities without forming a legal entity from the moment of his state registration in the capacity of an individual businessman.

2. The head of the peasant (farmer's) economy, performing business activities without setting up a legal entity (Article 257), shall be recognized as a businessman from the moment of the state registration of the peasant (farmer's) economy.

3. Toward the citizens' business activities, performed without forming a legal entity, shall be correspondingly applied the rules of the present Code, regulating the activity of the legal entities, which are commercial organizations, unless otherwise following from the law, from the other legal acts or from the substance of the legal relationship.

4. The citizen, engaged in business activities without forming a legal entity with the violation of the requirements of Item 1 of the present Article, shall have no right to refer, with respect to the deals he has thus effected, to the fact that he is not a businessman. The court may apply to such deals the rules of the present Code on the obligations, involved in the performance of business activities.

**Article 24. The Property Responsibility of the Citizen**

The citizen shall bear responsibility by his obligations with his entire property, with the exception of that property, upon which, in conformity with the law, no penalty may be inflicted.

The list of the citizens' property, onto which no penalty may be imposed, shall be compiled by the civil procedural legislation.

**Article 25. Insolvency (Bankruptcy) of the Individual Businessman**

1. The individual businessman, who is incapable of satisfying the claims of his creditors, related to his performance of business activities, may be recognized as insolvent (bankrupt) by the court decision. From the moment of such decision being passed, his registration in the capacity of an individual businessman shall be invalidated.

2. During the implementation of the procedure, involved in recognizing an individual businessman to be bankrupt, his creditors by the obligations, not related to his performance of business activities, shall also be entitled to the right to file their claims. The claims of the said creditors, filed by them in this order, shall stay in force after the completion of the procedure, involved in declaring the individual businessman to be bankrupt.

3. The claims of creditors of an individual entrepreneur, if he is deemed bankrupt, shall be met with the property he owns according to the priority ranking envisaged by a law on insolvency (bankruptcy).

4. After completing the settlements with the creditors, the individual businessman, recognized as bankrupt, shall be relieved of discharging the other obligations, related to his business activities, as well as of satisfying the other claims, presented for execution and taken into account when recognizing him to be bankrupt.

The claims of the citizens, to whom the person, declared bankrupt, bears responsibility for inflicting injury to the life or the health, and the other claims of a personal nature shall stay in force.

5. The grounds and the procedure for the court's recognizing an individual businessman to be bankrupt, or for his declaring himself bankrupt shall be established by the Law on the Insolvency (Bankruptcy).

**Article 26. The Active Capacity of the Minors of 14-18 Years of Age**

1. The minors of from 14 to 18 years of age shall have the right to effect deals, with the exception of those listed in Item 2 of the present Article, upon the written consent of their legal representatives - the parents, the adopters or the trustee.

The deal, effected by such a minor, shall be also valid, if it is subsequently approved in written form by his parents, adopters or trustee.

2. The minors of from 14 to 18 years of age shall have the right independently, without the consent of the parents, the adopters or the trustee:

- 1) to dispose of their earnings, student's grant or other incomes;

2) to exercise the author's rights to a work of science, literature or art, to an invention or to another law-protected result of their intellectual activity;

3) in conformity with the law, to make deposits into the credit institutions and to dispose of these;

4) to effect petty everyday deals, and also the other deals, stipulated by Item 2 of Article 28 of the present Code.

On reaching the age of 16 years, the minors shall also acquire the right to be members of cooperatives in conformity with the laws on the cooperatives.

3. The minors of from 14 to 18 years of age shall bear the property responsibility for the deals they effect in conformity with Items 1 and 2 of the present Article. For the inflicted damage, such minors shall bear responsibility in conformity with the present Code.

4. In case there are sufficient grounds, the court, upon the request of the parents, the adopters or the trustee, or of the guardianship and trusteeship body, may restrict the right of the minor of from 14 to 18 years of age to independently dispose of his earnings, student's grant or other incomes, or deprive him of this right, with the exception of the cases, when such a minor has acquired the full active capacity in conformity with Item 2 of Article 21, or with Article 27 of the present Code.

#### **Article 27. Emancipation**

1. The minor, who has reached the age of 16 years, may be declared to have the full active capacity, if he works by a labour agreement, including by a contract, or if he engages in business activities upon the consent of the parents, the adopters or the trustee.

The minor shall be declared as having acquired the full active capacity (emancipation) by the decision of the guardianship and trusteeship body - upon the consent of the parents, the adopters or the trustee, or, in the absence of such consent - by the court decision.

2. The parents, the adopters and the trustee shall not bear responsibility for the obligations of an emancipated minor, in particular for those obligations, which have arisen as a result of his inflicting damage.

#### **Article 28. The Active Capacity of the Young Minors**

1. Only the parents, the adopters or the guardians shall effect deals on behalf of the minors, who have not reached the age of 14 years (the young minors), with the exception of the deals, pointed out in Item 2 of the present Article.

Toward the deals with his property, effected by the legal representatives of the young minor, shall be applied the rules, stipulated by Items 2 and 3, Article 37 of the present Code.

2. The minors of from 6 to 14 years of age shall have the right to independently effect:

1) petty everyday deals;

2) the deals, aimed at deriving a free profit, which are not liable to the notary's certification or to the state registration;

3) the deals, involved in the disposal of the means, provided by the legal representative or, upon the latter's consent, by a third person for a definite purpose or for a free disposal.

**3.** The property responsibility by the young minor's deals, including by the deals he has effected independently, shall be borne by his parents, adopters or guardians, unless they prove that the obligation has been violated not through their fault. These persons, in conformity with the law, shall also be answerable for the damage, caused by the young minors.

### **Article 29. Recognizing the Citizen as Legally Incapable**

**1.** The citizen who, as a result of a mental derangement, can neither realize the meaning of his actions nor control them, may be recognized by the court as legally incapable in conformity with the procedure, laid down by the procedural legislation. In this case, he shall be put under the guardianship.

**2.** The deals on behalf of the citizen, who has been recognized as legally incapable, shall be effected by his guardian.

**3.** If the grounds, by force of which the citizen was recognized as legally incapable, have ceased to exist, the court shall recognize him as legally capable. On the grounds of the court's ruling, the guardianship, formerly established over him, shall be recalled.

### **Article 30. Restriction of the Citizen's Active Capacity**

**1.** The active capacity of the citizen, who as a result of his abuse of alcohol or drug addiction has plunged his family into a precarious financial position, may be restricted by the court in conformity with the procedure, laid down by the procedural legislation. He shall be put under the guardianship.

Such a citizen shall have the right to independently effect petty everyday deals.

He shall have the right to effect other kinds of the deals and to receive the earnings, the pension and other incomes, and to dispose thereof only upon the consent of his trustee. Nevertheless, such a citizen shall independently bear property responsibility by the deals he has effected and for the damage he has caused.

**2.** If the grounds, by force of which the citizen was restricted in his active capacity, have ceased to exist, the court shall cancel the restriction of his active capacity. On the ground of the court ruling, the guardianship, formerly established over him, shall be recalled.

### **Article 31. The Guardianship and the Trusteeship**

**1.** The guardianship and the trusteeship shall be established to protect the rights and interests of the legally incapable or partially capable

citizens. The guardianship and the trusteeship over the minors shall also be established for educational purposes. The corresponding rights and duties of the guardians and the trustees shall be defined by the legislation on the marriage and the family.

2. The guardians and the trustees shall not need being vested with special authority to come out in defence of the rights and interests of their wards in their relations with any other persons, including in the courts.

3. The guardianship and the trusteeship over the minors shall be established in case the minors have no parents and no adopters, in case the parents have been deprived of parental rights by the court, and also in those cases, when such citizens have been left without parental care, in particular when the parents have been shirking their duties, involved in their education or in the protection of their rights and interests.

#### **Article 32. The Guardianship**

1. The guardianship shall be established over the minors and over the citizens, who have been recognized by the court as legally incapable as a result of a mental derangement.

2. The guardians shall be representatives of their wards by force of the law and shall effect all the necessary deals on their behalf and in their interests.

#### **Article 33. The Trusteeship**

1. The trusteeship shall be established over the minors aged from 14 to 18 years, and also over the citizens, who have been restricted in their active capacity as a result of their abuse of alcohol or drug addiction.

2. The trustees shall give their consent for effecting such deals, which the citizens under their trusteeship have no right to effect independently.

The trustees shall render assistance to their wards in their exercising their rights and duties, and shall protect them from the possible maltreatment on the part of the third persons.

#### **Article 34. The Guardianship and Trusteeship Bodies**

1. The guardianship and trusteeship bodies shall be the executive bodies of a constituent entity of the Russian Federation.

2. The court shall be obliged, within three days from the date of the enforcement of its decision on recognizing the citizen as legally incapable or on restricting his active capacity, to inform about this the guardianship and trusteeship body by the place of this citizen's residence for putting him under the guardianship or the trusteeship.

3. The guardianship and trusteeship body by the place of the wards' residence shall exercise supervision over the activities of their guardians and trustees.

#### **Article 35. The Guardians and the Trustees**

1. The guardian or the trustee shall be appointed by the guardianship and trusteeship body by the place of residence of the person in need of guardianship or trusteeship, within the term of one month from the moment, when the said bodies have become aware of the need to establish the guardianship or the trusteeship over the citizen. In case of the existence of the circumstances, worthy of attention, the guardian or the trustee may be appointed by the guardianship and trusteeship body by the place of residence of the guardian (the trustee). If the guardian or the trustee is not appointed for the person in need of the guardianship or the trusteeship within the term of one month, the execution of the duties of the guardian or the trustee shall be temporarily imposed upon the guardianship and trusteeship body.

The appointment of the guardian or the trustee may be disputed by the interested persons in the court.

2. Only the adult and legally capable citizens shall be appointed as the guardians and the trustees. The citizens, deprived of parental rights, shall not be appointed as the guardians and the trustees.

3. The guardian or the trustee shall be appointed only upon his consent. Account shall be taken of his moral and other personal characteristics, his capability to perform the duties of the guardian or the trustee, the relationships, existing between him and the person in need of the guardianship or the trusteeship, and, if possible, also of the wish of the ward.

4. The guardians and the trustees of the citizens in need of the guardianship or the trusteeship, who have been kept in or placed into the corresponding educational or medical institutions, into the institutions for the social protection of the population or into other similar institutions, shall be these particular institutions.

#### **Article 36. Execution of Their Duties by the Guardians and the Trustees**

1. The duties, involved in the guardianship and the trusteeship, shall be executed free of charge, with the exception of the law-stipulated cases.

2. The guardians and the trustees of the underaged citizens shall be obliged to live together with their wards. Residing of the trustee apart from their wards, who have reached 16 years of age, shall be admissible only upon the permission of the guardianship and trusteeship body under the condition that this may not have a negative effect on the ward's education and on the protection of his rights and interests.

The guardians and the trustees shall be obliged to inform the guardianship and trusteeship bodies on the change of their place of residence.

3. The guardians and the trustees shall be obliged to take care of the maintenance of their wards, to provide for them all the essential services and medical treatment, and to protect their rights and interests.

The guardians and the trustees shall be obliged to take care of their wards' education.

4. The duties, delineated in Item 3 of the present Article, shall not be imposed upon the guardians and the trustees of the adult citizens, who have been restricted in their active capacity by the court.

5. If the grounds, by force of which the citizen was recognized as legally incapable or partially incapable as a result of his abuse of alcohol or drug addiction, have ceased to exist, the guardian or the trustee shall be obliged to file a request with the court on his ward to be recognized as legally capable and on recalling the guardianship or the trusteeship, formerly established over him.

### **Article 37. Disposal of the Ward's Property**

1. The incomes of the citizen, put under the guardianship or the trusteeship, including the incomes due to him from the management of his property, with the exception of those incomes, of which the ward has the right to dispose independently, shall be spent by the guardian or the trustee exclusively in the ward's interest and upon the preliminary permission of the guardianship and trusteeship body.

The guardian or the trustee shall have the right to make the outlays, necessary for the maintenance of the ward, at the expense of the amounts of money, due to the latter by way of his income, without obtaining the preliminary permission from the guardianship or trusteeship body.

2. The guardian shall not have the right to effect, and the trustee - to give his consent to effecting, the deals, involved in the alienation of the ward's property, including in the exchange or making a gift of it, in leasing it out (renting it), in giving it into a gratuitous use or in pawning it, or to effect the deals, entailing the renouncement of the rights possessed by the ward, the division of his property into parts or the apportioning of shares out of it, which would entail the reduction of the ward's property.

The procedure for the management of the ward's property shall be laid down by the law.

3. The guardian, the trustee, their spouses and close relations shall have no right to effect any deals with the ward, with the exception of those involved in giving their own property to the ward as a gift or into a gratuitous use, or to substitute the ward in signing the deals or in conducting the court proceedings between the ward and the guardian's or the trustee's spouse and their close relations.

### **Article 38. Confidential Management of the Ward's Property**

1. In case of a need for the permanent management of the ward's realty and valuable movable property, the guardianship and trusteeship body shall sign with the manager, selected by this body, a contract on the confidential management of such property. In this case, the guardian or the

trustee shall retain his powers with respect to that property of the ward, which has not been given into the confidential management.

While the manager exerts the legal powers, involved in the management of the ward's property, the rules, stipulated by Items 2 and 3 of Article 37 of the present Code, shall be extended to his activity.

2. The confidential management of the ward's property shall be terminated on the grounds, stipulated by the law for cancelling the contract on the confidential management of the property, and also in the cases, when the guardianship and the trusteeship are recalled.

### **Article 39. Relieving and Dismissal the Guardians and the Trustees from the Execution of Their Duties**

1. The guardianship and trusteeship body shall relieve the guardian or the trustee of the execution of his duties in case the ward is returned to his parents or is adopted.

In case the ward is placed into an educational or into a medical institution, an institution for the social protection of the population or into another similar institution, the guardianship and trusteeship body shall relieve the formerly appointed guardian or trustee of the execution of his duties, if this does not contradict to the ward's interests.

2. In case of the existence of the sound reasons (such as an illness, the change of the financial position, the absence of mutual understanding between him and the ward, etc.), the guardian or the trustee may be relieved of the execution of his duties upon his request.

3. In case of an improper execution by the guardian or by the trustee of the duties imposed on him, including in the case of his making use of his guardian's or trustee's status in his own selfish interests or of his leaving the ward without the proper supervision and the necessary assistance, the guardianship and trusteeship body shall have the right to dismiss the guardian or the trustee from the execution of these duties and to take the necessary measures for making the guilty citizen answerable in conformity with the law, stipulated liability.

### **Article 40. Recalling the Guardianship and the Trusteeship**

1. The guardianship and the trusteeship over the adult citizens shall be recalled in the cases when the court passes the decision on recognizing the ward as legally capable or on cancelling the restriction of his active capacity upon the petition of the guardian, of the trustee or of the guardianship and trusteeship body.

2. The guardianship over the young minor shall be recalled on his reaching the age of 14 years, and the citizen, who has formerly performed the functions of the young minor's guardian, shall become the minor's trustee without any additional decision made to this effect.

3. The trusteeship over the minor shall be recalled without any special decision upon his reaching the age of 18 years, and also in the case of his entering into a marriage, or in the other cases, when he acquires the full active capacity before attaining his majority (Item 2 of Article 21, and Article 27).

#### **Article 41. Patronage over the Legally Capable Persons**

1. Upon his request, the adult legally capable person, who on account of the poor condition of his health cannot exercise and protect his rights and perform his duties, may be put under the trusteeship in the form of patronage.

2. The patron (assistant) of the adult legally capable citizen may be appointed by the guardianship and trusteeship body only upon the consent of such citizen.

3. The property, belonging to an adult capable ward, shall be disposed of by his patron (assistant) on the grounds of the contract of commission or of confidential management, signed with the ward. The everyday and other kind of deals, aimed at the maintenance and at the satisfaction of the ward's everyday needs, shall be effected by his patron (assistant) upon the consent of the ward.

4. The patronage over an adult legally capable citizen, established in conformity with Item 1 of the present article, shall be recalled upon the demand of the citizen, put under the patronage.

The patron (assistant) of the citizen, put under the patronage, shall be relieved of the fulfillment of the duties imposed on him in the cases, stipulated by Article 39 of the present Code.

#### **Article 42. Recognition of the Citizen as Missing for an Unknown Reason**

The citizen may be recognized by the court, on the ground of an application, filed by the interested persons, as missing for an unknown reason, if at the place of his residence there is no information on the place of his stay in the course of one year.

If it is impossible to establish the date of receiving the last information on the missing person, the first day of the month, next to that during which the last information on the missing person was received, shall be regarded as the beginning of the term to be calculated for recognizing the fact of the given person to be missing for an unknown reason, and in the case of the impossibility to establish this month - the first day of January of the next year.

#### **Article 43. The Consequences of Recognizing the Citizen as Missing for an Unknown Reason**

1. If the property, belonging to the citizen, who has been recognized as missing for an unknown reason, requires a permanent management, it shall be passed, on the grounds of the court decision, to the person, who

shall be appointed by the guardianship and trusteeship body and who shall act on the ground of the contract of confidential management, signed with the said body.

Out of this property an allowance shall be paid for the maintenance of the citizens, whom the person, missing for an unknown reason, is obliged to keep, and the debts by the other obligations of the said person, missing for an unknown reason, shall be serviced.

**2.** The guardianship and trusteeship body shall have the right to appoint the manager of the missing citizen's property before the expiry of one year from the date of receiving the last information on the place of his stay.

**3.** The consequences of recognizing the person as missing for an unknown reason, not stipulated by the present Article, shall be defined by the law.

#### **Article 44.** Repeal of the Decision on Recognizing the Person as Missing for an Unknown Reason

In case the citizen, who has been recognized as missing for an unknown reason, turns up, or the place of his stay is discovered, the court shall repeal its decision on recognizing him as missing for an unknown reason. On the grounds of the court's decision, the management of this citizen's property shall be recalled.

#### **Article 45.** Declaring the Citizen as Dead

**1.** The citizen may be declared by the court as dead, if at the place of his residence there has been no information on the place of his stay in the course of five years, and in case he has disappeared under the life-hazardous circumstances, or under such circumstances as give the ground for supposing that he might have perished as a result of a definite accident - if he has been missing in the course of six months.

**2.** The serviceman or the other citizen, who has been missing in connection with military operations, shall not be declared by the court as dead until the expiry of two years from the date of the cessation of the military operations.

**3.** The date of the departure of the citizen, who has been declared as dead, shall be the date of the coming into force of the court decision on declaring him as dead. In the case of declaring as dead the citizen, who has disappeared under the life-hazardous circumstances or under such circumstances as give the ground to suppose that he might have perished as a result of a definite accident, the court may recognize the day of this citizen's supposed perish as the date of his death.

#### **Article 46.** The Consequences of the Turning up of the Citizen, Declared as Dead

1. In the case the citizen, who has been declared as dead, turns up, or the place of his stay is discovered, the court shall cancel its decision on declaring him as dead.

2. Regardless of the time of his turning up, the citizen shall have the right to demand from any person the return of the remaining property, which has been gratuitously passed to that person after the citizen was declared as dead, with the exception of the cases, stipulated by Item 3 of Article 302 of the present Code.

The persons, to whom the property of the citizen, who has been declared as dead, passed as a result of commercial deals, shall be obliged to return to him this property, in case it has been proved that, while acquiring the property at issue, they were aware that the citizen, declared as dead, is actually alive. If the property at issue cannot be returned in kind, its cost shall be recompensed.

#### **Article 47. Registration of the Civil State Acts**

1. The following civil state acts shall be liable to the state registration:

- 1) the birth;
- 2) entering into a marriage;
- 3) the dissolution of the marriage;
- 4) the adoption;
- 5) the establishment of the paternity;
- 6) the change of the name;
- 7) the death of the citizen.

2. The registration of the civil state acts shall be effected by the civil registration bodies by making the corresponding entries into the Civil Registers (Civil Acts Books) and by issuing certificates to the citizens on the ground of these entries.

3. The civil state acts shall be corrected and amended by the civil registration bodies in case there are sufficient grounds for effecting this and there is no dispute between the interested persons.

If there is a dispute between the interested persons, or if the civil registration body refuses to correct or to amend the entry, the dispute shall be resolved by the court.

The entries on the civil state acts shall be annulled or restored by the civil registration body on the ground of the court decision.

4. The bodies, performing the registration of the civil state acts, the procedure for registering these acts, the order of the restoration and annulment of the entries of the civil state acts, the forms for the civil acts books and for the certificates, as well as the procedure for and the term of the keeping of the civil acts books shall be defined by the Law on the Civil State Acts.

### **Chapter 4. The Legal Entities**

## **§ 1. The Basic Provisions**

### **Article 48. The Concept of the Legal Entity**

1. The legal entity shall be recognized as an organization, which has in its ownership, economic management or operative management the set-apart property and which is answerable by its obligations with this property and may on its own behalf acquire and exercise the property and the personal non-property rights, to discharge duties and to come out as a plaintiff and as a defendant in the court.

The legal entities shall have an independent balance or an estimate.

2. In connection with taking part in the formation of the property of the legal entity, its founders (participators) shall be entitled to the rights of obligation with respect to this legal entity, or the rights of estate to its property.

To the legal entities, with respect to which their participants have the rights of obligation, shall be referred the economic partnerships and companies, and the production and consumer cooperatives.

To the legal entities, with respect to whose property their founders have the right of ownership or another right of estate, shall be referred the state and the municipal unitary enterprises, as well as the institutions.

3. To the legal entities, with respect to which their founders (participants) shall not have the property rights, shall be referred the public and religious organizations (the associations), the charity and other funds, and the amalgamations of the legal entities (the associations and the unions).

### **Article 49. The Legal Capacity of the Legal Entity**

1. The legal entity shall enjoy the civil rights that correspond to the goals of its activity, stipulated in its constituent documents, and shall discharge the duties related to this activity.

The commercial organizations, with the exception of the unitary enterprises and the other law-stipulated kinds of organizations, shall possess the civil rights and discharge the civil duties, indispensable for the performance of any kinds of activity that are not prohibited by the law.

The legal entity shall engage in the individual kinds of activity, the list of which shall be defined by the law, only on the ground of a special permit (license).

2. The legal entity may be restricted in its rights only in the cases and in conformity with the procedure, stipulated by the law. The decision on the restriction of its rights may be disputed by the legal entity in the court.

3. The legal capacity of a legal entity shall arise at the time of its establishment and shall cease at the time of making an entry on its exclusion from the Comprehensive State Register of Legal Entities.

The right of the legal entity to engage in an activity, for the performance of which a license shall be drawn, shall arise from the moment of its obtaining such a license, or from the time indicated in the license, and shall cease after the expiry of the term of its operation, unless otherwise stipulated by the law or by the other legal acts.

#### **Article 50. Commercial and Non-Profit Organizations**

1. The legal entities may be either the organizations, which see deriving profits as the chief goal of their activity (the commercial organizations), or those organizations, which do not see deriving profits as such a goal and which do not distribute the derived profit among their participants (the non-profit organizations).

2. The legal entities that are commercial organizations, may be set up in the form of the economic partnerships and companies, of the production cooperatives and of the state and the municipal unitary enterprises.

3. The legal entities that are non-profit organizations, may be set up in the form of the consumer cooperatives, of the public or religious organizations (associations), of the institutions, of the charity and other funds, and also in the other law-stipulated forms.

The non-profit organizations shall engage in the business activity only so far as it helps them to achieve the goals, in the name of which they have been established, and of the kind that corresponds to these goals.

4. The creation of the alliances of the commercial and (or) the non-profit organizations in the form of associations and unions shall be admissible.

#### **Article 51. State Registration of Legal Entities**

1. A legal entity shall be subject to state registration with the authorized state body in conformity with the procedure, laid down by the Law on Registration of Legal Entities. The data on state registration shall be entered to the Unified State Register of Legal Entities, which shall be open to the general public.

The refusal of state registration of a legal entity shall be only allowed in the cases stipulated by law.

The refusal of state registration of a legal entity, as well as the avoidance of such registration, may be disputed with the court.

2. The legal entity shall be regarded as established from the moment of making an appropriate entry to the Unified State Register of Legal Entities.

#### **Article 52. Constituent Documents of the Legal Entity**

1. The legal entity shall operate on the ground of the Rules, or of the constituent agreement and the Rules, or only of the constituent agreement. In the law-stipulated cases, the legal entity, which is not a non-profit

organization, may operate on the ground of the general provisions on the given type of organizations.

The constituent agreement of the legal entity shall be signed, and the Rules shall be approved by its founders (participants).

The legal entity, created in conformity with the present Code by one founder, shall operate on the ground of the Rules, approved by this founder.

**2.** In the constituent documents of the legal entity shall be indicated the name of the legal entity, the place of its location, the way in which the legal entity's activity is managed, and the other information, required by the law for legal entities of the corresponding type. In the constituent documents of the non-profit organizations and of the unitary enterprises, and in the law-stipulated cases - also of the other commercial organizations, shall be defined the object and the goals of the legal entity's activity. The definition of the object and of the goals, pursued by the commercial organization, may also be stipulated by the constituent documents, in the cases, when it is not obligatory by the law.

In the constituent agreement, the founders shall assume upon themselves an obligation to create the legal entity, shall delineate the order of their joint activities, involved in its creation, and the terms for the transfer to it of their property and for their participation in its activity. The agreement shall also define the terms and procedure for the distribution of the profits and losses among the participants, for the management of the legal entity's activity and for the founders' (the participants') withdrawal from its structure.

**3.** The amendments made in the constituent documents, shall come into force for the third persons from the moment of their state registration, and in the cases, established by the law - from the moment of notifying about the effecting of such amendments the body, performing the state registration. However, the legal entities and their founders (participants) shall not have the right to refer to the absence of the registration of such amendments in their relationships with the third persons, who have acted with account for such amendments.

### **Article 53. The Legal Entity's Bodies**

**1.** The legal entity shall acquire the civil rights and shall assume upon itself the civil duties through its bodies, acting in conformity with the law, with the other legal acts and with the constituent documents.

The procedure for the appointment or the election of the legal entity's bodies shall be laid down by the law and by the constituent documents.

**2.** In the law-stipulated cases, the legal entity shall have the right to acquire the civil rights and to assume upon itself the civil duties through its participants.

**3.** The person, who by force of the law or of the legal entity's constituent documents comes out on its behalf, shall act in the interests of the legal entity it represents honestly and wisely. He shall be obliged, upon

the demand of the founders (the participants) of the legal entity, to recompense the losses he has inflicted upon the legal entity, unless otherwise stipulated by the law or by the agreement.

#### **Article 54.** The Name and the Place of Location of the Legal Entity

1. The legal entity shall have its own name, which shall contain an indication of its legal-organizational form. The names of non-commercial organisations, and in the cases specified by law, the names of commercial organisations shall contain an indication of the nature of the legal person's activity.

2. The place of location of a legal entity shall be determined by the place of its state registration. The state registration of a legal entity shall be carried out at the location of a standing executive body thereof, and in the event of the absence of a standing executive body, it shall be done by other body or person empowered to act on behalf of the legal entity without a letter of authority.

3. The name and the place of location of the legal entity shall be pointed out in its constituent documents.

4. The legal entity, which is a commercial organization, shall have a trade name.

Demands on the official name shall be established in the present Code and in the other laws. The rights to the official name shall be defined in conformity with the rules of Section VII of the present Code.

#### **Article 55.** The Representations and the Subsidiaries

1. The representation shall be a set-apart subdivision of the legal entity, situated outside of the place of its location, which represents and protects the legal entity's interests.

2. The subsidiary shall be the legal entity's set-apart subdivision, situated outside of the place of its location and performing all its functions or a part thereof, including the functions of representation.

3. The representations and the subsidiaries shall not be legal entities. They shall be given the property of the legal entity, by which they have been set up, and shall operate in conformity with the provisions it has approved.

The managers of the representations and the subsidiaries shall be appointed by the legal entity and shall act on the ground of its warrant.

The representations and the subsidiaries shall be named in the constituent documents of the legal person, who has set them.

#### **Article 56.** The Legal Entity's Responsibility

1. The legal entities, with the exception of the institutions, shall be answerable by their obligations with the entire property in their possession.

2. The state-run enterprise and the institution shall be answerable by their obligations in conformity with the order and on the terms, stipulated by Item 5 of Article 113 and by Articles 115 and 120 of the present Code.

3. The founder (the participant) of the legal entity or the owner of its property shall not be answerable by the legal entity's obligations, and the legal entity shall not be answerable by the obligations of the founder (the participant) or of the owner, with the exception of the cases, stipulated by the present Code or by the constituent documents of the legal entity.

If the insolvency (bankruptcy) of the legal person has been caused by the founders (participants), by the owner of the legal entity's property or by the other persons, who have the right to issue the obligatory instructions for the given legal entity, or may determine its actions in any other way, in case the legal entity's property proves to be insufficient, the subsidiary liability by the legal entity's obligations may be imposed upon such persons.

#### **Article 57. Reorganization of the Legal Entity**

1. The reorganization of the legal entity (the merger, affiliation, division, branching off, transformation) shall be effected by the decision of its founders (participants) or of the legal entity's body, authorized for this by the constituent documents.

2. In the law-stipulated cases, the reorganization of the legal entity in the form of its division or of the branching off from its structure of one or of several legal entities, shall be effected by the decision of the authorized state bodies or by the court decision.

If the founders (the participants) of the legal entity, its authorized body or the legal entity's body, which has been authorized to effect the reorganization by its constituent documents, fail to effect the legal entity's reorganization within the term, fixed in the decision of the authorized state body, the court shall appoint, upon the claim of the said state body, an outside manager as the legal entity and shall entrust to him the given legal entity's reorganization. From the moment of the appointment of an outside manager, the powers, involved in the management of the legal entity's affairs, shall pass to him. The outside manager shall come out on behalf of the legal entity in the court, shall compile the divisional balance and shall present it for examination to the court, together with the constituent documents of the legal entities, created as a result of the reorganization. The endorsement of the said documents by the court shall be the ground for the state registration of the newly emerging legal entities.

3. In the law-stipulated cases, the reorganization of the legal entities in the form of the merger, affiliation or transformation shall be effected only upon the consent of the authorized state bodies.

4. The legal entity shall be regarded as reorganized, with the exception of the cases of reorganization in the form of affiliation, from the moment of the state registration of the newly created legal entities.

In case of the reorganization of the legal entity in the form of another legal entity's affiliation to it, the former shall be regarded as reorganized from the moment of making an entry about the cessation of activity of the legal entity, affiliated to it, into the State Register of the Legal Entities.

**Article 58. Legal Succession in the Reorganization of Legal Entities**

1. In case of the merger of the legal entities, the rights and duties of every one of them shall pass to the newly emerged legal entity in conformity with the transfer deed.

2. In case of the legal entity's affiliation to another legal entity, the rights and duties of the former legal entity shall pass to the latter legal entity in conformity with the transfer deed.

3. In case of the division of the legal entity, its rights and duties shall pass to the newly emerged legal entities in conformity with the divisional balance.

4. In case of the branching off from the structure of the legal entity of one or of several legal entities, the rights and duties of the reorganized legal entity shall pass to every one of these in conformity with the divisional balance.

5. In case of the transformation of the legal entity of one type into a legal entity of a different type (the change of its legal-organizational form), the rights and duties of the reorganized legal entity shall pass to the newly emerged legal entity in conformity with the transfer deed.

**Article 59. The Transfer Deed and the Divisional Balance**

1. The transfer deed and the divisional balance shall contain provisions on the legal succession by all obligations of the reorganized legal entity with respect to all its creditors and debtors, including the obligations, disputed by the parties.

2. The transfer deed and the divisional balance shall be endorsed by the founders (participants) of the legal entity or by the body, which has adopted the decision on the reorganization of the legal entities, and shall be presented, together with the constituent documents, for the state registration of the newly emerged legal entities, or for the introduction of amendments into the constituent documents of the existing legal entities.

The failure to present, together with the constituent documents, correspondingly, the transfer deed or the divisional balance, and the absence in these of the provisions on the legal succession by the obligations of the reorganized legal entity, shall entail the refusal to effect the state registration of the newly emerged legal entities.

**Article 60. Guarantees for the Rights of the Legal Entity's Creditors in Case of Its Reorganization**

1. The founders (the participants) of the legal entity or the body, which have adopted the decision on the legal entity's reorganization, shall

be obliged to notify about it in written form the creditors of the reorganized legal entity.

2. The creditor of the reorganized legal entity shall have the right to claim that the obligation, by which the given legal entity is the debtor, be terminated or that the latter discharge it before the fixed date.

3. If the divisional balance does not make it possible to define the legal successor of the reorganized legal entity, the newly emerged legal entities shall bear to its creditors the joint responsibility.

#### **Article 61. Liquidation of the Legal Entity**

1. The liquidation of the legal entity shall entail its termination without the transfer of its rights and duties to the other entities by way of legal succession.

2. The legal entity may be liquidated:

- by the decision of its founders (participants), or of the legal entity's body, authorized for this by the constituent documents, including in connection with the expiry of the term, for which the given legal entity has been created, with its achieving the goal, for the sole purpose of which it has been established;

- by the court decision in the event of gross violations of law made when establishing it, if these violations are of irremovable nature, or of the exercise of an activity without a proper permit (licence) or of the one prohibited by law, or in defiance of the Constitution, or with other repeated or gross violations of law or of other legal acts, or in the event of the systematic exercise by a non-profit organization, in particular by a social or religious organization (association), by a charitable or other fund, of the activity contravening their statutory goals, as well as in other instances provided for by this Code.

3. The claim for the liquidation of the legal entity on the grounds, stipulated in Item 2 of the present Article, may be lodged with a court by the state body or by the local self-government body, to which the right to present such a claim has been granted by the law.

By the court decision on the liquidation of the legal entity, the fulfillment of the duties, involved in implementing the liquidation of the legal entity, may be imposed upon its founders (participants), or upon the body, authorized to effect the liquidation of the legal entity by its constituent documents.

4. A legal entity, except for a treasury enterprise, institution, political party and religious organisation is also liquidated in accordance with Article 65 of the present Code as a result of its being deemed insolvent (bankrupt). A state corporation may be liquidated as a result of declaring it insolvent (bankrupt), where it is allowed by the federal law providing for establishment thereof.

If the cost of the legal entity's property proves to be insufficient to satisfy the creditors' claims, it shall be liquidated only in conformity with the procedure, stipulated by Article 65 of the present Code.

**Article 62.** The Duties of the Person Who Has Adopted the Decision on the Liquidation of the Legal Entity

1. The founders (the participants) of a legal entity or the body, who (which) have adopted the decision on liquidation of the legal entity, shall be obliged to immediately notify about this in written form the authorized state body which shall enter the information on the given legal entity, being in the process of liquidation, to the Unified State Register of Legal Entities.

2. The founders (the participants) of a legal entity or the body, who (which) have adopted the decision on liquidation of the legal entity, shall appoint a liquidation commission (the liquidator), and shall establish, in conformity with the present Code and other laws, the procedure for, and the term of, liquidation thereof.

3. From the moment of appointment of the liquidation commission, the powers involved in the management of the legal entity's affairs shall pass to it. The liquidation commission shall also come out on behalf of the liquidated legal entity in the court.

**Article 63.** Procedure for the Legal Entity's Liquidation

1. The liquidation commission shall send to the press organs, in which information on the state registration of the legal entity is published, an advertisement on its liquidation and on the procedure and the term for the claims to be filed by its creditors.

The liquidation commission shall take measures for the exposure of the creditors and the exaction of the debit indebtedness, and shall notify the creditors in written form about the liquidation of the legal entity.

2. After the expiry of the term fixed for the creditors' filing claims, the liquidation commission shall compile an intermediary liquidation balance, containing information on the structure of the legal entity's property, on the list of the creditors' claims and on the results of their examination.

The intermediary liquidation balance shall be approved by the founders (the participants) of a legal entity or by the body, which has adopted the decision on the legal entity's liquidation. In the cases established by law the intermediary liquidation balance shall be endorsed by agreement with the authorized state body.

3. If the monetary means at the disposal of the legal entity under liquidation (except for the institutions) prove to be insufficient to satisfy the creditors' claims, the liquidation commission shall organize the sale of the legal entity's property at a public auction in conformity with the procedure, laid down for the execution of the court decisions.

4. The payment of monetary amounts to the creditors of the liquidated legal entity shall be effected by the liquidation commission according to the order of priority, established by Article 64 of the present Code, in conformity with the intermediary liquidation balance, beginning with the date of its approval, except for creditors of the third and fourth priority ranking, to whom the payments shall be made on the expiry of one month from the date of the endorsement of the intermediary liquidation balance.

5. After completing the settlements with the creditors, the liquidation commission shall compile the liquidation balance, which must be approved by the founders (the participants) of the legal entity, or by the body, which has adopted the decision on the legal entity's liquidation. In the cases established by law the liquidation balance shall be approved by agreement with the authorized state body.

6. In case the property at the disposal of the liquidated state-run enterprise, or the monetary means at the disposal of the liquidated institution are insufficient to satisfy the creditors' claims, the latter shall have the right to turn to the court with a claim for the satisfaction of the rest of the claims at the expense of the owner of the property of this enterprise or institution.

7. The property of the liquidated legal person, left after the creditors' claims are satisfied, shall be passed to its founders (participants), who have the rights of estate to this property, if not otherwise stipulated by the law, by the other legal acts or by the founding documents of the legal entity.

8. The liquidation of the legal entity shall be regarded as completed and the legal entity as having ceased existence after an entry to this effect has been made into the Unified State Register of the Legal Entities.

#### **Article 64. Satisfaction of the Creditors' Claims**

1. In case of the liquidation of a legal entity, the creditors' claims shall be satisfied in the following order of priority:

- first of all satisfaction shall be given to claims of citizens to whom the liquidated legal entity is liable for a harm inflicted to their life or health, by means of capitalising relevant time-based payments and also on claims for compensation for a moral harm;

- in the second turn shall be effected the settlements, involved in the payment of retirement allowances and the remuneration for the labour of persons who work or who have been working under a labour contract, and also those involved in the payment of fees to the authors of the results of intellectual activity.

- the third priority ranking category includes settlements of accounts for compulsory payments owing a budget or a non-budget fund;

- the fourth priority ranking category included settlements of accounts with other creditors.

Where banks raising natural persons' funds get liquidated the first priority ranking category in particular includes claims of the natural persons being the banks' creditors under contracts of bank deposit and/or contracts of bank account concluded with them (except for natural persons' claims for compensation of damages in the form of a lost gain, and for the payment of amounts of financial sanctions and claims of natural persons pursuing entrepreneurial activities without the formation of a legal entity or claims of lawyers, notaries if such accounts have been opened for the purpose of a entrepreneurial or professional activity of such persons for which there is a provision in a law, claims of an organisation carrying out the functions of compulsory insurance of deposits, in connection with the disbursement of a compensation for deposits in keeping with a law on the insurance of natural persons' bank deposits, and of the Bank of Russia in connection with the making of disbursements relating to natural persons' bank deposits in accordance with a law.

**2.** Claims of creditors of each priority ranking category are met after the claims of creditors of the preceding category have been satisfied in full, except for creditors' claims relating to obligations secured by a pledge of property of a legal entity in liquidation.

Creditors' claims relating to obligations secured by a pledge of property of a legal entity in liquidation shall be met with proceeds from the sale of the object of the pledge as a priority over other creditors, except for the obligations to the creditors of the first and second priority ranking categories for which claims had come into being before the conclusion of the pertinent contract of pledge.

Creditors' claims for obligations secured with a pledge of property of a legal entity in liquidation that have not been met with proceeds from the sale of the object of the pledge shall be satisfied together with the claims of creditors of the fourth priority ranking category.

**3.** In case the property of the liquidated legal entity proves to be insufficient, it shall be distributed among the creditors of the corresponding group proportionately to the amounts of the claims liable to satisfaction, if not otherwise stipulated by the law.

**4.** In case the liquidation commission refuses to satisfy the creditor's claim or evades its consideration, the creditor shall have the right, until the approval of the legal entity's liquidation balance, to turn to the court with a claim against the liquidation commission. By the court decision, the creditor's claims may be satisfied at the expense of the remaining property of the liquidated legal entity.

**5.** The creditor's claims, lodged after the expiry of the term, fixed by the liquidation commission for their presentation, shall be satisfied from the property of the liquidated legal entity, which has been left after the duly lodged creditors' claims have been satisfied.

**6.** The creditors' claims, left unsatisfied because of the insufficiency of the property of the liquidated legal entity, shall be regarded as settled,

the same as the claims of the creditors, which have not been recognized by the liquidation commission, if the creditor did not file the claim with a court, and also those claims, which have been rejected by the court ruling.

## **Article 65. Insolvency (Bankruptcy) of the Legal Entity**

1. A legal entity, except for a treasury enterprise, institution, political party and religious organisation may be deemed insolvent (bankrupt) by a court's decision. A state corporation may be liquidated as a result of declaring it insolvent (bankrupt), where this is allowed by the federal law providing for establishment thereof.

The recognition of the legal entity to be bankrupt shall entail its liquidation.

2. Abolished.

3. The grounds for the court to deem a legal entity insolvent (bankrupt), the procedure for liquidating such a legal entity, and also the priority ranking for the purpose of satisfying claims of creditors shall be established by a law on insolvency (bankruptcy).

## **§ 2. The Economic Partnerships and Companies**

### **1. The General Provisions**

#### **Article 66. The Basic Provisions on the Economic Partnerships and Companies**

1. The economic partnerships and companies shall be recognized as commercial organizations with the authorized (joint) capital, divided into the shares (investments) of the founders (the participants). The property, formed at the expense of the founders' (the participants') contributions, the same as that produced and acquired by the economic partnership or by the company in the process of its activity, shall belong to it by the right of ownership.

In the cases, stipulated by the present Code, an economic company may be created by one person, who becomes its only participant.

2. The economic partnerships may be established in the form of a general partnership and of a limited (commandite) partnership.

3. The economic partnerships may also be created in the form of a joint-stock company with a limited or a double responsibility.

4. The participants in the general partnerships and the general partners in the limited (commandite) partnerships may be the individual businessmen and (or) the commercial organizations.

The participants in the economic companies and the investors in the limited (commandite) partnerships may be the citizens and the legal entities.

The state bodies and the local self-government bodies shall not have the right to be the participants in the economic companies and the investors in the limited partnerships, if not otherwise stipulated by the law.

The institutions may be the participants in the economic companies and the investors in the partnerships upon the owner's permission, unless otherwise stipulated by the law.

The law may prohibit or restrict the participation of the individual categories of citizens in the economic partnerships and companies, with the exception of the public joint-stock companies.

5. The economic partnerships and companies may be the founders (the participants) of the other economic partnerships and companies, with the exception of the cases, stipulated by the present Code and by the other laws.

6. Contributed to the property of an economic partnership or of a company may be the money, the securities and the other things, or the property and the other rights that may be evaluated in money.

The monetary evaluation of the contribution, made by the participant in the economic company, shall be effected by an agreement between the founders (participants) of the company; in the law-stipulated cases, it shall be subject to an independent expert examination.

7. The economic partnerships, and also the companies with a limited and a double responsibility shall not have the right to issue shares.

#### **Article 67. The Rights and Duties of the Participants in the Economic Partnership or Company**

1. The participants in the economic partnership or company shall have the right:

- to take part in the management of affairs of the partnership or company, with the exception of the cases, stipulated by Item 2, Article 84 of the present Code and by the Law on the Joint-Stock Companies;
- to get informed on the activity of the partnership or company and to get acquainted with its accounting books and other documentation in conformity with the procedure, laid down by the constituent documents;
- to take part in the distribution of profits;
- to receive, in the case of the partnership's or the company's liquidation, a part of its property, left after the settlements with the creditors, or the cost thereof.

2. The participants in the economic partnership or company shall be obliged:

- to make investments in the order, in the amount, in the ways and within the term, stipulated by the constituent documents;
- to keep secret the confidential information on the partnership's or the company's activity.

The participants in the economic partnership or company may also discharge the other duties, stipulated by the constituent documents.

## **Article 68. Transformation of the Economic Partnerships and Companies**

1. The economic partnerships and companies of one type may be transformed into the economic partnerships and companies of another type or into the production cooperatives, by the decision of the general meeting of their participants in conformity with the procedure, stipulated by the present Code.

2. In case the partnership is transformed into a company, each general partner, who has become the participant (the share-holder) of the company, shall bear in the course of two years the subsidiary responsibility with his entire property by the obligations, which have passed to the company from the partnership. The alienation by the former partner of the participation shares (shares) in his possession shall not exempt him from such responsibility. The rules, expatiated in the present Item, shall be correspondingly applied in case the partnership is transformed into a production cooperative.

## **2. The General Partnership**

### **Article 69. The Basic Provisions on the General Partnership**

1. The partnership, whose participants (general partners) are engaged, in conformity with the agreement signed between them, in business activities on behalf of the partnership and bear responsibility by its obligations with the property in their possession, shall be recognized as the general partnership.

2. The person shall have the right to be the participant of only one general partnership.

3. The trade name of the general partnership shall contain either the names (the titles) of all its participants and the words "general partnership", or the name (the title) of one or of several of its participants, with the words "and Co." and "general partnership" to be added.

### **Article 70. The Constituent Agreement of the General Partnership**

1. The general partnership shall be created and shall operate on the ground of a constituent agreement. The constituent agreement shall be signed by all its participants.

2. The constituent agreement of the general partnership shall contain, in addition to the information, stipulated in Item 2, Article 52 of the present Code, the terms for the amount and structure of the joint capital of the partnership; on the amount and the procedure for changing the share of each of the participants in the joint capital; on the amount, the structure, the term and the order, set for their making investments; and on the liability for the violation of the duties, involved in making such investments.

### **Article 71. Management in the General Partnership**

1. The activity of the general partnership shall be managed by the general agreement of all its participants. The constituent agreement of the partnership may also indicate the cases, when the decision shall be adopted by the majority of the participants' votes.

2. Every participant of the general partnership shall have one vote, if the constituent agreement does not stipulate a different order for the definition of its participants' votes.

3. Every participant of the partnership shall have the right to get acquainted with the entire documentation on the business management, regardless of whether he has been authorized to perform the partnership's business management. The renouncement of this right or its restriction, including by the agreement of the partnership's participants, shall be insignificant.

#### **Article 72. Business Management of the General Partnership**

1. Every participant of the general partnership shall have the right to operate on behalf of the partnership, unless the constituent agreement has laid it down that all its participants shall effect the business management jointly, or unless the business management has been entrusted to the individual participants.

If the partnership's participants effect a joint business management of the partnership, to make any one deal, the consent of all the participants of the partnership shall be required.

If the business management of the partnership has been entrusted by its participants to one or to several persons from among them, the other participants, who are going to make a deal on behalf of the partnership, shall receive a warrant from the participant (the participants), to whom the business management of the partnership has been entrusted.

The partnership shall not have the right to refer, in its relations with the third persons, to the provisions of the constituent agreement, restricting the powers of the partnership participants, with the exception of the cases, when the partnership can prove that at the moment of effecting the deal, the third person was aware, or should have been aware, of the partnership participant's having no right to act on behalf of the partnership.

2. The powers for the management of the partnership affairs, granted to one or to several of its participants, may be terminated by the court on the demand of one or of several other partnership participants, if there are serious grounds for this, in particular, if the authorized person (persons) has (have) committed a gross violation of their duties, or if he (they) have proved to be incapable of a wise management of the affairs. The necessary changes shall be introduced into the constituent agreement of the partnership on the grounds of the court decision.

#### **Article 73. The Duties of the Participant of the General Partnership**

1. The participant of the general partnership shall take part in its activities in conformity with the terms of the constituent agreement.

2. The participant of the general partnership shall put at least a half of his contribution into the partnership's joint capital by the moment of its registration. The remaining part shall be put in by the participant within the term, fixed by the constituent agreement. In case he fails to discharge the said duty, the participant shall be obliged to pay to the partnership an annual 10 per cent from the underpaid part of the contribution and to recompense the inflicted losses, unless the other consequences have been stipulated by the constituent agreement.

3. The participant in a general partnership shall not have the right to make on his own behalf and in his own interest, or in the interest of the third persons, without the consent of the rest of the participants, the deals, which are similar to those that are the object of the partnership's activity.

If this rule is violated, the partnership shall have the right to demand, according to his choice, either that the given participant recompense the losses he has caused to the partnership, or that the entire profit he has derived by such deals be transferred to the partnership.

#### **Article 74. Distribution of the Profits and Losses of the General Partnership**

1. The profits and losses of the general partnership shall be distributed among its participants proportionately to their shares in the joint capital, if not otherwise stipulated by the constituent agreement or by another agreement, signed by the participants. No agreement on the exclusion of any partnership participants from the distribution of the profits and losses shall be admitted.

2. If, as a result of the losses the partnership has sustained, the value of its net assets shrinks to less than the amount of its joint capital, the profit, derived by the partnership, shall not be distributed among its participants until the value of its net assets exceeds the amount of the joint capital.

#### **Article 75. Responsibility of the Participants of the General Partnership by Its Obligations**

1. The participants of the general partnership shall jointly bear the subsidiary responsibility by the partnership's obligations with their entire property.

2. The participant of the general partnership, who is not its founder, shall be answerable on a par with the other participants by the obligations, which have arisen before the date of his joining the partnership.

The participant, who has withdrawn from the partnership, shall be answerable by the partnership's obligations, which have arisen before the moment of his retirement, on a par with the rest of the participants in the course of 2 years from the date of the approval of the accounting report on

the activity of the partnership over the year, during which he has retired from the partnership.

3. The agreement of the partnership participants on the restriction or elimination of the responsibility, stipulated in the present Article, shall be insignificant.

**Article 76. The Change of the General Partnership's Membership**

1. In case of the withdrawal or death of any one of the participants from the general partnership, the recognition of one of them as missing, legally incapable or partially capable, or as insolvent (bankrupt), or if the re-organizational procedures are instituted against one of the participants by the court ruling, or if a legal entity, which is a member of the partnership, is liquidated or the creditor of one of the participants turns the exaction of his debt onto the part of the property, amounting to the participant's share in the partnership's joint capital, the partnership may continue its activity, if this is stipulated by the constituent agreement of the partnership or by an agreement, signed between the rest of its participants.

2. The participants of the general partnership shall have the right to demand through the court that a certain participant be expelled from the partnership in conformity with the unanimous decision of the remaining participants and in the face of the serious grounds, in particular, on account of his gross violation of his duties or of his proving to be incapable of a wise management of affairs.

**Article 77. The Participant's Withdrawal from the General Partnership**

1. The participant of the general partnership shall have the right to retire from it after having declared his refusal to take part in it.

The participant shall declare his refusal to take part in the general partnership, created without indicating the term of operation, not less than 6 months in advance before his actual withdrawal from the partnership. The refusal to take part in the general partnership, created for a certain term, before the expiry of the said term, shall be admitted only on the valid grounds.

2. The agreement on the renouncement of the right to withdraw from the partnership, signed between the partnership participants, shall be insignificant.

**Article 78. The Consequences of the Participant's Withdrawal from the General Partnership**

1. The participant, who has retired from the general partnership, shall be paid out the cost of the share of the partnership's property, corresponding to this participant's share in the joint capital, if not otherwise stipulated by the constituent agreement. By an agreement reached between the retiring participant and the rest of the participants, the

payment out of the cost of the property may be replaced by the transfer of the property in kind.

The part of the partnership's property due to the retiring participant, or its cost shall be defined by the balance, which shall be compiled by the moment of his withdrawal, with the exception of the cases, stipulated by Article 80 of the present Code.

**2.** In case of the death of the participant of the general partnership, his heir may join the general partnership only upon the consent of all the other participants.

The legal entity - the successor of the reorganized legal entity, which was a member of the general partnership, shall have the right to join the general partnership upon the consent of its other participants, if not otherwise stipulated by the partnership's constituent agreement.

The settlements with the heir (successor), who has not joined the partnership, shall be effected in conformity with Item 1 of the present Article. The heir (successor) of the participant of the general partnership shall bear responsibility by the partnership's obligations to the third persons, by which, in conformity with Item 2 of Article 75 of the present Code, the departed participant was answerable, within the amount of the property of the departed participant, passed to him.

**3.** In the case of one of the participants retiring from the partnership, the shares of the remaining participants in the partnership's joint capital shall correspondingly increase, unless otherwise stipulated by the constituent documents.

#### **Article 79.** Transfer of the Participant's Share in the General Partnership's Joint Capital

The participant of the general partnership shall have the right, with the consent of the rest of its participants, to transfer his share in the joint capital, or a part thereof, to another participant of the partnership or to the third person.

When the share (a part of the share) is transferred to another person, the full rights or the corresponding part thereof, formerly possessed by the participant, who has effected the transfer of his share (a part of the share), shall also pass to the former. The person, to whom the share (a part of the share) has been transferred, shall bear responsibility by the partnership's obligations in conformity with the procedure, laid down by first paragraph of Item 2 of Article 75 of the present Code.

The transfer of his entire share to another person, effected by the participant of the partnership, shall entail the termination of his participation in the partnership and also the consequences, stipulated by Item 2 of Article 75 of the present Code.

#### **Article 80.** Turning the Penalty onto the Share of the Participant in the Joint Capital of the General Partnership

The turning of the penalty onto the participant's share in the joint capital of the partnership by the participant's own debts shall be admissible only if his own property proves to be insufficient to cover his debts. The creditors of such a participant shall have the right to demand from the general partnership that it separate the part of the partnership's property that would correspond to the debtor's share in the joint capital, so that the penalty may be turned onto this property. The part of the partnership property, subject to being singled out, or the cost thereof, shall be defined by the balance, compiled by the moment when the creditors file the claim for it to be separated.

The turning of the penalty onto the property, which corresponds to the participant's share in the joint capital of the general partnership, shall signify the termination of his participation in the partnership and shall also entail the consequences, stipulated by Paragraph 2 of Item 2 of Article 75 of the present Code.

#### **Article 81. Liquidation of the General Partnership**

The general partnership shall be liquidated on the grounds, indicated in Article 61 of the present Code, and also in case only one participant is left in it. Such a participant shall have the right, in the course of 6 months from the moment when he has become the only participant of the partnership, to transform such a partnership into an economic company in conformity with the procedure, laid down by the present Code.

The general partnership shall also be liquidated in the cases, stipulated in Item 1 of Article 76 of the present Code, unless it has been stipulated by the constituent documents of the partnership, or by an agreement, signed between the remaining participants, that the partnership shall continue its activity.

### **3. The Limited Partnership**

#### **Article 82. The Basic Provisions for the Limited Partnership**

**1.** The limited (commandite) partnership shall be recognized as such a partnership, in which, alongside the participants, engaged in the performance of the business activity on behalf of the partnership and answerable by the obligations of the partnership with their property (the general partners), there is (are) also one or several participants-investors (commanditaires), who bear the risk of the losses in connection with the partnership's activity within the amount of their investments and who do not take part in the performance of the partnership's business activity.

**2.** The position of the general partners in the commandite partnership and their liability by the partnership's obligations shall be defined by the rules on the participants of the general partnership, laid down by the present Code.

3. The person shall be the general partner only in one commandite partnership.

The participant of the general partnership shall not be the general partner in the commandite partnership.

4. The trade name of the commandite partnership shall contain either the names (the titles) of all its general partners and the words "limited partnership" or "commandite partnership", or the name (the title) of at least one of its general partners and the words "and Co.", and also the words "limited partnership" or "commandite partnership".

If into the trade name of the partnership is included the name of the investor, this investor shall become the general partner.

5. Toward the limited (commandite) partnership shall be applied the rules on the general partnership, laid down in the present Code, so far as this does not contradict the rules of the present Code on the limited partnership.

### **Article 83.** The Constituent Agreement of the Limited Partnership

1. The limited partnership shall be created and shall operate on the ground of the constituent agreement. The constituent agreement shall be signed by all the general partners.

2. The constituent agreement of the limited partnership shall contain, in addition to the information, indicated in Item 2, Article 52 of the present Code, the terms on the amount and structure of the joint capital of the partnership; on the amount of and the procedure for changing the shares of each of the general partners in the joint capital; on the amount, the structure, the term and the order of their making investments, their liability for violating the duties, involved in making the investments; on the aggregate amount of the contributions, made by the investors.

### **Article 84.** Administrative and Business Management in the Limited Partnership

1. The activity of the limited partnership shall be led by its general partners. The procedure for the administrative and business management of such a partnership by its general partners shall be established according to the rules on the general partnership, laid down in the present Code.

2. The investors shall not have the right to take part in the administrative and business management of the limited partnership or to come out on its behalf other than by a warrant. Neither shall they have the right to dispute the actions of the general partners involved in the administrative and business management of the partnership.

### **Article 85.** The Rights and Duties of the Investor of the Limited Partnership

1. The investor of the limited partnership shall be obliged to make an investment into the joint capital. The fact of his making the investment shall

be confirmed by the participation certificate, issued to the investor by the partnership.

**2.** The investor of the limited partnership shall have the right:

1) to receive a part of the partnership's profit, due for his share in the joint capital, in conformity with the procedure, stipulated by the constituent agreement;

2) to get acquainted with the partnership's annual reports and balances;

3) on the expiry of the fiscal year, to retire from the partnership and to withdraw his investment in conformity with the procedure, laid down by the constituent agreement;

4) to transfer his share in the joint capital or a part thereof to another investor or to a third person. The investors shall be entitled to the preferential right, in comparison with the third persons, to buy the share (a part thereof) as applied to the terms and order, stipulated by Item 2 of Article 93 of the present Code. The transfer by the investor of his entire share to another person shall amount to the termination of his membership in the partnership.

The constituent agreement of the limited partnership may also stipulate other rights of the investor.

#### **Article 86.** Liquidation of the Limited Partnership

**1.** The limited partnership shall be liquidated in case all the investors have retired from it. However, the general partners shall have the right, instead of the liquidation of the limited partnership, to transform it into a general partnership.

The limited partnership shall also be liquidated on the grounds, stipulated for the liquidation of the general partnership (Article 81). However, the limited partnership shall continue operation, if at least one general partner and one investor are left in it.

**2.** In case of the liquidation of the limited partnership, including in the case of its bankruptcy, the investors shall have the preferential right before the general partners to get back their investments from the property of the partnership, left after the creditors' claims have been satisfied.

The property of the partnership, left after this, shall be distributed among the general partners and the investors proportionately to their shares in the partnership's joint capital, if not otherwise stipulated by the constituent agreement or by an agreement between the general partners and the investors.

### **4. The Limited Liability Company**

#### **Article 87.** The Basic Provisions on the Limited Liability Company

**1.** The limited liability company shall be recognized as the company, established by one or by several persons, whose authorized capital is

divided into the shares, the size of which is stipulated by the constituent documents; the participants of the limited liability company shall not be answerable by its obligations and shall bear the risk of the losses in connection with the company's activity within the cost of the contributions they have made.

The participants of the company, who have not made their contributions in full volume, shall bear joint responsibility by its obligations within the cost of the underpaid part of the contribution of each of the participants.

2. The trade name of the limited liability company shall contain the name of the company and the words, "limited liability".

3. The legal position of the limited liability company, and the rights and duties of its participants shall be defined by the present Code and by the Law on the Limited Liability Companies.

The peculiarities of the legal status of the credit organizations set up in the form of a limited liability company, the rights and duties of the stakeholders thereof shall also be provided by the laws governing the activities of credit organizations.

#### **Article 88. Participants in the Limited Liability Company**

1. The number of participants in the limited liability company shall not exceed the limit, established by the Law on the Limited Liability Companies. Otherwise it shall be subject to transformation into a joint-stock company in the course of a year; on the expiry of this term, if the number of its participants has not been reduced to the law-established limit, it shall be liquidated by the court decision.

2. The limited liability company shall not include as a single participant another economic company, consisting of a single person.

#### **Article 89. Constituent Documents of the Limited Liability Company**

1. The constituent documents of the limited liability company shall be the constituent agreement, signed by its participants, and the Rules, approved by them. If the company is set up by a single person, its constituent document shall be the Rules.

2. The constituent documents of the limited liability company, in addition to the information, stipulated in Item 2 of Article 52 of the present Code, shall contain the terms on the amount of the company's capital; on the size of the shares of every participant; on the size, the structure, the term and the procedure for their making the investments, and on their responsibility for violating their duties, involved in the making of the investments; on the structure and the competence of the public management bodies and on the order of their adopting decisions, including on the issues, the decisions on which shall be adopted unanimously or by a qualified majority of votes; and also other information, stipulated by the Law on the Limited Liability Companies.

## **Article 90. Authorized Capital of the Limited Liability Company**

1. The authorized capital of the limited liability company shall be comprised of the cost of its participants' contributions.

The authorized capital of the limited liability company shall determine the minimum size of the company's property, guaranteeing the interests of its creditors. The authorized capital of the limited liability company shall not be less than the amount, stipulated by the Law on the Limited Liability Companies.

2. It is prohibited to relieve a stakeholder of the limited liability company from the obligation to make a contribution in the company's authorized capital, including but not limited to, accepting for offset claims to the company, excluding the cases provided by the law.

3. By the moment of registration, not less than a half of the authorized capital of the limited liability company shall be paid up by its participants. The remaining underpaid part of the authorized capital shall be subject to payment by its participants in the course of the first year of the company's operation. In case of violating this obligation, the company shall either make a statement on the reduction of its authorized capital and register its reduction in conformity with the established procedure, or cease its activity by way of liquidation.

4. If, on the expiry of the second or of every subsequent fiscal year, the cost of the net assets of the limited liability company proves to be less than its authorized capital, the company shall be obliged to make a statement on the reduction of its authorized capital and to register its reduction in conformity with the established procedure. In case the cost of the company's said assets falls below the law-stipulated minimum size of the authorized capital, the company shall be subject to liquidation.

5. The reduction of the authorized capital of the limited liability company shall be admitted after all its creditors have been notified to this effect. In this case, the latter shall have the right to demand that the corresponding obligations of the company shall be discharged in advance and that their losses be recompensed.

The rights and duties of the creditors of credit organizations set up on the form of a limited liability company shall also be governed by the laws governing the activities of credit organizations.

6. The augmentation of the company's authorized capital shall be admitted after all its participants have made their investments in full volume.

## **Article 91. Administration in the Limited Liability Company**

1. The higher body of the limited liability company shall be the general meeting of its participants.

An executive body (collegiate and/or single-man) shall be set up in the limited liability company, which shall perform the current direction of its

activity and which shall report to the general meeting of its participants. The single-man management body of the company may also be elected not from among its participants.

2. The jurisdiction of the company's management bodies and the procedure, laid down for its adoption of decisions and coming out on behalf of the company, shall be defined in conformity with the present Code and with the Law on the Limited Liability Companies.

3. To the exclusive jurisdiction of the general meeting of the limited liability company shall be referred:

1) the amendment of the company's Rules and the change of the size of its authorized capital;

2) the setting up of the company's executive bodies and an advanced termination of their powers;

3) the approval of the company's annual reports and accounting balances and the distribution of its profits and losses;

4) the adoption of the decision on the company's reorganization or liquidation;

5) the election of the company's auditing committee (the auditor).

The settlement of other questions may also be referred to the exclusive jurisdiction of the general meeting of the company's partners by Law on the Limited Liability Companies.

The issues, referred to the exclusive jurisdiction of the general meeting of the company's participants, shall not be passed by it for adopting decisions to the company's executive body.

4. For the purposes of checking up and confirming the correctness of the annual financial reports of the limited liability company, it shall have the right annually to draw on the services of a certified auditor, whose material interests are not involved in the company or connected with its participants (the external audit). The audit examination of the company's annual financial reports may also be carried out on the demand of any of its participants.

The procedure for carrying out the audit examinations of the company's activities shall be defined by the law and by the company's Rules.

5. The publication by the company of the results of the management of its activity (the public reports) shall not be required, with the exception of the cases, stipulated by the Law on the Limited Liability Companies.

## **Article 92. Reorganization and Liquidation of the Limited Liability Company**

1. The limited liability company may be reorganized or liquidated voluntarily by a unanimous consent of its participants.

The other grounds for the reorganization and liquidation of the limited liability company and the procedure for its reorganization and liquidation shall be defined by the present Code and by the other laws.

2. The limited liability company shall have the right to transform itself into a joint-stock company or into a production cooperative.

**Article 93.** Transfer of the Share in the Authorized Capital of the Limited Liability Company to a Third Person

1. The participant of the limited liability company shall have the right to sell or cede in another manner his share in the company's authorized capital or a part thereof to one or several participants of the given company.

2. The alienation by the participant of the company of his share (a part thereof) to third persons shall be admitted, unless otherwise stipulated by the company's Rules.

The participants of the company shall enjoy the right of priority in acquiring the share of its participant (or a part thereof) proportionately to the size of their own shares, unless the other order for exercising this right is stipulated by the company's Rules or by an agreement between its participants. In case the company's participants do not avail themselves of their preferential right within a month's term from the date of notification or within the other term, stipulated by the company's Rules or by the agreement between its participants, the participant's share may be alienated in favour of a third person.

3. If, in conformity with the Rules of the limited liability company, the alienation of the participant's share (a part thereof) to third persons is inadmissible, while its other participants refuse to acquire it, the company shall be obliged to pay to the participant in question the actual cost of, or to give him in kind, the amount of property, which would correspond to such cost.

4. The share of the participant of the limited liability company may be alienated up to its full payment only in that part of it, which has already been paid.

5. In the participant's share (a part thereof) has been acquired by the limited liability company itself, it shall be obliged to realize it to its other participants or to third persons within the term and in conformity with the order, stipulated by the Law on the Limited Liability Companies and by the company's constituent documents, or to reduce its authorized capital in conformity with Items 4 and 5 of Article 90 of the present Code.

6. The shares of the authorized capital of the limited liability company shall be transferred to the citizens' heirs and to the legal successors of the legal entities, which have been the company's participants, unless the constituent documents of the company stipulate that such transfer shall be admitted only upon the consent of the rest of the company's participants. The refusal to grant the consent to the transfer of the share shall entail the obligation of the company to pay up to the heirs (the legal successors) of the participant the actual cost of his share, or to give them in kind the property, that would amount to such cost, in conformity with the order and

on the terms, stipulated by the Law on the Limited Liability Companies and by the company's constituent documents.

**Article 94.** Withdrawal of the Participant of the Limited Liability Company from the Company

The participant of the limited liability company shall have the right to retire from the company regardless of the consent of its other participants. In this case, he shall be entitled to being paid up the cost of the part of the property, corresponding to the size of his share in the company's authorized capital in the order, in the manner and within the term, stipulated by the Law on the Limited liability Companies and by the company's constituent documents.

## **5. The Double Liability Company**

**Article 95.** The Basic Provisions on the Double Liability Companies

1. The double liability company shall be recognized as the company, established by one or by several persons, whose capital is divided into the shares of the size, defined by the company's constituent documents; the participants of such a company shall bear in common the subsidiary liability by its obligations with their property in the amount, divisible by the cost of their contributions, equal for all of them, which shall be defined by the company's constituent documents. In case of the bankruptcy of one of the participants, his liability by the company's obligations shall be distributed among the rest of the participants proportionately to their contributions, unless the other order for the liability sharing is stipulated by the company's constituent documents.

2. The trade name of the double liability company shall contain the name of the company and the words " double liability".

3. Toward the double liability company shall be applied the rules of the present Code on the limited liability company, unless otherwise stipulated by the present Article.

## **6. The Joint-Stock Company**

**Article 96.** The Basic Provisions on the Joint-Stock Company

1. The joint-stock company shall be recognized as the company, whose authorized capital is divided into a definite number of shares; the participants of the joint-stock company (the share-holders) shall not be answerable by its obligations and shall take the risks, involved in the losses in connection with its activity, within the cost of the shares in their possession.

The share-holders, who have not paid up their shares in full, shall bear the joint responsibility by the obligations of the joint-stock company within the unpaid part of the cost of the shares in their possession.

2. The trade name of the joint-stock company shall contain its name and the indication of the fact that the company is a joint-stock one.

3. The legal status of the joint-stock company and the rights and duties of the share-holders shall be defined in conformity with the present Code and with the Law on the Joint-Stock Companies.

The specifics of the legal status of the joint-stock companies, founded by way of the privatization of the state-run and municipal enterprises, shall be also defined by the laws and by the other legal acts on the privatization of these enterprises.

The peculiarities of the legal status of the credit organizations set up in the form of a joint-stock company, the rights and duties of the shareholders thereof shall also be provided by the laws governing the activities of credit organizations.

### **Article 97. The Open and Closed Joint-Stock Companies**

1. The joint-stock company, whose participants may alienate the shares in their possession without the consent of the other share-holders, shall be recognized as an open joint-stock company. This kind of the joint-stock company shall have the right to carry out a public subscription for the shares it issues and to sell them freely on the terms, fixed by the law and by the other legal acts.

The open joint-stock company shall be obliged every year to publish for general information an annual report, an accounting balance and also an account on the profits and the losses.

2. The joint-stock company, whose shares are distributed only among its founders or within another circle of persons, defined in advance, shall be recognized as a closed joint-stock company. Such a company shall not have the right to carry out a public subscription for the shares it issues or to offer them in any other way for acquisition to an unlimited circle of persons.

The share-holders of the closed joint-stock company shall enjoy a preferential right to acquire the shares offered for sale by the other share-holders of this company.

The number of the participants of the closed joint-stock company shall not exceed that fixed by the Law on the Joint-Stock Companies; otherwise, it shall be subject to the transformation into an open joint-stock company in the course of one year, and upon the expiry of this term - to the liquidation by the court ruling, if the number of its participants has not been reduced to the law-stipulated limit.

In the cases, stipulated by the Law on the Joint-Stock Companies, the closed joint-stock company may be obliged to publish for general information the documents, indicated in Item 1 of the present Article.

### **Article 98. The Founding of the Joint-Stock Company**

1. The founders of the joint-stock company shall sign between themselves an agreement, defining the order of their performing a joint

activity, involved in the establishment of the company, the size of its authorized capital, the categories of the shares it is going to issue and the way of their distribution, and also the other terms, stipulated by the Law on the Joint-Stock Companies.

The agreement on founding a joint-stock company shall be made out in written form.

2. The founders of the joint-stock company shall bear a joint responsibility by the obligations, which have arisen before the company's registration.

The company shall bear responsibility by the founders' obligations, related to its creation, only in case their actions have been subsequently approved by the general meeting of the share-holders.

3. The constituent documents of the joint-stock company shall be its Rules, approved by the founders.

The Rules of the joint-stock company, in addition to the information, specified in Item 2 of Article 52 of the present Code, shall contain the terms on the categories of the shares, issued by the company, on their face value and number; on the size of the company's authorized capital; on the rights of the share-holders; on the structure and the jurisdiction of the company's management bodies and on the procedure, laid down for their decision-making, including on the issues, on which decisions shall be adopted unanimously or by a qualified majority of votes. The Rules of the joint-stock company shall also contain other information, stipulated by the Law on the Joint-Stock Companies.

4. The procedure for the performance of the other actions, involved in founding a joint-stock company, including the jurisdiction of the constituent assembly, shall be defined by the Law on the Joint-Stock Companies.

5. The specifics of the creation of the joint-stock companies as a result of the privatization of the state-run and the municipal enterprises shall be defined by the laws and by the other legal acts on the privatization of these enterprises.

6. The joint-stock company may be founded by one person, or it may consist of one person in case a single share-holder acquires all the company's shares. The data to this effect shall be contained in the company's Rules, shall be registered and published for general information.

The joint-stock company shall not have the right to enlist another economic company, consisting of a single person, as its only participant, if not otherwise established by laws.

#### **Article 99. The Authorized Capital of the Joint-Stock Company**

1. The authorized capital of the joint-stock company shall be comprised of the face value of the company's shares, acquired by the share-holders.

The company's authorized capital shall define the minimum amount of the company's property, guaranteeing the interests of its creditors. It

shall not be less than it is stipulated by the Law on the Joint-Stock Companies.

2. The share-holder shall not be exempted from the duty to pay for the company's shares, including the exemption from this duty by taking into account his claims against the company.

3. The public subscription for the shares of the joint-stock company shall not be admitted until the authorized capital is paid up in full. When founding a joint-stock company, all its shares shall be distributed among the founders.

4. If upon the expiry of the second and of each of the next fiscal years the cost of the company's net assets proves to be less than its authorized capital, the company shall be obliged to declare and to register, in conformity with the established procedure, the reduction of its authorized capital. If the cost of the said company's assets falls below the minimum size of the authorized capital, fixed by the law (Item 1 of the present Article), the company shall be subject to liquidation.

5. The law or the Rules of the company may fix the limits upon the number, the total face value of its shares or the maximum number of the votes in the possession of a single share-holder.

#### **Article 100.** Augmentation of the Capital of the Joint-Stock Company

1. The joint-stock company shall have the right, by the decision of the general meeting of the share-holders, to inflate its authorized capital by raising the face value of its shares or by issuing additional shares.

2. The augmentation of the authorized capital of the joint-stock company shall be admitted after it has been paid up in full. The augmentation of the company's authorized capital for the purpose of covering its losses shall not be admitted.

3. In the cases, stipulated by the Law on the Joint-Stock Companies, the company's Rules may establish the preferential right of the share-holders, possessing ordinary (common) shares or the other kind of the voting shares, for acquiring the shares, additionally issued by the company.

#### **Article 101.** Reduction of the Authorized Capital of the Joint-Stock Company

1. The joint-stock company shall have the right, by the decision of the general meeting of the share-holders, to deflate its authorized capital by cutting down the face value of its shares, or by buying up a certain number of the shares in order to reduce their total number.

The deflation of the company's authorized capital shall be admitted after the notification of all its creditors in conformity with the procedure, laid down by the Law on the Joint-Stock Companies. The creditors of the company shall have the right to demand that the company terminate in advance or execute its corresponding obligations and recompense their losses.

The rights and duties of the creditors of credit organizations set up in the form of a joint-stock company shall also be provided by the laws governing the activities of credit organizations.

2. The reduction of the authorized capital of the joint-stock company by acquiring and paying off a part of the shares shall be admitted in case this possibility has been stipulated in the company's Rules.

#### **Article 102.** Restrictions on the Issue of Securities and on the Payment of Dividends of the Joint-Stock Company

1. The proportion of the preference shares in the total volume of the authorized capital of the joint-stock company shall not exceed 25 per cent.

2. The joint-stock company shall be entitled to issue bonds solely after paying in full for the authorized capital.

The nominal value of all stocks issued by a joint-stock company must not exceed the amount of the joint-stock company's authorized capital and (or) the amount of the security provided to the company for this purpose by third persons. In the absence of security provided by third persons, bonds' issuance shall be allowed at earliest on the third year of the joint-stock company's existence and on condition of proper endorsement of the company's annual balance sheets for the last two complete financial years. The said restrictions shall not apply to issues of mortgage-covered bonds and in other cases established by the laws on securities.

3. The joint-stock company shall not have the right to declare and pay dividends:

- until the entire authorized capital is paid up in full;
- if the cost of the net assets of the joint-stock company is less than its authorized capital and its reserve fund, or if it will fall below their size as a result of the payment of the dividends.

#### **Article 103.** Management in the Joint-Stock Company

1. The higher management body of the joint-stock company shall be the general meeting of its share-holders.

Within the exclusive jurisdiction of the general meeting of the share-holders shall be placed:

1) the amendment of the company's Rules, including the change of the size of its authorized capital;

2) the election of the members of the board of directors (the supervisory council) and of the auditing commission (the auditor) of the company, and the termination of their powers before the expiry of their term of office;

3) the formation of the company's executive bodies and the cessation of their powers before the expiry of their term of office, unless the company's Rules refer the resolution of these issues to the jurisdiction of the board of directors (the supervisory council);

4) the approval of the annual reports, the accounting balances and the accounts of the company's profits and losses, and the distribution of its profits and losses;

5) the adoption of the decision on the company's reorganization or liquidation.

The Law on the Joint-Stock Companies may also refer to the exclusive jurisdiction of the general meeting of the share-holders the resolution of the other issues.

The issues, placed by the law within the exclusive jurisdiction of the general meeting of the share-holders, shall not be turned over by it for resolution to the company's executive bodies.

**2.** In the company with over 50 share-holders, a board of directors (a supervisory council) shall be established.

In case of the establishment of the board of directors (the supervisory council), the company's Rules, in conformity with the Law on the Joint-Stock Companies, shall delineate the scope of its exclusive jurisdiction. The issues, placed by the Rules within the exclusive jurisdiction of the board of directors (the supervisory council), shall not be turned over by it for resolution to the company's executive bodies.

**3.** The company's executive body may be collegiate (the board, the directorate) and (or) single-man (the director, the director-general). It shall effect the current management of the company's activity and shall report to the board of directors (to the supervisory council) and to the general meeting of the share-holders.

To the jurisdiction of the company's executive body shall be referred the resolution of all issues, which are not placed within the exclusive jurisdiction of the other management bodies of the company, delineated by the law or by the company's Rules.

By the decision of the general meeting of the share-holders, the powers of the company's executive body may be turned over by an agreement to another commercial organization, or to an individual businessman (manager).

**4.** The jurisdiction of the management bodies of the joint-stock company and the procedure for their adopting decisions and acting on behalf of the company shall be defined in conformity with the present Code by the Law on the Joint-Stock Companies and by the company's Rules.

**5.** The joint-stock company, which has been obliged, in conformity with the present Code or with the Law on the Joint-Stock Companies, to publish for general information the documents, indicated in Item 1 of Article 97 of the present Code, shall annually draw upon the services of a professional auditor, not bound up with the company or with its participants by property interests, for checking upon and confirming the correctness of the company's annual financial reports.

The auditor's examination of the activity of the joint-stock company, including of the company, which has not been obliged to publish for general

information the said documents, shall be carried out at any time upon the demand of the share-holders, whose aggregate share of the authorized capital comprises 10 or more per cent.

The procedure for carrying out auditor's examinations of the activity of the joint-stock company shall be defined by the law and by the company's Rules.

#### **Article 104. Reorganization and Liquidation of the Joint-Stock Company**

1. The joint-stock company may be reorganized or liquidated voluntarily, by the decision of the general meeting of the share-holders.

The other grounds and the procedure for the reorganization and liquidation of the joint-stock company shall be stipulated by the present Code and by the other laws.

2. The joint-stock company shall have the right to transform itself into a limited liability company or into a production cooperative and also to a non-commercial organization in compliance with the law.

### **7. The Subsidiary and Dependent Companies**

#### **Article 105. The Subsidiary Economic Company**

1. The economic company shall be recognized as subsidiary, if the other (the parent) economic company or partnership, on account of its prevalent participation in its authorized capital, or in conformity with the agreement, signed between them, or in any other way, can exert a decisive impact on the decisions, adopted by such a company.

2. The subsidiary company shall not be answerable by the debts of the parent company (the partnership).

The parent company (the partnership), which has the right to issue to the subsidiary company, including by an agreement signed with it, the instructions that are obligatory for it, shall bear joint responsibility with the subsidiary company by the deals, effected by the latter in execution of such instructions.

In case of the insolvency (the bankruptcy) of the subsidiary company through the fault of the parent company (the partnership), the latter shall bear the subsidiary responsibility by its debts.

3. The participants (the share-holders) of the subsidiary company shall have the right to claim that the losses, caused to the subsidiary company through the fault of the parent company (the partnership), shall be recompensed to them by the latter, unless otherwise stipulated by the laws on the economic companies.

#### **Article 106. The Dependent Economic Company**

1. The economic company shall be recognized as dependent, if the other (the prevalent, the participant) company possesses over 20 per cent

of the voting shares of the joint-stock company or over 20 per cent of the authorized capital of the limited liability company.

2. The economic company, which has acquired over 20 per cent of the voting shares of the joint-stock company, or over 20 per cent of the authorized capital of the limited liability company, shall be obliged to publish information to this effect without delay and in conformity with the procedure, stipulated by the laws on the economic companies.

3. The limits of the mutual participation of the economic companies in one another's authorized capitals and the number of the votes that one such company may use at the general meeting of the participants or of the share-holders of another company, shall be defined by the law.

### **§ 3. The Production Cooperatives**

#### **Article 107. The Concept of the Production Cooperative**

1. The production cooperative (the artel) shall be recognized as a voluntary association of the citizens, based on the membership and set up for the purpose of the joint production or of the other kind of the economic activity (the manufacture, processing and sale of the industrial, farming and the other kind of produce, the performance of works, the trade, the rendering of everyday and other services), based on their personal labour and on the other kind of participation and on the putting together by its members (participants) of the property participation shares. The law and the constituent documents of the production cooperative may stipulate the participation in its activity of the legal entities. The production cooperative shall be a commercial organization.

2. The members of the production cooperative shall bear the subsidiary responsibility by the cooperative's obligations in the amount and in conformity with the procedure, stipulated by the Law on the Production Cooperatives and by the Rules of the production cooperative.

3. The trade name of the cooperative shall contain its name and the words "production cooperative" or "artel".

4. The legal status of the production cooperatives and the rights and duties of their members shall be defined by the laws on the production cooperatives in conformity with the present Code.

#### **Article 108. Formation of the Production Cooperative**

1. The constituent document of the production cooperative shall be its Rules, endorsed by the general meeting of its members.

2. The Rules of the production cooperative shall contain, in addition to the data, indicated in Item 2 of Article 52 of the present Code, the terms for the size of the share contributions to be made by the cooperative members; for the structure and the order of making the share contributions by the cooperative members and for their liability in case of violating the obligation on making the share contributions; for the nature and the order of

the labour participation by its members in the cooperative's activity and for their liability in case of violating the obligation on the personal labour participation; for the order of the distribution of the cooperative's profits and losses; for the size of and the terms for the subsidiary liability of its members by the cooperative's debts; for the structure and the scope of jurisdiction of the cooperative's management bodies and the order of their decision-making, including on the issues, the decisions on which shall be adopted unanimously or by a qualified majority of votes.

3. The number of cooperative members shall be not less than 5 persons.

#### **Article 109. The Property of the Production Cooperative**

1. The property in the possession of the production cooperative shall be divided into the shares of its members in conformity with the Rules of the cooperative.

The Rules of the cooperative may decree that a certain part of the property in the possession of the cooperative shall be comprised of the indivisible funds, which shall be used for the purposes, defined by the Rules.

The decision on the setting up of the indivisible funds shall be adopted by the cooperative members unanimously, unless otherwise stipulated by the Rules of the cooperative.

2. The member of the cooperative shall be obliged to put in, by the moment of the cooperative's registration, not less than 10 per cent of his share contributions; the rest shall be paid up in the course of one year from the moment of the cooperative's registration.

3. The cooperative shall not have the right to issue shares.

4. The profit of the cooperative shall be distributed among its members in accordance with their labour input, unless otherwise stipulated by the law and by the Rules of the cooperative.

The property, left after the cooperative's liquidation and the satisfaction of the claims of its creditors, shall be distributed in the same order.

#### **Article 110. Management in the Production Cooperatives**

1. The higher management body of the cooperative shall be the general meeting of its members.

In the cooperative with over 50 members, a supervisory council may be established, which shall exert control over the activity of the cooperative's executive body.

The cooperative's executive bodies shall be its management board and (or) its chairman. They shall effect the current leadership of the cooperative's activity and shall report to the supervisory council and to the general meeting of the cooperative members.

Only the members of the cooperative shall have the right to be the members of the supervisory council and to fill the post of the chairman of the cooperative. The member of the cooperative shall not be simultaneously a member of the supervisory council and a member of the management board or the chairman of the cooperative.

2. The jurisdiction of the management bodies of the cooperative and the order for their decision-making shall be defined by the law and by the Rules of the cooperative.

3. The following functions shall be placed within the exclusive jurisdiction of the general meeting of the members of the cooperative:

- 1) the amendment of the Rules of the cooperative;
- 2) the establishment of the supervisory council and the termination of the powers of its members, and also the establishment and the termination of the powers of the cooperative's executive bodies, unless in conformity with the Rules of the cooperative this right has been vested in its supervisory council;
- 3) the admittance and expelling of the cooperative members;
- 4) the approval of the cooperative's annual reports and accounting balances and the distribution of its profits and losses;
- 5) the decision on the cooperative's reorganization and liquidation.

The Law on the Production Cooperatives and the Rules of the cooperative may also place other issues within the exclusive jurisdiction of the general meeting.

The issues, placed within the exclusive jurisdiction of the general meeting or of the supervisory council of the cooperative, shall not be turned over by these for resolution to the cooperative's executive bodies.

4. The member of the cooperative shall be entitled to one vote in the adoption of decisions by the general meeting.

#### **Article 111. Termination of the Membership in the Production Cooperative and the Transfer of the Share**

1. The member of the cooperative shall have the right, at his own discretion, to withdraw from the cooperative. In this case, he shall be paid out the cost of his share or issued the property, corresponding to his share; he shall also be entitled to certain other payments, stipulated by the Rules of the cooperative.

The payment out of the cost of the share or the issue of the other property to the retiring member of the cooperative shall be effected upon the expiry of the fiscal year and the approval of the accounting balance of the cooperative, unless otherwise stipulated by the Rules of the cooperative.

2. The member of the cooperative may be expelled from the cooperative by the decision of the general meeting in case of his non-performance or an improper performance of his duties, imposed upon him

by the Rules of the cooperative, and also in the other cases, stipulated by the law and by the Rules.

The member of the supervisory council or of the executive body may be expelled from the cooperative by the decision of the general meeting in connection with his membership in a similar cooperative.

The expelled member of the cooperative shall have the right to get back his share contribution and to receive certain other payments, stipulated by the Rules of the cooperative, in conformity with Item 1 of the present Article.

**3.** The member of the cooperative shall have the right to turn over his share or a part thereof to another member of the cooperative, unless otherwise stipulated by the law and by the Rules of the cooperative.

The turning over of the share (a part thereof) to the citizen, who is not a member of the cooperative, shall be admitted only upon the consent of the cooperative. In this case, the other members of the cooperative shall have the right of priority to the purchase of such a share (a part thereof).

**4.** In case of the death of a member of the production cooperative, his heirs may be admitted to the cooperative's membership, unless otherwise stipulated by the Rules of the cooperative. If this is not the case, the cooperative shall pay out to the heirs the cost of the share of the deceased member of the cooperative.

**5.** The turning of the claim for the property onto the share of the member of the production cooperative by the own debts of the cooperative member shall be admitted only in case his own property proves to be insufficient for covering such debts, in conformity with the order, stipulated by the law and by the Rules of the cooperative. The claim by the debts of the cooperative member shall not be turned onto the indivisible funds of the cooperative.

## **Article 112. Reorganization and Liquidation of the Production Cooperatives**

**1.** The production cooperative may be reorganized or liquidated voluntarily, by the decision of the general meeting of its members.

The other grounds and the procedure for the reorganization and the liquidation of the cooperative shall be defined by the present Code and by the other laws.

**2.** By the unanimous decision of its members, the production cooperative may transform itself into an economic partnership or into a company.

## **§ 4. The State-Run and Municipal Unitary Enterprises**

### **Article 113. The Unitary Enterprise**

**1.** The unitary enterprise shall be recognized as a commercial organization, not endowed with the right of ownership to the property, allotted to it by the property owner. The unitary enterprise's property shall

be indivisible and shall not be distributed according to the instalments (the participation shares, the shares), including among the workers of the given enterprise.

The Rules of the unitary enterprise shall contain, in addition to the information, indicated in Item 2 of Article 52 of the present Code, that on the subject and on the goals of the enterprise's activity, and also on the size of its authorized fund and on the order and the sources of its formation, except for treasury enterprises.

Only the state-run and the municipal enterprises shall be set up in the form of unitary enterprises.

**2.** The property of the state-run or the municipal unitary enterprise shall correspondingly be in the state or in the municipal ownership, and shall belong to such an enterprise by the right of economic or operative management.

**3.** The trade name of the unitary enterprise shall contain an indication of the owner of its property.

**4.** The unitary enterprise shall be managed by its head, who shall be appointed either by the owner or by the owner's authorized body, and shall report to these.

**5.** The unitary enterprise shall be answerable by its obligations with the entire property in its possession.

The unitary enterprise shall not bear responsibility by the obligations of the owner of its property.

**6.** The legal status of the state-run and municipal unitary enterprises shall be defined by the present Code and by the Law on the State-Run and Municipal Unitary Enterprises.

#### **Article 114.** The Unitary Enterprise, Based on the Right of Economic Management

**1.** The unitary enterprise, based on the right of economic management, shall be set up by the decision of the state or the local self-government body, authorized for this purpose.

**2.** The constituent document of the enterprise, based on the right of economic management, shall be its Rules, approved by the state body or by the local self-government body.

**3.** The size of the authorized fund of the enterprise, based on the right of economic management, shall not be less than that fixed by the Law on the State-Run and Municipal Unitary Enterprises.

**4.** The procedure for forming up the authorized fund of an enterprise founded by the right of economic jurisdiction shall be determined by a law on state and municipal unitary enterprises.

**5.** If upon the expiry of the fiscal year the cost of the net assets of the enterprise, based on the right of economic management, proves to be less than the size of its authorized fund, the body, authorized to set up such

enterprises, shall be obliged to effect, in conformity with the established procedure, the reduction of the authorized fund. If the cost of the net assets falls below the law-fixed amount, the enterprise may be liquidated by the court decision.

6. In case the decision has been adopted on the reduction of the authorized fund, the enterprise shall be obliged to inform about it its creditors in written form.

The creditor of the enterprise shall have the right to demand that the obligations, by which the given enterprise is the debtor, be terminated or executed in advance and that his losses be recompensed.

7. The owner of the property of the enterprise, based on the right of economic management, shall not be answerable by the enterprise's obligations, with the exception of the cases, stipulated in Item 3 of Article 56 of the present Code. This rule shall also apply to the liability of the enterprise, which has founded the subsidiary enterprise, by the latter's obligations.

#### **Article 115. The Unitary Enterprise Founded by the Right of Operative Management**

1. In the cases and in the manner envisaged by a law on state and municipal unitary enterprise a unitary enterprise may be founded by the right of operative management (treasury enterprise) on the basis of state or municipal property.

2. The constitutive document of the treasury enterprise shall be its constitution approved by the state or local governmental body authorised to do so.

3. The company name of a unitary enterprise founded by the right of operative management shall contain an indication of the fact that this enterprise is a treasury enterprise.

4. The rights of a treasury enterprise to the property consolidated thereto shall be determined according to Articles 296 and 297 of the present Code and by a law on state and municipal unitary enterprises.

5. The owner of property of a treasury enterprise shall bear subsidiary liability for the obligations of the enterprise if its property is insufficient.

6. The treasury enterprise may be reconstructed or liquidated in compliance with the law on state and municipal unitary enterprises.

### **§ 5. The Non-Profit Organizations**

#### **Article 116. The Consumer Cooperative**

1. The consumer cooperative shall be recognized as a voluntary association of the citizens and the legal entities, based on membership and aimed at satisfying the participants' material and other needs by its members putting together their property share contributions.

2. The Rules of the consumer cooperative shall contain, in addition to the information indicated in Item 2 of Article 52 of the present Code, the terms for the size of the share contributions, made by the members of the cooperative; for the structure and the order of making the share contributions by the members of the cooperative, and for the responsibility they shall bear for violating the obligation, involved in making the share contributions; for the composition and the scope of authority of the cooperative management bodies, and for the order of their decision-making, including on the issues, with respect to which decisions shall be adopted unanimously or by a qualified majority of votes; and also for the procedure, laid down for covering the losses the cooperative has sustained, by its members.

3. The name of the consumer cooperative shall contain an indication of the main purpose of its activity, and also the word "cooperative", or the words "consumer union" or "consumer company".

4. The members of the consumer cooperative shall be obliged, in the course of 3 months after the approval of its annual balance, to cover the sustained losses by making new contributions. In case of the non-fulfillment of this duty, the cooperative may be liquidated by the court decision upon the creditor's demand.

The members of the consumer cooperative shall bear the joint subsidiary liability by its obligations within the unpaid part of the additional contribution of every one of the cooperative members.

5. The incomes, derived by the consumer cooperative as a result of the business activity, performed by the cooperative in conformity with the law and with its Rules, shall be distributed among its members.

6. The legal status of the consumer cooperatives, and the rights and duties of their members shall be defined in conformity with the present Code and with the Law on the Consumer Cooperatives.

### **Article 117. The Public and Religious Organizations (Associations)**

1. The public and religious organizations (associations) shall be interpreted as the voluntary associations of the citizens, who have united in the law-stipulated order on the basis of the community of their interests for the purpose of satisfying their spiritual or other non-material needs.

The public and religious organizations shall be non-profit organizations. They shall have the right to engage in the business activity only in order to attain the goals, in the name of which they have been set up, and of the nature, consonant with these goals.

2. The participants (members) of the public and religious organizations shall not retain the right to the property, which they have passed into the possession of these organizations, including to the membership dues. They shall not be answerable by the obligations of the public and religious organizations, in which they participate in the capacity

of their members, while the said organizations shall not be answerable by the obligations of their members.

3. The specifics of the legal status of the public and religious organizations as the participants of the relations, regulated by the present Code, shall be defined by the law.

#### **Article 118. The Funds**

1. The fund shall be interpreted for the purposes of the present Code as a non-membership non-profit organization, instituted by the citizens and (or) the legal entities on the basis of voluntary property contributions and pursuing the public, charity, cultural, educational or the other socially useful goals.

The property, transferred to the fund by its founders (founder), shall be the fund's property. The founders shall not be answerable by the obligations of the fund they have created, while the fund shall not be answerable by the obligations of its founders.

2. The fund shall use the property for the purposes, defined in its Rules. The fund shall have the right to engage in business activities, necessary for it to attain the socially useful goals, in the name of which the fund has been established, and of the kind consonant with these goals. To perform the business activity, the funds shall have the right to set up economic companies or to take part in these.

The fund shall be obliged to annually publish reports on the use of its property.

3. The procedure for the fund's management and for the setting up of its bodies shall be defined by its Rules, approved by its founders.

4. The Rules of the fund, in addition to the information, indicated in Item 2 of Article 52 of the present Code, shall also contain: the name of the fund, including the word "fund"; the information on the fund's goal; the data on the fund's bodies, including on the board of guardians, supervising its activities, on the order of appointing and relieving the fund's official persons, on the place of the fund's location, and on the fate of the fund's property in case of its liquidation.

#### **Article 119. Amendment of the Rules and the Liquidation of the Fund**

1. The Rules of the fund may be amended by the fund's bodies, if the possibility of their amendment in this way has been stipulated by the Rules.

If maintaining the Rules intact is fraught with the consequences, which it was impossible to foresee when the fund was established, but the possibility of introducing amendments into the Rules has not been stipulated by the latter, or the Rules are not amendable by the authorized persons, the right to effect such amendments shall be vested in the court upon the application of the fund's bodies or the body, authorized to exert supervision over its activities.

2. The decision on the liquidation of the fund shall be adopted only by the court upon the application of the interested persons.

The fund may be liquidated:

1) if the fund's property is insufficient to attain its goals, and there is no realistic hope that the property it needs may be received;

2) if the fund's stipulated goals cannot be achieved, while they cannot be amended;

3) if in its activities the fund deviates from the goals, stipulated in its Rules;

4) in the other law-stipulated cases.

3. In case of the fund's liquidation, its property, left after the creditors' claims have been satisfied, shall be directed towards the achievement of the goals, pointed out in its Rules.

## **Article 120. The Institutions**

1. As an institution shall be seen a non-profit organisation created by the owner for the performance of managerial, socio-cultural or other functions of non-profit character.

An institution's right to the property assigned to him by the owner, as well as the property acquired by the institution shall be defined in conformity with Article 296 of the present Code.

2. An institution may be created by a citizen or by a legal entity (by a private institution) or, respectively, by the Russian Federation, by a subject of the Russian Federation or by a municipal entity (by a government or a municipal institution).

The government or the municipal institution may be a budgetary or an autonomous institution.

Private and budgetary institutions shall be fully or partially financed by the owner of their property. The procedure of the financial provision for the activity of the government and municipal institutions shall be determined by law.

A private or a budgetary institution shall answer for its liabilities by the monetary funds at its disposal. If these monetary funds are insufficient, the owner of its property shall bear subsidiary responsibility for such institution's liabilities.

An autonomous institution shall answer for its liabilities with all the property assigned to it, with the exception of the immovable property and particularly valuable movable property assigned to the autonomous institution by the owner of this property or acquired by the autonomous institution at the expense of the funds allocated by such owner. The owner of the property of an autonomous institution is not held responsible for the autonomous institution's liabilities.

3. The specifics of the legal status of the individual kinds of the state-run and of the other institutions shall be defined by the law and by the other legal acts.

**Article 121. Amalgamations of the Legal Entities (the Associations and the Unions)**

1. The commercial organizations shall have the right, by an agreement between themselves, to establish amalgamations in the form of associations or unions, which shall be non-profit organizations, for the purposes of coordinating their business activities and of representing and protecting their common property interests.

If, by the decision of its participants, upon the given association (union) has been imposed the performance of business activities, such an association (union) shall be transformed into an economic company or into a partnership in accordance with the procedure, stipulated by the present Code, or it shall set up a commercial company for the performance of business activities, or shall participate in such a company.

2. The public and the other kind of the non-profit organizations, including the institutions, shall have the right to voluntarily unite into the associations (the unions) of these organizations.

The association (the union) of non-profit organizations shall be a non-profit organization.

3. The members of the association (the union) shall retain their independence and the rights of a legal entity.

4. The association (the union) shall not be answerable by the obligations of its members. The members of the association (the union) shall bear the subsidiary liability by its obligations in the amount and in accordance with the order, stipulated by the constituent documents of the given association.

5. The name of the association (the union) shall contain an indication of the main object of its members' activities, with the word "association" or "union" included into it.

**Article 122. Constituent Documents of the Associations and the Unions**

1. The constituent documents of the association (the union) shall be the constituent agreement, signed by its members, and the Rules approved by them.

2. The constituent documents of the association (the union) shall contain, in addition to the information indicated in Item 2 of Article 52 of the present Code, the terms for the composition and the authority of the management bodies of the association (the union) and for the order of their decision-making, including on the issues, the decisions on which shall be adopted unanimously or by a qualified majority of the votes of the association (the union) members, and also for the order, established for

distributing the property, left after the liquidation of the association (the union).

**Article 123.** The Rights and Duties of the Members of the Associations and the Unions

1. The members of the association (the union) shall have the right to gratuitously enjoy its services.

2. The member of the association (the union) shall have the right, at his own discretion, to withdraw from the association (the union) upon the expiry of the fiscal year. In this case he shall bear the subsidiary liability by the obligations of the association (the union) proportionately to his contribution in the course of two years from the moment of his withdrawal.

The member of the association (the union) may be expelled from it by the decision of the remaining participants, in the cases and in accordance with the procedure, laid down by the constituent documents of the association (the union). Toward the liability of the expelled member of the association (the union) shall be applied the same rules as in the case of the member's withdrawal from the association (the union).

3. Upon the consent of the members of the association (the union), a new participant may join it. The joining to the association (the union) of a new member may be grounded on his subsidiary liability by the obligations of the association (the union), which has arisen before his joining it.

**Chapter 5. Participation of the Russian Federation, of the Subjects of the Russian Federation and of the Municipal Entities in the Relationships, Regulated by the Civil Legislation**

**Article 124.** The Russian Federation, the Subjects of the Russian Federation and the Municipal Entities as the Subjects of Civil Law

1. The Russian Federation, the subjects of the Russian Federation: the Republics, the territories, the regions, the cities of federal importance, the autonomous region, the autonomous areas, and also the urban and rural settlements and the other municipal entities shall come out in the relationships, regulated by the civil legislation, on equal terms with the other participants of these relationships - the citizens and the legal entities.

2. Toward the subjects of civil law, indicated in Item 1 of the present Article, shall be applied the norms, defining the participation of the legal entities in the relationships, regulated by the civil legislation, unless otherwise following from the law or from the specifics of the given subjects.

**Article 125.** The Order of Participation of the Russian Federation, of the Subjects of the Russian Federation and of the Municipal Entities in the Relationships, Regulated by the Civil Legislation

1. The right to acquire and exercise by their actions the property and the personal rights, and to come out in the court on behalf of the Russian

Federation and of the subjects of the Russian Federation shall be vested in the state power bodies within the scope of their jurisdiction, established by the acts, defining the status of these bodies.

2. The right to acquire and exercise by their actions the rights and duties, indicated in Item 1 of the present Article, on behalf of the municipal entities shall be vested in the local self-government bodies within the scope of their jurisdiction, established by the acts, defining the status of these bodies.

3. In the cases and in conformity with the procedure, stipulated by the federal laws, by the decrees of the President of the Russian Federation and the decisions of the Government of the Russian Federation, by the normative acts of the subjects of the Russian Federation and of the municipal entities, the state bodies, the local self-government bodies, and also the legal entities and the citizens may come out on their behalf upon their special order.

**Article 126.** Liability by the Obligations of the Russian Federation, of the Subject of the Russian Federation and of the Municipal Entity

1. The Russian Federation, the subject of the Russian Federation and the municipal entity shall be answerable by their obligations with the property they possess by the right of ownership, with the exception of the property that has been assigned to the legal entities, which they have set up by the right of economic or of operative management, and also of the property that shall be placed only in the state or in the municipal ownership.

The turning of the penalty onto the land and the other natural resources in the state or in the municipal ownership shall be admitted in the law-stipulated cases.

2. The legal entities, set up by the Russian Federation, by the subjects of the Russian Federation and by the municipal entities, shall not be answerable by their obligations.

3. The Russian Federation, the subjects of the Russian Federation and the municipal entities shall not be answerable by the obligations of the legal entities they have set up, with the exception of the law-stipulated cases.

4. The Russian Federation shall not be answerable by the obligations of the subjects of the Russian Federation and of the municipal entities.

5. The subjects of the Russian Federation and the municipal entities shall not be answerable by one another's obligations and also by those of the Russian Federation.

6. The rules, formulated in Items 2-5 of the present Article, shall not apply to the cases, when the Russian Federation has assumed upon itself the guarantee (surety) by the obligations of the subject of the Russian Federation, of the municipal or the legal entity, or when the said subjects have assumed upon themselves the guarantee (surety) by the obligations of the Russian Federation.

**Article 127.** The Specifics of the Liability of the Russian Federation and of the Subjects of the Russian Federation in the Relationships, Regulated by the Civil Legislation, in Which the Foreign Legal Entities, Citizens and States Are Involved

The specifics of the liability to be borne by the Russian Federation and by the subjects of the Russian Federation in the relationships, regulated by the civil legislation, in which the foreign legal entities, citizens and states are involved, shall be defined by the Law on the Immunity of the State and of Its Property.

### **Subsection 3. The Objects of Civil Rights**

#### **Chapter 6. The General Provisions**

**Article 128.** Objects of Civic Rights

To the objects of civic rights are referred items, including money and securities, as well as the other property, including property rights; works and services; protected results of intellectual activity and the means for individualisation that are equated to them (the intellectual property); non-material benefits.

**Article 129.** The Circulation Capacity of the Objects of Civil Rights

1. The objects of civil rights may be freely alienated or may pass from one person to another by way of the universal legal succession (by inheritance or as a result of the reorganization of the legal entity), or in another way, if they have not been withdrawn from circulation or restricted in the circulation.

2. The kinds of the objects of civil rights, whose circulation shall not be admitted (the objects, withdrawn from circulation), shall be directly pointed out in the law.

The kinds of the objects of civil rights, which may only be possessed by definite participants in the circulation, or whose being in the circulation shall be admitted by a special permit (the objects with a restricted circulation capacity), shall be defined in accordance with the law-established procedure.

3. The land and the other natural resources shall be alienated or shall pass from one person to another in other ways so far as their circulation is admissible in conformity with the laws on the land and on the other natural resources.

4. The results of intellectual activity and the means of individualisation that are equated to them (Article 1225), cannot be alienated or passed from one person to another in the other ways. However, the rights to such results and means, as well as the material carriers in which the corresponding results or means are expressed may be

alienated or passed from one person to another in the other ways in the cases and in the order established in the present Code.

### **Article 130.** The Movables and the Immovables

1. To the immovables (the immovable property, realty) shall be referred the land plots, the land plots with mineral deposits and everything else, which is closely connected with the land, i.e., such objects as cannot be shifted without causing an enormous damage to their purpose, including the buildings and all kind of structures, objects of incompleting construction.

To the immovables shall also be referred the air-borne and sea-going vessels, the inland navigation ships and the space objects. The law may also refer to the immovables certain other property.

2. The things, which have not been referred to the immovables, including money and securities, shall be regarded as the movables. The registration of the rights to the movables shall not be required, with the exception of the cases, pointed out in the law.

### **Article 131.** The State Registration of the Realty

1. The right of ownership and the other rights of estate to the immovables, the restriction of these rights, their arising, transfer and cessation shall be liable to the state registration in the Unified State Register, effected by the bodies carrying out the state registration of rights to real estate and transactions in it. Subject to the registration shall be: the right of ownership, the right of economic management, the right of operative management, the right of the inherited life possession, the right of the permanent use, the mortgage, the servitudes, and also the other rights in the cases, stipulated by the present Code and by the other laws.

2. In the law-stipulated cases, alongside the state registration, may be effected the special registration or the registration of the individual kinds of the realty.

3. The body, effecting the state registration of the rights to the realty and the deals with it, shall be obliged, upon the request of the owner of the rights, to certify the effected registration by issuing a document on the registered right or deals, or by making a superscription on the document, presented for registration.

4. The body, effecting the state registration of the rights to the realty and to the deals with it, shall be obliged to provide information on the effected registration and on the registered rights to any person.

The information shall be issued in any one body, engaged in the registration of the realty, regardless of the place of effecting the registration.

5. The refusal of the state registration of the right to the realty or of the deal with it, or the evasion by the corresponding body from registering these, may be disputed in the court.

6. The order of the state registration and the grounds for the refusal thereof shall be established in conformity with the present Code by the Law on the Registration of the Rights to the Realty and the Deals with It.

### **Article 132. The Enterprise**

1. The enterprise as an object of rights shall be recognized as a property complex, used for the performance of business activities.

The enterprise in its entirety as a property complex shall be recognized as the realty.

2. The enterprise as a whole or a part thereof may be an object of the purchase and sale, of the mortgage, the lease and of the other deals, connected with the establishment, the change and the cessation of the rights of estate.

Within the enterprise as a property complex shall be included all kinds of the property, intended for the performance of its activities, including the land plots, the buildings, the structures, the equipment, the implements, the raw materials, the products, the rights, the claims and the debts, and also the rights to the symbols, individualizing the given enterprise, its products, works and services (such as the commercial designation, the trade and the service marks), as well as the other exclusive rights, unless otherwise stipulated by the law or by the agreement.

### **Article 133. The Indivisible Things**

The thing, whose division in kind is impossible without changing its purpose, shall be interpreted as indivisible.

The specifics of apportioning a share in the right of ownership to the indivisible thing shall be defined by the rules, laid down in Articles 252 and 258 of the present Code.

### **Article 134. The Composite Things**

In case a single whole is formed of heterogeneous things, presupposing their use for a single purpose, they shall be regarded as a single thing (a composite thing).

The effect of the deal, made with respect to a composite thing, shall concern all its component parts, unless otherwise stipulated by the agreement.

### **Article 135. The Principal Thing and Its Accessory**

The thing, intended for the servicing of another thing - the principal one - and connected with it by the common purpose (an accessory), shall

share the fate of the principal thing, unless otherwise stipulated by the agreement.

**Article 136.** The Fruits, Products and Incomes

The receipts, resulting from the use of the property (the fruits, products and incomes), shall belong to the person, who has been using this property on the legal grounds, unless otherwise stipulated by the law, by the other legal acts or by the agreement on the use of the said property.

**Article 137.** The Animals

Toward the animals shall be applied the general rules on the property, unless otherwise stipulated by the law or by the other legal acts.

While exercising the rights, a cruel treatment of the animals, contradicting the principles of humanity, shall not be admitted.

**Article 138.** Abrogated from January 1, 2008.

**Article 139.** Abrogated from January 1, 2008.

**Article 140.** The Money (Hard Currency)

1. The rouble shall be the legal means of payment, which shall be accepted by its face value on the entire territory of the Russian Federation.

The payments on the territory of the Russian Federation shall be effected both in cash and cashless.

2. The cases of, the procedure and the terms for the use of foreign currency on the territory of the Russian Federation shall be defined by the law or in conformity with the established order.

**Article 141.** The Currency Valuables

The kinds of property, recognized as the currency valuables, and the order established for the deals made with them, shall be defined by the Law on the Currency Regulation and the Currency Control.

The right of ownership to the currency valuables shall be protected in the Russian Federation on the general grounds.

## **Chapter 7. The Securities**

**Article 142.** The Security

1. The security shall be a document, confirming, with the observance of the established form and obligatory requisites, the property rights, whose exercising or transfer shall be possible only upon its presentation.

With the transfer of the security, all the rights, certified by it, shall also be transferred in their aggregate.

2. In the cases, stipulated by the law, or in conformity with the order, established by the law for the exercising and the transfer of the rights,

confirmed by the security, it shall be sufficient to present proofs of their being confirmed in the special register (a common-type or a computerized one).

**Article 143. The Kinds of Securities**

To the securities shall be referred: the government bond, the bond, the promissory note, the cheque, the deposit and the savings certificates, the savings-bank book to bearer, the bill of lading, the share, the privatization securities and also the other documents, which have been referred to the securities by the laws on the securities or in conformity with the order, established by these laws.

**Article 144. The Demands of the Security**

1. The kinds of the rights, certified by the securities, the obligatory requisites of the securities, the demands made on the form of the securities and the other indispensable requirements shall be defined by the law or in conformity with the law-established order.

2. The absence of the indispensable requisites of the security or the non-correspondence of the security to the form, established for it, shall entail its insignificance.

**Article 145. The Subjects of the Rights, Certified by the Security**

1. The rights, certified by the security, may belong to:  
1) the bearer of the security (the security to bearer);  
2) the person, named in the security (the registered security);  
3) the person, named in the security, who shall exercise these rights himself or shall appoint by his instruction (order) another authorized person (the order security);

2. The law may preclude the possibility of issuing a certain kind of securities as the registered ones, or the order ones, or those to bearer.

**Article 146. Transfer of the Rights by the Security**

1. To effect the transfer to another person of the rights, certified by the security to bearer, it shall be sufficient to hand over the given security to the said person.

2. The rights, certified by the registered security, shall be transferred in accordance with the order, established for ceding the demands (the cession). In conformity with Article 390 of the present Code, the person, transferring the right by the security, shall bear responsibility for the invalidity of the corresponding demand, but not for its non-execution.

3. The rights by the order security shall be transferred by making a transfer superscription (endorsement) on the security in question. The endorser shall bear responsibility not only for the existence of the right, but also for its exercising.

The endorsement, effected on the security, shall transfer all the rights, certified by the security, to the person, to whom, or to whose jurisdiction, the rights by the security are being transferred - i.e., to the endorsee. The endorsement shall be either a blank one (without the indication of the person, to whom or to whose jurisdiction the execution shall be due), or an order one (indicating the person, to whom or to whose jurisdiction the execution shall be due).

The endorsement may amount only to the order to exercise the rights, certified by the security, without transferring these rights to the endorsee (the turnover endorsement). In this case, the endorsee shall come out in the capacity of the representative.

#### **Article 147. Execution by the Security**

1. The person, who has issued the security, and all those persons, who have endorsed it, shall bear the joint liability to its legal owner. In case of the satisfaction of the demand of the legal owner of the security concerning the execution of the obligation, certified by it, by one or by several persons from among those who have assumed the obligation by the security to him, they shall acquire the right of the reverse demand (the right of regress) to the rest of the persons, who have assumed the obligation by the security.

2. The refusal to execute the obligation, certified by the security, with a reference to the absence of the ground for the obligation or for its invalidity, shall not be admitted.

The owner of the security, who has discovered that the security has been forged or falsified, shall have the right to claim that the person, who has handed over this paper to him, properly execute the obligation, certified by the security, and recompense the losses.

#### **Article 148. Restoration of the Security**

The restoration of the rights by the lost securities to bearer and by the order securities shall be effected by the court in conformity with the procedure, stipulated by the procedural legislation.

#### **Article 149. The Non-Documentary Securities**

1. In the law-stipulated cases or in conformity with the law-established procedure, the person, who has been granted a special license, shall be able to effect the fixation of the rights, confirmed by the registered or by the order security, including in the non-documentary form (using the computer technology, etc.). To this form of the fixation of the rights shall be applied the rules, laid down for the securities, unless otherwise following from the specifics of the fixation.

The person, who has effected the fixation of the right in the non-documentary form, shall be obliged, upon the demand of the owner of the

right, to issue to him the document, testifying to the fact that the right has been fixed.

The rights, certified by way of the above-said fixation, the procedure for the official fixation of the rights and the owners of the rights, for the documentary confirmation of the entries and for performing operations with the non- documentary securities shall be defined by the law or in conformity with the procedure, established by it.

2. Operations with the non-documentary securities may be performed only drawing on the services of the person, who has been officially authorized to make the entries on the rights. The transfer, granting and restriction of the rights shall all be officially fixed by this person, who shall bear responsibility for the safety of the official entries, for guaranteeing their confidentiality, for the issue of true information on such entries, and for making official entries on the performed operations.

## **Chapter 8. The Non-Material Values and Their Protection**

### **Article 150. The Non-Material Values**

1. The life and health, the personal dignity and personal immunity, the honour and good name, the business reputation, the immunity of private life, the personal and family secret, the right of a free movement, of the choice of the place of stay and residence, the right to the name, the copyright and the other personal non-property rights and non-material values, possessed by the citizen since his birth or by force of the law, shall be inalienable and untransferable in any other way. In the cases and in conformity with the procedure, stipulated by the law, the personal non-property rights and the other non-material values, possessed by the deceased person, may be exercised and protected by other persons, including the heirs of their legal owner.

2. The non-material values shall be protected in conformity with the present Code and with the other laws in the cases and in the order, stipulated by these, and also in those cases and within that scope, in which the use of the ways of protecting the civil rights (Article 12) follow from the substance of the violated non-material right and from the nature of the consequences of this violation.

### **Article 151. Compensation of the Moral Damage**

If the citizen has been inflicted a moral damage (the physical or moral sufferings) by the actions, violating his personal non-property rights or infringing upon the other non- material values in his possession, and also in the other law-stipulated cases, the court may impose upon the culprit the duty to pay out the monetary compensation for the said damage.

When determining the size of compensation for the moral damage, the court shall take into consideration the extent of the culprit's guilt and the other circumstances, worthy of attention. The court shall also take into

account the depth of the physical and moral sufferings, connected with the individual features of the person, to whom the damage has been done.

**Article 152.** Protection of the Honour, Dignity and Business Reputation

1. The citizen shall have the right to claim through the court that the information, discrediting his honour, dignity or business reputation be refuted, unless the person who has spread such information proves its correspondence to reality.

By the demand of the interested persons, the citizen's honour and dignity shall also be liable to protection after his death.

2. If the information, discrediting the honour, dignity or business reputation of the citizen, has been spread by the mass media, it shall be refuted by the same mass media.

If the said information is contained in the document, issued by an organization, the given document shall be liable to an exchange or recall.

In the other cases, the procedure for the refutation shall be ruled by the court.

3. The citizen, with respect to whom the mass media have published the information, infringing upon his rights or his law-protected interests, shall have the right to publish his answer in the same mass media.

4. If the ruling of the court has not been executed, the court shall have the right to impose upon the culprit a fine, to be exacted in the amount and in the order, stipulated by the procedural legislation, into the revenue of the Russian Federation. The payment of the fine shall not exempt the culprit from the duty to perform the action, ruled by the court decision.

5. The citizen, with respect to whom the information, discrediting his honour, dignity or business reputation has been spread, shall have the right, in addition to the refutation of the given information, also to claim the compensation of the losses and of the moral damage, caused by its spread.

6. If the person, who has spread the information, discrediting the honour, dignity or business reputation of the citizen, cannot be identified, the citizen shall have the right to turn to the court with the demand that it recognize the spread information as not corresponding to reality.

7. The rules of the present Article on the protection of the business reputation of the citizen shall be applied, correspondingly, to the protection of the business reputation of the legal entity.

**Article 152.1.** Protection of the Citizen's Depiction

The publication and further use of a citizen's depiction (including his photographs, audio records or the works of fine arts, in which he is depicted) are admissible only with his consent. After the citizen's death his depiction may be used only with the consent of his children and his live spouse, and if such are absent - with the consent of his parents. Such consent is not required in the cases, when:

- 1) the depiction is used in the state, social or other public interests;
- 2) the citizen's depiction is obtained when shooting a film in the freely visited places or during public events (meetings, congresses, conferences, concerts, performances, sport competitions and such like events), with the exception of the cases, when such depiction is the principal object of use;
- 3) the citizen has sat for the depiction for a payment.

## **Subsection 4. The Deals and the Representation**

### **Chapter 9. The Deals**

#### **§ 1. The Concept, the Kinds and the Form of the Deals**

##### **Article 153. The Concept of the Deal**

The deals shall be interpreted as the actions, performed by the citizens and by the legal entities, which are aimed at the establishment, the amendment or the cessation of the civil rights and duties.

##### **Article 154. The Agreements and the Unilateral Deals**

1. The deals may be bilateral or multilateral (agreements), and also unilateral.

2. The deal shall be regarded as unilateral, if for its performance in conformity with the law, with the other legal acts or with the agreement between the parties, the expression of the will of only one party to it is necessary and sufficient.

3. To conclude an agreement, the expression of the agreed will of the two parties (bilateral deals), or of the three or more parties (multilateral deals) shall be required.

##### **Article 155. The Duties by the Unilateral Deal**

The unilateral deal shall create duties for the person, who has effected it. It shall create duties for other persons only in the cases, established by the law or by an agreement with these persons.

##### **Article 156. Legal Regulation of the Unilateral Deals**

Toward the unilateral deals shall be correspondingly applied the general provisions on the obligations and on the agreements, so far as this does not contradict the law, the unilateral character and the substance of the deal.

##### **Article 157. The Deals, Made Under a Condition**

1. The deal shall be regarded as made under the suspensive condition, if the parties have made the arising of the rights and duties dependent on the circumstance, about which it is unknown, whether it will, or will not, take place.

2. The deal shall be regarded as made under the subsequent condition, if the parties have made the cessation of the rights and duties dependent upon the circumstance, about which it is unknown, whether it will, or will not, take place.

3. If the arrival of the condition has been obstructed in bad faith by the party, for which its taking place is undesirable, the said condition shall be recognized as having taken place.

If the arrival of the condition has been obstructed in bad faith by the party, for which its taking place is desirable, the said condition shall be recognized as not having taken place.

#### **Article 158. The Form of the Deals**

1. The deals shall be effected orally or in written form (simple or notarial).

2. The deal, which may be made orally, shall be regarded as having been effected also in the case, when the behaviour of the person clearly testifies to his will to effect the deal.

3. Silence shall be recognized as the expression of the will to effect the deal in the cases, stipulated by the law or by the agreement between the parties.

#### **Article 159. The Oral Deals**

1. The deal, for which no written (simple or notarial) form has been stipulated by the law or by the agreement between the parties, may be effected orally.

2. Unless otherwise ruled by the agreement between the parties, all the deals, executed at the moment of their being made, may be effected orally, with the exception of those, for which the notarial form has been established, and also of those, the non-observance of the simple written form of which causes their invalidity.

3. The deals, effected in the execution of the agreement, concluded in written form, may by the agreement of the parties be effected orally, unless this contradicts the law, the other legal acts and the agreement.

#### **Article 160. The Written Form of the Deal**

1. The deal in written form shall be effected by way of compiling a document, expressing its content and signed by the person or by the persons, who are effecting the deal, or by the persons, properly authorized by them to do so.

The bilateral (multilateral) deals may be made in the ways, stipulated by Items 2 and 3 of Article 434 of the present Code.

The law, the other legal acts and the agreement between the parties may decree additional requirements, to which the form of the deal shall correspond (it shall be made on the form of a definite kind, shall be certified by the stamp, etc.), and also the consequences of not satisfying these

requirements. If such consequences have not been stipulated, the consequences of not observing the simple written form of the deal shall be applied (Item 1 of Article 162).

2. The use in effecting the deals of a facsimile reproduction of the signature, made with the assistance of the means of the mechanical or the other kind of copying, of the electronic-numerical signature or of another analogue of the sign manual shall be admitted in the cases and in the order, stipulated by the law and by the other legal acts, or by the agreement of the parties.

3. If the citizen, as a result of a physical defect, illness or illiteracy cannot put down his signature himself, another citizen may sign the deal upon his request. The latter's signature shall be certified by the notary or by another official person, possessing the right to perform such kind of the notarial action, with the indication of the reasons, by force of which the person, effecting the deal, was unable to put under it his sign manual himself.

However, in effecting the deals, indicated in Item 4, Article 185 of the present Code, and in issuing warrants for their effecting, the signature of the person, signing the deal, may also be certified by the organization, where the citizen, who is unable to put under it his sign manual himself, works, or by the administration of the in-patient medical institution, where he is undergoing medical treatment.

#### **Article 161.** The Deals, Made in the Simple Written Form

1. Shall be effected in the simple written form, with the exception of the deals, requiring notarial certification:

1) the deals of the legal entities between themselves and with the citizens;

2) the deals of the citizens between themselves to the sum at least ten times exceeding the minimum size of wages, fixed by the law, and in the law-stipulated cases - regardless of the sum of the deal.

2. The observance of the simple written form shall not be required for the deals, which, in conformity with Article 159 of the present Code, may be effected orally.

#### **Article 162.** The Consequences of the Non-observance of the Simple Written Form of the Deal

1. The non-observance of the simple written form of the deal shall in the case of a dispute deprive the parties of the right to refer to the testimony for the confirmation of the deal and of its terms, while not depriving them of the right to cite the written and the other kind of proofs.

2. In the cases, directly pointed out in the law or in the agreement between the parties, the non-observance of the simple written form of the deal shall entail its invalidity.

3. The non-observance of the simple written form in a foreign economic deal shall entail its invalidity.

**Article 163. The Notarially Certified Deal**

1. The notarial certification of the deal shall be performed by making upon the document, corresponding to the requirements of Article 160 of the present Code, of the certifying superscription by the notary or by another official person, possessing the right to perform such kind of the notarial action.

2. The notarial certification of the deals shall be obligatory:

- 1) in the cases, pointed out by the law;
- 2) in the cases, stipulated by the parties' agreement, even if this form is not required for the given kind of the deals by the law.

**Article 164. The State Registration of the Deals**

1. The deals with the land and with the other realty shall be subject to the state registration in the cases and in conformity with the order, stipulated by Article 131 of the present Code and by the Law on the Registration of the Rights to the Realty and the Deals with It.

2. The law may decree the state registration of the deals with the realty of certain kinds.

**Article 165. The Consequences of the Non-Observance of the Notarial Form of the Deal and of the Requirement for Its Registration**

1. The non-observance of the notarial form of the deal and, in the law-stipulated cases, of the requirement for its state registration, shall entail its invalidity. Such kind of the deal shall be regarded as insignificant.

2. If one of the parties has executed, in full or in part, the deal, requiring the notarial certification, while the other party has been evading such certification of the deal, the court shall have the right, upon the claim of the party, which has executed the deal, to recognize the deal as valid. In this case, no subsequent certification of the deal shall be required.

3. If the deal, requiring the state registration, has been made in the proper form, but one of the parties is evading its registration, the court shall have the right, upon the claim of the other party, to adopt the decision on the registration of the deal. In this case the deal shall be registered in conformity with the court ruling.

4. In the cases, stipulated by Items 2 and 3 of the present Article, the party, ungroundlessly evading the notarial certification or the state registration of the deal, shall be obliged to recompense to the other party the losses, inflicted by the delay in the effecting or in the registration of the deal.

**§ 2. The Invalidity of the Deals**

**Article 166.** The Disputable and the Insignificant Deals

1. The deal shall be invalid on the grounds, established by the present Code, by force of its being recognized as such by the court (a disputable deal), or regardless of such recognition (an insignificant deal).

2. The claim for recognizing the disputed deal to be invalid may be lodged by the persons, pointed out in the present Code.

The claim for the application of the consequences of an insignificant deal may be submitted by any interested person. The court shall also have the right to apply such consequences on its own initiative.

**Article 167.** The General Provisions on the Consequences of the Invalidity of the Deal

1. The invalid deal shall not entail legal consequences, with the exception of those involved in its invalidity, and shall be invalid from the moment of its effecting.

2. If the deal has been recognized as invalid, each of the parties shall be obliged to return to the other party all it has received from it by the deal, and in the case of such return to be impossible in kind (including when the deal has been involved in the use of the property, the work performed or the service rendered), its cost shall be recompensed in money - unless the other consequences of the invalidity of the deal have been stipulated by the law.

3. If it follows from the content of the disputed deal that it may only be terminated for the future, the court, while recognizing the deal to be invalid, shall terminate its operation for the future.

**Article 168.** Invalidity of the Deal Not Corresponding to the Law or to the Other Legal Acts

The deal, which does not correspond to the requirements of the law or of the other legal acts, shall be regarded as insignificant, unless the law establishes that such a deal is disputable or stipulates the other consequences of the breach.

**Article 169.** Invalidity of the Deal, Made for the Purpose, Contradicting the Foundations of the Law and Order, and of Morality

The deal, which has been aimed at the goal, flagrantly contrary to the foundations of the law and order, or of morality, shall be regarded as insignificant.

If the malicious intent has been found on the part of both parties to such a deal, in the case of the execution of the deal by both parties, all they have gained by the deal shall be exacted from them into the revenue of the Russian Federation, and in the case of the deal being executed by one party, into the revenue of the Russian Federation shall be exacted all the gain by the deal, derived by the other party, and also all that was due from it to the first party in compensation of the gain.

If the malicious intent has been found in only one party to such a deal, all it has gained by the deal shall be returned to the other party, while what the latter has received, or what is due to it in compensation of the executed, shall be exacted into the revenue of the Russian Federation.

**Article 170. Invalidity of the Sham and of the Feigned Deal**

1. The sham deal, i.e., the deal, effected only for the form's sake, without an intention to create the legal consequences, corresponding to it, shall be regarded as insignificant.

2. The feigned deal, i.e., the deal, which has been effected for the purpose of screening another deal, shall be regarded as insignificant. Toward the deal, which has actually been intended, shall be applied the relevant rules, with account for its substance.

**Article 171. Invalidity of the Deal, Made by the Citizen, Recognized as Legally Incapable**

1. The deal, effected by the citizen, who has been recognized as legally incapable on account of a mental derangement, shall be regarded as insignificant.

Each of the parties to such a deal shall be obliged to return to the other party all it has received in kind, and if it is impossible to return what has been received in kind - to recompense its cost in money.

Besides that, the legally capable party shall also be obliged to recompense to the other party the actual damage the latter has sustained, if the legally capable party has been aware, or should have been aware, of the legal incapability of the other party.

2. In the interest of the citizen, recognized as legally incapable on account of a mental derangement, the deal he has effected may be recognized by the court as valid upon the demand of his guardian, if it has been made to the benefit of the said citizen.

**Article 172. Invalidity of the Deal, Made by the Minor Below 14 Years of Age**

1. The deal, effected by the minor, who has not reached 14 years of age (the young minor), shall be regarded as invalid. Toward such a deal shall be applied the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code.

2. In the interest of the young minor, the deal he has effected may be recognized by the court as valid upon the demand of his parents, adopters or guardian, if it has been made to the benefit of the young minor.

3. The rules of the present Article shall not concern the petty everyday and other kind of deals, effected by the young minors, which they have the right to make independently in conformity with Article 28 of the present Code.

**Article 173.** Invalidity of the Deal, Made by the Legal Entity, Which Is Beyond the Scope of Its Legal Capacity

The deal, effected by the legal entity in contradiction to the goals of the activity, definitely restricted in its constituent documents, or by the legal entity, which has no license for the performance of the corresponding activity, may be recognized by the court as invalid upon the claim of this legal entity, of its founder (participant), or of the state body, exerting control over the activity of the legal entity, if it has been proved that the other party to the deal has been aware, or should have been aware, of its being illegal.

**Article 174.** The Consequences of the Restriction of Powers for Making the Deal

If the powers of the person for effecting the deal have been restricted by the agreement, or the powers of the legal entity's body have been restricted by its constituent documents, as compared to the way they have been delineated in the warrant or in the law, or to the extent to which they may be regarded as evident from the actual setting, in which the deal is being effected, and if, while effecting the deal, such person or such body have trespassed the borders of such restrictions, the deal may be recognized by the court as invalid upon the claim of the person, in whose interest the said restrictions have been imposed, only in the cases, when it has been proved that the other party to the deal has been aware, or should have been aware, of the said restrictions.

**Article 175.** Invalidity of the Deal, Made by the Minor of 14-18 Years of Age

1. The deal, effected by the minor, aged from 14 to 18 years, without the consent of his parents, adopters or his trustee, in the cases when such consent is required in conformity with Article 26 of the present Code, may be recognized by the court as invalid upon the claim of the parents, adopters or the trustee.

If such a deal has been recognized as invalid, the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code, shall be correspondingly applied.

2. The rules of the present Article shall not concern the deals of the minors, who have acquired the full legal capacity.

**Article 176.** Invalidity of the Deal, Made by the Citizen Whose Legal Capacity Has Been Restricted by the Court

1. The deal, involved in the disposal of the property, which has been effected without the consent of his trustee by the citizen, whose legal capacity has been restricted by the court on account of his abuse of alcohol or drug addiction, may be recognized by the court as invalid upon the claim of the trustee.

If such a deal has been recognized as invalid, the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code, shall be correspondingly applied.

2. The rules of the present Article shall not concern the petty everyday deals, which the citizen, restricted in his legal capacity, has the right to effect independently in conformity with Article 30 of the present Code.

**Article 177. Invalidity of the Deal, Made by the Citizen, Incapable of Realizing the Meaning of His Actions or of Keeping Them Under Control**

1. The deal, effected by the citizen, who, while being legally capable, at the moment of making the deal was in such a state that he was incapable of realizing the meaning of his actions or of keeping them under control, may be recognized by the court as invalid upon the claim of this citizen or of the other persons, whose rights or law-protected interests have been violated as a result of its being effected.

2. The deal, effected by the citizen, who has been recognized as legally incapable at a later date, may be recognized by the court as invalid upon the claim of his guardian, if it has been proved that at the moment of making the deal, the citizen was incapable of realizing the meaning of his actions or of keeping them under control.

3. If the deal has been recognized as invalid on the ground of the present Article, the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code, shall be correspondingly applied.

**Article 178. Invalidity of the Deal, Made Under the Impact of Delusion**

1. The deal, effected under the impact of the delusion, which has been of an essential importance, may be recognized by the court as invalid upon the claim of the party, which has acted under the impact of the delusion.

Of an essential importance shall be the delusion about the nature of the deal, or about the identity of the features of its object, which essentially narrow down the possibility of its use for the intended purpose. The delusion about the motives of the deal shall not be regarded as essential.

2. If the deal has been recognized as invalid as that effected under the impact of the delusion, the rules, stipulated by Item 2, Article 167 of the present Code, shall be correspondingly applied.

In addition to that, the party, upon whose claim the deal has been recognized as invalid, shall have the right to claim from the other party the compensation of the actual damage inflicted upon it, if it proves that the delusion has arisen through the fault of the other party. If this has not been proven, the party, upon whose claim the deal has been recognized as invalid, shall be obliged to recompense to the other party upon its claim the

actual damage inflicted upon it, even if the delusion has arisen on account of the circumstances, not depending on the deluded party.

**Article 179.** Invalidity of the Deal, Made Under the Impact of the Fraud, Coercion, a Threat or an Ill-Intentioned Agreement of the Representative of One Party with the Other Party, or of the Coincidence of Ill Circumstances

1. The deal, effected under the impact of the fraud, coercion, a threat or an ill-intentioned agreement of the representative of one party with the other party, and also the deal, which the person has been forced to make on the extremely unfavourable terms because of the coincidence of ill circumstances, while this has been made use of by the other party (the bondage deal), may be recognized as invalid by the court upon the claim of the victim.

2. If the deal has been recognized as invalid on one of the grounds, pointed out in Item 1 of the present Article, all that the other party has received by the deal shall be returned by it to the victim, and in case it is impossible to return all this in kind, its cost shall be recompensed in money. The property, which the victim has received by the deal from the other party, shall be passed into the revenue of the Russian Federation. In case of the impossibility to pass the property into the revenue of the state in kind, its cost shall be exacted in money. In addition, the victim shall be recompensed by the other party all the actual damage inflicted upon him.

**Article 180.** The Consequences of the Invalidity of a Part of the Deal

The invalidity of a part of the deal shall not entail the invalidity of its other parts, if it may be supposed that the deal could have been effected without the incorporation into it of the invalidated part.

**Article 181.** Statute of Limitations for Invalid Transactions

1. The time limit of the statute of limitations for a claim for applying the consequences of the invalidity of a transaction deemed null and void is three years. The period of limitations for such a claim is counted from the day on which the performance of the transaction commenced.

2. The time limit of the statute of limitations for a claim for declaring a voidable transaction invalid and for the application of consequences of the invalidity thereof is one year. The period of limitations for such a claim is counted from the day of termination of the violence or duress under the influence of which the transaction has been concluded (Item 1 of Article 179) or from the day when the plaintiff learned or should have learned about other circumstances deemed a ground for declaring the transaction invalid.

## **Chapter 10. The Representation. The Warrant**

## **Article 182. The Representation**

1. The deal, effected by one person (the representative) on behalf of another person (the representee) by force of the power, based on the warrant, on the indication of the law or on the act, issued by the state body or by the local self-government body, authorized for this purpose, shall directly create, amend or terminate the civil rights and duties of the representee.

The power may also stem from the setting, in which the representative operates (the salesman in retail trade, the cashier, etc.).

2. The persons, who operate in the interest of the other persons, but on their own behalf (the trade agents, the trustees of a bankrupt's estate, the executors of the will, etc.), and also the persons, authorized to enter into negotiations on the deals, which may be possibly effected in the future, shall not act as representatives.

3. The representative shall not effect the deals on behalf of the representee in his own interest. Neither shall he effect such deals in the interest of another person, whose representative he is at the same time, with the exception of the cases of the commercial representation.

4. The effecting through the representative of the deal, which by its nature shall be effected only in person, and also of the other deals, which have been pointed out in the law, shall not be admitted.

## **Article 183. The Effecting of the Deal by an Unauthorized Person**

1. If the deal has been effected on behalf of the other person in the absence of relevant powers, or in case such powers have been exceeded, the deal shall be regarded as made on behalf and in the interest of the person who has made it, unless the other person (the representee) subsequently directly approves of such a deal.

2. The subsequent approval of the deal by the representee shall create, amend and terminate for him the civil rights and duties by the given deal from the moment of its being effected.

## **Article 184. The Commercial Representation**

1. The trade agent shall be the person, who constantly and independently represents and acts on behalf of businessmen in their concluding agreements in the sphere of business activities.

2. The simultaneous commercial representation of different parties in the deal shall be admitted upon the consent of these parties and in the other law-stipulated cases. The trade agent shall be obliged to execute the orders he has been given with the circumspection of a common businessman.

The trade agent shall have the right to claim the payment of the agreed remuneration and the compensation of the expenses, he has incurred while executing the commission, from the parties to the agreement

in equal shares, unless otherwise stipulated by the agreement between them.

3. The commercial representation shall be performed on the ground of a commission contract, concluded in written form and containing instructions on the agent's powers, and in the absence of such instructions - also the warrant.

The trade agent shall be obliged to keep in secret the information on the commercial deals even after the execution of the commission given to him.

4. The specific features of the commercial representation in the individual spheres of business activities shall be established by the law and by the other legal acts.

#### **Article 185. The Warrant**

1. The warrant shall be recognized as the written authorization document, granted by one person to the other person for the purpose of representing him before the third persons. The written authorization document for effecting the deal by the representative may be presented by the representee directly to the corresponding third person.

2. The warrant for effecting the deals, requiring the notarial form, shall be notarially certified, with the exception of the law-stipulated cases.

3. To the notarially certified warrants shall be equalized:

1) the warrants of the servicemen and of the other persons, undergoing medical treatment in military hospitals and sanatoria, and in other military medical institutions, certified by the head of such an institution, by his deputy for medicine, by the senior doctor, or by the doctor on duty;

2) the warrants of the servicemen, and in the places of the stationing of military units, formations, institutions and military educational establishments, where there are no notary's offices or other bodies, performing notarial actions, also the warrants of the workers and employees, of their family members and of the family members of the servicemen, certified by the commander (the head) of this unit, formation, institution or establishment;

3) the warrants of the persons, maintained in the places of the deprivation of freedom (in the prisons and the prison camps), certified by the head of the corresponding place of the deprivation of freedom;

4) the warrants of the adult legally capable citizens, staying at the institutions for the social maintenance of the population, certified by the administration of the given institution or by the head (the deputy head) of the corresponding body for the social maintenance of the population.

4. The warrant for the receipt of the wages and the other payments, connected with labour relations, for the receipt of the author's and the inventor's fees, of the pensions, allowances and grants, of the citizens' deposits in the banks and of their correspondence, including money orders

and parcels, may also be certified by the organization, in which the trustee works or studies, by the housing-maintenance organization at the place of his residence and by the administration of the in-patient medical institution, in which he is undergoing medical treatment.

A power of attorney for the drawing by a representative of a citizen of his deposit in a bank, or monetary funds from his bank account, or for the receipt of correspondence addressed thereto in organizations of communications, and also for the making on behalf of a citizen of any other transactions mentioned in Paragraph One of the present Item may be attested by the relevant bank or organization of communications. Such power of attorney shall be attested free of charge.

5. The warrant, granted on behalf of the legal entity, shall bear the signature of its head or of the other person, authorized for this action by its constituent documents, and shall be certified by the stamp of this organization.

The warrant, granted on behalf of the legal entity, which is based on the state or municipal property, for the receipt or for the issue of money and of other property values, shall also be signed by the chief (senior) accountant of this organization.

#### **Article 186. The Period of the Warrant**

1. The period of the warrant shall not exceed three years. If no term has been indicated in it, the warrant shall stay in force in the course of one year from the date of its granting.

The warrant, in which no date of its granting has been indicated, shall be regarded as insignificant.

2. The notarially certified warrant, intended for the performance of actions abroad and containing no indication of the term of its operation, shall stay in force until it is revoked by the person, who has granted it.

#### **Article 187. Transfer of the Warrant**

1. The person, to whom the warrant has been granted (the warrantee) shall be obliged to perform the actions, for which he has been authorized, in person. He shall be able to transfer their performance to another person, if he is authorized to do so by the warrant, or if he has been forced to do so on account of the circumstances in order to protect the interests of the person, who has granted him the warrant (the warrantor).

2. The person, who has transferred the power of attorney to another person, shall be obliged to notify about it the warrantor, and to pass to him all the essential information on the person, to whom he has transferred the said power. The failure to discharge this duty shall impose upon the person, who has transferred the power of attorney by the warrant, the same responsibility for the actions of the person, to whom he has passed the power, as he would have borne for his own actions.

3. The warrant, granted by way of transferring the power of attorney, shall be notarized, with the exception of the cases, stipulated in Item 4 of Article 185 of the present Code.

4. The period of operation of the warrant, granted by way of transferring the power of attorney, shall not exceed the period of the warrant, on the ground of which it has been granted.

#### **Article 188.** Withdrawal of the Warrant

1. The operation of the warrant shall be terminated as a result of:

1) the expiry of the period of the warrant;  
2) the revoking of the warrant by the person, who has granted it;  
3) refusal on the part of the person, to whom it has been granted;  
4) the termination of the legal entity, on whose behalf the warrant has been granted;

5) the termination of the legal entity, in whose name the warrant has been granted;

6) the death of the citizen, who has granted the warrant, or his recognition as legally incapable, partially capable or missing;

7) the death of the citizen, to whom the warrant has been granted, or his recognition as legally incapable, partially capable or missing.

2. The person, who has granted the warrant (the warrantor), shall have the right at any time to revoke the warrant or the transfer of the warrant, while the person, to whom the warrant has been granted (the warrantee), shall have the right at any time to reject it. An agreement on the renouncement of these rights shall be insignificant.

3. The transfer of the warrant shall lose power with the termination of the warrant.

#### **Article 189.** The Consequences of the Termination of the Warrant

1. The person, who has granted the warrant and who has subsequently revoked it, shall be obliged to notify about it the person, to whom the warrant has been issued, and also the third persons he knows, for the representation before whom the warrant has been granted. The same responsibility shall be imposed upon the legal successors of the warrantor, in the cases of the termination of the warrant on the grounds, stipulated in Subitems 4 and 6 of Item 1 of Article 188 of the present Code.

2. The rights and duties, which have arisen as a result of the actions of the person, to whom the warrant has been granted (the warrantee), before the moment when he has learned, or should have learned, about its termination, shall stay in force for the warrantor and his legal successors with respect to the third persons. This rule shall not be applied, if the third person has been aware, or should have been aware, of the fact that the operation of the warrant has been terminated.

3. After the termination of the warrant, the warrantee or his legal successors shall be obliged to immediately return it.

## **Subsection 5. The Term. The Limitation of Actions**

### **Chapter 11. The Counting of the Term**

#### **Article 190. Definition of the Term**

The term, established by the law, by the other legal acts and by the deal, or that fixed by the court, shall be defined by the calendar date or by the expiry of the period of time, counted in years, months, weeks, days or hours.

The term may also be defined by the reference to the event, which shall inevitably take place.

#### **Article 191. The Start of the Term, Defined by a Period of Time**

The proceeding of the term, defined by a period of time, shall start on the next day after the calendar date or after the occurrence of the event, by which its start has been defined.

#### **Article 192. The End of the Term, Defined by a Period of Time**

1. The term, counted in years, shall expire in the corresponding month and on the corresponding day of the last year of the term.

Toward the term, defined as a half of the year, shall be applied the rules for the terms, counted in months.

2. Toward the term, counted in the quarters of the year, shall be applied the rules for the terms, counted by months. The quarter of the year shall be equal to three months, and the quarters shall be counted from the beginning of the year.

3. The term, counted in months, shall expire on the corresponding day of the last month of the term.

The term, defined as a fortnight, shall be regarded as the term, counted in days, and shall be equal to 15 days.

If the term, counted in months, expires in the month, which has no corresponding date, it shall expire on the last day of this month.

4. The term, counted in weeks, shall expire on the corresponding day of the last week of the term.

#### **Article 193. Expiry of the Term on a Holiday**

If the last day of the term falls on a holiday, the day of the expiry of the term shall be the working day, following right after it.

#### **Article 194. Procedure for Performing Actions on the Last Day of the Term**

1. If the term has been fixed for the performance of a certain action, it may be performed before the expiry of 24 hours of the last day of the term.

However, if this action has to be performed in an organization, the term shall expire at the hour, when, in conformity with the established rules,

the performance of the corresponding actions in this organization is terminated.

2. Written applications and notifications, handed in to a communications agency before the expiry of 24 hours of the last day of the term, shall be regarded as executed on time.

## **Chapter 12. The Limitation of Actions**

### **Article 195. The Concept of the Limitation of Actions**

The limitation of actions shall be recognized as the term, fixed for the protection of the right by the claim of the person, whose right has been violated.

### **Article 196. The General Term of the Limitation of Actions**

The general term of the limitation of actions shall be laid down as three years.

### **Article 197. Special Terms of the Limitation of Actions**

1. For the individual kinds of claims, the law may establish special terms of the limitation of actions, reduced or extended as compared to the general term.

2. The rules of Articles 195 and 198-207 of the present Code shall also be extended to the special terms of the limitation of actions, unless otherwise established by the law.

### **Article 198. Invalidity of the Agreement on Changing the Terms of the Limitation of Actions**

The terms of the limitation of actions and the order of their counting shall not be changed by an agreement between the parties.

The grounds for the suspension and the interruption of the proceeding of the terms of the limitation of actions shall be laid down by the present Code and by the other laws.

### **Article 199. Application of the Limitation of Actions**

1. The claim for the protection of the violated right shall be accepted by the court for consideration regardless of the expiry of the term of the limitation of actions.

2. The limitation of actions shall be applied by the court only upon the application of the party to the dispute, filed before the court has passed the decision.

The expiry of the term of the limitation of actions, the application of which has been pleaded by the party to the dispute, shall be the ground for the court passing the decision on the rejection of the claim.

**Article 200.** The Start of the Proceeding of the Term of the Limitation of Actions

1. The proceeding of the term of the limitation of actions shall start from the day, when the person has learned, or should have learned, about the violation of his right. Exceptions to this rule shall be established by the present Code and by the other laws.

2. By the obligations with a fixed term of execution, the proceeding of the term of the limitation of actions shall start after the expiry of the term of execution.

By the obligations without a fixed term of execution, or by those, whose term of execution has been defined as that on demand, the proceeding of the term of the limitation of actions shall start from the moment, when the creditor's right to present the claim for the execution of the obligation arises, and if the debtor has been granted a privileged term for the execution of such a claim, the term of the limitation of actions shall be counted after the expiry of the said term.

3. By the regress obligations, the proceeding of the term of the limitation of actions shall start from the moment of execution of the basic obligation.

**Article 201.** The Term of the Limitation of Actions in the Substitution of the Persons in the Obligation

The substitution of the persons in the obligation shall not entail a change of the term of the limitation of actions or of the order of its counting.

**Article 202.** Suspension of the Proceeding of the Term of the Limitation of Actions

1. The proceeding of the term of the limitation of actions shall be suspended:

1) if the filing of the claim has been obstructed by an extraordinary and under the given conditions inexorable circumstance (a force-majeure);

2) if the plaintiff or the defendant is in the Armed Forces, put under the martial law;

3) by force of the postponement of the execution of the obligations (a moratorium), decreed on the ground of the law by the Government of the Russian Federation;

4) by force of the suspension of the operation of the law or of the other legal act, regulating the corresponding relationship.

2. The proceeding of the term of the limitation of actions shall be suspended under the condition that the circumstances, pointed out in the present Article, have arisen or have been existing over the last six months of the term of the limitation, and if this term is equal to six months or is less than six months - over the period of the term of the limitation of actions.

3. From the day of the termination of the circumstance, which has served as the ground for the suspension of the limitation, the proceeding of

its term shall be resumed. The remaining part of the term shall be extended to six months, and in case the term of the limitation of actions is equal to six months or is less than six months - up to the term of the limitation.

**Article 203.** Interruption of the Proceeding of the Term of Limitation of Actions

The proceeding of the term of the limitation of actions shall be interrupted by the filing of a claim in conformity with the established order, and also by the obligator's performing the actions, which testify to his admitting the debt.

After the interruption, the proceeding of the term of the limitation shall start anew; the time that has expired before the interruption, shall not be included into the new term.

**Article 204.** Proceeding of the Term of Limitation if the Claim Is Dismissed

If the court dismisses the claim, the term of limitation, which has started before the claim was filed, shall continue to proceed in the general order.

If the court dismisses the claim, filed in a criminal case, the term of limitation, which has started before the claim was filed, shall be suspended until the sentence on dismissing the claim comes into legal force; the time, over which the limitation has been suspended, shall not be included into the term of limitation. In case the remaining part of the term of the limitation of actions is less than six months, it shall be extended to six months.

**Article 205.** Restoration of the Term of the Limitation of Actions

In exceptional cases, when the court recognizes the cause of missing the term of limitation as valid on the ground of the circumstances (it being related to the plaintiff's personal characteristics, such as a grave illness, total disability, illiteracy, etc.), the citizen's violated right shall be liable to protection. The reasons for his missing the term of the limitation of actions may be recognized as valid, if they have taken place within the last six months of the term of limitation, and if this term is equal to six months or is less than six months - over the term of limitation.

**Article 206.** Execution of the Duty After the Expiry of the Term of the Limitation of Actions

The debtor or another obligator, who has executed the duty after the expiry of the term of limitation, shall not have the right of regress, even if at the moment of the execution the said person was not aware of the expiry of the term of limitation.

**Article 207.** Application of the Limitation of Actions to Supplementary Claims

With the expiry of the term of limitation by the basic claim, that by the supplementary claims (the forfeit, pledge, surety, etc.) shall also expire.

**Article 208.** The Claims to Which the Limitation of Actions Shall Not Be Apply

The limitation of actions shall not be apply to:

- the claims for the protection of personal non-property rights and the other non-material values, with the exception of the cases, stipulated by the law;
- the claims of the depositors to the bank on the issue of deposits;
- the claims on recompensing the damage, inflicted on the life or the health of the citizen. However, the claims, made after the expiry of three years from the moment, when the right to the compensation of such damage has arisen, shall be satisfied for the past time for no more than three years, preceding the filing of the claim;
- the claims of the owner or another possessor for the elimination of all violations of his right, even though these violations have not been involved in the deprivation of the possession (Article 304);
- the other claims in the cases, established by the law.

**Section II. The Right of Ownership and the Other Rights of Estate**

**Chapter 13. The General Provisions**

**Article 209.** The Content of the Right of Ownership

1. The owner shall be entitled to the rights of the possession, the use and the disposal of his property.

2. The owner shall have the right at his own discretion to perform with respect to the property in his ownership any actions, not contradicting the law and the other legal acts, and not violating the rights and the law-protected interests of the other persons, including the alienation of his property into the ownership of the other persons, the transfer to them, while himself remaining the owner of the property, of the rights of its possession, use and disposal, the putting of his property in pledge and its burdening in other ways, as well as the disposal thereof in a different manner.

3. The possession, the use and the disposal of the land and of the other natural resources so far as their circulation is admitted by the law (Article 129), shall be freely effected by their owner, unless this inflicts damage to the natural environment or violates the rights and the legal interests of the other persons.

4. The owner may pass his property over into the confidential management, or into the trusteeship (to a confidential manager, or to the trustee). The transfer of the property into the confidential management shall not entail the transfer of the rights of ownership to the confidential

manager, who shall be obliged to perform the management of the property in the interest of the owner or of the third person the owner has named.

**Article 210. The Burden of Maintaining the Property**

The owner shall bear the burden of maintaining the property in his ownership, unless otherwise stipulated by the law or by the contract.

**Article 211. The Risk of an Accidental Destruction of the Property**

The risk of an accidental destruction of the property or of an accidental damage inflicted on it shall be borne by its owner, unless otherwise stipulated by the law or by the contract.

**Article 212. The Subjects of the Right of Ownership**

1. In the Russian Federation shall be recognized the private, the state, the municipal and the other forms of ownership.

2. The property may be in the ownership of the citizens and of the legal entities, and also of the Russian Federation, of the subjects of the Russian Federation and of the municipal entities.

3. The specifics of the acquisition and of the cessation of the right of ownership to the property, of the possession, the use and the disposal thereof may be established only by the law, depending on whether the given property is in the ownership of the citizen or of the legal entity, in the ownership of the Russian Federation, of the subject of the Russian Federation or of the municipal entity.

The law shall stipulate the kinds of the property, which may be only in the state or in the municipal ownership.

4. The rights of all the owners shall be equally protected.

**Article 213. The Right of Ownership of the Citizens and of the Legal Entities**

1. In the ownership of the citizens and of the legal entities may be any property, with the exception of the individual kinds of the property, which, in conformity with the law, may not be owned by the citizens or by the legal entities.

2. The amount and the cost of the property in the ownership of the citizens and of the legal entities shall not be limited, with the exception of the cases, when such limitations have been established by the law for the purposes, stipulated by Item 2, Article 1 of the present Code.

3. The commercial and the non-profit organizations, with the exception of the state and of the municipal enterprises, and also of the institutions shall be the owners of the property, transferred to them by way of the investments (the contributions), made by their founders (participants, members), and also of the property, acquired by these legal entities on the other grounds.

4. The public and the religious organizations (the associations), the charity and the other kind of funds shall be the owners of the property they have acquired and shall have the right to use it only for achieving the goals, stipulated in their constituent documents. The founders (the participants, the members) of these organizations shall lose the right to the property, which they have transferred into the ownership of the corresponding organization. In case of the liquidation of such an organization, its property, left after the creditors' claims have been satisfied, shall be used for the purposes, pointed out in its constituent documents.

#### **Article 214. The Right of the State Ownership**

1. The state property in the Russian Federation shall be the property, owned by the right of ownership by the Russian Federation (the federal, or the federally owned property), and also the property, owned by the right of ownership by the subjects of the Russian Federation - by the Republics, the territories, the regions, the cities of federal importance, by the autonomous region and by the autonomous areas (the property of the subject of the Russian Federation).

2. The land and the other natural resources, which are not in the ownership of the citizens, the legal entities or the municipal entities, shall be the state property.

3. On behalf of the Russian Federation and of the subjects of the Russian Federation, the rights of the owner shall be exercised by the bodies and by the persons, indicated in Article 125 of the present Code.

4. The property, which is in the state ownership, shall be assigned to the state-run enterprises and institutions into the possession, the use and the disposal in conformity with the present Code (Articles 294 and 296).

The means of the corresponding budget and the other state property, not assigned to the state enterprises and institutions, shall comprise the state treasury of the Russian Federation, the treasury of the Republic within the Russian Federation, of the territory, the region, the city of federal importance, of the autonomous region and of the autonomous area.

5. Referring the state property to the federal property and to the property of the subjects of the Russian Federation shall be effected in conformity with the procedure, laid down by the law.

#### **Article 215. The Right of the Municipal Ownership**

1. The property, belonging by the right of ownership to the urban and to the rural settlements, and to the other municipal entities, shall be the municipal property.

2. On behalf of the municipal entity, the rights of the owner shall be exercised by the local self-government bodies and by the persons, indicated in Article 125 of the present Code.

3. The property in the municipal ownership shall be assigned to the municipal enterprises and to the institutions into the possession, the use

and the disposal in conformity with the present Code (Articles 294 and 296).

The means of the local budget and the other municipal property, not assigned to the municipal enterprises and to the institutions, shall comprise the municipal treasury of the corresponding urban or rural settlement or of the other municipal entity.

**Article 216.** The Rights of Estate of the Persons, Who Are Not the Owners

1. The rights of estate shall be, alongside the right of ownership:

- the right of the inherited life possession of the land plot (Article 265);
- the right of the permanent (perpetual) use of the land plot (Article 268);
- the servitudes (Articles 274 and 277);
- the right of the economic management of the property (Article 294) and the right of the operation management of the property (Article 296).

2. The rights of estate to the property may be possessed by the persons, who are not the owners of this property.

3. The transfer of the right of the ownership to the property to the other person shall not be a ground for the cessation of the other rights of estate to this property.

4. The rights of estate of the person, who is not the owner of the property, shall be protected from their violation by any person in the order, stipulated by Article 305 of the present Code.

**Article 217.** Privatization of the State and of the Municipal Property

The property in the state or in the municipal ownership may be transferred by its owner into the ownership of the citizens and of the legal entities in the order, stipulated by the laws on the privatization of the state and of the municipal property.

In the course of the privatization of the state and of the municipal property, the provisions, stipulated by the present Code, which regulate the order of the acquisition and of the cessation of the right of ownership, shall be applied, unless otherwise stipulated by the laws on the privatization.

**Chapter 14. The Acquisition of the Right of Ownership**

**Article 218.** The Grounds for the Acquisition of the Right of Ownership

1. The right of ownership to a new thing, manufactured or created by the person for himself, while abiding by the law and by the other legal acts, shall be acquired by this person.

The right of ownership to the fruits, the products and the incomes, derived through the use of the property, shall be acquired on the grounds, stipulated by Article 136 of the present Code.

2. The right of ownership to the property, which has its owner, may be acquired by the other person on the grounds of the contract of the

purchase and sale, of the exchange and of making a gift, or on the ground of another kind of the deal on the alienation of this property.

In the case of the citizen's death, the right of ownership to the property he has owned shall pass by the right of succession to the other persons in conformity with the will or with the law.

In the case of the reorganization of the legal entity, the right of ownership to the property it has owned shall pass to the legal entities, which are the legal successors of the reorganized legal entity.

**3.** In the cases and in the order, stipulated by the present Code, the person may acquire the right of ownership to the ownerless property, to the property, whose owner is unknown, and to the property, which the owner has renounced or to which he has lost the right of ownership on the other law-stipulated grounds.

**4.** The member of the housing, housing-construction, country cottage, garage or another kind of the consumer cooperative, and also the other persons, enjoying the right to make share accumulations, who have paid up in full their share contribution for the flat, the country cottage, the garage or the other quarters, given to these persons by the cooperative, shall acquire the right of ownership to the said property.

#### **Article 219.** Arising of the Right of Ownership to the Newly Created Realty

The right of ownership to the buildings, the structures and the other newly created realty, subject to the state registration, shall arise from the moment of such registration.

#### **Article 220.** The Processing

**1.** Unless otherwise stipulated by the contract, the right of ownership to a new movable thing, which the person has manufactured by processing the materials he does not own, shall be acquired by the owner of the materials.

However, if the cost of the processing essentially exceeds the cost of the materials, the right of ownership to the new thing shall be acquired by the person who, while acting in good faith, has effected the processing for himself.

**2.** Unless otherwise stipulated by the contract, the owner of the materials, who has acquired the right of ownership to the thing, manufactured from them, shall be obliged to recompense the cost of the processing to the person, who has performed it, and in the case of the right of ownership to the new thing being acquired by the latter, this person shall be obliged to recompense the cost of the materials to their owner.

**3.** The owner of the materials, who has been deprived of them as a result of the actions in bad faith of the person, who has executed the processing, shall have the right to claim that the new thing be transferred into his ownership and that the losses, inflicted upon him, be compensated.

**Article 221.** Turning into the Ownership of the Objects, Generally Available for Collection

In the cases, when in conformity with the law or with the general permission of the owner, or in conformity with the local custom, in a certain area, the berry-picking, procurement (catching) of fish and other aquatic biological resources, gathering, extraction, hunting and trapping of the generally available objects and animals is admitted, the right of ownership to the corresponding objects shall belong to the person, who has performed these actions.

**Article 222.** The Unauthorized Structure

1. The unauthorized structure shall be a living house and any other building or structure, erected on the land plot, which has not been allotted for this purpose in conformity with the order, established by the law or by the other legal acts, or that erected without having obtained the necessary permit to this effect, or that built with the substantial violation of the norms and rules, laid down for the town-development and construction.

2. The person, who has built an unauthorized structure, shall not acquire the right of ownership to it. He shall have no right to dispose of the said structure, i.e., to sell it, to make a gift of it, to give it in rent and to perform the other deals with it.

The unauthorized structure shall be subject to demolition by the person, who has erected it, or at his expense, with the exception of the cases, stipulated by Item 3 of the present Article.

3. The right of ownership to an unauthorized structure may be recognized by the court and in other legal procedure established by laws in the cases provided for by laws in the person, in whose ownership, inherited life possession or permanent (perpetual) use the land plot, on which the said structure has been built, is situated. In this case, the person, whose right of ownership to the structure has been recognized, shall recompense the expenses, involved in its erection, to the person, who has built it, in the amount, defined by the court.

The right of ownership to the unauthorized structure shall not be adjudged to the said person, if the maintenance of the structure infringes upon the rights and the law-stipulated interests of the other persons or if it jeopardizes the citizens' life and health.

**Article 223.** The Moment of the Right of Ownership Arising in the Acquirer by the Contract

1. The right of ownership shall arise in the acquirer of the thing from the moment of its transfer, unless otherwise stipulated by the law or by the contract.

2. In the cases, when the alienation of the property is subject to the state registration, the right of ownership shall arise with the buyer from the moment of such registration, unless otherwise established by the law.

Immovable property shall be declared belonging to a good faith acquirer (Item 1 of Article 302) on the right of ownership from the moment of such registration, except for the cases stipulated by Article 302 of this Code when the owner has the right to recover such property from a good faith acquirer.

#### **Article 224. The Transfer of the Thing**

1. The transfer shall be recognized as the handing in of the thing to the acquirer, and also as the handing in to a transporter for the delivery to the acquirer or the passing to a communications agency for forwarding to the acquirer of the things, alienated without an obligation of delivery.

The thing shall be regarded as handed in to the acquirer from the moment of its actually being placed into the possession of the acquirer or of the person, whom he has named.

2. If by the moment of concluding the contract on the alienation of the thing it has already been placed into the acquirer's possession, it shall be regarded as transferred to him from this moment.

3. The transfer of the thing shall be equalized to the transfer of the bill of lading or of another document of title to the thing.

#### **Article 225. Ownerless Things**

1. The thing shall be recognized as ownerless, if it has no owner, or if its owner is unknown, or if he has renounced his right of ownership to the said thing.

2. Unless this is excluded by the rules of the present Code on the acquisition of the right of ownership to the things, which have been renounced by the owner (Article 226), on the find (Articles 227 and 228), on the neglected animals (Articles 230 and 231) and on the treasure (Article 233), the right of ownership to the ownerless movables may be acquired by force of the acquisitive prescription.

3. The ownerless immovable things shall be registered by the body, engaged in the state registration of the right to the realty, upon the application of the local self-government body, on whose territory they are situated.

After the expiry of one year from the day of registration of the ownerless immovable thing, the body, authorized to manage the municipal property, may file a claim with the court for recognizing the municipal ownership to the given thing.

The ownerless immovable thing, which has not been recognized by the court ruling as given into the municipal ownership, may once again be accepted into the possession, the use and the disposal by its owner, who has formerly left it, or it may be acquired into ownership by force of the acquisitive prescription.

#### **Article 226. The Movables, Renounced by the Owner**

1. The movable things, abandoned by their owner, or left by him in another way with the purpose of renouncing his right of their ownership (the abandoned things), may be turned by the other persons into their ownership in conformity with the order, stipulated by Item 2 of the present Article.

2. The person, in whose ownership, possession or use is the land plot, body of water or another object, where the abandoned thing, which costs obviously less than the sum, corresponding to the five-fold minimum amount of the remuneration of labour, and also the abandoned metal scrap, the rejected products, the sinken logs in the floating, the dumps and the drains formed in the extraction of minerals, the production and the other kind of wastes are located, shall have the right to turn these things into his ownership by starting to use them, or by performing the other actions, testifying to the thing being turned into ownership.

The other abandoned things shall go into the ownership of the person, who has entered into their possession, if, upon the application of this person, the court has recognized them as ownerless.

#### **Article 227. The Find**

1. The person, who has found a lost thing, shall be obliged to immediately notify about this the person, who has lost it, or the person, who is its owner, or somebody else from among the persons he knows, who have the right to obtain it, and to return the thing he has found to this person.

If the thing has been found indoors or in a transport vehicle, it shall be subject to being handed over to the person, representing the owner of the quarters or of the transport vehicle in question. In this case, the person, to whom the find has been handed over, shall acquire the rights and shall discharge the obligations of the person, who has found the thing.

2. If the person, who has the right to claim that the found thing be returned to him, or the place of his stay is not known, the person, who has found the thing, shall be obliged to declare the find to the militia or to the local self-government body.

3. The person, who has found the thing, shall have the right to keep it or to give it for keeping to the militia, to the local self-government body, or to the person these have pointed out.

The perishable thing or the thing, the cost of whose storage is inordinately great compared with its cost, may be realized by the person, who has found it; the latter shall obtain a written proof of the earnings he has derived. The money, received from the sale of the find, shall be subject to the return to the person, legally entitled to obtain it.

4. The person, who has found the thing, shall be answerable for the said thing's loss or damage only in the case of an evil intent or of a flagrant carelessness on his part, and then only within the limits of its cost.

**Article 228.** Acquisition of the Right of Ownership to the Find

1. If in the course of six months from the moment of the declaration of the find to the militia or to the local self-government body (Item 2 of Article 227), the person, legally entitled to obtain the found thing, is not identified, or does not himself declare his right to the thing to the person, who has found it, to the militia or to the self-government body, the person, who has found it, shall acquire the right of ownership to the given thing.

2. In case the person, who has found the thing, refuses to acquire the found thing into his ownership, it shall be turned into the municipal ownership.

**Article 229.** Compensation of the Expenses, Involved in the Find, and the Reward to the Person, Who Has Found It

1. The person, who has found and returned the thing to the person, legally entitled to obtain it, shall have the right to receive from this person, and in case the thing is turned into the municipal ownership - from the corresponding local self-government body, the compensation of the necessary expenses, involved in the keeping, handing in or realization of the thing, as well as the outlays he has made in his efforts to discover the person, who has the right to obtain the thing.

2. The person, who has found the thing, shall have the right to claim from the person, legally entitled to obtain it, the reward for the find, amounting to up to 20 per cent of its cost. If the found thing presents a value only to the person, legally entitled to obtain it, the amount of the reward shall be defined by an agreement with this person.

The right to the reward shall not arise, if the person, who has found the thing, has not declared the find or has tried to conceal it.

**Article 230.** The Neglected Animals

1. The person, who has detained the neglected or stray cattle or the other neglected domestic animals, shall be obliged to return them to the owner, and if the owner of the animals or the place of his stay is not known, shall declare, within three days from the moment of their detention, about his finding the said animals to the militia or to the local self-government body, which shall take measures to find their owner.

2. The person, who has detained the animals, may maintain and use them during the time, required to find their owner, or turn them over for the maintenance and use to another person, disposing of the necessary facilities. By the request of the person, who has detained the neglected animals, the search for a person, who disposes of the necessary facilities for their maintenance, and the transfer of the said animals to this person shall be effected by the militia or by the local self-government body.

3. The person, who has detained the neglected animals, and also that person, to whom they have been turned over for the maintenance and for the use, shall be obliged to keep them properly and shall be answerable

for their perish and for the harm done to the animals through their fault within the limits of the animals' cost.

**Article 231.** Acquisition of the Right of Ownership to the Neglected Animals

1. If, in the course of six months from the moment, when the declaration about the detention of the neglected animals was made, their owner has not been found or has not himself claimed his right to them, the person, in whose maintenance and use the animals have been, shall acquire the right of ownership to them.

In case this person has refused to acquire the right of ownership to the animals in his maintenance, they shall be turned into the municipal ownership and shall be used in conformity with the procedure, laid down by the local self-government body.

2. If the former owner of the animals turns up after their being passed over into the ownership of another person, the former owner shall have the right, in case the said animals are showing the signs of affection for him, or in case the new owner treats them cruelly or improperly, to claim that they be returned to him on the terms, defined by an agreement with the new owner, and if it is impossible to reach such an agreement - on the terms, ruled by the court.

**Article 232.** Compensation of the Expenses Involved in Keeping Neglected Animals and the Reward for Them

In case the neglected domestic animals are returned to the owner, the person, who has detained the animals, and also the person, in whose maintenance and use they have been, shall be entitled to the compensation by the owner of their outlays on the maintenance of the animals, with offsetting the profits, derived from their use.

The person, who has detained the neglected domestic animals, shall have the right to the reward in conformity with Item 2 of Article 229 of the present Code.

**Article 233.** The Treasure

1. The treasure, i.e., the money or the other valuable things, buried underground or hidden away in any other manner, whose owner cannot be identified or, by force of the law, has lost the right to them, shall be turned into the ownership of the person, who is the owner of the property (the land plot, the building, etc.), where the treasure was hidden, and of the person, who has discovered the treasure, in equal shares, unless another kind of agreement has been reached between them.

In case the treasure is discovered by the person, who has been performing excavation work or the search for valuables without obtaining a permission to this effect from the owner of the land plot or of the other property, where it was hidden, the treasure shall be subject to the transfer

to the owner of the land plot or of the other property, where the treasure was discovered.

2. In case of discovering a treasure, containing things, which have a bearing to the monuments of culture or history, they shall be handed over into the state ownership. The owner of the land plot or of the other kind of property, where the treasure was hidden, and the person, who has discovered the treasure, shall be together entitled to a reward, amounting to 50 per cent of the cost of the treasure. The reward shall be divided between these persons in equal shares, unless another kind of agreement has been reached between them.

In case the treasure has been discovered by the person, who has performed excavation work or the search for valuables without the consent of the owner of the property, where the treasure was hidden, the reward shall not be paid to this person and shall be paid in full to the property owner.

3. The rules of the present Article shall not be applied to the persons, who have been engaged in the excavation work and in the search, aimed at the discovery of the treasure, by force of such duties being included within the range of their labour or official duties.

#### **Article 234. Acquisitive Prescription**

1. The person - the citizen or the legal entity - who is not the owner of the property, but who has, in good faith, openly and uninterruptedly, possessed the realty as his own immovable property in the course of fifteen years, or any other property in the course of five years, shall acquire the right of ownership to this property (the acquisitive prescription).

The right of ownership to the realty and to the other property, subject to the state registration, shall arise in the person, who has acquired this property by force of the acquisitive prescription, from the moment of such registration.

2. Before the acquisition of the right of ownership to the property by force of the acquisitive prescription, the person, possessing the given property as his own, shall have the right to protect his possession against the third persons, who are not the owners of the said property, and also against those, who have no rights to its possession on the other grounds, stipulated by the law or by the agreement.

3. The person, referring to the long term of possession, may add to the period of his possession the entire period of time, in the course of which the property has been possessed by the person, whose legal successor the given person is.

4. The proceeding of the term of the acquisitive prescription with respect to the things, which are in the custody of the person, from whose possession they could be claimed in conformity with Articles 301 and 305 of the present Code, shall start not earlier than after the expiry of the term of the limitation of actions by the corresponding claims.

## Chapter 15. The Cessation of the Right of Ownership

### **Article 235.** The Grounds for the Cessation of the Right of Ownership

1. The right of ownership shall cease with the alienation by the owner of his property in favour of the other persons, with the owner's renouncement of his right of ownership, with the perish or the destruction of the property and with the loss of the right of ownership in the other law-stipulated cases.

2. The forcible withdrawal of the property from the owner shall not be admitted, with the exception of the cases, when, on the law-stipulated grounds, shall be effected:

1) the turning of the penalty onto the property by the obligations (Article 237);

2) the alienation of the property, which by force of the law may not be owned by the given person (Article 238);

3) the alienation of the realty in connection with the withdrawal of the land plot (Article 239);

4) the redemption of the mismanaged cultural values and of domestic animals (Articles 240 and 241);

5) the requisition (Article 242);

6) the confiscation (Article 243);

7) the alienation of the property in the cases, stipulated by Item 4 of Article 252, by Item 2 of Article 272, and by Articles 282, 285 and 293, by Items 4 and 5 of Article 1252 of the present Code.

By the owner's decision and in conformity with the procedure, stipulated by the laws on the privatization, the property, which is in the state or in the municipal ownership, shall be alienated into the ownership of the citizens and of the legal entities.

The turning into the state ownership of the property, which is in the ownership of the citizens and of the legal entities (the nationalization), shall be effected on the ground of the law with the recompensing of the cost of this property and of the other losses in conformity with the procedure, laid down by Article 306 of the present Code.

### **Article 236.** Renouncement of the Right of Ownership

The citizen or the legal entity may renounce the right of ownership to the property in his (its) ownership by announcing this or by performing the other actions, definitely testifying to his abstaining from the possession, the use and the disposal of the property without an intention to preserve any rights to this property.

The renouncement of the right of ownership shall not entail the cessation of the rights and duties of the owner with respect to the corresponding property until the right of ownership to it is acquired by the other person.

**Article 237.** Turning of the Penalty onto the Property by the Owner's Obligations

1. The withdrawal of the property by way of turning onto it the penalty by the owner's obligations shall be effected on the grounds of the court decision, unless the other order of turning the penalty is stipulated by the law or by the agreement.

2. The right of ownership to the property, onto which the penalty has been turned, shall cease in its owner from the moment, when the right of ownership to the withdrawn property arises in the person, to whom this property is transferred.

**Article 238.** Cessation of the Right of Ownership to the Property in the Person, Who May Not Own It

1. If on the grounds, admitted by the law, in the ownership of the person has been found the property, which he may not own by force of the law, this property shall be alienated by the owner in the course of one year from the moment of the arising of the right of ownership to the property, unless the law has established another term.

2. In the cases, when the property has not been alienated by the owner within the term, established by Item 1 of the present Article, such property, with account for its nature and purpose, shall be subject, in accordance with the court decision, passed upon the application of the state body or of the local self-government body, to the forcible sale with the transfer to the former owner of the money, derived from this sale, or to the transfer into the state or into the municipal ownership, with the compensation to the former owner of the cost of the property, defined by the court. The outlays, involved in the alienation of the property, shall be detracted.

3. If, on the grounds, admitted by the law, in the ownership of the person or of the legal entity has been found the thing, for the acquisition of which a special permit is required, while its issue has been refused to the owner, this thing shall be subject to alienation in the order, established for the property, which may not be owned by the given owner.

**Article 239.** Alienation of the Realty in Connection with the Withdrawal of the Land Plot, on Which It Is Situated

1. In the cases, when the withdrawal of the land plot for the state or for the municipal needs, or because of the improper use of land, is impossible without the cessation of the right of ownership to the buildings, the structures or the other immovable property, situated on the given land plot, this property may be withdrawn from the owner by way of its redemption by the state or by way of its sale at a public auction in conformity with the procedure, stipulated, correspondingly, by Articles 279-282 and 284-286 of the present Code.

The claim for the withdrawal of the immovable property shall not be liable to satisfaction, if the state body or the local self-government body, which has filed this claim with the court, does not prove that the use of the land plot for the purposes, for which it is being withdrawn, would be impossible, unless the right of ownership to the given immovable property is terminated.

2. The rules of the present Article shall correspondingly be applied, when the rights of ownership to the immovable property are terminated in connection with the withdrawal of the allotted mountain land plots, aquatorium sections and the other land plots, on which the given property is situated.

#### **Article 240. Redemption of the Mismanaged Cultural Values**

In the cases, when the owner of the cultural values, referred in conformity with the law to those particularly valuable and protected by the law, carelessly maintains these values, as a result of which they may lose their importance, such values may be withdrawn from the owner in accordance with the court decision, by way of their redemption by the state or by their sale at an open auction.

In case of the redemption of the cultural values, the owner shall be recompensed their cost in the amount, fixed by the agreement between the parties, and in the case of a dispute arising between them - by the court. If the values are sold at an open auction, the owner shall receive the earnings from the sale, less the outlays for holding the auction.

#### **Article 241. Redemption of the Domestic Animals in Case of Their Improper Treatment**

In the cases, when the owner's treatment of the domestic animals is in glaring contradiction with the rules of the humane attitude toward the animals, established on the ground of the rules and norms, accepted in society, these animals may be withdrawn from the owner by way of their redemption by the person, who has filed the corresponding claim with the court. The redemption price shall be defined by the agreement between the parties, and in case of a dispute arising between them - by the court.

#### **Article 242. Requisition**

1. In case of the natural calamities, the accidents, the epidemics or the epizootics, and under the other circumstances of an extraordinary nature, the property may be, in the interest of society and by the decision of the state bodies, withdrawn from the owner in accordance with the procedure and on the terms, laid down by the law, with the cost of the requisitioned property paid out to him (the requisition).

2. The estimate, according to which the owner shall be paid the cost of the requisitioned property, may be disputed by him in the court.

3. The person, whose property has been requisitioned, shall have the right to claim through the court the return to him of the preserved property, if the circumstances, in connection with which the requisition was performed, have ceased to operate.

#### **Article 243. Confiscation**

1. In the law-stipulated cases, the property may be withdrawn from the owner without any compensation in accordance with the court decision as a sanction, inflicted for his committing a crime or another violation of the law (the confiscation).

2. In the law-stipulated cases, the confiscation may be carried out in the administrative order. The decision on the confiscation, adopted in the administrative order, may be disputed in the court.

### **Chapter 16. The Common Property**

#### **Article 244. The Concept and the Grounds for the Common Property to Arise**

1. The property, which is in the ownership of two or of several persons, shall belong to them by the right of common ownership.

2. The property may be in the common ownership, with the share of each of the owners in the right of ownership defined (the share ownership), or not defined (the joint ownership).

3. The common ownership of the property shall be the share ownership, with the exception of the cases, when the law stipulates the formation of the joint ownership to this property.

4. The common ownership shall arise when into the ownership of two or of several persons falls the property, which cannot be divided without changing its intended purpose (the indivisible things) or which shall not be subject to division by force of the law.

The common ownership of the divisible property shall arise in the cases, stipulated by the law or by an agreement.

5. By an agreement between the participants in the joint ownership, and if no agreement can be reached - by the court decision, the share ownership to the common property may be established.

#### **Article 245. Definition of the Shares in the Right of the Share Ownership**

1. If the shares of the participants in the share ownership cannot be defined on the ground of the law and have not been established by an agreement between all its participants, the shares shall be regarded as equal.

2. By an agreement between all the participants in the share ownership, the order of defining and amending their shares, which would depend on the contribution of each of them into the formation and the increment of the common property, may be established.

3. The participant in the share ownership, who has effected at his own expense and with the observation of the order, established for the use of the common property, the inseparable improvements in this property, shall be entitled to the corresponding increase of his share in the right of ownership to the common property.

The separable improvements, made in the common property, unless otherwise stipulated by the agreement between the participants in the common property, shall be the property of that of the participants, who has effected them.

**Article 246.** Disposal of the Property in the Share Ownership

1. The disposal of the property, which is in the share ownership, shall be effected in accordance with the agreement between all its participants.

2. The participant in the share ownership shall have the right at his own discretion to sell, to make a gift of, to leave by will, or to pledge his share, or to dispose of it in any other way, with the observation in its gratuitous alienation of the rules, stipulated by Article 250 of the present Code.

**Article 247.** Possession and Use of the Property in the Share Ownership

1. The possession and the use of the property, which is in the share ownership, shall be effected in accordance with an agreement between all its participants, and in case such an agreement cannot be reached - in accordance with the order, ruled by the court.

2. The participant in the share ownership shall have the right to put into his possession and use the part of the common property, proportionate to his share, and in case of this being impossible, he shall have the right to claim the corresponding compensation from the other participants, who possess and use the property, comprising his share.

**Article 248.** The Fruits, Products and Incomes from the Use of the Property in the Share Ownership

The fruits, products and incomes, derived from the use of the property, which is in the share ownership, shall comprise the common property and shall be distributed between the participants in the share ownership proportionately to their shares, unless otherwise stipulated by an agreement between them.

**Article 249.** Expenses Involved in the Maintenance of the Property in the Share Ownership

Every participant in the share ownership shall be obliged to take part, proportionately to his share, in the payment of the taxes, collections and other dues by the common property, as well as in the expenses, involved in its maintenance and storage.

### **Article 250.** Preferential Right of the Purchase

1. In case a share in the right of the common ownership is sold to an outsider, the rest of the participants in the share ownership shall have the right of priority in the purchase of the share on sale for the price, for which it is being sold, and on the other equal terms, with the exception of the case, when it is being sold at an open auction.

An open auction for the sale of the share in the right of the common ownership in the absence of the consent to it of all the participants in the share ownership, may be held in the cases, stipulated by the second part of Article 255 of the present Code, and also in the other law-stipulated cases.

2. The seller of the share shall be obliged to notify in written form the rest of the participants in the share ownership about his intention to sell his share to an outsider, with an indication of the price and of the other terms, on which he is selling his share. If the rest of the participants in the share ownership refuse to buy it or do not acquire the share in the right of the ownership to the immovable property, offered for sale, in the course of one month, and in the right of the ownership to the movable property - within ten days from the date of notification, the seller shall have the right to sell his share to any person.

3. If the share is sold with a violation of the right of priority to the purchase, any other participant in the share ownership shall have the right to claim through the court, in the course of three months, that the buyer's rights and duties be transferred to him.

4. The cession of the right of priority to the purchase of the share shall not be admitted.

5. The rules of the present Article shall also be applied in case of the alienation of the share by a barter agreement.

### **Article 251.** The Moment of the Transfer of the Share in the Right of the Common Ownership to the Acquirer by the Contract

The share in the right of the common ownership shall be transferred to the acquirer by the contract from the moment of its conclusion, unless otherwise stipulated by the agreement between the parties.

The moment of the share in the right of the common ownership being transferred by the contract, which is subject to the state registration, shall be defined in conformity with Item 2 of Article 223 of the present Code.

### **Article 252.** Division of the Property in the Share Ownership and the Setting Apart of a Share from It

1. The property, which is in the share ownership, may be divided between its participants by an agreement between them.

2. The participant in the share ownership shall have the right to claim that his share be set apart from the common property.

3. If the participants in the share ownership have failed to come to an agreement on the way and the terms for the division of the common

property or for the setting apart of the share of one of the participants, the participant in the share ownership shall have the right to claim through the court that his share be set apart from the common property in kind.

If the setting apart of the share in kind is not admitted by the law or is impossible without causing an inordinate harm to the property in the common ownership, the withdrawing owner shall have the right to the payment out to him of the cost of his share by the other participants in the share ownership.

4. The rift between the property, set apart in kind to the participant in the share ownership on the ground of the present Article, and his share in the right of ownership shall be eliminated by paying out to him of the corresponding sum of money or by the other kind of compensation.

The payment out to the participant in the share ownership by the rest of the participants of a compensation instead of the setting apart of his share in kind, shall be admitted only with his consent. In case the owner's share is insignificant, cannot be realistically set apart and he doesn't display a serious interest in the use of the common property, the court may obligate the rest of the participants in the share ownership to pay him out the compensation even in the absence of his consent.

5. Upon the receipt of the compensation in conformity with the present Article, the owner shall lose the right to a share in the common property.

### **Article 253.** Possession, Use and Disposal of the Property in the Joint Ownership

1. The participants in the joint ownership, unless otherwise stipulated by the agreement between them, shall possess and use the common property jointly.

2. The property in the joint ownership shall be disposed of by the consent of all the participants, which shall be presumed regardless of which particular participant performs the deal, involved in the disposal of the property.

3. Each of the participants in the joint ownership shall have the right to perform the deals, involved in the disposal of the common property, unless otherwise following from the agreement between all the participants. The deal, effected by one of the participants in the joint ownership, involved in the disposal of the common property, may be recognized as invalid upon the demand of the rest of the participants for the reason of the participant, who has made the deal, not having the necessary powers, only if it has been proved that the other party to the deal has known, or should have known, about it.

4. The rules of the present Article shall be applied so far as no other rules have been laid down for the individual kinds of the joint ownership by the present Code or by the other laws.

**Article 254.** Division of the Property in the Joint Ownership and the Setting Apart of a Share from It

1. The division of the common property between the participants in the joint ownership, as well as the setting apart of the share of one of them may be effected after making a preliminary estimate of the share of each of the participants in the right to the common property.

2. Unless otherwise stipulated by the law or by the agreement between the participants, when dividing the common property and setting apart a share from it, their shares shall be recognized as equal.

3. The grounds and the order for the division of the common property and for the setting apart of a share from it shall be defined according to the rules of Article 252 of the present Code, so far as no other rules have been laid down for the individual kinds of the joint ownership by the present Code and by the other laws or follow from the substance of the relationships between the participants in the joint ownership.

**Article 255.** Turning of the Penalty onto the Share in the Common Property

The creditor of the participant in the share or in the joint ownership shall have the right, in case the given owner's other property proves to be insufficient, to claim the setting apart of the debtor's share in the common property for turning the penalty onto it.

If in such cases the setting apart of the share in kind is impossible or if the rest of the participants in the share or in the joint ownership object to it, the creditor shall have the right to claim the sale by the debtor of this share to the rest of the participants of the common property for the price, proportionate to the market cost of this share, with the means, derived from the sale, going to service the debt.

In case of the refusal of the rest of the participants in the common ownership to acquire the debtor's share, the creditor shall have the right to claim through the court that the penalty be turned onto the debtor's share in the right of the common ownership by way of selling this share at an open auction.

**Article 256.** The Community Property

1. The property, accumulated by the spouses during their married life, shall be their joint, or community property, unless another regime has been established for this property by an agreement between them.

2. The property, which was owned by each of the spouses before they entered into the marriage, or that received by one of the spouses during their married life as a gift or by inheritance, shall be the property of this particular spouse.

The things of personal use (such as the clothes, the footwear, etc.), with the exception of the jewels and the other luxury goods, even though acquired during the married life at the expense of the spouses' common

means, shall be recognized as the property of that spouse, who has used them.

The property of each of the spouses may be recognized as their joint property, if it has been established that during their married life, at the expense of the common property of the spouses or of the personal property of the other spouse, have been made the contributions, which have essentially increased the cost of that property (the overhaul, the reconstruction, the re-equipment, etc.). The present rule shall not be applied, if otherwise stipulated by an agreement between the spouses.

An exclusive right to the result of intellectual activity belonging to the author of such result (Article 1228) shall not be included into the spouses' common property. However, incomes derived from the use of such result are the spouses' common property, unless otherwise stipulated in the contract signed by them.

3. By the obligations of one of the spouses, the penalty may be turned only onto the property in his ownership and onto his share in the common property of the spouses, which should be due to him in case of the division of this property.

4. The rules for defining the spouses' shares in the common property during its division and the order of such a division, shall be laid down by the legislation on the family and on marriage.

#### **Article 257. The Ownership of the Peasant (Farmer's) Economy**

1. The property of the peasant (the farmer's) economy shall belong to its members by the right of joint ownership, unless otherwise stipulated by the law or by an agreement between them.

2. In the joint ownership of the members of the peasant (the farmer's) economy shall be the land plot, assigned into the ownership of this economy or acquired, the economic and the other kind of buildings, the amelioration and the other kind of structures, the productive and the draft animals, the poultry, the farm and the other kind of machinery and equipment, the transportation vehicles, the implements and the other kind of property, acquired for the economy at the expense of the common means of its members.

3. The fruits, products and incomes, derived as a result of the activity of the peasant (the farmer's) economy, shall be the common property of the members of the peasant (the farmer's) economy and shall be used by an agreement between them.

#### **Article 258. Division of the Peasant (the Farmer's) Economy**

1. Upon the termination of the peasant (the farmer's) economy in connection with the retirement of all its members or on the other grounds, the common property shall be subject to division in accordance with the rules, stipulated by Articles 252 and 254 of the present Code.

The land plot in such cases shall be divided according to the rules, established by the present Code and by the land legislation.

2. The land plot and the means of production, belonging to the peasant (the farmer's) economy, shall not be subject to division in case of the retirement of one of its members. The retired member shall have the right to receive the money compensation, proportionate to his share in the common ownership of this property.

3. In the cases, stipulated by the present Article, the shares of the members of the peasant (the farmer's) economy in the right of the joint ownership to the property of the economy shall be recognized as equal, unless otherwise stipulated by an agreement between them.

**Article 259.** The Ownership of the Economic Partnership or of the Cooperative, Based on the Property of the Peasant (the Farmer's) Economy

1. The members of the peasant (the farmer's) economy may set up, on the basis of the economy's property, an economic partnership or a production cooperative. Such an economic partnership or a cooperative as a legal entity shall possess the right of ownership to the property, transferred to it in the form of investments and other contributions by the members of the peasant (the farmer's) economy, and also to the property, which has resulted from its activity or has been acquired on the other grounds, admitted by the law.

2. The size of the contributions of the participants in the partnership or of the members of the cooperative, set up on the basis of the peasant (the farmer's) economy, shall be fixed, proceeding from their shares in the right of the common ownership to the economy's property, to be defined according to Item 3 of Article 258 of the present Code.

## **Chapter 17. Right of Ownership and Other Real Rights to Land**

**Article 260.** The General Provisions on the Right of Ownership to the Land

1. The persons, having in their ownership a land plot, shall have the right to sell it, to make a gift of it, to pledge it or to give it in rent, and to dispose of it in any other way (Article 209), so far as the corresponding lands have not been withdrawn from, or restricted in the circulation in conformity with the law.

2. On the ground of the law and of the law-established order, shall be defined the lands, intended for agricultural and other special purposes, whose use for the different purposes is not admitted or is restricted. The land plot, referred to this category of lands, may be used within the limits, defined by its intended purpose.

**Article 261.** The Land Plot as an Object of the Right of Ownership

1. Abrogated.

2. Unless otherwise decreed by the law, the right of ownership to the land plot shall be spread to the surface (the soil) layer, the bodies of water, the other plants, situated within the boundaries of this land plot.

3. The owner of the land plot shall have the right to use at his own discretion everything, which is over and under the surface of this land plot, unless otherwise stipulated by the laws on the mineral wealth and on the use of the air space and by the other laws, and so far as it does not violate the rights of the other persons.

**Article 262.** The Land Plots of the Common Use. Access to the Land Plot

1. The citizens shall have the right to freely pass, without being obliged to draw any permits, to the land plots, which have not been closed for the common access, in the state or in the municipal ownership, and to use the natural objects, located on these plots within the limits, admitted by the law and by the other legal acts, as well as by the owner of the corresponding land plot.

2. Unless the land plot has been fenced off or its owner has clearly indicated that no trespassing is admitted without his permission, any person shall have the right to walk across the land plot under the condition that this does not inflict a loss or cause worry to the owner.

**Article 263.** Construction on the Land Plot

1. The owner of the land plot shall have the right to erect on it buildings and structures, to rebuild or to pull them down, and also to permit the construction on his land plot to the other persons. These rights shall be exercised under the condition that the town-development and construction norms and rules, as well as the demands with regard to the special purpose of the land plot (Item 2 of Article 260) be complied with.

2. Unless otherwise stipulated by the law or by the agreement, the owner of the land plot shall acquire the right of ownership to the building, the structure or the other kind of the immovable property, which he has erected or created for himself on the land plot in his ownership.

The consequences of the unauthorized construction, effected by the owner on the land plot in his ownership, shall be defined by Article 222 of the present Code.

**Article 264.** The Rights to the Land of the Persons, Who Are Not the Owners of the Land Plots

1. Land plots may be granted by the owners thereof to other persons on the terms and in the procedure set out in the civil and land legislation.

2. The person, who is not the owner of the land plot, shall exercise the rights to the possession and to the use of the land plot on the terms and within the limits, laid down by the law or by the agreement with the owner.

3. The possessor of the land plot, who is not the owner, shall not have the right to dispose of this land plot, unless otherwise stipulated by the law.

**Article 265.** The Grounds for the Acquisition of the Right to the Inherited Life Possession of the Land Plot

The right of the inherited life possession of the land plot, which is in the state or in the municipal ownership, shall be acquired by the citizens on the grounds and in the order, stipulated by the land legislation.

**Article 266.** Possession and Use of the Land Plot by the Right of the Inherited Life Possession

1. The citizen, enjoying the right of the inherited life possession (the possessor of the land plot) shall have the right of the possession and of the use of the land plot, which shall be passed by the right of succession.

2. Unless otherwise following from the terms, established for the use of the land plot by the law, the owner of the land plot shall have the right to erect on it buildings and structures and to create the other kinds of the immovable property, acquiring to it the right of ownership.

**Article 267.** Disposing of a Land Plot in Inheritable Possession for Life

It is hereby prohibited to dispose of a land plot in inheritable possession for life, except for the case of transfer of the right to the land plot in line of succession.

**Article 268.** The Grounds for the Acquisition of the Right of the Permanent (Perpetual) Use of the Land Plot

1. The right of the permanent (perpetual) use of the land plot, which is in the state or in the municipal ownership, shall be granted to the state or municipal institution, treasury enterprise, governmental body, local self-government body on the ground of the decision of the state or of the municipal body, authorized to grant land plots into this kind of use.

2. Abrogated.

3. In case of the reorganization of the legal entity, its right of the permanent (perpetual) use shall be passed in the order of the legal succession.

**Article 269.** Possession and Use of the Land by the Right of the Permanent (Perpetual) Use

1. The person, to whom the land plot has been given into the permanent (perpetual) use, shall exercise the possession and the use of this land plot within the limits, established by the law, by the other legal acts and by the act on granting the land plot into the use.

2. The person, to whom the land plot has been granted into the permanent (perpetual) use, shall have the right, unless otherwise stipulated

by the law, to independently use the land plot for the purposes, for which it has been granted, including the erection with these purposes in view on the land plot of the buildings, the structures and the other kinds of the immovable property. The buildings, the structures and the other kinds of the immovable property, erected by this person for himself, shall be his property.

**Article 270.** Abrogated.

**Article 271.** The Right of the Use of the Land Plot by the Owner of the Immovable Property

1. The owner of the building, of the structure or of the other kind of the realty, situated on the land plot, which is in the ownership of another person, shall have the right of the use to the land plot granted by such person for the immovable property.

2. If the right of ownership to the realty, situated on the other man's land plot, is transferred to another person, the latter shall acquire the right of the use of the land plot on the same terms and in the same volume, as the former owner of the realty.

The transfer of the right of ownership to the land plot shall not be the ground for the termination or the amendment of the right to the use of this land plot, belonging to the owner of the realty.

3. The owner of the realty, situated on the other man's land plot, shall have the right to possess, to use and to dispose of this realty at his own discretion, including the pulling down of the corresponding buildings and structures, so far as this does not contradict the terms, laid down for the use of the given land plot by the law or by the agreement.

**Article 272.** The Consequences of the Loss by the Realty Owner of the Right to the Use of the Land Plot

1. If the right to the use of the land plot, granted to the owner of the realty, situated on this land plot, is terminated (Article 271), the rights to the realty, left by its owner on the land plot, shall be defined in conformity with an agreement between the owner of the land plot and the owner of the corresponding immovable property.

2. In the absence of, or in case of the failure to reach an agreement, stipulated in Item 1 of the present Article, the consequences of the termination of the right to the use of the land plot shall be defined by the court upon the claim of the owner of the land plot or of the owner of the realty.

The owner of the land plot shall have the right to claim through the court that the owner of the realty remove it from his land plot after the termination of the right to the use of the land plot and bring the land plot into its primary state.

In the cases, when the demolition of the building or of the structure, situated on the land plot, is prohibited in conformity with the law or with the other legal acts (the living quarters, the monuments of culture and history, etc.), or is not subject to being effected in view of an obvious excess of the cost of the building or the structure over the cost of the land plot assigned for it, the court, taking into account the grounds for the termination of the right to the use of the land plot and in case of the corresponding claims being filed by the parties, shall have the right:

- to recognize the right of the owner of the realty to the acquisition into ownership of the land plot, on which this realty is situated, or the right of the owner of the land plot to the acquisition of the realty left upon it, or to lay down the terms for the use of the land plot by the owner of the realty for a new period of time.

**3.** The rules of the present Article shall not be applied, if the land plot is withdrawn for the state or for the municipal needs (Article 283), and also in case the rights to the land plot are terminated in view of its improper use (Article 286).

### **Article 273.** Transfer of the Right to the Land Plot in Case of the Alienation of the Buildings or the Structures, Situated on It

In the transfer of the right of ownership to the building or to the structure, belonging to the owner of the land plot, on which it is situated, the right of ownership to the land plot occupied by a building or structure and required for using it is transferred, shall pass to the acquirer of the building (the structure), except as otherwise envisaged by a law.

### **Article 274.** The Right of the Limited Use of the Other Person's Land Plot (the Servitude)

**1.** The owner of the immovable property (the land plot and the other realty) shall have the right to claim from the owner of the neighboring land plot, and if necessary, also from the owner of yet another land plot (the neighboring plot) that the right of the limited use of the neighboring land plot (the servitude) be granted to him.

The servitude may be established to guarantee the passage across the neighboring land plot both on foot and by a motor vehicle, to provide for the laying and operating of the electric power and communication lines, as well as of the pipelines, for the water supply and amelioration, and also for the other needs of the owner of the realty, which cannot be provided for without establishing the servitude.

**2.** The burdening of the land plot with the servitude shall not deprive the owner of the land plot of the rights of the possession, the use and the disposal of this land plot.

**3.** The servitude shall be established by an agreement between the person, claiming the institution of the servitude, and the owner of the neighboring land plot, and shall be subject to the registration in conformity

with the procedure, laid down for the registration of the immovable property. In case of the failure to reach an agreement on the establishment or on the terms of the servitude, the dispute shall be resolved by the court upon the claim of person, demanding that the servitude be instituted.

4. On the terms and in conformity with the order, stipulated by Items 1 and 3 of the present Article, the servitude may also be established in the interest and upon the claim of the person, to whom the land plot has been granted by the right of the inherited life possession or by the right of the permanent (perpetual) use.

5. The owner of the land plot, burdened with the servitude, shall have the right, unless otherwise stipulated by the law, to claim from the persons, in whose interest the servitude has been established, a proportionate payment for the use of the land plot.

#### **Article 275.** Preservation of the Servitude in the Transfer of the Rights to the Land Plot

1. The servitude shall be preserved in the case of the transfer of the land plot, burdened with this servitude, to the other person.

2. The servitude shall not be an independent object of the purchase and sale or of the mortgage, and shall not be transferred in any way to the persons, who are not the owners of the immovable property, to provide for the use of which the servitude has been established.

#### **Article 276.** Termination of the Servitude

1. Upon the claim of the owner of the land plot, burdened with the servitude, the servitude may be terminated in view of the disappearance of the grounds, on account of which it has been instituted.

2. In the cases, when the land plot, owned by the citizen or by the legal entity, cannot be used in conformity with its special purpose as a result of its being burdened with the servitude, the owner shall have the right to claim through the court that the servitude be terminated.

#### **Article 277.** The Burdening with the Servitude of the Buildings and the Structures

As applied to the rules, stipulated by Articles 274-276 of the present Code, with the servitude may also be burdened the buildings, the structures and the other immovable property, whose limited use is necessary, regardless of the use of the land plot.

#### **Article 278.** The Turning of the Penalty onto the Land Plot

The turning of the penalty onto the land plot by the obligations of its owner shall be admitted only on the grounds of the court decision.

**Article 279.** Redemption of the Land Plot for the State and for the Municipal Needs

1. The land plot may be withdrawn from the owner for the state or for the municipal needs by way of redemption.

Depending on for whose needs the land plot is being withdrawn, the redemption shall be effected by the Russian Federation, by the corresponding subject of the Russian Federation, or by the municipal entity.

2. The decision on the withdrawal of the land plot for the state or for the municipal needs shall be adopted by the federal executive power bodies, the executive power bodies of a constituent entity of the Russian Federation or local authorities.

The federal executive bodies, executive bodies of a constituent entity of the Russian Federation and local authorities empowered to take decisions on the withdrawal of land plots for the state or for the municipal needs, and the order of the preparation and the adoption of these decisions shall be defined by the federal land legislation.

3. The owner of the land plot shall be notified in written form about the forthcoming withdrawal of the land plot not later than one year in advance by the body, which has passed the decision on the withdrawal. The redemption of the land plot before the expiry of one year from the date of the owner's receipt of the notification shall be effected only upon his consent.

4. The decision of the federal executive body, executive body of a constituent entity of the Russian Federation or a local authority on the withdrawal of the land plot for the state or for the municipal needs shall be subject to the state registration with the body, engaged in the registration of the rights to the land plot. The owner of the land plot shall be notified about the registration having been effected with the indication of its date.

5. Abrogated.

**Article 280.** The Rights of the Owner of the Land Plot, Subject to Withdrawal for the State or for the Municipal Needs

The owner of the land plot, subject to the withdrawal for the state or for the municipal needs, shall have the right to possess, use and dispose of the plot at his own discretion, and also to make the necessary outlays, providing for the use of the land plot in conformity with its special purpose, over the period of time from the moment of the registration of the decision on the withdrawal of the land plot and up to the moment of reaching an agreement, or of the court passing the decision on the redemption of the land plot. However, the owner shall take the risk that the outlays and the losses he has borne in connection with the new construction, with the extension and the reconstruction of the buildings and the structures on the land plot during the said period may be turned against himself when defining the redemption price of the land plot (Article 281).

**Article 281.** Redemption Price of the Land Plot, Withdrawn for the State or for the Municipal Needs

1. The payment for the land plot, being withdrawn for the state or for the municipal needs (the redemption price), the term and the other conditions of the redemption shall be defined by an agreement with the owner of the land plot. The agreement shall incorporate an obligation of the Russian Federation, of the subject of the Russian Federation or of the municipal entity to pay the redemption price for the withdrawn land plot.

2. While defining the redemption price, incorporated into it shall be the market cost of the land plot and of the immovable property, situated on it, as well as all the losses, inflicted upon the owner by the withdrawal of the land plot, including the losses, borne by him in connection with an advanced termination of his obligations to the third persons, including the missed profit.

3. By an agreement with the owner, he may be allotted, instead of the land plot, withdrawn for the state or for the municipal needs, another land plot, with the offsetting of its cost against the redemption price.

**Article 282.** Redemption of the Land Plot for the State and Municipal Needs by the Court Decision

If the owner does not agree with the decision on the withdrawal from him of his land plot for the state or for the municipal needs, or if no agreement has been reached with him on the redemption price or on the other terms of the redemption, the federal executive body, the executive body of a constituent entity of the Russian Federation or a local authority, which has adopted the said decision, shall have the right to file a claim for the redemption of the land plot with the court. The claim for the redemption of the land plot for the state or for the municipal needs may be presented within three years from the moment of forwarding the notification, indicated in Item 3, Article 279 of the present Code, to the owner of the land plot.

**Article 283.** Cessation of the Rights of the Possession or the Use of the Land Plot When It Is Withdrawn for the State or Municipal Needs

In the cases, when the land plot, being withdrawn for the state or for the municipal needs, is in the ownership and in the use by the right of the inherited life possession or of the permanent (perpetual) use, the cessation of these rights shall be effected in accordance with the rules, stipulated by Articles 279-282 of the present Code.

**Article 284.** Withdrawal of the Land Plot, Which Is Not Used in Conformity with Its Special Purpose

The land plot may be withdrawn from the owner in the cases, when it is purposed for agricultural production or for the housing or the other kind of construction, but is not used for the corresponding purpose in the course of three years, unless a longer term has been stipulated by the law. Within

this period shall not be included the time, which is necessary for the development of the land plot, as well as the time, during which the land plot could not have been put to its purported use because of the natural calamities or of the other circumstances, precluding such use.

**Article 285.** Withdrawal of the Land Plot, Used with the Violation of the Legislation

The land plot may be withdrawn from the owner, if the use of the land plot proceeds with a crude violation of the rules for the rational use of the land, laid down by the land legislation, in particular, if the land plot is not used in conformity with its special purpose, or if its use causes an essential fall in the fertility of the farming lands or seriously deteriorates the ecological situation.

**Article 286.** The Order of Redemption of the Land Plot in View of Its Improper Use

1. The state power body or the local self-government body, authorized to adopt decisions on the withdrawal of land plots on the grounds, stipulated by Articles 284 and 285 of the present Code, as well as the procedure for an obligatory advance warning of the land plot owners on the violations, committed by them, shall be defined by the law.

2. If the owner of the land plot notifies in written form the body, which has adopted the decision on the withdrawal of the land plot, about his consent to execute this decision, the land plot shall be subject to the sale at an open auction.

3. If the owner of the land plot does not agree with the decision on the withdrawal of the land plot from him, the body, which has passed the decision on the withdrawal of the land plot, may file the claim for the sale of the land plot with the court.

**Article 287.** Termination of the Rights to the Land Plot, Belonging to the Persons, Who Are Not Its Owners

The termination of the rights to the land plot, belonging to the leaseholders and to the other persons, who are not its owners, for the reason of an improper use of the land plot by these persons, shall be effected on the grounds and in conformity with the order, established by the land legislation.

**Chapter 18.** The Right of Ownership and the Other Rights of Estate to the Living Quarters

**Article 288.** The Ownership of the Living Quarters

1. The owner shall exercise his rights of the possession, the use and the disposal of the living quarters in his ownership in conformity with their intended purpose.

**2.** The living quarters shall be intended for the citizens' residence.

The citizen-the owner of the living quarters may use them for his own residence and for the residence of the members of his family.

The living quarters may be given by their owner in rent for residence on the ground of a contract.

**3.** The accommodation in the dwelling houses of various kinds of industrial production shall not be admitted.

The accommodation by the owner in the living quarters he owns of the enterprises, institutions and organizations shall be admitted only after the said quarters have been turned from the living into the non-living ones. The transfer of the quarters from the living into the non-living ones shall be effected in conformity with the procedure, defined by the housing legislation.

#### **Article 289.** The Flat as an Object of the Right of Ownership

To the owner of the flat in an apartment house, alongside the quarters he owns, occupied by his flat, shall also belong a share in the right of the ownership to the common property of the house (Article 290).

#### **Article 290.** The Common Property of the Owners of Flats in an Apartment House

**1.** The owners of flats in an apartment house shall own by the right of the common share ownership the common quarters of the house, the house's load-carrying structures, the mechanical and electrical equipment, the plumbing fixtures and the other equipment outside or within the flat, servicing more than one flat.

**2.** The owner of the flat shall not have the right to alienate his share in the right of the ownership to the common property of the apartment house, or to perform other actions, entailing the transfer of this share apart from the right of the ownership to the flat.

#### **Article 291.** The Partnership of the Housing Owners

**1.** To provide for the exploitation of the apartment house, the use of the flats and of their common property, the owners of flats shall set up the partnerships of the owners of flats (of the housing).

**2.** The partnership of the owners of flats shall be the non-profit organization, set up and operating in conformity with the Law on the Partnerships of the Owners of Flats.

#### **Article 292.** The Rights of the Family Members of the Owners of the Living Quarters

**1.** The family members of the owner, residing in the living quarters he owns, shall have the right to use these quarters on the terms, stipulated by the housing legislation.

Members with dispositive capacity of the family of an owner living in housing premises belonging to the owner shall bear joint and several liability with the owner for the obligations arising from the use of the housing premises.

2. The transfer of the right of the ownership to the dwelling house or to the flat to the other person shall be the ground for the cessation of the right of the use of the living quarters by the family members of the former owner, unless otherwise established by law;

3. The family members of the owner of the living quarters may claim the elimination of the violations of their rights to the living quarters on the part of any persons, including on the part of the owner of the living quarters.

4. Alienation of a dwelling in which there live members of the family of the owner of the dwelling who are under guardianship or curatorship or minor members of the family of the owner who are left without parental care (of which the body of guardianship and curatorship is aware), if it affects the rights or legally protected interests of the indicated persons, shall be permitted with the consent of the body of guardianship and curatorship.

#### **Article 293.** Cessation of the Right of the Ownership to the Mismanaged Living Quarters

If the owner of the living quarters uses them other than for their intended purpose, systematically violates the rights and interests of the neighbors or mismanages the housing by allowing its destruction, the local self-government body shall warn the owner about the need to eliminate the said violations, and if these violations entail the destruction of the living quarters - it shall also fix an approximate term for the owner to perform the repairs of the quarters.

If the owner after the warning continues to violate the rights and interests of the neighbors or to use the living quarters for other than their intended purpose, or does not perform the necessary repairs without serious grounds, the court, upon the claim of the local self-government body, shall have the right to adopt the decision on the sale of such living quarters at an open auction with the subsequent payment to the owner of the means, derived from the sale, minus the expenses, involved in the execution of the court decision.

### **Chapter 19.** The Right of Economic Management and the Right of Operation Management

#### **Article 294.** The Right of Economic Management

The state or the municipal unitary enterprise, which owns the property by the right of economic management, shall possess, use and dispose of this property within the limits, defined in conformity with the present Code.

**Article 295.** The Rights of the Owner with Respect to the Property in Economic Management

1. The owner of the property in economic management, in conformity with the law, shall resolve the issues, involved in the setting up of the enterprise, in defining the object and the goals of its activity, in its reorganization and liquidation; he shall appoint the director (the head) of the enterprise and shall exert control over the use in conformity with the stipulated purpose and over the maintenance of the property, assigned to it.

The owner shall have the right to obtain a part of the profit, derived from the use of the property in the economic management of the enterprise.

2. The enterprise shall not have the right to sell the immovable property, belonging to it by the right of economic management, to give it in rent, to mortgage it, to contribute it as an investment into the authorized (joint) capital of the economic companies and the partnerships, or to dispose of it in any other way without the consent of the owner.

The enterprise shall dispose of the rest of the property, belonging to it, independently, with the exception of the cases, established by the law or by the other legal acts.

**Article 296.** The Right of Operative Management

1. A state-run enterprise and institution to which the property is assigned by the right of operative management shall use this property and dispose of it within the law-established framework in accordance with the goals set in their activity, with the tasks of the owner of this property and with its purpose.

2. The owner of this property has the right to exact an excessive property, not used or used not to the purpose, which he has assigned to a state-run enterprise or institution or which is acquired by the state-run enterprise or institution at the expense of the funds allocated to it by the owner for the acquisition of this property. The owner of this property has the right to dispose of the property exacted from the state-run enterprise or institution at his own discretion.

**Article 297.** Disposal of the Property of the State Enterprise

1. The state enterprise shall have the right to alienate or to dispose in another way of the property, assigned to it, only with the consent of the owner of this property.

The state enterprise shall independently realize the products it manufactures, unless otherwise established by the law or by the other legal acts.

2. The order for the distribution of the incomes of the state enterprise shall be defined by the owner of its property.

**Article 298.** Disposal of the Property of the Institution

1. A private or a budgetary institution has no right to alienate or dispose in any other way of the property assigned to it by the owner or acquired by this institution at the expense of the funds allocated to it by the owner for the acquisition of this property.

An autonomous institution has no right to dispose of the immovable property and of the particularly valuable movable property assigned to it by the owner or acquired by it at the expense of the funds allocated to it by the owner for the acquisition of such property, without the owner's consent.

2. If, in conformity with the constituent documents, the institution has been granted the right to engage in a profitable activity, the incomes, derived from such an activity, and the property, acquired at the expense of these incomes, shall be independently disposed of by the institution and shall be registered on a separate balance.

**Article 299.** The Acquisition and the Termination of the Right of Economic Management and of the Right of Operation Management

1. The right of economic management or the right of operation management of the property, with respect to which the owner has adopted the decision to assign it to a unitary enterprise or to an institution, shall arise with the given enterprise or institution from the moment of the transfer of this property, unless otherwise established by the law and by the other legal acts, or by the owner's decision.

2. The fruits, products and incomes from the use of the property in the economic or in the operation management, as well as the property, which the unitary enterprise or the institution has acquired by a contract or on the other grounds, shall pass into the economic or into the operation management of the enterprise or of the institution in conformity with the order, established by the present Code, by the other laws and the other legal acts for the acquisition of the right of ownership.

3. The right of economic management and the right of operation management shall be terminated on the grounds and in conformity with the order, stipulated by the present Code, by the other laws and the other legal acts for the termination of the right of ownership, and also in the case of the lawful withdrawal of the property from the enterprise or from the institution by the owner's decision.

**Article 300.** Preservation of the Rights to the Property When the Enterprise or the Institution Is Transferred to Another Owner

1. When the right of the ownership to the state or to the municipal enterprise as a property complex is transferred to another owner of the state or of the municipal property, such an enterprise shall preserve the right of economic management to the property, belonging to it.

2. When the right of the ownership to the institution is transferred to another person, this institution shall preserve the right of operation management with respect to the property, belonging to it.

## **Chapter 20.** Protection of the Right of Ownership and of the Other Rights of Estate

### **Article 301.** Reclamation of the Property from the Other Person's Adverse Possession

The owner shall have the right to reclaim his property from the other person's adverse possession.

### **Article 302.** Reclamation of the Property from the Bona Fide Acquirer

1. If the property has been purchased for a price from the person, who had no right to alienate it, of which the acquirer has been unaware and could not have been aware (the bona fide acquirer, or the acquirer in good faith), the owner shall have the right to reclaim this property from the acquirer, if the said property was lost by the owner or by the person, to whom the owner has passed the property into possession, or if it was stolen from the one or from the other, or if it has gone out of their possession in another way contrary to their will.

2. If the property has been acquired gratuitously from the person, who had no right to alienate it, the owner shall have the right to reclaim the property in any case.

3. The money, and also the securities to bearer shall not be reclaimed from the bona fide acquirer.

### **Article 303.** Settlements in the Reclamation of the Property from the Adverse Possession

In reclaiming the property from the other person's adverse possession, the owner shall also have the right to claim from the person, who has known, or should have known, that his possession is adverse (the possessor in bad faith), the return or the compensation of all the incomes, which he has derived, or should have derived, over the entire period of the possession; and from the bona fide possessor - the return or the compensation of all the incomes, which he has derived, or should have derived from the moment, when he has learned, or should have learned, about the adversity of the possession or when he has received the summons by the owner's claim for the return of the property.

The possessor, both in good and in bad faith, shall in his turn have the right to claim that the owner recompense the necessary outlays for the property he has made over that period of time, for which the incomes from the property are due to the owner.

The bona fide possessor shall have the right to retain the improvements he has made in his own possession, if they can be set apart without damaging the property. If such separation of the improvements is impossible, the bona fide possessor shall have the right to claim the compensation of the outlays for the improvements he has made, but not in excess of the amount of the increment in the property's cost.

**Article 304.** Protection of the Owner's Rights from the Violations, Not Involved in the Deprivation of the Possession

The owner shall have the right to claim that all violations of his right be eliminated, even though these violations have not entailed the deprivation of the possession.

**Article 305.** Protection of the Rights of the Possessor, Who Is Not the Owner

The rights, stipulated by Articles 301-304 of the present Code, shall also belong to the person, who, even though he is not the owner but possesses the property by the right of the inherited life possession, of the economic management, of the operation management or on the other grounds, stipulated by the law or by the contract. This person shall have the right to the protection of his possession also against the owner.

**Article 306.** The Consequences of the Termination of the Right of Ownership by Force of the Law

If the Russian Federation passes the law, terminating the right of ownership, the losses, inflicted upon the owner as a result of the adoption of this act, including the cost of the property, shall be recompensed by the state. The disputes on the compensation for the losses shall be resolved by the court.

### **Section III. The General Part of the Law of Obligation**

#### **Subsection 1. The General Provisions on Obligations**

##### **Chapter 21. The Concept and the Aspects of an Obligation**

**Article 307.** The Concept of an Obligation and the Grounds for It to Arise

1. By force of an obligation, one person (the debtor) shall be obliged to perform in favour of another person (the creditor) a certain action, such as: to transfer the property, to perform a job, to pay the money, etc., or to abstain from a certain action, while the creditor shall have the right to claim that the debtor discharge his obligation.

2. Obligations shall arise from an agreement, from the infliction of a damage, or on the other grounds, indicated in the present Code.

### **Article 308.** The Parties to an Obligation

1. One or several persons simultaneously may take part in the obligation in the capacity of each of its parties.

The invalidity of the creditor's claims against one of the persons, participating in the obligation on the side of the debtor, the same as the expiry of the term of the limitation of actions by the claim against such a person, shall not of themselves have a bearing on his claims against the rest of these persons.

2. If each of the parties by the contract shall bear a duty in favour of the other party, it shall be regarded as the debtor of the other party by what it is obliged to do in its favour, and simultaneously as its creditor by what it has the right to claim from it.

3. The obligation shall not create the duties for the persons, who do not participate in it in the capacity of the parties (for the third persons).

In the cases, stipulated by the law, by the other legal acts or by an agreement between the parties, the obligation may create for the third persons the rights with respect to one or to both parties of the obligation.

## **Chapter 22. The Discharge of Obligations**

### **Article 309.** The General Provisions

Obligations shall be discharged in the proper way in conformity with the terms of the obligation and with the requirements of the law and of the other legal acts, and in the absence of such terms and requirements - in conformity with the customs of the business turnover or with the other habitually presented demands.

### **Article 310.** Inadmissibility of the Unilateral Refusal to Discharge the Obligation

The unilateral refusal to discharge the obligation and the unilateral amendment of its terms shall not be admitted, with the exception of the law-stipulated cases. The unilateral refusal to discharge the obligation, connected with its parties' performing the business activity, and the unilateral amendment of the terms of such an obligation shall also be admissible in the cases, stipulated by the contract, unless otherwise following from the law or from the substance of the obligation.

### **Article 311.** Discharge of the Obligation by Parts

The creditor shall have the right to accept the discharge of the obligation by parts, unless otherwise stipulated by the law, by the other legal acts and by the terms of the obligation, and does not follow from the customs of the business turnover or from the substance of the obligation.

### **Article 312.** Discharge of the Obligation to the Proper Person

Unless otherwise stipulated by the agreement between the parties and follows from the customs of the business turnover, or from the substance of the obligation, the debtor shall have the right, while discharging the obligation, to demand proofs of the fact that the discharge is accepted by the creditor himself or by the person he has authorized for this purpose, and shall take the risk of the consequences of his failure to present such a demand.

### **Article 313.** Discharge of the Obligation by the Third Person

1. The discharge of the obligation may be imposed by the debtor upon the third person, unless the debtor's duty to discharge the obligation in person follows from the law, from the other legal acts, from the terms of the obligation or from its substance. In this case the creditor shall be obliged to accept the discharge, offered by the third person instead of by the debtor.

2. The third person, undergoing the threat of losing his right to the property of the debtor (the right of the lease, of the mortgage, etc.) as a result of the creditor's turning the penalty onto this property, may at his own expense satisfy the creditor's claim without obtaining the debtor's consent. In this case, the rights of the creditor by the obligation shall pass to the third person in conformity with Articles 382-387 of the present Code.

### **Article 314.** The Term of the Discharge of the Obligation

1. If the obligation stipulates, or allows to stipulate the day of its discharge or the period of time, within which it shall be discharged, the obligation shall be subject to discharge on this particular day or, correspondingly, at any moment within this period.

2. In the cases, when the obligation does not stipulate the deadline for its discharge and does not contain the terms, making it possible to define this deadline, it shall be discharged within a reasonable term after the inception of the obligation.

The obligation, which has not been discharged within a reasonable term, the same as the obligation, the term of whose discharge has been defined by the moment of demand, shall be discharged by the debtor within seven days from the day of the creditor's presenting the claim for its discharge, unless the duty of the discharge within a different term follows from the law, from the other legal acts, from the provisions of the obligation, from the customs of the business turnover, or from the substance of the obligation.

### **Article 315.** Advanced Discharge of the Obligation

The debtor shall have the right to discharge the obligation in advance of the deadline, unless otherwise stipulated by the law, by the other legal acts or by the terms of the obligation or follows from its substance.

However, an advanced discharge of the obligations, involved in the performance by its parties of the business activity, shall be admitted only in the cases, when the possibility to discharge the obligation before the fixed date has been stipulated by the law, by the other legal acts or by the terms of the obligation, or follows from the customs of the business turnover or from the substance of the obligation.

#### **Article 316. The Place of Discharge of the Obligation**

Unless the place of the discharge has been defined by the law, by the other legal acts or by the agreement or follows from the customs of the business turnover or from the substance of the obligation, the discharge shall be effected:

- by the obligation to transfer the land plot, the building, the structure or the other immovable property - at the place of location of the property;

- by the obligation to transfer the commodity or the other property, envisaging its shipment - at the place of the ceding the property to the first shipper for its being forwarded to the creditor;

- by the other obligations of the businessman to transfer the commodity or the other property - at the place of the manufacture or of the storage of the property, if this place has been known to the creditor at the moment of the inception of the obligation;

- by the pecuniary obligation - at the place of residence of the creditor at the moment of the inception of the obligation, and if the creditor is a legal entity - at the place of its location at the moment of the inception of the obligation; if the creditor by the moment of the discharge of the obligation has changed the place of his residence or the place of his stay and has informed about this the debtor - at the new place of the creditor's residence or stay, with referring the expenses, involved in the change of the place of discharge, onto the creditor's account;

- by all the other obligations - at the place of residence of the debtor, and in case the debtor is a legal entity - at the place of its location.

#### **Article 317. The Currency of the Pecuniary Obligations**

1. The pecuniary obligations shall be expressed in roubles (Article 140).

2. In the pecuniary obligation it may be stipulated that it shall be liable to the payment in roubles in the amount, equivalent to the definite amount in the foreign currency, or in the agreed monetary units (ECU, the "special borrowing rights", etc.). In this case, the amount liable to the payment in roubles shall be defined in conformity with the official exchange rate of the corresponding currency or of the conventional monetary units by the day of the payment, unless the other exchange rate or the other day of its formulation has been established by the law or by the parties' agreement.

3. The use of the foreign currency and also of the payment documents in the foreign currency on the territory of the Russian

Federation by obligations shall only be admitted in the cases, in the order and on the terms, defined by the law or established in conformity with the procedure, laid down by it.

**Article 318.** The Increase of the Amounts, Paid Out for the Maintenance of the Citizen

The amount, paid out by the direct pecuniary obligation for the maintenance of the citizen: to recompense for the harm, inflicted to the life or to the health, by the contract for a life maintenance, and in the other cases - shall be indexed taking into account the level of the inflation in the procedure and cases stipulated by law.

**Article 319.** Priority for Satisfaction of Claims under the Monetary Obligation

The amount of the effected payment, insufficient for the discharge of the pecuniary obligation in full, in the absence of another agreement, shall first of all cover the creditor's expenses, involved in the enforcement of the discharge, then - the interest, and in the remaining part - the basic amount of the debt.

**Article 320.** Discharge of the Alternative Obligation

The debtor, who is obliged to transfer to the creditor this or that property, or to perform one of the two or of several actions, shall have the right of choice, unless otherwise following from the law, from the other legal acts or from the terms of the obligation.

**Article 321.** Discharge of the Obligation, in Which Several Creditors or Several Debtors Participate

If several creditors or several debtors take part in the obligation, each of the creditors shall have the right to claim the discharge, and each of the debtors shall be obliged to discharge the obligation in an equal share with the others, unless otherwise following from the law, from the other legal acts, or from the terms of the obligation.

**Article 322.** Joint Obligations

1. The joint duty (the liability), or the joint claim shall arise, if the joint nature of the duty or of the claim has been stipulated by the contract or has been established by the law, in particular, in the case of the indivisibility of the object of the obligation.

2. The duties of several debtors by the obligation, involved in the business activity, the same as the claims of several creditors in such an obligation, shall be joint ones, unless otherwise stipulated by the law, by the other legal acts, or by the terms of the obligation.

**Article 323.** The Creditor's Rights in the Joint Duty

1. In case of the debtors' joint duty, the creditor shall have the right to claim the discharge both from all the debtors jointly, and also from any one of them taken apart, and both in full and in the part of the debt.

2. The creditor, who has not been fully satisfied by one of the joint debtors, shall have the right to claim the rest from the joint debtors.

The joint debtors shall stay obligated until the moment, when the obligation has been discharged in full.

#### **Article 324. Objections to the Creditor's Claims in the Joint Duty**

In the case of the joint duty, the debtor shall not have the right to put forward against the creditor's claims the objections, which are based on such relations of the other debtors with the creditor, in which the said debtor does not participate.

#### **Article 325. Discharge of the Joint Duty by One of the Debtors**

1. The discharge of the joint duty in full by one of the debtors shall absolve the rest of the debtors from the discharge toward the creditor.

2. Unless otherwise following from the relations between the joint debtors:

1) the debtor, who has discharged the joint duty, shall have the right of the claim of regress to the rest of the debtors in equal shares, less his own share;

2) that which has not been paid by one of the joint debtors to the debtor, who has discharged the joint duty, shall fall in equal shares on this debtor and on the rest of the debtors.

3. The rules of the present Article shall be applied correspondingly to the termination of the joint obligation by offsetting the claim of regress, filed by one of the debtors.

#### **Article 326. The Joint Claims**

1. In the case of the joint claims, any of the joint creditors shall have the right to present to the debtor the claim in the full volume.

Before the claim has been presented by one of the joint creditors, the debtor shall have the right to discharge the obligation toward any one of them at his own discretion.

2. The debtor shall not have the right to put forward the objections against the claim of one of the creditors, that are based on such relations of the debtor with the other joint creditor, in which the given creditor does not take part.

3. The discharge of the obligations in full toward one of the creditors shall absolve the debtor from the discharge toward the other creditors.

4. The joint creditor, who has accepted the discharge from the debtor, shall be obliged to recompense what is due to the other creditors in equal shares, unless otherwise following from the relationships between them.

**Article 327. Discharge of the Obligation by Placing the Debt on a Deposit**

1. The debtor shall have the right to place the money or the securities he owes on the notary's deposit, and in the law-established cases - on the court's deposit, if the obligation cannot be discharged by the debtor on account of:

1) the absence of the creditor or of the person, whom he has authorized to accept the discharge of the obligation, at the place, where the obligation shall be discharged;

2) the creditor's legal incapacity and his having no substitute;

3) an obvious absence of any certainty about who is the creditor by the obligation, in particular, in connection with the dispute on this issue arising between the creditor and the other persons;

4) the creditor's avoidance of accepting the discharge of the obligation or any other delay on his part.

2. The placing of the sum of money or of the securities on the notary's or on the court's deposit shall be regarded as the discharge of the obligation.

The notary or the court, on whose deposit the money or the securities have been placed, shall notify about this the creditor.

**Article 328. The Recourse Discharge of Obligations**

1. The recourse discharge shall be recognized as the discharge of the obligation by one of the parties, which in conformity with the agreement has been stipulated by the discharge of its obligations by the other party.

2. In case of the obliged party's failure to discharge the obligations, stipulated by the agreement, or of the existence of the circumstances, obviously testifying to the fact that such discharge will not be effected within the fixed term, the party, onto which the recourse discharge has been imposed, shall have the right to suspend the discharge of its obligation or to refuse to discharge this obligation, and to claim the compensation of the losses.

If the obligation, stipulated by the agreement, has not been discharged in the full volume, the party, onto which the recourse discharge has been imposed, shall have the right to suspend the discharge of its obligation or to refuse to discharge it in the part, corresponding to the above-said underdischarge.

3. If the recourse discharge of the obligation has been effected, despite the fact that the other party has not discharged its obligation, stipulated by the agreement, this party shall be obliged to effect such discharge.

4. The rules, stipulated by Items 2 and 3 of the present Article, shall be applied, unless otherwise stipulated by the law.

**Chapter 23. Providing for the Discharge of Obligations**

## **§ 1. The General Provisions**

### **Article 329. The Ways of Providing for the Discharge of Obligations**

1. The discharge of obligations may be provided for by the forfeit, the pledge, the retention of the debtor's property, the surety, the bank guarantee, the advance and also in the other ways, stipulated by the law or by the agreement.

2. The invalidity of the agreement on providing for the discharge of the obligation shall not entail the invalidity of this obligation (the principal obligation).

3. The invalidity of the principal obligation shall entail the invalidity of the obligation, providing for it, unless otherwise established by the law.

## **§ 2. The Forfeit**

### **Article 330. The Concept of the Forfeit**

1. The forfeit (the fine, the penalty) shall be recognized as the sum of money, defined by the law or by the agreement, which the debtor is obliged to pay to the creditor in case of his non-discharge, or an improper discharge, of the obligation, in particular, in the case of the delay of the discharge. By the claim for the payment of the forfeit, the creditor shall not be obliged to prove that the losses have actually been inflicted upon him.

2. The creditor shall not have the right to claim the payment of the forfeit, if the debtor is not responsible for the non-discharge or an improper discharge of the obligation.

### **Article 331. The Form of the Agreement on the Forfeit**

The agreement on the forfeit shall be made out in written form, irrespective of the form of the principal obligation.

The non-observance of the written form shall entail the invalidity of the agreement on the forfeit.

### **Article 332. The Legal Forfeit**

1. The creditor shall have the right to claim the payment of the forfeit, defined by the law (the legal forfeit), irrespective of whether the obligation for its payment has been stipulated by the agreement between the parties.

2. The amount of the legal forfeit may be increased by the agreement between the parties, unless it is prohibited by the law.

### **Article 333. The Reduction of the Forfeit**

If the forfeit, liable to the payment, is obviously out of proportion compared with the consequences of the violation of the obligation, the court shall have the right to reduce the forfeit.

The rules of the present Article shall not infringe upon the debtor's right to the reduction of the volume of his liability on the ground of Article

404 of the present Code and upon the creditor's right to the compensation of the losses in the cases, stipulated by Article 394 of the present Code.

### **§ 3. The Pledge**

#### **Article 334. The Concept and the Grounds for the Pledge to Arise**

1. By force of the law, the creditor by the obligation, guaranteed against by the pledge (the pledgee), shall have the right of priority before the other creditors of the person, to whom this property belongs (the pledger), in the case of the debtor's non-discharge of this obligation, to be satisfied from the cost of the pledged property after the deductions, established by the law.

The pledgee shall have the right to receive, on the same principle, satisfaction from the insurance compensation for the loss or for the damage of the pledged property, regardless of the fact, in whose favour it has been insured, unless the loss or the damage has taken place for the reasons, for which the pledgee shall be answerable.

2. The pledge of the land plots, the enterprises, the buildings, the structures, the flats and of the other immovable property (the mortgage) shall be regulated by the Law on the Mortgage. The general rules on the pledge, contained in the present Code, shall be applied to the mortgage in the cases, for which no other rules have been laid down by the present Code or by the Law on the Mortgage.

3. The pledge shall arise by force of an agreement. It shall also arise on the ground of the law in the case, when the circumstances, indicated in it, occur, if the law has stipulated, what kind of the property and for securing against the discharge of what kind of obligation shall be recognized as that in pledge.

The rules of the present Code on the pledge, arising by force of an agreement, shall be correspondingly applied to the pledge, arising on the ground of the law, unless otherwise stipulated by the law.

#### **Article 335. The Pledger**

1. Both the debtor himself and the third person may come out in the capacity of the pledger.

2. The pledger of the thing may be its owner or the person, having with respect to it the right of economic management.

The person, to whom the thing belongs by the right of economic management, shall have the right to pawn it without the consent of the owner in the cases, stipulated by Item 2 of Article 295 of the present Code.

3. The pledger of the right may be the person, to whom the pledged right belongs.

The pledge of the right of lease or of the other right to the other person's thing shall not be admitted without the consent of its owner or of the person, to whom the right of its economic management belongs, if by the law or by the agreement the alienation of this right without the consent of the said persons has been prohibited.

**Article 336.** The Object of Pledge

1. The object of pledge shall be any property, including the things and the property rights (the claims), with the exception of the property, withdrawn from the circulation, of the claims, inseparably linked with the creditor's personality, in particular, the claims for the alimony, for the compensation for the harm, inflicted to the life or to the health, and of the other rights, whose ceding to the other persons is prohibited by the law.

2. The pledge of the individual kinds of property, in particular, of the property of the citizens, onto which no penalty shall be turned, may be prohibited or restricted by the law.

**Article 337.** The Claim, Secured Against by the Pledge

Unless otherwise stipulated by the agreement, the pledge shall secure the claim in the volume, which it possesses by the moment of its satisfaction, in particular, the interest, the forfeit, the compensation of the losses, caused by the delay in the discharge, and also the compensation of the necessary outlays, made by the pledgee for keeping the pledged thing, as well as the expenses, involved in the exaction.

**Article 338.** The Pledge Without and With the Transfer of the Pledged Property to the Pledgee

1. The pledged property shall remain in the custody of the pledger, unless otherwise stipulated by the agreement.

The property, on which the mortgage has been imposed, and also the pawned commodities, which are in circulation, shall not be transferred to the pledgee.

2. The object of pledge may be left with the pledger under the lock and seal of the pledgee.

The object of pledge may be left with the pledger with putting upon it the signs, testifying to the pledge (the firm pledge).

3. The object of pledge, transferred by the pledger into a temporary possession or use to the third person, shall be regarded as left with the pledger.

4. In the pledge of the property right, certified by the security, the latter shall be transferred to the pledgee or given into the notary's deposit, unless otherwise stipulated by the agreement.

**Article 339.** The Contract on the Pledge, Its Form and Registration

1. Indicated in the contract on the pledge shall be the object of pledge and its estimate, substance and amount, and the term of discharging the obligation, secured against by the pledge. It shall also contain the indication, in the custody of which party the pledged property is.

2. The agreement on the pledge shall be made out in written form.

The agreement on the pledge of the movable property or of the rights to this property as the security against the obligations by the contract, which shall be notarially certified, shall be subject to the notary's certification.

3. The agreement on the mortgage shall be registered in conformity with the procedure, laid down for the registration of the deals with the corresponding property.

4. The non-observance of the rules, contained in Items 2 and 3 of the present Article, shall entail the invalidity of the agreement on the pledge.

#### **Article 340.** The Property, to Which the Pledgee's Rights Shall Be Extended

1. The rights of the pledgee (the right of pledge) to the thing, which is the object of pledge, shall be extended to its accessories, unless otherwise stipulated by the agreement.

To the fruits, products and incomes, obtained as a result of the use of the pledged property, the right of pledge shall be extended in the law-stipulated cases.

2. In the mortgage of an enterprise or of another property complex as a whole, the right of pledge shall be extended to all the property, included into its composition, both movable and immovable, including the right of claim and the exclusive rights, among them those that have been acquired during the period of the mortgage, unless otherwise stipulated by the law or by the agreement.

3. The mortgage of a building or of a structure shall be admitted only with the simultaneous mortgage by the same contract of the land plot, on which this building or this structure stands, or of the right of the lease of this land plot, belonging to the pledger.

4. In the mortgage of the land plot, the right of mortgage shall be extended to the buildings and the structures, which have been, or are being constructed on the given land plot by the mortgager, unless otherwise stipulated by the contract.

In the presence of the relevant term in the contract, in case the penalty is turned onto the mortgaged land plot, the mortgager shall retain the right to a limited use (the servitude) of that part of the plot, which is necessary for the use of the building or of the structure in conformity with their intended purpose. The terms for the use of this part of the land plot shall be defined by the agreement, concluded between the mortgager and the mortgagee, and in case a dispute arises - by the court.

5. If the mortgage has been established over the land plot, where the buildings or the structures are situated, which belong not to the mortgager, but to another person, in case the mortgagee turns the penalty onto this plot and it is sold at an open auction, the rights and duties, possessed with respect to this person by the mortgager, shall pass to the acquirer of the land plot.

6. The contract on the pledge, and with respect to the pledge, arising on the ground of the law - the law, may stipulate the pledge of the things and of the property rights, which the pledger will acquire in the future.

#### **Article 341.** Arising of the Right of Pledge

1. The right of pledge shall arise from the moment of concluding the contract of pledge, and with respect to the pledge of the property, subject to the transfer to the pledgee - from the moment of the transfer of this property, unless otherwise stipulated by the contract of pledge.

2. The right of pledge for the commodities in circulation shall arise in conformity with the rules of Item 2 of Article 357 of the present Code.

#### **Article 342.** The Subsequent Pledge

1. If the property in pledge becomes the object of yet another pledge as a security against other claims (the subsequent pledge), the claims of the subsequent pledgee shall be satisfied from the cost of this property after the claims of the previous pledgees.

2. The subsequent pledge shall be admitted, unless it is prohibited by the previous contracts of pledge.

3. The pledger shall be obliged to supply information on all the existing pledges of the given property, stipulated by Item 1 of Article 339 of the present Code, to every one of the subsequent pledgees, and shall be answerable for the losses, caused to the pledgees by his non-discharge of this obligation.

#### **Article 343.** The Content and the Security of the Pledged Property

1. The pledger or the pledgee, depending on in whose custody the pledged property is (Article 338), shall be obliged, unless otherwise stipulated by the law or by the contract:

1) to insure at the expense of the pledger the pledged property in its full cost against the risks of the loss and damage, and if the full cost of the property exceeds the amount of the claim, secured against by the pledge - for the amount not less than that of the claim;

2) to take measures, necessary to guarantee the security of the pledged property, including those involved in its protection against the encroachments and claims on the part of the third persons;

3) to immediately notify the other party about the arising of a threat of the loss or the damage of the pledged property.

2. The pledgee and the pledger shall both have the right to check by the documents and by the fact upon the existence, the quantity, the state and the storage conditions of the pledged property, which is in the custody of the other party.

3. In case of a crude violation by the pledgee of the obligations, indicated in Item 1 of the present Article, which creates a threat of the loss or the damage of the pledged property, the pledger shall have the right to demand that the pledge be terminated in advance.

#### **Article 344.** The Consequences of the Loss or the Damage of the Pledged Property

1. The pledger shall take the risks of an accidental perish or an accidental damage of the pledged property, unless otherwise stipulated by the contract of pledge.

2. The pledgee shall be answerable for the full or the partial loss or damage of the object of pledge, transferred to him, unless he proves that he may be relieved of the responsibility in conformity with Article 401 of the present Code.

The pledgee shall be answerable for the loss of the object of pledge in the amount of its actual cost, and for its damage - in the amount of the sum, by which this cost has been reduced, regardless of the sum, by which the object of pledge was estimated at the moment of its transfer to the pledgee.

If as a result of the damage of the object of pledge it has changed so much that it cannot be any more used for its intended purpose, the pledger shall have the right to reject it and to claim the compensation for its loss.

The contract may also stipulate the pledgee's obligation to recompense to the pledger the other losses, inflicted upon him by the loss or the damage of the object of pledge.

The pledger, who is the debtor by the obligation, secured against by the pledge, shall have the right to offset his claim against the pledgee for the compensation of the losses, caused to him by the loss or by the damage of the object of pledge, when discharging the obligation, secured against by the pledge.

#### **Article 345.** The Replacement and Restoration of the Object of Pledge

1. The replacement of the object of pledge shall be admitted with the consent of the pledgee, unless otherwise stipulated by the law or by the contract.

2. If the object of pledge has perished or has been damaged, or if the right of ownership to it or the right of its economic management has been terminated on the grounds, established by the law, the pledger shall have the right to restore the object of pledge or to replace it with the other property of an equal value within a reasonable term, unless otherwise stipulated by the contract.

**Article 346. The Use and Disposal of the Object of Pledge**

1. The pledger shall have the right, unless otherwise stipulated by the contract or following from the substance of the pledge, to use the object of pledge in conformity with its intended purpose, including deriving from it the fruits and incomes.

2. Unless otherwise stipulated by the law or by the contract or following from the substance of the pledge, the pledger shall have the right to alienate the object of pledge, to give it in rent or into a gratuitous use to another person, or to dispose of it in any other way with the pledgee's consent.

An agreement, restricting the pledger's right to bequeath the pledged property, shall be insignificant.

3. The pledgee shall have the right to use the object of pledge, put into his custody, only in the cases, stipulated by the contract, and shall regularly present a report on its use to the pledger. By the contract, upon the pledgee may be imposed the duty to derive the fruits and incomes from the object of pledge for the purpose of discharging the principal obligation or in the interest of the pledger.

**Article 347. The Pledgee's Protection of His Rights to the Object of Pledge**

1. The pledgee, in whose custody the pledged property is or should have been, shall have the right to claim it from the other person's illegal possession, including from that of the pledger (Articles 301, 302 and 305).

2. In the cases, when by the terms of the contract the pledgee has been granted the right to use the object of pledge, transferred to him, he may demand from the other persons, including from the pledger, that all violations of his right be removed, even though these violations have not been connected with the deprivation of the possession (Articles 304 and 305).

**Article 348. The Grounds for Turning the Penalty onto the Pledged Property**

1. The penalty may be turned onto the pledged property in order to satisfy the pledgee's (the creditor's) claims in case of the non-discharge or of an improper discharge by the debtor of the obligation, secured against by the pledge, because of the circumstances, for which he is answerable.

2. The claim for turning the penalty onto the pledged property may be rejected, if the violation, committed by the debtor with respect to the obligation, secured against by the pledge, is utterly insignificant, and for this reason, the amount of the pledger's claims is obviously out of all proportion with the cost of the pledged property.

**Article 349. Procedure for Turning the Penalty onto the Pledged Property**

1. The pledgee's (the creditor's) claims shall be satisfied from the cost of the pledged immovable property by the court decision.

The satisfaction of the pledgee's claim at the expense of the pledged immovable property without turning to the court shall be admitted on the grounds of a notarially certified agreement of the pledgee with the pledgor, concluded between them after the arising of the grounds for turning the penalty onto the object of pledge. This agreement may be recognized by the court as invalid upon the claim of the person, whose rights have been violated by such an agreement.

2. It shall be allowed to satisfy the claims of a pledgee at the expense of the pledged property without judicial recourse, unless the contrary is stipulated by the agreement of a pledgor with a pledgee. The execution may be made on pledged property, transferred to the pledgee, in the order established by a contract of pledge, unless the law establishes a different procedure.

3. The penalty shall be turned onto the object of pledge only by the court decision in the cases, when:

1) the consent or the permit of the other person or of the other body has been required for the conclusion of the contract;

2) the object of pledge is the property, presenting a considerable historical, artistic or another kind of cultural value for society;

3) the pledgor is absent and it is impossible to identify the place of his stay.

### **Article 350. Realization of the Pledged Property**

1. The realization (the sale) of the pledged property, onto which, in conformity with Article 349 of the present Code, the penalty has been turned, shall be effected by way of selling it at an open auction in the order, established by the procedural legislation, unless otherwise laid down by the law.

2. Upon the request of the pledgor, the court shall have the right, in its decision on turning the penalty onto the pledged property, to postpone its sale at an open auction for a term of up to one year. The delay shall not concern the parties' rights and duties by the obligation, secured against by the pledge of this property, and shall not absolve the debtor from recompensing the creditor's losses and the forfeit, both of which have mounted over the period of delay.

3. The initial selling price of the pledged property, from which the bidding starts, shall be fixed by the court decision in the cases, when the penalty has been turned onto the property through the court, or by an agreement, concluded between the pledgee and the pledgor - in the rest of cases.

The pledged property shall be sold to the person, who offers the highest price at the auction.

4. In case the auction is declared as having failed, the pledgee shall have the right, by an agreement with the pledger, to acquire the pledged property and to offset the selling price by the amount of his claims, secured against by the pledge. To such an agreement, the rules of the purchase and sale shall be applied.

In case the repeatedly held auction is declared as having failed, too, the pledgee shall have the right to keep the object of pledge to himself, while appraising its cost at an amount, which is not over 10 per cent lower than its initial selling price at the repeatedly held auction.

If the pledgee has not availed himself of the right to keep the object of pledge to himself within one month from the day of declaring the repeated auction as having failed, the contract of pledge shall be terminated.

5. If the amount, derived from the realization of the pledged property, proves to be insufficient to cover the pledgee's claim, he shall have the right, in the absence of any other instruction in the law or in the contract, to obtain the underderived amount from the other property of the debtor, while not enjoying the right of priority, based on the pledge.

6. If the amount, derived from the realization of the pledged property, exceeds the size of the pledgee's claim, secured against by the pledge, the difference shall be returned to the pledger.

7. The debtor and the pledger, who is the third person, shall have the right, at any time before the sale of the object of pledge, to terminate the turning onto it of the penalty and its realization by discharging the obligation, secured against by the pledge, or that part thereof, whose discharge has been delayed. An agreement, restricting this right, shall be regarded as insignificant.

#### **Article 351. Advanced Discharge of the Obligation, Secured Against by the Pledge and Turning of the Obligation onto the Pledged Property**

1. The pledgee shall have the right to demand an advanced discharge of the obligation, secured against by the pledge, in the following cases:

1) if the object of pledge has been withdrawn from the custody of the pledger, with whom it has been left, other than in conformity with the terms of the contract of pledge;

2) if the pledger has violated the rules on the replacement of the object of pledge (Article 345);

3) if the object of pledge has been lost because of the circumstances, for which the pledger is not answerable in case the pledger has not availed himself of the right, stipulated by Item 2, Article 345 of the present Code.

2. The pledgee shall have the right to claim an advanced discharge of the pledge, secured against by the pledge, and if his claim is not satisfied, to turn the penalty onto the object of pledge in the following cases:

1) if the pledger has violated the rules on the subsequent pledge (Article 342);

- 2) if the pledger has not discharged the duties, stipulated by Subitems 1 and 2 of Item 1 and by Item 2, Article 343 of the present Code;
- 3) if the pledger has violated the rules on the disposal of the pledged property (Item 2 of Article 346).

### **Article 352.** Termination of the Pledge

1. The pledge shall be terminated:
  - 1) with the termination of the obligation, secured against by the pledge;
  - 2) upon the demand of the pledger in the presence of the circumstances, stipulated by Item 3, Article 343 of the present Code;
  - 3) in case of the perish of the pledged thing or of the termination of the pledged right, unless the pledger has availed himself of the right, stipulated by Item 2, Article 345 of the present Code;
  - 4) in case of the sale of the pledged property at an open auction, and also in case of its realization proving to be impossible (Item 4 of Article 350).
2. About the termination of the mortgage, a note shall be made in the register, into which the mortgage contract has been entered.
3. Upon the termination of the pledge as a result of the discharge of the obligation, secured against by the pledge, or upon the pledger's claim (Item 3 of Article 343), the pledgee, in whose custody the pledged property has been kept, shall immediately return it to the pledger.

### **Article 353.** Maintaining the Pledge in Force When the Right to the Pledged Property Is Transferred to Another Person

1. If the right of ownership to the pledged property, or the right of the economic management of this property is transferred from the pledger to another person as a result of a pecuniary or gratuitous alienation of this property or by way of the universal legal succession, the right of pledge shall be maintained in force.

The legal successor of the pledger shall occupy the place of the pledger and shall discharge all his duties, unless otherwise stipulated by the agreement with the pledgee.

2. If the property of the pledger, which is the object of pledge, has passed, by way of the legal succession, to several persons, each one of the legal successors (acquirers of the property) shall bear the consequences, following from the non-discharge of the obligation, secured against by the pledge, in proportion to that part of the said property, which has passed to him. However, in case the object of pledge is indivisible or remains in the common ownership of the legal successors, they shall become joint pledgers.

### **Article 354.** The Consequences of the Forcible Withdrawal of the Pledged Property

1. If the pledger's right of ownership to the property, which is the object of pledge, is terminated on the grounds and in the way, established by the law, as a result of the withdrawal (redemption) for the state or for the municipal needs, of the requisition or of the nationalization, and if the pledger is given the other property or the corresponding compensation, the right of pledge shall be extended to the new property, given instead of the old property, or the pledgee shall correspondingly acquire the right of priority in the satisfaction of his claim from the amount of the compensation due to the pledger. The pledgee shall also have the right to claim an advanced discharge of the obligation, secured against by the pledge.

2. In the cases, when the property, which is the object of pledge, is withdrawn from the pledger in conformity with the law-established order on the ground that another person is in actual fact the owner of this property (Article 301), or as a sanction for committing a crime or for another violation of the law (Article 243), the pledge with respect to this property shall be terminated. In these cases, the pledger shall have the right to claim an advanced discharge of the obligation, secured against by the pledge.

#### **Article 355.** The Cession of the Rights by the Contract of Pledge

The pledgee shall have the right to transfer his rights by the contract of pledge to another person, while observing the rules on the transfer of rights by the cession of the claim (Articles 382-390).

The cession by the pledgee of his rights by the contract of pledge to another person shall be valid, if the rights of claim against the debtor by the principal obligation, secured against by the pledge, have also been ceded to the same person.

Unless otherwise proved, the cession of the rights by the contract of mortgage shall also imply the cession of the rights by the obligation, secured against by the mortgage.

#### **Article 356.** Transfer of the Debt by the Obligation, Secured Against by the Pledge

In case of the transfer of the obligation, secured against by the pledge, to another person, the pledge shall be terminated, if the pledger has not given his consent to the creditor to be answerable for the new debtor.

#### **Article 357.** The Pledge of Commodities in Circulation

1. The pledge of commodities in circulation shall be recognized as the pledge of commodities with leaving them in the pledger's custody and with granting the latter the right to modify the composition and the natural form of the pledged property (the commodity stocks, the raw and other materials, the semi-finished and finished products, etc.), provided that their total cost does not become less than that indicated in the contract of pledge.

The reduction of the cost of the pledged commodities in circulation shall be admitted in proportion to the discharged share of the obligation, secured against by the pledge, unless otherwise stipulated by the contract.

2. The commodities in circulation, alienated by the pledger, shall cease to be the object of pledge from the moment of their passing into the ownership or into the economic or the operation management of the acquirer, while the commodities, acquired by the pledger, which have been indicated in the contract of pledge, shall become the object of pledge from the moment, when the right of their ownership or of their economic management arises with the pledger.

3. The pledger of the commodities in circulation shall be obliged to keep a register for entering the pledges, into which he shall make entries on the terms of the pledge of the commodities and on all the operations, entailing the change of the composition or of the natural form of the pledged commodities, including their processing, by the date of the last operation.

4. In case the pledger violates the terms of the pledge of commodities in circulation, the pledgee shall have the right to hold up the operations with them by way of putting upon them his signs and seals until the elimination of the violation.

#### **Article 358. Pawning of Things at the Pawn-Shop**

1. The movable property, intended for personal use, may be accepted as a security against a short-term loans by way of the business activity of specialized organizations - the pawn-shops.

2. The contract of the loan shall be legalized by issuing by the pawn-shop of a pawn-ticket.

3. The pawned things shall be passed to the pawn-shop.

The pawn-shop shall be obliged to insure the things in favour of the pawner at its own expense in the full amount of their estimated cost, made in conformity with the prices of things of the same category and standard, usually fixed in trade by the moment of their being accepted in pawn.

The pawn-shop shall not have the right to use and to dispose of the things in pawn.

4. The pawn-shop shall bear responsibility for the loss and the damage of the pawned things, unless it proves that the loss and the damage have occurred because of a force-majeure.

5. If the amount of a loan secured by the pledge of things at a lombard has not been returned at the established time, then, upon the expiry of the grace monthly period, the lombard may sell such property in the procedure established by the law on lombards. Thereafter, the lombard's demands to the pledger (debtor) shall be redeemed, even if the amount received in the realisation of the pledged property is not sufficient for their complete satisfaction.

6. The rules for the citizens' crediting by the pawn-shops under the pledge of things, belonging to the citizens, shall be laid down by the law on lombards and by the present Code.

7. The terms of the contract of the loan, restricting the rights of the pledger as compared with the rights, granted to him by the present Code and by the other laws, shall be insignificant. Instead of such terms, the corresponding provisions of the law shall be applied.

#### **§ 4. The Retention**

##### **Article 359. The Grounds for the Retention**

1. The creditor, in whose custody is the thing, subject to the transfer to the debtor or to the person, named by the debtor, shall have the right, in case the debtor fails to discharge in time the obligation on the payment for this thing or on the compensation to the creditor of the expenses and of the other losses he has borne in connection with it, to retain it until the corresponding obligation is discharged.

By way of the thing's retention may also be secured the claims, which, while not being connected with the payment for the thing or with the compensation of the expenses and of the other losses, have nevertheless arisen from the obligation, whose parties are acting as businessmen.

2. The creditor may retain the thing in his custody, despite the fact that after this thing has passed into the creditor's possession, the rights to it have been acquired by the third person.

3. The rules of the present Article shall be applied, unless otherwise stipulated by the contract.

##### **Article 360. Satisfaction of Claims at the Expense of the Retained Property**

The claims of the creditor, who is retaining the thing, shall be satisfied from its cost in the volume and in the order, stipulated for the satisfaction of the claims, secured against by the pledge.

#### **§ 5. The Surety**

##### **Article 361. The Contract of Surety**

By the contract of surety, the surety shall be obliged to the creditor of the other person to be answerable for the latter's discharge of his obligation in full or in part.

The contract of surety may also be concluded to provide security for an obligation, which will arise in the future.

##### **Article 362. The Form of the Contract of Surety**

The contract of surety shall be legalized in written form. The non-observance of the written form shall entail the invalidity of the contract of surety.

**Article 363. Responsibility of the Surety**

1. In case of the failure to discharge, or of an improper discharge by the debtor, of the obligation, secured by the surety, the surety and the debtor shall be jointly answerable to the creditor, unless the surety's subsidiary liability is stipulated by the law or by the contract of surety.

2. The surety shall be answerable to the creditor in the same volume as the debtor, including the payment of the interest, the compensation of the court expenses, involved in the exaction of the debt and of the other losses, borne by the creditor, which have been caused by the debtor's non-discharge or improper discharge of the obligation, unless otherwise stipulated by the contract of surety.

3. The persons, who have provided a joint surety, shall be jointly answerable to the creditor, unless otherwise stipulated by the contract of surety.

**Article 364. The Right of the Surety to Object to the Creditor's Claim**

The surety shall have the right to put forward against the creditor's claim the objections, which could have been put forward by the debtor, unless otherwise following from the contract of surety. The surety shall not lose the right to these objections even in case the debtor has renounced them or has recognized his debt.

**Article 365. The Rights of the Surety, Who Has Discharged the Obligation**

1. To the surety, who has discharged the obligation, shall pass the creditor's rights by this obligation and also the rights, which have belonged to the creditor as the pledgee, in the volume, in which the surety has satisfied the creditor's claim. The surety shall also have the right to claim that the debtor pay the interest on the amount of money, paid up to the creditor, and recompense the other losses, which he has borne in connection with the liability for the debtor.

2. After the surety has discharged the obligation, the creditor shall be obliged to pass to the surety the documents, certifying the claim against the debtor, and to transfer to him the rights, securing this claim.

3. The rules, established by the present Article, shall be applied, unless otherwise stipulated by the law, by the other legal acts or by the contract, concluded by the surety with the debtor, or unless otherwise following from the relationships between them.

**Article 366. Notification of the Surety on the Debtor's Discharge of the Obligation**

The debtor, who has discharged the obligation, secured against by the surety, shall immediately notify about it the surety. Otherwise, the surety, who in his turn has discharged the obligation, shall have the right to exact from the creditor what he has groundlessly obtained, or to file the

claim of regress against the debtor. In the latter case, the debtor shall have the right to exact from the creditor only what has been groundlessly obtained.

#### **Article 367. Termination of the Obligation**

1. The surety shall be terminated with the termination of the secured obligation, and also in case of the amendment of this obligation, entailing an increase of the liability, or the other unfavourable consequences for the surety without the latter's consent.

2. The surety shall be terminated as a result of the transfer to another person of the debt by the obligation, secured by the surety, unless the surety has given his consent to the creditor to be answerable for the new debtor.

3. The surety shall be terminated, if the creditor has refused to accept the proper discharge, offered by the debtor or by the surety.

4. The surety shall be terminated after the expiry of the term, indicated in the contract of surety, for which it has been issued. In case such term has not been stipulated, the surety shall be terminated, if the creditor does not file the claim against the debtor in the course of one year from the date of the expiry of the term, fixed for the discharge of the secured obligation. If the term of the discharge of the principal obligation has not been stipulated and cannot be defined, or if it has been defined by the moment of the demand, the surety shall be terminated, unless the creditor files the claim against the surety in the course of two years from the date, when the contract of surety was concluded.

### **§ 6. The Bank Guarantee**

#### **Article 368. The Concept of the Bank Guarantee**

By force of the bank guarantee, the bank, the other credit institution or the insurance company (the guarantor) shall issue, upon the request of the other person (the principal) a written obligation to pay to the creditor (the beneficiary), in conformity with the terms of the obligation, given by the guarantor, a certain amount of money upon the beneficiary's presenting the written claim on its payment.

#### **Article 369. Security by the Bank Guarantee of the Principal's Obligation**

1. The bank guarantee shall provide for the proper discharge by the principal of his obligation to the beneficiary (the principal obligation).

2. The principal shall pay out to the guarantor a reward for the issue of the bank guarantee.

#### **Article 370. Independence of the Bank Guarantee from the Principal Obligation**

The obligation of the guarantor to the beneficiary, stipulated by the bank guarantee, shall not depend in the relationships between them upon

that principal obligation, to provide for whose discharge it has been issued, even if the guarantee contains a reference to this obligation.

**Article 371. Irrevocability of the Bank Guarantee**

The bank guarantee shall not be revoked by the guarantor, unless otherwise stipulated in it.

**Article 372. Untransferability of the Rights by the Bank Guarantee**

The right of claim against the guarantor, possessed by the beneficiary by the bank guarantee, shall not be transferred to the other person, unless otherwise stipulated in the guarantee.

**Article 373. The Coming of the Bank Guarantee in Force**

The bank guarantee shall come in force from the date of its issue, unless otherwise stipulated in it.

**Article 374. Presentation of the Claim by the Bank Guarantee**

1. The beneficiary's claim for the payment of the sum of money by the bank guarantee shall be presented to the guarantor in written form, with the documents, indicated in the guarantee, enclosed to it. The beneficiary shall point out, either in the claim itself or in the enclosed documents, in what consists the principal's violation of the principal obligation, to secure which the guarantee was issued.

2. The beneficiary's claim shall be presented to the guarantor before the expiry of the term, defined in the guarantee, for which it has been issued.

**Article 375. The Guarantor's Obligations in Considering the Beneficiary's Claim**

1. On receiving the beneficiary's claim, the guarantor shall without delay notify about it the principal and shall pass to him the copies of the claim with all the related documents.

2. The guarantor shall be obliged to examine the beneficiary's claim and the enclosed documents within a reasonable term, displaying a reasonable solicitude in order to establish, whether or not the claim and the enclosed documents correspond to the terms of the guarantee.

**Article 376. The Guarantor's Refusal to Satisfy the Beneficiary's Claim**

1. The guarantor shall refuse to satisfy the beneficiary's claim, if this claim or the documents enclosed to it do not correspond to the terms of the guarantee or if they are presented to the guarantor after the expiry of the term, fixed in the guarantee.

The guarantor shall be obliged to immediately notify the beneficiary about the refusal to satisfy his claim.

2. If the guarantor has learned before the satisfaction of the beneficiary's claim that the principal obligation, secured against by the bank guarantee, has already been discharged in full or in the corresponding part, that it has been terminated on the other grounds or has been invalidated, he shall be obliged to immediately notify about this the beneficiary and the principal.

The repeated beneficiary's claim, received by the guarantor after such a notification, shall be liable to satisfaction by the guarantor.

**Article 377. The Limits of the Guarantor's Obligation**

1. The guarantor's obligation to the beneficiary, stipulated by the bank guarantee, shall be limited by the payment of the sum of money, for which the guarantee was issued.

2. The guarantor's responsibility to the beneficiary for his non-discharge or improper discharge of the obligation by the guarantee shall not be limited to the sum of money, for which the guarantee was issued, unless otherwise stipulated in the guarantee.

**Article 378. Termination of the Bank Guarantee**

1. The guarantor's obligation to the beneficiary by the guarantee shall be terminated:

1) by the payment to the beneficiary of the sum of money, for which the guarantee was issued;

2) after the expiry of the term, fixed in the guarantee, for which it was issued;

3) as a result of the beneficiary's renouncement of his rights by the guarantee and his return of the guarantee to the guarantor;

4) as a result of the beneficiary's renouncement of his rights by the guarantee by way of his handing in of a written application on relieving the guarantor of his obligations.

The termination of the guarantor's obligation on the grounds, pointed out in Subitems 1, 2 and 4 of the present Item, shall not depend on whether or not the guarantee has been returned to him.

2. The guarantor, who has learned about the termination of the guarantee, shall be obliged to immediately notify about it the principal.

**Article 379. The Guarantor's Claims of Regress to the Principal**

1. The guarantor's right to claim by way of regress that the principal recompense the sums of money, paid to the beneficiary by the bank guarantee, shall be defined by the agreement, concluded between the guarantor and the principal, for the discharge of which the guarantee was issued.

2. The guarantor shall not have the right to claim that the principal return the sums of money, paid to the beneficiary other than in correspondence with the terms of the guarantee, or for the violation of the

guarantor's obligation to the beneficiary, unless otherwise stipulated by the agreement, concluded between the guarantor and the principal.

## **§ 7. The Advance**

**Article 380.** The Concept of the Advance. The Form of an Agreement on the Advance

1. The advance shall be recognized as the sum of money, issued by one of the contracting parties to offset the payments to the other party due from it, as a proof that the contract has been concluded and that its discharge has been secured against.

2. The agreement on the advance, regardless of the sum of money involved, shall be effected in written form.

3. In case of the doubt about whether the sum of money, paid to offset the payments, due from the party by the contract, is the advance, in particular, as a result of the non-abidance by the rule, laid down by Item 2 of the present Article, this sum of money shall be regarded as paid up by way of an advance, unless proved otherwise.

**Article 381.** The Consequences of the Termination and of the Non-Discharge of the Obligation, Secured Against by the Advance

1. If the obligation is terminated before the start of its discharge by an agreement between the parties or as a result of its discharge being impossible (Article 416), the advance shall be returned.

2. If the responsibility for the non-performance of the contract lies with the party, which has given the advance, it shall be left with the other party. If the responsibility for the non-performance of the contract lies with the party, which has received the advance, it shall be obliged to pay to the other party the double amount of the advance.

In addition, the party, responsible for the non-execution of the contract, shall be obliged to recompense to the other party the losses, offsetting the amount of the advance, unless otherwise stipulated by the contract.

## **Chapter 24. The Substitution of Persons in an Obligation**

### **§ 1. The Transfer of the Creditor's Rights to Another Person**

**Article 382.** The Grounds and the Order of the Transfer of the Creditor's Rights to Another Person

1. The right (the claim), belonging to the creditor on the grounds of an obligation, may be transferred by him to another person by the deal (the cession of the claim), or may pass to another person on the legal grounds.

The rules on the transfer of the creditor's rights to another person shall not be applied to the claims of regress.

2. To effect the transfer to another person, the consent of the debtor shall not be required, unless otherwise stipulated by the law or by the contract.

3. If the debtor has not been notified in written form on the effected transfer of the creditor's rights to another person, the new creditor shall bear the risk of the unfavourable consequences, which may arise for him as a result of this. In this case, the discharge of the obligation to the primary creditor shall be recognized as the discharge to the proper creditor.

**Article 383.** The Rights, Which May not Be Passed to the Other Persons

The transfer to the other person of the rights, inseparably linked with the creditor's personality, in particular, with the claims for the alimony and for the compensation of the harm, caused to the life or to the health, shall not be admitted.

**Article 384.** The Scope of the Creditor's Rights, Transferred to the Other Person

Unless otherwise stipulated by the law or by the contract, the right of the primary creditor shall be passed to the new creditor in the volume and on the terms, which have existed by the moment of the transfer of the right. In particular, to the new creditor shall pass the rights, guaranteeing the discharge of the obligations, and also the other rights, involved in the claim, including the right to the unpaid interest.

**Article 385.** The Proofs of the Rights of the New Creditor

1. The debtor shall have the right not to discharge the obligation to the new creditor, until the proofs of the transfer of the claim to this person have been presented to him.

2. The creditor, who has ceded the claim to the other person, shall be obliged to pass to him the documents, certifying the right of the claim, and to supply to him the information, which is important for the discharge of the claim.

**Article 386.** The Debtor's Objections to the New Creditor's Claim

The debtor shall have the right to put forward objections against the new creditor's claims, which he has had to the primary creditor by the moment of receiving the notification about the transfer of the rights by the obligation to the new creditor.

**Article 387.** The Transfer of the Creditor's Rights to the Other Person on the Grounds of the Law

The creditor's rights by the obligation shall pass to the other person on the grounds of the law and of the occurrence of the circumstances, pointed out in it:

- as a consequence of the universal legal succession in the creditor's rights;
- by the court decision on the transfer of the creditor's rights to the other person, when the possibility of such transfer is stipulated by the law;
- as a consequence of the discharge of the debtor's obligation by his surety or by the pledger, who is not the debtor by this obligation;
- in the subrogation to the insurer of the creditor's rights with respect to the debtor, responsible for the occurrence of the insurance case;
- in the other law-stipulated cases.

**Article 388.** The Terms for Ceding the Claim

1. The creditor's ceding of the claim to the other person shall be admitted, unless it contradicts the law, the other legal acts or the contract.

2. The cession of the claim by the obligation, in which the creditor's personality is of essential importance for the debtor, shall not be admitted without the debtor's consent.

**Article 389.** The Form of Ceding the Claim

1. The cession of the claim, based on the deal, performed in the simple written or in the notarial form, shall be effected in the corresponding written form.

2. The cession of the claim by the deal, requiring the state registration, shall be registered in conformity with the order, established for the registration of this deal, unless otherwise established by the law.

3. The cession of the claim by the order security shall be effected by way of making an endorsement upon this security (Item 3 of Article 146).

**Article 390.** Responsibility of the Creditor, Who Has Ceded the Claim

The primary creditor, who has ceded the claim, shall be answerable to the new creditor for the invalidity of the claim, transferred to the latter, but shall not be answerable for the non-satisfaction of this claim by the debtor, with the exception of the cases, when the primary creditor has assumed upon himself the surety for the debtor to the new creditor.

**§ 2. The Transfer of the Debt**

**Article 391.** The Terms and the Form of the Transfer of the Debt

1. The transfer by the debtor of his debt to the other person shall be admitted only with the creditor's consent.

2. To the form of the transfer of the debt shall be correspondingly applied the rules, contained in Items 1 and 2, Article 389 of the present Code.

**Article 392.** Objections of the New Debtor Against the Creditor's Claim

The new debtor shall have the right to put forward objections against the creditor's claims, based on the relationships between the creditor and the primary debtor.

## **Chapter 25. Responsibility for the Violation of Obligations**

### **Article 393. The Debtor's Obligation to Recompense the Losses**

1. The debtor shall be obliged to recompense to the creditor the losses, caused to him by the non-discharge or by an improper discharge of the obligations.

2. The losses shall be defined in conformity with the rules, stipulated by Article 15 of the present Code.

3. Unless otherwise stipulated by the law, by the other legal acts or by the agreement, when defining the losses, the prices shall be taken into account, which existed in the place, where the obligation should have been discharged, on the date of the debtor's voluntary satisfaction of the creditor's claims, and if the claim has not been voluntarily satisfied - on the date of its presentation. Proceeding from the circumstances, the court may satisfy the claim for the compensation of the losses, taking into account the prices, which existed on the day of its adopting the decision.

4. When defining the lost profit, the measures, taken by the creditor to derive it, and the preparations, made for the same purpose, shall be considered.

### **Article 394. The Losses and the Forfeit**

1. If for the non-discharge or an improper discharge of the obligation the forfeit has been ruled, the losses shall be recompensed in the part, which has not been covered by the forfeit.

The law or the agreement may stipulate the cases: when only the forfeit, but not the losses shall be exacted; when the losses may be exacted in full above the forfeit; when, according to the creditor's choice, either the forfeit or the losses may be exacted.

2. In the cases, when a limited responsibility for the non-discharge or an improper discharge of the obligation has been established (Article 400), the losses, liable to compensation in the part, not covered by the forfeit, or above it, or instead of it, may be exacted up to the limit, fixed by such a restriction.

### **Article 395. Responsibility for the Non-Discharge of the Pecuniary Obligation**

1. For the use of the other person's money as a result of its illegal retention, of the avoidance of its return or of another kind of delay in its payment, or as a result of its ungroundless receipt or saving at the expense of the other person, the interest on the total amount of these means shall be due. The interest rate shall be defined by the discount rate of the bank

interest, existing by the date of the discharge of the pecuniary obligation or of the corresponding part thereof at the place of the creditor's residence, and if the creditor is a legal entity - at the place of its location. If the debt is exacted through the court, the court may satisfy the creditor's claim, proceeding from the discount rate of the bank interest on the date of filing the claim or on the date of its adopting the decision. These rules shall be applied, unless the other interest rate has been fixed by the law or by the agreement.

2. If the losses, caused to the creditor by an illegal use of his money, exceed the amount of the interest, due to him on the ground of Item 1 of the present Article, he shall have the right to claim that the debtor recompense him the losses in the part, exceeding this amount.

3. The interest for the use of the other person's means shall be exacted by the date of payment of the amount of these means to the creditor, unless the law, the other legal acts or the contract have fixed a shorter term for the calculation of the interest.

#### **Article 396.** Responsibility and the Discharge of Obligations in Kind

1. The payment of the forfeit and the compensation of the losses in case of an improper discharge of the obligation shall not absolve the debtor from the discharge of the obligations in kind, unless otherwise stipulated by the law or by the contract.

2. The compensation of the losses in case of the non-discharge of the obligation and the payment of the forfeit for its non-discharge shall absolve the debtor from the discharge of the obligation in kind, unless otherwise stipulated by the law or by the contract.

3. The creditor's refusal to accept the discharge, which as a consequence of the delay has lost all interest for him (Item 2 of Article 405), and also the payment of the forfeit, imposed by way of compensation (Article 409), shall absolve the debtor from the discharge of the obligation in kind.

#### **Article 397.** Discharge of the Obligation at the Debtor's Expense

In case of the non-discharge by the debtor of the obligation to manufacture and transfer the thing into the ownership, into the economic or into the operation management, or into the use of the creditor, or to perform for him a certain job, or to render him a service, the creditor shall have the right, within a reasonable term and for a reasonable pay, to commission the third persons with the performance of the obligation, or to perform it through his own effort, unless otherwise following from the law, the other legal acts or the contract, or from the substance of the obligation, and to claim that the debtor recompense the necessary expenses and the other losses he has borne.

**Article 398.** The Consequences of the Non-discharge of the Obligation to Transfer an Individually-definite Thing

In case of the non-discharge of the obligation to transfer an individually-definite thing into the ownership, into the economic or the operation management, or into the gratuitous use of the creditor, the latter shall have the right to claim the forcible withdrawal of this thing from the debtor and its transfer to the creditor on the terms, stipulated by the obligation. This right shall cease to exist, if the thing has already been transferred to the third person, possessing the right of ownership, of economic or of operation management. If the thing has not yet been transferred, the right of priority shall belong to that creditor, with respect to whom the obligation has arisen at an earlier date, and if this is impossible to establish - to that creditor, who has filed the claim at an earlier date.

Instead of the claim for the transfer to him of the thing, which is the object of the obligation, the creditor shall have the right to claim the compensation of his losses.

**Article 399.** The Subsidiary Liability

1. Before presenting the claims against the person, who, in conformity with the law, with the other legal acts or with the terms of the obligation, is bearing liability in addition to the liability of the other person, who is the principal debtor (the subsidiary liability), the creditor shall be obliged to present the claim against the principal debtor.

If the principal debtor has refused to satisfy the claim of the creditor, or if the creditor has not received from him, within a reasonable term, a response to the presented claim, this claim may be presented against the person, bearing the subsidiary liability.

2. The creditor shall have no right to claim the satisfaction of his claim against the principal debtor from the person, bearing the subsidiary liability, if this claim may be satisfied by offsetting the claim of regress to the principal debtor, or by an indisputable recovery of the means involved from the principal debtor.

3. The person, bearing the subsidiary liability, shall be obliged, before satisfying the claim, presented against him by the creditor, to warn about it the principal debtor, and if the claim has been filed against such a person - to draw the principal debtor into the court case. Otherwise, the principal debtor shall have the right to put forward against the claim of regress of the person, bearing the subsidiary liability, the objections, which he has had against the creditor.

**Article 400.** Limitation of the Scope of Liability by Obligations

1. By the individual kinds of obligations and by those obligations, which are related to a definite type of activity, the right to the full compensation of the losses may be limited by the law (the limited responsibility).

2. The agreement on limiting the scope of the debtor's responsibility by the contract of affiliation or by another kind of contract, in which the creditor is the citizen, coming out in the capacity of the consumer, shall be insignificant, if the scope of responsibility for the given kind of obligations or for the given violation has been defined by the law and if the agreement has been concluded before the setting in of the circumstances, entailing the responsibility for the non-discharge or for an improper discharge of the obligation.

**Article 401.** The Grounds of Responsibility for the Violation of the Obligation

1. The person, who has not discharged the obligation or who has discharged it in an improper way, shall bear responsibility for this, if it has happened through his fault (an ill intention or carelessness on his part), with the exception of the cases, when the other grounds of the responsibility have been stipulated by the law or by the contract.

The person shall be recognized as not guilty, if, taking into account the extent of the care and caution, which has been expected from him in the face of the nature and the terms of the circulation, he has taken all the necessary measures for properly discharging the obligation.

2. The absence of the guilt shall be proven by the person, who has violated the obligation.

3. Unless otherwise stipulated by the law or by the contract, the person, who has failed to discharge, or has discharged in an improper way, the obligation, while performing the business activity, shall bear responsibility, unless he proves that the proper discharge has been impossible because of a force-majeure, i.e., because of the extraordinary circumstances, which it was impossible to avert under the given conditions. To such kind of circumstances shall not be referred, in particular, the violations of obligations on the part of the debtor's counter-agents, or the absence on the market of commodities, indispensable for the discharge, or the absence of the necessary means at the debtor's disposal.

4. An agreement on eliminating or limiting the liability for an intentional violation of the obligation, concluded at an earlier date, shall be insignificant.

**Article 402.** The Debtor's Responsibility for His Employees

The actions of the debtor's employees, involved in the discharge of his obligation, shall be regarded as those of the debtor himself. The debtor shall be answerable for these actions, if they have caused the non-discharge or an improper discharge of the obligation.

**Article 403.** The Debtor's Responsibility for the Actions of the Third Persons

The debtor shall be answerable for an improper discharge of the obligation by the third persons, on whom the discharge of the obligation has been imposed, unless it has been laid down by the law that the responsibility shall be borne by the third person, who has been an immediate discharger.

#### **Article 404. The Creditor's Guilt**

1. If the non-discharge or an improper discharge of the obligation has occurred through the fault of both parties, the court shall correspondingly reduce the scope of the debtor's responsibility. The court shall also have the right to reduce the scope of the debtor's responsibility, if the creditor has intentionally or through carelessness contributed to the increase of the losses, caused by the non-discharge or by an improper discharge, or if he has not taken reasonable measures to reduce them.

2. The rules of Item 1 of the present Article shall also be correspondingly applied in the cases, when the debtor, by force of the law or of the contract, bears responsibility for the non-discharge or for an improper discharge of the obligation regardless of whether he is, or is not, at fault.

#### **Article 405. The Debtor's Delay**

1. The debtor, who has failed to discharge the obligation on time, shall be answerable to the creditor for the losses, inflicted by the delay, and also for the consequences of the discharge having accidentally become impossible during the period of the delay.

2. If, because of the debtor's delay, the discharge has lost all interest for the creditor, he shall have the right to refuse to accept the discharge and to claim the compensation of the involved losses.

3. The debtor shall not be regarded as guilty of the delay during the period of time, when the obligation could not have been discharged because of the creditor's delay.

#### **Article 406. The Creditor's Delay**

1. The creditor shall be regarded as guilty of the delay, if he has refused to accept the proper discharge, offered to him by the debtor, or if he has not performed the actions, stipulated by the law, by the other legal acts, or by the contract, or those stemming from the customs of the business turnover or from the substance of the obligation, before the performance of which the debtor could not have discharged his obligation.

The creditor shall also be regarded as guilty of the delay in the cases, pointed out in Item 2 of Article 408 of the present Code.

2. The creditor's delay shall give to the debtor the right to the compensation of losses, caused to him by the said delay, unless the creditor proves that the delay has occurred through the circumstances, for which neither he himself, nor the persons, to whom, by force of the law, of

the other legal acts or of the creditor's commission, the acceptance of the discharge has been entrusted, are answerable.

3. The debtor shall not be obliged to pay the interest by the pecuniary obligation over the period of the creditor's delay.

## **Chapter 26. The Termination of Obligations**

### **Article 407. The Grounds for the Termination of Obligations**

1. The obligation shall be terminated in full or in part on the grounds, stipulated by the present Code, by the other laws and the other legal acts, or by the contract.

2. The termination of the obligation upon the claim of one of the parties shall be admitted only in the cases, stipulated by the law or by the contract.

### **Article 408. The Termination of the Obligation by the Discharge**

1. The proper discharge shall terminate the obligation.

2. While accepting the discharge, the creditor shall be obliged, upon the debtor's claim, to give him a receipt for accepting the discharge in full or in the corresponding part thereof.

If the debtor has issued to the creditor a promissory document to certify the obligation, the creditor, while accepting the discharge, shall be obliged to return it, and in case it is impossible to return the said document, he shall be obliged to indicate this in the receipt he issues. The receipt may be replaced by an inscription made on the returned document. The debtor's custody of the promissory document shall certify the termination of the obligation, unless otherwise proved.

If the creditor refuses to issue the receipt, to return to the debtor the promissory document, or to indicate in the receipt that it is impossible to return it, the debtor shall have the right to delay the discharge. In these cases, the creditor shall be regarded as having delayed it.

### **Article 409. The Indemnity**

By an agreement between the parties, the obligation may be terminated by way of paying an indemnity instead of the discharge (the payment of money, the transfer of the property, etc.). The amount, the term and the procedure for paying the indemnity shall be established by the parties.

### **Article 410. Termination of the Obligation by an Offset**

The obligation shall be terminated in full or in part by offsetting a similar claim of regress, whose deadline has arrived or has not been fixed, or has been defined by the moment of the demand. For the offset, the application from one of the parties shall be sufficient.

**Article 411.** The Cases of the Offset Being Inadmissible

Inadmissible shall be the offset of the claims:

- if, by the application of the other party, the term of the limitation of actions shall be applicable to the given claim, and the said term has expired;
- for the compensation of the harm, inflicted to the life or to the health;
- on the exaction of the alimony;
- for the life maintenance;
- in the other cases, stipulated by the law or by the contract.

**Article 412.** The Offset in the Cession of the Claim

In case of the cession of the claim, the debtor shall have the right to offset against the claim of the new creditor his own claim of regress against the primary creditor.

The offset shall be effected, if the claim has arisen on the grounds, which have existed by the moment of the debtor's receipt of the notification about the cession of the claim, and if the deadline of the claim has set in before its receipt or if this deadline has not been indicated or defined by the moment of the demand.

**Article 413.** Termination of the Obligation by the Debtor and the Creditor Coinciding in One Person

The obligation shall be terminated in case the debtor and the creditor coincide in a single person.

**Article 414.** Termination of the Obligation by the Novation

1. The obligation shall be terminated by an agreement between the parties on replacing the primary obligation, which has existed between them, with another obligation between the same persons, stipulating a different object or a different way of the discharge (the novation).

2. The novation shall not be admissible with respect to the obligations on the compensation for the harm, inflicted to the life or to the health, and also with respect to those on the alimony.

3. The novation shall terminate the additional liabilities, connected with the primary obligation, unless otherwise stipulated by the agreement between the parties.

**Article 415.** Forgiving the Debt

The obligation shall be terminated by the creditor's absolving the debtor from the obligations, borne by him, if this does not violate the rights of the other persons with respect to the creditor's property.

**Article 416.** Termination of the Obligation Because of the Impossibility to Discharge It

1. The obligation shall be terminated because of the impossibility to discharge it, caused by the circumstance, for which neither of the parties is answerable.

2. In case of the impossibility for the debtor to discharge the obligation because of the faulty actions of the creditor, the latter shall not have the right to claim the return of what he has discharged by the obligation.

**Article 417.** Termination of the Obligation on the Grounds of an Act, Issued by the State Body

1. If as a result of an act, issued by the state body, the discharge of the obligation has become impossible in full or in part, the obligation shall be terminated in full or in the corresponding part. The parties, which have suffered losses as a result of this, shall have the right to claim their compensation in conformity with Articles 13 and 16 of the present Code.

2. In case the act, issued by the state body, on whose grounds the obligation has been terminated, is recognized as invalid in conformity with the established procedure, the obligation shall be restored, unless otherwise following from the agreement between the parties or from the substance of the obligation and unless its discharge has lost all interest for the creditor.

**Article 418.** Termination of the Obligation with the Citizen's Death

1. The obligation shall be terminated with the death of the debtor, if it cannot be discharged without the debtor's personal participation, or if it is indissolubly linked with the debtor's personality in any other way.

2. The obligation shall be terminated with the death of the creditor, if its discharge is intended personally for the creditor, or if the obligation is indissolubly linked with the creditor's personality in any other way.

**Article 419.** Termination of the Obligation with the Liquidation of the Legal Entity

The obligation shall be terminated with the liquidation of the legal entity (the debtor or the creditor), with the exception of the cases, when the law or the other legal acts impose the discharge of the obligation of the liquidated legal entity upon the other person (by the claims for the compensation of the harm, caused to the life or to the health, etc.).

**Subsection 2. The General Provisions on the Contract**

**Chapter 27. The Concept and the Terms of the Contract**

**Article 420.** The Concept of the Contract

1. The contract shall be recognized as the agreement, concluded by two or by several persons on the institution, modification or termination of the civil rights and duties.

2. Toward the contracts shall be applied the rules on bilateral and multilateral deals, stipulated by Chapter 9 of the present Code.

3. Toward the obligations, arising from the contract, shall be applied the general provisions on obligations (Articles 307-419), unless otherwise stipulated by the rules of the present Chapter and the rules on the individual kinds of contracts, contained in the present Code.

4. Toward the contracts, concluded by more than two parties, the general provisions on the contract shall be applied, unless this contradicts the multilateral nature of such contracts.

#### **Article 421. The Freedom of the Contract**

1. The citizens and the legal entities shall be free to conclude contracts.

Compulsion to conclude contracts shall be inadmissible, with the exception of the cases, when the duty to conclude the contract has been stipulated by the present Code, by the law or by a voluntarily assumed obligation.

2. The parties shall have the right to conclude a contract, both stipulated and unstipulated by the law or by the other legal acts.

3. The parties shall have the right to conclude a contract, in which are contained the elements of different contracts, stipulated by the law or by the other legal acts (the mixed contract). Toward the relationships between the parties in the mixed contract shall be applied in the corresponding parts the rules on the contracts, whose elements are contained in the mixed contract, unless otherwise following from the agreement between the parties or from the substance of the mixed contract.

4. The contract terms (provisions) shall be defined at the discretion of the parties, with the exception of the cases, when the content of the corresponding term (provision) has been stipulated by the law or by the other legal acts (Article 422).

In the cases, when the contract provision has been stipulated by the norm, applied so far as it has not been otherwise stipulated by the agreement between the parties (the dispositive norm), the parties may by their own agreement exclude its application, or may introduce the provision, distinct from that, which has been stipulated by it. In the absence of such an agreement, the contract provision shall be defined by the dispositive norm.

5. Unless the contract provision has been defined by the parties or by the dispositive norm, the corresponding provisions shall be defined by the customs of the business turnover, applicable to the relationships between the parties.

**Article 422. The Contract and the Law**

1. The contract shall be obliged to correspond to the rules, obligatory for the parties, which have been laid down by the law and by the other legal acts (the imperative norms), operating at the moment of its conclusion.

2. If after the conclusion of the contract the law has been passed, laying down the rules, obligatory for the parties, which differ from those in operation when the contract was concluded, the provisions of the concluded contract shall stay in force, with the exception of the cases, when the law decrees that its action shall be extended to the relationships that have arisen from the contracts, concluded at an earlier date.

**Article 423. The Pecuniary and the Gratuitous Contracts**

1. The contract, by which the party shall receive a pay or a different kind of the regress remuneration for the discharge of its duties, shall be a pecuniary one.

2. The contract shall be recognized as gratuitous, if by it one party assumes an obligation to provide something to the other party without receiving from it a pay or another kind of the regress remuneration.

3. The contract shall be supposed to be a pecuniary one, unless otherwise following from the law, from the other legal acts, or from the content or the substance of the contract.

**Article 424. The Price**

1. The performance of the contract shall be paid by the price, fixed by an agreement between the parties.

In the law-stipulated cases, the prices (the tariffs, estimates, rates, etc.) shall be applied, fixed or regulated by the specially authorized state bodies.

2. Change in price after the conclusion of the contract shall be admitted in cases and on the terms, provided for by the contract, law, or in the procedure established by law.

3. In the cases, when the price in the pecuniary contract has not been stipulated and cannot be defined proceeding from the contract terms, the performance of the contract shall be remunerated by the price, which is usually paid under the comparable circumstances for the similar kind of commodities, works or services.

**Article 425. The Operation of the Contract**

1. The contract shall come in force and shall become obligatory for the parties from the moment of its conclusion.

2. The parties shall have the right to establish that the terms (provisions) of the contract, concluded by them, shall be applied to their relations, which have arisen before the conclusion of the contract.

3. The law or the contract may stipulate that the end of the term of operation of the contract entails the termination of the parties' obligations by the contract.

The contract, in which such a term is absent, shall be recognized as operating until the moment, when the parties complete the performance of the obligation, defined in it.

4. The expiry of the term of operation of the contract shall not absolve the parties from the responsibility for its violation.

#### **Article 426. The Public Contract**

1. The public contract shall be recognized as a contract, concluded by a commercial organization and establishing its duties by the sale of commodities, by the performance of works and by rendering services, which such an organization shall effect in conformity with the nature of its activity with respect to anybody, who turns to it (in the sphere of the retail trade, the passenger traffic in the public transport vehicles, the communications services, the supply of electric energy, the medical services, the hotel accommodation, etc.).

The commercial organization shall have no right to show preference to some persons as compared with the others as concerns the conclusion of a public contract, with the exception of the cases, stipulated by the law and by the other legal acts.

2. The price of commodities, works and services, as well as the other terms of the public contract shall be equal for all the consumers, with the exception of the cases, when the law and the other legal acts admit the granting of privileges for the individual consumer categories.

3. Refusal on the part of the commercial organization to conclude a public contract, if it can provide to the consumer the corresponding commodities and services and to perform for him the corresponding works, shall not be admitted.

If the commercial organization ungroundlessly avoids the conclusion of a public contract, the provisions, stipulated by Item 4 of Article 445 of the present Code, shall be applied.

4. In the law-stipulated cases, the Government of the Russian Federation may issue the rules, obligatory for the parties in concluding and performing public contracts (the standard contracts, the provisions, etc.).

5. The terms of the public contract, not corresponding to the requirements, laid down in Items 2 and 4 of the present Article, shall be insignificant.

#### **Article 427. The Model Contract Rules**

1. It may be stipulated in the contract that its individual terms are defined by the model terms, elaborated for the corresponding type of the contracts and published in the press.

2. In the case, when the contract contains no reference to the model terms, such model terms shall be applied toward the relationships between the parties as the customs of the business turnover, if they comply with the requirements, laid down by Article 5 and by Item 5, Article 421 of the present Code.

3. The model terms may be exposed in the form of a model contract or of another document, containing these terms.

#### **Article 428. The Contract of Affiliation**

1. The contract of affiliation shall be recognized as the contract, whose terms have been defined by one of the parties in the official lists or in the other standard forms and could have been accepted by the other party only by way of its joining the offered contract as a whole.

2. The party, which has joined the contract, shall have the right to demand that the contract be dissolved or amended, if the contract of affiliation, while not contradicting the law and the other legal acts, deprives this party of the rights, which are usually granted by the contracts of the given kind, if it excludes or limits the responsibility of the other party for the violation of the obligations or contains the other terms, clearly onerous for the affiliated party, which it would have rejected, proceeding from its own reasonably interpreted interests, could it have taken part in defining the contract terms.

3. In the face of the circumstances, stipulated in Item 2 of the present Article, the demand about the dissolution or the amendment of the contract, put forward by the party, which has joined the contract in connection with the performance of its business activity, shall not be liable to satisfaction, if the affiliated party has known, or should have known, on what terms it was concluding the contract.

#### **Article 429. The Preliminary Contract**

1. By the preliminary contract, the parties shall assume an obligation to conclude in the future a contract on the transfer of the property, on the performance of works or on rendering services (the basic contract) on the terms, stipulated by the preliminary contract.

2. The preliminary contract shall be concluded in the form, established for the basic contract, and if the form of the basic contract has not been established, in written form. The non-observance of the rules on the form of the preliminary contract shall entail its insignificance.

3. The preliminary contract shall contain the terms, making it possible to identify the object, and also the other essential terms of the basic contract.

4. In the preliminary contract shall be pointed out the term, within which the parties are obliged to conclude the basic contract.

If such term has not been defined in the preliminary contract, the basic contract shall be subject to conclusion in the course of one year from the moment of concluding the preliminary contract.

5. In the cases, when the party, which has concluded the preliminary contract, is avoiding the conclusion of the basic contract, shall be applied the provisions, stipulated by Item 4, Article 445 of the present Code.

6. The obligations, stipulated by the preliminary contract, shall be terminated, if before the expiry of the term, within which the parties have been obliged to conclude the basic contract, it is not concluded, or if one of the parties does not forward to the other party an offer to conclude this contract.

#### **Article 430. The Contract in Favour of the Third Person**

1. The contract in favour of the third person shall be recognized as a contract, in which the parties have laid down that the debtor shall be obliged to discharge the obligation not to the creditor, but to the third person, who is, or is not mentioned in the contract and who shall have the right to claim from the debtor that he discharge the obligation in his favour.

2. Unless otherwise stipulated by the law, by the other legal acts or by the contract, from the moment of the third person expressing to the debtor his intention to avail himself of his right by the contract, the parties shall not have the right to dissolve or to amend the contract, concluded by them, without the consent of the third person.

3. The debtor by the contract shall have the right to put forward the objections against the claims of the third person, which he could have put forward against the creditor.

4. In the case, when the third person has renounced the right, granted to him by the contract, the creditor may avail himself of this right, unless this contradicts the law, the other legal acts or the contract.

#### **Article 431. The Interpretation of the Contract**

While interpreting the terms of the contract, the court shall take into account the literal meaning of the words and expressions, contained in it. The literal meaning of the terms of the contract in case of its being vague shall be identified by way of comparison with the other terms and with the meaning of the contract as a whole.

If the rules, contained in the first part of the present Article, do not make it possible to identify the content of the contract, the actual common will of the parties shall be found out with account for the purpose of the contract. All the corresponding circumstances, including the negotiations and the correspondence, preceding the conclusion of the contract, the habitual practices in the relationships between the parties, the customs of the business turnover and the subsequent behaviour of the parties shall be taken into account.

## **Chapter 28. The Conclusion of the Contract**

### **Article 432. The Basic Provisions on the Conclusion of a Contract**

1. The contract shall be regarded as concluded, if an agreement has been achieved between the parties on all its essential terms, in the form proper for the similar kind of contracts.

As essential shall be recognized the terms, dealing with the object of the contract, the terms, defined as essential or indispensable for the given kind of contracts in the law or in the other legal acts, and also all the terms, about which, by the statement of one of the parties, an accord shall be reached.

2. The contract shall be concluded by way of forwarding the offer (the proposal to conclude the contract) by one of the parties and of its acceptance (the acceptance of the offer) by the other party.

### **Article 433. The Moment of the Conclusion of the Contract**

1. The contract shall be recognized as concluded at the moment, when the person, who has forwarded the offer, has obtained its acceptance.

2. If in conformity with the law, the transfer of the property is also required for the conclusion of the contract, it shall be regarded as concluded from the moment of the transfer of the corresponding property (Article 224).

3. The contract, subject to the state registration, shall be regarded as concluded from the moment of its registration, unless otherwise stipulated by the law.

### **Article 434. The Form of the Contract**

1. The contract may be concluded in any form, stipulated for making the deals, unless the law stipulates a definite form for the given kind of contracts.

If the parties have agreed to conclude the contract in a definite form, it shall be regarded as concluded after the agreed form has been rendered to it, even if the law does not require such form for the given kind of contracts.

2. The contract in written form shall be concluded by compiling one document, signed by the parties, and also by way of exchanging the documents by mail, telegraph, teletype, telephone, by the electronic or any other type of the means of communication, which makes it possible to establish for certain that the document comes from the party by the contract.

3. The written form of the contract shall be regarded as observed, if the written offer to conclude the contract has been accepted in conformity with the order, stipulated by Item 3, Article 438 of the present Code.

**Article 435. The Offer**

1. The offer shall be recognized as the proposal, addressed to one or to several concrete persons, which is sufficiently comprehensive and which expresses the intention of the person, who has made the proposal, to regard himself as having concluded the contract with the addressee, who will accept the proposal.

The offer shall contain the essential terms of the contract.

2. The offer shall commit the person, who has forwarded it, from the moment of its receipt by the addressee.

If the notification about the recall of the offer comes in before, or simultaneously with the offer, the offer shall be regarded as not received.

**Article 436. The Irrevocability of the Offer**

The offer, received by the addressee, shall not be revoked in the course of the term, fixed for its acceptance, unless otherwise stipulated in the offer itself or follows from the substance of the proposal, or from the setting, in which it has been made.

**Article 437. The Invitation to Make the Offers. The Public Offer**

1. The advertisements and the other proposals, addressed to an indefinite circle of persons, shall be regarded as an invitation to make the offers, unless directly pointed out otherwise in the proposal.

2. The proposal, containing all the essential terms of the contract, in which is seen the will of the person, who is making the proposal, to conclude the contract on the terms, indicated in the proposal, with any responding person, shall be recognized as an offer (the public offer).

**Article 438. The Acceptance**

1. The acceptance shall be recognized as the response of the person, to whom the offer has been addressed, about its being accepted.

The acceptance shall be full and unconditional.

2. The silence shall not be regarded as the acceptance, unless otherwise following from the law, from the custom of the business turnover, or from the former business relations between the parties.

3. The performance by the person, who has received an offer, of the actions, involved in complying with the terms of the contract, pointed out in the offer (the dispatch of commodities, the rendering of services, the performance of works, the payment of the corresponding amount of money, etc.), shall be regarded as the acceptance, unless otherwise stipulated by the law or by the other legal acts, or pointed out in the offer.

**Article 439. Recall of the Offer**

If the notification about the recall of the offer has come to the person, who has forwarded the offer, before the acceptance or simultaneously with it, the acceptance shall be regarded as not obtained.

**Article 440.** Conclusion of the Contract on the Ground of the Offer, Fixing the Term of Acceptance

When the term of acceptance has been fixed in the offer, the contract shall be regarded as concluded, if the acceptance has been obtained by the person, who has forwarded the offer, within the term, stipulated in it.

**Article 441.** Conclusion of the Contract on the Ground of the Offer, Not Fixing the Term of Acceptance

1. When in the written offer no term of acceptance has been stipulated, the contract shall be regarded as concluded, if the acceptance has been obtained by the person, who has forwarded the offer, before the expiry of the term, fixed by the law or by the other legal acts, and if such term has not been fixed - in the course of the normally required time.

2. When the offer has been made orally and no term of acceptance has been indicated, the contract shall be regarded as concluded, if the other party immediately declared its acceptance.

**Article 442.** The Acceptance, Obtained with a Delay

In the cases, when the duly forwarded notification about the acceptance is received with a delay, the acceptance shall not be regarded as belated, unless the party, which has forwarded the offer, immediately notifies the other party about the arrival of the acceptance with a delay.

If the party, which has forwarded the offer, immediately notifies the other party about the obtaining of its acceptance, which has come in with a delay, the contract shall be regarded as concluded.

**Article 443.** The Acceptance on the Other Terms

The answer, indicating the consent to conclude the contract on the terms other than those indicated in the offer, shall not be regarded as the acceptance.

Such an answer shall be recognized as the refusal of the acceptance and at the same time as a new offer.

**Article 444.** The Place of the Conclusion of the Contract

If no place of its conclusion has been indicated in the contract, it shall be recognized as concluded at the place of residence of the citizen or at the place of location of the legal entity, who (which) has forwarded the offer.

**Article 445.** The Obligatory Conclusion of the Contract

1. In the cases, when in conformity with the present Code or with the other laws, the conclusion of the contract is obligatory for the party, to which the offer (the draft contract) has been forwarded, this party shall forward to the other party the notification about the acceptance, or about

the refusal of the acceptance, or about the acceptance of the offer on different terms (the records on the differences by the draft contract) within 30 days from the date, when the offer was received.

The party, which has forwarded the offer and which has received from the party, for which the conclusion of the contract is obligatory, the notification about its acceptance on different terms (the records on the differences by the draft contract), shall have the right to pass the differences, which have arisen during the conclusion of the contract, for consideration to the court within 30 days from the day of receiving such a notification or from the day of the expiry of the term of acceptance.

**2.** In the cases, when in conformity with the present Code or with the other legal acts, the conclusion of the contract is obligatory for the party, which has forwarded the offer (the draft contract), and when within 30 days the records on the differences by the draft contract are forwarded to it, this party shall be obliged to notify the other party, within 30 days from the receipt of the records on the differences, about the acceptance of the contract in its own version, or about the rejection of the records on the differences.

In the case of the records on the differences being rejected, or of the non-receipt of the notification about the results of their examination within the stipulated term, the party, which has forwarded the records of the differences, shall have the right to pass the differences that have arisen during the conclusion of the contract, for consideration to the court.

**3.** The rules on the term, stipulated by Items 1 and 2 of the present Article, shall be applied, unless the other term has been stipulated by the law or by the other legal acts, or has been agreed upon between the parties.

**4.** If the party, for which, in conformity with the present Code or with the other laws, the conclusion of the contract is obligatory, avoids its conclusion, the other party shall have the right to turn to the court with a claim for compelling it to conclude the contract.

The party, groundlessly avoiding the conclusion of the contract, shall be obliged to recompense to the other party the losses, thus inflicted upon it.

#### **Article 446. The Pre-Contract Disputes**

In the cases, when the differences, arising during the conclusion of the contract, are passed for consideration to the court on the ground of Article 445 of the present Code or by an agreement between the parties, the terms of the contract, by which the parties have displayed differences, shall be defined in conformity with the court decision.

#### **Article 447. Conclusion of the Contract by a Tender**

1. The contract, unless otherwise following from its substance, shall be concluded by way of holding a tender. In this case, the contract shall be concluded with the person, who has won it.

2. In the capacity of the organizer of the tender shall come out the owner of the thing, or the possessor of the right of ownership, or a specialized organization. The latter shall act on the ground of the contract with the owner of the thing or with the possessor of the right of ownership, and shall come out on their behalf or on its own behalf.

3. In the cases, pointed out in the present Code or in the other law, the contracts on the sale of the thing or of the right of ownership may be concluded only by way of holding a sale.

4. The sale shall be held in the form of an auction or of a tender.

The winner of the bidding at an auction shall be recognized as the person, who has offered the highest price, and at the tender - the person, who, as has been concluded by the tender commission, appointed in advance by the organizer of the tender, has offered the best terms.

The form of the bidding shall be defined by the owner of the thing on sale or by the possessor of the realized right of ownership, unless otherwise stipulated by the law.

5. The auction and the tender, in which only one customer has participated, shall be recognized as having failed.

6. The rules, stipulated by Articles 448 and 449 of the present Code, shall be applied to the public auctions, held by way of execution of the court ruling, unless otherwise stipulated by the procedural legislation.

#### **Article 448.** The Organization and the Order of Holding the Sales

1. The auctions and tenders shall be open and closed.

In an open auction and in an open tender anybody may take part. In a closed auction and in a closed tender only the persons, specially invited for this purpose, shall take part.

2. Unless otherwise stipulated by the law, the statement on the holding of the sale shall be made by its organizer not later than 30 days in advance. The statement shall in any case contain information on the time, the place and the form of the sale, on its object and procedure, including that involved in formalizing the participation in the sale, in the way of determining the winner in the bidding, and shall also name the starting price.

If the object of the bidding is only the right to conclude a contract, the statement on the forthcoming auction shall contain the indication of the term, granted for this.

3. Unless otherwise stipulated by the law or by the statement on the holding of the sale, the organizer of an open auction, who has made the statement, shall have the right to refuse to hold the auction at any time, but not later than three days before the date of its holding, and in the case of the tender - not later than 30 days before its holding.

In the cases, when the organizer of the open sale has refused to hold it with the violation of the fixed term, he shall be obliged to recompense to the participants the actual losses they have suffered.

The organizer of the closed auction or of a closed tender shall be obliged to recompense to the invited participants their actual losses, regardless of fact, on what particular date after forwarding to them the notification the refusal to hold it followed.

4. The participants in the sale shall put in an advance in the amount, within the term and in conformity with the order, which have been pointed out in the notification about the holding of the sale. In case it has not taken place, the advance shall be liable to return. The advance shall also be returned to the persons, who, while having taken part in the bidding, have not won it.

When concluding the contract with the person, who has won the bidding, the amount of the advance put in by him shall be offset against the discharge of obligations by the concluded contract.

5. The person, who has won the sale, and its organizer shall sign the records on the results of the bidding, which shall possess the power of a contract, on the day of the bidding. The winner of the sale shall lose the advance, put in by him, in case he tries to avoid the signing of the records. The organizer of the sale, who has avoided the signing of the records, shall be obliged to return the advance in the double amount, and also to recompense to the winner of the sale his losses, involved in his taking part in the bidding, in the part, exceeding the amount of the advance.

If the object of the sale has been only the right to conclude a contract, such a contract shall be signed by the parties not later than within 20 days, or within another term, pointed out in the notification, after the end of the bidding and the formalization of the records. In case of one of the parties avoiding the signing of the contract, the other party shall have the right to file a claim with the court for a compulsory conclusion of the contract, and also for the compensation of the losses, caused by such an attempt to avoid its conclusion.

#### **Article 449.** The Consequences of Violation of the Rules for Holding the Sale

1. The sale, held with the violation of the rules, laid down by the law, may be recognized by the court as invalid upon the claim of the interested persons.

2. The recognizing of the bidding to be invalid shall entail the invalidity of the contract, concluded with the person, who has won it.

### **Chapter 29. The Amendment and the Cancellation of the Contract**

#### **Article 450.** The Grounds for the Amendment and the Cancellation of the Contract

1. The amendment and the cancellation of the contract shall be possible only by an agreement between the parties, unless otherwise stipulated by the present Code, by the other legal acts or by the contract.

2. Upon the demand of one of the parties, the contract may be amended or cancelled by the court decision only:

- 1) in case of an essential violation of the contract by the other party;
- 2) in the other cases, stipulated by the present Code, by the other legal acts or by the contract.

As an essential violation shall be recognized such violation of the contract by one of the parties, which entails for the other party the losses, to a considerable extent depriving it of what it could have counted upon when concluding the contract.

3. In case of the unilateral refusal to discharge the contract in full or in part, when such refusal is admitted by the law or by the agreement between the parties, the contract shall be correspondingly regarded as cancelled or as amended.

#### **Article 451.** The Amendment and the Cancellation of the Contract Because of an Essential Change of Circumstances

1. An essential change of the circumstances, from which the parties have proceeded when concluding the contract, shall be the ground for its amendment or cancellation, unless otherwise stipulated by the contract or following from its substance.

The change of the circumstances shall be recognized as essential, if they have changed to such an extent that in case the parties could have wisely envisaged it, the contract would not have been concluded by them or would have been concluded on the essentially different terms.

2. If the parties have failed to reach an agreement on bringing the contract into correspondence with the essentially changed circumstances or on its cancellation, the contract may be cancelled, and on the grounds, stipulated by Item 4 of the present Article, it may be amended by the court upon the claim of the interested party in the face of the simultaneous existence of the following conditions:

1) at the moment of concluding the contract, the parties have proceeded from the fact that no such change of the circumstances will take place;

2) the change of the circumstances has been called forth by the causes, which the interested party could not overcome after they have arisen, while displaying the degree of care and circumspection, which have been expected from it by the nature of the contract and by the terms of the circulation;

3) the execution of the contract without amending its provisions would so much upset the balance of the property interests of the parties, corresponding to the contract, and would entail such a loss for the

interested party that it would have been to a considerable extent deprived of what it could have counted upon when concluding the contract;

4) neither from the customs of the business turnover, nor from the substance of the contract does it follow that the risk, involved in the change of the circumstances, shall be borne by the interested party.

3. In case of the cancellation of the contract because of the essentially changed circumstances, the court shall, upon the claim of any one of the parties, define the consequences of the cancellation of the contract, proceeding from the need to justly distribute the expenses, borne by them in connection with the execution of this contract, between the parties.

4. The amendment of the contract in connection with an essential change of the circumstances shall be admitted by the court decision in extraordinary cases, when the cancellation of the contract contradicts the public interests, or if it entails the losses for the parties, considerably exceeding the expenses, necessary for the execution of the contract on the terms, amended by the court.

#### **Article 452.** The Procedure for the Amendment and the Cancellation of the Contract

1. The agreement on the amendment or on the cancellation of the contract shall be legalized in the same form as the contract itself, unless otherwise following from the law, from the other legal acts, from the contract or from the customs of the business turnover.

2. The claim for the amendment or for the cancellation of the contract may be filed by the party with the court only after it has received the refusal from the other party in response to its proposal to amend or to cancel the contract, or in case of its non-receipt of any response within the term, indicated in the proposal or fixed by the law or by the contract, and in the absence thereof - within a 30-day term.

#### **Article 453.** The Consequences of the Amendment and of the Cancellation of the Contract

1. In case of the amendment of the contract, the parties' obligations shall be preserved in the amended form.

2. In case of the cancellation of the contract, the parties' obligations shall be terminated.

3. In case of the amendment or of the cancellation of the contract, the obligations shall be regarded as amended or as terminated from the moment of the parties' concluding an agreement on the amendment or on the cancellation of the contract, unless otherwise following from the agreement or from the nature of the contract's amendment, and in case of the amendment or the cancellation of the contract by the court decision -

from the moment of the enforcement of the court ruling on the amendment or on the cancellation of the contract.

4. The parties shall have no right to claim the return of what has been discharged by them by their obligations up to the moment of the amendment or the cancellation of the contract, unless otherwise stipulated by the law or by the agreement between the parties.

5. If an essential violation of the contract by one of the parties has served as the ground for the amendment or for the cancellation of the contract, the other party shall have the right to claim the compensation of the losses, inflicted upon it by the amendment or by the cancellation of the contract.

## **Part Two**

### **Section IV. Particular Kinds of Obligations**

#### **Chapter 30. Purchase and Sale**

##### **§ 1. General Provisions on Purchase and Sale**

###### **Article 454. Contract of Sale**

1. By contract of sale one party (the seller) shall undertake to convey a thing (commodity) to the ownership of the other party (buyer), while the buyer shall undertake to accept this commodity and pay a definite amount of money (price) therefor.

2. Provisions stipulated by this paragraph shall be applied to the purchase and sale of securities and currency values unless the law establishes special rules for their purchase and sale.

3. In cases provided for by this Code or any other law the specific aspects of purchase and sale of particular goods shall be determined by laws and other legal acts.

4. Provisions stipulated by this paragraph shall be applicable to the sale of property rights, unless the contrary follows from the content or nature of these rights.

5. Provisions specified by this paragraph shall be applicable to particular kinds of the contract of sale (retail sale, delivery of goods, delivery of goods for state needs, contracting, power supply, sale of real estate, sale of an enterprise), unless the contrary is provided for by the rules of this Code for these kinds of contracts.

###### **Article 455. The Condition of the Contract about Goods**

1. Any things may be goods under the contract of sale due to the observance of the rules envisaged by Article 129 of this Code.

2. A contract may be concluded for the sale of goods to be on hand by the seller at the time of its conclusion, and also of goods which will be created or acquired by the seller in the future, unless otherwise stipulated by law or follows from the nature of goods.

3. The condition of the contract of sale shall be deemed to be agreed upon, if the contract makes it possible to determine the name and quantity of goods.

#### **Article 456.** The Duties of the Seller for the Transfer of Goods

1. The seller shall be obliged to transfer to the buyer goods provided for by the contract of sale.

2. Unless otherwise stipulated by the contract of sale, the seller shall be obliged to transfer together with the thing its accessories, and also documents related to it (technical certificate, quality certificate, operations instructions, etc.), envisaged by law, other legal acts or contracts.

#### **Article 457.** The Term of the Execution of the Duty to Transfer Goods

1. The term of the execution of the seller's duty to turn over goods to the buyer shall be determined by the contract of sale, and if the contract does not allow to determine this term, the term of the execution of this duty of the seller shall be determined by the rules stipulated by Article 314 of this Code.

2. The contract of sale shall be deemed to be concluded with the proviso of its performance by the strictly fixed date, if it follows succinctly from the contract that in case of breaking the term of its execution the buyer loses his interest in the contract.

The seller shall have the right to perform such contract before the onset or after the expiry of the term fixed by it only with the buyer's consent.

#### **Article 458.** The Time of the Discharge of the Seller's Duty to Hand over Goods

1. Unless otherwise stipulated by the contract of sale, the duty of the seller to hand over goods to the buyer shall be deemed to be exercised at the time of:

the delivery of goods to the buyer or the person indicated by him, if the contract provides for the seller's duty to deliver goods;

the placement of goods at the disposal of the buyer, if goods should be passed to the buyer or the person indicated by him in the place of location of goods. Goods shall be deemed to be placed at the buyer's disposal, when by the time specified by the contract goods are ready for the transfer in the proper place and the buyer is aware of the readiness of goods for such transfer in accordance with the contract's conditions. Goods shall not be deemed to be ready for transfer, if they have not been identified for the contract's purposes by marking or in any other way.

2. In cases when the contract of sale does not imply the seller's duty to deliver goods or turn them over to the buyer at the place of their location, the duty of the seller to turn them over to the buyer shall be deemed to be performed at the time of handing over goods to the carrier or the communication organization for the delivery to the buyer, unless otherwise stipulated by the contract.

**Article 459. The Transfer of the Risk of Accidental Destruction of Goods**

1. Unless otherwise stipulated by the contract of sale, the risk of accidental destruction of goods or accidental damage of goods shall be transferred to the buyer since the time when in keeping with law or the contract the seller is deemed to have performed his duty of handing over goods to the buyer.

2. The risk of accidental destruction of, or accidental damage to, goods sold when they are in transit shall be transferred to the buyer since the time of concluding the contract of sale, unless otherwise stipulated by such contract or the customs of business turnover.

The condition of the contract to the effect that the risk of accidental destruction of, or accidental damage to, goods is transferred to the buyer since the time of the delivery of goods to the first carrier may be recognized by a court of law as invalid on the demand of the buyer, if at the time of concluding the contract the seller knew or should have known that the goods had been lost or damaged and failed to inform the buyer about this.

**Article 460. The Duty of the Seller to Hand Over Goods Free from the Rights of Third Persons**

1. The seller shall be obliged to give to the buyer goods free from any rights of third persons with the exception of the case when the buyer has agreed to accept goods encumbered with the rights of third persons.

The seller's failure to discharge this duty shall entitle the buyer to demand a reduction of the price of goods or to cancel the contract of sale, if it is not proved that the buyer knew or should have known about the rights of third persons to these goods.

2. The rules, provided for by Item 1 of this Article, shall be applicable in that case as well when to the goods by the time of their transfer there had been claims from third persons, about which the seller had information if these claims were subsequently recognized as lawful in the established order.

**Article 461. The Liability of the Seller in Case of the Withdrawal of Goods from the Buyer**

1. If goods are withdrawn from the buyer by third persons on the grounds that arose before the execution of the contract of sale, the seller shall be obliged to compensate the buyer's losses, unless he proves that the buyer knew or should have known about these grounds.

2. The agreement of the parties thereto about the release of the buyer of the liability in case third persons reclaim the acquired goods from the buyer or about its restriction shall be null and void.

**Article 462.** The Duties of the Buyer and the Seller in Case of Bringing an Action About the Withdrawal of Goods

If a third party brings an action for the withdrawal of goods on the ground that arose before the execution of the contract of sale, the buyer shall be obliged to draw the seller to the participation in the case, whereas the seller shall be obliged to join this case on the side of the buyer.

The non-engagement by the buyer of the seller in the participation in the case shall absolve the seller from his liability to the buyer, if the seller proves that by taking part in the case he could prevent the withdrawal of sold goods from the buyer.

The seller who was involved by the buyer in the case but who failed to take part in it shall be deprived of the right to prove that the buyer conducted the case incorrectly.

**Article 463.** The Consequences of the Non-execution of the Duty to Hand Over Goods

1. If the seller refuses to give to the buyer the sold goods, the buyer shall have the right to waive the execution of the contract of sale.

2. If the seller refuses to give an individually definite thing, the buyer shall have the right to lay claims to the seller, provided for by Article 398 of this Code.

**Article 464.** The Consequences of the Non-execution of the Duty to Pass Accessories and Documents Relating to Goods

If the seller fails to pass or refuses to pass to the buyer accessories or documents relating to goods, which he should give in keeping with law, other legal acts or with the contract of sale (Item 2 of Article 456), the buyer shall have the right to fix the reasonable period of time for their transfer.

In case when the accessories and documents relating to goods have not been given by the seller in the said period of time, the buyer shall have the right to waive goods, unless otherwise stipulated by the contract.

**Article 465.** The Quantity of Goods

1. The quantity of goods subject to the transfer to the buyer shall be provided for by the contract of sale in corresponding units of measurement or in money terms. The condition of the quantity of goods may be agreed upon by fixing in the contract the order of its estimation.

2. If the contract of sale does not make it possible to estimate the quantity of goods subject to transfer, the contract shall not be deemed to be concluded.

**Article 466.** The Consequences of the Breach of the Condition for the Quantity of Goods

1. If the seller has passed to the buyer in breach of the contract of sale the less or quantity of goods than that specified in the contract, the buyer shall have the right to demand the missing quantity of goods or to waive the given goods and the payment for them, but the goods have been paid for, to demand the return of the paid sum of money.

2. If the seller has passed to the buyer goods in the quantity exceeding that specified in the contract of sale, the buyer shall be obliged to inform the seller about this in the procedure, provided for by Item 1 of Article 483 of this Code. If the seller has failed to dispose of the corresponding part of goods within the reasonable period of time, after the receipt of the buyer's information, the buyer shall have the right to accept all the goods, unless otherwise stipulated by the contract.

3. If the buyer accepts goods in the quantity exceeding that indicated in the contract of sale (Item 2 of this Article), the additionally accepted goods shall be paid for at the price specified for the goods accepted in conformity with the contract, unless the agreement between the parties thereto has fixed a different price.

**Article 467.** Assortment of Goods

1. If under the contract of sale goods are subject to transfer in a definite correlation according to kinds, models, size, colour and other properties (assortment), the seller shall be obliged to transfer goods in the assortment agreed upon by the parties thereto.

2. If assortment has not been determined in the contract of sale and the latter has not established the procedure for its definition, but it follows from the substance of the obligation that goods should be transferred to the buyer in assortment on the basis of the buyer's needs which were known to the seller at the time of concluding the contract or to refuse to execute this contract.

**Article 468.** The Consequences of Breaking the Condition of Goods Assortment

1. In case of the transfer of goods, stipulated by the contract of sale, in assortment inconsistent with the contract, the buyer shall have the right to refuse to accept them and pay for them, but if they have been paid for, to demand the return of the paid sum of money.

2. If alongside with goods whose assortment corresponds to the contract of sale the seller has given to the buyer goods with the breach of the assortment condition, the buyer shall have the right:

to accept goods fitting with the assortment condition and to refuse to accept the rest of them;

to waive all the given goods;

to demand that goods which are at variance with the assortment condition should be replaced by goods in the assortment stipulated by the contract;

to accept all the given goods.

**3.** In case of the refusal from the goods whose assortment differs from the condition of the contract of sale or in case of making a claim for the replacement of goods inconsistent with the assortment condition, the buyer shall have the right to refuse to pay for these goods, but if they have been paid for, to demand the refund of the paid sum of money.

**4.** Goods running at variance with the assortment condition of the contract of sale shall be deemed to be accepted, unless the buyer informs the seller about his refusal to take goods within the reasonable period after their receipt.

**5.** If the buyer has not refused to accept goods whose assortment runs counter to the contract of sale, he shall be obliged to pay for them at the price agreed upon with the seller. In case where the seller has not taken the necessary measures of adjusting the price within the reasonable period, the buyer shall pay for goods at the price which at the time of concluding a contract under comparable circumstances has been usually charged for similar goods.

**6.** The rules of this Article shall be applied, unless otherwise stipulated by the contract of sale.

#### **Article 469. The Quality of Goods**

**1.** The seller shall be obliged to transfer to the buyer goods whose quality corresponds to the contract of sale.

**2.** In the absence of quality terms in the contract of sale the seller shall be obliged to hand over to the customs goods suitable for the purposes for which goods of this sort are usually used.

If the seller was informed by the buyer about the concrete purposes of the acquisition of goods during the conclusion of the relevant contract, the seller shall be obliged to transfer to the buyer goods suitable for use in conformity with these purposes.

**3.** In case goods are sold according to sample and/or description the seller shall be obliged to hand over goods which correspond to the sample and/or their description.

**4.** If by a law or in a procedure established by a law for mandatory requirements for the quality of saleable goods, the seller engaged in business shall be obliged to transfer to the buyer goods which meet these mandatory requirements.

Under the agreement between the seller and the buyer the former may hand over to the latter goods meeting the higher requirements for

quality as compared with the mandatory requirements stipulated by a law or in a procedure established by a law.

**Article 470. The Guarantee of the Quality of Goods**

1. Goods which the seller is obliged to hand over to the buyer shall correspond to the requirements, stipulated by Article 469 of this Code, at the time of their transfer to the buyer, unless the contract of sale provides for a different time of defining the compliance of goods with these requirements and within the reasonable period goods shall be suitable for the purposes for which goods of this sort are usually used.

2. In case where the contract of sale provides for the submission by the seller of the guarantee of the quality of goods, the seller shall be obliged to transfer to the buyer goods which should meet the requirements, stipulated by Article 469 of this Code, during the time fixed by the contract (guarantee period).

3. The guarantee of the quality of goods shall also extend to all the complementary parts, unless otherwise provided for by the contract of sale.

**Article 471. The Reckoning of the Guarantee Period**

1. The guarantee period shall start to run since the time of transfer of goods to the buyer (Article 457), unless otherwise stipulated by the contract of sale.

2. If the buyer is deprived of the possibility to use goods, for which the contract has provided the guarantee period, due to the circumstances under the control of the seller, the guarantee period shall not run until the removal of relevant circumstances by the seller.

Unless otherwise stipulated by the contract of sale, the guarantee period shall be prolonged for the time during which goods could not be used because of the discovered shortcomings, provide the seller is informed about the defects of goods in the order established by Article 483 of this Code.

3. Unless otherwise stipulated by the contract of sale, the warranty period for complementary parts shall be deemed to be equal to the guarantee period for the basic item and shall begin to run simultaneously with the guarantee period for the basic item.

4. A guarantee period shall be established for goods (complementary parts), in which defects (Article 476) have been discovered during the guarantee period. This guarantee period shall be of the same duration that applies to the replaced goods, unless otherwise stipulated by the contract of sale.

**Article 472. The Serviceable Life of Goods**

1. By a law or in a procedure established by a law there may be stipulated the obligation to determine the period of time at the expiration of

which the goods are considered unsuitable for use for their regular purpose (period of suitability).

2. Goods for which the serviceable life has been fixed shall be transferred by the seller to the buyer with all allowance for their use by designation before the expiry of the serviceable life, unless otherwise stipulated by the agreement.

### **Article 473.** The Reckoning of the Serviceable Life of Goods

The serviceable life of goods shall be determined by the period of time, calculated since the day of their manufacture, during which goods are fit for use, or by the date before which goods are fit for use.

### **Article 474.** Quality Inspection

1. Quality inspection may be provided for by the law, other legal acts and the mandatory requirements of state standards or by the contract of sale.

Procedure for quality inspection shall be introduced by the law, other legal acts, the mandatory requirements of state standards or by the contract. In cases there inspection procedure is established by the law, other legal acts and the mandatory requirements of state standards, the procedure of quality inspection of goods, determined by the contract, shall comply with these requirements.

2. If procedure for quality inspection is not introduced in keeping with Item 1 of this Article, the inspection of the quality of goods shall be carried out in accordance with the customs of the volume of business or with other commonly used terms of the quality inspection of goods subject to transfer under the contract of sale.

3. If the law, other legal acts, the mandatory requirements of state standards or the contract of sale provide for the duty of the seller to inspect the quality of goods to be transferred to the buyer (testing, analysis, inspection, etc.), the seller shall present to the buyer proof of quality inspection.

4. Procedure, and also other terms of the quality inspection of goods, carried out both by the seller and the buyer, shall be the same.

### **Article 475.** The Consequences of the Transfer of Goods of Improper Quality

1. Unless defects of goods were specified by the seller, the buyer to whom substandard goods have been handed over shall have the right to demand from the seller at his option:

- a proportionate reduction in the purchase price;
- gratuitous removal of defects in goods within the reasonable period of time;

- compensation of his expenses incurred in the removal of the defects of goods.

2. If the requirements for the quality of goods have been breached substantially (discovery of irremovable defects, defects which cannot be removed without disproportionate costs or costs of time, recurrent defects or newly emerged defects after their removal, and of other similar shortcomings), the buyer shall have the right to act at his option:

to refuse to fulfil the contract of sale and to demand the sum of money paid for the goods;

to demand the substitution of proper goods corresponding to the contract for the goods of improper quality.

3. Claims for the removal of defects or for the substitution of goods, referred to in Items 1 and 2 of this Article, may be made by the buyer, unless the contrary follows from the nature of goods or the substance of the obligation.

4. In the event of the improper quality of some part of goods that make up the set (Article 479) the buyer shall have the right to exercise, in respect of this part of goods, the rights, envisaged by Items 1 and 2 of this Article.

5. The rules, provided for by this Article, shall be applicable, unless the present Code or any other law establishes the contrary.

#### **Article 476. Defects of Goods for Which the Seller Is Responsible**

1. The seller shall be responsible for the defects of goods, if the buyer proves that they had arisen before they were transferred to him or for the reasons that emerged before this occurrence.

2. The seller shall bear responsibility for the defects of the goods to which he accorded the guarantee of quality, unless he proves that these defects arose after the goods had been handed over the buyer in consequence of the breach by the buyer of the rules of using goods or of their storage, or in consequence of the actions of third persons or force majeure.

#### **Article 477. Time-limits of Discovery of Defects in Transferred Goods**

1. Unless otherwise stipulated by the law or the contract of sale, the buyer shall have the right to make claims associated with defects of goods, provided they have been discovered in the time-limits fixed by this Article.

2. If no guarantee period or serviceable life is established for goods claims for defects in goods may be made by the buyer, provided that the defects of goods sold have been discovered in the reasonable period of time, but within two years since the day of transfer of goods to the buyer or within the longer period of time, when it is fixed by the law or the contract of sale. The time-limit for the discovery of shortcomings in goods subject to

carriage or dispatch by post shall be reckoned since the day of the delivery of goods to the place of their destination.

**3.** If a guarantee period has been fixed for goods, the buyer shall have the right to make claims associated with defects of goods upon the discovery of defects during the guarantee period.

If a warranty period has been fixed for complementary parts in the contract of sale of lesser duration than for the basic unit, the buyer shall have the right to make claims for the defects in a complementary part upon their discovery during the guarantee period for the basic unit.

If a guarantee period is fixed for a complementary part in the contract for longer duration than the guarantee period for the basic unit, the buyer shall have the right to make claims for defects of goods, if defects of the complementary part have been discovered during its guarantee period, regardless of the expiry of the guarantee period for the basic unit.

**4.** The buyer shall have the right to make claims for the defects of goods with serviceable life, if they have been discovered during their serviceable life.

**5.** In cases where the guarantee period stipulated by the contract makes up less than two years and defects in goods were discovered by the buyer upon the expiry of the guarantee period, but within two years since the day of the transfer of goods to the buyer, the seller shall bear responsibility, if the buyer proves that the defects of goods arose before they had been handed over to the buyer or for the reasons that emerged before this occurrence.

#### **Article 478. Complete Sets of Goods**

**1.** The seller shall be obliged to hand over to the buyer goods corresponding to the terms of the contract of sale on completeness.

**2.** If the contract of sale has not defined the complete set of goods, the seller shall be obliged to hand over to the buyer goods whose completeness is determined by the customs of the volume of business or by other usually made claims.

#### **Article 479. A Set of Goods**

**1.** If the contract of sale provides for the duty of the seller to hand over to the buyer a definite set of goods, the obligation shall be deemed to be fulfilled since the time of the transfer of all goods included in the set.

**2.** Unless otherwise stipulated by the contract of sale and unless the contrary follows from the substance of the obligation concerned, the seller shall be obliged to transfer at once to the buyer all the goods included in the set.

#### **Article 480. The Consequences of the Transfer of Incomplete Sets of Goods**

1. If an incomplete set of goods is transferred (Article 478), the buyer shall have the right to demand from the seller at his option:

- a proportionate reduction of the purchase price;
- the completing of goods within the reasonable period of time.

2. If the seller has failed to fulfil the claims of the buyer for completing goods within the reasonable period of time, the buyer shall have the right at his option:

to demand the substitution of complete goods for incomplete goods;  
to waive the execution of the contract of sale and demand the refund of the paid sum of money.

3. The consequences, envisaged by Items 1 and 2 of this Article, shall also be applied in case of the breach by the seller of his duty to hand over to the buyer a set of goods (Article 479), unless otherwise stipulated by the contract of sale and unless the contrary follows from the substance of the obligation.

#### **Article 481. Tare and Packaging**

1. Unless otherwise stipulated by the contract of sale and unless the contrary follows from the substance of the obligation, the seller shall be obliged to hand over goods in tare and/or in packaging, except for goods which do not require tare and/or packaging in view of their character.

2. If the contract of sale has not determined the requirements for tare and packaging, goods shall be bagged and/or packaged by the usual method, and in the absence of such method by the method that ensures the safety of goods of such kind under the usual conditions of storage and transportation.

3. If the statutory order provides for mandatory requirements for tare and/or packaging, the seller engaged in business shall be obliged to hand over goods to the buyer in tare and/or in packaging meeting these mandatory requirements.

#### **Article 482. The Consequences of the Transfer of Goods Without Tare and/or Packaging or in Improper Tare and/or Packaging**

1. In cases where goods subject to bagging and/or packaging are handed over to the buyer without tare and/or packaging, the buyer shall have the right to demand that the seller should bag and/or pack goods or to replace improper tare and/or packaging, unless the contrary follows from the contract, the substance of the obligation or the nature of goods.

2. In cases, provided for by Item 1 of this Article, the buyer shall have the right to make to the seller claims following from the transfer of goods of improper quality (Article 475) instead of the claims, referred to in this Item.

#### **Article 483. The Notification of the Seller about the Improper Execution of the Contract of Sale**

1. The buyer shall be obliged to inform the seller about the breach of the term of the contract of sale on the quantity, assortment, quality, completeness, tare and/or package of goods within the period provided for by the law, other legal acts or the contract, and if such period has not been fixed, within the reasonable period after the breach of the corresponding term of the contract should have been discovered by proceeding from the character and designation of goods.

2. In case of non-fulfilment of the rule, envisaged by Item 1 of this Article, the seller shall have the right to refuse in full or in part from the satisfaction of the claims of the buyer on the transfer to him of the missing quantity of goods, on the replacement of goods that do not meet the terms of the contract of sale, on the quality and assortment of goods, on the removal of defects of goods, on completing goods or on the substitution of complete goods for incomplete goods, on the bagging and/or packing of goods or on the replacement of substandard tare and/or packaging of goods, if he proves that the non-fulfilment of his rule by the buyer has involved the impossibility of satisfying his claims or entails for the seller the incommensurable expenses as compared with those he would have incurred, has he been informed in due time about the breach of the contract.

3. If the seller knew or should know about the fact that the transferred goods did not correspond to the terms of the contract of sale, he shall not have the right to refer to the provisions, stipulated by Items 1 and 2 of this Article.

#### **Article 484. The Duty of the Buyer to Accept Goods**

1. The buyer shall be obliged to accept goods given to him with the exception of cases where he has the right to demand that goods be replaced or to refuse to fulfil the contract of sale.

2. Unless otherwise stipulated by the law, other legal acts or the contract of sale, the buyer shall be obliged to perform actions which in keeping with the usual claims are needed on his part to ensure the transfer and receipt of relevant goods.

3. In cases where the buyer in contravention of the law, other legal acts or the contract of sale does not accept goods or refuses to accept them, the seller shall have the right to demand that the buyer should accept goods or refuse to fulfil the contract.

#### **Article 485. The Price of Goods**

1. The buyer shall be obliged to pay for goods at the price, specified by the contract of sale at the price fixed in accordance with Item 3 of Article 424 of this Code unless the contract provides for the price and unless it may be estimated by proceeding from its terms, and also perform actions at his own expense, which in conformity with the law, other legal acts, the contract or the usual requirements are necessary for making payments.

2. When price is set depending on the weight of goods, it shall be estimated according to the net weight, unless otherwise stipulated by the contract of sale.

3. If the contract of sale provides that the price of goods is subject to change depending on the indices stipulating the price of goods (cost price, expenses, etc.), but at the same time does not determine the method of revision of prices, the price shall be estimated by proceeding from the correlation of these indices at the time of concluding the contract and transferring goods. In case the seller delays the fulfilment of the duty of handing over goods, the price shall be estimated from the correlation of these indices at the time of concluding the contract, and the contract does not provide for this, at the time fixed in keeping with Article 314 of this Code.

The rules envisaged by this Item shall be applicable, unless otherwise stipulated by this Code, other law, other legal acts or the contract and unless the contrary follows from the substance of the obligation concerned.

#### **Article 486. The Payment for Goods**

1. The buyer shall be obliged to pay for goods directly before or after the transfer of goods by the seller, unless otherwise stipulated by this Code, other laws, other legal acts or the contract of sale and unless the contrary follows from the substance of the obligation concerned.

2. If the contract of sale does not provide for payments for goods by instalment, the buyer shall be obliged to payment to the seller the full price for the transferred goods.

3. If the buyer does not pay for the goods transferred to him in keeping with the contract of sale, the seller shall have the right to demand the payment for goods and interest payment in accordance with Article 395 of this Code.

4. If the buyer refuses to accept goods and pay for them in contravention of the contract of sale, the seller shall have the right at his option to demand either the payment for goods or to refuse to fulfil the contract.

5. In cases where in keeping with the contract of sale the seller shall be obliged to hand over to the buyer the goods which have not been paid by the buyer and other goods, the seller shall have the right to suspend the transfer of these goods until the time when all the goods handed over earlier are paid in full, unless otherwise stipulated by the law, other legal acts or the contract.

#### **Article 487. The Tentative Payment for Goods**

1. In cases where the contract of sale provides for the duty of the buyer to pay for goods in full or in part before the transfer by the seller of

goods (tentative payment), the buyer shall make payment within the period provided for by the contract, and if such period is not envisaged by the contract, within the period, determined pursuant to Article 314 of this Code.

2. In case of default on the duty by the buyer to pay for goods use shall be made of the rules, envisaged by Article 328 of this Code.

3. If the seller who has received the sum of tentative payment fails to discharge the duty of transferring goods within the fixed period (Article 457), the buyer shall be obliged to demand the transfer of the paid goods or the refund of the sum of the tentative payment for goods which have not been handed over by the seller.

4. If the seller fails to perform the duty of transferring the tentatively paid goods and unless the contrary is stipulated by the law or contract of sale, interest shall be paid to the amount of the tentative payment pursuant to Article 395 of this Code since the day when under the contract the goods should have been handed over till the day of the transfer of goods to the buyer or the refund to him of the tentatively paid sum of money. The contract may provide for the duty of the seller to pay interest to the amount of the tentative payment since the day of the receipt of this sum from the buyer.

#### **Article 488. Payment for Goods Sold on Credit**

1. If the contract of sale provides for the payment for goods over a definite period of time after they are handed over to the buyer (sale of goods on credit), the buyer shall effect the payment on due date envisaged by the contract, and if such date is not stipulated by the contract, on due date defined in keeping with Article 314 of this Code.

2. In case of default on the duty by the seller to transfer goods, use shall be made of the rules, provided for by Article 328 of this Code.

3. If the buyer who has received goods does not fulfil the duty of payment for them within the period fixed by contract of sale, the seller shall be obliged to demand payment for he transferred goods or the refund of the goods not paid for.

4. If the buyer fails to fulfil the duty of paying for the transferred goods in the period stipulated by the contract and unless the contrary is specified by this Code or the contract of sale, interest shall be paid to the amount of the overdue sum of money in keeping with Article 395 of this Code from the day when the goods should have been paid for to the day of payment for goods by the buyer.

The contract may provide for the duty of the buyer to pay interest to the amount corresponding to the price of goods beginning with the day of the transfer of the goods by the seller.

5. Unless otherwise stipulated by the contract of sale, the goods sold on credit from the time of their transfer to the buyer and to their payment

shall be recognized as held in pledge by the seller for the guaranteed execution by the buyer of his duty to make payment for the goods.

**Article 489.** Payment for Goods by Instalment

1. The contract for sale of goods on credit with the proviso on the instalment of date shall be deemed to be concluded, if it indicated the price of goods, the procedure, period and amount of payments alongside with other essential terms of the contract of sale.

2. When the buyer fails to make a regular payment for the goods sold by instalment and transferred to him within the period stipulated by the contract, the seller shall have the right, unless otherwise provided for by the contract, to refuse execute the contract and demand the refund of the sold goods with the exception of cases where the sum of payments received from the buyer exceeds half of the price of the goods.

3. The rules envisaged by Items 2, 4 and 5 of Article 488 of this Code shall be applicable to the contract for sale on credit.

**Article 490.** Insurance of Goods

The contract of sale may provide for the duty of the seller or the buyer to insure goods.

If the party duty-bound to ensure goods does not effect insurance in keeping with the contract terms, the other party shall have the right to ensure these goods and demand that the duty-bound party reimburse the expenses on insurance or refuse to execute the contract.

**Article 491.** The Preservation of the Right of Property for the Seller

In cases where the contract of sale provides that the right of property in the goods handed over to the buyer is preserved for the seller before the payment for the goods or the onset of other circumstances, the buyer shall not have the right to alienate the goods or dispose of them in any other way before the transfer of the right of ownership to him, unless otherwise stipulated by the law or the contract or unless the contrary follows from the designation and property of the goods.

In cases where the transferred goods are not paid for within the period specified by the contract or where other circumstances emerge under which the right of property passes to the buyer, the seller shall have the right to demand the return of the goods to him, unless otherwise stipulated by the contract.

## **§ 2. Retail Sale**

**Article 492.** The Contract of Retail Sale

1. Under the contract of retail sale the seller engaged in the business of retail sales shall undertake to hand over to the buyer goods intended for personal, family, home and any other use unrelated with business activity.

2. The contract of retail sale shall be a public agreement (Article 426).
3. The laws on the protection of the consumers' rights and other legal acts, adopted in accordance with them, shall be applicable to the relations covered by the contract of retail sale with the participation of the buyer-individual but not regulated by this Code.

**Article 493.** The Form of the Contract of Retail Sale

Unless otherwise stipulated by the law or the contract of retail sale, including by the terms of law blanks or other standard forms, to which the buyer joins (Article 428), the contract of retail sale shall be deemed to be concluded in the proper form since the time of the issue by the seller to the buyer of a cash-desk ticket or a sale receipt, or any other document confirming payment for goods. The lack of said documents shall not deprive the buyer of the possibility of referring to testimony by witnesses in corroboration of the conclusion of the contract and its terms and conditions.

**Article 494.** The Public Offer of Goods

1. The offer of goods in advertisement, merchandise catalogues and descriptions of goods, referred to people at large, shall be recognized as a public offer (Item 2 of Article 437), if it contain all the essential terms and conditions of the retail sale contract.

2. The putting up of goods in places of sales (on counters, in windows, etc.), the demonstration of other samples or the presentation of information about goods sold (descriptions, catalogues, photographs of goods, etc.) in places of sales shall be recognized as a public offer, regardless of the fact whether the price or other essential terms and conditions of the retail sale contract, except for the case when the seller has clearly determined that relevant goods are not intended for sale.

**Article 495.** The Presentation of Information about Goods to the Buyer

1. The seller shall be obliged to present to the buyer the requisite and trustworthy information about goods offered for sale, which corresponds to the requirements, established by the law, other legal acts and usually made in retail sale, for the substance and methods of presenting such information.

2. The buyer shall have the right, before the conclusion of a contract of retail sale, to inspect goods, demand the check-up of their properties or their demonstration, unless this is excluded due to the nature of goods and contradict the rules accepted in retail sale.

3. Unless the buyer is given the possibility of receiving forthwith in the place of sale information about goods, referred to in Items 1 and 2 of this Article, he shall be entitled to demand from the seller the compensation for the losses caused by the unwarranted evasion from the conclusion of the contract of retail sale (Item 4 of Article 445), and if the contract has been concluded, to refuse within the reasonable period of time from the

execution of the contract, to demand the refund of the paid sum of money and the compensation for other losses.

4. The seller who has not offered to the buyer the possibility of receiving relevant information about goods shall also bear liability for the defects of goods which arose after their transfer to the buyer, if the proves that they had arisen in the absence of such information.

#### **Article 496.** The Sale of Goods with the Proviso That the Buyer Accepts Them Within the Fixed Period of Time

The contract of retail sale may be concluded with the proviso that the buyer accepts goods within the fixed period of time, fixed by the contract, during which these goods may not be sold to another buyer.

Unless otherwise stipulated by the contract, the failure of the buyer to appear or the non-commission of other necessary actions for the acceptance of goods in the period of time fixed by the contract may be regarded by the seller as a ground for the refusal of the buyer to fulfil the contract.

The seller's additional expenses on the secured transfer of goods to the buyer in the period of time fixed by the contract shall be included in the price of goods, unless otherwise stipulated by the law, other legal acts or the contract.

#### **Article 497.** Sale of Goods by Samples and Remote Method of the Sale of Goods

1. An agreement of retail sale-purchase may be concluded on the basis of familiarising the purchaser with a sample of the goods proposed by the seller and displayed at the place of the sale of the goods (sale of goods by samples).

2. An agreement of retail sale-purchase may be concluded on the basis of familiarising the purchaser with a description, proposed by the seller, of the goods by means of catalogues, folders, booklets, photographs, communication media (television postal, radio etc.) or by other methods ruling out the possibility of direct familiarisation of the consumer with the goods or a sample of the goods when concluding such agreement (remote method of the sale of goods).

3. Unless provided otherwise by a law, other legal acts, or the agreement, an agreement of a retail sale-purchase of goods by samples or an agreement of a retail sale-purchase concluded by a remote method of the sale of goods shall be considered to be performed from the moment of delivery of the goods to the place specified in the agreement, and if the place of transfer of the goods is not determined by the agreement, from the moment of delivery of the goods to the place of residence of the purchaser-citizen or to the location of the purchaser - legal entity.

4. Unless provided otherwise by a law, before the transfer of the goods the purchaser may refuse performance of any retail sale-purchase agreement mentioned in Item 3 of this Article on condition of compensation to the seller for necessary expenses incurred in connection with the performance of actions relating to fulfilment of the agreement.

**Article 498.** The Sale of Goods with the Use of Vending Machines

1. In cases where goods are sold with the use of vending machines, the owner of these machines shall be obliged to bring to the notice of buyers information about the seller by putting up on the machine the data on the name (firm's name) of the seller, the place of his location, the conditions of his work, and also on the actions to be committed by the buyer for the receipt of goods or by presenting to the buyer such data by any other method.

2. The contract of retail sale with the use of vending machines shall be deemed to be concluded since the time of the commission by the buyer of the actions necessary for the receipt of goods.

3. If paid goods are not handed over to the buyer, the seller shall be obliged, on the demand of the buyer, forthwith to hand over goods to him or to return the sum of money paid by him.

4. In cases where the vending machine is used for change, the acquisition of currency notes, the rules for retail sale shall be applied, unless the contrary follows from the substance of the obligation concerned.

**Article 499.** The Sale of Goods with the Proviso of Their Delivery to the Buyer

1. If the contract of retail sale has been concluded with the proviso of the delivery of goods to the buyer, the seller shall be obliged to deliver goods to the place indicated by the buyer within the period of time, fixed by the contract, and if the place of delivery of goods has not been indicated by the buyer, goods shall be delivered to the place of residence of the buying individual or the place of location of the buying legal entity.

2. The contract of retail sale shall be deemed to be executed since the time goods have been handed over to the buyer, and in the absence of the latter, to any other person who has produced the receipt or any other document testifying to the conclusion of the contract or to the completion of the delivery of goods, unless otherwise stipulated by the law, other legal acts or the contract and unless the contrary follows from the substance of the obligation concerned.

3. If the contract fails to fix the time of delivery of goods for handing over to the buyer, goods shall be delivered within the reasonable period of time after the receipt of the buyer's claim.

**Article 500.** The Price and Payment for Goods

1. The buyer shall be obliged to pay for goods at the price quoted by the seller at the time of concluding the retail sale contract, unless otherwise stipulated by the law or other legal acts or unless follow from the substance of the obligation concerned.

2. If the retail sale contract provides for the tentative payment for goods (Article 487), the non-payment by the buyer of goods in the period of time foxed by the contract shall be deemed to be the buyer's refusal to fulfil the contract, unless otherwise stipulated by the agreement of the parties thereto.

3. The rule envisaged by the first paragraph of Item 4 of Article 488 of this Code shall not be applied to the contracts of retail sale on credit, including to those with the proviso of payment by the buyer for goods by instalment.

The buyer shall have the right to pay for goods at any time within the contractual period of instalment of date.

#### **Article 501. The Contract of Hire and Sale**

Under the contract the buyer shall be a hirer (leaseholder) of goods given to him (contract of hire and sale) prior to the transfer of ownership of goods to the buyer (Article 491).

Unless otherwise stipulated by the contract, the buyer shall become the owner of goods since the time of payment for goods.

#### **Article 502. Exchange of Goods**

1. The buyer shall have the right, during 14 days since the time of the transfer of non-food products to him, if no longer period is declared by the seller, to exchange the bought products in the place of purchase and in other places, announced by the seller, for similar products of a different size, form, clearance, style, colour or complete set by making the necessary resettlement with the seller if there is a difference in price.

If the seller has no goods at his disposal needed for exchange, the buyer shall have the right to return to the seller the acquired goods and receive the sum of money paid for them.

The demand of the buyer for exchange or the return of goods shall be subject to satisfaction, unless goods have been in use, retained their consumer properties and there is evidence that they have been bought from the given seller.

2. The list of goods which are not subject to exchange or return according to the grounds, referred to in this Article, shall be determined in the order prescribed by the law or other legal acts.

#### **Article 503. Rights of Purchaser in the Event of Sale to Him of Goods of Improper Quality**

1. A purchaser to whom goods of improper quality have been sold, unless its defects were stipulated by the seller, may choose to demand:

replacement of poor-quality goods with goods of proper quality;  
commensurate reduction of the purchase price;  
immediate gratuitous elimination of the defects of the goods;  
compensation for expenses of the defects of the goods.

2. In the event of the discover of defects of goods whose properties whose properties do not enable them to be eliminated (foodstuffs, domestic sundries, and so forth) the purchaser may choose to demand the replacement of such goods with goods of proper quality or commensurate reduction of the purchase price.

3. With respect to sophisticated goods the purchaser may demand their replacement or refuse to fulfil the agreement of retail sale-purchase and demand the return of the amount paid for the goods in the event of an essential violation of the requirements to their quality (Item 2 of Article 475).

4. Instead of presenting the demands provided for in Items 1 and 2 of this Article, the purchaser may refuse to fulfil the agreement and demand the return of the amount paid for the goods.

5. In case of the refusal to fulfil the agreement of retail sale-purchase with the demand for the return of the amount paid for the goods, the purchaser, upon request of the seller and at his expense, must return the goods received of improper quality.

In the event of the return to the purchaser of the amount paid for the goods, the seller cannot withhold from it the amount by which the value of the goods was lowered because of the full or partial use of the goods, loss of their form as goods, or other similar circumstances.

6. The rules stipulated by this Article shall be applicable unless otherwise established by laws on the protection of consumers' rights.

**Article 504.** Compensation for the Difference in Price When Goods Are Replaced, the Purchase Price Is Reduced and Goods of Improper Quality Are Returned

1. When substandard goods are replaced by goods of proper quality that correspond to the retail sale contract, the seller shall have no right to demand compensation for the difference between the price of goods specified by the contract and the price of goods existing at the time of the substitution of goods or of the delivery by the court of its decision on the replacement of goods.

2. In case of replacement of substandard goods by similar goods of proper quality but with different size, style, sort or other distinctive features, the difference between the price of the replaceable goods at the time of substitution and the price of goods handed over in place of substandard goods shall be subject to compensation.

If the demand of the buyer has not been satisfied by the seller, the price of replaceable goods and the price of goods handed over in place of

them shall be fixed at the time of the delivery by the court of its decision on the substitution of goods.

3. If a demand is made on an adequate reduction in the purchase price of goods, it is necessary to take into account the price of goods at the time of making a demand on their price reduction, and if the buyer's demand has not been satisfied of one's own accord, at the time of the delivery by the court of its decision on the proportionate reduction of the price.

4. If substandard goods are returned to the seller, the buyer shall have the right to demand compensation for the difference between the price of goods fixed by the retail sale contract and the price of appropriate goods at the time of the voluntary satisfaction of his demand, and if this demand has not been satisfied of his own accord, at the time of the delivery by the court of its decision.

#### **Article 505.** The Liability of the Seller and the Fulfillment of the Obligation in Kind

In case of default on the seller's obligation under the contract of retail sale, the compensation of losses and the payment of a penalty shall not absolve the seller from the obligation in kind.

### **§ 3. Delivery of Goods**

#### **Article 506.** Contract for Delivery

Under the contract for delivery the supplier-seller engaged in business shall undertake to transfer to the buyer goods produced or purchased by him within the fixed period or periods of time for use in business or for other purposes unrelated to personal, family, home or any other use.

#### **Article 507.** Settlement of Disagreements During the Conclusion of the Contract for Delivery

1. When during the conclusion of a contract for delivery disagreements arose between the parties over particular terms and conditions of the contract, the party which has offered to conclude the contract and received from the other party the proposal on the adjustment of these terms and conditions shall, during 30 days since the day of receipt of this proposal, unless a different date is fixed by law and agreed upon between the parties, take measures on the coordination of the relevant terms and conditions of the contract or notify in writing the other party about the refusal to conclude it.

2. The party which has received the proposal under the corresponding terms and conditions of the contract but has not taken measures to coordinate the terms and conditions of the contract for delivery and has not notified the other party about the refusal to conclude the

contract on due date, provided for by Item 1 of this Article, shall be obliged to compensate the losses caused by the evasion from the coordination of the terms and conditions of the contract.

#### **Article 508. Periods of Delivery of Goods**

1. In case where the parties provide for the delivery of goods during the validity term of the contract for delivery by individual consignments and where the periods of delivery of individual batches (periods of delivery) have not be defined, goods shall be delivered by even shipments monthly, unless the contrary follows from the law, other legal acts, the substance of obligations and the customs of business turnover.

2. The contract for delivery may establish a schedule of shipments of goods (by decade, day, hour, etc.) in addition to the definition of periods of delivery of goods.

3. Prior delivery of goods may be made with the consent of the buyer.

Goods supplied short of the term and accepted by the buyer shall be counted towards the quantity of goods subject to delivery in the next period.

#### **Article 509. The Procedure for Delivery of Goods**

1. Goods shall be delivered by the supplier by means of shipment (transfer) of goods to the buyer who is a party to the contract for delivery or to the person indicated in the contract as a consignee.

2. In case where the contract for delivery provides for the right of the buyer to give to the supplier directions on the shipment (transfer) of goods to consignees (shipment warrants), goods shall be shipped (transferred) by the supplier to the consignees, referred to in the shipment warrant.

The consent of the shipment warrant and the date of its sending by the buyer to the supplier shall be determined by the contract. If the contract does not provide the time of sending a shipment warrant, the latter shall be sent to the supplier within 30 days before the onset of the period of delivery.

3. The non-submission of a shipment warrant by the buyer within the fixed period of time shall entitle the supplier either to renounce the execution of the contract for delivery or to demand that the buyer pay for goods. Moreover, the supplier shall have the right to claim damages caused in connection with the non-submission of the shipment warrant.

#### **Article 510. Delivery of Goods**

1. Delivery of goods shall be made by the supplier by means of their shipment by transport vehicles, provided for by the contract for delivery and on the contractual terms and conditions.

In cases where the contract fails to determine which type of transportation facility and on which conditions goods are to be delivered, the right of choosing the type of transportation facility or of defining the conditions of the delivery of goods shall belong to the supplier, unless the

contrary follows from the law, other legal acts and the substance of the obligation concerned or the customs of business turnover.

2. The contract for delivery may provide for the receipt of goods by the buyer (consignee) in the place of location of the supplier (sampling of goods).

If the term of sample is not provided by the contract, the sampling of goods shall be carried out by the buyer (consignee) within the reasonable period of time after the receipt of the supplier's notification about the readiness of goods.

#### **Article 511. The Replenishment of Short Delivery of Goods**

1. The supplier who has a shortage of delivery of goods in a particular period of delivery shall be obliged to replenish the short delivered goods in the next period (periods) within the validity term of the contract for delivery, unless otherwise provided for by the contract.

2. In case where goods are shipped by the supplier to several consignees, referred to in the contract for delivery or the shipment warrant of the buyer, goods delivered to one consignee over and the quantity envisaged by the contract or the shipment warrant shall not be counted towards the short delivery of goods to other consignees, unless otherwise stipulated by the contract.

3. By notifying the supplier the buyer shall have the right to accept goods whose delivery has been overdue, unless otherwise stipulated by the contract for delivery. Goods delivered before the supplier receives the notification concerned, the buyer shall be obliged to accept and pay for them.

#### **Article 512. Assortment of Goods in Case of Replenishing Short Deliveries**

1. Assortment of the short delivered goods subject to replenishment shall be determined by the agreement of the parties. In the absence of such agreement the supplier shall be obliged to replenish the short delivered quantity of goods in the assortment established for the period in which the goods were short delivered.

2. The delivery of goods of one name in the greater quantity than the contract for delivery provides shall not be counted towards the cover of the short delivered goods of another name which form the same assortment and shall be subject to replenishment, except for the cases where such delivery was made with the preliminary written consent of the buyer.

#### **Article 513. The Acceptance of Goods by the Buyer**

1. The buyer (consignee) shall be obliged to perform all the necessary actions which ensure the acceptance of goods delivered in keeping with the contract for delivery.

2. Goods received by the buyer (consignee) shall be examined by him within the period of time, stipulated by the law, other legal acts, the contract for delivery or the customs of the business turnover.

The buyer (consignee) shall be obliged to check the quantity and quality of accepted goods within the same period of time in the order, prescribed by the law, other legal acts, the contract or the customs of business turnover, and to inform the supplier forthwith in writing about the discovered discrepancies or defects of goods.

3. If the buyer (consignee) receives the delivered goods from a transport organization, he shall be obliged to check the compliance of these goods with information referred to in transport and accompanying documents, and also to accept these goods from the transport organization with the observance of the rules stipulated by the laws and other legal acts regulating the activity of transportation facilities.

#### **Article 514. Safekeeping of Goods Which Have Not Been Accepted by the Buyer**

1. When in keeping with the law, other legal acts or the contract for delivery the buyer (consignee) refuses to accept the goods delivered by the supplier, he shall be obliged to ensure the safety of these goods (safekeeping) and inform the supplier immediately.

2. The supplier shall be obliged to take away the goods accepted by the customs for safekeeping or to dispose of them within the reasonable period of time.

If the supplier fails to dispose of these goods within this period, the buyer shall have the right to sell goods or return them to the supplier.

3. The requisite expenses incurred by buyer in connection with the acceptance of goods for safekeeping, the sale of goods or their return to the seller shall be liable to compensation by the supplier.

In this case, the proceeds from the sale of goods shall be transferred to the supplier minus the amount due to the buyer.

4. In cases where the buyer does not accept goods from the supplier without the grounds, established by the law, other legal acts or the contract, or refuses to accept them, the supplier shall have the right to demand from the buyer the payment for the goods.

#### **Article 515. The Sampling of Goods**

1. When the contract for delivery provides for the sampling of goods by the buyer (consignee) in the place of location of the supplier (Item 2 of Article 510), the buyer shall be obliged to inspect the transferred goods in the place of their transfer, unless otherwise stipulated by the law, other legal acts or unless the contrary follows from the substance of the obligation concerned.

2. The non-sampling of goods by the buyer (consignee) within the period of time specified by the contract for delivery, and in the absence of

the contract within the reasonable period of time after the receipt of the supplier's notification about the readiness of goods shall entitle the supplier to refuse to fulfil the contract or to demand that the buyer pay for goods.

#### **Article 516. Payment for Delivered Goods**

1. The buyer shall pay for delivered goods with the observance of the procedure and form of payments stipulated by the contract for delivery. If the agreement between the parties thereto fails to determine the procedure and form of payments, payments shall be effected by means of payment orders.

2. If the contract for delivery provides for the payment for goods to be made by the recipient (payer) and the latter has refused without any foundation to pay for goods or failed to pay for them within the period of time stipulated by the contract, the supplier shall have the right to demand that the buyer pay for the delivered goods.

3. In case where the contract for delivery provides for the shipment of goods in parts forming the set, the payment for goods by the buyer shall be effected after the shipment (sampling) of the last part forming the set, unless otherwise stipulated by the contract.

#### **Article 517. Tare and Packaging**

Unless the contrary is stipulated by the contract for delivery, the buyer (consignee) shall be obliged to return to the supplier reusable tare and means of packaging of the delivered goods in the order and in the terms stipulated by the law, other legal acts and by the obligatory rules adopted in accordance with or by the contract.

Other tare, and also the packaging of goods shall be returned to the supplier only in cases provided for by the contract.

#### **Article 518. The Consequences of the Delivery of Goods of Improper Quality**

1. The buyer (consignee) to whom goods of improper quality have been supplied shall have the right to make claims to the supplier as stipulated by Article 475 of this Code, except for the case when the supplier who has received the notification of the buyer about the defects of the delivered goods shall without delay substitute goods of proper quality for the delivered goods.

2. The buyer (consignee) who sells the delivered goods by retail shall have the right to demand within the reasonable period of time the substitution for the goods of improper quality, unless otherwise stipulated by the contract for delivery.

#### **Article 519. The Consequences of the Delivery of Incomplete Goods**

1. The buyer (consignee) to whom goods have been supplied with the breach of the terms and conditions of the contract for delivery, of the

requirements of the law and other legal acts or of the usual requirements for completeness shall have the right to make to the supplier claims stipulated by Article 480 of this Code, except for the case when the supplier who has received the buyer's notification about the incomplete set of the delivered goods shall make goods complete without delay or replace these by complete goods.

2. The buyer (consignee) who sells goods by retail shall have the right to demand the replacement within the reasonable period of time of incomplete goods returned by the consumer by complete goods, unless otherwise stipulated by the contract of delivery.

**Article 520.** The Rights of the Buyer in Case of Short Delivery of Goods, the Non-fulfilment of the Requirements for the Removal of Defects of Goods or of Completing Goods

1. If the supplier has failed to deliver the quantity of goods, stipulated by the contract for delivery, or has not fulfilled the buyer's claim for the replacement of substandard goods or for completing goods within the fixed period of time, the buyer shall have the right to acquire short delivered goods from other persons and to charge all the necessary and reasonable expenses to the supplier for their acquisition.

The expenses of the buyer on the acquisition of goods from other persons in cases of their short delivery by the supplier or of the non-fulfillment of the buyer's claims for the removal of defects of goods or for completing goods shall be reckoned according to the rules, provided for by Item 1 of Article 524 of this Code.

2. The buyer (consignee) shall have the right to refuse to pay for substandard and incomplete goods, and if such goods have been paid for, to demand to refund of the paid sums of money pending the removal of defects and the completion of goods or of their replacement.

**Article 521.** Penalty for Short Delivery or Delay in Delivery of Goods

The penalty established by the law or the contract for delivery for short delivery or delay in delivery of goods shall be recovered from the supplier until the actual execution of the obligation within the limits of his duty to replenish the short delivered quantity of goods in subsequent periods of delivery, unless a different procedure for the payment of penalty is established by the law or the contract.

**Article 522.** Cancellation of Similar Liabilities under Several Contracts for Delivery

1. In cases where goods of the same name are delivered by the supplier to the buyer at once under several contracts for delivery and the quantity of delivered goods is insufficient for the cancellation of the supplier's liabilities under all contracts, the delivered goods shall be

counted towards the execution of the contract to be indicated by the supplier when he delivers goods or immediately after this delivery.

2. If the buyer has paid to the supplier for the goods of the same name, received under several contracts for delivery and the sum of payment is insufficient for the cancellation of the buyer's liabilities under all contracts, the paid sum of money shall be counted towards the execution of the contract, indicated by the buyer when goods are paid for or without delay after payment.

3. If the supplier or the buyer have not availed of the rights granted to them by Items 1 and 2 of this Article, the execution of the liability shall be counted towards the cancellation of the liabilities under the contract, where period of execution commenced earlier. If the period of the execution of the liabilities under several contracts has commenced simultaneously, the granted execution shall be counted in proportion towards the cancellation of the liabilities under all contracts.

#### **Article 523. Unilateral Waiver of the Execution of the Contract for Delivery**

1. Unilateral waiver of the execution of the contract for delivery (in full or in part) or unilateral change of this contract shall be allowed in case of the substantial infringement of the contract by one of the parties thereto (the fourth paragraph of Item 2 of Article 450).

2. The infringement of the contract for delivery by the supplier may be substantial in cases of:

the delivery of goods of improper quality with defects which cannot be removed in the period acceptable for the buyer;

the repeated breach of the terms of delivery of goods.

3. The infringement of the contract for delivery by the buyer may be substantial in cases of:

repeated breach of the terms of payment for goods;

repeated non-sampling of goods.

4. The contract for delivery shall be deemed to be altered or dissolved since the time of receipt by one party of the notification of the other party about the unilateral waiver to execute the contract in full or in part, unless a different term of cancelling or modifying the contract is provided by the notification or defined by the agreement of the parties.

#### **Article 524. The Reckoning of Losses in Case of the Cancellation of the Contract**

1. If within the reasonable period of time after the cancellation of the contract due to the infringement of the obligation by the seller the buyer bought goods from another person at higher but reasonable price instead of goods specified by the contract, the buyer may make to the seller his claim for the compensation of losses in the form of the difference between the contractual price and the price under the deal made instead.

2. If within the reasonable period of time after the cancellation of the contract owing to the infringement of the obligation by the buyer the seller has sold goods to another person under the reasonable but lower price than that stipulated by the contract, the seller may make to the buyer his claim for the compensation of losses in the form of the difference between the contractual price and the price under the deal made instead.

3. If after the cancellation of the contract on the grounds, provided for by Items 1 and 2 of this Article, no transaction has been made instead of the dissolved contract, and the current price is available for these goods, the party may make his claim for the compensation of losses in the form of the difference between the price specified by the contract and the current price existing at the time of the dissolution of the contract.

The price that is usually charged under the comparable circumstances for similar goods in the place where goods should be transferred shall be recognized as a current price. If there is no current price in this place, use may be made of the current price that was used in another place, which may serve as a reasonable replacement, with due account of the difference in the expenses on the transportation of goods.

4. The satisfaction of the requirements, provided for by Items 1, 2 and 3 of this Article, shall not release the party, which has not fulfilled or fulfilled the obligation in improper way from the compensation of other losses caused by the other party, on the basis of Article 15 of this Code.

#### **§ 4. Delivery of Goods for State or Municipal Needs**

**Article 525.** The Grounds for the Delivery of Goods for State or Municipal Needs

1. Goods shall be delivered to meet state or municipal needs on the basis of a state contract for the delivery of goods for state or municipal needs, and also in keeping with the contracts for delivery of goods, concluded in accordance with the state or municipal contract (Item 2 of Article 530).

2. The rules for the contract for delivery (Articles 506-522) shall be applicable to the relations involved in the delivery of goods for state or municipal needs, unless otherwise stipulated by the rules of this Code.

Other laws shall be applicable to the relations involved in the delivery of goods for state or municipal needs in the part that is not regulated by this paragraph.

**Article 526.** The State or Municipal Contract for the Delivery of Goods to Meet State or Municipal Needs

Under the state or municipal contract for the delivery of goods for state or municipal needs (hereinafter referred to as the state or municipal contract) the supplier (executor) shall undertake to transfer goods to the state or municipal customer or to another person according to his direction,

whereas the state or municipal customer shall undertake to pay for the delivered goods.

**Article 527.** The Grounds for the Conclusion of State or Municipal Contracts

1. A state or municipal contract shall be concluded on the basis of an order of delivering goods to meet state or municipal needs placed in the procedure provided for by the legislation on placement of orders to supply goods, carry out works and render services to meet state or municipal needs.

The conclusion of a state or municipal contract shall be mandatory for the state or municipal customer who has placed the order, if not otherwise established by laws.

2. The conclusion of a state or municipal contract shall be compulsory for the supplier (executor) only in cases established by law and provided that the state or municipal customer should compensate all the losses which can be caused to supplier (executor) in connection with the fulfilment of the state or municipal contract.

3. The condition of compensation of losses, envisaged by Item 2 of this Article, shall not be applied to the governmental enterprises not subject to privatization.

4. The term concerning compensation for damages provided for by Item 2 of this Article shall not apply in respect of the winner of an auction or the winner of bidding for goods or in respect of the person with whom under the laws a state or municipal contract is concluded in the event of evading the conclusion of the state or municipal contract by the auction winner or the winner of bidding for goods, provided that the offered price of the state or municipal contract is wittingly understated.

**Article 528.** Procedure for the Conclusion of State or Municipal Contracts

1. A state or municipal contract shall be drafted by a state or municipal customer and sent to the supplier (executor), unless otherwise stipulated by the agreement between them.

2. The party which has received the draft of a state or municipal contract shall sign it within 30 days and return one copy of the state or municipal contract to the other party, while in the presence of disagreements on the terms and conditions of the state or municipal contract shall draw up minutes of disagreements during this period and send it together with the signed state or municipal contract to the other contract party or shall notify it about the refusal to conclude the state or municipal contract.

3. The party which has received the state or municipal contract with the minutes of disagreements shall be obliged within 30 days to consider disagreements, take measures to adjust them with the other party and

inform this party about the acceptance of the state or municipal contract in its wording or about the rejection of the minutes of disagreements.

In case of rejection of the minutes of disagreements or upon the expiry of this period of time, the non-adjusted disagreements under the state or municipal contract, the conclusion of which is mandatory for one of the parties, may be transferred by the other party for the consideration by a court of law within 30 days.

4. In case where a state or municipal contract is concluded according to the results of the auction for placing an order for the delivery of goods for state or municipal needs, the state or municipal contract shall be concluded within 30 days since the day of the bidding.

5. If the party for which the conclusion of a state or municipal contract is obligatory evades from its conclusion, the other party shall have the right to apply to a court of law with the demand of compelling this party to conclude the state or municipal contract.

#### **Article 529.** The Conclusion of a Contract for Delivery of Goods for State or Municipal Needs

1. If a state or municipal contract provides for the delivery of goods by the supplier (executor) to the buyer, defined by the state or municipal customer, under the contracts for the delivery of goods for state or municipal needs, the state or municipal customer shall notify within 30 days since the day of signing the state or municipal contract the supplier (executor) and the buyer about the attachment of the buyer to the supplier (executor).

The notification about the attachment of the buyer to the supplier (executor), issued by the state or municipal customer in keeping with the state or municipal contract, shall be a ground for the conclusion of a contract for the delivery of goods for state or municipal needs.

2. The supplier (executor) shall be obliged to send the draft of the contract for the delivery of goods for state or municipal needs to the buyer, indicated in the notification about the attachment, within 30 days since the day of the receipt of the notification from the state or municipal customer, unless a different procedure for drafting a contract is stipulated by the state or municipal contract or unless the draft of the contract is submitted by the buyer.

3. The party which has received the draft contract for the delivery of goods for state or municipal needs shall sign it and return one copy to the other party within 30 days since the day of the receipt of the draft and in the presence of disagreements over the contract terms shall draw up during this time minutes of the disagreements and send them to the other party together with the signed contract.

4. The party which has received the signed draft contract for the delivery of goods for state or municipal needs with the minutes of disagreements shall, during 30 days, consider the disagreements, take

measures to coordinate the terms and conditions of the contract with the other part and inform the other party about the acceptance of the contract in its wording or about the rejection of the minutes of the disagreements. non-adjusted disagreements may be transferred by the interested party for the consideration by the court within 30 days.

5. If the supplier (executor) evades from the conclusion of the contract for the delivery of goods for state or municipal needs, the buyer shall have the right to apply to a court of law with the demand for compelling the supplier (executor) to conclude a contract on the terms of the contract drafted by the buyer.

**Article 530.** The Buyer's Refusal to Conclude a Contract for the Delivery of Goods for State or Municipal Needs

1. The buyer shall have the right to refuse wholly or partially from goods, indicated in the notification about attachment, and from the conclusion of a contract for their delivery.

In this case, the supplier (executor) shall forthwith notify the state or municipal customer and demand that he notify about the attachment to another buyer.

2. Within 30 days since the day of the receipt of the notification of the supplier (executor), the state or municipal customer shall issue a notification about the attachment of another buyer to him or send to the supplier (executor) a shipment warrant with an indication of the consignee of goods, or state its consent to accept and pay for goods.

3. In case of default on the state or municipal customer's duties, provided for by Item 2 of this Article, the supplier (executor) shall have the right either to demand that the state or municipal customer should accept and pay for goods or to sell goods at its discretion with the charge of reasonable expenses incurred in their sale to the state or municipal customer.

**Article 531.** The Execution of the State or Municipal Contract

1. In cases where in keeping with terms and conditions of the state or municipal contract goods are delivered directly to the state or municipal customer or according to its direction (shipment warrant) to another person (consignee), the relations between the parties in the performance of the state or municipal contract shall be regulated by the rules stipulated by Articles 506-522 of this Code.

2. In cases where goods are delivered for state or municipal needs by the consignee, indicated in the shipment warrant, the goods shall be paid for by the state or municipal customer, unless a different procedure for payments is envisaged by the state or municipal contract.

**Article 532. Payment for Goods Under the Contract for the Delivery of Goods for State or Municipal Needs**

In case of the delivery of goods to the buyers under the contracts for the delivery of goods for state or municipal needs payment for goods shall be made by the buyers at the prices estimated in accordance with the state or municipal contract, unless a different procedure determining prices and payments is stipulated by the state or municipal contract.

When the buyer pays for goods under the contract for the delivery of goods for state or municipal needs, the state or municipal customer shall be recognized as a guarantor of this obligation of the buyer (Articles 361-367).

**Article 533. Compensation for Losses Caused in Connection with the Execution or Dissolution of a State or Municipal Contract**

1. Unless otherwise stipulated by a law or a state or municipal contract, the losses caused to the supplier (executor) in connection with the execution of the state or municipal contract (Item 2 of Article 527) shall be liable to compensation by the state or municipal customer within 30 days since the day of the transfer of goods in conformity with the state or municipal contract.

2. In case where the losses caused to the supplier (executor) in connection with the performance of a state or municipal contract are not compensated in accordance with the state or municipal contract, the supplier (executor) shall have the right to refuse to perform the state or municipal contract and demand the compensation of the losses caused by the dissolution of the state or municipal contract.

3. When a state or municipal contract is dissolved on the grounds referred to in Item 2 of this Article, the supplier shall have the right to refuse to execute the contract for the delivery of goods for state or municipal needs.

The losses caused to the buyer by such refusal of the supplier shall be compensated by the state or municipal customer.

**Article 534. The Rejection by the State Customer of Goods Delivered Under the State or Municipal Contract**

In cases provided for by law the state or municipal customer shall have the right to reject wholly or partially the goods whose delivery is stipulated by the state or municipal contract, provided that the losses caused by such rejection are compensated to the supplier.

If the rejection by the state or municipal customer of the goods whose delivery is provided for by the state or municipal contract has involved the cancellation or charge of the contract for the delivery of goods for state or municipal needs, the losses caused to the buyer by such cancellation or change shall be compensated by the state or municipal customer.

## **§ 5. Sale of Agricultural Produce**

### **Article 535. Contract of Sale of Agricultural Produce**

1. Under the contract of sale of agricultural produce the agricultural producer shall undertake to transfer the farm products he has grown or produced to the purveyor, the person who purchases such products for processing or sale.

2. The rules for the contract for delivery (Articles 506-524) shall be applicable to the relations covered by the contract of and not regulated by the rules of this paragraph, while in cases of the delivery of goods for state needs the rules for the contract sale of agricultural produce for delivery (Articles 525-534) shall be applicable.

### **Article 536. The Duties of the Purveyor**

1. Unless otherwise stipulated by the contract of contracting, the purveyor shall be obliged to accept farm products from the producer in the place of their location and to ensure their delivery.

2. In case where farm products are accepted in the place of location of the purveyor or in any other place indicated by it, the purveyor shall have no right to refuse to accept farm products which correspond to the terms and conditions of the contract of contracting and which have been transferred to the purveyor in the period of time, specified by the contract.

3. The contract of contracting may provide for the duty of the purveyor processing farm products to return to the producer the waste of this processing on its demand with payment at the price fixed by the contract.

### **Article 537. The Duty of the Producer of Farm Products**

The producer of farm products shall be obliged to transfer to the purveyor the grown or produced farm products in the quantity and assortment, envisaged by the contract of contracting.

### **Article 538. The Liability of the Producer of Farm Products**

The producer of farm products which has failed to fulfil its obligation or has fulfilled it improperly shall bear liability in the presence of its fault.

## **§ 6. Power Supply**

### **Article 539. The Contract of Power Supply**

1. Under the contract of power supply the energy supplying organization shall undertake to transmit power to the user (consumer) through the connected up network, while the user shall undertake to pay for

accepted power, and also to observe the conditions of its consumption, provided for by the contract, and to ensure the safety of the operation of its electrical networks and the working order of the devices and equipment use by it and related to the consumption of power.

2. A contract of power supply shall be concluded with the user, if the latter has at its disposal a power receiving device meeting the technical requirements and connected up to the networks of the energy supplying organization and other requisite equipment, and also if the user guarantees the accounting of the consumption of power.

3. The laws and other legal acts on power supply, and also the mandatory rules adopted in conformity with them, shall be applicable to the relations covered by the contract of power supply and regulated by this Code.

4. The rules of this paragraph shall be applicable to the relations under an agreement for supply with electric power unless otherwise established by a law or other legal acts.

#### **Article 540.** The Conclusion and Prolongation of the Contract of Power Supply

1. In cases where the individual acts as a user of power for domestic consumption under the contract of power supply, this contract shall be deemed to be concluded since the time of the fixed actual linking up of the user to the attached network in the statutory order.

Unless otherwise stipulated by the agreement of the parties, such contract shall be deemed to be concluded for an indefinite period of time and may be altered or dissolved on the grounds, stipulated by Article 546 of this Code.

2. The contract of power supply, concluded for an indefinite period of time, shall be deemed to be prolonged for the same period and on the same conditions, if before the expiry of its validity term neither party states about its termination or alteration or the conclusion of a new contract.

3. If one of the parties to the contract has tabled the proposal on the conclusion of a new contract before the expiry of its validity term, the relations between the parties shall be regulated by the contract concluded earlier before a new contract is to be concluded.

#### **Article 541.** The Quantity of Power

1. The energy supplying organization shall be obliged to transmit power to the user through the attached network in the quantity provided for by the contract of power supply and with the observance of the conditions of transmission to be agreed upon by the parties. The quantity of power transmitted to the subscriber and the used up by him shall be estimated in accordance with the data of accounting of its actual consumption.

2. The contract of power supply may provide for the right of the user to change the quantity of received power, fixed by the contract, provided the compensation of the expenses incurred by the energy supplying organization in connection with the transmission of power in the quantity which is not stipulated by the contract

3. In case where the individual using power for domestic consumption acts as a user under the contract of power supply, he shall have the right to use power in the quantity needed by him.

#### **Article 542. The Quality of Power**

1. The quality of power transmitted shall correspond to the requirements made by state standards and other compulsory rules or envisaged by the contract of power supply.

2. If the energy supplying organization breaks the requirements for the quality of power, the user shall have the right to refuse to pay for such power. In this case, the energy supplying organization shall have the right to demand that the user should compensate the cost of the power which the user has saved groundlessly in consequence of the use of this power (Item 2 of Article 1105).

#### **Article 543. The Duties of the Buyer to Maintain and Operate Networks, Instruments and Equipment**

1. The user shall be obliged to ensure proper technical condition and safety of the operated electric power networks, instruments and equipment, to observe the conditions of power consumption, and also immediately inform the energy supplying organization about accidents, fires and troubles in energy recording instruments and about other infringements arising during the use of energy.

2. In case where the individual using power for domestic consumption acts as a user under the contract of power supply, the duty of ensuring proper technical condition and safety of electric power networks, and also of energy recording instruments shall be discharged by the energy supplying organization, unless otherwise stipulated by the law and other legal acts.

3. Requirements for the technical condition and operation of electric power networks, instruments and equipment, and also the procedure for control over their work shall be defined by the law, other legal acts or the agreement between the parties.

#### **Article 544. Payment for Power**

1. The user shall pay for the quantity of power, actually accepted by him, in line with the data of power recording, unless otherwise stipulated by the law, other legal acts or the agreement of the parties.

2. Procedure for payments for energy shall be determined by the law, other legal acts or by the agreement between the parties.

**Article 545. The Subuser**

The user may transmit power, accepted by it from the energy supplying organization through the attached network, to another person (subuser) only with the consent of the energy supplying organization.

**Article 546. The Modification and Cancellation of the Contract of Power Supply**

1. In case where the individual using power for domestic consumption acts as a user under the contract of power supply, he shall have the right to cancel the contract unilaterally, provided he informs the energy supplying organization about this and pays in full for the used power.

In case where the legal entity acts as a user under the contract of power supply, the energy supplying organization shall have the right to refuse to fulfil the contract unilaterally on the grounds provided for by Article 523 of this Code, except for the cases established by the law or other legal acts.

2. An interval in the supply of power, the termination or restriction of the supply of power shall be allowed by agreement between the parties, except for the cases where the unsatisfactory condition of the user's power plant, certified by the state power supervision body, endangers the levels and safety of individuals. The energy supplying organization shall warn the user about the interruption, termination or restriction of the supply of power.

The termination or restriction of the supply of power without the consent of a subscriber that is a juridical person but with the relevant notification thereof shall be permissible in a procedure established by a law or other legal acts in the case of violation by the said subscriber of the obligations in the payment for the power.

3. An interval in the supply of power, the termination or restriction of the supply of power without agreement with the user and without its appropriate warning shall be allowed whenever it is necessary to take urgent measures of preventing or abolishing the accidents provided the latter immediately informs the user about this.

**Article 547. Liability Under the Contract of Power Supply**

1. In cases of default on the obligations or of improper execution of the obligations under the contract of power supply, the defaulting party shall be obliged to compensate the real damage caused by this (Item 2 of Article 15).

2. If a result of the regulation of the conditions of power consumption on the basis of the law or other legal acts an interval has been made in the supply of the user with power, the energy supplying organization shall bear

liability for default on the contractual obligations or for their improper fulfilment in the presence of its fault.

**Article 548.** The Application of the Rules for Power Supply to Other Contracts

1. The rules envisaged by Articles 539-547 of this Code shall be applicable to the relations connected with the supply of thermal power through the attached network, unless otherwise stipulated by the law or other legal acts.

2. The rules for the contract of power supply (Article 539-547) shall be applied to the relations involved in the supply of gas, oil and oil products, water and other goods, unless otherwise stipulated by the law, other legal acts or unless the contrary follows from the substance of the obligation concerned.

## **§ 7. The Sale of Real Estate**

**Article 549.** The Contract of Sale of Real Estate

1. Under the contract of sale of real estate the seller shall undertake to transfer into the buyer's ownership a land plot, a building or structure, an apartment or other real estate (Article 130).

2. The rules, provided for by this paragraph, shall be applied to the sale of enterprises inasmuch as the contrary is stipulated by the rules for the contract of sale of the enterprise (Articles 559-566).

**Article 550.** The Form of the Contract of Sale of Real Estate

The contract of sale of real estate shall be concluded in writing by drawing up one document to be signed by the parties thereto (Item 2 of Article 434).

The non-observance of the form of a contract of sale of real estate shall invalidate it.

**Article 551.** State Registration of the Transfer the Title to Real Estate

1. The transfer of the title to real estate under the contract of sale of real estate to the buyer shall be subject to state registration.

2. Before the state registration of the transfer of the title to property the execution of the contract of sale of real estate by the parties shall not be a ground for the change of their relations with third persons.

When one party evades the state registration of the transfer of the title to real estate, the court shall have the right on the demand of the other party, and in cases provided for by the legislation of the Russian Federation on court enforcement action also on the demand of a bailiff take a decision on the state registration of the transfer of the right of ownership. The party

which groundlessly evades the state registration of the transfer of the title to property shall be obliged to compensate the losses of the other party, caused by the delayed registration.

**Article 552.** The Rights to the Land Plot in Case of Sale of the Building, Structure or Other Immovables Located on It

1. Under the contract of sale of the building, structure or other immovables the buyer shall receive together with the transferred right to such real estate the right to the land plot occupied by the immovable property and required for its use.

2. In case where the seller is the owner of the land plot on which the sold real estate is to be found, the buyer shall receive the right of property to the land plot occupied by the immovable property and required for using it, except as otherwise envisaged by a law.

3. The sale of immovables located on the land plot which does not belong to the seller by right of ownership shall be allowed without the consent of the owner of this land plot, unless this contradicts the terms of the use of such land plot, established by the law or the contract.

In case of sale of such real estate the buyer shall acquire the right to the use of the corresponding land plot on the same conditions as the seller of the real estate does.

**Article 553.** Abrogated.

**Article 554.** The Definition of the Subject-matter in the Contract of Sale of Real Estate

The contract of sale of real estate shall indicate the data that make it possible to ascertain real estate subject to the transfer to the buyer under the contract, including the data which determine the location of real estate on the corresponding land plot or within other real estate.

In the absence of these data in the contract the condition on the real estate subject to transfer shall be deemed not to be agreed upon by the parties thereto and the corresponding contract shall be deemed not to be concluded.

**Article 555.** Price in the Contract of Sale of Real Estate

1. The contract of sale of real estate provide for the price of this estate.

In the absence in the contract of the price clause, agreed upon by the parties thereto in written form, the contract of sale of real estate shall be deemed not to be concluded. In this case, the rules for fixing price, envisaged by Item 3 of Article 424 of this Code shall not be applied.

2. Unless otherwise stipulated by the law or the contract of sale of real estate, the price fixed in it for the building, structure or other real estate

to be found on the land plot shall include the price of the corresponding part of the land plot, transferred with this real estate or the right to it.

**3.** In cases where the price of real estate in the contract of sale of real estate is fixed per unit of its square or per other indicator of its size, the total price of such real estate subject to payment shall be estimated by proceeding from the actual size of the real estate transferred to the buyer.

#### **Article 556. The Transfer of Real Estate**

**1.** Real estate shall be transferred by the seller and accepted by the buyer on the basis of the deed of conveyance or other document on its transfer.

Unless otherwise stipulated by the law or the contract, the obligation of the seller to transfer real estate to the buyer shall be deemed to be executed after this real estate is handed in to the buyer and after the parties sign the respective document on the transfer.

The evasion by one of the parties from the signing of the document on the transfer of real estate on the terms and conditions of the contract shall be deemed to imply the refusal of the seller to discharge the duty of transferring real estate and that of the buyer to fulfil the duty of accepting such estate.

**2.** The acceptance by the buyer of real estate which does not comply with the terms and conditions of the contract of sale of real estate, including in case when such non-conformity is specified in the document on the transfer of real estate, shall not be a ground for the release of the seller from the liability for improper performance of the contract.

#### **Article 557. The Consequences of the Transfer of Real Estate of Inadequate Quality**

In case of the transfer by the seller to the buyer of real estate of inadequate quality, which does not comply with the terms and conditions of the contract of sale of real estate on its quality, the rules of Article 475 of this Code shall be applied, exception being made for the provisions dealing with the right of the buyer to demand the substitution of goods conforming to the contract for goods of improper quality.

#### **Article 558. Specific Aspects of the Sale of Living Accommodation**

**1.** The list of the persons who retain the statutory right of using the living accommodation after it was acquired by the buyer with an indication of their right to use the dwelling being sold shall be a substantial condition of the contract of sale of a dwelling house or apartment, part of the dwelling house or the apartment.

**2.** The contract of sale of a dwelling house or apartment, part of the dwelling house or the apartment shall be subject to state registration and shall be deemed to be concluded since the time of such registration.

## **§ 8. The Sale of Enterprises**

### **Article 559. The Contract of Sale of the Enterprise**

1. Under the contract of sale of the enterprise the seller shall undertake to transfer into the buyer's ownership the enterprise as a whole as a property complex (Article 132) with the exception of the rights and duties which the seller has no right to hand over to other persons.

2. Exclusive rights to the means of individualization of an enterprise, of the products, works or services of the seller (commercial designation, trade mark or servicing mark), as well as the rights to the use of such means of individualization, belonging to him on the basis of licence agreements, shall pass to the buyer, unless otherwise stipulated in the contract.

3. The rights of the seller, received by it on the basis of the permit (license) for the engagement in the respective activity, shall not belong to the transfer to the buyer, unless otherwise stipulated by the law or other legal acts. The transfer to the buyer of the enterprise's obligations which it is impossible to execute in the absence of such permit (license) for it shall not absolve the seller from the corresponding obligations to the creditors. For default on such obligations the seller and the buyer shall bear joint and several liability to the creditors.

### **Article 560. The Form and the State Registration of the Contract of Sale of the Enterprise**

1. The contract of sale of the enterprise shall be concluded in writing by drawing up one document to be signed by the parties thereto (Item 2 of Article 434) with the obligatory addendum to it of the documents, referred to in Item 2 of Article 561 of this Code.

2. The non-observance of the form of the contract of sale of the enterprise shall involve its invalidity.

3. The contract of sale of the enterprise shall be subject to state registration and shall be deemed to be concluded since the time of such registration.

### **Article 561. Certification of the Structure of the Enterprise to Be Sold**

1. The structure and cost of the enterprise to be sold shall be determined by the contract of sale of the enterprise on the basis of its full inventory making, which is carried out in accordance with the rules of such inventorying.

2. Prior to the signing of a contract of sale of the enterprise, the parties thereto shall consider the inventorying certificate, the balance-sheet, the opinion of an independent auditor on the structure and cost of the enterprise, and also the list of all debts (liabilities), included in the

structure of the enterprise with an indication of creditors and of the character, amount and terms of their claims.

The property, rights and duties, referred to in said documents, shall be subjects to the transfer by the seller to the buyer, unless the contrary follows from the rules of Article 559 of this Code and unless established by the agreement of the parties.

#### **Article 562.** The Rights of Creditors in the Sale of the Enterprise

1. For liabilities, included in the composition of the enterprise to be sold, the creditors shall be notified before it is transferred to the buyer about its sale by one of the parties to the contract of sale of the enterprise.

2. The creditor who has not informed the seller or the buyer about his consent with the transfer of the debt shall have the right to demand, during three months since the day of the receipt of the notice about the sale of the enterprise, either the termination or the prior execution of the obligation and compensation by the seller of the losses caused by this, or the recognition of the contract of sale of the enterprise as invalid in full or in the respective part.

3. The creditor who has not been notified about the sale of the enterprise in the order, prescribed by Item 1 of this Article, may bring an action to satisfy the claims, provided for by Item 2 of this Article, during the year since the day when he learnt or should have learnt about the transfer of the enterprise by the seller to the buyer.

4. After the transfer of the enterprise to the buyer the seller and the buyer shall bear joint and several liability for the debts included in the composition of the transferred enterprise and converted to the buyer without the consent of the creditor.

#### **Article 563.** The Transfer of the Enterprise

1. The enterprise shall be transferred by the seller to the buyer under the deed of conveyance, which contains the data on the structure of the enterprise and on the notification of the creditors about the sale of the enterprise, and also information about the revealed shortcomings of the transferred property and the list of assets, the duty of whose transfer have not been discharged by the seller in view of their loss.

The preparation of the enterprise for conveyance, including the drawing up of a deed of conveyance and the presentation of this act for signing shall be the duty of the seller and shall be effected at his expense, unless otherwise stipulated by the contract.

2. The enterprise shall be deemed to be transferred to the buyer since the day of signing the deed of conveyance by both parties.

Since this time the risk of accidental destruction or damage of property within the enterprise shall pass to the buyer.

#### **Article 564.** The Transfer of the Title to the Enterprise

1. The title to the enterprise shall pass to the buyer since the time of state registration of this title.

2. Unless otherwise stipulated by the contract of sale of the enterprise, the title to the enterprise shall pass to the buyer and shall be subject to state registration immediately after the conveyance of the enterprise to the buyer (Article 563).

3. In cases where the contract provides for the preservation of the seller's title to the enterprise, transferred to the buyer, until the payment for the enterprise or the onset of other circumstances, the buyer shall have the right to dispose, before the transfer of the title to it, of the assets and rights forming the composition of the transferred enterprise to the extent this is necessary for the purposes for which the enterprise has been acquired.

#### **Article 565.** The Consequences of the Transfer and Acceptance of the Enterprise with Shortcomings

1. Consequences of the transfer by the seller and of the acceptance by the buyer under the deed of conveyance of the enterprise whose structure does not conform, in particular, to the quality of the transferred assets, specified by the contract of sale of the enterprise, shall be determined on the basis of the rules in Articles 460-462, 466, 469, 475 and 479 of this Code, unless otherwise stipulated by the contract and Items 2-4 of this Article.

2. In case where the enterprise has been transferred and accepted under the deed of conveyance, which contains information about the disclosed shortcomings of the enterprise and the lost assets (Item 1 of Article 563), the buyer shall have the right to demand a corresponding reduction of the purchase price of the enterprise, unless the right to make other claims in such cases is provided for by the contract of sale of the enterprise.

3. The buyer shall have the right to demand the reduction of the purchase price in case of the transfer of the debts (liabilities) of the seller within the composition of the enterprise, which have not been indicated in the contract of sale of the enterprise or in the deed of conveyance, unless the seller proves that the buyer has known about such debts (liabilities) during the conclusion of the contract and the transfer of the enterprise.

4. In case of receipt of the buyer's notice about the defects of the property transferred within the composition of the enterprise or in the absence in this composition of particular types of property subject to the transfer may replace without delay the property of improper quality or present to the buyer the missing property.

5. The buyer shall have the right to demand in due course of law the dissolution or change of the contract of sale of the enterprise and the return of what has been executed under the contract, if it is found out that the enterprise because of its shortcomings, for which the seller is accountable, does not fit for the purposes named in the contract of sale, and these

shortcomings have not been removed by the seller on the conditions and in the order and terms fixed in keeping with this Code, other laws, other legal acts or the contract or its is impossible to eliminate such shortcomings.

**Article 566.** The Application to the Contract of Sale of the Enterprise of the Rules for the Consequences of the Invalidation of Transactions and for the Change or Dissolution of the Contract

The rules of this Code for the consequences of the invalidation of transactions and for the change or the dissolution of the contract of sale, providing for the return or the recovery of the received in kind under the contract from one party or from both parties, shall be applied to the contract of sale of the enterprise, id such consequences do not violate the rights and law-protected interests of the creditors of the seller and the buyer and other persons and do not contradict public interests.

## **Chapter 31. Barter**

**Article 567.** Barter Contract

1. Under the barter contract each party thereto shall undertake to transfer into the ownership of the other party one commodity in exchange for the other commodity.

2. The rules for purchase and sale (Chapter 30) shall be applied to the barter contract, unless this contradicts the rules of this Chapter and the essence of barter. In this case each party shall be recognized respectively as the seller of goods which it undertakes to hand over and as the buyer of goods which it undertakes to accept in exchange.

**Article 568.** Prices and Expenses Under the Barter Contract

1. Unless the contrary follows from the barter contract, goods subject to exchange shall be assumed to be of equal value, while the expenses on their transfer and acceptance shall be incurred in each case by the party which bears the respective duties.

2. In case where in keeping with the barter contract the exchanged goods are recognized as those of equal value, the party which is duty-bound to hand over goods whose price is below the price of goods offered in exchange shall pay the difference in the prices immediately before or after the execution of its duty of transferring goods, unless a different procedure of payment is provided for by the contract.

**Article 569.** The Reciprocal Fulfilment of the Obligation of Turning Over Goods Under the Barter Contract

In case where in keeping with the barter contract the periods of the transfer of exchanged goods do not coincide, the rules for the reciprocal fulfilment of obligations (Article 328) shall be applied to the execution of the

obligation of handing over goods by the party which should pass the goods after the transfer of the goods by the other party.

**Article 570.** The Transfer of the Title to Exchanged Goods

Unless the law or the barter contract provides otherwise, the title to exchanged goods shall pass to the parties acting under the barter contract as buyers simultaneously after the execution of the obligation of turning over goods by both parties.

**Article 571.** Liability for the Withdrawal of Goods Acquired Under the Barter Contract

The party from which the third party has withdrawn the goods acquired under the barter contract shall have the right, in the presence of the grounds, provided for by Article 461 of this Code, to demand that the other party should return goods received by the latter in exchange and/or in compensation for damages.

## **Chapter 32. Donation**

**Article 572.** Donation Contract

1. Under the donation contract one party (donor) shall transfer or undertake to transfer free of charge to the other part (donee) a thing into ownership or property right (claim) to himself or to a third person and release or undertake to release this party from the property obligation to himself or to the third party.

In the presence of a reciprocal transfer of a thing or right or of a reciprocal obligation the contract shall not be recognized as donation. The rules provided for by Item 2 of Article 170 of this Code shall be applied to such contract.

2. The promise of handing over any thing or property right free of charge or of releasing anybody from property obligation (promise of donation) shall be recognized as a donation contract and shall bind the person who has given the promise, if the latter was made in proper form (Item 2 of Article 574) and contains the clearly expressed intention to transfer in future to a specific person a thing or a right free of charge or to release him from property obligation.

The promise to donate all belongings or part of all these belongings without reference to a specific object of donation in the form of a thing, right or the release from obligation shall be null and void.

3. The contract stipulating the transfer of a gift to the donee after the death of the donor shall be null and void.

The rules of civil legislation on inheritance shall be applied to this kind of donation.

**Article 573.** The Donee's Refusal to Accept the Gift

1. The donee shall have the right to abandon the gift at any time before it is handed over to him. In this case, the donation contract shall be deemed to be dissolved.

2. If a donation contract has been concluded in writing, the rejection of the gift shall also be made in writing. In case where the donation contract has been registered (Item 3 of Article 574), the rejection of the gift shall also be subject to state registration.

3. If a donation contract has been concluded in writing, the donor shall have the right to demand that the donee should compensate for the real damage inflicted by the refusal to accept the gift.

#### **Article 574.** The Form of the Donation Contract

1. Donation, accompanied by the transfer of the gift to the donee, may be accomplished orally, except for the cases, provided for by Items 2 and 3 of this Article.

The gift shall be presented by handing order, symbolic transfer (delivery of keys, etc.) or delivery of law-making documents.

2. The contract of donation of movables shall be made in writing in cases when:

the donor is represented by a legal entity and the value of the gift exceeds the statutory five-fold amounts of the minimum wages or salaries;  
the contract contains the promise of donation in the future.

In cases provided for by this Item the donation contract made orally shall be null and void.

3. The donation contract of real estate shall be subject to state registration.

#### **Article 575.** Ban of Donation

It shall be impermissible to donate gifts, except for common gifts, whose value does not exceed the statutory five-fold amounts of the minimum wages or salaries:

1) on behalf of minors and legally unfit individuals and by their legal representatives;

2) to the workers of medical treatment, educational, social protection and other similar institutions by individuals who are treated, maintained or educated by them, and by spouses and relatives of these persons;

3) to civil servants and employees of municipal bodies in connection with their official status or the discharge of their official duties;

4) in relations between profit-making organizations.

#### **Article 576.** The Restriction of Donation

1. The legal entity owning a thing by right of economic or operative management shall have the right to donate it with the consent of the owner, unless otherwise stipulated by law. This restriction shall not extend to usual gifts of small value.

2. Property held in common joint ownership may be donated by agreement of all those who have a stake in joint ownership with the observance of the rules, specified by Article 253 of this Code.

3. The donor's right to make claims to a third party shall be donated with the observance of the rules, stipulated by Articles 382-386, 388 and 389 of this Code.

4. Donation by means of the execution of the donee's duty to a third party shall be effected with the observance of the rules, provided for by Item 1 of Article 313 of this Code.

Donation by means of the transfer by the donor of the donee's debt to a third party shall be effected with the observance of the rules, specified by Articles 391 and 392 of this Code.

5. A power of attorney for the execution of donation by the representative, in which a donee is not named and an object of donation is not indicated, shall be null and void.

#### **Article 577. The Refusal to Execute the Donation Contract**

1. The donor shall have the right to refuse to execute the contract containing the promise of handing over a thing or a right to the donee in the future or to release the donee from property obligation; if after the conclusion of the contract the property or family status or the state of health of the donor has changed so much that the execution of the contract will lead under new conditions to a substantial reduction of his standard of life.

2. The donor shall have the right to refuse to execute the contract containing the promise of giving a thing or a right to the donee in the future or to release the donee from property obligation on the grounds that entitle him to revoke donation (Item 1 of Article 578).

3. The refusal of the donor to execute the donation contract on the grounds, stipulated by Items 1 and 2 of this Article, shall not entitle the donee to claim damages.

#### **Article 578. The Revocation of Donation**

1. The donor shall have the right to revoke donation, if the donee has committed an attempt on his life, the life of any of his family members or close relatives or has committed deliberately a bodily injury to the donor.

In case of the intentional homicide of the donor by the donee the right to claim in court the revocation of donation shall belong to the donor's heirs.

2. The donor shall have the right to demand judicially the revocation of donation, if the donee's treatment of the gift which has a great intangible value for the donor creates a threat of its irrevocable loss.

3. At the request of the interested person the court of law may revoke the donation of the individual businessman or the legal entity in violation of the provisions of the law on insolvency (bankruptcy) from the pecuniary

means, associated with his business, during six months that preceded the declaration of this person as insolvent (bankrupt).

4. The donation contract may specify the donor's right to revoke donation, if he outlives the donee.

5. In case of revocation of donation the donee shall be obliged to return the gift, if the latter had been preserved in kind by the time of the revocation of donation.

#### **Article 579.** Cases in Which the Refusal to Execute the Donation Contract and the Revocation of Donation Are Impossible

The rules for the refusal to execute the donation contract (Article 577) and for the revocation of donation (Article 578) shall not be applied to common gifts of small value.

#### **Article 580.** The Consequences of the Infliction of Damage Owing to the Defects of the Gift

The injury inflicted on the donee's life or health and property tort owing to the defects of the gift shall be subject to indemnity by the donor in keeping with the rules, provided for by Chapter 59 of this Code, if it is proved that these defects had arisen before the transfer of the donated thing to the donee, that they do not relate to obvious shortcomings and the donor did not warn the donee about them, though he had known about them.

#### **Article 581.** Legal Succession in Case of a Promise of Donation

1. The rights of the donee to whom a gift has been promised under the donation contract shall not be passed to his heirs (successors), unless otherwise stipulated by the donation contract.

2. The duties of the donor who has promised donation shall pass to his heirs (successors), unless otherwise stipulated by the donation contract.

#### **Article 582.** Endowment

1. A charitable giving is the giving of a thing or a right for generally useful purposes. Charitable giving may be made to citizens, medical and upbringing institutions, institutions of social protection and other analogous institutions, charitable, scientific, and educational institutions, funds, museums and other institutions of culture, social and religious organisations, other nonprofit organisations in accordance with the law, and also to the state and other subjects of civil law indicated in Article 124 of this Code.

2. No permission or consent shall be required for the acceptance of an endowment.

3. The endowment of property to an individual shall be conditioned by the donor, while the endowment of property to a legal entity may be

conditioned by him by the use of this property according to a definite purpose. In the absence of such condition the endowment of property to an individual shall be regarded as donation, while in other cases the endowed property shall be used by the donee in keeping with the designation of property.

The legal entity which accepts the endowment to be used for a definite purpose shall keep a separate record of all transactions involved in the use of the endowed property.

4. If the law has not established another procedure, in the cases when it is impossible to use the endowed property in accordance with the purpose indicated by the donor due to the changed circumstances, it may be used according to another purpose only with the consent of the donor, while in cases of the death of the donor-individual or of the liquidation of the legal entity only with the consent of the donor and by a court decision.

5. The use of endowed property out of accordance with the purpose indicated by the donor or the change of this purpose with the contravention of the rules, provided for by Item 4 of this Article, shall entitle the donor, his heirs or any other successor to demand the revocation of the endowment.

6. Articles 578 and 581 of this Code shall not be applied to endowment.

## **Chapter 33. Rent and Life Maintenance with Dependence**

### **§ 1. General Provisions on Rent and Life Maintenance with Dependence**

#### **Article 583. The Rent Contract**

1. Under the rent contract one party (rent recipient) shall transfer property to the other party (rent payer) into his ownership, whereas the rent payer shall undertake to pay periodically rent to the recipient in the form of a definite sum of money or to provide money on his maintenance in a different form in exchange for the received property.

2. Under the rent contract it is possible to provide for the duty of paying rent on a permanent basis (permanent rent) or for the entire period of life of the rent recipient (life annuity). Life annuity may be established on the terms of the life maintenance of an individual with dependence.

#### **Article 584. The Form of the Rent Contract**

The rent contract shall be subject to notarization, whereas the contract providing for the alienation of real estate on the disbursement of rent shall also be subject to state registration.

#### **Article 585. Alienation of Property on Rent Disbursement**

1. Property to be alienated on rent disbursement may be turned over by the rent recipient for the ownership of the rent payer for charge or free of charge.

2. In case where the rent contract provides for the transfer of property for charge, the rules for purchase and sale (Chapter 30) shall be applied to the relations of the parties involved in transfer and payment, and in case where such property is transferred free of charge, the rules for the donation contract (Chapter 32) shall be applied inasmuch as the rules of this Chapter stipulate otherwise and do not contradict the substance of the rent contract.

#### **Article 586. Encumbrance of Real Estate with Rent**

1. The rent shall encumber the land plot, enterprise, building, structure or any other real estate, transferred on its payments. In case of alienation of such property by the rent payer, his obligations under the rent contract shall pass on the acquirer of property.

2. The person who transferred real estate encumbered with rent for the ownership of another person shall bear together with him subsidiary liability (Article 399) on the demands of the rent recipient which have arisen in connection with the violation of the rent contract unless the present Code, other law or contract provide joint and several responsibility under this liability.

#### **Article 587. Security for Rent Payment**

1. In case of transfer of a land plot or any other immovable property on rent payment the rent recipient shall acquire the right of pledge to this property as security for the rent payer's obligation.

2. The clause establishing the duty of the rent payer to present security for the discharge of his obligations (Article 329) or to ensure the risk of liability in favour of the rent recipient for default on these obligations or for their improper discharge shall be the essential condition of the contract stipulating the transfer of a pecuniary sum or other movable assets.

3. In case of default by the rent payer on the obligations, provided for by Item 2 of this Article, and also in case of loss of security or the deterioration of its conditions due to the circumstances for which the rent recipient is not answerable, the rent recipient shall have the right to dissolve the rent contract and claim damages caused by the dissolution of the contract.

#### **Article 588. Liability for Delayed Rent Payment**

For delayed rent payment the rent payer shall pay to the recipient interest, stipulated by Article 395 of this Code, unless a different amount of interest is specified by the rent contract.

## **§ 2. Permanent Rent**

### **Article 589. Permanent Rent Recipient**

1. Only individuals, and also non-profit organizations may be the permanent rent recipient, unless this contradicts the law and if this corresponds to the aims of their activity.

2. The rights of the rent recipient may be transferred under the permanent rent contract to the persons, referred to in Item 1 of this Article, by means of assignment of a claim and descend by inheritance or by way of legal succession in case of the reorganization of legal entities, unless otherwise stipulated by the law or the contract.

### **Article 590. The Form and Amount of Permanent Rent**

1. Permanent rent shall be paid out in money terms in the amount fixed by the contract.

The permanent rent contract may provide for the payment of rent by presenting things, performing works or rendering services that correspond to the pecuniary sum of the rent in value terms.

2. Unless otherwise stipulated by the permanent rent contract, the amount of the paid rent shall rise in proportion to the increase in the statutory minimum wages or salaries.

### **Article 591. The Dates of Permanent Rent Payment**

Unless otherwise stipulated by the permanent rent contract, permanent rent shall be paid out upon the end of each calendar quarter.

### **Article 592. The Payer's Right to Permanent Rent Redemption**

1. The payer of permanent rent shall have the right to refuse to make the further disbursement of rent by means of its redemption.

2. Such refusal shall be valid, provided that it has been made by the rent payer in written form within three months before the cessation of the payment of rent or for longer periods fixed by the permanent rent contract. In this case, the obligation of rent payment shall not terminate until the receipt of the entire sum of redemption by the rent recipient, unless a different redemption procedure is stipulated by the contract.

3. The condition of the permanent rent contract concerning the rent payer's refusal to use the right of redemption shall be null and void.

The contract may stipulate that the right to the permanent rent redemption may not be exercised during the lifetime of the rent recipient or during different periods that do not exceed 30 years since the conclusion of the contract.

### **Article 593. The Redemption of Permanent Rent on the Demand of the Rent Recipient**

The permanent rent recipient shall have the right to demand the redemption of rent by the payer in the cases when:

the rent payer has delayed its payment for more than one year, unless otherwise stipulated by the permanent rent contract;

the rent payer has breaches his obligations of security rent payment (Article 587);

the rent payer has been recognized as insolvent or other circumstances have appeared to testify patently to the fact that rent will not be paid out by him in the amount and in the period of time fixed by the contract;

real estate, transferred against the rent payment, has replenished common property or has been divided among several persons;

in other cases specified by the contract.

#### **Article 594. Redemption Price of Permanent Rent**

1. Redemption of permanent price in cases, provided for by Articles 592 and 593 of this Code, shall be effected at the price fixed by the permanent rent contract.

2. In the absence of a clause on redemption price in the permanent rent contract, under which property has been transferred for charge on payment of permanent rent, redemption shall be made at the price that corresponds to the annual sum of rent subject to payment.

3. In the absence of a clause on redemption price in the permanent rent contract, under which property has been transferred for rent payment free of charge, redemption price shall include in addition to the annual sum of rental payments the price of the transferred property to be determined according to the rules, provided for by Item 3 of Article 424 of this Code.

#### **Article 595. Risk of Accidental Destruction of Property Transferred on Payment of Permanent Rent**

1. The risk of accidental destruction or accidental damage of the property, transferred free of charge on payment of permanent rent, shall be borne by the rent payer.

2. In case of accidental destruction or accidental damage of the property, transferred for charge on payment of permanent rent, the payer shall have the right to demand accordingly the cessation of the obligation of rent payment or the charge of the conditions of its payment.

### **§ 3. Life Annuity**

#### **Article 596. Life Annuity Recipient**

1. Life annuity may be established for the period of life of the individual who conveys property on rent payment or for the period of life of another individual indicated by the former individual.

2. It shall be permissible to introduce life annuity in favour of some individuals whose shares in the right to receive rent are regarded as equal, unless otherwise stipulated by the life annuity contract.

In case of death of one of the rent recipients his share in the right to rent shall pass to the rent recipients who outlived him, unless the life annuity contract provides otherwise, and in case of death of the last recipient the rent payment obligation shall cease.

3. The contract establishing a life annuity in favour of the individual who had died by the time of concluding the contract shall be null and void.

#### **Article 597. The Amount of Life Annuity**

1. Life annuity shall be defined by the contract as a sum of money periodically paid out to the rent recipient during his life.

2. The amount of life annuity, defined in the contract, shall be per month not less than the minimum amount of the wage or salary, established by the law and in cases, provided for by Article 318 of this Code, shall be subject to increase.

#### **Article 598. Dates of Payment of Life Annuity**

Unless otherwise stipulated by the life annuity contract, life annuity shall be paid out at the end of each calendar month.

#### **Article 599. The Cancellation of the Life Annuity Contract on the Demand of the Rent Recipient**

1. In case of essential violation of the life annuity contract by the rent payer, the rent recipient shall have the right to demand that the rent payer redeem rent on the terms, provided for by Article 594 of this Code, or cancel the contract and claim for compensation.

2. If an apartment, dwelling house or any other property has been alienated free of charge on payment of life annuity, the rent recipient shall have the right to demand this property in case of the substantial violation of the contract by the rent payer with the offset against its value on account of the redemption price of rent.

#### **Article 600. Risk of Accidental Destruction of Property Transferred in Payment for Life Annuity**

The accidental destruction or the accidental damage of the property transferred in payment for life annuity shall not absolve the rent payer from the obligation to pay it on the terms, provided for by the life annuity contract.

### **§ 4. Life Maintenance with Dependency**

#### **Article 601. The Contract of Life Maintenance with Dependency**

1. Under the contract of life maintenance with dependency the rent recipient-individual shall transfer the dwelling house, apartment or land plot he owns or any other real estate into the ownership of the rent payer, who undertakes to carry on life maintenance with the dependency of the individual and/or the third person (persons) indicated by him.

2. The rules for life maintenance shall be applicable to the contract of life maintenance with dependency, unless otherwise stipulated by the rules of this paragraph.

**Article 602. The Duty of Providing Maintenance with Dependency**

1. The duty by the rent payer to provide the maintenance with dependency may include the satisfaction of needs in a dwelling, food and clothing, and if this is required by the individual's state of health, also the care of him. The contract of life maintenance with dependency may also provide for the payment of funeral services.

2. The contract of life maintenance with dependency shall estimate the value of the entire scope of maintenance with dependency. In this case, the value of the whole scope of monthly maintenance may not be less than two minimum amounts of statutory wages or salaries.

3. In settling the dispute between the parties over the scope of maintenance to be provided to an individual the court of law shall be guided by the principles of integrity and reasonableness.

**Article 603. Replacement of Life Maintenance by Periodical Payments**

The contract of life maintenance with dependency may provide for possible replacement of the provision of maintenance with dependency in kind with periodical monetary payments during the life of the individual.

**Article 604. Alienation and Use of Property Transferred for Life Maintenance**

The rent payer shall have the right to alienate, put in pledge or in any other way encumber real estate, transferred to him as security of life maintenance, only with the preliminary consent of the rent recipient.

The rent payer shall be obliged to take necessary measures so that the use of said property during the period of the provision of life maintenance with dependency should not reduce the value of this property.

**Article 605. The Termination of Life Maintenance with Dependency**

1. The obligation of life maintenance with dependency shall cease with the death of the rent recipient.

2. In case of substantial breach by the rent payer of his obligations the rent recipient shall have the right to demand the return of real estate, transferred as security of life maintenance or the disbursement of redemption price on the terms, prescribed by Article 594 of this Code. In this case, the rent payer shall not have the right to claim the compensation

for the expenses incurred in connection with the maintenance of the rent recipient.

## **Chapter 34. Lease**

### **§ 1. General Provisions on Lease**

#### **Article 606. Lease Agreement**

Under the lease agreement (contract for lease of property) the lessor shall undertake to furnish to the leaseholder (hirer) property for charge in temporary possession and use or in temporary use.

Fruit, produce and income received by the leaseholder as a result of leased property in keeping with the agreement shall be his property.

#### **Article 607. Objects of Lease**

1. Land plots and other separate natural objects, enterprises and other property complexes, buildings, structures, equipment, transport vehicles and other things, which do not forfeit their natural properties in the process of their use (non-consumed things) may be let on lease.

The law may institute types of property which cannot be let on lease or can be leased with restriction.

2. The law may establish specific aspects of the lease of land plots and other separate natural objects.

3. The lease agreement shall indicate data that make it possible to ascertain definitely property subject to the transfer to the leaseholder as an object of lease. In the absence of these data in the agreement the clause on the object subject to lease shall be deemed to not agreed upon by the parties, and the appropriate agreement shall not be regarded as concluded.

#### **Article 608. Lessor**

The right of leasing property shall belong to its owner. Lessors may also be represented by the persons who are authorized by law or by the owner to let property on lease.

#### **Article 609. The Form and State Registration of the Lease Agreement**

1. The lease agreement for a term of over one year shall be concluded in writing, and if at least one of the party is represented by a legal entity the lease agreement shall be concluded in writing, regardless of its term.

2. The agreement for lease of real estate shall be subject to state registration, unless otherwise stipulated by law.

3. The agreement for lease of property that provides for the transfer of the title to this property to the leaseholder (Article 624) shall be concluded in the form stipulated for the contract of sale of such property.

### **Article 610.** The Validity Term of the Lease Agreement

1. The lease agreement shall be concluded for a term to be defined by the agreement.

2. If the period of lease is not defined by the agreement, the lease agreement shall be deemed to be concluded for an indefinite period.

In this case, each party shall have the right to recede at any time from the agreement by warning the other party one month before schedule and in case of real estate lease - three months before schedule. The law may fix a different period for warning that the lease agreement, concluded for an indefinite term, ceases to be valid.

3. The law may provide for a maximum period (deadline) of the agreement for particular types of lease, and also for the lease of particular types of property. In these cases, if the term of the lease is not fixed by the agreement and neither party has receded from it before the expiry of the maximum period, fixed by the law, the agreement shall cease to operate upon the expiry of the deadline.

The lease agreement concluded for a term exceeding the statutory maximum period shall be deemed to be concluded for a term equal to the time-limit.

### **Article 611.** The Supply of Property to the Leaseholder

1. The lessor shall be obliged to supply property to the leaseholder in the state meeting the terms and conditions of the lease agreement and the purpose of property.

2. Property shall be let on lease together with all its accessories and related documents (technical certificate, quality certificate, etc.), unless otherwise stipulated by the agreement.

If such accessories and documents have not been handed over, the leaseholder may not use property in accordance with its designation or is largely deprived of those assets on which he had the right to count when he concluded the agreement and he may claim for the supply of such accessories and documents by the lessor or for the cancellation of the agreement, and also for compensation of losses.

3. If the lessor has failed to furnish to the leaseholder the leased property within the period fixed in the agreement or within the reasonable period when the agreement does not indicate such period, the leaseholder shall have the right to reclaim this property from him in keeping with Article 398 of this Code and claim damages caused by delayed execution or to demand the dissolution of the agreement and to claim damages caused by its non-execution.

### **Article 612.** The Liability of the Lessor for Defects of the Leased Property

1. The lessor shall be answerable for the defects of leased property which prevent in full or in part to its use, if even during the conclusion of the contract he did not know about these defects.

In case of discovery of such defects the leaseholder shall have the right at his option:

the demand that the lessor should either remove free of charge the defects of property or reduce proportionately the rental payment, or indemnify his expenses on the removal of the defects of property;

to deduct directly the sum of the expenses incurred in the removal of these defects from the rental payment by notifying the lessor about this in advance;

to demand the anticipatory dissolution of the contract.

The lessor, who is notified about the leaseholder's claims or about his intention to eliminate the defects of property at the expense of the lessor, may replace without delay the property granted to the leaseholder by other similar property in a proper state or remove its defects free of charge.

If the satisfaction of the leaseholder's claims or the deduction by him of the expenses on the removal of the defects from the rental payment does not cover the losses caused to the leaseholder, he shall have the right to demand the reparation of the uncovered part of the losses.

2. The lessor shall not be liable for the defects of the leased property which have been specified by him during the conclusion of the lease agreement or had been known to the leaseholder beforehand or should have been discovered by the leaseholder during the inspection of the property or the verification of its good condition during the conclusion of the agreement or the granting of property on lease.

### **Article 613.** The Rights of Third Parties to the Leased Property

The lease of property shall not be a ground for the termination or charge of the rights of third parties to this property.

During the conclusion of a lease agreement the lessor shall be obliged to warn the leaseholder about all the rights of third parties to the leased property (servitude, right of pledge, etc.). Default by the lessor on this duty shall entitle the leaseholder to demand a reduction in the rental payment or to dissolve the agreement and compensate for the losses.

### **Article 614.** Rental Payment

1. The leaseholder shall be obliged to make a charge for the use of property (rental payment) in due time.

Procedure, conditions and terms of making the rental payment shall be determined by the lease agreement. In case where the agreement does not determine the procedure, conditions and terms of making the rental payment, it shall be held that the procedure, conditions and terms are usually applied in the lease of similar property under comparable circumstances.

2. The rental payment shall be introduced for the leased property as a whole or for each component in the form:

- 1) the fixed sum of payments made periodically or in a lump;
- 2) the established share of products, fruits or incomes obtained as a result of the use of leased property;
- 3) definite services rendered by the leaseholder;
- 4) the transfer by the leaseholder to the lessor of the thing specified by the contract for ownership or lease;
- 5) the payment by the leaseholder of the costs stipulated by the agreement for the improvement of leased property.

In the lease agreement the parties thereto may provide for the combination of said forms of the rental payment or for other forms of lease payment.

3. Unless otherwise stipulated by the agreement, the amount of the rental payment may be changed by agreement of the parties in the periods, provided for by the agreement, but at least once in a year. The law may envisage other minimum terms of the review of the amount of the rental payment for particular types of lease, and also for the lease of particular types of property.

4. Unless the law provides for otherwise, the leaseholder shall have the right to demand a corresponding reduction of the rental payment, if in view of the circumstances for which he is not answerable, the conditions of the use, specified by the lease agreement, or the state of property have deteriorated substantially.

5. Unless otherwise stipulated by the lease agreement, in case the leaseholder has substantially violated the terms of making the rental payment, the lessor shall have the right to demand that he should make the rental payment short of the term in the period fixed by the lessor. In this case. the lessor shall not have the right to demand an anticipatory payment of the rental for more than two terms in succession.

### **Article 615. The Use of Leased Property**

1. The leaseholder shall be obliged to make use of leased property in accordance with the terms and conditions of the lease agreement, and if such terms and conditions in the agreement have not been defined, in accordance with the purpose of property.

2. The leaseholder shall have the right to let the leased property in sub-tenancy with the consent of the lessor and to transfer his rights and duties under the lease agreement to another person (transfer of lease), to place the leased property in gratuitous use, and also to put the leasehold interests in pledge and to introduce them as a contribution to the authorized capital of economic partnerships and societies or as a share to the producer cooperative, unless otherwise stipulated by this Code, other law or other legal acts. In said cases, with the exception of the transfer of lease, the leaseholder shall remain to be liable under the agreement to the lessor.

A sublease contract may not be concluded for the term exceeding the term of the lease agreement.

The rules for lease agreements shall be applied to the sublease contracts, unless otherwise stipulated by the law or other legal acts.

**3.** If the leaseholder makes use of property out of accordance with the terms and conditions of the lease agreement and the purpose of property, the lessor shall have the right to demand the dissolution of the agreement and claim damages.

#### **Article 616.** The Duty of the Parties to Maintain Leased Property

**1.** The lessor shall be obliged to carry out the overhaul of leased property at his expense, unless otherwise stipulated by the law, other legal acts or the lease agreement.

An overhaul shall be carried out on time, fixed by the agreement, and if it is not provided for by the agreement or is caused by urgent necessity, it shall be carried out within the reasonable period.

The breach by the lessor of the duty of making an overhaul shall entitle the leaseholder to implement the following measures at his option:

to carry out the overhaul, specified by the agreement or caused by urgent necessity and to exact from the lessor the cost of the overhaul or to count towards the rental payment;

to demand a corresponding reduction of the rental payment;

to demand the dissolution of the agreement and to claim damages.

**2.** The leaseholder shall be obliged to maintain property in good condition, to carry out an overhaul at his own expense and incur expenses on the maintenance of property, unless otherwise stipulated by the law or the lease agreement.

#### **Article 617.** The Preservation of the Lease Agreement in Force in Case of the Change of the Parties Thereto

**1.** The transfer of the right of ownership (economic management, operative management, life inheritable possession) of leased property to another person shall not be a ground for the alteration or dissolution of the lease agreement.

**2.** In case of death of the individual who leases real estate, his rights and duties shall pass to the heir under the lease agreement, unless otherwise stipulated by the law or the agreement.

The lessor shall have no right to refuse such heir to enter in the agreement for the remaining term of its validity, except for the case when its conclusion was conditioned by the leaseholder's personal qualities.

#### **Article 618.** The Termination of the Sublease Contract in Case of the Anticipatory Cessation of the Lease Agreement

**1.** Unless otherwise stipulated by the lease agreement, the anticipatory cessation of the lease agreement shall involve the termination

of the sublease contract concluded in accordance with the agreement. In this case the subleaseholder shall have the right to conclude a lease agreement on the property used by him in keeping with the sublease contract within the remaining period of sublease on the terms and conditions that correspond to those of the ceased lease agreement.

2. If the lease agreement is null and void on the grounds, provided for by this Code, the sublease contract concluded in conformity with it shall also be null and void.

#### **Article 619.** Early Rescission of the Lease Agreement on Demand of the Lessor

At the request of the lessor the lease agreement may be dissolved by a court of law short of the term in cases when the leaseholder:

1) makes use of property with the substantial violation of the terms and conditions of the agreement or of the purpose of property, or with repeated breaches;

2) substantially deteriorates property;

3) fails to make a rental payment for more than two times in succession upon the expiry of the payment date, fixed by the agreement;

4) fails to carry out an overhaul of property in the time-limits fixed by the lease agreement, and in the absence of them in the agreement within reasonable periods in cases where in conformity with the law, other legal acts or the agreement the overhaul is the duty of the leaseholder.

The lease agreement may provide for other grounds of the anticipatory dissolution of the agreement on the demand of the lessor in compliance with Item 2 of Article 450 of this Code.

The lessor shall have the right to demand that the agreement be dissolved short of the term only after the sending to the leaseholder a written warning about the need to execute the obligation by him within the reasonable period of time.

#### **Article 620.** The Anticipatory Dissolution of the Lease Agreement on the Demand of the Leaseholder

At the request of the leaseholder the lease agreement may be dissolved short of the term by a court of law in cases when:

1) the lessor fails to grant property for use by the leaseholder or creates impediments to the use of property in keeping with the terms and conditions of the agreement or the purpose of property;

2) the property transferred to the leaseholder has the defects which prevent its use and which have not been specified by the lessor during the conclusion of the agreement, have not been known to the leaseholder in advance and should not have been discovered by the leaseholder during the inspection of the property or the verification of its serviceability at the time of the conclusion of the agreement;

3) the lessor does not carry out the duty of effecting major repairs of property within the time-limits fixed by the lease agreement and in their absence - within the reasonable period of time;

4) property proves to be in a faulty condition in view of the circumstances beyond the control of the leaseholder.

The lease agreement may also institute other grounds for the anticipatory dissolution of the agreement on the demand of the leaseholder in keeping with Item 2 of Article 450 of this Code.

**Article 621.** The Leaseholder's Preferential Right to Conclude a Lease Agreement for a New Term

1. Unless otherwise stipulated by the law or the lease agreement, the leaseholder who discharged his duties properly shall have, with other things being equal, the right of preference to other persons to the conclusion of a lease agreement for a new term upon the expiry of the validity term of the agreement. The leaseholder shall be obliged to inform in writing the lessor about his desire to conclude such agreement, and if the agreement does not indicate such time - within the reasonable period before the expiry of the validity term of the agreement.

With the conclusion of a lease agreement for a new period the terms and conditions of the agreement may be changed by agreement between the parties thereto.

If the lessor has denied the leaseholder the conclusion of an agreement for a new term, but has concluded the lease agreement with another person during one year since the day of the expiry of the validity term of the agreement, the leaseholder shall have the right at his option to demand in court the transfer of the rights and duties under the concluded agreement to himself and the reparation of the losses, caused by the refusal to resume the lease agreement with him, or the reparation of such losses alone.

2. If the leaseholder continues to make use of property after the expiry of the validity term of the agreement in the absence of objections on the part of the lessor, the agreement shall be deemed to be resumed on the same conditions for an indefinite period of time (Article 610).

**Article 622.** The Return of Leased Property to the Lessor

With the termination of the lease agreement the leaseholder shall be obliged to return to the lessor in the same condition in which he received it with an allowance for normal wear and tear or in the condition specified by the agreement.

If the leaseholder has failed to return leased property or returned it untimely, the lessor shall have the right to demand that the rental payment be made during all the time of its delay. In case of where the said payment does not cover the losses caused to the lessor, the leaseholder may claim damages.

In case where a penalty is provided for the untimely return of leased property, losses may be recovered in full measure over and above the penalty, unless otherwise stipulated by the agreement.

**Article 623. Improvements of Leased Property**

1. Separable improvements of leased property made by the leaseholder shall be his property, unless otherwise stipulated by the lease agreement.

2. In case where the leaseholder has made the improvements in leased property, which are not separable without detriment to this property, at the expense of his own pecuniary means and with the consent of the lessor, the leaseholder shall have the right to the replacement of the value of these improvements after the termination of the agreement, unless otherwise stipulated by the lease agreement.

3. The value of inseparable improvements of leased property made by the leaseholder without the lessor's consent shall be subject to reparation, unless otherwise stipulated by the law.

4. Improvements in leased property, both separable and unseparable, made at the expense of depreciation deductions from this property shall be the property of the leaseholder.

**Article 624. Redemption of Leased Property**

1. The law or the lease agreement may stipulate that leased property is to be passed into the hands of the leaseholder upon the expiry of the period of lease or before its expiry, provided that the leaseholder has paid the entire redemption price, specified by the agreement.

2. If the lease agreement does not provide for the clause on the redemption of leased property, it may be introduced by the additional agreement of the parties, which have the right to come to an agreement on the reckoning of the earlier paid rental in the redemption price.

3. The law may specify cases of banning the redemption of leased property.

**Article 625. Specific Aspects of Particular Types of Lease and Lease of Particular Kinds of Property**

Provisions stipulated by this paragraph shall be applicable to particular types of the lease agreement and the agreement of lease of particular kinds of property (hire, lease of transport vehicles, rent of buildings and structures, rent of enterprises, financial lease), unless otherwise stipulated by the rules of this Code on these agreements.

**§ 2. Hire**

**Article 626. The Hire Contract**

1. Under the hire contract the lessor who lets property on lease as permanent business shall undertake to grant to the leaseholder movable property for charge in temporary possession and use.

Property given under the hire contract shall be used for consumer purposes, unless otherwise stipulated by the contract or unless the contrary follows from the substance of the obligation.

2. The hire contract shall be concluded in writing.

3. The hire contract shall be a public agreement (Article 426).

#### **Article 627. The Term of the Hire Contract**

1. The hire contract shall be concluded for a term of one year.

2. The rules for the renewal of the lease agreement for an indefinite period and for the preferential right of the leaseholder to renew the lease agreement (Article 621) shall not be applicable to the hire contract.

3. The leaseholder shall have the right to abandon the hire contract at any time by warning the lessor in writing about his intention within ten days.

#### **Article 628. The Granting of Property to the Leaseholder**

The lessor who concludes the hire contract shall be obliged to verify the serviceability of leased property in the presence of the leaseholder, and also to acquaint the leaseholder with the rules of using property or to issue to him written instructions on the use of this property.

#### **Article 629. Removal of Defects of Leased Property**

1. In case of discovery by the leaseholder of defects in leased property that wholly or partially prevent its use, the lessor shall be obliged, within 10 days since the day of the leaseholder's statement on defects, unless the hire contract provides for a shorter period, to remove free of charge the defects of property on the spot or to replace this property for other similar property held in proper condition.

2. If the defects of leased property have resulted from the breach by the leaseholder of the rules of the operation and maintenance of property, the leaseholder shall pay to the lessor the cost of repairs and transportation of property.

#### **Article 630. Rental Payment Under the Hire Contract**

1. A rental payment under the hire contract shall be fixed in definite payments made periodically or in the lump.

2. If the leaseholder returns property short of the term, the lessor shall return to him the corresponding part of the received rental payment, reckoning it since the day succeeding the day of the actual return of property.

3. Recovery of rental payment arrears from the leaseholder shall be effected in the extra-judicial order on the basis of the notary's endorsement of execution.

**Article 631. The Use of Leased Property**

1. Major and current repairs of property leased under the hire contract shall be the duty of the lessor.

2. The sub-lease of the property granted to the leaseholder under the hire contract, the transfer by him of his rights and duties under the hire contract to another person, the provision of this property for gratuitous use, the pledge of lease rights and their contribution as a property share to economic partnerships and companies or as a share to producer cooperatives shall not be allowed.

**§ 3. Lease of Transport Vehicles**

**1. Lease of a Transport Vehicle with the Provision of Services for Driving and Technical Operation**

**Article 632. The Agreement of Lease of a Transport Vehicle with Its Crew**

Under the agreement of lease (chartering for a time) of a transport vehicle with its crew the lessor shall grant to the leaseholder a transport vehicle for charge in temporary possession and use and shall render the services for driving it and technical operation.

The rules for the renewal of the lease agreement for an indefinite period and for the preferential right of the leaseholder to the conclusion of a lease agreement for a new period (Article 621) shall not be applicable to the lease agreement of a transport vehicle with its crew.

**Article 633. The Form of the Agreement of Lease of a Transport Vehicle with Its Crew**

The agreement of lease of a transport vehicle with its crew shall be concluded in writing, regardless of its validity term. The rules for the registration of lease agreements, provided for by Item 2 of Article 609 of this Code, shall not be applicable to such agreement.

**Article 634. The Duty of the Lessor to Maintain a Transport Vehicle**

During the entire validity term of the agreement of lease of a transport vehicle with its crew the lessor shall be obliged to maintain the proper condition of the leased transport vehicle, including minor and major repairs and the provision of requisite accessories.

**Article 635. The Duty of the Lessor to Drive and Operate a Transport Vehicle**

1. The services of driving and operating a transport vehicle granted by the lessor to the leaseholder shall provide for its normal and safe operation in keeping with the purposes of lease specified in the agreement.

The agreement of lease of a transport vehicle with its crew may envisage a wider range of services offered to the leaseholder.

2. The crew of a transport vehicle and the skill of its members shall comply with the rules obligatory for the parties, the terms and conditions of the agreement, and if such requirements have not been established by those mandatory rules, the crew and the skill of its members shall comply with the requirements of the usual practice of the operation of the transport vehicle of this type and with the terms and conditions of the agreement.

The crew members shall be the workers of the lessor. They shall be subordinate to the lessor's orders dealing with driving and technical operation and to the leaseholder's order dealing with the commercial exploitation of the transport vehicle.

Unless the lease agreement provides otherwise, the expenses on the payment for the services of the crew members, and also the expenses incurred in their maintenance shall be borne by the lessor.

#### **Article 636.** The Duty of the Leaseholder to Pay Expenses Incurred in the Commercial Exploitation of a Transport Vehicle

Unless otherwise stipulated by the agreement of lease of a transport vehicle with its crew, the leaseholder shall bear the expenses incurred in the commercial exploitation of a transport vehicle, including the expenses on the payment for fuel and other materials spent during this exploitation and on the payment of fees.

#### **Article 637.** Insurance of a Transport Vehicle

Unless otherwise stipulated by the agreement of lease of a transport vehicle with its crew, the duty of insuring the transport vehicle and/or insuring the liability for the damage which can be caused by it or in connection with its operation shall be vested with the leaseholder in those cases where such insurance is obligatory by virtue of the law or the agreement.

#### **Article 638.** Agreements with Third Parties on the Use of a Transport Vehicle

1. Unless otherwise stipulated by the agreement of lease of a transport vehicle with its crew, the leaseholder shall be obliged to sublease the transport vehicle without the lessor's consent.

2. Within the framework of the commercial exploitation of a leased transport vehicle the leaseholder shall have the right to conclude on his own behalf contracts of carriage and other contracts with third parties without the lessor's consent, unless these contracts contradict the purposes of the use of the transport vehicle, indicated in the lease agreement, and if such purposes have not been set, unless these contracts contradict the designation of the transport vehicle.

**Article 639.** Liability for the Harm Caused to a Transport Vehicle

In case of the destruction of or damage to the leased transport vehicle the leaseholder shall be obliged to compensate to the lessor for the losses caused, if the latter proves that the destruction of or the damage to the transport vehicle have taken place due to the circumstances for which the leaseholder is answerable in keeping with the law or the lease agreement.

**Article 640.** Liability for the Harm Caused by a Transport Vehicle

The liability for the harm, caused to third persons by the leased transport vehicle, its mechanisms, devices, equipment, shall be borne by the leaseholder in keeping with the rules, envisaged by Chapter 59 of this Code. He shall have the right to have recourse against the leaseholder concerning the reimbursement of the sums of money paid to third persons, if he proves that the harm has been caused through the fault of the leaseholder.

**Article 641.** Specific Aspects of Transport Vehicles of Particular Types

The transport charters and codes may provide for the lease of transport vehicles of particular types and the provision of driving and technical operation services with their specific aspects other than those specified by this paragraph.

**2. The Lease of a Transport Vehicle Without Driving and Technical Operation Services**

**Article 642.** The Agreement of Lease of a Transport Vehicle without a Crew

Under the agreement of lease of a transport vehicle without a crew the lessor shall give to the leaseholder the transport vehicle for charge in his temporary possession and use without rendering the driving and technical operation services.

The rules for the renewal of the lease agreement for an indefinite period and for the preferential right of the leaseholder to conclude the lease agreement for a new period (Article 621) shall not be applicable to the agreement of lease of a transport vehicle without a crew.

**Article 643.** The Form of the Agreement of Lease of a Transport Vehicle Without a Crew

The agreement of lease of a transport vehicle without a crew shall be concluded in writing, regardless of its validity term. The rules for the registration of lease agreements, envisaged by Item 2 of Article 609 of this Code, shall not be applied to such agreement.

**Article 644.** The Lessor's Duty of Maintaining a Transport Vehicle

During the entire validity term of the agreement of lease of a transport vehicle without a crew the leaseholder shall be obliged to support the proper condition of the leased transport vehicle, including to carry on minor and major repairs.

**Article 645.** The Leaseholder's Duty of Driving a Transport Vehicle and Operating It

The leaseholder shall drive the leased transport vehicle on his own and carry out its commercial exploitation and technical operation.

**Article 646.** The Leaseholder's Duty of Paying the Expenses Incurred in the Maintenance of a Transport Vehicle

Unless otherwise stipulated by the agreement of lease of a transport vehicle without a crew, the leaseholder shall bear expenses on the maintenance of the leased transport vehicle and its insurance, including the insurance of his liability, and also expenses arising from its operation.

**Article 647.** Contracts with Third Persons on the Use of a Transport Vehicle

1. Unless otherwise stipulated by the agreement of lease of a transport vehicle without a crew, the leaseholder shall have the right to sublease the leased transport vehicle without the lessor's consent on the terms and conditions of the agreement of lease of the transport vehicle with the crew or without it.

2. The leaseholder shall have the right, on his behalf and without the lessor's consent, to conclude contracts of carriage and other contracts with third persons, unless these contracts contradict the purposes of the use of the transport vehicle, indicated in the lease agreement, and if such purposes have not been set, unless these contracts contradict the designation of the transport vehicle.

**Article 648.** Liability for the Harm Inflicted by a Transport Vehicle

The liability for the harm caused to third persons by a transport vehicle, its mechanisms, devices and equipment shall be borne by the leaseholder in keeping with the rules of Chapter 59 of this Code.

**Article 649.** Specific Aspects of the Lease of Transport Vehicles of Particular Types

The transport charters and codes may provide for the lease of transport vehicles of particular types without the provision of driving and technical operation services with their specific aspects other than those specified by this paragraph.

## **§ 4. The Lease of Buildings and Structures**

**Article 650.** The Contract of Lease of a Building or Structure

1. Under the contract of lease of a building or structure the lessor shall undertake to transfer to the leaseholder a building or a structure in temporary possession or use in temporary use.

2. The rules of this paragraph shall be applied to the lease of enterprises, unless otherwise stipulated by the rules of this Code for the lease of enterprises.

**Article 651.** The Form and State Registration of the Contract of Lease of a Building or Structure

1. A contract of lease of a building or structure shall be concluded in writing by drawing up one document to be signed by the parties thereto (Item 2 of Article 434).

Non-observance of the form of the contract of lease of a building or structure shall invalidate it.

2. The contract of lease of a building or structure, concluded for a term of not less than a year, shall be subject to state registration and shall be deemed to be concluded since the time of such registration.

**Article 652.** The Rights to the Land Plot with the Leased Building or Structure

1. Under the contract of lease of a building or structure the leaseholder shall receive together with the rights of possession and use of such tenement the right to the land plot occupied by the immovable property and required for its use.

2. In cases where the lessor is the owner of the land plot with the leased building or structure situated on it the leaseholder shall receive the right of lease of the land plot or other right envisaged by contract of lease of building or structure to the appropriate land plot.

If the contract does not specify the right to the corresponding land plot to be transferred to the leaseholder, he shall receive for the term of the lease of the building or structure the right of use of the land plot occupied by the building or the structure and required for its use in accordance with its purpose.

3. The lease of the building or structure situated on the land plot that does not belong to the lessor by right of ownership shall be allowed without the consent of the owner of this plot, unless this runs counter to the terms of the use of such plot, established by the law or the contract concluded with the owner of the land plot.

**Article 653.** The Preservation by the Tenant of the Building or Structure of the Use of the Land Plot in Case of Its Sale

In cases where the land plot with the leased building or structure situated on it is sold to another person, the leaseholder of this building or

structure shall retain the right of use of the land plot occupied by the building or structure and required for its use, on the terms that were in effect before the sale of the land plot.

**Article 654. The Amount of the Rental Payment**

1. The contract of lease of a building or structure shall provide for the amount of the rental payment. In the absence of the proviso on the amount of the rental payment, agreed upon by the parties thereto in writing, the contract of lease of a building or structure shall be deemed to be non-concluded. In this case the rules for determining the price, stipulated by Item 3 of Article 424 of this Code, shall not be applied.

2. The charge for the use of the building or structure, fixed in the contract of lease of the building or structure, shall include the charge for the use of the land plot on which it is situated or for the corresponding part of the land plot transferred together with the building or structure, unless otherwise stipulated by the law or the contract.

3. In cases where the charge for the lease of the building or structure is fixed in the contract per unit of the square of the building (structure) or another index of its size, the rental payment shall be determined on the basis of the actual size of the building or structure transferred to the leaseholder.

**Article 655. The Transfer of the Building or Structure**

1. The building or structure shall be transferred by the lessor and accepted by the leaseholder on the strength of the deed of conveyance or another document to be signed by the parties.

Unless otherwise stipulated by the law or the contract of lease of a building or structure, the obligation of the lessor to transfer the building or structure shall be deemed to be executed after it is given to the leaseholder in possession or use and after the parties have signed the respective document.

The evasion by one of the parties from signing the document on the transfer of the building or structure on the conditions stipulated by the contract shall be regarded as a refusal of the lessor from the discharge of the obligation of transferring the property, and of the leaseholder from the acceptance of this property.

2. With the termination of the contract of lease of a building or structure the leased building or structure shall be returned to the lessor with the observance of the rules, provided for by Item 1 of this Article.

**§ 5. The Lease of Enterprises**

**Article 656. The Contract of Lease of the Enterprise**

1. Under the contract of lease of the enterprise as a property complex to be used for business the lessor shall undertake to grant to the

leaseholder for charge in temporary possession and use land plots, buildings, structures, equipment and other fixed assets included in the enterprise, to transfer in the order, on the terms and within the limits of the contract the stocks of raw materials, fuel, auxiliary materials and other current assets, the rights of using land, water and other natural resources, buildings, structures and equipment, other property rights of the lessor related to the enterprise, the rights to the signs which individualize the performance of the enterprise, and other exclusive rights, and also to cede to him the rights of claims and to transfer to him the debts of the enterprise. The transfer of the rights of possession and use of the assets held in the ownership of other persons, including land and other natural resources, shall be effected in the order, provided for by the law and other legal acts.

2. The rights of the lessor, received by him on the basis of the permit (license) for the engagement in the respective activity, shall not be transferred to the leaseholder, unless otherwise stipulated by the law or other legal acts. The inclusion in the composition of the enterprise to be transferred under the contract of the obligations which the leaseholder is unable to execute in the absence of such permit (license) shall not release the lessor from the corresponding obligations to creditors.

#### **Article 657.** The Rights of Creditors in Case of the Lease of an Enterprise

1. Under the obligations included in the composition of the enterprise the creditors shall be notified in writing by the lessor about the lease of the enterprise before it is transferred to the leaseholder.

2. The creditor who has failed to inform the lessor in writing about his consent to transfer the debt shall have the right to demand the termination or the anticipatory execution of the obligation and the compensation for the losses caused by this during three months since the day of receipt of the notice of the lease of the enterprise.

3. The creditor who has not been notified about the lease of the enterprise in the procedure, envisaged by Item 1 of this Article, may bring an action about the satisfaction of the claims, stipulated by Item 2 of this Article, during one year since the day when he has known or should have known about the lease of the enterprise.

4. After the lease of the enterprise the lessor and the leaseholder shall bear joint and several liability for the debts, which have been included in the leased enterprise and which have been transferred to the leaseholder without the creditor's consent.

#### **Article 658.** The Form and State Registration of the Contract of Lease of an Enterprise

1. The contract of lease of an enterprise shall be concluded in writing by drawing up one document to be signed by the parties thereto (Item 2 of Article 434).

2. The contract of lease of an enterprise shall be subject to state registration and shall be deemed to be concluded since the time of such registration.

3. Non-observance of the form of the contract of lease of an enterprise shall invalidate it.

**Article 659.** The Transfer of the Leased Enterprise

The enterprise shall be transferred to the leaseholder under the deed of conveyance.

It shall be the duty of the lessor to prepare the enterprise for its transfer, to draw up and submit the deed of conveyance for signing. These operations shall be carried out at his expense, unless otherwise stipulated by the contract of lease of the enterprise.

**Article 660.** The Use of the Property of the Leased Enterprise

Unless otherwise stipulated by the contract of lease of an enterprise, the leaseholder shall have the right, without the lessor's consent, to sell, exchange, grant for temporary use or lend out material values that form part of the property of the leased enterprise, to sublease them and to transfer his rights and duties under the contract of lease in respect of such values to another person, provided that his does not involve the reduction of the cost of the enterprise and does not violate the other provisions of the contract of the lease of the enterprise. The said procedure shall not be applied to land and other natural resources, and also in other cases envisaged by the law.

Unless otherwise stipulated by the contract of lease of the enterprise, the leaseholder shall have the right, without the lessor's consent, to introduce changes to the composition of the leased property complex, to carry out its reconstruction, expansion, and technical re-equipment that increases its cost.

**Article 661.** The Leaseholder's Duties of Maintaining the Enterprise and Disbursing Expenses on Its Operation

1. During the entire validity term of the contract of lease of the enterprise the leaseholder shall be obliged to maintain the enterprise in proper technical condition, and also to carry out its current and major repairs.

2. The leaseholder shall bear the expenses incurred in the operation of the leased enterprise, unless otherwise stipulated by the contract, and also in the payment for the insurance of the leased property.

**Article 662.** The Introduction of Improvements to the Leased Enterprise by the Leaseholder

The leaseholder of an enterprise shall have the right to the compensation to him of the cost of inseparable improvements in the leased

property, regardless of the permission of the lessor for such improvements, unless otherwise stipulated by the contract of lease of the enterprise.

The lessor may be dispensed by the court from the duty of compensating to the leaseholder the cost of such improvements, if he proves that the leaseholder's outlays on these improvements increase the cost of the leased property in disproportion to the improvement of its quality and/or operation properties or in case of such improvements the principles of conscientiousness and reasonableness have been breached.

**Article 663.** The Application of the Rules for the Consequences of the Invalidity of Transactions and for the Alteration and Dissolution of Contracts to the Contract of Lease of the Enterprise

The rules of this Code for the consequences of the invalidity of transactions and for the alteration and dissolution of the contract, which provide for the return or recovery in kind of the received payment under the contract from one party or from both parties, shall be applicable to the contract of lease of the enterprise, unless such consequences violate substantially the rights and law-protected interests of the creditors of the lessor and the leaseholder and other persons and unless they run counter to public interests.

**Article 664.** The Return of the Leased Enterprise

With the termination of the contract of lease of the enterprise the leased property complex shall be returned to the lessor with the observance of the rules, provided for by Articles 656, 657 and 659 of this Code. In this case the preparation of the enterprise for the transfer to the lessor, including the drawing up and submission of a deed of conveyance for signing shall be the duty of the leaseholder and shall be effected at his expense, unless otherwise stipulated by the contract.

## **§ 6. Financial Lease (Leasing)**

**Article 665.** The Contract of Financial Lease

Under the contract of financial lease (leasing contract) the lessor shall undertake to acquire the property indicated by the leaseholder from the seller specified by him and to grant to the leaseholder this contract for charge in temporary possession and use for business purposes. In this case the lessor shall bear no responsibility for the choice of a subject of the lease and of a seller.

The contract of financial lease may provide for making the choice of a seller and acquired property by the lessor.

**Article 666.** The Subject of the Contract of Financial Lease

Any non-consumed things used in business, except for land plots and other natural objects may be the subject of the contract of financial lease.

**Article 667.** The Notification of the Seller about the Lease of Property

The lessor who acquires property for the leaseholder shall notify the seller that this property is intended for its lease by a definite person.

**Article 668.** The Transfer of the Subject of the Contract of Financial Lease to the Leaseholder

1. Unless otherwise stipulated by the contract of financial lease, the property which is the subject of this contract shall be transferred by the seller directly to the leaseholder in the place of location of the latter.

2. In case where property, being the subject of the contract of financial lease, is not transferred to the leaseholder in the period fixed in the contract or in the reasonable period, if the contract does not fix such date, the leaseholder shall have the right to demand the dissolution of the contract and claim damages, if delay was caused by the circumstances beyond the control of the lessor.

**Article 669.** The Transfer of the Risk of Accidental Destruction of, or Accidental Damage to, Property to the Leaseholder

The risk of accidental destruction of, or accidental damage to, the leased property shall pass to the leaseholder at the time of the transfer of the leased property to him, unless otherwise stipulated by the contract of financial lease.

**Article 670.** Liability of the Seller

1. The leaseholder shall have the right to place directly to the seller of the property, which is the subject of the contract of financial lease, the claims, following from the contract of sale, concluded between the seller and the lessor, for the quality and completeness of the property, the terms of its delivery and in other cases of the improper performance of the contract by the seller. In this case the leaseholder shall have the rights and bear the duties, provided for by this Code for the buyer, except for the duty of paying for the acquired property, as if he was a party to the contract of sale of said property. However the leaseholder may not dissolve the contract of sale with the seller without the lessor's consent.

In their relations with the seller the leaseholder and the lessor act as joint and several creditors (Article 326).

2. Unless otherwise stipulated by the contract of financial lease, the lessor shall not be liable to the leaseholder for the fulfilment by the seller of the claims following from the contract of sale, except in cases where the responsibility for the choice of a seller rests with the lessor. In the latter case the leaseholder shall have the right at his own option to make claims following from the contract of sale, both directly to the seller of property and to the lessor, who bear joint and several liability.

## **Chapter 35. The Renting of Living Accommodation**

### **Article 671. The Contract of Renting Living Accommodation**

1. Under the contract of renting living accommodation one party - the owner of living quarters or the person authorized by him (renter) - shall be obliged to give to the other part (tenant) living accommodation for charge in possession and use for residing in it.

2. Living accommodation may be granted to legal entities in possession and/or use on the basis of the lease agreement or another contract. A legal entity may use living quarters for the residence of private persons alone.

### **Article 672. The Contract of Renting Living Accommodation in the State and Municipal Housing Stock of Social Use**

1. Living quarters in the state and municipal housing stock in social use shall be given to individuals under the contract of the social renting of living accommodation.

2. The members of the family residing under the contract of the social renting of living accommodation together with the tenant shall enjoy all the rights and bear all the obligations under the contract of renting living quarters on a par with the tenant.

On the demand of the tenant and the members of his family the contract may be concluded with one members of the family. In case of death of the tenant or of his retirement from living quarters the contract shall be concluded with one family members residing in these quarters.

3. A contract of the social renting of living accommodation shall be concluded on the grounds and conditions and in the order, provided for by the housing legislation. The rules of Articles 674, 675, 678, 680, and Items 1-3 of Article 685 of this Code shall be applicable to the contract of the social renting of living accommodation, unless otherwise stipulated by the housing legislation.

### **Article 673. The Object of the Contract of Renting Living Accommodation**

1. Isolated living accommodation suitable for permanent residence (the apartment, dwelling house, part of the apartment or dwelling house).

The fitness of living accommodation for residence shall be determined in the order, provided for by the housing legislation.

2. The tenant of living quarters in a tenement shall have the right to use property, indicated in Article 290 of this Code, in addition to the use of living accommodation.

### **Article 674. The Form of the Contract of Renting Living Accommodation**

The contract of renting living accommodation shall be concluded in writing.

**Article 675.** The Preservation of the Contract of Renting Living Accommodation When the Right of Ownership of Living Quarters Is Transferred

The transfer of the right of ownership of living quarters under the contract of renting living accommodation shall not involve the dissolution or charge of the contract of renting living accommodation. In this case the new owner shall become a renter on the terms of the contract of renting concluded earlier.

**Article 676.** The Obligations of the Renter of Living Quarters

1. The renter shall be obliged to transfer to the tenant free living quarters in a condition suitable for residence.

2. The renter shall be obliged to carry on proper exploitation of the dwelling house, in which the leased living quarters are to be found, to provide public utilities or ensure their provision to the tenant for charge, to carry on the repair of the common property in the tenement and of devices for rendering communal services in the living quarters.

**Article 677.** The Tenant and Individuals Permanently Residing with Him

1. Only a private person may be a tenant under the contract of renting living accommodation.

2. The contract shall indicate individuals permanently residing in living quarters together with the tenant. In the absence of such indication in the contract these individuals shall be moved in living quarters in accordance with the rules of Article 679 of this Code.

Individuals permanently residing together with the tenant shall have equal rights in the use of living accommodation. The relations between the tenant and such individuals shall be determined by law.

3. The tenant shall be liable to the renter for the actions of the individuals permanently residing together with him and violating the terms and conditions of the contract of renting living accommodation.

4. Individuals permanently residing together with the tenant may be notifying the renter conclude with the tenant a contract to the effect that all the individuals permanently residing in living quarters bear with the tenant joint and several liability to the renter. In this case such individuals shall be co-tenants.

**Article 678.** The Obligations of the Tenant of Living Quarters

The tenant shall be obliged to make use of living quarters for residence only, to preserve them and maintain them in proper condition.

The tenant shall have no right to reconstruct living quarters without the renter's consent.

The tenant shall be obliged to make payment for living accommodation. Unless otherwise stipulated by the contract, the tenant shall be obliged to make utility rates on his own.

**Article 679.** The Moving-in of Individuals Permanently Residing with the Tenant

Other individuals may be moved in living quarters with the consent of the renter, tenant and individuals permanently residing with him in the capacity of permanent residents. No consent shall be required in case of moving in minors.

The moving-in shall be allowed with the observance of the requirements of legislation on the norm of the dwelling premises total useful floor area per person, except for the case of moving in minors.

**Article 680.** Temporary Lodgers

The tenant and the individuals permanently residing with him shall have the right to permit temporary lodgers (users) to live free of charge in their living quarters by common agreement and with the preliminary notification of the renter. The renter may ban the living of temporary lodgers with the observance of the requirements of legislation on the norm of the dwelling premises total useful floor area per person. The period of living of temporary lodgers may not exceed six months.

Temporary lodgers shall not possess the independent right of using living quarters. The tenant shall be responsible for their actions to the renter.

Temporary lodgers shall be obliged to vacate living quarters upon the expiry of the period of residence agreed upon with them, and if this period is not agreed upon, they shall be obliged to vacate living quarters within seven days since the day of making the respective demand by the tenant or any individual permanently residing with him.

**Article 681.** Repairs of the Leased Living Quarters

1. It shall be the duty of the tenant to carry out current repairs of leased living quarters, unless otherwise stipulated by the contract of renting living accommodation.

2. It shall be the duty of the renter to carry out major repairs of leased living quarters, unless otherwise stipulated by the contract of renting living accommodation.

3. It shall not be allowed to re-equip the dwelling house in which living quarters are to be found, if this re-equipment substantially change the conditions of using living quarters, without the consent of the tenant.

**Article 682.** Payment for Living Quarters

1. The amount of the payment for living quarters shall be fixed by agreement between the parties in the contract of renting living quarters. If a

maximum payment for living quarters has been fixed in accordance with the law, the payment provided for by the contract shall not exceed this amount.

2. It shall not be allowed to change the payment for living quarters unilaterally, except for the cases provided for by the law or the contract.

3. Payment for living quarters shall be made by the tenant within the periods of time, envisaged by the contract of renting living accommodation. If the contract does not provide for time-limits, payment shall be made by the tenant every month in the order, prescribed by the Housing Code of the Russian Federation.

#### **Article 683.** The Time-limit in the Contract of Renting Living Accommodation

1. A contract of renting living accommodation shall be concluded for a term that does not exceed five years. If the contract does not fix the term, the contract shall be deemed to be concluded for five years.

2. The rules, envisaged by Item 2 of Article 677, Articles 680, 684-686, the fourth paragraph of Item 2 of Article 687 of this Code shall not be applied to the contract of renting living accommodation, concluded for a term of one year (short-term renting), unless otherwise stipulated by the contract.

#### **Article 684.** The Preferential Right of the Tenant to Conclude a Contract for a New Term

With the lapse of the term of the contract of renting living quarters the tenant shall have the preferential right to conclude a contract of renting living accommodation for a new term.

Not later than three months before the expiry of the term of the contract of renting living quarters the renter shall propose that the tenant conclude a contract on the same or other conditions or warn the tenant about the refusal to prolong the contract in connection with the decision of not letting on lease living quarters during the period of not less than a year. If the renter has failed to perform this obligation, while the tenant has not refused to prolong the contract, the latter shall be deemed to be extended on the same conditions and for the same period.

When the terms and conditions of the contract are being coordinated, the tenant shall have no right to demand that the number of persons permanently residing with him under the contract of renting living accommodation should be increased.

If the renter has refused to prolong the contract in connection with the decision not to let premises on lease, but during one year since the day of the expiry of the validity term of the contract with the tenant has concluded the contract of renting living accommodation with another person, the tenant shall have the right to demand that this contract should be recognized as invalid and/or that compensation should be made for the losses caused by the refusal to renew the contract with him.

### **Article 685. Sustenance of Living Quarters**

1. Under the contract for sustenance of living quarters the tenant shall transfer for a term all the rented premise or the part thereof in use by subtenant with the consent of the renter. The subtenant shall not acquire the independent right of using living quarters. The tenant shall remain to be liable to the renter under the contract of renting living accommodation.

2. A contract for sustenance of living quarters may be concluded on condition that the requirements of legislation on the norm of the dwelling premises total useful floor area per person should be met.

3. The contract for sustenance of living quarters shall be payable.

4. The validity term of the contract for sustenance of living quarters may not exceed the validity term of the contract of renting living quarters.

5. In case of the termination of the contract of renting living quarters short of the term, the contract for sustenance of living quarters shall cease simultaneously with it.

6. The rules for the preferential right to the conclusion of a contract for a new term shall not extend to the contract for sustenance of living quarters.

### **Article 686. The Replacement of the Tenant in the Contract of Renting Living Accommodation**

1. On the demand of the tenant and other private persons permanently residing with him and with the consent of the renter the tenant in the contract of renting living accommodation may be replaced by one of the persons of age permanently residing together with the tenant.

2. In the event of the tenant's death or of his retirement from living quarters, the contract shall continue to operate on the same conditions, and one of the private persons permanently residing with the former tenant shall become a tenant by general agreement between them. If such agreement is not reached, all the individuals permanently residing in living quarters shall become co-tenants.

### **Article 687. The Dissolution of the Contract of Renting Living Quarters**

1. With the consent of other persons permanently residing with him the tenant of living quarters shall have the right to cancel the contract of renting with the written warning of the renter three months beforehand.

2. A contract of renting living quarters may be dissolved in due course of law on the demand of the renter in the cases of:

the non-deposition by the tenant of payment for living quarters for six months, unless the contract fixes a longer period, and in case of short-term renting when payment has not been made for more than two times upon the expiry of the term of payment fixed by the contract;

the destruction of, or damage to, the premise by the tenant or other persons for whose actions he is answerable.

By the court's decision the tenant may be granted the period of one year for the removal by him of the breaches that served as a ground for the dissolution of the contract of renting living accommodation. If during the period of time, fixed by a court of law, the tenant does not remove the breaches or does not take all the necessary measures to eliminate them, the court shall make a decision on the dissolution of the contract of renting living accommodation in reply to the repeated application of the renter. In this case, at the request of the tenant the court may postpone the execution of its decision for a term of not more than a year in its decision on the dissolution of the contract.

**3.** A contract of renting living accommodation may be dissolved by a court of law on the demand of any party to the contract:

if the premise ceases to be suitable for permanent residence, and also in case of its fault;

in other cases, provided for by the housing legislation.

**4.** If the tenant of living quarters or other private persons for whose actions he is answerable make use of living quarters not to its purpose or systematically violate the rights and interests of neighbours, the renter may warn the tenant about the need to remove these breaches.

If the tenant or other persons, for the actions of which he is answerable, continue to make use of living quarters after the warning not to the purpose or to breach the rights and interests of neighbours, the tenant shall have the right to dissolve the contract of renting living accommodation judicially. In this case, the rules, provided for by the fourth paragraph of Item 2 of this Article, shall be applied.

### **Article 688.** The Consequences of the Dissolution of the Contract of Renting Living Accommodation

In case of the dissolution of the contract of renting living accommodation the tenant and other persons living in these living quarters by the time of the cancellation of the contract shall be subject to eviction on the basis of the court's decision.

## **Chapter 36. Gratuitous Use**

### **Article 689.** Contract for Gratuitous Use

**1.** Under the contract for gratuitous use (loan agreement) one party (lender) shall undertake to transfer a thing or transfers it in gratuitous use by the other party (borrower), while the latter shall undertake to return the same thing in the condition in which it received it with due account for normal depreciation or in the condition stipulated by the contract.

**2.** The rules of Article 607, Item 1 and Paragraph 1 of Item 2 of Article 610, Items 1 and 3 of Article 615, Item 2 of Article 621, Items 1 and 3 of

Article 623 of this Code shall be accordingly applicable to the contract for gratuitous use.

**Article 690. The Lender**

1. The right of transferring a thing in gratuitous use shall belong to its owner and other persons authorized therefor by the law or by the owner.

2. A non-profit organization shall have no right to transfer property in gratuitous use by the person who is its founder, partner, manager, member of its management or control bodies.

**Article 691. The Giving of a Thing in Gratuitous Use**

1. The lender shall be obliged to give a thing in the condition that corresponds to the terms of the contract for gratuitous use and its purpose.

2. A thing shall be given for gratuitous use with all its accessories and related documents (instructions on its use, technical certificate, etc.), unless otherwise stipulated by the contract.

If such accessories and documents have not been given, and without them the thing can not be used according to its designation or its use is largely responsible for the loss of its value for the lender, the latter shall have the right to demand such accessories and documents or the cancellation of the contract and the indemnity for the real loss.

**Article 692. The Consequences of Failure to Give a Thing in Gratuitous Use**

If the lender fails to give a thing to the borrower, the latter shall have the right to demand the cancellation of the contract for gratuitous use and the indemnity for the real loss.

**Article 693. Liability for the Defects of the Thing Given for Gratuitous Use**

1. The lender shall be liable for the defects of the thing which he deliberately or because of gross negligence did not specify during the conclusion of the contract for gratuitous use.

In case of discovery of such defects the borrower shall have the right to demand from the lender at his option the gratuitous removal of the defects of the thing or the reimbursement of his expenses on the removal of the defects of the thing, or the anticipatory cancellation of the contract and the indemnity for the real loss.

2. The lender, being informed about the claims of the borrower or about his intention to eliminate the defects of the thing at the expense of the lender, may replace without delay the faulty thing by another similar thing in a proper condition.

3. The lender shall not be liable for the defects of the thing which were specified by him during the conclusion of the contract or had been known in advance to the borrower, or should have been discovered by the

borrower during the inspection of the thing or the verification of its good condition during the conclusion of the contract or the transfer of the thing.

**Article 694.** The Rights of Third Persons to the Thing Transferred for Gratuitous Use

The transfer of a thing for gratuitous use shall not be a ground for the alteration or termination of the rights of third persons to this thing.

During the conclusion of a contract for gratuitous use the lender shall be obliged to warn the borrower about all the rights of third persons to this thing (servitude, the right of the pawning of the thing, etc.). Default on this obligation shall entitle the borrower to demand the dissolution of the contract and the indemnity for the real loss.

**Article 695.** The Obligation of the Borrower to Maintain a Thing

The borrower shall be obliged to maintain the thing received for gratuitous use in a good condition, including to effect minor and major repairs and to bear all the expenses on its maintenance, unless otherwise stipulated by the contract for gratuitous use.

**Article 696.** The Risk of Accidental Destruction of, or Accidental Damage to, the Thing

The borrower shall bear the risk of accidental destruction of, or accidental damage to, the thing received for gratuitous use, if the thing has been destroyed or become faulty in view of the fact that he used it out of accordance with the contract for gratuitous use or its purpose, or has transferred the thing to a third person without the lender's consent. The borrower shall also bear the risk of accidental destruction of, or accidental damage to, the thing, if with due account of actual circumstances he could prevent its destruction or damage by sacrificing his thing but has preferred to preserve his thing.

**Article 697.** Liability for the Harm Inflicted on the Third Person As a Result of the Use of a Thing

The lender shall be liable for the harm inflicted on the third person as a result of the use of a thing, unless he proves that the harm was caused in consequence of intent or gross negligence on the part of the borrower or the person who is in possession of this thing with the lender's consent.

**Article 698.** The Cancellation of the Contract for Gratuitous Use Short of the Term

1. The lender shall have the right to demand that the contract for gratuitous use should be cancelled short of the term in cases where the borrower:

uses the thing out of accordance with the contract or with its designation;

fails to discharge the obligation of keeping the thing in good condition or of maintaining it;

substantially worsens the condition of the thing;

has handed over the thing to a third person without the lender's consent.

**2.** The borrower shall have the right to demand to anticipatory cancellation of the contract for gratuitous use in the following cases:

if defects have been discovered that makes impossible or burdensome the normal use of the thing and, moreover he did not know about them and could not know about them at the time of the conclusion of the contract;

if the thing proves to be in a condition unsuitable for its use by reason of circumstances for which he is not answerable;

if during the conclusion of the contract the lender did not warn him about the rights of third persons to the thing being handed over to them;

if the lender has failed to discharge the obligation of handing over the thing or its accessories and related documents.

#### **Article 699.** Repudiation of the Contract for Gratuitous Use

**1.** Each party to the contract shall have the right to repudiate at any time the contract for gratuitous use, concluded without an indication of its validity term, by informing the other party one month in advance, unless the contract stipulates a different date of notification.

**2.** Unless otherwise stipulated by the contract, the borrower shall have the right to repudiate at any time the contract, concluded with an indication of its validity term, in the procedure, envisaged by Item 1 of this Article.

#### **Article 700.** The Change of the Parties to the Contract for Gratuitous Use

**1.** The lender shall have the right to alienate a thing or to hand it over for lucrative use to a third person. In this case, the new owner or user shall receive the rights under the contract for gratuitous use, concluded earlier, while his rights to the thing shall be encumbered with the rights of the borrower.

**2.** In case of the lender's death or the reorganization or liquidation of the lending legal entity, the rights and obligations of the lender under the contract for gratuitous use shall pass on to the heir (legal successor) or to the other person to whom the right of ownership of the thing or another right, on the basis of which the thing was handed over for gratuitous use, has been transferred.

In case of the reorganization of the lending legal entity its rights and obligations under the contract shall pass to the legal entity which is its legal successor, unless otherwise stipulated by the contract.

#### **Article 701.** The Termination of the Contract for Gratuitous Use

The contract for gratuitous use shall cease in case of the borrower's death or the liquidation of the borrowing legal entity, unless otherwise stipulated by the contract.

## **Chapter 37. Contract of Hiring Work**

### **§1. General Provisions on Contract of Hiring Work**

#### **Article 702. Contract of Work and Labour**

1. Under the work and labour contract one party (contractor) shall undertake to perform definite work according to the assignment of the other party (customer) and to turn it over to the customer, whereas the customer shall undertake to accept the result of this work and to pay for it.

2. The provisions envisaged by this paragraph shall be applied to the individual types of the work and labour contract (domestic contract, building contract, contract for the performance of design and survey works, contract works for state needs), unless otherwise stipulated by the rules of this Code for these types of contracts.

#### **Article 703. Works Performed Under the Contract of Work and Labour**

1. A contract of work and labour shall be concluded for the manufacture or processing of a thing or for the performance of another work with the transfer of its result to the customer.

2. Under the contract of work and labour, concluded for the manufacture of a thing, the contractor shall transfer the rights to it to the customer.

3. Unless otherwise stipulated by the contract, the contractor shall determine methods of performing the customer's assignment on his own.

#### **Article 704. Performance of Work by the Contractor's Maintenance**

1. Unless otherwise stipulated by the work and labour contract, the work shall be performed by the contractor's maintenance - from his materials and with his own forces and means.

2. The contractor shall bear liability for improper quality of materials and equipment supplied by him, and also for the provision of materials and equipment, encumbered with the rights of third persons.

#### **Article 705. The Distribution of Risks Between the Parties**

1. Unless otherwise stipulated by this Code, other laws or the contract of work and labour,

the risk of accidental destruction of, or accidental damage to, materials, equipment, the things or assets used for the execution of the contract, transferred for processing, shall be borne by the party that has extended them;

the risk of accidental destruction of, or accidental damage to, the result of the performed work before it is accepted by the customer shall be borne by the contractor.

2. In case of delay in the delivery and acceptance of the result of work the risks, specified in Item 1 of this Article, shall be borne by the part which has made this delay.

#### **Article 706.** The General Contractor and the Subcontractor

1. Unless the obligation of the subcontractor to perform personally the work, envisaged by the contract, follows from the law or the work and labour contract, the contractor shall have the right to draw other persons (subcontractors) in the execution of his obligations. In this case the contractor shall play the part of the general contractor.

2. The contractor who has drawn a subcontractor in the execution of the work and labour contract in contravention of the provisions of Item 1 of this Article or the contract shall bear liability to the customer for the losses caused by the subcontractor's participation in the execution of the contract.

3. The general contractor shall bear liability to the customer for the consequences of the non-discharge or improper discharge of the obligations by the subcontractor in keeping with the rules of Item 1 of Article 313 and Article 403 of this Code and shall bear liability to the subcontractor for the non-fulfilment or improper fulfilment of the obligations by the customer under the work and labour contract.

Unless otherwise stipulated by the law or the contract, the customer and the subcontractor shall not have the right to make to each other claims relating to the breach of the contracts, concluded by each of them with the general contractor.

4. With the general contractor's consent the customer shall have the right to conclude contracts for the performance of individual works with other persons. In this case the said persons shall bear liability directly to the customer for the non-performance or improper performance of work.

#### **Article 707.** The Participation of Several Persons in the Performance of Work

1. If two or more persons act simultaneously on the side of the contractor, they shall be recognized in case of indivisibility of the subject-matter of the obligation as joint and several debtors with regard to the customer and accordingly as joint and several creditors.

2. In the event of the divisibility of the subject-matter of the obligation, and also in other cases, provided for by the law, other legal acts or the contract, each person, referred to in Item 1 of this Article, shall acquire rights and bear obligations with regard to the customer within the limits of their share (Article 321).

#### **Article 708.** The Dates of the Performance of the Work

1. The work and labour contract shall indicate the initial and deadline expiry dates of the performance of work. By agreement between the parties the contract may also provide for the dates of completing in particular stages of the work concerned (interim dates).

Unless otherwise stipulated by the law, other legal acts or the contract, the contractor shall bear liability for breaking both the initial or ultimate and interim dates of the performance of the work concerned.

2. The initial, ultimate and interim dates of the performance of the work may be changed in cases and in the order, rescribed by the contract.

3. The consequences of delay in execution, referred to in Item 2 of Article 405 of this Code shall ensue in case of breaking the ultimate date of the performance of the work concerned, and also of other times established by the work contract.

### **Article 709. The Price of the Work**

1. The work and labour contract shall indicate the price of the work subject to performance or the methods of its estimation. If there is no such indication in the contract, the price of the work shall be estimated in accordance with Item 3 of Article 424 of this Code.

2. The price in the work and labour contract shall include compensation for the contractor's costs and the remuneration due to him.

3. The price of the work may be estimated by means of drawing up its estimate.

In the event the work is performed in accordance with the estimate made by the contractor, the estimate shall acquire the force and become a part of the work and labour contract since the time of its confirmation by the customer.

4. The price of the work (estimate) may be approximate or firm. In the absence of other references in the work and labour contract the price of the work shall be deemed to be firm.

5. If there is a need for additional works and for this reason for a substantial excess of the price of the work estimated approximately, the contractor shall be obliged to warn the customer in due time about this. The customer who has not given his consent to the price of the work, indicated in the work and labour contract shall have the right to repudiate the contract. In this case the contractor may demand that the customer should pay the price for the performed part of the work.

The contractor who has not warned the customer in due time about the need of exceeding the price of the work, indicated in the contract, shall be obliged to fulfil the contract and retain the right to the payment for the work at the price specified in the contract.

6. The contractor shall have no right to demand an increase in the firm price, whereas the customer shall have no right to demand its decrease, including in the event when at the time of concluding the work and labour contract the possibility was excluded to make provision for the

full scope of works subject to performance or of the expenses needed for this.

In the event of the substantial increase in the case of materials and equipment provided by the contractor, and also of the services rendered to him by third persons, which cannot be foreseen during the conclusion of the contract, the contractor shall have the right to demand an increase in the fixed price, and should the customer refuse to meet this demand, he shall have the right to demand the dissolution of the contract in accordance with Article 451 of this Code.

#### **Article 710. The Saving of the Contractor**

1. When the contractor's actual expenses prove to be less than those reckoned in the estimation of the price of the work, the contractor shall retain the right to the payment for works at the price, envisaged by the work and labour contract, unless the customer proves that the saving obtained by the contractor has influenced the quality of the performed works.

2. the work and labour contract may provide for the distribution of the saving obtained by the contractor among the parties thereto.

#### **Article 711. Procedure of the Payment for the Work**

1. If the work and labour contract does not provide for preliminary payment for the fulfilled work or of its particular stages, the customer shall be obliged to pay to the contractor the specified price after the final delivery of the results of the work, provided that the work has been performed properly and within the agreed period or short of the term with the consent of the customer.

2. The contractor shall have the right to demand the advance or earnest money only in cases and in the amount, indicated in the law or in the work and labour contract.

#### **Article 712. The Contractor's Right to Retention**

In the event of default on the customer's obligation to pay the fixed price or any other sum of money due to the contractor in connection with the performance of the work and labour contract, the contractor shall have the right, in keeping with Articles 359 and 360 of this Code, to the retention of the results of the work, and also the equipment belonging to the customer, the thing transferred for processing, the remainder of the unused material and other property of the customer, turned out at his disposal before the payment of relevant sums of money by the customer.

#### **Article 713. The Performance of the Work with the Use of the Customer's Material**

1. The contractor shall be obliged to make economical and thrifty use of the material supplied by the customer, submit after the completion of the work to the customer his report on the spending of the material, and also to

return its remainder or to reduce the price of the work with the customer's consent and with account of the value of the unused material that remains at the contractor's disposal.

2. If no result has been achieved or the achieved result has shortcomings which make it unfit for the use specified by the work and labour contract or by the usual use in the absence of the appropriate condition in the contract for reasons caused by the shortcomings of the material, supplied by the customer, the contractor shall have the right to demand payment for the work done by him.

3. The contractor may exercise the right, indicated in Item 2 of this Article, if he proves that the material's shortcomings could not be discovered in the event of a proper acceptance of this material by the contractor.

#### **Article 714.** The Contractor's Liability for the Non-safety of Property Supplied by the Contractor

The contractor shall bear liability for the non-safety of the materials, equipment supplied by the customer, of things and other property transferred for processing (treatment) and possessed by the contractor in connection with the execution of the work and labour contract.

#### **Article 715.** The Rights of the Customer During the Performance of the Work by the Contractor

1. The customer shall have the right to verify at any time the progress and quality of the work performed by the contractor, while not interfering in his activity.

2. If the contractor does not embark on the execution of the work and labour contract or performs the work so slowly that it is obviously impossible to finish it by the time fixed, the customer shall have the right to refuse to execute the contract and to claim damages.

3. If it becomes obvious during the performance of the work that it will not be performed properly, the customer shall have the right to appoint a reasonable date for the removal of shortcomings and in case of default of this requirement by the contractor in the appointed time to waive the work and labour contract or to entrust another person with the correction of the work at the expense of the contractor, and also to claim damages.

#### **Article 716.** The Circumstances About Which the Contractor Shall Be Obligated to Warn the Customer

1. The contractor shall be obliged to warn the customer without delay and to suspend the work before he receives his directions in the event of the discovery of:

the unsuitability or the substandard quality of the customer's materials, equipment, technical documents or the thing delivered for processing (treatment);

possible favourable consequences of the implementation of the customer's directions on the method of performing the work;

other circumstances beyond the contractor's control, which endanger the fitness or the stability of the results of the work being performed or make it impossible to finish this work on time.

2. The contractor, who has failed to warn the customer about the circumstances, indicated in Item 1 of this Article or who has continued the work without waiting for the expiry of the date, referred to in the contract, and in its absence without waiting the expiry of the reasonable period for a reply to the warning or despite the timely indication of the customer concerning the discontinuance of the work, shall have no right to refer to said corresponding in the event of the presentation of appropriate claims to him or by him to the customer.

3. If despite the timely and justified warning by the contractor about the circumstances, referred to in Item 1 of this Article, the customer fails to replace within the reasonable time the unfit and substandard materials, equipment, technical documents or the thing transferred for processing (treatment), does not change the directions on the method of performing the work or does not take other necessary measures to remove the circumstances threatening its fitness, the contractor shall have the right to refuse to execute the work and labour contract and claim the damages caused by the termination of the contract.

#### **Article 717. The Customer's Refusal to Execute the Work and Labour Contract**

Unless otherwise stipulated by the work and labour contract, the customer may at any time before the delivery of the result of the work to him refuse to execute the contract by paying to the contractor a part of the fixed price in proportion to the part of the work performed before the receipt of the notice about the refusal of the customer to implement the contract. The customer shall also be obliged to compensate the contractor's losses, caused by the termination of the work and labour contract, within the limits of the difference between the price fixed for the entire work and the part of the price paid for the performed work.

#### **Article 718. The Customer's Assistance**

1. In cases, in the scope and in the order, provided for by the work and labour contract, the customer shall be obliged to assist the contractor in the performance of the work.

In case of default on this duty by the customer the contractor shall have the right to claim damages, including additional costs caused by downtime or by putting off the dates of the performance of the work, or by the increase in the price of the work, indicated in the contract.

2. In cases where it has become impossible to perform the work under the work and labour contract owing to the customer's actions or

omission, the contractor shall have the right to pay the price, indicated in the contract, with account of the performed part of the work.

**Article 719.** Default on the Customer's Reciprocal Obligations Under the Work and Labour Contract

1. The contractor shall have the right not to proceed to the work or to suspend the work he began in cases where the breach by the customer of his obligations under the work and labour contract, in particular, the non-supply of materials, equipment, technical documents or the thing subject to processing (treatment), prevents the execution of the contract by the contractor, and also in the presence of the circumstances evidencing that the said circumstances will not be discharged in the fixed period (Article 328).

2. Unless otherwise stipulated by the work and labour contract, the contractor shall have the right to refuse to execute the contract and to claim damages in the presence of circumstances, referred to in Item 1 of this Article.

**Article 720.** The Acceptance by the Customer of the Work Fulfilled by the Contractor

1. Within the time-limit and in the order, provided for by the work and labour contract, the customer shall be obliged to inspect with the contractor's participation the result of the work and to accept the performed work; in the event of the discovery of departures from the contract that worsen the result of the work or of any other shortcomings in the work, the customer shall be obliged to state at once about this to the contractor.

2. The customer who has discovered shortcomings in the work during its acceptance shall have the right to refer to them in cases where the deed or any other document testifying to the acceptance has specified these shortcomings or the possibility of a subsequent presentation of the claim about their removal.

3. Unless otherwise stipulated by the work and labour contract, the customer who has accepted the work without its check shall be deprived of the right to refer to the shortcomings in the work which could be ascertained in the usual method of its acceptance (obvious shortcomings).

4. The customer who has discovered in the work after its acceptance departures from the work and labour contract or other defects which could not be identified by the usual method of acceptance (latent defects), including those that were deliberately hidden by the contractor, shall be obliged to inform the contractor about this within the reasonable period upon their discovery.

5. In case a dispute has arisen between the customer and the contractor over the defects of the fulfilled work or their causes, an expert examination shall be scheduled. Expenses on the expert examination shall be borne by the contractor, except for the cases when experts have found

out that there are no breaches by the contractor of the work and labour contract or a causal relationship between the contractor's actions and the discovered defects. In said cases the expenses on the expert examination shall be borne by the party which has called for the schedule of the expert examination, and if was scheduled by agreement between the parties, the expenses shall be borne by the parties in equal shares.

6. Unless otherwise stipulated by the work and labour contract, in event of the customer's evasion from the acceptance of the fulfilled work, the contractor shall have the right, upon the expiry of one month since the day when as per the contract the result of the work should have been turned over to the customer, provided the latter makes subsequently two warnings of the customer to sell the result of the work and to place the avails, minus all the payments due to the contractor, on the customer's deposit in the procedure, provided for by Article 327 of this Code.

7. If the evasion of the customer from the acceptance of the fulfilled work has involved a delay in the delivery of the work, the risk of accidental destruction of the thing manufactured (processed or treated) shall be recognized as passed to the customer at the time when the transfer of the thing should have taken place.

#### **Article 721. The Quality of the Work**

1. The quality of the work performed by the contractor shall correspond to the terms and conditions of the contract and in the absence or in the event of the incompleteness of these terms and conditions - to the requirements usually made to the work of appropriate kind. Unless otherwise stipulated by the law, other legal acts or the contract, the result of the fulfilled work shall possess, at the time of its transfer to the customer, the properties, referred to in the contract, or determined by the usually made requirements and shall be suitable within a reasonable period for the use, stipulated by the contract, for the usual use of the result of the work of this kind.

2. If the law or other legal acts provide in the statutory manner for mandatory requirements for the work to be performed under the work and labour contract, the contractor acting as a businessman shall be obliged to perform the work by observing these mandatory requirements.

The contractor may assume under the contract the obligation of fulfilling the work that meets the requirements for quality higher than the requirements made obligatory for the parties.

#### **Article 722. The Guarantee of the Quality of the Work**

1. In case where the law, other legal acts, the work and labour contract or the customs of business turnover provides for a guarantee period for the result of the work, the result of the work shall correspond to the terms and conditions of the contract for quality during the entire guarantee period (Item 1 of Article 721).

2. Unless otherwise stipulated by the work and labour contract, the guarantee of the quality of the result of the work shall extend to all the components of the result of the work.

**Article 723. The Contractor's Liability for Improper Quality of the Work**

1. In cases where the work has been performed by the contractor with departures from the work and labour contract which have worsened the result of the work or with other defects which make it unsuitable for the use, envisaged by the contract, or in the absence of the relevant condition of unfitness for the usual use in the contract, the customer shall have the right, unless otherwise stipulated by the law or the contract, to demand from the contractor the following actions at his option:

gratuitous removal of defects within the reasonable period;  
an adequate reduction of the price fixed for the work;  
reimbursement of his expenses incurred in the elimination of defects, when the customer's right to remove them is provided for by the work and labour contract (Article 397).

2. Instead of the removal of the defects for which he is responsible the contractor shall have the right to perform gratis the work anew with the compensation to the customer of the losses caused by the delay in the execution of the work. In this case the customer shall be obliged to return the result of the work to the contractor, if such return is possible according to the nature of the work.

3. If departures in the work from the terms and conditions of the work and labour contract or any other shortcomings of the result of the work have not been eliminated in the reasonable period or are substantial and unremovable, the customer shall have the right to refuse to execute the contract and claim damages.

4. The proviso of the work and labour contract about the release of the contractor from the liability for definite shortcomings shall not absolve him from the liability, if it is proved that such shortcomings have arisen due to the contractor's faulty actions or inaction.

5. The contractor who has submitted materials for the fulfilment of the work is responsible for their quality under the rules for the seller's liability for substandard goods (Article 475).

**Article 724. The Terms of Discovery of the Result of the Work of Improper Value**

1. Unless otherwise stipulated by the law or the work and labour contract, the customer shall have the right to make claims relating to the improper quality of the result of the work, provided that it was discovered during the period of time, fixed by this Article.

2. In case where no guarantee period is fixed for the result of the work, claims relating to the shortcomings of the result of the work may be made by the customer, provided they have been disclosed during the

reasonable period, but within two years since the day of the delivery of the result of the work, unless different time-limits have been fixed by the law, the contract or the customs of business turnover.

**3.** The customer shall have the right to make claims, associated with the shortcomings in the result of the work, discovered during the guarantee period.

**4.** In case where the guarantee period provided for by the contract is less than two years and the shortcomings of the result of the work have been discovered by the customer upon the expiry of the guarantee period but within two years since the time envisaged by Item 5 of this Article, the contractor shall bear liability, if the customer proves that the shortcomings arose before the delivery of the result of the work to the customer or for reasons that arose before this time.

**5.** Unless otherwise stipulated by the work and labour contract, the guarantee period (Item 1 of Article 722) shall begin to run since the time when the result of the fulfilled work was accepted or should have been accepted by the customer.

**6.** The rules contained in Items 2 and 4 of Article 471 of this Code shall be applied to the computation of the guarantee period under the work and labour contract, unless otherwise stipulated by the law, other legal acts, the agreement of the parties or unless the contrary follows from the specifics of the work and labour contract.

#### **Article 725.** The Statute of Limitation for the Improper Quality of the Work

**1.** The period of limitation for claims made in connection with the improper quality of the work, performed under the work and labour contract, shall be one year, which the period of limitation for buildings and structures shall be determined according to the rules of Article 196 of this Code.

**2.** If under the work and labour contract the result of the work has been accepted in parts, the period of limitation shall begin to run since the day of the acceptance of the result of the work as a whole.

**3.** If the law, other legal acts or the work and labour contract provide for a guarantee period and the statement of claim for the shortcomings of the result of the work has been made during the guarantee period, the period of limitation, referred to in Item 1 of this Article, shall run begin with the day of the statement for the shortcomings.

#### **Article 726.** The Duty of the Contractor to Transfer Information to the Customer

The contractor shall be obliged to transfer together with the result of the work information on the operation or any other use of the subject of the work and labour contract, if this is provided by the contract or if the nature of information is such that without it is impossible to make use of the result of the work for the purposes, indicated in the contract.

**Article 727.** The Confidentiality of Information Received by the Parties

If the party thanks to the discharge of its obligation under the work and labour contract has received from the other party information about new decisions and technical knowledge, including knowledge not protected by law, and also information that can be regarded as a commercial secret (Article 139), the party which has received such information shall have no right to communicate it to the third persons without the consent of the other party.

The procedure and conditions for the use of such information shall be determined by the agreement of the parties.

**Article 728.** The Return by the Contractor of the Property Transferred by the Customer

In cases where the customer dissolves the work and labour contract on the basis of Item 2 of Article 715 or Item 3 of Article 723 of this Code, the contractor shall be obliged to return the materials and equipment, supplied by the customer, the thing transferred for processing (treatment) and other property or to hand them over to the person indicated by the customer, and if this has proved to be impossible - to replace the value of the materials, equipment and other property.

**Article 729.** The Consequences of the Termination of the Work and Labour Contract Before the Acceptance of the Result of the Work

Should the work and labour contract cease to be valid on the grounds, provided for by the law or the contract, before the acceptance by the customer of the result of the work, performed by the contractor (Item 1 of Article 720), the customer shall have the right to demand the transfer to him of the result of the incomplete work with the compensation of the contractor's expenses.

## **§ 2. The Domestic Contract**

**Article 730.** The Domestic Contract

1. Under the domestic contract the contractor who carries on appropriate business shall undertake to perform the work assigned by the individual (customer) to satisfy the customer's household and other personal requirements, while the customs shall undertake to accept the work and to pay for it.

2. The domestic contract is a public agreement (Article 426).

3. The laws on the protection of the customers' rights and other legal acts adopted in accordance with them shall be applicable to the relations under the domestic contract which are not regulated by this Code.

**Article 731.** The Guarantees of the Customer's Rights

1. The contractor shall have no right to impose on the customer the inclusion of an additional work or service in the domestic contract. The customer shall have the right to refuse to pay for the work or service not specified by the contract.

2. The customer shall have the right to refuse to execute the domestic contract at any time before the delivery of the work to him by paying to the contractor a part of the fixed price in proportion to the part of the work, performed before the notification about the waiver of the execution of the contract and by reimbursing the contractor's expenses incurred prior to this time for the purpose of the fulfilment of the contract, unless they form the said part of the price of the work. The terms and conditions of the contract which deprive the customer of this right shall be void.

#### **Article 732.** The Provision to the Customer of Information about the Offered Work

1. The contractor shall be obliged, before the conclusion of a domestic contract, to offer to the customer the necessary and trustworthy information about the offered work, its kinds and specific features, the price and the form of payment, and also to provide the customer with other information relating to the contract at his request. If this is of relevance due to the nature of the work, the contractor shall indicate to the customer the concrete person who will perform this work.

2. If the customer was not afforded the possibility of receiving immediately at the place of the conclusion of a consumer work contract the information on the work indicated in Item 1 of this Article, it may demand from the contractor the compensation for damages caused by ungrounded evasion to conclude the contract (Item 4 of Article 445).

The customer may demand the cancellation of a concluded consumer work contract without payment for the work done and also the compensation for damages when, as a result of the incompleteness or inaccuracy of the information received from the contractor, a contract was concluded for the performance of work not having the characteristics that the consumer had in mind.

The contractor that did not finish the customer the information on the work indicated in Item 1 of this Article shall bear responsibility also for the defects of the work which arose after its transfer due to the absence of such information therewith.

#### **Article 733.** The Performance of the Work from the Contractor's Material

1. If the work under the domestic contract is to be performed from the contractor's materials, the latter shall be paid by the customer during the conclusion of the contract in full or in part, indicated in the contract, with the

final settlement at the time of the receipt by the customer of the work fulfilled by the contractor.

In conformity with the contract the material may be supplied by the contractor on credit, including with the proviso of payment by the customer for the material by instalments.

2. The change of the price of the contractor's material after the conclusion of the domestic contract shall involve no recalculation.

#### **Article 734.** The Fulfilment of the Work from the Customer's Materials

If the work under the domestic contract is fulfilled from the customer's materials, the receipt or any other document issued by the contractor to the customer during the conclusion of the contract shall indicate the exact name, description and price of the materials to be determined by the agreement of the parties. The estimation of the materials in the receipt or any other similar document may be subsequently disputed by the customer in court.

#### **Article 735.** The Price and Payment for the Work

The price of the work in the domestic contract shall be determined by the agreement of the parties and may not be higher than that fixed or regulated by the respective state bodies. The work shall be paid by the customer after it is finally delivered by the contractor. With the customer's consent the work may be paid by him during the conclusion of the contract in full or by giving an advance.

#### **Article 736.** The Warning by the Customer about the Conditions of the Use of the Fulfilled Work

In the event of the delivery of the work to the customer the contractor shall be obliged to inform him about the requirements to be observed for the effective and sage use of the result of the work, and also about the consequences possible for the customer himself and other persons in case of non-observance of the relevant requirements.

#### **Article 737.** The Consequences of the Discovery of Shortcomings in the Fulfilled Work

1. In case of discovery of defects at the time of acceptance of the result of the work or after its acceptance during the quarantee period, and is it has not been established, then during a reasonable period but not later than two years (for immovable property, five years) from the day of the acceptance of the result of the work, the customer may at its choice exercise one of the rights stipulated in Article 723 of this Code or demand the cost-free repeat performance of the work or compensation for the expenditures borne by it for the correction of the shortcomings with its own funds or by third persons.

2. In case of discovery of essential defects of the result of the work the customer may raise a demand to the contractor for the cost-free removal of such defects if it proves that they arose before the acceptance of the result of the work by the customer or for reasons that arose before that moment. This demand may be raised by the customer if the indicated defects were discovered upon the expiry of two years (for immovable property, five years) from the day of the acceptance of the result of the work by the customer, but within the limits of the period of service established by for the result of the work or during ten years from the day of the acceptance of the result of the work by the customer if the period of service has not been established.";

3. In case of default on the contractor's claim, referred to in Item 2 of this Article, the customer shall have the right during the same period to demand either the return of a part of the price paid for the work or the reimbursement of the expenses incurred in connection with the removal of the shortcomings by the customer with his own forces or with the help of third persons or refuse to perform the contract and demand the compensation for the inflicted losses.

#### **Article 738.** The Consequences of the Customer's Failure to Appear to Receive the Result of the Work

In the event the customer has failed to appear to receive the result of the fulfilled work or has evaded its acceptance, the contractor shall have the right to sell the result of the work at a reasonable price, while making a written warning of the customer, upon the expiry of two months since such warning and to place the avails, minus all the payments due to the contractor, on the deposit account in the order, prescribed by Article 327 of this Code.

#### **Article 739.** The Customer's Rights in Case of Improper Fulfilment or Non-fulfilment of the Work under the Domestic Contract

In the event of improper fulfilment or non-fulfilment of the work under the domestic contract the customer may avail himself of the rights, granted to the buyer in compliance with Articles 503-505 of this Code.

### **§ 3. The Building Contract**

#### **Article 740.** The Building Contract

1. Under the building contract the contractor shall undertake in the period stipulated by the contract to build by the assignment of the customer a project or to perform other construction works, whereas the customer shall undertake to create for the contractor requisite conditions for the performance of the works, to accept their result and pay the specified price.

2. The building contract shall be concluded to build or reconstruct an enterprise or building (including a dwelling house), to erect any other

project, and also to perform assembly, start-up and adjustment operations, and other works indissolubly related to the project concerned. The rules for the building contract shall be also applied to the works involved in the major repairs of buildings and structures, unless otherwise stipulated by the contract.

In cases provided for by the contract the contractor shall assume the duty of running the project after it has been accepted by the customer during the period indicated in the contract.

**3.** In cases where under the building contract the contractor fulfils the works in order to meet the household and other personal needs of the individual (customer), the rules of the second paragraph of this Article on the customer's rights shall be accordingly applied to such contract.

#### **Article 741.** The Allocation of Risk Between the Parties

**1.** The risk of accidental destruction of, or accidental damage to, the building project, which makes up the subject of the building contract, shall be borne by the contractor before this project is accepted by the customer.

**2.** If the building project is destroyed or damaged before the customer has accepted it owing to the substandard materials, supplied by the customer (details, structures), or equipment or owing to the execution of mistaken directions of the customer, the contractor shall have the right to demand the payment for all the cost of the works, specified by the estimate, provided that he has fulfilled the duties, envisaged by Item 1 of Article 716 of this Code.

#### **Article 742.** The Insurance of the Building Project

**1.** The building contract may provide for the duty of the party to insure appropriate risks if it runs the risk of accidental destruction of, or accidental damage to, the building project, materials, equipment and other assets, used in construction, or bears liability for the infliction of damage to other persons during construction.

The party that bears the obligation for insurance shall present to the other party the proofs of the conclusion by it of the insurance contract on the terms, provided for by the building contract, including data on the insurer, the insurance sum and insured risks.

**2.** Insurance shall not release the appropriate party from the duty of taking necessary measures to prevent the onset of an insured accident.

#### **Article 743.** Technical Documentation and the Estimate

**1.** The contract shall be obliged to carry on construction and the related works in accordance with the technical documents determining the scope and content of the works and other requirements made for them and with the estimate fixing the price of the works.

In the absence of other directions the building contract implies that the contractor is obliged to perform all the works indicated in technical documents and the estimate.

2. The building contract shall define the composition and content of technical documentation, and also provide which of the parties and by which date it should submit relevant documents.

3. The contractor who has discovered in the process of construction the works which have not been recorded in technical documents and in this connection the need for additional works and for augmenting the detailed estimate of the cost of construction shall be obliged to inform the customer about this.

If the contractor has failed to receive from the customer a reply to his information during 10 days, unless the law or the building contract provides for a different date, he shall be obliged to suspend the corresponding works and charge the losses caused by downtime to the customer's account. The customer shall be released from the compensation of these losses, if he proves that there is no need for additional works.

4. The contractor who fails to discharge the obligation, established by Item 3 of this Article, shall be deprived of the right to demand from the customer the payment for the fulfilled additional works and the compensation for the relevant losses, unless he proves the need for immediate actions in the interests of the customer, particularly in connection with the fact that the suspension of the works could lead to the destruction of, or damage to, the building project.

5. With the consent of the customer with the conduct and payment of additional works the contractor shall have the right to refuse to perform them only in cases where they do not enter in the sphere of the contractor's professional activity or cannot be performed by the contractor for reasons beyond his control.

#### **Article 744.** Introduction of Changes to Technical Documentation

1. The customer shall have the right to introduce changes to technical documentation, unless related additional works exceed in cost terms 10 per cent of the total estimate cost of construction and change the nature of the works, envisaged in the building contract.

2. Changes shall be made in technical documentation in the scope greater than that, indicated in Item 1 of this Article, on the basis of the additional estimate agreed upon by the parties.

3. The contractor shall be obliged in accordance with Article 450 of this Code to review the estimate, if the cost of the works has exceeded the estimate by not less than 10 per cent for the reasons beyond his control.

4. The contractor shall have the right to demand the reimbursement of reasonable expenses incurred by him in connection with the ascertainment and removal of defects in technical documentation.

**Article 745.** The Supply of Project Construction with Materials and Equipment

1. The duty of supplying project construction with materials, including details and structures, or equipment shall be borne by the contractor, unless the building contract provides for the supply of construction as a whole or in certain part by the customer.

2. The party which is obliged to supply project construction shall bear the liability for the revealed impossibility to make use of its supplied materials or equipment without the deterioration of the quality of the works being performed, unless he proves that their impossible use is due to the circumstances under the control of the other party.

3. In case of the revealed impossibility of making use of the materials and equipment supplied by the customer without the deterioration of the quality of the works being performed and of the customer's refusal to replace them, the contractor shall have the right to waive the building contract and demand that the customer pay the price of the contract in proportion to the fulfilled part of the works.

**Article 746.** The Payment for Works to Be Done

1. The payment for the works done by the contractor shall be made by the customer in the amount provided for by the estimate within the time and in the order prescribed by the law or the building contract. In the absence of appropriate references in the law or the contract the payment for works shall be made in accordance with Article 711 of this Code.

2. The building contract may provide for the payment for works in the lump and in full scope after the projects is accepted by the customer.

**Article 747.** The Customer's Additional Obligations under the Building Contract

1. The customer shall be obliged to provide in time a land plot for construction. The area and condition of the land plot to be provided shall correspond to the terms of the building contract and in the absence of such conditions shall ensure the timely start of the works, their normal performance and completion on due date.

2. In cases and in the procedure, envisaged by the building contract the customer shall be obliged to convey to the contractor for use the buildings and structures necessary for the accomplishment of the works, to transport cargoes at his address, to lay out temporary networks of power, water and steam supply and render other services.

3. Payments for the services rendered by the customer and indicated in Item 2 of this Article shall be made in cases and on the terms, provided for by the building contract.

**Article 748.** Control and Supervision by the Customer over the Performance of Works Under the Building Contract

1. The customer shall have the right to exercise control and supervision over the progress and quality of the works being performed, the observance of the period of their fulfilment (schedule), the quality of the materials supplied by the contractor, and also over the proper use by the contractor of the customer's materials without interfering in the day-to-day economic activity of the contractor.

2. The customer who has discovered during his control and supervision over the performance of the works departures from the terms and conditions of the building contract, which may deteriorate the quality of the works, or any other shortcomings, shall be obliged to inform the contractor about this without delay. The customer who has failed to make such statement to the contractor shall forfeit his right to refer in future to the shortcomings he will detect.

3. The contractor shall be obliged to implement the customer's directions, received during construction, unless such directions contradict the terms and conditions of the building contract and represent intervention in the day-to-day economic activity of the contractor.

4. The contractor who has fulfilled the works improperly shall have no right to refer to the fact that the customer failed to exercise his control and supervision over their performance, except for the cases when the obligation to exercise such control and supervision has been placed on the customer by law.

**Article 749.** The Participation of an Engineer (Engineering Organization) in the Exercise of the Rights and in the Discharge of the Obligations of the Customer

For the purposes of exercising control and supervision over project construction and of adopting on his behalf of decisions in relations with the contractor the customer may conclude on his own, without the contractor's consent, a contract for the rendering of such services to the customer with the relevant engineer (engineering organization). In this case the building contract shall define the functions of such engineer (engineering organization), connected with the consequences of his actions for the contractor.

**Article 750.** Cooperation of the Parties to the Building Contract

1. If hindrances to the proper execution of the building contract come to the surface during project construction and the related works, each party shall be obliged to take all reasonable measures under its control in order to remove such hindrances. The party which has failed to discharge this obligation shall forfeit its right to claim damages caused by the failure to eliminate the relevant hindrances.

2. The expenses of the party incurred in the discharge of the obligations, indicated in Item 1 of this Article, shall be subject to

reimbursement by the other party in cases where this is stipulated by the building contract.

**Article 751.** The Contractor's Obligations of Protecting the Environment and of Providing Safety for Building Works

1. The contractor shall be obliged to observe the requirements of the law and other legal acts on environmental protection and safety of building works in the process of construction and the related works.

The contractor shall bear liability for the breach of said requirements.

2. The contractor shall have no right to use during the works being done the materials and equipment, supplied by the customer, or fulfil his directions, if they may lead to the breach of the requirements, obligatory for the parties, for the protection of the environment and the safety of building works.

**Article 752.** The Consequences of the Laying-up of Project Construction

If the works under the building contract have been suspended and the project construction has been laid-in for the reasons beyond the control of the parties, the customer shall be obliged to pay in full to the contractor for the works fulfilled up to the time of the laying-up of the work, and also to reimburse the expenses caused by the need to terminate the works and to lay-up the project construction with the offset of the benefits which the contractor has received or could receive due to the termination of the works.

**Article 753.** The Delivery-Acceptance of Works

1. The customer who has received the communication of the contractor about the delivery of the result of the works performed under the building contract or, if this is provided for by the contract, of the fulfilled stage of the works, shall be obliged to proceed to its acceptance.

2. The customer shall organize and effect the acceptance of the result of the works at his own expense, unless otherwise stipulated by the building contract.

In cases envisaged by the law or any other legal acts the representatives of state bodies and local self-government bodies shall take part in the acceptance of the result of the works.

3. The customer who has accepted the result of a particular stage of the works shall bear the risk of the consequences of the destruction of, or damage to, the result of the works which have taken place not through the fault of the contractor.

4. The delivery of the result of the works by the contractor and the acceptance of it by the customer shall be formalized by the certificate, signed by both parties. If one of the parties refuses to sign the certificate, a note about this shall be put down in it, with the certificate being signed by the other party.

A unilateral certificate of acceptance of the result of the works may be recognized by a court of law as invalid only in case of the motives of the refusal to sign the acceptance certificate have been recognized by it as sound.

5. In cases where this is provided for by the law or the building contract or follows from the nature of the works performed under the contract, the acceptance of the result of the works shall be preceded by preliminary tests. In these cases the acceptance may take place only with the positive result of the preliminary tests.

6. The customer shall have the right to refuse to accept the result of the works in case of the discovery of shortcomings, which exclude the possibility of its use for the purpose, indicated in the building contract and may not be removed by the contractor or the customer.

#### **Article 754. The Contractor's Liability for the Quality of Works**

1. The contractor shall bear liability to the customer for the departures from the requirements, provided for by technical documents and by the building norms and rules obligatory for the parties, and also for the failure to achieve this building project's indicators, indicated in the technical documents, including the enterprise's industrial capacity.

In the event of the reconstruction (renewal, reorganization, restoration, etc.) of a building or structure the contractor shall bear liability for the reduction or loss of the durability, stability and reliability of the building, structure or a part thereof.

2. The contractor shall bear no liability for small departures from technical documents, made without the customer's consent, if he proves that they have not influences the quality of project construction.

#### **Article 755. Guarantees of Quality in the Building Contract**

1. Unless otherwise stipulated by the building contract, the contractor shall guarantee the achievement by the construction project of the indicators indicated in technical documents and the possibility of using the project in keeping with the building contract throughout the guarantee period. The statutory guarantee period may be extended by the agreement of the parties.

2. The contractor shall bear liability for defects, discovered during the guarantee period, unless he proves that they occurred due to the normal wear and tear of the project or of the parts thereof, its incorrect instructions, elaborated by the customer himself or by the third persons attracted by him, the improper repair of the project, carried out by the customer himself or by the third persons attracted by him.

3. The running of the guarantee period lapses for all the time during which the project could not be exploited due to the defects for which the contractor is liable.

4. In case of discovery of defects, indicated in Item 1 of Article 754 of this Code, during the guarantee period, the customer shall inform the contractor about them within reasonable time upon their discovery.

**Article 756.** The Time-limits of Discovery of the Improper Quality of Building Works

In the event of making claims for the improper quality of the result of the works, the rules, specified by Items 1-5 of Article 724 of this Code shall be applied.

The deadline for the discovery of defects shall be five years in conformity with Items 2 and 4 of Article 724 of this Code.

**Article 757.** Elimination of Defects at the Expense of the Customer

1. The building contract may provide for the obligation of the contractor to eliminate on the demand of the customer and at his expense the defects for which the contractor is not liable.

2. The contractor shall have the right to refuse to perform the obligation, indicated in Item 1 of this Article, in cases where the removal of defects is not connected directly with the subject of the contract or cannot be realized by the contractor for the reasons beyond his control.

#### **§ 4. Contract for Design and Survey Works**

**Article 758.** Contract for Design and Survey Works

Under the contract for design and survey works the contractor (designer or surveyor) shall undertake to elaborate technical documentation of the customer and/or perform survey works, whereas the customer shall undertake to accept and pay for their result.

**Article 759.** Initial Data for the Performance of Design and Survey Works

1. Under the contract for design and survey works the customer shall be obliged to give to the contractor his assignment for designing, and also other initial data needed for drawing up technical documentation. An assignment for the performance of design works may be prepared by the contractor on behalf of the customer. In this case the assignment shall become mandatory for the parties since the time of its approval by the customer.

2. The contractor shall be obliged to observe the requirements containing in the assignment and in other initial data for the performance of design and survey works, and shall have the right to depart from them only with the customer's consent.

**Article 760.** The Contractor's Obligations

1. Under the contract for design and survey works the contractor shall be obliged:

to perform the works in keeping with the assignment and other initial data on designing and with the contract;

to coordinate the ready technical documents with the customer and, whenever necessary, together with the customer - with competent state bodies and local self-government bodies;

to transfer to the customer ready technical documents and the results of the survey works.

The contractor shall have no right to give technical documents to third persons without the customer's consent.

**2.** Under the contract for design and survey works the contractor shall guarantee to the customer that third persons do not have the right to prevent the performance of the works or restrict their performance on the basis of the technical documentation prepared by the contractor.

### **Article 761.** The Contractor's Liability for the Improper Performance of Design and Survey Works

**1.** Under the contract for design and survey works the contractor shall bear liability for the improper drawing up of technical documents and for the performance of survey works, including defects discovered later on during construction, and also in the process of the exploitation of the project, set up on the basis of the technical documents and the data of the survey works.

**2.** In the event of discovery of defects in technical documents or in survey works the contractor shall be obliged to remake technical documentation gratis on the customer's demand and accordingly carry out the necessary additional survey works, and also to reimburse to the customer the losses caused, if the law or the contract for performance of design and survey works establishes otherwise.

### **Article 762.** The Customer's Obligations

Under the contract for design and survey works the customer shall be obliged to take the following measures, unless otherwise stipulated by the contract:

to pay to the contractor the fixed price in full after the completion of all works or to pay it in instalments after the completion of individual stages of the work;

to use technical documentation received from the contractor only for the purposes, provided for by the contract, not to turn over technical documents to third persons and not to divulge the data contained therein without the contractor's consent;

to render assistance to the contractor in the performance of design and survey works in the scope and on the terms and conditions stipulated by the contract;

to participate together with the contractor in the coordination of ready technical documentation with relevant state bodies and local self-government bodies;

to reimburse the contractor's additional expenses, incurred by changes in the initial data for the performance of design and survey works due to the circumstances beyond the contractor's control;

to draw the contractor in the participation in the case on a claim filed by a third person to the contractor in connection with the defects of the compiled technical documents or the performed survey works.

## **§ 5. Contract Works for State or Municipal Needs**

**Article 763.** The State or Municipal Contract for the Performance of Contract Works to Meet State or Municipal Needs

1. Contract building works (Article 740), design and survey works (Article 758), intended for meeting the state or municipal needs, shall be performed on the basis of the state or municipal contract for the fulfilment of contract works to meet state or municipal needs.

2. Under the state or municipal contract for contract works to meet state or municipal needs (hereinafter referred to as the state or municipal contract) the contractor shall undertake to perform building, design and other works related to the construction and repair of the projects of a production and non-production character and to transfer them to the state or municipal customer, whereas the state or municipal customer shall undertake to accept the fulfilled works, to pay for them or to ensure their payment.

**Article 764.** The Parties to a State or Municipal Contract

1. A legal entity or natural person may act as a contractor under a state or municipal contract.

2. Under a state contract, the state authorities (including state power bodies), managerial bodies of state extra-budgetary funds, as well as the state-financed institutions, other recipients of the federal budget funds and state-financed institutions authorised by the state power bodies of constituent entities of the Russian Federation may act as state customers to place orders for carrying out contractual works for meeting the needs of constituent entities of the Russian Federation, other recipients of budget funds of constituent entities of the Russian Federation when placing orders to carry out such works on account of budget funds and extra-budgetary sources of financing.

3. Under a municipal contract, as municipal customers may act local self-government bodies, as well as state-financed institutions and other recipients of budget funds authorised by the said self-government bodies to place orders for carrying out contract works to meet municipal needs in the

event of placing orders to carry out such works with the use of budget funds and extra-budgetary sources of financing.

**Article 765.** The Grounds and Procedure for the Conclusion of a State or Municipal Contract

The grounds and procedure for the conclusion of a state or municipal contract shall be determined in keeping with the provisions of Articles 527 and 528 of this Code.

**Article 766.** The Contents of the State or Municipal Contract

1. The state or municipal contract shall contain the terms of the scope and value of the work subject to performance, the time-limits of its beginning and end, the amount and procedure of financing and paying the works and the methods of security of the parties' obligations.

2. Where a state or municipal contract is concluded according to the results of an auction or bidding concerning the works performed for the purpose of placing an order for carrying out contract works to meet state or municipal needs, the terms and conditions of the state or municipal contract shall be determined in accordance with the announced terms of the auction or bidding in respect of these works and the offer of the contractor who is recognised as the auction winner or the winner of bidding for these works.

**Article 767.** Changes in the State or Municipal Contract

1. In case of the diminution of the resources of the corresponding budget in the statutory manner or by local self-government bodies, allocated for the financing of contract works, the parties shall be obliged to agree upon new dates, and, whenever necessary, other conditions of the performance of the works. The contractor shall have the right to demand that the state and municipal customer compensate the losses caused by changes in the dates of the fulfilment of the works.

2. It shall be allowable to change unilaterally or by agreement of the parties in the instances, provided for by laws, the terms and conditions of a state or municipal contract that are not connected with the circumstances specified in Item 1 of this Article.

**Article 768.** Legal Regulation of the State or Municipal Contract

The law on contracts for state or municipal needs shall be applicable to the relations involved in state or municipal contracts for the fulfilment of contract works for state or municipal needs in the part which is not regulated by this Code.

**Chapter 38. Performance of Research and Development and Technological Works**

**Article 769.** Contracts for the Performance of Research and Development and Technological Works

1. Under the contract for the performance of research and development and technological works the executor shall be obliged to carry out scientific research, specified by the customer's technical assignment, while under the contract for the development and technological works he shall be obliged to develop the sample of a new product, elaborate design documentation or new technology for it, whereas the customer shall undertake to accept the work and pay for it.

2. The contract with the executor may cover both the entire cycle of research, development and manufacture of the sample of the new product and its particular stages (elements).

3. Unless otherwise stipulated by the law or the contract, the risk of accidental impossibility of executing contracts for the performance of research and development and technological works shall be borne by the customer.

4. The terms and conditions of the contracts for performance of research and development and technological works shall correspond to the laws and other legal acts on exclusive rights (intellectual property).

**Article 770.** The Performance of Works

1. The executor shall be obliged to carry out scientific research in person. He shall have the right to draw third persons in the fulfilment of a contract for scientific research works only with the customer's consent.

2. During the performance of development or technological works the executor shall have the right, unless otherwise stipulated by the contract, to draw third persons in its execution. The rules for the general contractor and subcontractor (Article 706) shall be applicable to the relations between the executor and the third persons.

**Article 771.** The Confidentiality of Information Which Constitutes the Subject of the Contract

1. Unless otherwise stipulated by the contracts for the performance of research and development and technological works, the parties thereto shall be obliged to ensure the confidentiality of information relating to the subject of the contract, the progress of its execution and the obtained results. The scope of information recognized as confidential shall be determined by the contract.

2. Each party shall undertake to publish information to be recognized as confidential and obtained during the performance of the work only with the consent of the other party.

**Article 772.** The Rights of the Parties to the Results of the Works

1. The parties to the contracts for the performance of research and development and technological works shall have the right to make use of

the works within the framework of the contract and on its terms and conditions.

2. Unless otherwise stipulated by the contract, the customer shall have the right to make use of the results of the work given to him by the executor while the executor shall have the right to use the obtained results of the works for his own needs.

3. The rights of the performer and of the customer to the results of the works, to which legal protection is granted as to the results of intellectual activity shall be defined in conformity with the rules of Section VII of the present Code.

### **Article 773. The Executor's Obligations**

The executor shall be obliged to take the following measures under the contracts for the performance of research and development and technological works:

to perform the works in keeping with the technical assignment agreed upon with the customer and to turn over to the customer their results within the period fixed by the contract;

to coordinate with the customer the necessity for the use of the results of intellectual activity that belong to third persons and the acquisition of rights to their use;

to remove the defects, made through his fault, in the fulfilled works with his own forces and at his own expense, if they can involve departures from the technical and economic parameters, envisaged by the technical assignment or the contract;

to inform forthwith the customer about the ascertained impossibility to receive the expected results or about the inexpediency of continuing the work;

to guarantee to the customer the transfer of the results which have been received under the contract and which do not break the exclusive rights of other persons.

### **Article 774. The Customer's Obligations**

1. In contracts for the performance of research and development and technological work the customer shall be obliged to undertake the following measures:

to give to the executor information needed for the fulfilment of the work;

to accept the results of the fulfilled works and to pay for them.

2. The contract may also provide for the obligation of the customer to give to the executor a technical assignment and to agree with him the programme) technical and economic parameters) or the topics of the works.

**Article 775.** The Consequences of the Impossible Attainment of Results of Scientific Research Works

If in the course of scientific research works it is found out that it is impossible to attain results owing to the circumstances that are beyond to executor's control, the customer shall be obliged to pay for the value of the works carried out before the ascertainment of the impossibility to obtain results, envisaged by the contract for the performance of scientific research works, but not over and above the corresponding part of the price of the work, indicated in the contract.

**Article 776.** The Consequences of the Impossible Continuation of Research and Development and Technological Works

If during the performance of research and development and technological works it is found out that the impossible or inexpedient continuation of the works has arisen not through the fault of the executor, the customer shall be obliged to pay for the expenses incurred by the executor.

**Article 777.** The Liability of the Executor for the Breach of a Contract

1. The executor shall be liable to the customer for breaking the contracts for the performance of research and development and technological works, unless he proves that such breach has taken not through the fault of the executor (Item 1 of Article 401).

2. The executor shall be obliged to reimburse the losses caused by him to the customer within the limits of the cost of the works in which defects have been discovered, if the contract provides that they are subject to compensation within the limits of the total cost of the works under the contract. The lost profit shall be subject to compensation in cases stipulated by the contract.

**Article 778.** Legal Regulation of the Contracts for the Performance of Research and Development and Technological Works

The rules of Articles 708, 709 and 738 of this Code shall be applicable accordingly to the dates of the fulfilment of works and to their price, and also to the consequences of the customer's non-appearance for the receipt of the results of the works.

The rules of Articles 763-768 of this Code shall be applicable to the state or municipal contracts for the performance of research and development and technological works to meet state or municipal needs.

## **Chapter 39. The Repayable Rendering of Services**

**Article 779.** The Contract for the Repayable Rendering of Services

1. Under the contract of repayable rendering of services the executor shall undertake to render services (to perform certain actions or carry out

certain activity) according to the customer's assignment, while the customer shall undertake to pay for these services.

2. The rules of this Chapter shall be applicable to the contracts of rendering the communication services, medical, veterinary, audit, consulting, information, instruction, tourist and other services, except for the services rendered under the contracts, envisaged by Chapters 37, 38, 40, 41, 44, 45, 46, 47, 49, 51 and 53 of this Code.

#### **Article 780.** The Execution of the Contract for the Repayable Rendering of Services

Unless otherwise stipulated by the contract for the repayable rendering of services, the executor shall be obliged to render the services in person.

#### **Article 781.** Payment for Services

1. The customer shall be obliged to pay of the services rendered to him within the period and in the procedure indicated in the contract for the repayable rendering of services.

2. If it is impossible to execute the contract through the fault of the customer, the services rendered shall be subject to full payment, unless otherwise stipulated by the law or the contract for the repayable rendering of services.

3. In case where it is impossible to execute the contract due to the circumstances for which neither party is answerable, the customer shall reimburse the executor's actual expenses, unless otherwise provided for by the law or the contract for repayable rendering services.

#### **Article 782.** The Unilateral Refusal to Execute the Contract for the Repayable Rendering of Services

1. The contractor shall have the right to refuse to execute the contract for the repayable rendering of services, provided the executor's actually incurred expenses are paid out.

2. The executor shall have the right to refuse to execute the obligations under the contract for the repayable rendering of services, provided the customer's losses are fully reimbursed.

#### **Article 783.** The Legal Regulations of the Contract for the Repayable Rendering of Services

The general provisions on the work and labour contract (Articles 702-729) and the provisions on the domestic contract (Articles 730-739) shall be applicable to the contract for the repayable rendering services, unless this runs counter to Articles 779-782 of this Code, and also to the specific subject of the contract for the repayable rendering of services.

### **Chapter 40. Carriage**

#### **Article 784. General Provisions on Carriage**

1. Cargoes, passengers and baggage shall be transported on the basis of the contract of carriage.

2. The general conditions of carriage shall be determined by transport charters and codes, other laws and rules issued in accordance with these laws.

The conditions of the carriage of cargoes, passengers and baggage by particular transport vehicles, and also the liability of the parties for this transportation shall be determined by the agreement of the parties, unless otherwise stipulated by this Code, transport charters and codes, other laws and rules issued in conformity with them.

#### **Article 785. The Contract of Carriage of Cargo**

1. Under the contract of carriage of cargo the carrier shall undertake to deliver the cargo entrusted to him by the consignor to the point of destination and to release it to the person (consignee) authorized to receive it, while the consignor shall undertake to pay a fixed charge for the carriage of cargo.

2. The conclusion of a contract for the carriage of cargo shall be confirmed by the drawing up and issue of a consignment bill to the consignor of cargo (bill of lading or any other cargo document, stipulated by the relevant transport charter or code).

#### **Article 786. The Contract of Carriage of the Passenger**

1. Under the contract of carriage of the passenger the carrier shall undertake to transport the passenger to the point of destination, and in case of delivery of luggage to the point of destination and to issue it to the person authorized to receive it; the passenger shall undertake to pay the fixed charge for the journey and for the carriage of luggage in case of its registry.

2. The conclusion of a contract of the passenger carriage shall be certified with a ticket, while the booking of luggage by the passenger - with a luggage receipt.

The forms of the ticket and the luggage receipt shall be established in the order, prescribed by transport charters and codes.

3. The passenger shall have the right in the order, prescribed by the relevant transport charter or code:

to carry with himself his children free of charge or on other easy terms;

to carry with himself hand luggage free of charge within the limits of fixed norms;

to book luggage for carriage for a tariff charge.

#### **Article 787. The Freight Contract**

Under the freight contract (charter) one party shall undertake to provide to the other party (affreighter) for charge the entire or partial capacity of one or several transport facilities for one or several voyages or flights for the haulage of cargoes, passengers and baggage.

Procedure for the conclusion of a freight contract, and also the form of the said contract shall be established by transport charters and codes.

#### **Article 788.** Through Mixed Traffic

The mutual relations of transport organizations that carry cargoes, passengers and baggage with the aid of various transport vehicles under a single transport document (through mixed traffic), and also the procedure of the organization of this carriage shall be determined by the agreements between the organizations of the respective types of transport, concluded in keeping with the law on direct mixed (combined) carriage.

#### **Article 789.** Carriage by Public Transport

1. The carriage realized by a profit-making organization shall be recognized as the carriage by public transport, if it transpires from the law, other legal acts, that the said organization is duty-bound to effect the carriage of cargoes, passengers and baggage in case of an application by any individual or legal entity.

The list of organizations which are obligated to effect the carriage to be recognized as the carriage by public transport shall be published in the established order.

2. The contract of carriage by public transport shall be a public agreement (Article 426).

#### **Article 790.** Payment for Carriage

1. Payment for carriage, fixed by the agreement of the parties, shall be collected for the transportation of cargoes, passengers and baggage, unless otherwise stipulated by the law or other legal acts.

2. Payment for the carriage of cargoes, passengers and baggage by public transport shall be estimated on the basis of the rates, approved in the order, established by transport charters and codes.

3. Works and services, performed or rendered by the carrier at the request of the cargo owner and not specified by rates, shall be paid by the agreement of the parties.

4. The carrier shall have the right to withhold the cargo and baggage, given to him for carriage, as security for the payments for carriage due to him (Articles 359 and 360), unless otherwise stipulated by the law, other legal acts, the contract of carriage or unless the contrary follows from the substance of the obligation.

5. In cases where the laws or other legal acts have introduced preferences for the payment for the carriage of cargoes, passengers and

baggage, the expenses incurred in this connection shall be reimbursed by the transport organization from the resources of the appropriate budget.

**Article 791.** The Supply of Transport Vehicles, the Loading and Unloading of Cargo

1. The carrier shall be obliged to drive up serviceable transport vehicles in a condition fit for the carriage of cargo to the consignor for loading cargo in time, fixed by the order accepted from him, the contract of carriage or the agreement on the organization of carriage.

The consignor of cargo shall have the right to waiver the supplied transport vehicles which are not fit for the carriage of cargo.

2. The loading (unloading) of cargo shall be carried out by the transport organization or the consignor (consignee) in the procedure, specified by the contract, with the observance of the provisions of transport charters and codes and the rules promulgated in compliance with them.

3. The loading (unloading) of cargo, realized by the forces and means of the consignor (consignee), shall be effected in the periods of time, stipulated by the contract, unless such periods have been fixed by transport charters and codes and the rules adopted in conformity with them.

**Article 792.** Time-limits for the Delivery of Cargo, Passengers and Baggage

The carrier shall be obliged to deliver cargo, passengers or baggage to the point of destination in the time-limits, fixed in the procedure, stipulated by transport charters and codes, and in the absence of such time-limits - within the reasonable period.

**Article 793.** Liability for Breaking the Obligations of Carriage

1. In case of default on the obligations of carriage or of improper discharge of such obligations, the parties shall bear liability, established by this Code, transport charters and codes, and also by the agreement of the parties.

2. Agreements between transport organizations and passengers or cargo owners on the limitation or elimination of the carrier's statutory liability shall be void, except for the cases when the possibility of such agreements is provided for by transport charters or codes for the carriage of cargo.

**Article 794.** The Carrier's Liability for Failure to Drive up Transport Vehicles and the Consignor's Liability for Non-use of Driven-up Transport Vehicles

1. For failure to drive up transport vehicles for the carriage of cargo in keeping with the accepted order or any other contract the carrier shall bear the liability, established by transport charters and codes and also by the agreement of the parties, and for failure to submit cargo or for non-use of

driven-up transport vehicles for other reasons the consignor shall bear the liability, established by transport charters and codes, and also by the agreement of the parties.

2. The carrier and the consignor shall be released from liability in case of failure to drive up transport vehicles or of non-use of driven-up transport vehicles, if this was due to the following reasons:

force majeure, and also other elements (fires, snow-drifts, floods) and hostilities;

the termination or limitation of the carriage of cargo in certain directions, which has been practiced in the order, prescribed by the respective transport charter or code;

in other cases, provided for by transport charters and codes.

#### **Article 795.** The Liability of the Carrier for the Delayed Dispatch of the Passenger

1. For the delayed dispatch of the transport vehicle which carries the passenger or for the late arrival of such transport vehicle at the point of destination (except for carriage in urban or suburban communication) the carrier shall pay a fine to the passenger in the amount, fixed by the corresponding transport charter or code, unless he proves that the delay or lateness have taken place due to force majeure, the removal of the malfunction of transport vehicles threatening the lives and health of passengers or due to other circumstances beyond the carrier's control.

2. If the passenger refuses to be carried because of the delayed dispatch of a transport vehicle, the carrier shall be obliged to return the fare to the passenger.

#### **Article 796.** The Liability of the Carrier for the Loss and Short Delivery of, and Damage to, Cargo or Baggage

1. The carrier shall be liable for the non-safety of cargo or baggage after it was accepted for carriage and before it was issued to the consignee, the person authorized by him or the person authorized to receive baggage, unless he proves that the loss and short delivery of, or damage to, cargo or baggage have taken place due to the circumstances which the carrier could not prevent and whose removal has not depended on him.

2. The damage caused during the carriage of cargo or baggage shall be recovered by the carrier in the following cases:

in case of the loss or short delivery of cargo or baggage - in the amount of the value of the lost or missing cargo or baggage;

in case of the damage to cargo or baggage - in the amount of the sum by which its value fell, and if it is impossible to restore the damaged cargo or baggage - in the amount of its value;

in case of the loss of cargo or baggage delivered for carriage with the announcement of its value - in the amount of the announced value of cargo or baggage.

The value of cargo or baggage shall be determined on the basis of its price, indicated in the seller's bill or envisaged by the contract, and in the absence of a bill or with reference to the price in the contract in terms of the price which under comparable circumstances is usually charged for similar goods.

3. In addition to the restitution of the ascertained damage, caused by the loss and short delivery or, or damage to, cargo or baggage, the carrier shall return to the consignor (consignee) the payment for carriage, recovered for the carriage of the lost, missing, spoiled or damaged cargo or baggage, if this payment is not a part of the value of cargo.

4. Documents on the causes of the non-safety of cargo or baggage (commercial report, general form statement, etc.), compiled by the carrier unilaterally, shall be subject to the appraisal by the court in case of a dispute in addition to other documents certifying the circumstances, which can serve as a ground for the liability of the carrier, consignor or consignee of cargo or baggage.

#### **Article 797. Claims and Suits in the Carriage of Cargoes**

1. Before bringing a suit against the carrier that follows from the carriage of cargo it is obligatory to make a claim on him in the procedure stipulated by the respective transport charter or code.

2. A suit against the carrier may be brought by the consignor or consignee in case of a full or partial refusal of the carrier to satisfy the claim or in case of non-receipt of a reply from the carrier within 30 days.

3. The period of limitation on the claims following from the carriage of cargo shall fixed in one year since the time, determined in keeping with transport charters and codes.

#### **Article 798. Contracts for the Organization of the Carriage of Cargo**

In case of need for systematic carriage the carrier and the cargo owner may conclude long-term contracts for the organization of carriage.

Under the contract of the organization of the carriage of cargo the carrier shall undertake to accept in fixed time-limits, while the cargo owner shall undertake to present cargo for carriage in the stipulated scope. The contract for the organization of the carriage of cargo shall determine the amounts, time-limits and other conditions for the provision of transport facilities and for the presentation of cargo for carriage, the procedure of payments, and also other conditions for the organization of carriage.

#### **Article 799. Contracts Concluded Between Transport Organizations**

Contracts for the organization of the work of ensuring the carriage of cargo (complex agreements, contracts for centralized delivery of cargo and

others) may be concluded between the organizations of different kinds of transport.

Procedure for the conclusion of such contracts shall be determined by transport charters and codes, other laws and other legal acts.

**Article 800.** The Carrier's Liability for the Infliction of Harm to the Life and Health of a Passenger

The liability of the carrier for the harm inflicted to the life and health of a passenger shall be determined according to the rules of Chapter 59 of this Code, unless the law or the contract of carriage provides for the carrier's increased liability.

## **Chapter 41. Transport Forwarding**

**Article 801.** Contract of Transport Forwarding

1. Under the contract of transport forwarding one party (forwarding agent shall undertake to perform or organize the performance of the services of cargo carriage for reward and at the expense of the other party (consignor or consignee as a client).

The contract of transport forwarding may provide for the forwarder's obligation to organize the carriage of cargo by transport and along the route, chosen by the forwarding agent or the client, the obligation of the forwarding agent to conclude a contract (contracts) of the carriage of cargo on behalf of the client or on his own behalf, to ensure the dispatch and receipt of cargo, and also other obligations for carriage.

The contract of transport forwarding may provide as additional services such operations necessary for the delivery of cargo as the receipt of documents required for export or import, the performance of customs and other formalities, the inspection of the quantity and condition of cargo, its loading and unloading, the payment of duties, fees and other expenses to be incurred by the client, the storage of cargo, its receipt in the point of destination, and also the fulfilment of other operations and the provision of services, specified by the contract.

2. The rules of this Chapter shall also extend to the cases where in keeping with the contract the obligations of the forwarding agent shall be discharged by the carrier.

3. The conditions for the fulfilment of the contract of transport forwarding shall be determined by the agreement of the parties, unless otherwise stipulated by the law on transport forwarding, by other laws and other legal acts.

**Article 802.** The Form of the Contract of Transport Forwarding

1. The contract of transport forwarding shall be concluded in writing.

2. The client shall issue to the forwarding agent a power of attorney, if it is necessary for the discharge of his obligations.

**Article 803.** The Liability of the Forwarding Agent under the Contract of Transport Forwarding

For default on the obligations or improper discharge of obligations the forwarding agent shall bear liability on the grounds and in the amount which are determined in accordance with the rules of Chapter 25 of this Code.

If the forwarding agent proves that the infringement of the obligation is caused by the improper execution of the contracts of carriage, the liability of this forwarding agent to the client shall be determined by the same rules under which the relevant carrier is liable to the forwarding agent.

**Article 804.** Documents and Other Information Submitted to the Forwarding Agent

1. The client shall be obliged to submit to the forwarding agent documents and other information about the properties of cargo, the terms of its carriage, and also other information needed for the discharge of the forwarder's obligation, specified by the contract of transport forwarding.

2. The forwarding agent shall be obliged to inform the client about the discovered shortcomings of received information, and in case of incomplete information to request from the client additional data.

3. In case of the non-submission of the necessary information by the client the forwarding agent shall have the right not to proceed to the discharge of relevant obligations until the time of presenting such information.

4. The client shall bear liability for the losses caused to the forwarding agent in connection with the breach of the obligation of presenting information, indicated in Item 1 of this Article.

**Article 805.** The Discharge of the Forwarding Agent's Obligations by a Third Person

If it does not follow from the contract of transport forwarding that the forwarder should discharge his duties in person, the forwarder shall have the right to draw other persons in the discharge of his obligations.

The entrustment of a third person with the discharge of the obligation shall not release the forwarder from the liability to the client for the execution of the contract.

**Article 806.** Unilateral Refusal to Execute the Contract of Transport Forwarding

Any party shall have the right to refuse to execute the contract of transport forwarding by warning the other party within a reasonable period.

In case of unilateral refusal to execute the contract the party which stated his refusal shall reimburse to the other party the losses caused by the dissolution of the contract.

## Chapter 42. Loans and Credits

### § 1. Loans

#### **Article 807.** The Loan Agreement

1. Under the loan agreement one party (the lender) shall transfer into the ownership of the other party (borrower) money or things marked by generic features, while the borrower shall undertake to return to the lender the same sum of money (the loan amount) or the equal quantity of things of the same type and quality.

A loan agreement shall be deemed concluded from the moment the money or things are transferred.

2. Foreign currency and currency values may be a subject of a loan agreement on the territory of the Russian Federation with the observance of the rules of Articles 140, 141 and 317 of this Code.

#### **Article 808.** The Form of the Loan Agreement

1. A loan agreement between individuals shall be concluded in writing, if its sum of money exceeds in more than ten times the statutory minimum amount of wages or salaries and regardless of the sum of money in case where the lender is a legal entity.

2. In acknowledgment of a loan agreement and its terms and conditions the borrower's receipt or another document certifying the transfer of a definite sum of money or a certain quantity of things may be presented.

#### **Article 809.** Interest Under the Loan Agreement

1. Unless otherwise stipulated by the law or the loan agreement, the lender shall have the right to receive from the borrower interest for the sum of the loan in the amount and in the procedure, specified by the agreement. In the absence in the agreement of a clause on the amount of interest, the latter shall be determined by the rate of bank interest (the rate of refunding) in the place of residence of the lender or in the place of the location of the legal entity, if the latter is the lender, on the day of payment by the borrower of the sum of debt or its appropriate part.

2. In the absence of a different agreement interest shall be paid out every month up to the day of the return of the sum of the loan.

3. The loan agreement is supposed to be interest free, unless otherwise stipulated expressly in cases where:

the agreement is concluded between individuals for the sum of money that does not exceed the five-fold amount of the statutory minimum wage or salary and is not connected with the business activity of at least of one of the parties;

under the agreement other things, marked by generic features, and not money are transferred to the borrower.

**Article 810.** The Borrower's Obligation to Return the Loan Agreement

1. The borrower shall be obliged to return to the lender the received loan amount in the period and in the order, prescribed by the loan agreement.

In cases where the term of the return of loan amount is not fixed by or determined by the time of demand, the loan amount shall be returned by the borrower during 30 days since the day of the making by the lender of the claim, unless otherwise stipulated by the contract.

2. Unless otherwise stipulated by the loan agreement, the amount of an interest-free loan may be returned by the borrower short of the term.

The loan amount given on interest may be returned short of the term with the consent of the lender.

3. Unless otherwise stipulated by the loan agreement, the loan amount shall be deemed to be returned at the time of its transfer to the lender or of the charge of corresponding pecuniary means to his bank account.

**Article 811.** The Consequences of Breaking the Loan Agreement by the Borrower

1. Unless otherwise stipulated by the law or the loan agreement, in cases where the borrower fails to return on time the loan amount, interest on this sum of money shall be subject to payment in amount, envisaged by Item 1 of Article 395 of this Code, from the day when it should have been returned to the day of its return to the lender, regardless of the payment of interest, specified by Item 1 of Article 809 of this Code.

2. If the loan agreement provides for the return of the loan in parts (by instalment), then with the breach by the borrower of the period, fixed for the return of the regular part of the loan, the lender shall have the right to demand the anticipatory return of the entire remaining sum of the loan together with interest due to him.

**Article 812.** The Contesting of a Loan Agreement

1. The borrower shall have the right to contest the loan agreement due to the lack of money by proving that money or other things have not been received by him in reality from the lender or received in lesser quantity that it was stated in the agreement.

2. If a loan agreement is to be concluded in writing (Article 808), it shall be impermissible to contest it due to the lack of money by means of witness depositions, except in cases where the agreement was concluded under the influence of fraud, violence, threat or the malicious agreement of the borrower's representative with the lender or the concurrence of hard circumstances.

3. If it is found during the process of contesting by the borrower of the loan agreement due to the lack of money that money or other things have

not been received in reality from the lender, the loan agreement shall be deemed to be non-concluded. When money or things have been in fact received by the borrower from the lender in lesser quantity than it is indicated in the agreement, the latter shall be deemed to be concluded for this quantity of money or things.

**Article 813.** The Consequences of the Loss of the Security of the Borrower's Obligations

In case of default by the borrower on the obligations, stipulated by the loan agreement, to secure the return of the loan amount, and also in case of the loss of the security or of the deterioration of its conditions due to the circumstances for which the lender is not answerable, the lender shall have the right to demand from the borrower the anticipatory return of the loan amount and the payment of interest due to him, unless otherwise stipulated by the agreement.

**Article 814.** Special-purpose Loan

1. If a loan agreement is concluded with the proviso of using by the borrower the received pecuniary means for certain purposes (special-purpose loan), the borrower shall be obliged to ensure the possibility of exercising control by the lender over the special-purpose use of the loan sum.

2. If the borrower fails to fulfil the clause of the loan agreement on the special-purpose use of the loan, and also if he breaks the obligations, provided for by Item 1 of this Article, the lender shall have the right to demand from the borrower the anticipatory return of the loan sum and the payment of interest due to him, unless otherwise stipulated by the agreement.

**Article 815.** The Bill

In cases where in accordance with the agreement of the parties the borrower has passed the bill certifying the obligation of the drawer of a bill, not stipulated by anything (promissory note), or of any payer, indicated in the bill (bill of exchange), to pay out the pecuniary sums borrowed at maturity, specified by the bill, the relations of the parties under the bill shall be regulated by the law on the promissory note and the bill of exchange.

Since the time of the issue of a bill the rules of this paragraph may be applied to these relations inasmuch as they do not contradict the law on the bill of exchange or the promissory note.

**Article 816.** The Bond

In cases envisaged by the law or other legal acts the loan agreement may be concluded by means of the issue and sale of bonds.

A bond shall be recognized the security that certifies the right of its holder to receive the nominal value of the bond or any other property

equivalent from the person, who has issued the bond, in the period specified by it. The bond shall also give to its holder the right to receive the interest fixed in it of the nominal value of the obligation or any other property rights.

The rules of this paragraph shall apply to the relations between the person who has issued the bond and its holder inasmuch as unless otherwise stipulated by the law or in the order established by it.

#### **Article 817. The State Loan Agreement**

1. Under the state loan agreement the role of the borrower shall be played by the Russian Federation or its subject, while that of the lender shall be played by an individual or a legal entity.

2. State loans shall be voluntary.

3. A state loan agreement shall be concluded through the acquisition by the lender of the issued state bonds or other government securities certifying the right of the lender to receive from the borrower the pecuniary means lent to him or, depending on the loan terms, other property, fixed interest or other property rights within the periods of time, specified by the terms of the floated loan.

4. It shall be impermissible to change the terms of a floated loan.

5. The rules for the state loan agreement shall be applied accordingly to the loans issued by a municipal body.

#### **Article 818. Novation of a Debt by Its Acknowledgment**

1. Under the agreement of the parties the debt which has arisen from purchase and sale, the lease of property or on any other ground may be replaced by the acknowledgment of the debt.

2. The novation of the debt by its acknowledgment shall be carried out with the observance of the requirements for novation (Article 414) and shall be done in the form, specified for the conclusion of a loan agreement (Article 808).

### **§ 2. Credit**

#### **Article 819. The Credit Agreement**

1. Under the credit agreement the bank or any other credit organization (creditor) shall undertake to grant monetary means (credit) to a borrower in the amount and on the terms, stipulated by the agreement, while the borrower shall undertake to return the received sum of money and pay interest on it.

2. The rules specified by the first paragraph of this Chapter shall be applied to the relations covered by the credit agreement, unless otherwise stipulated by the rules of paragraph one of the present Chapter and unless the contrary follows from the substance of the credit agreement.

**Article 820. The Form of the Credit Agreement**

A credit agreement shall be concluded in writing.

The non-observance of the written form shall invalidate the credit agreement. Such agreement shall be deemed to be null and void.

**Article 821. The Refusal to Grant or Receive Credit**

1. The creditor shall have the right to refuse to grant to the borrower a credit in full or in part, as envisaged by the credit agreement in the presence of circumstances which expressly testify to the fact that the sum of money given to the borrower will not be returned in due time.

2. The borrower shall have the right to refuse to receive credit in full or in part by notifying the creditor about this until the time fixed by the agreement, unless otherwise stipulated by the law, other legal acts or the credit agreement.

3. If the borrower contravenes the obligation of a special-purpose use of credit (Article 814), provided for by the credit agreement, the creditor shall also have the right waive the further crediting of the borrower under the agreement.

**§ 3. Credit Against Goods and Commercial Credit**

**Article 822. Credit Against Goods**

The parties may conclude a contract providing for the obligation of one party to give to the other party things defined by generic features (the agreement on credit against goods). The rules of the second paragraph of this Chapter shall be applicable to such agreement, unless otherwise stipulated by such agreement and unless the contrary follows from the substance of the obligation.

The conditions on the quantity, assortment, completeness, quality, tare and/or packing of given things shall be implemented in accordance with the rules governing the contract of sale (Articles 465-485), unless otherwise stipulated by the agreement on credit against goods.

**Article 823. Commercial Credit**

1. Contracts whose execution is associated with the transfer to the other party of sums of money or other things, defined by generic features, may provide for the granting of credit, including that in the form of advance, prepayment, deferment or instalment payment for goods, works or services (commercial credit), unless otherwise stipulated by the law.

2. The rules of this Chapter shall be applicable to commercial credit, unless otherwise stipulated by the rules on the agreement which has given rise to the appropriate obligation and unless this contradicts the substance of such obligation.

**Chapter 43. Financing Against the Assignment of a Monetary Claim**

**Article 824.** The Contract of Financing Against the Assignment of a Monetary Claim

1. Under the contract of financing against the assignment of a monetary claim one part (financial agent) shall transfer or undertake to transfer to the other party (client) pecuniary means on account of the monetary claim of the client (creditor) to a third person (debtor) that follows from the granting by the client of goods, the performance of works or the rendering of services to the third person, while the client shall assign or undertake to assign this monetary claim to the financial agent.

A monetary claim to the debtor may be assigned by the client to the financial agent also for the purpose of discharging the client's obligation to the financial agent.

2. Under the contract of financing against the assignment of a monetary claim the obligations of the financial agent may include the keeping of accounting for the client, and also the provision of other financial service to the client, associated with the monetary claims which are the subject of the assignment.

**Article 825.** The Financial Agent

Contract of financing against the assignment of a monetary claim may be concluded by banks and other credit organizations, and also by other profit-making organizations which have a permit (license) for the conduct of such activity.

**Article 826.** A Monetary Claim Assigned for Financing Purposes

1. Both the monetary claim, whose date of payment has already ensured (existing claim) and the right to receive pecuniary means which will arise in the future (future claim) may be a subject of assignment for which financing is granted.

The monetary claim that is the subject of the assignment shall be defined in the contract of the client with the financial agent in a way that makes it possible to identify the existing claim at the time of concluding the contract, while the future claim - not later than at the time of its rise.

2. In case of assignment of a future monetary claim the latter shall be deemed to be passed to the financial agent for the emergence of the right to receive pecuniary means from the debtor, which are the subject of the assignment of the claim, stipulated by the contract. If the assignment of a monetary claim is conditioned by a definite occurrence, it shall enter into force after the advent of this occurrence.

Additional formalization of the assignment of a monetary claim shall not be required in these cases.

**Article 827.** The Client's Liability to the Financial Agent

1. Unless the contract of financing against the assignment of a monetary claim provides otherwise, the client shall bear liability to the financial agent for the reality of the monetary claim that is the subject of the assignment.

2. The monetary claim which is the subject of assignment shall be recognized as actual, if the client has the right to transfer the monetary claim and if at the time of the assignment of this claim he is not aware of the circumstances in consequence of which the debtor has the right not to execute it.

3. A client shall not be answerable for the non-fulfilment or improper fulfilment by the debtor of the claim which is the subject of assignment in case the financial agent presents it for execution, unless otherwise stipulated by the contract between the client and the financial agent.

#### **Article 828.** Invalidity of the Ban on the Assignment of a Monetary Claim

1. The assignment of a monetary claim to the financial agent shall be actual, if even there is an agreement on its ban or restriction between the client and his debtor.

2. The provision established by Item 1 of this Article shall not release the client from obligations or liability to the debtor in connection with the assignment of the claim in violation of the existing agreement between them on its ban or restriction.

#### **Article 829.** The Subsequent Assignment of a Monetary Claim

The subsequent assignment of a monetary claim shall not be allowed by the financial agent, unless the contract of financing against the assignment of the monetary claim provides for otherwise.

In case where the contract allows for the subsequent assignment of a monetary claim, the provisions of this Chapter shall be accordingly applicable to it.

#### **Article 830.** The Execution of a Monetary Claim by the Debtor to the Financial Agent

1. The debtor shall be obliged to make a payment to the financial agent, provided that he has received from the client or the financial agent a written notification about the assignment of a monetary claim to this financial agent and that the notification defines the monetary claim subject to execution, and also indicates the financial agent to whom payment is to be made.

2. At debtor's request the financial agent shall be obliged to submit to the debtor within a reasonable period of time evidence of the fact that the assignment of the monetary claim has in fact taken place. If the financial agent fails to execute this obligation, the debtor shall have the right to make payment to the client in pursuance of his obligation to the latter.

3. The execution of the monetary claim by the debtor to the financial agent in keeping with the rules of this Article shall release the debtor from the relevant obligation to the client.

**Article 831.** The Rights of the Financial Agent to the Amounts Received from the Debtor

1. If under the contract of financing against the assignment of a monetary claim the client shall be financed by means of buying from his this claim by the financial agent, the latter shall acquire the right to all the sums of money he will receive from the debtor in fulfilment of the claim, while the client shall bear no liability to the financial agent for the fact that the received sums of money have proved to be less than the price for which the agent has bought the claim.

2. If a monetary claim has been assigned to the financial agent for the purpose of providing the execution of the client's obligation for him and unless the contract of financing against the assignment of the claim stipulates otherwise, the financial agent shall be obliged to submit his account to the client and transfer to him the sum of money exceeding the sum of the debt of the client, secured by the assignment of the claim. If the pecuniary means received by the financial agent from the debtor have proved to be less than the amount of the debt of the client to the financial agent, secured by the assignment of the claim, the client shall remain liable to the financial agent for the remainder of the debt.

**Article 832.** Counter Claims of the Debtor

1. If the financial agent applies to the debtor with the claim for payment, the debtor shall have the right, in keeping with Articles 410 - 412 of this Code, to present for the offset his monetary claims based on the contract with the client, which the debtor had by the time when he received the notice about the assignment of the claim to the financial agent.

2. The claims which the debtor could present to the client in connection with the breach by the latter of the agreement on the ban on the restriction of the assignment of the claim shall be invalid in respect of the financial agent.

**Article 833.** The Return to the Debtor of the Amounts Received by the Financial Agent

1. In case where the client has breached his obligations under the contract concluded with the debtor, the latter shall have no right to demand from the financial agent the return of the sums of money paid to him under the claim that has passed to the financial agent, if the debtor has the right to receive such sums of money directly from the client.

2. The debtor, who has the right to receive directly from the client the amounts paid to the financial agent as a result of the assignment of the claim, shall have nevertheless the right to demand the return of these sums

of money by the financial agent, if it is proved that the latter has failed to execute his obligation to effect for the client the promised payment, associated with the assignment of the claim, or has made such payment, knowing about the breach by the client of that obligation to the debtor to which the payment, associated with the assignment of the claim, refers.

## **Chapter 44. Bank Deposit**

### **Article 834. The Bank Deposit Agreement**

1. Under the bank deposit agreement one party (the bank), which has received the monetary sum (deposit) from the other party (depositor) or the receipts due to it (deposit), shall undertake to return the amount of the deposit and pay interest on it on the terms and in the procedure specified by the agreement.

2. The bank deposit agreement in which a private person is a depositor shall be deemed to be a public agreement (Article 426).

3. The rules of the bank deposit agreement (Chapter 45) shall be applicable to the relations between the bank and the depositor involved in the account on which the deposit has been placed, unless otherwise stipulated by the rules of this Chapter or unless the contrary follows from the substance of the bank deposit agreement.

Legal entities shall have no right to transmit pecuniary means held in deposits to other persons.

4. The rules of this Chapter relating to bank shall also be applicable to other credit organizations which accept deposits from legal entities in keeping with the law.

### **Article 835. The Right of Attraction of Monetary Means for Making Deposits**

1. The right to attract monetary means for making deposits shall belong to the banks to which such right has been accorded in conformity with the permit (license), issued in the statutory procedure.

2. If a deposit is accepted from an individual by the person who has no right to do so or in contravention of the procedure, established by the law or by the bank rules adopted in accordance with it, the depositor may demand the immediate return of the amount of the deposit, and also the payment of the relevant interest, stipulated by Article 395 of this Code, and the reimbursement of all the losses caused to the investor over and above the amount of interest.

If such person has accepted the pecuniary means of a legal entity on the terms of the bank deposit agreement, such agreement shall be null and void (Article 168).

3. Unless otherwise stipulated by the law, the consequences, provided for by Item 2 of this Article, shall also be applicable in the cases of:

the attraction of monetary resources of individuals and legal entities by means of sale to them of shares and other securities whose issue has been recognized as illegal;

the attraction of monetary resources of individuals for making deposits against the bills or other securities which exclude the receipt of their holders of their deposits as soon as demanded and the exercise by the depositors of other rights, envisaged by the rules of this Chapter.

#### **Article 836. The Form of the Bank Deposit Agreement**

**1.** A bank deposit agreement shall be concluded in writing.

The written form of a bank deposit agreement shall be deemed to be observed, if the placement of a deposit is certified with a savings book, a savings or deposit certificate, or with any other document issued by the bank to the depositor which complies with the requirements, stipulated by the law for such documents, introduced by the bank rules in conformity with the law and applicable in banking practice by the customs of business turnover.

**2.** Non-observance of the written form of the bank deposit agreement shall invalidate this agreement. Such agreement shall be void.

#### **Article 837. Types of Deposits**

**1.** A bank deposit agreement shall be concluded on the terms of the issue of a deposit as soon as demanded (deposit at short notice) or on the terms of the return of a deposit upon the expiry of the period of time specified by the agreement (time fixed deposit).

The agreement may provide for the placement of deposits on the different terms of their return which are not inconsistent with the law.

**2.** Under the agreement of a bank deposit of any type the bank shall be obliged to issue the sum of the deposit or part thereof as soon as demanded by the depositor, except for the deposits placed by legal entities on different terms of return, provided for by the agreement.

The agreement's proviso about the refusal by an individual to receive his deposit as soon as he demanded shall be void.

**3.** In cases where a time deposit or any deposit other than a call deposit shall be returned to its holder as soon as he demanded before the expiry of the term or the onset of other circumstances, indicated in the bank deposit agreement, interest on deposits shall be paid out in the amount corresponding to the rate of interest paid out by the banks for deposits at short notice, unless the agreement provides for a different amount of interest.

**4.** In cases where the depositor does not demand the return of the sum of his time fixed deposit upon the expiry of the term or the sum of the deposit placed by him on the different conditions of return, upon the onset of the circumstances, specified by the agreement, the agreement shall be

deemed to be prolonged on the terms of the call deposit, unless otherwise stipulated by the agreement.

**Article 838. Interest on Deposits**

1. The bank shall pay out to a depositor interest on his deposit in the amount defined by the bank deposit agreement.

In the absence in the agreement of a clause on the rate of interest to be paid out the bank shall be obliged to pay out interest in the amount, defined in accordance with Item 1 of Article 809 of this Code.

2. Unless otherwise stipulated by the bank deposit agreement, the bank shall have the right to change the rate of interest paid out on the call deposits.

If the bank increases the rate of interest, the new interest rate shall be applied to the deposits made before the announcement on the diminution of the interest rate to depositors, upon the expiry of the month since the time of the relevant announcement, unless otherwise stipulated by the contract.

3. The interest rate, defined by the bank deposit agreement on the deposit made by a private person on the terms of its issue upon the expiry of a definite time or upon the onset of the circumstances provided for by the agreement, may not be decreased by the bank unilaterally, unless otherwise stipulated by the law. Under such bank deposit agreement, concluded by the bank with a legal entity, the interest rate may not be changed unilaterally, unless otherwise stipulated by the law or the agreement.

**Article 839. Procedure for Adding Interest on Deposits and Its Payment**

1. Interest on the sum of a bank deposit shall be added from the day that follows the day of its receipt by the bank until the day of its return to the depositor inclusive, and if it has been withdrawn from the account of the depositor on other bases, then until the day of the withdrawal inclusive.

2. Unless otherwise stipulated by the bank deposit agreement, interest on the sum of the bank deposit shall be paid out to the depositor on his demand upon the expiry of each quarter separately from the amount of the deposit, while the uncalled interest shall increase the amount of the deposit on which interest is cast.

In case of the return of a deposit all the interest added by this time shall be paid off.

**Article 840. Security for the Return of a Deposit**

1. The banks shall be obliged to secure the return of deposits of private persons through obligatory insurance or by other methods in cases specified by the law.

The return of deposits of private persons by the bank in whose statutory capital over 50 per cent of shares or participating interest belongs to the Russian Federation and/or the subjects of the Russian Federation, and also to municipal bodies shall be, furthermore, guaranteed by their subsidiary liability according to the demands of the investor to the bank in the procedure, envisaged by Article 399 of this Code.

2. Methods of the bank's security for the return of deposits of legal entities shall be defined by the bank deposit agreement.

3. During the conclusion of a bank deposit agreement the bank shall be obliged to provide the depositor with information about the secured return of the deposit.

4. If the bank fails to discharge the obligation of securing the return of a deposit, envisaged by the law or the bank deposit agreement, and also in case of the loss of security or the deterioration of its conditions the depositor shall have the right to demand that the bank should immediately return the sum of the deposit, pay out interest in the amount, defined in conformity with Item 1 of Article 809 of this Code and indemnify the caused losses.

#### **Article 841.** The Placement of Monetary Means by Third Persons on the Depositor's Account

Unless otherwise stipulated by the bank deposit agreement, the account of the depositor shall receive the monetary means credited to the bank's account by third persons with an indication of the essential data on his deposit account. In this case it is supposed that the depositor has expressed his consent with the receipt of monetary means from such persons and furnished to them the essential data on the deposit account.

#### **Article 842.** Deposits in Favour of Third Persons

1. A deposit may be in the bank in favour of a definite third person. Unless otherwise stipulated by the bank deposit agreement, such person shall acquire the depositor's rights since the time of presenting to the bank the first claim based on these rights or expressing his intention of availing himself of such rights by any other method.

The indication of the name of an individual (Article 19) or the name of a legal entity (Article 54) in whose favour a deposit is made is an essential condition of the relevant bank deposit agreement.

The bank deposit agreement in favour of the individual who died at the time of the conclusion of the agreement or at the time of the non-existence of the legal entity shall be void.

2. Before the third person expresses his intention to avail himself of the depositor's rights, the person who has concluded a bank deposit agreement may avail himself of the depositor's rights in respect of monetary means placed on the deposit account.

3. The rules for the agreement in favour of the third person (Article 430) shall be applicable to the bank deposit agreement in favour of the third person, unless this contradicts the rules of this Article and the substance of the bank deposit.

#### **Article 843. The Savings Book**

1. Unless otherwise stipulated by the arrangement of the parties, the conclusion of a bank deposit agreement with a private person and the placement of monetary means on his deposit account shall be certified by a savings book. The bank deposit agreement may provide for the issue of a registered savings book or a savings book to bearer. The savings book to bearer shall be a security.

The savings book shall indicate and certify by the bank its name and place of location (Article 54), and if a deposit is made in its branch, this book shall also indicate the name and place of its branch, the deposit account number, and also all the sums of money charged to the account, all the sums of money written off the account, and the remainder of cash on the account at the time of presenting the savings book to the bank.

Unless a different condition of the deposit is proved, the data on the deposit contained in the savings book shall be a ground for settlements between the bank and the depositor.

2. The payment of a deposit and interest on it and the fulfilment of the instructions of the depositor on the transfer of money from the deposit account to other persons shall be effected by the bank upon the production of the savings book.

If the registered savings book has been lost or brought into a faulty state for presentation, the bank shall give to the depositor a new savings book upon his application.

The rights under the lost savings book to bearer shall be restored in the procedure, envisaged for securities to bearer (Article 148).

#### **Article 844. The Savings (Deposit) Certificate**

1. The savings (deposit) certificate shall be a security that certifies the sum of the deposit made in the bank and the rights of the depositor (certificate holder) to the receipt of the amount of the deposit upon the expiry of the fixed time and of the deposit upon the expiry of the fixed time and of interest stipulated by the certificate in the bank which has issued the certificate or in any branch of this bank.

2. Savings (deposit) certificates may be registered or to bearer.

3. In case of the anticipatory presentation of a savings (deposit) certificate for payment the bank shall pay off the sum of the deposit and interest on it, paid out in call deposits, unless the certificate conditions provide for a different interest rate.

#### **Article 845.** The Bank Account Agreement

1. Under the bank account agreement the bank shall undertake to charge cash to the account opened for a client (account holder), to implement the client's instructions on his transfer to, and the withdrawal of, relevant sums of money from the account and on other operations with the account.

2. The bank may use the monetary means placed on the account, while guaranteeing the client's right to make use of these means.

3. The bank shall have no right to determine and control the trends of using the client's monetary funds and introduce other restrictions on his right to dispose of cash at his discretion which are not provided by the law or the bank account agreement.

4. The rules of this Chapter relating to the banks shall also be applicable to other credit organizations in case of the conclusion and execution of the bank account agreement in conformity with the issued permit (license).

#### **Article 846.** The Conclusion of a Bank Account Agreement

1. With the conclusion of a bank account agreement an account shall be opened with a bank for the client or the person indicated by him on the terms, agreed upon by the parties.

2. The bank shall be obliged to conclude a bank account agreement with the client who has made his offer to open an account on the conditions announced by the bank for the accounts of the given type, which meet the requirements of the law and the bank rules, established in conformity with it.

The bank shall have no right to refuse to open an account, the corresponding operations with which are stipulated by the law, the constituent instruments of the bank and the permit (license) issue to it, except for the cases where such refusal has been caused by the bank's lack of the possibility to accept the account for banking servicing or is admitted by the law or other legal acts.

If the bank evades from the conclusion of a bank account agreement on a groundless basis, the client shall have the right to present to it his claims, provided for by Item 4 of Article 445 of this Code.

#### **Article 847.** The Certification of the Right to Dispose of Cash Placed on the Account

1. The rights of the persons who implement the instructions of the client on the transfer and payment of cash from the account shall be certified by the client by means of presenting to the bank of statutory documents in conformity with the bank rules established by the law and the bank account agreement.

2. The client may give instructions to the bank on the write off of cash from the account on the demand of third persons, including t instructions connected with the performance by the client of his obligations to these persons. The bank shall accept these instructions, provided they indicate in writing the necessary data which make it possible to identify the person who has the right to present the relevant claim.

3. The agreement may provide for the certification of rights of disposing of cash placed on the account by the electronic payment facilities and by other documents with the use in them of the analogues of the autograph (Item 2 of Article 160), codes, passwords and other means confirming that instructions have been given by the person authorized therefor.

#### **Article 848. Bank Operations with Accounts**

The bank shall be obliged to perform operations for the client, which are provided for the accounts of the given types by the law, the bank rules established by law and the customs of business turnover applicable in banking practice, unless otherwise stipulated by the bank account agreement.

#### **Article 849. Time-limits for Operations with Accounts**

The bank shall be obliged to charge cash placed on the client's account within the day that follows the day of the receipt by the bank of the relevant payment document, unless the bank account agreement provides for a shorter period.

The bank shall be obliged to pay out cash or transfer it from the depositor's account within the day that follows the day of the receipt by the bank of the relevant payment document, unless the law, the bank rules introduced in accordance with it or the bank account agreement provide for different time-limits.

#### **Article 850. Account Crediting**

1. In cases where in conformity with the bank account agreement the bank makes payments from the account despite the absence of monetary means (account crediting), the bank shall be deemed to grant to a client a credit in the appropriate amount since the day such payment was effected.

2. The rights and obligations of the parties associated with account crediting shall be determined by the rules for loans and credits (Chapter 42), unless the bank account agreement provides otherwise.

#### **Article 851. The Payment of Banking Expenses on Operations with Accounts**

1. In cases specified by the bank account agreement the client shall pay for the bank's services involved in the operations with cash placed on the account.

2. A charge for the bank's services, provided for by Item 1 of this Article, may be collected by the bank upon the expiry of each quarter from the monetary means of the client placed on the account, unless otherwise stipulated by the bank account agreement.

**Article 852. Interest Paid by the Bank for the Use of Cash on Accounts**

1. Unless otherwise stipulated by the bank account agreement, the bank shall pay interest, the amount of which is charged to the client's account, for the use of cash placed on this account.

The amount of interest shall be placed on the account within the periods of time, provided for by the agreement, and upon the expiry of each quarter in case where such time-limits are not envisaged by the agreement.

2. Interest, referred to in Item 1 of this Article, shall be paid by the bank in the amount to be defined by the bank account agreement, while in the absence of a relevant clause in the agreement interest shall be paid in the amount, usually paid by the bank for call accounts (Article 838).

**Article 853. The Offsetting of the Counter Claims of the Bank and the Client**

The bank's monetary claims to the client, associated with account crediting (Article 850) and the payment for the bank's services (Article 851), and also the client's claims to the bank on the payment of interest for the use of cash (Article 852) shall be terminated by offsetting (Article 410), unless otherwise stipulated by the bank account agreement.

Said claims shall be offset by the bank. The bank shall be obliged to inform the client about the offset in the procedure and in the period of time envisaged by the agreement, but if the appropriate conditions are not agreed upon by the parties, the bank shall be obliged to inform the client about the offset in the procedure and in the periods of time which are common for the banking practice of providing clients with information about the state of cash in the relevant account.

**Article 854. The Grounds for Writing off Cash from the Account**

1. The bank shall write off cash from the client's account on the basis of his instructions.

2. Without the client's instructions cash kept on his account may be written off by a court decision, and also in cases, established by the law or envisaged by the agreement between the bank and the client.

**Article 855. The Sequence of Writing off Cash from the Account**

1. In the presence in the account of cash whose amount is sufficient to meet all the claims to the account, this cash shall be written off from the account in the procedure of the receipt of the client's instructions and other documents for writing off (calendar sequence), unless otherwise stipulated by the law.

2. If cash is insufficient in the account to meet all the claims made to it, this cash shall be written off in the following sequence:

in the first place cash is written off according to the executive documents which provide for the transfer or issue of cash from the account to meet claims for the reparation of harm inflicted on human life and health, and also claims for the recovery of alimony;

in the second place, cash is written off according to the executive documents which provide for the transfer or issue of cash for settlements in the payment of dismissal benefits and labour remuneration with the persons working under a labour contract and in the payment of fees to the authors of the results of intellectual activity;

in the third place there shall be carried out the write-off on the payment documents stipulating the transfer or issuance of monetary funds for the settlements in the remuneration of labour with the persons working under a labour agreement (contract), and also on the allocations to the Pension Funds of the Russian Federation, the Social Insurance Fund of the Russian Federation and the funds of the obligatory medical insurance;

in the fourth place there shall be carried out the write-off on the payment documents stipulating the payments to the budget and the non-budgetary funds the allocations to which are not stipulated in the third place;

in the fifth place, cash is written off according to the executive documents providing for the satisfaction of other monetary claims;

in the sixth place, cash is written off according to the payment documents in the order of calendar sequence.

Cash shall be written off from the account according to the claims of one turn in the order of the calendar priority of the receipt of documents.

#### **Article 856.** The Bank's Liability for Improper Performance of Operations with the Account

In cases where cash is charged to the client's account untimely or where the bank has written it off from the account groundlessly, and also of the non-fulfilment of the client's instructions on the transfer of cash from the account or on the withdrawal of cash from the account, the bank shall be obliged to pay interest on this sum in the order and in the amount, prescribed by Article 395 of his Code.

#### **Article 857.** The Bank Secrecy

1. The bank shall guarantee the secrecy of a bank account and a bank deposit, operations with the account and information about clients.

2. Information constituting a banking secret can be provided only to the clients themselves or their representatives, and also provided to credit bureaus on the grounds and in the procedure provided for by a law. Such

information can be provided to State bodies and their officials only in cases and in the procedure provided for by a law.

3. In case the bank divulges information constituting the bank's secrecy, the client whose rights have been infringed shall have the right to demand compensation for the losses caused.

#### **Article 858. Restriction on the Disposal of Accounts**

No restriction shall be allowed on the client's rights of disposing of cash on his account, exception being made for the attachment on cash kept in the account or for the suspension of account operations in cases, stipulated by the Law.

#### **Article 859. The Dissolution of a Bank Account Agreement**

1. A bank account agreement shall be dissolved by the client's application at any time.

1.1. If not otherwise provided for by a contract, a bank shall be entitled to refuse to execute a contract of bank account, having warned the client on it in writing, if within two years there are no monetary funds on the client's account and there are not transactions made on it. The contract of bank account shall be deemed dissolved upon the expiry of two months as of the date of directing such warning by a bank, provided that within this time period monetary funds are not entered to the client's account.

2. On the bank's demand the bank account agreement may be cancelled by the court in the following cases:

where the sum of money placed on the client's account proves to be below the minimum amount, envisaged by the bank rules or the agreement, unless such sum is restored during one month since the day of the bank's warning about this;

in the absence of operations with the account during one year, unless otherwise stipulated by the agreement.

3. The remainder of cash on the account shall be given to the client or transferred to another account by his instructions within seven days after the receipt of the client's relevant written application.

4. The dissolution of bank account agreement shall be a ground for the closing of the client's account.

#### **Article 860. Bank Accounts**

The rules of this Chapter shall extend to correspondent accounts, correspondent subaccounts, other bank accounts, unless otherwise stipulated by the law, other legal acts or the bank rules, introduced in accordance with them.

## **Chapter 46. Payments**

### **§ 1. General Provisions on Payments**

### **Article 861. Cash and Cashless Payments**

1. Payments with the participation of private persons, not connected with their business, may be effected in cash (Article 140) without the limitation of the sum of money or non-cash.

2. Settlements between legal entities, and also payments with the participation of individuals, associated with their business, shall be effected in non-cash. Settlements between these legal entities may be effected in cash, unless otherwise stipulated by the law.

3. Clearing settlements shall be made through banks and other credit organizations (hereinafter referred to as the banks) which have opened relevant accounts, unless the contrary follows from the law and is conditioned by the usable form of payments.

### **Article 862. The Forms of Cashless Payments**

1. Cashless payments may assume the following forms: payments by written order, by letters of credit, by cheques, for collection, and also payments in other forms prescribed by the law, the bank rules established in conformity with it and by the business turnover customs, used in banking practice.

2. The parties to the contract shall have the right to choose and fix in this contract any form of payments, referred to in Item 1 of this Article.

## **§ 2. Payments by Written Order**

### **Article 863. General Provisions on Payments by Written Order**

1. In case of payments by written order the bank shall undertake to transfer a definite sum of money on the order of the payer from the monetary means kept in his account to the account of the person indicated by the payer in this or that bank within the period of time, prescribed by the law or fixed in accordance with it, unless the bank account agreement provides for a shorter period or the business turnover customs used in banking practice define it.

2. The rules of this paragraph shall be applied to the relations, connected with the transfer of cash via the bank by the person who has not his account in this bank, unless otherwise stipulated by the law and the bank rules introduced in conformity with it or unless the contrary follows from the substance of these relations.

3. The procedure for making payments by written order shall be regulated by the law, and also by the bank rules introduced in conformity with it and the business turnover customs used in banking practice.

### **Article 864. The Conditions for the Execution of Payment Order by the Bank**

1. The content of the payment order and the settlement documents submitted together with it and their form shall comply with the requirements of the law and the bank rules, established in keeping with it.

2. If a payment order fails to comply with the requirements of Item 1 of this Article, the bank may clarify the content of the order. Such inquiry shall be made to the payer without delay, upon the receipt of the order. If no answer has been received within the period, prescribed by the law or the bank rules introduced in keeping with it, and in their absence - within the reasonable period the bank may leave the order without execution and return it to the payer, unless otherwise stipulated by the law, the bank rules introduced in accordance with it or by the agreement between the bank and the payer.

3. The payer's order shall be executed by the bank in the presence of cash in the payer's account, unless otherwise stipulated by the agreement between payer and the bank. Orders shall be executed by the bank with the observance of sequence of writing off cash from the account (Article 855).

#### **Article 865.** The Execution of the Payer's Order

1. The bank which has accepted the payer's payment order shall be obliged to transfer the relevant sum of money to the bank of the recipient of money for its charge to the account of the person, indicated in the order, within the time, fixed by Item 1 of Article 863 of this Code.

2. The bank shall have the right to draw other banks in the operations of transmitting cash to the account indicated by the client's order.

3. The bank shall be obliged to immediately inform the payer at his request about the execution of the order. Procedure for drawing up a notification about the execution of the order and requirements for its content shall be envisaged by the law, the bank rules introduced in accordance with it or by the agreement of the parties.

#### **Article 866.** Liability for Non-fulfilment or Improper Fulfilment of the Client's Order

1. In case of non-fulfilment or improper fulfilment of the client's order the bank shall bear liability on the grounds and in the amounts, prescribed by Chapter 25 of this Code.

2. In cases of non-fulfilment or improper fulfilment of the client's order in connection with the breach of the rules for settlement operations by the bank which has been drawn in the execution of the payer's order, the liability, envisaged by Item 1 of this Article, may be vested by a court of law on this bank.

3. If the breach of the rules for settlement operations by the bank has involved the unlawful withholding of cash, the bank shall be obliged to pay interest in the procedure and in the amount, prescribed by Article 395 of this Code.

### **§ 3. Payments by Letters of Credit**

#### **Article 867. General Provisions on Payments by a Letter of Credit**

1. In payments by a letter of credit the bank acting on behalf of the payer in the opening of the letter of credit and in accordance with his instruction (the bank of circulation) shall undertake to make payments to the recipient of cash to retire, accept or discount a bill of exchange, or to instruct another bank (executing bank) to effect payments to the recipient of cash or to retire, accept or discount a bill of exchange.

The rules for the executing bank shall be applicable to the bank of circulation that makes payments to the recipient of cash or retires, accepts or discounts the bill of exchange.

2. At the time of opening a covered (deposited) letter of credit the bank of circulation shall be obliged to transfer the amount of the letter of credit (payment) at the expense of the payer or to place the credit given to him at the disposal of the executing bank for the entire period of validity of the obligation of the bank of circulation.

In case of opening an uncovered (guaranteed) letter of credit the executing bank shall be given the right to charge off the entire sum of the letter of credit from the account kept by the bank of circulation.

3. Procedure for making payments by a letter of credit shall be regulated by the law, and also by the bank rules introduced in accordance with it, and by the business turnover customs applicable in banking practice.

#### **Article 868. The Revocable Letter of Credit**

1. A letter of credit which can be changed or cancelled by the bank of circulation without a preliminary notification of the recipient of cash shall be recognized as revocable. The revocation of a letter of credit shall not create any obligations for the bank of circulation to the recipient of cash.

2. The executing bank shall be obliged to make payments or carry on other operations with the revocable letter of credit, if by the time of their conduct it had not received a notice about the change of the terms of the letter of credit of its cancellation.

3. A letter of credit shall be revocable, unless otherwise stipulated expressly in its text.

#### **Article 869. The Irrevocable Letter of Credit**

1. A letter of credit which cannot be cancelled without the consent of the recipient of cash shall be recognized as irrevocable.

2. At the request of the bank of circulation the executing bank that takes part in the operation with a letter may confirm an irrevocable letter of credit (confirmed letter of credit). Such confirmation shall

An irrevocable letter of credit confirmed by the executing bank may not be changed or cancelled without the consent of this bank.

**Article 870.** The Execution of the Letter of Credit

1. In order to execute a letter of credit, the recipient of cash shall submit to the executing bank documents confirming the fulfilment of all the terms of the letter of credit. If one of these terms is contravened, the letter of credit shall not be executed.

2. If the executing bank has made a payment or carried out a different transaction in keeping with the terms of the letter of credit, the bank of circulation shall be obliged to compensate for the expenses incurred. Said expenses, and also all other expenses of the bank of circulation, incurred in the execution of the letter of credit, shall be recompensed by the payer.

**Article 871.** The Refusal to Accept Documents

1. If the executing bank refuses to accept documents which do not comply with the terms of the letter of credit according to external signs, it shall be obliged to inform forthwith the recipient of cash and the bank of circulation with an indication of the reasons for the refusal.

2. If the bank of circulation, which has received the documents accepted by the executing bank, holds that they do not correspond to the terms of the letter of credit according to the external signs, it shall have the right to refuse to accept them and demand from the executing bank the sum of money paid to the recipient of cash with the contravention of the terms of the letter of credit and to refuse to recompense the paid sums of money under the uncovered letter of credit.

**Article 872.** The Bank's Liability for Breaking the Terms of a Letter of Credit

1. Liability for breaking the terms of a letter of credit to the payer shall be borne by the bank of circulation, while such liability to the bank of circulation shall be borne by the executing bank, except for the cases, provided for by this Article.

2. In the event of a groundless refusal by the executing bank to pay out cash under the covered or confirmed letter of credit, the liability to the recipient of cash may be entrusted to the executing bank.

3. In case of a wrong payment of cash by the executing bank under the covered or confirmed letter of credit in consequence of breaking its terms, the liability to the payer may be entrusted with the executing bank.

**Article 873.** The Closing of the Letter of Credit

1. The executing bank shall close letters of credit in the cases of:  
the expiry of the validity term of a letter of credit;

the application by the recipient of cash on the refusal to make use of a letter of credit before the expiry of its validity term, if the letter of credit provides for the possibility of such refusal;

the demand of the payer for a full or partial revocation of a letter of credit, if such revocation is possible under the terms of the letter of credit.

The executing bank shall be obliged to inform the bank of circulation about the closing of the letter of credit.

2. The non-used amount of the covered letter of credit shall be subject to return to the bank of circulation without delay simultaneously with the closing of the letter of credit. The bank of circulation shall be obliged to charge the returned sums of money to the payer's account from which cash has been deposited.

## **§ 4. Payments for Collection**

### **Article 874. General Provisions on Payments for Collection**

1. In payment for collection the bank (bank of circulation) shall undertake to carry out actions involved in the receipt of payment and/or acceptance of payment on the order of the client and at his expense.

2. The bank of circulation which has received the client's order shall have the right to draw another bank (executing bank) for its implementation.

Procedure for making payment for collection shall be regulated by the law, the bank rules introduced in keeping with it and by the business turnover customs applicable in banking practice.

3. In case of default on the client's order or improper execution the bank of circulation shall bear liability to it on the grounds and in the amount, prescribed by Chapter 25 of this Code.

If the client's order has not been executed or executed improperly due to the infringement of the rules for payment operations by the executing bank, the liability to the client may be placed on this bank.

### **Article 875. The Execution of a Collection Order**

1. In the absence of any document or in case of the non-conformity of documents with the collection order by their external signs the executing bank shall be obliged forthwith to inform about this the person from whom it has received the collection order. In the event of non-removal of said drawbacks the bank shall have the right to return the documents without execution.

2. Documents shall be submitted to the payer in the form in which they have been received with the exception of bank notes and endorsements needed for the formalization of a collection transaction.

3. If documents are subject to payment at sign, the executing bank shall present them for payment immediately upon the receipt of a collection order.

If documents are subject to payment at other time, the executing bank shall present documents for acceptance for the receipt of the payer's acceptance immediately upon the receipt of the collection order, while the claim for payment shall be made not later than the day of the onset of the payment date, indicated in the document.

4. Partial payments may be accepted in cases where this is provided for by the bank rules or in the presence of a special permit in the collection order.

5. The received (collected) amounts shall be immediately placed by the executing bank at the disposal of the bank of circulation, which is duty-bound to charge these amounts to the client's account. The executing bank shall have the right to withhold from the collected amounts the fees due to it and the compensation for expenses.

#### **Article 876. Notice of Transactions Made**

1. If payment and/or acceptance have not been received, the executing bank shall be obliged to inform at once the bank of circulation about the reasons for non-payment or for the refusal from acceptance.

The bank of circulation shall be obliged to inform the client about this immediately and inquire about its directions on further actions.

2. In the event it has failed to receive directions about further actions within the time-limit fixed by the bank rules or within a reasonable period in the absence of this time-limit the executing bank shall have the right to return the documents to the bank of circulation.

### **§ 5. Payments by Cheques**

#### **Article 877. General Provisions on Payments by Cheques**

1. A cheque shall be recognized to be the security containing the non-stipulated cheque drawer's order to the respective bank to effect the payment of the amount of money, indicated in it to the cheque holder.

2. Only the bank where the cheque drawer has money to be disposed of by drawing cheques may be indicated as a payer by cheque.

3. A cheque may not be withdrawn before the expiry of the time for its presentation.

4. The drawing of a cheque shall not cancel the obligation in the fulfilment of which it has been written.

5. Procedure and conditions for the use of cheques in payment transactions shall be regulated by this Code and in the part which is not regulated by it they shall be regulated by other laws and the bank rules established in accordance with them.

#### **Article 878. The Essential Elements of the Cheque**

1. The cheque shall contain:

1) the name "cheque", included in the text of the document;

- 2) the order to the payer to pay out a certain sum of money;
- 3) the name of the payer and reference to the account from which payment is to be made;
- 4) reference to the currency of the payment;
- 5) reference to the date and place of writing the cheque;
- 6) the signature of the person who has drawn the cheque (cheque drawer).

The absence of any of said essential elements in the document shall invalidate the cheque.

A cheque that does not contain the place of its writing shall be regarded as that signed at the place of the location of the cheque drawer.

Reference to interest shall be deemed to be unwritten.

2. The form of cheques and procedure for its filling in shall be determined by the law and the bank rules introduced in keeping with it.

### **Article 879. Cheque Payment**

1. A cheque shall be paid at the expense of the cheque drawer's resources.

If cash is deposited, procedure and conditions for depositing cash to cover cheques shall be established by the bank rules.

2. A cheque shall be liable to payment by the payer, provided that is presented for payment within the time-limit fixed by the law.

3. The payer by cheque shall be obliged to assure himself of the authenticity of the cheque with all means at his disposal, and also of the fact that the cheque bearer is a person authorized therefor.

During the payment of the endorsed cheque the payer shall be obliged to verify whether endorsements are correct but shall not check the signatures of endorsers.

4. The losses incurred due to the payment by the payer for a forged, pilfered or lost cheque shall be covered by the payer or the cheque drawer depending through whose fault they have been caused.

5. A person who has paid the cheque shall have the right to demand it with the receipt for the sum of money.

### **Article 880. The Assignment of Rights by a Cheque**

1. The rights by a cheque shall be assigned in the order, prescribed by Article 146 of this Code with the observance of the rules, provided for by this Article.

2. A cheque to bearer shall not be subject to transfer.

3. In an assigned cheque the endorsement in full shall have the force of receipt for the sum of money.

The endorsement made by the payer shall be null and void.

A person who possesses the assigned cheque, received under the endorsement, shall be deemed to be its legitimate holder, if he bases his right on the continuous numbers of endorsements.

### **Article 881. Guarantee of Payment**

1. Payment of a cheque may be guaranteed in full or in part by means of its surety.

The guarantee of payment of a cheque (surety) may be given by any person, except for the payer.

2. The guarantee shall be put down on the face side of a cheque or on the additional sheet by means of endorsement ("regard as guarantee") and the indication of who and for whom it has been given. Unless there is no such indication, the guarantee shall be deemed to be given in place of the cheque drawer.

The guarantee shall be signed by the guarantor with an indication of the place of his residence and the date of making an endorsement, and if the guarantor is represented by a legal entity, the guarantee shall be signed with an indication of its place of location and the date of making an endorsement.

3. The guarantee shall be liable just as the person in place of whom he has given the guarantee.

His obligation shall be valid even in the event if the obligation guaranteed by him proves to be void on any ground other than the non-observance of the form.

4. The guarantor who has paid the cheque shall acquire the rights that follow from the cheque against the person in place of whom he has given the guarantee and against those persons who are obligated to the latter.

### **Article 882. Collection of a Cheque**

1. The submission of a cheque to the bank which serves the cheque holder for collection in order to get payment shall be deemed to be the presentation for payment.

Cheque payment shall be made in the order, prescribed by Article 875 of this Code.

2. Cash shall be entered to the cheque holder's account under the collected cheque after the receipt of payment from the payer, unless otherwise stipulated by the agreement between the cheque holder and the bank.

### **Article 883. Certification of the Refusal to Pay a Cheque**

1. A refusal to pay a cheque shall be certified by one of the following methods:

1) by making a protest by the notary or by drawing up an equivalent report in the statutory manner;

2) by putting down a note by the payer on the cheque to the effect that he refuses to pay it with an indication of the date for presenting the cheque for payment;

3) by putting down a note by the collecting bank with an indication of the date to the effect that the cheque has been drawn in due time and dishonored.

2. A protest or an equivalent report shall be made before the expiry of the time for presenting the cheque.

If the cheque was presented on the last day of the time-limit, a protest or an equivalent report may be made on the next working day.

#### **Article 884. Notification About the Non-payment of a Cheque**

The cheque holder shall be obliged to inform his endorser and cheque drawer about non-payment during two working days that follow the day of making the protest or the equivalent report.

During two working days that follows the day of the receipt of the notification by it every endorser shall be obliged to bring to the notice of his endorser the received notification. During the same period of time the notification shall be sent to the one who has given the guarantee for this person.

The person who has not sent a notification within the said period shall not lose his rights. He shall indemnify for the losses that can be caused by the non-notification about cheque non-payment. The amount of the indemnified losses may not exceed the cheque amount.

#### **Article 885. The Consequences of Cheque Non-Payment**

1. If the payer refuses to pay a cheque, the cheque holder shall have the right to bring an action to one, several or all the persons bound by the cheque (cheque drawer, guarantors and endorsers), who bear joint and several liability to him.

2. The cheque drawer shall have the right to demand from said persons the payment of the cheque amount, his costs involved in the cashing of the cheque, and also interest in keeping with Item 1 of Article 395 of this Code.

The same right shall belong to the person bound by the cheque after it has paid the cheque.

3. The cheque holder's claim against the persons, referred to in Item 1 of this Article, may be brought during six months since the day of the expiry of the period of presenting the cheque for payment. Claim resources of bound persons to each other shall be cancelled upon the expiry of six months since the day when the relevant bound person has satisfied the claim or since the day of bringing the action against him.

### **Chapter 47. Storage**

#### **§ 1. General Provisions on Storage**

##### **Article 886. The Storage Agreement**

1. Under the storage agreement one party (depository) shall undertake to keep the thing given to it by the other party (depositor) and to return this thing perfectly safe.

2. The storage agreement in which the depository is represented by a profit-making or an non-profit organization, which ensures storage as one of the goals of its professional activity (professional depository), may provide for the depository's obligation of accepting a thing for storage from the depositor within the period fixed by the agreement.

#### **Article 887.** The Form of the Storage Agreement

1. A storage agreement shall be concluded in writing in cases, indicated in Article 161 of this Code. For the storage agreement concluded between individuals (Subitem 2 of Item 1 of Article 161) the written form shall be observed, if the value of the thing put in storage exceeds the minimum amount of the wage or salary by at least ten months.

The storage agreement, which provides for the depository's obligation of accepting a thing for storage, shall be concluded in writing, regardless of the number of the parties to this agreement and the value of the thing put in storage.

The delivery of a thing for storage under extraordinary circumstances (a fire, natural disaster, sudden illness, threat of assault, etc.) may be proved by the witness's testimony.

2. The single written form of the storage agreement shall be deemed to be observed, if the acceptance of a thing for storage is certified by the issue of the following documents by the depository to the depositor:

the trust receipt, storage receipt, certificate or other document signed by the depository;

the numbered counter (check) and other sign that certifies the acceptance of things for storage, if such form of acknowledgment of the acceptance of things for storage is provided for by the law or any other legal act, or is common for this type of storage.

3. Non-observance of the simple written form of the storage agreement shall not deprive the parties of the right to refer to testimonies by witnesses in case of a dispute over the identify of the thing accepted for storage and the thing returned by the depositor.

#### **Article 888.** The Execution of the Obligation to Accept a Thing for Storage

1. The depository who has undertaken under the storage agreement the obligation of accepting a thing for storage (Item 2 of Article 886) shall have no right to demand the transfer of this thing for storage.

However, the depositor who has failed to transfer a thing for storage within the period fixed by the agreement shall bear liability to the depository for the losses caused in connection with coming off storage, unless otherwise stipulated by the law or the storage agreement. The depositor

shall be released from this liability, if he states to the depository that he refuses to accept his services within a reasonable period of time.

2. Unless otherwise stipulated by the storage agreement, the depository shall be released from the obligation of accepting a thing for storage in case when the thing will not be given to him in the period of time specified by the agreement.

#### **Article 889. The Period of Storage**

1. The depository shall be obliged to keep a thing during the time-limit specified by the agreement.

2. Unless the period of storage is provided for by the agreement and if it cannot be defined by proceeding from its terms and conditions, the depository shall be obliged to keep the thing until it is claimed by its depositor.

3. If the period of storage is determined by the time of claiming a thing by the depositor, the depository shall have the right to demand that the depositor should take back the thing upon the expiry of the period of storage which is usual under given circumstances and to provide to him a reasonable period of time for this. The non-execution by the depositor of this obligation shall involve the consequences, envisaged by Article 899 of this Code.

#### **Article 890. The Storage of Things with Deprivation of Individuality**

In cases, expressly provided for by the storage agreement, the things of one depositor accepted for storage may be mixed with the things of the same kind and quality belonging to other depositors (storage with deprivation of individuality). The quantity of things of the same kind and quality shall be returned to the depositor in equal amounts as specified by the parties.

#### **Article 891. The Depository's Obligation to Ensure the Safety of a Thing**

1. The depository shall be obliged to take all the measures envisaged by the storage agreement in order to ensure the safety of the thing put in storage.

In the absence in the agreement of the conditions for such measures or in case of incompleteness of these conditions the depository shall also be obliged to take for the preservation of the thing measures corresponding to the business turnover usages and the substance of the obligation, including the properties of the thing put in storage, unless the necessity for taking these measures is excluded by the agreement.

2. The depository shall take measures in any case for the preservation of the thing given to him, if they are provided for by the law, other legal acts or in the manner stipulated by them (fire prevention, sanitary, protective and other measures).

3. If storage is carried out gratuitously, the depository shall be obliged to take care of the thing accepted for storage to no less extent than of his own things.

#### **Article 892. Use of the Thing Put in Storage**

The depository shall have no right to make use of the thing put in storage without the consent of the depositor and likewise to give the opportunity for its use by third persons with the exception of the case when the use of the kept thing is necessary for its preservation and does not contradict the storage agreement.

#### **Article 893. Changes in the Conditions of Storage**

1. If it is necessary to change the conditions of the storage of a thing, envisaged by the storage agreement, the depository shall be obliged to notify the depositor about this without delay and to wait for his answer.

If changes in the conditions of storage are essential for the removal of the danger of the loss, shortage of, or damage to, a thing, the depository shall have the right to change the method, place and other conditions of storage without waiting for the depositor's answer.

2. If during storage there is a real threat of damage to a thing or the thing has already been damaged, or there are circumstances that do not make it possible to preserve it and if the depositor is unable to take measures in due time, the depository shall have the right to sell the thing on its own or its part thereof at the price that have formed in the place of storage. If said circumstances have arisen for the reasons for which the depository is not answerable, he shall have the right to recompense his costs of the sale at the expense of the purchase price.

#### **Article 894. The Storage of Things with Hazardous Properties**

1. Highly inflammable, explosion risky or generally dangerous things may be at any time rendered harmless or destroyed by the depository without compensation of the depositor's losses, unless the depositor failed to warn the depository about these properties when he put them in storage. The depositor shall be liable for the losses caused to the depository and third persons in connection with the storage of these things.

When things with dangerous properties are transferred for storage to the professional depository, the rules envisaged by the first paragraph of this point shall be applied in case when such things were put in storage under the wrong name and the depository could not make sure of their dangerous properties by means of an external inspection.

In the event of remunerated storage in cases, provided for by this Item, the paid remuneration for the storage of things shall not be returned, and if it has not been paid, the depository may recover it in full.

2. If things accepted for storage with the knowledge and consent of the depository and indicated in the first paragraph of Item 1 of this Article,

have become dangerous for people around or for the depositor's property or that of third persons, despite the observance of the conditions of their storage, and if circumstances make it possible for the depository to demand that the depositor should take them, at once or if he does not meet this demand, these things may be rendered harmless or destroyed by the depository without compensation of the depositor's losses. In such case the depositor shall bear no liability to the depository and third persons for the losses caused in view of the storage of these things.

#### **Article 895. The Transfer of a Thing to a Third Person**

Unless the storage agreement stipulates otherwise, the depository shall have no right to transfer a thing for storage to a third person without the consent of the depositor with the exception of cases where he is compelled to do so by force of circumstances in the interest of the depositor and is deprived of the possibility to get his consent.

The depository shall be obliged to inform the depositor at once about the transfer of a thing for storage to a third person.

In case of the transfer of a thing for storage to a third person the terms and conditions of the agreement between the depositor and the original depository shall retain their force and the latter shall be answerable for the actions of the third person to whom he has given the thing as for his own actions.

#### **Article 896. Remuneration for Storage**

1. Remuneration for storage shall be paid to the depository as soon as storage is over, and if payment for storage is envisaged by persons of time, it shall be paid out in appropriate portions upon the expiry of each period.

2. In case of delay in the payment of remuneration for storage for over than half of the period, for which it should be paid, the depository shall have the right to refuse to execute the agreement and demand that the depositor should immediately take the thing put in storage.

3. If storage is terminated before the expiry of the stipulated period of time due to the circumstances for which the depository is not answerable, he shall have the right to a proportionate part of remuneration and in case, specified by Item 1 of Article 894 of this Code, to the entire sum of this remuneration.

If storage is terminated short of the term due to the circumstances for which the depository is answerable, he shall not have the right to demand remuneration for storage and shall be obliged to return the sum of money received on account of this remuneration to the depositor.

4. If the thing held in custody has not been taken back by the depositor upon the expiry of the period of storage, he shall be obliged to pay to the depository adequate remuneration for the further storage of the

thing. This rule shall also be applied in case where the depositor is obliged to take the thing before the expiry of the period of storage.

5. The rules of this Article shall be applied, unless the storage agreement provides for otherwise.

#### **Article 897. The Reimbursement of Storage Expenses**

1. Unless otherwise stipulated by the storage agreement, the depository's expenses on the storage of a thing shall be included in remuneration for storage.

2. In case of unremunerated storage the depositor shall be obliged to compensate for the depository's necessary expenses on the storage of the thing, unless the law or the storage agreement provides otherwise.

#### **Article 898. Extraordinary Storage Expenses**

1. Expenses on the storage of things which exceed the usual expenses of this kind and which could not be foreseen by the parties during the conclusion of a storage agreement (extraordinary expenses) shall be reimbursed to the depository, if the depositor has given his consent to these expenses or has approved them afterwards, and also in other cases stipulated by the law, other legal acts or the storage agreement.

2. If there is a need for making extraordinary expenses, the depository shall be obliged to inquire about the depositor's consent to these expenses. If the depositor fails to state his disagreement within the period of time, indicated by the depository or during the normally essential time for reply, it shall be held that he agrees with the extraordinary expenses.

When the depository made extraordinary storage expenses without the preliminary consent of the depositor, although this was possible thanks to the circumstances of the case and the depositor failed to approve them afterwards, the depository may demand the compensation for the extraordinary expenses only within the limits of the damage which could be caused to the thing, had not these expenses been made.

3. Unless otherwise stipulated by the storage agreement, extraordinary expenses shall be reimbursed over and above remuneration for storage.

#### **Article 899. The Depositor's Obligation to Take a Thing Back**

1. Upon the expiry of the stipulated period of storage or the period granted by the depository for the receipt of a thing back on the strength of Item 3 of Article 889 of this Code, the depositor shall be obliged to take the thing put in storage without delay.

2. In case of default on his obligation by the depositor to take back the thing transferred for storage, including in case of his evasion from obtaining the thing, the depository shall have the right, unless otherwise stipulated by the storage agreement, after the written warning of the depositor to sell the thing on his own at the price formed in the place of

storage, and if the cost of the thing exceeds 100 statutory minimum amounts of wages or salaries, to sell the thing at an auction in the order, prescribed by Articles 447-449 of this Code.

The sum of money received from the sale of the thing shall be transferred to the depositor minus the amount due to the depository, including his expenses on the sale of the thing.

#### **Article 900.** The Depository's Obligation to Return a Thing

1. The depository shall be obliged to return to the depositor or the person, indicated by him as a recipient, the very thing which was put in storage, unless the agreement provides for storage with deprivation of individuality (Article 890).

2. The thing shall be returned by the depository in the condition in which it was accepted for storage with due account of its natural deterioration, natural properties.

3. The depository shall be obliged, simultaneously with the return of a thing, to transfer the fruits and incomes obtained during its storage, unless otherwise stipulated by the storage agreement.

#### **Article 901.** Grounds for the Depository's Liability

1. The depository shall be liable for the loss and shortage of, or damage to, things accepted for storage on the grounds, provided for by Article 401 of this Code.

A professional depository shall be liable for the loss and shortage of, or damage to, things, unless he proves that the loss, shortage or damage have taken place due to force majeure or to the properties of the thing about which the depository did not know and should nor know when he accepted it for storage or as a result of malice or gross negligence on the part of the depositor.

2. The depository shall be liable for the loss and shortage of, damage to, the things accepted for storage only in the presence of the depositor's malice or gross negligence after the onset of the latter's obligation to take these things back (Item 1 of Article 899).

#### **Article 902.** The Extent of the Depository's Liability

1. Losses caused to the depositor by the loss and shortage of, or damage to, things shall be reimbursed by the depository in keeping with Article 393 of this Code, unless otherwise stipulated by the law or the storage agreement.

2. In case of remunerated storage the losses caused to the depositor by the loss and shortage of, or damage to, things shall be reimbursed as follows:

1) for the loss and shortage of things - in the amount of the value of the lost or missing things;

2) for the damage to things - in the amount of the sum of money by which their value has been reduced.

3. In case where as a result of damage, for which the depository is liable, the quality of the thing has changed so much that it cannot be used according to the original designation, the depositor shall have the right to waive it and demand that the depository should replace the value of this thing, and also should reimburse other losses, unless otherwise stipulated by the law or the storage agreement.

**Article 903. The Reparation of Losses Caused to the Depository**

The depositor shall be obliged to compensate for the depository's losses caused by the properties of the thing put in storage, if the depository did not know or should not know about these properties when he accepted the thing for storage.

**Article 904. The Termination of Storage on the Depositor's Demand**

The depository shall be obliged to return the thing accepted for storage on the depositor's demand, although the period of storage fixed by the agreement is not over as yet.

**Article 905. The Application of the General Provisions on Storage to Some of Its Kinds**

The general provisions on storage (Articles 886-904) shall be applicable to some of its kinds, unless otherwise stipulated by the rules for particular kinds of storage, contained in Articles 907-926 of this Code and in other laws.

**Article 906. Storage in Virtue of Law**

The rules of this Chapter shall be applicable to the obligations of storage that arise by dint of law, unless the law establishes different rules.

## **§ 2. Warehousing**

**Article 907. Warehouse Storage Agreement**

1. Under the warehouse storage agreement the commodity warehouse (depository) shall undertake to keep in store for remuneration goods given to it by the commodity owner (depositor) and to return these goods perfectly safe.

A commodity warehouse shall be deemed to be the organization which keeps goods in store as business and which renders services relating to storage.

2. The written form of the warehouse storage agreement shall be deemed to be observed, if its conclusion and acceptance of goods for warehouse have been certified by the warehouse document (Article 912).

## **Article 908.** Storage of Goods at the Public Warehouse

1. A commodity warehouse shall be recognized as a public warehouse, if it follows from the law, other legal acts that is a duty-bound to accept goods for storage from any commodity owner.

2. A warehouse storage agreement, concluded by the public warehouse shall be recognized as a public agreement (Article 426).

## **Article 909.** Inspection of Goods When the Commodity Warehouse Accepts Them and During Their Storage

1. Unless otherwise stipulated by the warehouse storage agreement, the commodity warehouse shall be obliged, when it accepts goods for storage, to inspect them as its own expense and to estimate their quantity (number of units or places of storage, or measure: weight or volume) and their external appearance.

2. The commodity warehouse shall be obliged to enable the commodity owner to inspect goods or their samples during storage, if storage is carried out with deprivation of individuality, to take on time and adopt measures necessary for the safety of goods.

## **Article 910.** Changes in the Conditions of Storage and the State of Goods

1. In case where it is necessary to change the conditions of storage of goods in order to keep them safe, the commodity warehouse shall have the right to take the required measures on its own. However, it shall be obliged to notify the commodity owner about the adopted measures, if it was necessary to make essential changes in the conditions of storage of goods, envisaged by the warehouse storage agreement.

2. Upon the discovery, during storage, of damage inflicted on goods and transcending the usual norms of natural spoiling or such norms agreed upon in the warehouse storage agreement, the commodity warehouse shall be obliged to draw up a report about this without delay and on the same day inform the commodity owner about this.

## **Article 911.** The Checking of the Quantity and the State of Goods When They Are Returned to the Commodity Owner

1. The commodity owner and the commodity warehouse shall each have the right to demand that they should be inspected and their quantity checked during their return. Expenses incurred by this shall be borne by the person who demanded the inspection of goods and their quantity check.

2. If during the return of goods to the commodity owner by the warehouse goods have not been inspected and checked by them jointly, a written application on the shortage of, or damage to, goods owing to their improper storage shall be filed with the warehouse upon the receipt of goods. As for shortage of goods or damage to them, which could not be

detected with the usual method of accepting goods an application shall be failed during three days after their acceptance.

In the absence of the application, referred to in the first paragraph of this Item, it shall be held, unless the contrary is proved, that goods have been returned by the warehouse in keeping with the terms and conditions of the warehouse storage agreement.

#### **Article 912. Warehouse Documents**

1. The commodity warehouse shall issue one of the following warehouse documents in the acknowledgement of accepting goods for storage:

- the twofold warehouse certificate;
- the single warehouse certificate;
- the warehouse receipt.

2. The twofold warehouse certificate consists of two parts - the warehouse certificate and the mortgage certificate (warrant), which can be separated from each other.

3. The twofold warehouse certificate, each of its two parts and the single warehouse certificate shall be securities.

4. Goods accepted for storage under the twofold or single warehouse certificate may be a subject of mortgage during their storage by means of pledge of the corresponding certificate.

#### **Article 913. The Twofold Warehouse Certificate**

1. Each part of the twofold warehouse certificate shall equally indicate:

1) the name and place of location of the commodity warehouse that has accepted goods for storage;

2) the current number of the warehouse certificate in the warehouse's register;

3) the name of the legal entity or the name of the individual from whom goods have been accepted for storage, and also the place of location (place of residence) of the commodity owner;

4) the name and quantity of goods accepted for storage - the number of units and/or commodity places and/or the measure of goods (weight or volume);

5) the period of time for which goods have been accepted for storage, if such period is fixed, or the reference to the effect that goods have been accepted for storage until to be called for;

6) the amount of remuneration for storage or the rates on the basis of which it is reckoned and the procedure for payment for storage;

7) the date of the issue of the warehouse certificate.

Both parts of the twofold warehouse certificate shall have the individual signatures of the authorized representative and the warehouse seal.

2. The document which does not comply with the requirements of this Article shall not be a twofold warehouse certificate.

**Article 914.** The Rights of the Holders of the Warehouse and Mortgage Certificates

1. The holder of the warehouse and mortgage certificates shall have the right to dispose of goods kept in a warehouse in full measure.

2. The holder of the warehouse certificate separated from the mortgage certificate shall have the right to dispose of goods, but may not take them from the warehouse until he repays the credit granted under the mortgage certificate.

3. The holder of the mortgage certificate who differs from the holder of the warehouse certificate shall have the right to pledge to goods in the amount of the credit given under the mortgage certificate and interest on it. When goods are put in pledge, a note on this shall be made in the warehouse certificate.

**Article 915.** The Transfer of Warehouse and Mortgage Certificates

A warehouse certificate and a mortgage certificate may be transferred together or separately according to endorsements.

**Article 916.** The Issue of Goods under the Two-fold Warehouse Certificate

1. The commodity warehouse shall issue goods to the holder of the warehouse and mortgage certificates (twofold warehouse certificate) precisely in exchange for both these certificates together.

2. The holder of a warehouse certificate who does not possess a mortgage certificate, but has contributed the entire sum of debt under it shall receive goods from the warehouse precisely in exchange for the warehouse certificate and provided that he has submitted together with it the receipt of the payment of the entire sum of debt under the mortgage certificate.

3. The commodity warehouse, which has issued goods to the holder of a warehouse certificate who does not possess a mortgage certificate and has failed to bring in the amount of debt under it contrary to the requirements of this Article, shall bear liability to the holder of the mortgage certificate for payment of the entire sum of money secured by it.

4. The holder of the warehouse and mortgage certificates shall have the right to demand the issue of goods in parts. In exchange for the original certificates he shall be given new certificates for goods that remained in the warehouse.

**Article 917.** The Simple Warehouse Certificate

1. A simple warehouse certificate shall be issued to the bearer.

2. The simple warehouse certificate shall contain information, specified by Subitems 1, 2, 4-7 of Item 1 and the last paragraph of Article

913 of this Code, and also reference to the fact that it has been issued to the bearer.

**3.** The document which does not comply with the requirements of this Article shall not be a simple warehouse certificate.

### **Article 918.** The Storage of Things with the Right to Dispose of Them

If it follows from the law, other legal acts or the agreement that the commodity warehouse can dispose of goods put in storage, the relations between the parties shall be governed by the rules of Chapter 42 of this Code on Loans, but the time and place of the return of goods shall be determined by the rules of this Chapter.

## **§ 3. Special Kinds of Storage**

### **Article 919.** Storage in a Pawnshop

**1.** The agreement of pawnshop storage of things belonging to an individual shall be a public agreement (Article 426).

**2.** The conclusion of a pawnshop storage agreement shall be certified by the issue by the pawnshop to the depositor of a registered deposit receipt.

**3.** A thing to be put in storage in a pawnshop shall be subject to valuation under the agreement of the parties in accordance with prices for things of this kind and quality, usually adopted in trade at the time and place of their acceptance for storage.

**4.** The pawnshop shall be obliged to insure the things accepted for storage in favour of the depositor at its expense in the full amount of the valuation made in keeping with Item 3 of this Article.

### **Article 920.** Things Not Reclaimed from the Pawnshop

**1.** If a thing out in storage in a pawnshop has not been reclaimed by the depositor within the time specified by the agreement, the pawnshop shall be obliged to keep it during two months and to charge payment, provided for by the storage agreement. Upon the expiry of this time the non-reclaimed thing may be sold by the pawnshop in the procedure, established by Item 5 of Article 358 of this Code.

**2.** Payment for the storage of the non-reclaimed thing shall be repayed from the sum of money, received from the sale of this thing. The remainder of the sum shall be returned by the pawnshop to the depositor in question.

### **Article 921.** The Custody of Valuables in a Bank

**1.** The bank may receive securities, precious metals and stones, other valuables and values, including documents, into its custody.

2. The conclusion of an agreement on the custody of valuables in a bank shall be certified by the issue by it to the depositor of a registered protection document whose presentation is a ground for the issue of kept valuables to the depositor.

#### **Article 922.** The Custody of Valuables in the Individual Bank Safe-deposit Box

1. The valuables bank custody agreement may provide for their custody with the use of an individual bank safe-deposit box (safe cell or isolated bank premise) by the depositor (client) or with the provision of such safe-deposit box protected by the bank.

Under the valuables bank custody agreement the client shall be provided with the right to put valuables in an individual bank safe-deposit box and withdraw them from it. For this purpose he shall be given a key to the safe and the card that makes it possible to identify the client or any other sign or document certifying the client's right to have access to the safe and its contents.

The agreement terms may provide for the client's right to work in the bank with valuables kept in the individual safe.

2. Under the valuables bank custody agreement with the use by the client of an individual safe-deposit box the bank shall accept from the client the valuables which should be kept in the safe and exercise control over their placement by the client in the safe-deposit box, over their withdrawal from the safe and return them to the client after the withdrawal.

3. Under the valuables bank custody agreement with the provision of the client with an individual safe-deposit box the bank shall enable the client to place valuables in the safe and to withdraw them from the safe outside anybody's control, including bank control.

The bank shall be obliged to exercise control over the access to the premise where the safe-deposit box given to the client is situated.

Unless the valuables bank custody agreement with the provision of the client with an individual safe-deposit box provides for otherwise, the bank shall be released from the liability for the non-safety of the safe's contents, if it proves that access by anybody to the safe was impossible under the custody terms without the knowledge of the client or was possible due to force majeure.

4. The rules of this Code on the lease agreement shall be applicable to the agreement on the provision of another person with a bank safe-deposit box for his use without the bank's liability for the safe's contents.

#### **Article 923.** Storage in Cloak-Rooms of Transport Organizations

1. The cloak-rooms under the authority of transport organizations of public use shall be obliged to accept for storage the things of passengers and other private persons, regardless of the possession of travel documents. The agreement on the storage of things in the cloak-rooms of

transport organizations shall be recognized as a public agreement (Article 426).

2. A receipt or numbered counter shall be issued to the depositor in acknowledgement of the acceptance of a thing for storage in a cloak-room (except for automated cloak-rooms). In case of the loss of a receipt or counter, the thing left in the cloak-room shall be issued to the depositor upon the submission of evidence that this thing belongs to him.

3. The period of time during which the cloak-room is obliged to keep things in store shall be determined by the rules, introduced in keeping with the second paragraph of Item 2 of Article 784 of this Code, unless the agreement between the parties stipulates a longer period. Things which have not been reclaimed in said period of time shall be kept by the cloak-room for 30 days more. With the expiry of this period non-reclaimed things may be sold in the procedure, envisaged by Item 2 of Article 899 of this Code.

4. The losses of the depositor owing to the loss and shortage of, or damage to, the things deposited in a cloak-room shall be reimbursed by the custodian during 24 hours since the time of presenting a claim for these things within the sum of their appraisal by the depositor at the time of depositing.

#### **Article 924. Storage in the Wardrobes of Organizations**

1. The storage of things in the wardrobes of organizations shall be gratuitous, unless money reward is specified or stipulated in any other way when things were put in storage.

The custodian of the thing left in a wardrobe shall be obliged to take all the measures, provided for by Items 1 and 2 of Article 891 of this Code, in order to preserve the thing, regardless of the fact whether its storage was gratuitous or remunerated.

2. The rules of this Article shall also be applied to the custody of outdoor gear, head gear and other similar things left without putting them in storage by private persons in places used for these purposes in transport organizations and facilities.

#### **Article 925. The Custody of Things in Hotels**

1. The hotel shall also be liable as a custodian without the conclusion of a relevant agreement with its guest residing in it for the loss and shortage of, or damage to, his things brought into the hotel with the exception of money, other currency values, securities and other valuables.

The thing entrusted to hotel attendants or the thing deposited in a hotel room or in any other specially assigned place shall be regarded as the one brought into the hotel.

2. The hotel shall be liable for the loss of money, other currency values, securities and other valuables of a guest, provided they have been accepted by the hotel safe, regardless of the fact whether this safe is to be

found in his room or in another hotel premise. The hotel shall be released from liability for the non-safety of the safe's contents, if it proves that under the storage terms the access of any body to the safe was impossible without the guest's knowledge or became possible owing to force majeure.

3. The guest who has discovered that his things were lost or damaged shall be obliged to state about this to the hotel management without delay. Otherwise the hotel shall be released from its liability for the non-safety of things.

4. The hotel's notice to the effect that it does not assume the responsibility for the non-safety of things belonging to guests shall not absolve it from liability.

5. The rules of this Article shall be applied accordingly to the custody of things belonging to private persons in motels, holiday homes, holiday hotels, sanatoria, public baths and other similar organizations.

#### **Article 926. The Custody of Things Which Are the Subject of Disputes (Sequestration)**

1. Under the agreement on sequestration two or several persons who have started an argument over the right to a thing shall pass this thing to the third person who assumes the obligation of returning, upon the settlement of the dispute, of the thing to that person to whom it will be adjudged or given under the agreement of all the persons in dispute (contractual sequestration).

2. A thing that is the subject of argument between two or several persons may be put in storage by way of sequestration by a court decision (judicial sequestration).

Both the person appointed by a court of law and the person, chosen by the mutual agreement of the persons in dispute, may act as a custodian under the judicial sequestration. The custodian's consent shall be required in both cases, unless the law establishes otherwise.

3. Both movable and immovable things may be put in storage by way of sequestration.

4. The custodian who keeps a thing in store by way of sequestration shall have the right to receive remuneration at the expense of the persons in dispute, unless the agreement or the court decision responsible for sequestration provides for otherwise.

### **Chapter 48. Insurance**

#### **Article 927. Voluntary and Obligatory Insurance**

1. Insurance shall be effected on the basis of contracts of property or personal insurance, concluded by the individual or legal entity (insurant) with the insurance company (insurer).

The contract of personal insurance is a public agreement (Article 426).

2. In cases where the law entrusts the obligation of insurance cover to the persons referred to in it of the lives, health or property of other persons or of their civil liability to other persons at their expense or at the expense of interested persons (obligatory insurance), insurance shall be effected by concluding contracts in keeping with the rules of this Chapter. For the insurers the conclusion of contracts of insurance shall not be obligatory on the terms offered by the insurant.

3. The law may provide for cases of obligatory insurance of the lives, health and property of individuals at the expense of the resources allocated from the appropriate budget (obligatory state insurance).

#### **Article 928. Interests Whose Insurance Is Not Allowed**

1. No insurance of interests contrary to law shall be allowed.

2. No insurance of losses from the participation in games, lotteries and bets shall be allowed.

3. No insurance of expenditure to which a person can be compelled for the purpose of setting hostages free shall be allowed.

4. The terms and conditions of the contracts of insurance which contradict Items 1-3 of this Article shall be null and void.

#### **Article 929. The Contract of Property Insurance**

1. Under the contract of property insurance one part (insurer) shall undertake, for the charge stipulated by the contract (insurance premium) and upon the onset of an event (insured accident), stipulated by the contract, to reimburse to the other party (insurant) or another person in favour of whom the contract has been concluded (beneficiary) the losses inflicted in consequence of this event in the insured property or the losses sustained in connection with other property interests of the insurant (to pay insurance compensation) within the amount specified by the contract (insured sum).

2. The following property interests may be insured in particular under the contract of property insurance:

1) the risk of loss (destruction), shortage of, or damage to, property (Article 930);

2) the liability risk under the obligations arising due to the infliction of harm on the lives, health or property of other persons, and also the civil liability risk (Articles 931 and 932), or liability under contracts in cases, provided for by the law;

3) the risk of losses from business activity because of the violation of their obligations by the contracting parties of the businessman or the change in the conditions of this activity due to the circumstances beyond the businessman's control, including the risk of non-receipt of expected incomes - the entrepreneur's risk (Article 933).

#### **Article 930. Insurance of Property**

1. Property may be insured under the contract of insurance in favour of the person (insurant or beneficiary) who has the interest in the preservation of the property, based on the law, other legal act or the contract.

2. The contract of insurance of property, concluded in the absence of the insurant's or the beneficiary's interest in the preservation of insured property, shall be void.

3. A contract of insurance of property in favour of a beneficiary may be concluded without reference to the name of the beneficiary (insurance at the expense of the one who pays).

Upon the conclusion of such contract the insurant shall be given an insurance policy to bearer. When the insurant or the beneficiary exercises the rights under such contract this policy shall be given to the insurer.

### **Article 931. Insurance of Liability for the Infliction of Harm**

1. Under the contract of insurance of liability risk under the obligations following in consequence of the infliction of harm on the lives, health or property of other persons, the liability risk of the insurant himself or any other person who bears such liability may be insured.

2. A person whose risk of liability for the infliction of harm has been insured shall be named in the insurance contract. If this person is not named in the contract, the liability risk of the insurant himself shall be deemed to be insured.

3. A contract of insurance of the risk of liability for the infliction of harm shall be deemed to be concluded, even if the contract has been concluded in favour of the insurant or any other person liable for the infliction of harm or the contract fails to state in whose favour it has been concluded.

4. In case where the liability for the infliction of harm is insured because its insurance is compulsory, and also in other cases, stipulated by the law or the contract of insurance of such liability, the person in favour of whom the insurance contract is deemed to be concluded shall have the right to present directly to the insurer his claim on the reparation of harm within the insured amount.

### **Article 932. Insurance of Liability under the Contract**

1. Insurance of the risk of liability for the contravention of the contract shall be allowed in cases, provided for by the law.

2. Under the contract of insurance of the risk of liability for the contravention of the contract only the liability risk of the insurant himself may be insured. The insurance contract that does not comply with such requirements shall be void.

3. This risk of liability for the violation of the contract shall be deemed to be insured in favour of the party to whom the insurant should bear liability under the terms and conditions of this contract, that is the

beneficiary, even if the insurance contract has been concluded in favour of another person or if the contract does not say in whose favour it is concluded.

### **Article 933. Insurance of Entrepreneurial Risk**

Under the contract of insurance of entrepreneurial risk only the entrepreneurial risk of the insurant himself may be insured and only in his favour.

The contract of insurance of the entrepreneurial risk of the person who is not an insurant shall be void.

The contract of insurance of entrepreneurial risk is favour of the person who is not an insurant shall be concluded in favour of the insurant.

### **Article 934. The Contract of Personal Insurance**

1. Under the contract of personal insurance one party (insurer) shall undertake to pay for the charge, stipulated by the contract (insurance premium) and paid by the other party (insurant), in the lump or periodically the sum of money, specified by the contract (insured amount) in case of the infliction of harm on the life or health of the insurant himself or any other individual named in the contract (insured person), of the attainment of a certain age or the onset of another event, provided for by the contract (insured accident).

The right to receive the insured amount shall belong to the person in favour of whom the contract has been concluded.

2. A contract of personal insurance shall be deemed to be concluded in favour of the insured person, if the contract fails to name another person as a beneficiary. In the event of death of the person insured under the contract, in which a different beneficiary is not named, the heirs of the insured person shall be recognized as beneficiaries.

A contract of personal insurance in favour of the person who is not insured, including in favour of the insurant who is not an insured person, may be concluded only with the written consent of the insured person. In the absence of such consent a contract may be recognized as invalid upon the lawsuit of the insured person and in the event of death of this person - upon the lawsuit brought by his heirs.

### **Article 935. Obligatory Insurance**

1. The law may entrust the obligation of insurance to the persons referred to in it:

the lives, health and property of other persons, defined in the law, in case of the infliction of harm to their lives, health and property;

the risk of their civil liability which can competence in consequence of the infliction of harm on the lives, health or property of other persons or the contravention of contracts concluded with other persons.

2. The obligation of insuring his life and health may not be entrusted to the individual under the law.

3. In cases stipulated by the law or established in the statutory procedure the legal entities, which possess state or municipal property in their economic or operative management, may be entrusted with the obligation of insuring this property.

4. In case where the obligation of insurance does not follow from the law is based on the contract, including the obligation of insuring property, on the contract with the owner of property or on the constituent documents of the legal entity which owns property, such insurance shall not be obligatory in the meaning of this Article and shall not entail the consequences, provided for by Article 937 of this Code.

#### **Article 936. The Conduct of Obligatory Insurance**

1. Obligatory insurance shall be effected by means of concluding an insurance contract with the person charged with the obligation of such insurance (the insurant) and the insurer.

2. Obligatory insurance shall be effected at the expense of the insurant with the exception of obligatory insurance of passengers, which in statutory cases may be effected at their expense.

3. Facilities subject to obligatory insurance, the risks against which they should be insured and the minimum amounts of insured sums shall be determined by the law and in the case, specified by Item 3 of Article 935 of this Code, by the law or in the statutory procedure.

#### **Article 937. The Consequences of the Violation of the Rules for Obligatory Insurance**

1. The person in favour of whom obligatory insurance should be effected shall have the right, if he knows that insurance is not effected, to demand in due course of law its implementation by the person charged with the obligation of insurance.

2. If the person who is entrusted with the obligation of insurance has not effected it or has concluded an insurance contract on the terms deteriorating the position of the beneficiary as compared with the terms defined by the law, he shall bear liability to the beneficiary with the onset of an insured accident on the same terms on which the insured compensation should have been paid in case of proper insurance.

3. The sums of money saved groundlessly by the person charged with the obligation of insurance due to the fact that he has not fulfilled this obligation or has fulfilled it improperly, shall be recovered on the claim lodged by bodies of state insurance supervision for the benefit of the Russian Federation with the addition of interest to these sums of money in keeping with Article 395 of this Code.

#### **Article 938. The Insurer**

Legal entities with a permit (license) appropriate insurance may conclude insurance contracts as insurers.

The requirements made to insurance companies and the procedure for licensing their activity and exercising state supervision over this activity shall be determined by the laws on insurance.

**Article 939.** The Performance of the Obligations under the Insurance Contract by the Insurant and the Beneficiary

1. The conclusion of an insurance contract in favour of the beneficiary, especially at a time when the insured person is the beneficiary shall not absolve the insurant from the obligations under this contract, unless the latter provides for otherwise or if the insurant's obligations have been fulfilled by the person, in favour of whom the contract was concluded.

2. The insurer shall have the right to demand from the beneficiary, especially at a time when the beneficiary is represented by the insured person, that the latter should perform the obligations under the insurance contract, including the obligations entrusted to the insurant but not fulfilled by him, upon the presentation by the beneficiary of the claim for the payment of insurance compensation under the contract of property insurance or of the insured amount under the contract of personal insurance. The risk of the consequences of non-fulfilment or untimely fulfilment of the obligations, which should have been fulfilled earlier, shall be borne by the beneficiary.

**Article 940.** The Form of the Insurance Contract

1. An insurance contract may be concluded in writing. Non-observance of the written form shall invalidate an insurance contract, exception being made for the contract of obligatory state insurance (Article 969).

2. An insurance contract may be concluded by means of drawing up one document (Item 2 of Article 434) or handing over by the insurer to the insurant on the basis of his written or oral statement an customer policy (certificate or receipt) signed by the insurer.

In the latter case the insurant's consent to conclude a contract on the terms proposed by the insurer shall be confirmed by the acceptance from the insurer of the documents, referred to in the first paragraph of this Item.

3. At the time of concluding an insurance contract the insurer shall have the right to apply the standard forms of the contract (insurance policy), elaborated by him or the association of insurers for particular types of insurance.

**Article 941.** Insurance Under the General Policy

1. Systematic insurance of different lots of similar property (goods, cargoes, etc.) on acceptable terms during a definite period of time may be

effected by agreement between the insurant and the insurer on the basis of one insurance contract, that is, general policy.

2. The insurant shall be obliged to provide the insurer with information specified by such policy in respect of each lot of property subject to the operation of the general policy within the period of time, envisaged by it, and if this period is not provided for by it, at once upon their receipt. The insurant shall not be released from this duty, even if by the time of the receipt of such information, the possibility of losses liable to compensation by the insurer has already passed.

3. On the demand of the insurant the insurer shall be obliged to issue insurance policies for particular lots of property liable to the operation of the general policy.

In the event of inconsistency of the insurance policy with the general policy in terms of content, preference shall be given to insurance policy.

#### **Article 942.** The Essential Terms and Conditions of the Insurance Contract

1. During the conclusion of a contract of property insurance the insurant and the insurer shall reach agreement on:

1) definite property or any other property interest as the object of insurance;

2) the character of the event that entails insurance (insured accident);

3) the amount of the insurance sum;

4) the validity terms of the contract.

2. During the conclusion of a contract of personal insurance the insurant and the insurer shall reach understanding on:

1) the insured person;

2) the character of the event (insured accident) that entails insurance in the life of the insured person;

3) the amount of the insurance sum;

4) the validity term of the contract.

#### **Article 943.** The Definition of the Terms and Conditions of the Insurance Contract in the Insurance Rules

1. The terms and conditions on which an insurance contract is concluded may be defined in the standard insurance rules, adopted, approved or endorsed by the insurer or by the association of insurers (insurance rules).

2. The conditions contained in the insurance rules and not included in the text of the insurance contract (insurance policy) shall be compulsory for the insurant (beneficiary), if the contract (insurance policy) expressly indicated the application of such rules and the rules are set forth in one document with the contract (insurance policy) or on its reverse side or are appended to it. In the latter case the delivery of the insurance rules to the insurant during the conclusion of a contract shall be certified with an entry in the contract.

3. During the conclusion of an insurance contract the insurant and the insurer may come to terms on the modification or exclusion of some provisions in the insurance rules and on the supplementing of the rules.

4. The insurant (beneficial) shall have the right to refer in defence of its interests to the insurance rules to which there is a reference in the insurance contract (insurance policy), even if these rules are not compulsory for it by virtue of this Article.

#### **Article 944.** Information Given by the Insurant During the Conclusion of an Insurance Contract

1. During the conclusion of an insurance contract the insurant shall be obliged to communicate to the insurer the circumstances known to him and of relevance for the definition of the possible onset of an insured accident and the extent of possible losses from its commencement (insurance risk), if these circumstances are not known and should not be known to the insurer.

The circumstances definitely specified by the insurer in the standard form of the insurance contract (insurance policy) or in its written inquiry shall be recognized as essential in any case.

2. If an insurance contract has been concluded in the absence of the insurant's replies to any questions put by the insurer, the latter may not demand afterwards the dissolution of the contract or its recognition as invalid on the ground that relevant circumstances have not been communicated by the insurant.

3. If it is ascertained after the conclusion of an insurance contract that the insurant has given to the insurer information known to be false about the circumstances, referred to in Item 1 of this Article, the insurer has the right to demand that the contract should be recognized as invalid and that the consequences, stipulated by Item 2 of Article 179 of this Code should be applied.

The insurer may not demand the recognition of the insurance contract as invalid, if the circumstances about which the insurant has concealed have already disappeared.

#### **Article 945.** The Insurer's Right to the Appraisal of Insurance Risk

1. During the conclusion of a property insurance contract the insurer shall have the right to inspect the insurable property and in case of need to schedule an expert examination in order to estimate its actual value.

2. During the conclusion of a personal insurance contract the insurer shall have the right to examine the insurable person for the appraisal of the actual state of his health.

3. The appraisal of insurance risk by the insurer shall not be compulsory on the strength of this Article for the insurant, who has the right to prove something different.

#### **Article 946. Secrecy of Insurance**

The insurer shall have no right to disclose information about the insurant, the insured person and the beneficiary, the state of their health and about their property status, which he obtained as a result of his professional activity. For the divulgence of secrecy of insurance the insurer shall bear liability depending on the kind of the infringed rights and the nature of divulgence in accordance with the rules, envisaged by Article 139 or Article 150 of this Code.

#### **Article 947. The Insurance Sum**

1. The sum of money, within the limits of which the insurer undertakes to pay out insurance compensation under the property insurance contract or which he undertakes to pay out under the personal insurance contract (insurance sum) shall be determined by the agreement between the insurant and the insurer in keeping with the rules, provided for by this Article.

2. In case of insurance of property or entrepreneurial risk, unless the insurance contract stipulates otherwise, the insurance sum shall not exceed their actual value (insurance sum). It shall be held as such value:

for property its actual value in the place of its location on the day of concluding an insurance contract;

for entrepreneurial risk the losses from business activity, which the insurant, as is to be expected, would sustain with the onset of an insured accident.

3. In contracts of personal insurance and contracts of civil liability insurance the insurance sum shall be determined by the parties at their discretion.

#### **Article 948. The Contestation of the Insured Value of Assets**

The insured value of assets, referred to in the insurance contract, may not be contested afterwards, except for the case when the insurer, who before the conclusion of the contract has not availed himself of his right to the appraisal of insurance risk (Item 1 of Article 945) was deliberately misled with regard to this value.

#### **Article 949. Incomplete Property Insurance**

If the contract of property insurance or entrepreneurial risk has fixed the insurance sum below the insured value, the insurer shall be obliged on the onset of an insured accident to compensate for the part of the losses sustained by the insurant (beneficiary) in proportion to the ratio between the insurance sum and the insured value.

The contract may provide for a higher amount of insurance compensation but not higher than the insured value.

#### **Article 950. Additional Property Insurance**

1. In case where property or entrepreneurial risk is insured only in terms of the part of insured value, the insurant (beneficiary) shall have the right to effect additional insurance, including with another insurer, with the proviso that total insurance sum should not exceed the insured value in all insurance contracts.

2. The non-observance of the provisions of Item 1 of this Article shall entail the consequences, envisaged by Item 4 of Article 951 of this Code.

**Article 951.** The Consequences of Insurance Over and Above the Insured Value

1. If the insurance sum, referred to in the contract of property insurance or entrepreneurial risk, exceeds the insured value, the contract shall be void in that part of the sum which exceeds the insured value.

The excessively paid part of the insurance premium shall not be subject to return in this case.

2. If in accordance with the insurance contract the insurance premium is contributed by instalments and by the time of ascertaining the circumstances, referred to in Item 1 of this Article, it has not been contributed in full, the remaining insurance contributions shall be paid in the amount reduced in proportion to the decrease in the amount of the insurance sum.

3. If the overestimation of the insurance sum in an insurance contract has been the consequence of deceit on the part of the insurant, the insurer shall have the right to demand that the contract be recognized as invalid and the related losses caused to him be compensated in the amount that exceeds the sum of the insurance premium received by him from the insurant.

4. The rules, envisaged in Items 1-3 of this Article, shall also be accordingly applied in the case where the insurance sum has exceeded the insured as a result of insurance of one and the same facility by two or several insurers (double insurance).

The amount of insurance compensation subject to payment in this case by each insurer shall be cut down in proportion to the decrease in the original insurance sum under the relevant insurance contract.

**Article 952.** Property Insurance Against Different Insurance Risks

1. Property and entrepreneurial risk may be insured against different insurance risks both under one and several insurance contracts, including contracts with different insurers.

In these cases the amount of the total insurance sum may exceed the insured value in all contracts.

2. If the obligation of insurers to pay the insurance compensation for the same consequences of the onset of one and the same insured accident follows from two or several contracts, concluded in keeping with Item 1 of

this Article, the rules, stipulated by Item 4 of Article 951 of this Code, shall be applied to such contracts in the respective part.

### **Article 953. Coinsurance**

An insurance object may be jointly insured under one insurance contract by several insurers (coinsurance). If such contract does not define the rights and obligations of each insurer, they shall be liable jointly and severally to the insurant (beneficiary) for the payment of insurance compensation under the property insurance contract or of the insurance sum under the personal insurance contract.

### **Article 954. Insurance Premium and Insurance Instalments**

1. Insurance premium shall be understood to mean the payment for insurance which the insurant (beneficiary) shall be obliged to make to the insurer in the procedure and in time-limits fixed of the insurance contract.

2. In estimating the amount of the insurance premium subject to payment under the insurance contract the insurer shall have the right to apply the insurance rates elaborated by him which determine the premium, collected from the unit of the insurance sum with due account of the object of insurance and the character of insurance risk.

In cases provided for by the law the amount of the insurance premium shall be estimate in keeping with insurance rates, established or regulated by state insurance supervision bodies.

3. If the insurance contract provides for the payment of the insurance premium by instalments, the contract may determine the consequences of the non-payment of regular insurance instalments within the established time-limits.

4. If an insured accident took place before the payment of a regular insurance instalment which is overdue, the insurer shall have the right to offset the amount of the overdue insurance instalment at a time of estimating the amount of insurance compensation subject to payment under the property insurance contract or the insurance sum under the personal insurance contract.

### **Article 955. Replacement of the Insured Person**

1. In case where the contract of insurance of the risk of liability for the infliction of harm (Article 931) has insured the liability of a person other than the insurant, the latter shall have the right, unless otherwise stipulated by the contract, to replace this person by another one at any time before the onset of the insured accident by notifying the insurer about this in writing.

2. The insured person, named in a personal insurance contract, may be replaced by another person on the initiative of the insurant and with the consent of the insured person and the insurer.

### **Article 956. The Replacement of the Beneficiary**

The insurant shall have the right to replace the beneficiary, named in the insurance contract, by another person while notifying the insurer about this in writing. The beneficiary, appointed with the consent of the insured person (Item 2 of Article 934), may be replaced under the personal insurance contract only with the consent of this person.

The beneficiary may not be replaced by another person after he has fulfilled any obligation under the insurance contract or has presented to the insurer his claim for the payment of insurance compensation or the insurance sum.

**Article 957.** The Beginning of the Validity of the Insurance Contract

1. An insurance contract, unless it provides for otherwise, shall enter into force at the time of payment of the insurance premium or its first instalment.

2. Insurance, stipulated by the insurance contract, shall extend to the insured accidents which have taken place after the entry of the insurance contract into force, unless the contract provides for a different period of the started operation of insurance.

**Article 958.** The Termination of an Insurance Contract Short of the Term

1. An insurance contract shall cease to be valid before the beginning of the period for which it was concluded, if after its entry into force the possibility of the onset of an insured accident disappeared and insurance risk ceased to exist due to the circumstances other than the insured accident. Such circumstances include in particular:

the destruction of insured property for reasons other than the onset of an insured accident;

the termination of business activity in the statutory order by the person who has insured the entrepreneurial risk or civil liability risk, associated with this activity.

2. The insurant (beneficiary) shall have the right to waive the insurance contract at any time, if by the time of his refusal the possibility of the onset of an insured accident had not disappeared to the circumstances, referred to in Item 1 of this Article.

3. If the insurance contract ceases to be valid short of the term due to the circumstances, referred to in Item 1 of this Article, the insurer shall have the right to the part of the insurance premium in proportion to the time during which insurance was effected.

If the insurant (beneficiary) waives the insurance contract short of the term, the insurance premium paid to the insurer shall not be subject to return, unless otherwise stipulated by the contract.

**Article 959.** The Consequences of Increased Insurance Risk During the Validity Term of the Insurance Contract

1. In the period of validity of the property insurance contract the insurant (beneficiary) shall be obliged to inform the insurer about the substantial changes which have become known to him in the circumstances communicated to the insurer during the conclusion of the contract, if these changes can substantially influence insurance risk by increasing it.

Changes, stipulated in the insurance contract (insurance policy) and in the insurance rules given to the insurant, shall be recognized as considerable in any case.

2. The insurer who is notified about the circumstances entailing the increase risk shall have the right to demand the introduction of changes in the insurance contract or the payment of an additional insurance premium in proportion to the increase in risk.

If the insurant (beneficiary) objects to changes in the terms and conditions of the insurance contract or to the additional charge to the insurance premium, the insurer shall have the right to demand the cancellation of the contract in keeping with the rules, provided for by Chapter 29 of this Code.

3. In case of default of the obligation by the insurant or beneficiary, provided for by Item 1 of this Article, the insurer shall have the right to demand the dissolution of the insurance contract and the compensation for the losses caused by the cancellation of the contract (Item 5 of Article 453).

4. The insurer shall have no right to demand the cancellation of the insurance contract, if circumstances entailing the increase in insurance risk have already disappeared.

5. In case of personal insurance the consequences of changes in insurance risk during the validity term of the insurance contract, referred to in Items 2 and 3 of this Article, may take place, if only they are expressly envisaged in the contract.

#### **Article 960.** The Assignment of the Rights to Insured Property to Another Person

In case of the assignment of the rights to insured property from the person in whole interest the insurance contract was concluded to another person, the rights and obligations under this contract shall be transferred to the person to whom the rights to property have passed, exception being made for the cases of the compulsory seizure of property on the grounds, referred to in Item 2 of Article 235 of this Code, and of the refusal from the right of ownership (Article 236).

The person to whom the rights to insured property has been transferred shall at once notify the insurer about this.

#### **Article 961.** The Notification of the Insurer about the Onset of an Insured Accident

1. Under the property insurance contract the insurant, who was informed about the onset of the insurance accident, shall be obliged to notify without delay the insurer or its representative about its onset. If the contract provides for a definite date and/or method of notification, the latter shall be effected in the stipulated period and the method, indicated in the contract.

The same obligation lies with the beneficiary who knows about the conclusion of the insurance contract in his favour, if he intends to avail himself of the right to insurance compensation.

2. Default of the obligation, provided for by Item 1 of this Article shall entail the insurer to waive the payment of insurance compensation, unless it is provided that the insurer had learnt about the onset of the insured accident in due time or that the insurer has no information about this could not influence his obligation to pay insurance compensation.

3. The rules, envisaged by Items 1 and 2 of this Article, shall be applied accordingly to the personal insurance contract, if the death of the insured person or the infliction of injury on his health is an insured accident. In this case the date of notification of the insurer, specified by the contract may not be less than 30 days.

#### **Article 962.** The Diminution of Losses from the Insured Accident

1. With the onset of the insured accident, provided for by the property insurance contract, the insurant shall be obliged to take reasonable measures available in the present circumstances in order to reduce possible losses.

In taking such measures the insurant shall follow the instructions of the insurer, if they have been brought to the notice of the insurant.

2. Expenses on the reduction of losses subject to compensation by the insurer shall be reimbursed by the insurer, if such expenses were necessary or made in order to fulfil the insurer's instructions, even if appropriate measures had proved to be unsuccessful.

Such expenses shall be reimbursed in proportion to the ratio between the insurance sum and the insured value, regardless of the fact that together with the compensation for other losses they can exceed the insurance sum.

3. The insurer shall be released from the compensation for the losses which have arisen in consequence of the fact that the insurant failed to take reasonable measures accessible to him in order to reduce possible losses.

#### **Article 963.** The Consequences of the Onset of an Insured Accident Through the Fault of the Insurant, Beneficiary or the Insured Person

1. The insurer shall be released from the payment of insurance compensation or the insurance sum, if the insured accident commenced owing to the intent of the insurant, beneficiary or insured person, except for the cases, stipulated by Items 2 and 3 of this Article.

The law may provide for cases of the release of the insurer from the payment of insurance compensation under the property insurance contracts in case of the onset of an insured accident owing to gross negligence on the part of the insurant or beneficiary.

2. The insurer shall not be released from the payment of insurance compensation under the contract of insurance of civil liability for the infliction of harm on human life or health, if harm was done through the fault of the person responsible for it.

3. The insurer shall not be released from the payment of the insurance sum which is subject under the personal insurance contract to payment in the event of death of the insured person, if his death took place because of suicide and by that time the insurance contract had been in effect for not less than two years.

**Article 964.** The Grounds for the Release of the Insurer from the Payment of Insurance Compensation and the Insurance Sum

1. Unless the law or the insurance contract provides for otherwise, the insurer shall be released from the payment of insurance compensation and the insurance sum, when the insured accident commenced owing to:  
the impact of a nuclear blast, radiation or radioactive contamination;  
the hostilities, and also exercises and other military undertakings;  
the civil war, popular unrest of any kind of strikes.

2. Unless the property insurance contract provides for otherwise, the insurer shall be released from the payment of insurance compensation for the losses sustained owing to the seizure, confiscation, requisition, attachment or destruction of insured property according to the orders of state bodies.

**Article 965.** The Assignment of the Insurant's Rights to Compensation for Damage to the Insurer (Subrogation)

1. Unless the property insurance contract provides for otherwise, the right of claim which the insurant (beneficiary) has to the person, responsible for the losses reimbursed as a result of insurance, shall assign within the paid sum of money to the insurer who has paid insurance compensation. However, the contract clause that excludes the assignment of the right of claim to the person who deliberately caused damage shall be void.

2. The right of claim that has been transferred to the insurer shall be implemented by him with the observance of the rules regulating the relations between the insurant (beneficiary) and the person responsible for losses.

3. The insurant (beneficiary) shall be obliged to give all documents and evidence to the insurer and to provide him with all information necessary for the implementation by the insurer of the right of claim that has passed to him.

4. If the insurant (beneficiary) has abandoned his right of claim to the person responsible for the losses compensated by the insurer, or if the exercise of this right has become impossible through the fault of the insurant (beneficiary), the insurer shall be released from the payment of insurance compensation in full or in part and shall have the right to demand the return of the excessively paid sum of compensation.

**Article 966. Limitation Period for Claims Related to Property Insurance**

1. Limitation period for claims following from a property insurance contract, except for a contract of insuring the risk of liability under obligations which result from infliction of harm upon life, health or property of other persons, shall be two years.

2. Limitation period for claims following from a contract of insuring the risk of liability under obligations which result from infliction of harm upon life, health or property of other persons shall be three years (Article 196).

**Article 967. Reinsurance**

1. The risk of payment of insurance compensation or the insurance sum, assumed by the insurer under the insurance contract may be insured by him in full or in part at another insurer (insurers) under the contract of reinsurance concluded with the latter.

2. The rules envisaged by the Chapter and subject to application to the insurance of entrepreneurial risk shall be applied to the contract of reinsurance, unless the contract of reinsurance provides for otherwise. Under the contract of insurance (principal contract) the insurer who has concluded the contract of reinsurance shall be deemed to be an insurant in the latter contract.

3. In case of reinsurance the insurer shall remain liable to the insurant under the principal insurance contract for the payment of insurance compensation or the insurance sum.

4. It shall be permissible to conclude two or several contracts of reinsurance.

**Article 968. Mutual Insurance**

1. Individuals and legal entities may insure their property and other property interests, referred to in Item 2 of Article 929 of this Code, on a mutual basis by means of pooling necessary resources in mutual insurance societies.

2. Mutual insurance societies shall effect the insurance of property and other property interests of their members and shall be non-profit making organizations.

The specific aspects of the legal status of the mutual insurance societies and the conditions of their activity shall be determined by the Law on mutual insurance in conformity with this Code.

3. The mutual insurance societies shall insure the property and property interests of their members directly on the basis of their membership, unless the societies' constituent documents provide for the conclusion of insurance contracts in these cases.

The rules envisaged by this Chapter shall be applied to the insurance relations between the mutual insurance society and its members, unless otherwise stipulated by the Law on mutual insurance.

4. Obligatory insurance through mutual insurance shall be allowed in cases, provided for by the Law on mutual insurance.

5. Abrogated.

#### **Article 969. Obligatory State Insurance**

1. The law may institute obligatory state insurance of the lives, health and property of civil servants of some categories for the purpose of ensuring the social interests of individuals and the interests of the State.

Obligatory state insurance shall be effected at the expense of the financial resources, appropriated for these purposes from the corresponding budget to the ministries and other federal executive bodies (insurants).

2. Obligatory state insurance shall be effected directly on the basis of the laws and other legal acts on such insurance by state insurance companies and other state organizations (insurers), indicated in these acts or on the basis of insurance contracts, concluded by insurers and insurants in accordance with these acts.

3. Obligatory state insurance shall be paid to the insurers in the amount, defined by laws and other legal acts on such insurance.

4. The rules, envisaged by this Chapter, shall be applicable to obligatory state insurance, unless otherwise stipulated by the laws and other legal acts on such insurance and unless the contrary follows from the substance of relevant insurance relations.

#### **Article 970. The Application of General Rules for Insurance to Special Types of Insurance**

The rules, provided for by this Chapter, shall be applicable to the relations of insurance of foreign investments against non-commercial risks, marine insurance, medical insurance, insurance of bank deposits and pensions, unless the laws on these types of insurance stipulate otherwise.

### **Chapter 49. Agency**

#### **Article 971. Contract of Agency**

1. Under the contract of agency one party (agent) shall undertake to perform certain legal actions on behalf and at the expense of the other party (principal). The rights and obligations under the transaction completed by the agent shall accrue directly for the principal.

2. A contract of agency may be concluded with reference to the period during which the agent has the right to act on behalf of the principal or without such reference.

**Article 972. Remuneration of the Agent**

1. The principal shall be obliged to pay remuneration to the agent, if this is stipulated by the law, other legal acts or the contract of agency.

In cases where the contract of agency is connected with the business activity of both parties or one of them, the principal shall be obliged to pay remuneration to the agent, unless otherwise stipulated by the contract.

2. In the absence of the clause on the amount of remuneration or the procedure of its payment in the remunerated contract of agency, remuneration shall be paid after the execution of agency in the amount, estimated in keeping with Item 3 of Article 424 of this Code.

3. The agent who acts as a commercial representative (Item 1 of Article 184) shall have the right to withhold, in keeping with Article 359 of this Code, the things he has at his disposal, which are subject to the transfer to the principal as security of his claims under the contract of agency.

**Article 973. The Execution of Agency in Accordance with the Trustee's Instructions**

1. The agent shall be obliged to perform the agency given to him in accordance with the principal's instructions. The instructions shall be lawful, practicable and concrete.

2. The agent shall have the right to depart from the principal's instructions, if it is necessary under the existing circumstances and in the interests of the principal and if the agent could not inquire the principal in advance or had not received an answer to his inquiry within a reasonable period of time. The agent shall be obliged to notify the principal about the admitted departures as soon as such information has become possible.

3. The agent acting a commercial representative (Item 1 of Article 184) may be given by the principal the right to depart from the instructions of the principal in his interests without a preliminary inquiry about this. In this case the commercial representative shall be obliged to notify the principal about the admitted departures within a reasonable period of time, unless otherwise stipulated by the contract of agency.

**Article 974. The Obligations of the Agent**

The agent shall be obliged:

to perform the agency given to him in person, except for the cases, indicated in Article 976 of this Code;

to communicate to the principal all information about the progress of the execution of agency at his request;

to convey to the principal without delay all the things received under the deals, performed in pursuance of the agency;

to return without delay to the principal the power of attorney whose validity term has, not expired upon the execution of agency or in case of the termination of the contract of agency before it is executed and to submit a report with appended covering documents, if this is required by the terms and conditions of the contract or the character of agency.

#### **Article 975. The Obligations of the Principal**

1. The principal shall be obliged to issue to the agent a power of attorney (powers of attorney) for the performance of legal actions provided for by the contract of agency, except for the cases, stipulated by the second paragraph of Item 1 of Article 182 of this Code.

2. Unless otherwise stipulated by the contract, the principal shall be obliged:

to compensate for the agent's costs;

to provide the agent with pecuniary means needed for the execution of agency.

3. The principal shall be obliged to accept from the agent without delay all that has been performed in accordance with the contract of agency.

4. The principal shall be obliged to pay remuneration to the agency, if in keeping with Article 972 of this Code the contract of agency is remunerated.

#### **Article 976. The Transference of the Execution of Agency**

1. The agent shall have the right to transfer the execution of agency to another person (substitute) only in cases and on the terms, provided for by Article 187 of this Code.

2. The principal shall have the right to challenge the substitute chosen as an agent.

3. If a possible substitute of the agent is named in the contract of agency, the agent shall not be answerable either for his choice or for the conduct of his affairs.

If the right of the agent to transfer the execution of agency to another person is not provided for by the contract or is provided for, but the substitute is not named in it, the agent shall be answerable for the choice of the substitute.

#### **Article 977. The Termination of the Contract of Agency**

1. The contract of agency shall be terminated in consequence of:

the revocation of agency by the principal;

the refusal of the agent;

the death of the principal or the agent, the recognition of any of them as legally unfit, specially disabled or missing.

2. The principal shall have the right to revoke the agency, while the agent shall have the right to abandon it at any time. An agreement on the refusal from this right shall be void.

3. The party which waives the contract of agency that provides for the agent's actions as a commercial representative shall notify the other party about the termination of the contract within 30 days, unless the contract provides for a longer period.

In case of the reorganization of a legal entity that is a commercial representative the principal shall have the right to revoke the agency without such a preliminary notification.

#### **Article 978.** The Consequences of the Termination of the Contract of Agency

1. If a contract of agency is terminated before the agency has been executed by the agent in full, the principal shall be obliged to compensate for the agent's expenses incurred during the execution of the agency, and when the agent was to receive remuneration, to pay to him the remuneration as well in proportion to the work done by him. This rule shall not be applied to the execution by the agent of the agency after he has known or should have known about the termination of the agency.

2. The revocation of the commission by the principal shall not be a ground for the compensation for the losses caused to the agent by the termination of the contract of agency, except for the cases of the termination of the contract that provides for the operation of the agent as a commercial representative.

3. The refusal of the agent to execute the commission of the principal shall not be a ground for the compensation for the losses caused to the principal by the termination of the contract of agency, except for the cases of the agent's refusal in the conditions when the principal has no possibility of insuring his interests in a different way, and also in cases of the refusal to execute the contract that provide for the operation of the agent as a commercial representative.

#### **Article 979.** The Obligations of the Heirs of the Agent and the Liquidator of the Legal Entity That Acts as an Agent

In case of death of the agent, his heirs shall be obliged to inform the principal about the termination of the contract of agency and take measures needed to protect the principal's property, in particular to preserve his things and documents and thereupon to transfer this property to the principal.

The same obligation shall lie with the liquidator of the legal entity that acts as an agent.

### **Chapter 50. Actions in the Interest of Other People Without Commission**

**Article 980.** Terms for Actions in the Interest of Other People

1. Actions without commission, other instruction or the interested person's consent promised in advance for the purpose of averting harm to his personality or property, executing his obligation or in other legitimate interests (actions in the interest of other people) shall ne performed due to the obvious benefit or profit and to the actual and probable intentions of the interested person and with care and diligence vision requisite in the circumstances of the case.

2. The rules, envisaged by this Chapter, shall not be applied to actions in the interest of other persons, committed by state and municipal bodies, for which such actions are one of the purposes of their activity.

**Article 981.** Notification of the Interested Person about Actions in His Interest

1. A person who acts in the interest of another person shall be obliged to inform the interested person about this at the first opportunity and wait during a reasonable period of time for his decision on the approval or disapproval of the undertaken actions, unless such waiting entails serious damage to the interested person.

2. It shall not be required to specially inform the interested individual about the actions in his interest, if such actions are undertaken in his presence.

**Article 982.** The Consequences of the Approval by the Interested Person of Actions in His Interests

If a person for the benefit of whom actions are taken without his commission adopts these actions, the rules for the contract of agency or a different contract that corresponds to the character of the undertaken actions shall be applied to the relations between the parties, even if this approval was oral.

**Article 983.** The Consequences of the Non-approval by the Interested Person of Actions in His Interest

1. Actions in the interest of other people committed after it has become known to the performer of these actions that they are not approved by the interested person shall not entail obligations for the latter either in respect of the performer of these actions or of third persons.

2. Actions undertaken to prevent danger for the life of the person who is imperiled shall also be allowed against the will of this person, while the discharge of the obligation of maintaining anybody shall be allowed against the will of the person charged with this obligation.

**Article 984.** Compensation for Losses for the Person Who Acted in the Interest of Other People

1. Requisite expenses and other real damage sustained by the person who acted in the interest of other people in accordance with the rules, provided for by this Chapter, shall be subject to compensation by the interested person, with the exception of the expenses incurred by the actions referred to in Item 1 of Article 983 of this Code.

The right to compensation for necessary and other real damage shall also be retained in case where actions in the interest of other people have not brought about the expected result. However, in case of preventing damage to the property of another person the amount of compensation shall not exceed the value of property.

2. Expenses and other losses of the person who acted in the interest of other people, incurred by him in connection with the actions undertaken after the receipt of approval by the interested person (Article 982), shall be reimbursed according to the rules for a contract of the relevant type.

**Article 985.** Remuneration for Actions in the Interest of Other People

A person whose actions in the interest of other people have led to the result positive for the interested person shall have the right to receive remuneration, if such right is provided for by law, the agreement with the interested person or the business turnover customs.

**Article 986.** The Consequences of a Transaction in the Interest of Other People

The obligations under the transaction concluded in the interest of other people shall pass to the person in whose interest it has been made, subject to the approval by him of this transaction and if the other party does not object against such passage or has known or should have known during the conclusion of the transaction that it was concluded in the interest of other people.

With the passage of obligations under such transaction to the person in whose interest it was concluded, the rights under this transaction shall also be transferred to the latter person.

**Article 987.** Unjust Enrichment in Consequences of Actions in the Interest of Other People

If actions which are not directly aimed at the security of the interests of another person, including in the case where the person who has committed them mistakenly supposed that he acts in his own interest, have led to the unjust enrichment of another person, the rules, provided for by Chapter 60 of this Code shall be applied.

**Article 988.** The Compensation for the Harm Inflicted by Actions in the Interest of Other People

Relations involved in the compensation of the harm inflicted by actions in the interest of other people on the interested person or third persons, shall be regulated by the rules of Chapter 59 of this Code.

**Article 989.** The Report of the Person Who Acted in the Interest of Other People

The person who acted in the interest of other people shall be obliged to submit to the person in whose interest such actions have been committed his report with an indication of the obtained incomes and incurred expenses and other losses.

## **Chapter 51. Commission**

**Article 990.** The Contract of Commission

1. Under the contract of commission one party (commission agent) shall undertake to perform one or several transaction on its behalf on the instruction of the other party (principal) for remuneration at the expense of the principal.

In a transaction conducted by the commission agent with a third person the commission agent shall acquire and become to be bound, although the principal was named in the transaction or entered in direct relations with the third person in the performance of the transaction.

2. A contract of commission may be concluded for an indefinite period or without reference of its validity term with reference or without reference of the territory of its execution, with the obligation of the principal not to give to third persons the right of making in his interests and at his expense transactions, the conduct of which has been entrusted to the commission agent, or without such obligation, with conditions or without them for the assortment of goods which are the subject of commission.

3. The law and other legal acts may provide for specificity of the contract of commission of particular kinds.

**Article 991.** Commission Fee

1. The principal shall be obliged to pay a commission fee to the commission agent and when the commission agent has stood the surety for the execution of the transaction by a third person (del credere) the principal shall also pay an additional fee in the amount and in the order fixed in the contract of commission.

If the contract does not provide for the amount of the fee or the procedure for its payment and the amount of the fee cannot be determined on the basis of the contract, the fee shall be paid after the execution of the contract of commission in the amount, defined in conformity with Item 3 of Article 424 of this Code.

2. If a contract of commission has not been executed for the reasons depending on the principal, the commission agent shall retain the right of a commission fee, and also to compensation for the incurred expenses.

**Article 992.** The Execution of a Commission Order

The order assumed by the commission agent the latter shall be obliged to perform on the conditions most favorable for the principal in accordance with the instructions of the principal, and in the absence of such instructions of the principal, and in the absence of such instructions in the contract of commission the commission agent shall be obliged to perform the order in keeping with the business turnover customs or other usual requirements.

In case where the commission agent has performed a transaction on the conditions more favourable than those which have been indicated by the principal, the additional benefit shall be divided between the principal and the commission agent, unless otherwise stipulated by the agreement of the parties.

**Article 993.** Liability for the Non-execution of the Transaction Concluded for the Principal

1. The commission agent shall not be liable to the principal for the non-execution by a third person of the transaction concluded with him at the expense of the principal, except for the cases where the commission agent has not displayed the necessary circumspection in the choice of this person or has stood surety for the performance of the transaction (del credere).

2. If a third person does not fulfil the transaction concluded with him by the commission agent, the latter shall be obliged to inform at once the principal about this, gather necessary evidence, and also to transfer to him the rights in this transaction on the demand of the principal and with the observance of the rules for the assignment of a claim (Articles 382-386, 388 and 389).

3. The cession of rights to the principal in a transaction on the basis of Item 2 of this Article shall be allowed, regardless of the agreement of the commission agent with a third person, which bans or restricts such cession. This shall not release the commission agent from liability to a third person in connection with the cession of the right in violation of the agreement on its ban or restriction.

**Article 994.** Subcommission

1. Unless otherwise stipulated by the contract of commission, the commission agent shall have the right to conclude a contract of subcommission with another person for the purpose of executing this contract, remaining to be liable for the actions of the sub-commissioner to the principal.

Under the contract of subcommission the commission agent shall acquire the rights and obligations of the principal in respect of the subcommissioner.

2. Until the termination of the contract of commission the principal shall not have the right to enter into relations with the subcommissioner without the consent of the commission agent, unless otherwise stipulated by the contract of commission.

#### **Article 995. Departures from the Principal's Instructions**

1. The commission agent shall have the right to depart from the principal's instructions, if this is necessary under the present circumstances of the case in the interests of the principal and the commission agent could not acquire the principal in advance or did not receive an answer to his inquiry within a reasonable period of time. The commission agent shall be obliged to notify the principal about the departures made as soon as the notification has become possible.

The commission agent who acts as a businessman may be given by the principal the right to depart from his instructions without a preliminary inquiry. In this case the commission agent shall be obliged to notify the principal about the departures made within a reasonable period of time, unless otherwise stipulated by the contract of commission.

2. The commission agent who has sold property at the price below that agreed upon with the principal, shall be obliged to compensate to the latter for the difference, unless he proves that he had no possibility of selling property at the agreed price and the sale at a lower price prevented still greater losses. In case where the commission agent has obliged to inquire the principal in advance, the commissioner shall also prove that he had no possibility of receiving the preliminary consent of the principal with a departure from his instructions.

3. If the commission agent has bought property at the price higher than that agreed with the principal, the latter, if he does not wish to accept such purchase, shall be obliged to state about this to the commission agent within a reasonable period of time upon the receipt from him the notification about the conclusion of the transaction with a third person. Otherwise the purchase shall be recognized as accepted by the principal.

If the commission agent stated that he accepts the difference in prices at its expense, the principal shall not have the right to waive the transaction concluded for him.

#### **Article 996. The Rights to the Things Which Are the Subject of Commission**

1. Things which the commission agent received from the principal or brought at the expense of the principal shall be the property of the latter.

2. In accordance with Article 359 of this Code the commissioner shall have the right to withhold the things which he has and which are subject to

the transfer to the principal or the person indicated by the principal in security for his claims under the contract of commission.

In the event of declaring a principal insolvent (bankrupt) the said right of the commissioner shall be ceased and his claims to the principal within the cost of things which he has retained shall be satisfied in keeping with Article 360 of this Code on a par with the claims secured with pledge.

**Article 997.** The Satisfaction of the Claims of the Commission Agent from the Sums of Money Due to the Principal

The commission agent shall have the right, in accordance with Article 410 of this Code, to withhold all the sums of money due to him under the contract of commission, received by him from the principal. However, the principal's creditors who enjoy advantage with regard to the pledgees in respect of the sequence of satisfying their claims from the sums of money withheld by the commission agent.

**Article 998.** The Liability of the Commission Agent for the Loss and Shortage of, or Damage to, the Principal's Property

1. The commission agent shall be liable to the principal for the loss and shortage of, or damage to, the principal's property held by him.

2. If in this property there are damages or shortages during the acceptance by the commission agent of property, forwarded, by the principal or received by the commission agent for the principal, the damages and shortages being noticed in case of an outward inspection, and also has been inflicted by anybody on the principal's property held by the commission agent, the commission agent shall be obliged to take measures protecting the rights of the principal, to gather necessary evidence and to inform the principal about this without delay.

3. The commission agent who has not insured the principal's property held by him shall be liable for his only in cases where the principal has prescribed him to insure property at the expense of the principal or where the insurance of this property by the commission agent is provided for by the contract of commission or by the business turnover customs.

**Article 999.** The Report by the Commission Agent

Upon the execution of the instruction the commission agent shall be obliged to submit to the principal his report and to give him all that he has received under the contract of commission. The principal who has objections to the report shall be obliged to inform the commission agent during 30 days since the receipt of the report, unless the agreement between the parties has fixed a different period of time. Otherwise the report shall be deemed to be accepted in the absence of a different agreement.

**Article 1000.** The Acceptance by the Principal of Everything Performed Under the Contract of Commission

The principal shall be obliged:

to accept from the commission agent everything performed under the contract of commission;

to inspect the property acquired by the commission agent for him and to inform the latter without delay about the defects discovered in this property;

to release the commission agent from the obligation assumed to a third person in the execution of the commission order.

**Article 1001.** Compensation for the Expenses to Be Incurred in the Execution of a Commission Order

The principal shall be obliged to compensate for the sums of money, spent by the commission agent to execute the commission order in addition to the payment of a commission fee and in requisite cases also an additional fee for del credere.

The commission agent shall have no right to recompense the expenses on the storage of the principal's property held by him, unless otherwise stipulated by the law or the contract of commission.

**Article 1002.** The Termination of the Contract of Commission

The contract of commission shall be terminated in consequence of:

the refusal of the principal to execute the contract;

the refusal of the commission agent to execute the contract;

the refusal of the principal to execute the contract in cases provided for by the law or the contract;

the death of the commission agent, the recognition of him as legally unfit, specially incapable or missing;

the recognition of an individual businessman, who is a commission agent, as insolvent (bankrupt).

In case of declaring that the commission agent is insolvent (bankrupt), his rights and obligations in transactions, committed by him for the principal in pursuance of the instructions of the latter, shall pass to the principal.

**Article 1003.** The Revocation of a Commission Note by the Principal

1. The principal shall have the right to refuse at any time to execute the contract of commission by revoking the note given to the commission agent. The commission agent shall have the right to demand the compensation for the losses caused by the revocation of the order.

2. In case where a contract of commission has been concluded without an indication of its validity term the principal shall be obliged to notify the commission agent about the termination of the contract within 30 days, unless the property provides for a longer period of notification.

In this case the principal shall be obliged to pay to the commission agent a charge for the deals made by him before the termination of the contract, and also to reimburse to the commission agent the expenses, incurred by him before the cessation of the contract.

**3.** In case of revocation of the note the principal shall be obliged, within the period fixed by the contract of commission agent, and if such period is not fixed, also to discharge at once of his property held by the commission agent. If the principal fails to discharge this obligation, the commission agent shall have the right to put the property in storage at the expense of the principal or to sell it at the price most remunerative for the principal.

#### **Article 1004.** The Refusal of the Commission Agent to Execute the Contract of Commission

**1.** The commission agent shall have no right, unless otherwise stipulated by the contract of commission, to refuse to execute it, with the exception of the case where the contract was concluded without an indication of its validity term. In this case the commission agent shall notify the principal about the termination of the contract within 30 days, unless the contract provides for a longer period of time.

The commission agent shall be obliged to take measures needed for the safety of the principal's property.

**2.** Unless the contract of commission stipulates a different period of time, the principal shall dispose of his property under the authority of the commission agent within 15 days since the day of the receipt of the notice about the commission agent's refusal to execute the note. If he does not discharge this obligation, the commission agent shall have the right to put the property in storage at the expense of the principal or to sell it at the price most remunerative for the principal.

**3.** Unless otherwise stipulated by the contract of commission, the commission agent who has refused to perform the note shall retain the right to a commission charge for the deals made by him before the termination of the contract, and also to the compensation for the expenses incurred before this time.

### **Chapter 52. Agency Service**

#### **Article 1005.** The Brokerage Contract

**1.** Under the brokerage contract one party (agent) shall undertake for remuneration to perform legal and other actions on the instruction of the other party (principal) on his own behalf, but at the expense of the principal or on behalf and at the expense of the principal.

In a transaction made by the agent with a third person in his own name and at the expense of the principal, the agent shall acquire rights and become to be bound, although the principal has been named in the

transaction or entered in direct relations with a third party for the execution of the transaction.

In a transaction made by the agent with a third person on behalf and at the expense of the principal, the rights and obligations shall arise for the principal.

2. In cases where the brokerage contract concluded in written form provides for the agent's general obligations for making deals on behalf of the principal, the latter shall have no right in his relations with third persons to refer to the lack of requisite obligations by the agent, unless he proves that the third person knew or should have known about the limitation of the agent's obligations.

3. The brokerage contract may be concluded for an indefinite period or without an indication of its validity term.

4. The law may provide for the specific aspects of particular types of the brokerage contract.

#### **Article 1006. The Bonus of the Agent**

The principal shall be obliged to pay to the agent the bonus in the amount and in the order established by the brokerage contract.

If the brokerage contract does not provide for the amount of the bonus of the agent and the latter cannot be estimated on the basis of the contractual terms, the bonus shall be subject to payment in amount, specified in keeping with Item 3 of Article 424 of this Code.

In the absence of contractual terms on the procedure for the payment of the agent's bonus, the principal shall be obliged to pay the bonus during a week since the time of the submission of a report by the agent to him for the past period, unless a different procedure for the payment of the bonus follows for the substance of the contract or the business turnover customs.

#### **Article 1007. The Restriction of the Rights of the Principal and the Agent by the Brokerage Contract**

1. The brokerage contract may provide for the principal's obligation not to conclude similar brokerage contracts with other agents acting on the territory defined by the contract or to refrain from the independent activity on this territory, which is analogous to the activity that makes up the subject of the brokerage contract.

2. The brokerage contract may provide for the agent's obligation not to conclude with other principals similar contracts, which shall be executed on the territory coinciding in full or in part with the territory indicated in the contract.

3. The terms and conditions of the contract, by virtue of which the agent shall have the right to sell goods, perform works or render services for an exclusively definite category of buyers (customers) or exclusively for the buyers (customers) who have their place of location or residence on the territory defined by the contract, shall be void.

### **Article 1008. Reports by the Agent**

1. During the performance of the brokerage contract the agent shall be obliged to submit his reports to the principal in the order and in the time-limits which are provided for by the contract. In the absence of appropriate terms and conditions in the contract, reports shall be submitted by the agent to the extent of the execution of the contract by him or upon the expiry of the validity term of the contract.

2. Unless otherwise stipulated by the brokerage contract, the agent's report shall be enclosed with necessary proof of the expenses incurred by the agent at the expense of the principal.

3. The principal who has objections to the agent's report shall be obliged to communicate them to the agent within 30 days since the day of receipt of the contract, unless the agreement of the parties stipulates a different period of time. Otherwise the report shall be deemed to be accepted by the principal.

### **Article 1009. The Sub-agency Contract**

1. Unless otherwise stipulated by the brokerage contract, the agent shall have the right to conclude a sub-agency contract with another person for the purpose of executing the contract, being liable for the actions of the sub-agent to the principal. The brokerage contract may provide for the agent's obligation to conclude a sub-agency contract with or without an indication of concrete terms and conditions of such contract.

2. The sub-agent shall have no right to conclude with third parties transactions on behalf of the principal under the brokerage contract, except for the cases where in conformity with Item 1 of Article 187 of this Code, the sub-agent may act on the basis of substitution. The procedure and consequences of such substitution shall be determined according to the rules, provided for by Article 976 of this Code.

### **Article 1010. The Termination of the Brokerage Contract**

The brokerage contract shall cease in consequence of:

- the refusal of one of the parties to execute the contract concluded without fixing the period of the completion of its validity;
- the death of the agent, the recognition of him as legally unfit, specially incapable or missing;
- the recognition of the individual businessman who is an agent as insolvent (bankrupt).

### **Article 1011. The Application of the Rules for Contracts of Agency and Commission to the Relations of Agents**

The rules provided for by Chapter 49 or Chapter 51 of this Code shall be applied accordingly to the relations following from the brokerage contract depending on the fact whether the agent acts under the terms and

conditions of this contract on behalf of the principal or in his own name, unless these rules contradict the provisions of this Chapter or the substance of the brokerage contract.

## **Chapter 53. Trust of Estate**

### **Article 1012. The Contract of Trust of Estate**

1. Under the contract of trust of estate one party (settler of trust) shall transfer estate in trust to the other party (trust administrator) for a definite period, while the other party shall undertake to administer this estate in the interests of the seller of trust or the person indicated by him (beneficiary).

The transfer of estate in trust shall not involve the assignment of the right of its ownership to the trust administrator.

2. While implementing the trust of estate, the trust administrator shall have the right to perform any legal and actual actions in the interests of the beneficiary in keeping with contract of trust of estate.

The law or the contract may provide for restrictions on individual actions for the trust of estate.

3. Transactions with estate transferred in trust shall be made by the trust administrator on his behalf by pointing out that he acts as such administrator. This proviso shall be deemed to be observed, if during the actions which do not require the written form the other party is informed about them by the trust administrator acting in this capacity and if the written documents bear the note T.A. after the name of the trust administrator.

In the absence of the indication about the operation of the trust administrator in this capacity, the trust administrator shall bind himself to the third persons and shall be liable to them only within the property belonging to him.

4. The specifics of trust management of unit investment trusts shall be established by law.

### **Article 1013. The Object of Trust**

1. The objects of trust may include enterprises and other property complexes, particular facilities relating to real estate, securities, rights certified by non-documentary securities, exclusive rights and other property.

2. Money may not be an independent object of trust with the exception of cases, provided for by the law.

3. Estate held in economic or operative management may not be transferred in trust. The transfer in trust of estate held in economic or operative management is possible only after the liquidation of the legal entity which was in charge of property or carried out operative management or after the termination of the right of economic or operative management

and its passage into the possession of the owner on other statutory grounds.

**Article 1014. The Seller of Trust**

The owner of estate or another person in cases, specified by Article 1026 of this Code, shall be a seller of trust.

**Article 1015. The Trust Administrator**

1. An individual businessman or a products-making organization may be a trust administrator, exception being made for a unitarian enterprise.

In cases where the trust of estate is exercised on the statutory grounds, the post of the trust administrator may be held by the individual who is not a businessman or by the non-profit-making organization with the exception of an institution.

2. Estate shall not be transferred in trust to a state body or a local self-government body.

3. The trust administrator may not be a beneficiary under the contract of trust of estate.

**Article 1016. The Substantial Terms and Conditions of the Contract of Trust of Estate**

1. The contract of trust of estate shall indicate the following:  
the structure of estate transferred in trust;  
the name of the legal entity or the individual in whose interest the trust of estate is exercised (the seller of trust or the beneficiary);  
the amount and form of remuneration for the administrator, if it is provided for by the contract;  
the term of validity of the contract.

2. A contract of trust of estate shall be concluded for a term not exceeding five years. For particular types of estate transferred in trust the law may provide for other maximum terms for which contracts may be concluded.

In the absence of the statement by one of the parties on the termination of a contract upon the expiry of its validity term, it shall be deemed to be prolonged for the same period and on the same conditions which were provided by the contract.

**Article 1017. The Form of the Contract of Trust of Estate**

1. A contract of trust of estate shall be concluded in writing.

2. A contract of trust of real estate shall be concluded in the form, provided for the contract of sale of real estate. The transfer of real estate in trust shall be subject to state registration in the same procedure that governs the transfer of the right of ownership of this property.

3. The non-observance of the form of the contract of trust of estate or of the requirement for the registration of the transfer of real estate in trust shall invalidate the contract.

**Article 1018. The Separation of Estate Held in Trust**

1. Estate transferred in trust shall be separated from the other estate of the seller of trust, and also from the estate of the trust administrator. This estate shall reflect in the trust administrator's separate balance-sheet, with an independent accounting being kept on its basis. A separate bank account shall be opened for settlements in the activity associated with trust.

2. The execution for the debts of the settler of trust on the estate transferred by him in trust shall not be levied with the exception of the insolvency (bankruptcy) of this person. In case of the bankruptcy of the settler of trust the trust of this estate shall be ceased and it shall be included in the bankrupt's estate.

**Article 1019. The Transfer in Trust of Estate Encumbered with Pledge**

1. The transfer of the pledged estate in trust shall not deprive the pledgee of the right to every execution on this estate.

2. The trust administrator shall be warned about the fact that the estate transferred in trust has been encumbered with pledge. If the trust administrator did not know and should not know about the estate encumbered with pledge and given to him in trust, he shall have the right to demand in court the cancellation of the contract of trust of estate and the payment of remuneration for one year that is due to him under the contract.

**Article 1020. The Rights and Obligations of the Trust Administrator**

1. The trust administrator shall exercise the proprietary rights to the estate transferred in trust within the limits prescribed by the law and the contract of trust of estate. The trust administrator shall dispose of real estate in cases, provided for by the contract of trust of estate.

2. The rights, acquired by the trust administrator as a result of actions in the trust of estate, shall be included in the estate transferred in trust. The obligations arising as a result of such actions of the trust administrator shall be executed at the expense of this estate.

3. In order to protect the rights to estate in trust, the trust administrator shall have the right to demand any removal of the infringement of his rights (Articles 301, 302, 304 and 305).

4. The trust administrator shall submit to the seller of trust and the beneficiary the report on his activity in the time-limits and in the procedure, established by the contract of trust of estate.

**Article 1021. The Transfer of Trust of Estate**

1. The trust administrator shall effect the trust of estate in person, except for the cases, provided for by Item 2 of this Article.

2. The trust administrator may charge another person with the performance of actions necessary for the trust of estate on behalf of the trust administrator, if he is authorized therefor by the contract of trust of estate or has received the settler's consent with this in written form, or is forced to do so by virtue of circumstances for the safeguarding the interests of the settler of trust or the beneficiary and has no possibility of receiving the settler's instructions in a reasonable period of time.

The trust administrator shall be answerable for the actions of the agent chosen by him as for his own actions.

#### **Article 1022. The Liability of the Trust Administrator**

1. The trust administrator who failed to show due care for the interests of the beneficiary or the settler of trust in case of trust of estate shall reimburse to the beneficiary the lost profit during the trust of estate and to the settler of trust - the losses caused by the loss of, or damage to, estate with due account of its depreciation, and also the lost profit.

The trust administrator shall be liable for the inflicted losses, unless he proves that these losses were caused by force majeure or by the actions of the beneficiary or the settler of trust.

2. The obligations in the transaction made by the trust administrator with the excess of power or with the contravention of the limitations established for him shall be borne by the trust administrator in person. If the third persons participating in the transaction did not know or should not have known about the excess of power or about the established limitations, the obligations which have arisen shall be subject to satisfaction in the procedure, established by Item 3 of this Article. In this case the settler of trust may demand that the trust administrator should recompense the losses sustained by him.

3. The debts in obligations which have arisen in connection with trust of estate shall be repaid at the expense of this estate. If such estate is not sufficient, execution may be levied on the estate of the trust administrator; and if his estate proves to be insufficient as well, execution may be levied on the estate of the settler of trust that has not been placed in trust.

4. The contract of trust of estate may provide for the submission of mortgage by the trust administrator in the security for the reparation of the losses that can be caused to the settler of trust or the beneficiary by the improper execution of the contract of trust.

#### **Article 1023. Remuneration for the Trust Administrator**

The trust administrator shall have the right to the remuneration, provided for by the contract of trust of estate, and also to the reimbursement of the necessary expenses, made by him during the trust of estate, at the expense of the incomes from the use of this property.

#### **Article 1024. The Termination of the Contract of Trust of Estate**

1. The contract of trust of estate shall be terminated in consequence of:

the death of the individual who is a beneficiary or the liquidation of the legal entity - also a beneficiary - unless the contract provides for otherwise;

the refusal of the beneficiary to receive benefits under the contract, unless the latter provides for otherwise;

the death of the individual who is a trust administrator, the recognition of him as legally unfit, specially incapable or missing, and also the recognition of the individual businessman as insolvent (bankrupt);

the refusal of the trust administrator or the settler of trust to carry out trust in connection with the impossibility for the trust administrator to effect in person the trust of estate;

the rejection by the settler of trust of the contract for the reason other than that indicated in the fifth paragraph of this Item, provided that the remuneration specified by the contract has been paid to the trust administrator;

the recognition of the businessman who is the settler of trust as insolvent (bankrupt).

2. If one party abandons the contract of trust of estate, the other party shall be notified about this three months before the termination of the contract, unless the latter provides for a different date of notification.

3. With the cessation of the contract of trust the estate held in trust shall be transferred to the settler of trust, unless otherwise stipulated by the contract.

#### **Article 1025. The Transfer of Securities in Trust**

In case of the transfer of securities in trust, they may be pooled for the transfer in trust by different persons.

The authority of the trust administrator to dispose of securities shall be defined in the contract of trust.

The specific features of trust of securities shall be determined by the law.

The rules of this Article shall be applied accordingly to the rights, certified by non-documentary securities (Article 149).

#### **Article 1026. Trust of Estate on the Grounds Stipulated by the Law**

1. Trust of estate may be instituted in the following cases:

on account of the need for the permanent trust of the estate of the ward in cases provided for by Article 38 of this Code;

on the grounds of the restatement which has appointed the testamentary executor;

on other grounds specified by the law.

2. The rules provided for by this Chapter shall be applied accordingly to the relations involving the trust of estate, instituted on the grounds,

referred to in Item 1 of this Article, unless otherwise stipulated by the law and unless the contrary follows from the essence of such relations.

In cases where trust of estate is instituted on the grounds, referred to in Item 1 of this Article, the rights of the settler of trust, provided for by the rules of this Chapter, shall belong accordingly to the body of guardianship, the testamentary execution or any other person, indicated in the law.

## **Chapter 54. The Commercial Concession**

### **Article 1027. The Contract of the Commercial Concession**

1. Under a contract of commercial concession, one party (the right holder) is obliged to give to the other party (the user) for an award, for a term or without pointing out a term, the right to use in the user's business activity the complex of exclusive rights belonging to the right holder, including the right to the trade mark and to the servicing mark, as well as the rights to the other objects of exclusive rights stipulated in the contract, in particular to the commercial designation and to the production secret (to the know-how).

2. The contract of the commercial concession shall provide for the use of a complex of exclusive rights, the business standing and commercial know-how of the right holder in a definite scope (in particular with the establishment of a minimum and/or maximum extent of use), with an indication or without indication of the territory of use with reference to a certain sphere of business activity (sales of goods obtained from the right holder or produced by the user, other trade activity, performance of works and provision of services).

3. Commercial organizations and private persons registered as individual entrepreneurs may be the parties to the contract of the commercial concession.

4. To the contract of commercial concession shall be applied, respectively, the rules of Section VII of the present Code on the licence agreement, unless this contradicts the provisions of the present Chapter and the substance of the contract of commercial concession.

### **Article 1028. The Form and Registration of the Contract of the Commercial Concession**

1. A contract of the commercial concession shall be concluded in writing.

The non-observance of the written form shall invalidate the contract. Such contract shall be deemed to be void.

2. A contract of commercial concession is subject to state registration with the federal executive power body on intellectual property. If this demand is not satisfied, the contract shall be seen as null and void.

### **Article 1029. The Commercial Subconcession**

1. The contract of the commercial concession may provide for the right of the user to authorize other persons to make use of the complex of exclusive rights granted to him or a part of this complex on the terms of subconcession, agreed upon with the right holder or defined by the contract of the commercial concession. The contract may provide for the obligation of the user to submit during a definite period of time to a definite number of persons the right of using said rights on the terms of the subconcession.

A contract of the commercial subconcession may not be concluded for a longer period than the contract of the commercial concession, on the basis of which it is concluded.

2. If a contract of the commercial concession is invalid, the contracts of the commercial subconcession concluded on its basis shall be invalid as well.

3. Unless otherwise stipulated by the contract of the commercial concession, concluded for a definite term, the rights and obligations of the second right holder under the contract of the commercial subconcession (the user under the contract of the commercial concession) shall pass to the right holder in case of the termination of the contract of the commercial concession short of the term, unless he refuses to assume the rights and obligations under this contract. This rules shall be applied accordingly in case of the cancellation of the contract of the commercial concession, concluded without reference to a definite term.

4. The user shall bear subsidiary liability for the harm done to the right holder by the actions of the second users, unless otherwise stipulated by the contract of the commercial concession.

5. The rules for the contracts of the commercial concession, specified by this Chapter shall be applied to the contracts of the commercial subconcession, unless the contrary follows from the specificity of the subconcession.

#### **Article 1030.** Remuneration under the Contract of the Commercial Concession

Remuneration under the contract of the commercial concession may be paid by the user to the right holder in the form of fixed non-recurrent and periodical payments, deductions from proceeds, markups on the wholesale price of goods given by the right holder for resale, or in other form stipulated by the contract.

#### **Article 1031.** The Obligations of the Right Holder

1. The right holder is obliged to hand over to the user the technical and the commercial documentation, and to supply other information necessary to the user for exercising the rights granted to him under the contract of commercial concession, and also to instruct the user and his workers on the issues involved in exercising these rights.

**2.** Unless otherwise stipulated by the contract of the commercial concession, the right holder shall be obliged:

to ensure the state registration of the contract of the commercial concession (Item 2 of Article 1028);

to render contract technical and consultative assistance for the user, including assistance in the training and upgrading the skill of workers;

to control the quality of goods (works and services), produced (performed and rendered) by the user on the basis of the contract of the commercial concession.

### **Article 1032. The User's Obligations**

With account of the nature and specificity of the activity carried on by the user under the contract of the commercial concession the user shall be obliged:

to use the commercial designation, trade mark, servicing mark or another means of individualization of the right holder in the way indicated by the contract during the activity stipulated by the contract;

to ensure the compliance of the quality of goods, produced by him on the basis of the contract, of the works performed and the services rendered, with the quality of similar goods, works and services, produced, performed or rendered directly by the right holder;

to observe the instructions and directions of the right holder, intended for the compliance of the nature, methods and conditions of the use of the complex of exclusive rights with the way it is used by the right holder, including the directions regarding the external and internal design of commercial premises, used by the user in the exercise of the rights granted to him by the contract;

to render to the buyer (customer) all the additional services which they could expect by acquiring (ordering) goods (works, services) directly from the right holder;

not to divulge the right holder's secrets of production (know-how) and other confidential commercial information received from him;

to grant the specified number of subconcessions, if such obligation is provided for by the contract;

to inform the buyers (customers) by the most patent method that he uses the commercial designation, trademark, service mark or any other means of individualization of virtue of the contract of the commercial concession.

### **Article 1033. The Restrictions on the Rights of the Parties to the Contract of the Commercial Concession**

**1.** The contract of the commercial concession may provide for the restrictions on the rights of the parties to this contract, in particular may provide for the following:

the obligation of the right holder not to provide other persons with similar complexes of exclusive rights for their use on the territory assigned to the user or to refrain from his own similar activity on this territory;

the obligation of the user not to compete with the right holder on the territory to which the contract of the commercial concession extends in terms of business activity carried out by the user with the use of the exclusive rights belonging to the right holder;

the refusal of the user to receive under contracts of the commercial concession similar rights from the competitors (potential competitors) of the right holder;

the obligation of the user to get agreement with the right holder on the place of location of commercial premises to be used in the exercise of the exclusive rights granted under the contract, and also on their external and internal design.

Restrictive conditions may be recognized as invalid on the demand of the antimonopoly body or any other interested person, if these conditions contradict the antimonopoly legislation in the light of the market conditions and the economic position of the parties.

**2.** The conditions restricting the rights of the parties to the contract of the commercial concession shall be void, if:

the right holder has the right to determine the price of the sale of goods by the user or the price of works (services), performed (rendered) by the user or to fix the upper or lower limit of these prices;

the user has the right to sell goods, perform works or render services for the exclusively definite category of buyers (customers) or exclusively for the buyers (customers) who have their place of location (place of residence) on the territory defined by the contract.

#### **Article 1034.** The right Holder's Liability for Claims Presented to the User

The right holder shall bear subsidiary liability for the claims made to the user for the inconsistency of the quality of goods (works, services), sold (performed or rendered) by the user under the contract of the commercial concession.

Against the claims made to the user as the manufacture of the products (goods) of the right holder, the latter shall be liable jointly with the user.

#### **Article 1035.** The User's Right to Conclude a Contract of the Commercial Concession for a New Term

**1.** The user who has discharged his obligations properly shall have the right to conclude a contract for a new term on the same conditions upon the expiry of the validity term of the contract of the commercial concession.

**2.** The right holder shall have the right to refuse to conclude a contract of the commercial concession for a new term, provided that during three years since the expiry of the validity of this contract he will not

conclude with other persons similar contracts of the commercial concession and give his consent to the conclusion of analogous contracts of the commercial subconcession, the operation of which will extend to the same territory on which the discontinued contract operated. If before the expiry of the three-year period the right holder wished to grant to anybody the same rights which had been granted to the user under the discontinued contract, he shall be obliged to offer the user the conclusion of a new contract or to reimburse the losses sustained by him. With the conclusion of the new contract its terms and conditions shall be not less favourable for the user than those of the discontinued contract.

**Article 1036.** Amendment of a Contract of Commercial Concession

1. A contract of commercial concession may be amended in conformity with the rules of Chapter 29 of the present Code.

2. An amendment of the contract of commercial concession is subject to the state registration in accordance with the procedure established in Item 2 of Article 1028 of the present Code.

**Article 1037.** The Termination of the Contract of the Commercial Concession

1. Each party to the contract of the commercial concession, concluded without reference of its validity term, shall have the right to abandon the contract at any time by notifying about this the other party six months in advance, unless the contract provides for a longer period.

2. The anticipatory cancellation of a contract of the commercial concession, concluded with the reference to its validity term, and also the cancellation of a contract, concluded without reference to its validity term, shall be subject to the state registration in the procedure, established by Item 2 of Article 1028 of this Code.

3. When the right to the trade mark, the servicing mark or the commercial designation belonging to the right holder is terminated, if such right is included in the complex of exclusive rights granted to the user under the contract of commercial concession without the terminated right's replacement by a new similar right, the contract of commercial concession shall also be terminated.

4. When the right holder or the user is declared to be insolvent (bankrupt), the contract of the commercial concession shall cease to operate.

**Article 1038.** The Validity of the Contract of the Commercial Concession in Case of the Change of the Parties

1. The transfer to another person of any exclusive right, included in the complex of exclusive rights given to the user, shall not be a ground for changing or dissolving the contract of the commercial concession. A new

right holder shall become a party to this contract in respect of the rights and obligations relating to the transferred exclusive right.

2. In the event of the death of a right holder his rights and obligations under the contract of the commercial concession shall pass to his heir, provided that he has been registered or during six months since the opening of inheritance gets registered as an individual businessman. Otherwise the contract shall cease to operate.

The rights of the deceased right holder and his obligations shall be accordingly exercised and discharged by the administrator appointed by the respective notary before his heir assumes these rights and obligations or before the heir is registered as an individual businessman.

#### **Article 1039.** Consequences of Changing the Commercial Designation

If the commercial designation included into the complex of the exclusive rights granted to the user under a contract of commercial concession is changed by the right holder, this contract goes on operating with respect to the right holder's new commercial designation, unless the user demands the cancellation of the contract and the recompense of losses. If the contract goes on operating, the user has the right to demand a commensurate reduction of the award due to the right holder.

#### **Article 1040.** The Consequences of the Termination of the Exclusive Right the Enjoyment of Which Is Granted by the Contract of the Commercial Concession

If during the validity term of the contract of the commercial concession the validity term of the exclusive right under this contract has expired or such right has ceased to operate on another ground, the contract of the commercial concession shall be valid as before, with the exception of the provisions relating to the discontinued right, while the user, unless otherwise stipulated by the contract, shall have the right to demand a proportionate reduction of the remuneration due to the right holder.

If an exclusive right to the trade mark, servicing mark or commercial designation, belonging to the right-holder is terminated, the consequences envisaged in Item 3 of Article 1037 and in Article 1039 of the present Code shall set in.

### **Chapter 55. Particular Partnership**

#### **Article 1041.** The Contract of Particular Partnership

1. Under the contract of particular partnership (contract for joint activity) two or several persons (partners) shall undertake to pool their contributions and to act jointly without forming a legal entity for the deriving of profit or for the attaining another goal not inconsistent with the law.

2. Only individual businessmen and/or profit-making organizations may be the parties to the contract of particular partnership.

### **Article 1042. Contributions by Partners**

1. All that is contributed to the common cause, including money, other assets, professional and other knowledge, experience and skills, and also business standing and business contracts, shall be recognized as the contributions of the partners.

2. The contributions of partners shall be equal in value, unless the contrary follows from the contract of particular partnership or from actual circumstances. A monetary estimation of the partners's contribution shall be carried out by agreement between the partners.

### **Article 1043. The Joint Assets of Partners**

1. The assets contributed by partners and owned by them by right of property, and also products manufactured as a result of their joint activity shall be recognized as their common property in shares, unless otherwise stipulated by the law or the contract of particular partnership or unless the contrary follows from the substance of the obligation.

The assets owned by hem on the grounds different from the right of property and contributed by the partners shall be used in the interests of all the partners and comprise the common property of the partners in addition to the assets held in their common ownership.

2. The accounting of the common property of the partners may be entrusted by them to one of the legal entities which participate in the contract of particular partnership.

3. The common property of the partners shall be used by their common agreement, and in case of disagreement it shall be used in the order prescribed by a court of law.

4. The obligations of the partners to maintain their common property and the procedure for the reimbursement of expenses relating to the discharge of these obligations shall be determined by the contract of particular partnership.

### **Article 1044. The Conduct of the Common Affairs of Partners**

1. In the conduct of their common affairs each partner shall have the right to act on behalf of all the partners, unless the contract of particular partnership stipulates otherwise that the affairs are conducted by particular partners or jointly by all the participants in the contract of particular partnership.

The consent of all the partners shall be required for the completion of each transaction in case of the joint conduct of their affairs.

2. In relations with third persons the power of a partner to conclude deals on behalf of all the partners shall be certified with the power of attorney, issued to him by the other partners or with the contract of particular partnership, concluded in written form.

3. In relations with third persons the partners may not refer to the restriction of the rights of the partner who has completed the transaction in the conduct of the common affairs of the partners, except for the cases where they will prove that at the time of concluding the transaction the third person knew or should have known about such transactions.

4. A partner who has made on behalf of all the partners transactions in respect of which his right to conduct the common affairs of the partners was restricted may demand the reparation of the expenses incurred by him at his own expense, if there are sufficient grounds to believe that these transactions were necessary in the interests of all the partners. Partners who have incurred losses in consequence of such transactions shall have the right to demand their damages.

5. Decisions affecting the common affairs of the partners shall be taken by the partners by common agreement, unless otherwise stipulated by the contract of particular partnership.

#### **Article 1045. The Right of a Partner to Information**

Every partner shall have the right to get acquainted with all the documents relating to the conduct of affairs regardless of the fact whether is empowered to conduct the common affairs of the partners. The abandonment of this right or its restriction, including by agreement between the parties, shall be void.

#### **Article 1046. Common Expenses and Losses of Partners**

Procedure for the meeting of expenses and the compensation for losses incurred in the joint activity of the partners shall be determined by their agreement. In the absence of such agreement each partner shall bear expenses and losses in proportion to the value of his contribution to the common cause.

Any agreement which fully releases any partner from the participation in the meeting of common expenses or the compensation for losses shall be void.

#### **Article 1047. The Liability of the Partners Under Common Obligations**

1. If a contract of particular partnership is not associated with the business activity of its participants, each partner shall be liable for the common contractual obligations within all their property in proportion to the value of his contribution to the common cause.

The partners shall be liable jointly for the common obligations arising not from the contract.

2. If a contract of particular partnership is associated with business activity of its participants, the partners shall be liable jointly within all the common liabilities, regardless of the grounds for their appearance.

#### **Article 1048. The Distribution of Profit**

Profit received by the partners as a result of their joint activity shall be distributed in proportion to the value of the contributions made by the partners to the common cause, unless otherwise stipulated by the contract of particular partnership or by other agreement of the partners. Any agreement on the elimination of any partner from profit sharing shall be void.

**Article 1049.** The Allotment of a Partner's Share on the Demand of His Creditor

The creditor of a participant in the contract of particular partnership shall have the right to allot his share in the common property in accordance with Article 255 of this Code.

**Article 1050.** The Termination of the Contract of Particular Partnership

1. The contract of particular partnership shall be terminated in consequence of:

the declaration of any partner as legally unfit, specially incapable or missing, unless the contract of particular partnership or the subsequent agreement provides for the conservation of the contract in relations between the other partners;

the declaration of any partner as insolvent (bankrupt) with the exception indicated in the second paragraph of this Item;

the death of a partner or the liquidation, or the reorganization of the legal entity that participates in the contract of particular partnership, unless the contract or the subsequent agreement provides for the conservation of the contract in the relations between the other partners or for the replacement of the deceased partner (liquidated or reorganized legal entity) by his heirs (legal successors);

the refusal of any partner to take further part in the contract of unlimited duration with the exception, indicated in the second paragraph of this Item;

the dissolution of the contract of particular partnership, concluded with reference to a definite validity term on the demand of one partner in the relations between him and other partners with the exception, indicated in the second paragraph of this Item;

the expiry of the validity term of the contract of particular partnership;

the allotment of a partner's share on the demand of his creditor with the exception, indicated in the second paragraph of this Item.

2. With the termination of a contract of particular partnership the things, transferred for common possession and/or use of the partners, shall be returned to the partners who have contributed them free of charge, unless otherwise stipulated by the agreement of the parties.

Since the time of the termination of a contract of particular partnership, its participants shall bear joint liability in case of default on the common obligations with regard to third persons.

The partition of the property held in the common ownership of the partners and of the common rights of claim which have arisen for them shall be effected in the order, prescribed by Article 252 of this Code.

A partner who has contributed an individual thing shall have the right to demand in court the return of this thing to him with the termination of the contract of particular partnership subject to the observance of the interests of the other partners and creditors.

**Article 1051.** The Abandonment of the Contract of Particular Partnership of Unlimited Duration

A statement on the partner's abandonment of the contract of particular partnership of unlimited duration shall be made by him at least before three months before the supposed withdrawal from the contract.

Any agreement on the limitation of the right to abandon the contract of unlimited duration shall be void.

**Article 1052.** The Cancellation of the Contract of Particular Partnership on the Demand of a Party Thereto

In addition to the grounds, indicated in Item 2 of Article 450 of this Code a party to the contract of particular partnership, concluded with reference to its validity term or the goal as a revocable proviso, shall have the right to demand the cancellation of the contract in relations between himself and the other partners for valid reasons with the compensation for the real damage inflicted on the other partners by the dissolution of the contract.

**Article 1053.** The Liability of the Partner in Respect of Whom the Contract of Particular Partnership Has Been Dissolved

In case where a contract of particular partnership has not been terminated as a result of the statement by any participant on the refusal to continue his participation in it or of the dissolution of the contract on the demand of one partner, the person whose participation in the contract has ceased shall be liable to third persons under the common obligations that have arisen during his participation in the contract, as if he remained as a participant in the contract of particular partnership.

**Article 1054.** Private Partnership

1. The contract of particular partnership may provide for the non-disclosure of its existence for third parties (private partnership). The rules for the contracts of particular partnership, provided for by this Chapter, shall be applicable to such unofficial contract, unless otherwise stipulated by the Article or unless the contrary follows from the private partnership.

2. In relations with third persons each participant of the private partnership shall be liable for all his property in the transactions he has concluded on his own behalf in the common interests of the partners.

3. In relations between the partners the obligations which have arisen during their joint activity shall be regarded as common.

## **Chapter 56. Public Promise of a Reward**

### **Article 1055. The Obligation to Pay a Reward**

1. A person who has announced in public the payment of a pecuniary remuneration or the issue of a different reward (payment of a reward) to the person who will perform the lawful action, indicated in the announcement within the period mentioned by it, shall be obliged to pay the promised reward to anybody who has committed the relevant action, in particular found out the lost thing or provided the person who announced the issue of the reward with the necessary information.

2. The obligation to pay a reward shall originate, provided that the promise of a reward makes it possible to ascertain the person who has given the promise. The person who has responded to the promise shall have the right to demand the written confirmation of this promise and shall bear the risk of consequences of the non-presentation of this demand, if it transpires that in actual fact the announcement of the reward has not been made by the person indicated in it.

3. If the public promise of a reward has not indicated its amount, the latter shall be defined by agreement with the person who has promised the reward and by a court of law in case of a dispute.

4. The obligation to pay a reward shall arise, regardless of the fact whether an appropriate action in connection with the announcement or beside it.

5. In cases where the action indicated in the announcement has been committed by several persons, the right to the receipt of a reward shall be acquired by those of them who made the relevant action first.

If the action indicated in the announcement has been committed by two or more persons and it is impossible to ascertain who of them has made the action first, and also in case where the action has been committed by two or more persons simultaneously, the reward shall be divided between them in equal shares or in a different amount, envisaged by the agreement between them.

6. Unless the announcement of a reward provides for otherwise and unless the contrary follows from the character of the action, indicated in it, the compliance of the performed action with the requirements of the announcement shall be determined by the person who has promised the reward in public and by a court of law in case of a dispute.

### **Article 1056. The Revocation of the Public Promise of a Reward**

1. A person who has announced in public the payment of a reward shall have the right in the same form to repudiate his promise, except for the cases where the announcement itself provides for the inadmissibility of

repudiation or the latter follows from it or fixes a definite date for the performance of the action for which the reward has been promised, or where by the time of the announcement about the repudiation one or several responded persons had already committed the action indicated in the announcement.

2. The revocation of the public promise of a reward shall not release the person who has announced the reward from the reimbursement of the responded persons' expenses, incurred by them in connection with the performance of the action, indicated in the announcement, within the limits of the reward referred to in the announcement.

## **Chapter 57. Public Competition**

### **Article 1057. The Organization of a Public Competition**

1. A person who has announced in public the payment of a pecuniary remuneration or the issue of a different reward (the payment of a reward) for the best performance of work or the achievement of other results (public competition) shall pay (issue) the stipulated reward to the person who has been recognized as its winner in keeping with the terms of holding the competition.

2. A public competition shall be aimed at the attainment of some socially useful objectives.

3. A public competition may be open, when the offer of the competition organizer for the participation in it is addressed to all those who desire to take part by announcing in the press or other mass media, or may be closed, when the offer for the participation in the competition is sent to a definite range of persons at the option of the competition organizer.

An open competition may be stipulated by the preliminary qualification of its participants at a time when the competition organizer holds a preliminary selection of the persons who desire to take part in it.

4. An announcement of a public competition shall contain at least the conditions providing for the substance of an assignment, the criteria and procedure for the appraisal of the results of work or any other achievements, the place, period of time and procedure for their presentation, the amount and form of rewards, and also the procedure and date of announcing the results of the competition.

5. The rules, provided for by this Chapter, shall be applicable to public competitions containing the obligation of concluding with the competition winner a contract inasmuch as Articles 447-449 of this Code do not stipulate otherwise.

### **Article 1058. Changes in the Terms of a Public Competition and Its Revocation**

1. A person who has announced a public competition shall have the right to change its terms or to revoke it only during the first half of the period of time fixed for the presentation of works.

2. A notice about changes in the terms of the competition or its revocation shall be made by the same method of announcing the competition.

3. In cases of changes in the terms of the competition or its revocation the person who has announced the competition shall have the right to reimburse the expenses incurred by any person who has performed the work, envisaged in the announcement before he knew or should have known about the changes on the terms of the competition and about its revocation.

A person who has announced the competition shall be released from the obligation of reimbursing the expenses, if he proves that the work has been fulfilled not in connection with the competition, in particular before the announcement of the competition or when obviously the work has not complied with the competition terms.

4. If the requirements, referred to in Items 1 or 2 of this Article have been violated in case of changing the terms of the competition or of its revocation, the person who has announced the competition shall be obliged to pay the reward to those who fulfilled the work that satisfies the terms indicated in the announcement.

#### **Article 1059.** The Decision on the Payment of a Reward

1. A decision on the payment of a reward shall be passed and communicated to the public competition participants in the procedure and in the period of time fixed by the announcement of the competition.

2. If the results, referred to in the announcement, have been achieved in the work performed jointly by two or more persons, the reward shall be distributed in keeping with the agreement reached by them. If such agreement is not achieved, the procedure for the distribution of the reward shall be determined by a court of law.

#### **Article 1060.** The Use of the Works of Science, Literature and Art Awarded with Rewards

If the creation of a work of science, literature or art makes up the subject of a public competition and unless its terms provide for otherwise, the person who has announced the public competition shall acquire the preferential right to the conclusion with the author of the rewarded work of a contract for the use of the work and to the reception of relevant remuneration for it.

#### **Article 1061.** The Return of the Works to the Participants in a Public Competition

A person who has announced the public competition shall be obliged to return to the competition participants the works not awarded with rewards, unless otherwise stipulated by the announcement of the competition and unless the contrary follows from the nature of the performed work.

## **Chapter 58. Gaming and Betting**

### **Article 1062. Claims Associated with the Organization of Games and Bets and the Participation in Them**

1. The claims of individuals and legal entities, associated with the organization of games and bets or the participation in them, shall not be subject to judicial remedy with the exception of the claims of the persons who have taken part in games or bets under the influence of the fraud, violence, threat or malicious agreement of their representative with the organizer of games or bets, and also of the claims, referred to in Item 5 of Article 1063 of this Code.

2. The rules of this Chapter shall not be applicable to demands connected with participation in transactions stipulating the duty of a party or parties to a transaction to pay monetary amounts depending on the change of the prices of goods or securities, the rate of exchange of the relevant currency, the magnitude of the interest rates, the level of inflation or on the values calculated on the basis of the aggregate of such indices or on the occurrence of another circumstance which is stipulated by the law and about which it is not known whether it will occur or will not. The said demands shall be subject to judicial defence if at least one of the parties to a transaction is a legal entity that has obtained a licence for the performance of bank operations or a licence for the carrying out of professional activity on the securities market or at least one of the parties to a transaction concluded at an exchange is a legal entity that has obtained a licence on whose basis it is possible to conclude transactions at an exchange.

Demands connected with participation of citizens in transactions mentioned in this Item shall be subject to judicial defence only on condition of their conclusion at an exchange.

### **Article 1063. The Holding of Lotteries, Totalizators and Other Games by State and Municipal Bodies or With Their Permit**

1. Relations between the organizers of lotteries, totalizators (mutual bets) and of other games based on risk - the Russian Federation, the subjects of the Russian Federation, the municipal bodies, the persons and for lotteries, by legal entities, who received a right to conduct such games in the procedure established by a law from the authorized state and

municipal body - and the participants in games shall be based on the agreement.

2. In cases provided for by the rules for the organization of games, the agreement between the organizer and the participant in games shall be formalized by the issue of a lottery ticket, receipt or any other document, and also otherwise.

3. The offer on the conclusion of an agreement, stipulated by Item 1 of this Article, shall include the clauses on the period of holding games and the procedure for determining prizes and their amounts.

In case where the organizer of games refuses to hold them within the fixed period of time the participants in games shall have the right to demand that their organizer should recover the real damage sustained as a result of the revocation of games or of the postponement of the date of the real damage.

4. Persons who in keeping with the terms of holding a lottery, totalizator or other games are recognized as those who have won them shall be paid out by the organizer of games the prizes in the amounts stipulated by the terms of their holding (in monetary terms or in kind) and on due date, and if the date is not indicated in these terms - within 10 days since the time of determining the results of the games or within another term established by a law.

5. In case of default by the organizer of games on the obligation, indicated in Item 4 of this Article, the participant who has won in the lottery or totalizator or any other games shall have the right to demand that the organizer of games should pay off the prize and also to reimburse the losses caused by the breach of the contract by the organizer.

## **Chapter 59. Liabilities for Damage**

### **§ 1. General Provisions in the Redress of Injury**

#### **Article 1064. General Grounds for Liability for Damage**

1. The injury inflicted on the personality or property of an individual, and also the damage done to the property of a legal entity shall be subject to full compensation by the person who inflicted the damage.

The obligation to redress the injury may be imposed by the law on the person who is not the inflictor of injury.

The law or the contract may institute the obligation of the inflictor of injury to repay to the victims compensation over and above the compensation of damage.

2. A person who has caused harm shall be released from the redress of injury, if he proves that injury was caused no through his fault. The law may also provide for the redress of injury in the absence of the fault of the inflictor of injury.

3. Injury inflicted by lawful actions shall be subject to redress in cases, provided for by the law.

Redress of injury may be rejected, if injury has been caused at the request or with the consent of the insured person and unless the actions of the inflictor of injury violate the moral principles of the society.

**Article 1065. Prevention of the Infliction of Injury**

1. The damage of the infliction of injury in future may be a ground for the action for the prohibition of the activity that creates such danger.

2. If the injury caused is the consequence of the operation of an enterprise, structure or of any other production activity which continues to inflict injuries or threatens with a new damage, the court of law shall have the right to bound the defendant to suspend or stop the relevant activity in addition to the redress of injury.

The court may dismiss the action for the suspension or discontinuance of the relevant activity only in case, if its suspension or discontinuance contradicts public interests. The dismissal of the action for the suspension or discontinuance of such activity shall not deprive the insured party of the right to the redress of the injury inflicted by this activity.

**Article 1066. The Infliction of Injury in the State of Justifiable Defence**

Injury inflicted in the state of justifiable defence, unless the requirements of justifiable defence are exceeded, shall not be subject to redress.

**Article 1067. The Infliction of Injury in the State of Absolute Necessity**

Injury inflicted in the state of absolute necessity, that is for the removal of danger threatening the inflictor of injury himself or other persons, if this danger could not be eliminated under the given circumstances with other means, shall be redressed by the person who has caused this injury.

Taking into account the circumstances under which such injury was inflicted, the court of law may impose the obligation of its redress on a third person, in whose interest the inflictor of injury acted, or release this third person and the inflictor of injury from the redress of this injury in full or in part.

**Article 1068. The Liability of a Legal Entity or an Individual for Injury Inflicted by the Employee**

1. A legal entity or an individual shall redress the injury inflicted by the employee during the performance of labour (official) duties.

In terms of the rules, provided for by this Chapter, individuals performing their work on the basis of a labour contract, and also individuals performing their work under a civil-law contract shall be recognized as employees, if in this case they acted or should have acted on the

assignment of the relevant legal entity or individual and under their control over the safe conduct of works.

2. Economic partnerships and procedure cooperatives shall refresh the injury inflicted by their participants (members) during the performance by them of the business, production or any other activity of the partnership or cooperative.

**Article 1069. Liability for the Injury Inflicted by State and Local Self-government Bodies, and Also by Their Officials**

The injury inflicted on an individual or a legal entity as a result of unlawful actions (inaction) of state and local self-government bodies or of their officials, including as a result of the issuance of an act of a state or self-government body inconsistent with the law or any other legal act, shall be subject to redress. The injury shall be redressed at the expense of the state treasury of the Russian Federation, the respective subject of the Russian Federation or the respective municipal body, as the case may be.

**Article 1070. Liability for the Injury Inflicted by the Illegal Actions of the Bodies of Inquest, Preliminary Investigation, the Procurator's Office and the Court of Law**

1. The injury inflicted on an individual as a result of illegal conviction, illegal institution of proceedings on criminal charges, illegal application of remand in custody as a measure of suppression or of a written understanding not to leave one's place of residence, of illegally taking to administrative responsibility in the form of administrative arrest, as well as the damage inflicted upon a legal entity as a result of illegally taking to administrative responsibility in the form of an administrative suspension of the activity shall be redressed in full at the expense of the state treasury of the Russian Federation and in cases, stipulated by law, at the expense of the state treasury of the respective subject of the Russian Federation or of the respective municipal body, regardless of the fault of the officials of bodies of inquest, preliminary investigation, procurator's offices or courts of law in the procedure established by law.

2. Injury inflicted on an individual or a legal entity as a result of the illegal activity of bodies of inquest, preliminary investigation, procurator's offices, which has not entailed the consequences, specified by Item 1 of this Article, shall be redressed on the grounds and in the procedure, provided for by Article 1069 of this Code. Injury inflicted during the administration of justice shall be redressed in cases, if the fault of a judge has been established by the court's judgement that has entered into legal force.

**Article 1071. Bodies and Persons Acting on Behalf of the State Treasury in Case of Redress of Injury at Its Expense**

In cases where in keeping with this Code or other laws in injury inflicted is subject to redress at the expense of state treasury of the Russian Federation, that of the subject of the Russian Federation or the municipal formation, the state treasury shall be represented by the relevant finance bodies, unless in accordance with Item 3 of Article 125 of this Code this duty is imposed on a different body, legal entity or an individual.

**Article 1072. Redress of Injury by the Person Who Has Insured His Liability**

A legal entity or an individual who has insured their liability by way of voluntary or obligatory insurance in favour of the injured party (Article 931 and Item 1 of Article 935), when insurance compensation is not sufficient to redress the inflicted injury, shall compensate for the difference between the insurance compensation and the actual injury.

**Article 1073. Liability for the Injury Inflicted by Minors at the Age Before 14 Years**

1. Parents (adopters) or guardians shall be liable for the injury inflicted by minors who have not reached 14 years of age, unless they prove that the injury has been inflicted not through their fault.

2. If a minor who in need of guardianship was in the respective educational or medical institution, social protection establishment or in any other similar institution, which by dint of law is its guardian (Article 35), this institution shall be obliged to redress the injury inflicted by the minor, unless it proves that this injury has been inflicted not through the institution's fault.

3. If a minor has inflicted injury at a time when he was under the supervision of the educational, medical or other institution which is duty-bound to exercise supervision over the minor or of the person who has exercised supervision on the basis of a contract, this institution or this person shall be liable for the injury, unless they prove that the injury has been inflicted not through their fault during the exercise of supervision.

4. The obligation of parents (adopters), guardians, educational, medical and other institutions in the redress of the injury inflicted by a minor shall not be discontinued with the attainment by the minor of majority or with the receipt by him of property sufficient to redress the injury.

If parents (adopters), guardians or other private persons, referred to in Item 3 of this Article, have died or do not have sufficient pecuniary means to redress the injury inflicted on the life or health of the injured person, and the inflictor of injury who has acquired a legal capacity in full possesses such means, the court of law shall have the right to take a decision on the redress of the injury in full or in part at the expense of the inflictor of the injury by taking into account the property status of the injured person and the inflictor of the injury, and also other circumstances.

**Article 1074.** Liability for the Injury Inflicted by Minors at the Age From 14 to 18 Years

1. Minors at the age from 14 to 18 years shall bear liability for the inflicted injury on general grounds.

2. In case where a minor at the age from 14 to 18 years has no income or other property sufficient to redress injury the latter shall be redressed in full or in the lacking part by his parents (adopters) or the guardian, unless they prove that the injury has been inflicted not through their fault.

If a minor at the age from 14 to 18 years who is need of custody was placed in the respective educational or medical establishment, social protection institution or any other similar institution, which by dint of law is his guardian (Article 35), this institution shall be obliged to redress the injury in full or in the lacking part, unless it proves that the injury has been inflicted not through its fault.

3. The obligation of parents (adopters), the guardian and the respective institution to redress the injury inflicted by a minor at the age from 14 to 18 years shall cease upon the attainment of majority by the inflictor of injury in cases where before the attainment of majority he acquired income or other property, which are sufficient to redress the injury, or where he acquired legal capacity before the attainment of majority.

**Article 1075.** Liability of Parents Deprived in Parental Rights for the Injury Inflicted by Minors

The court of law may impose liability for the injury inflicted by a minor on his parent during three years after the parent was deprived of his parental rights, if the child's behaviour that entailed the infliction of injury had been the result of the improper exercise of parental duties.

**Article 1076.** Liability for the Injury Inflicted by the Individual Recognized as Legally Unfit

1. The injury inflicted by the individual recognized as legally unfit shall be redressed by his guardian or the organization which is duty-bound to exercise supervision over him, unless they prove that the injury has been inflicted not through their fault.

2. The obligation of the guardian or the organization which is duty-bound to exercise supervision over the redress of the injury inflicted by the individual, recognized as legally unfit, shall not cease in case of the subsequent recognition of him as having a legal capacity.

3. If the guardian has died or has not sufficient pecuniary means to redress the injury inflicted on the life or health of the injured person, and the inflictor of the injury possesses such means, the court of law shall have the right to take a decision on the redress of the injury in full or in part at the expense of the inflictor of the injury by taking into account the property status of the injured party and the inflictor of the injury.

**Article 1077.** Liability for the Injury Inflicted by the Individual Recognized as Having Limited Legal Capacity

Injury inflicted by the individual with limited legal capacity in consequence of the abuse of alcoholic drinks or narcotics shall be redressed by the inflictor of injury himself.

**Article 1078.** Liability for the Injury Inflicted by the Individual Who Is Incapable of Understanding the Significance of His Actions

1. An individual with a legal capacity or a minor at the age from 14 to 18 years who has inflicted injury in a state when he could not understand the significance of his actions or guide them shall not be liable for the injury inflicted by him.

If injury is inflicted on the life or health of the injured person, the court of law may impose the duty of redressing the injury in full or in part on the inflictor of injury by taking into account the property status of the injured party and the inflictor of injury, and also other circumstances.

2. The inflictor of injury shall not be released from liability, if he has brought himself in a state in which he could not understand the significance of his actions or guide them by the abuse of alcoholic drinks, narcotics or by any other method.

3. If injury is inflicted by the person who could not understand the significance of his actions or guide them in consequence of his psychic disorder, the court of law may impose the duty in redressing injury on the above-bodied spouse, parents, and children of age who have known about the psychic disorder of the inflictor of injury but failed to raise the question about the recognition of this person as legally unfit.

**Article 1079.** Liability for the Injury Inflicted by the Activity with Increased Hazard for People Around

1. Legal entities and individuals whose activity is associated with increased hazard for people around (the use of transport vehicles, mechanisms, high voltage electric power, atomic power, explosives, potent poisons, etc.; building and other related activity, etc.) shall be obliged to redress the injury inflicted by a source of special danger, unless they prove that injury has been inflicted in consequence of force majeure or the intent of the injured person. The owner of a source of special danger may be released by the court from liability in full or in part also on the grounds, provided for by Items 2 and 3 of Article 1083 of this Code.

The obligation of redressing injury shall be imposed on the legal entity or the individual who possess the source of special danger by right of ownership, the right of economic or operative management or on any other lawful ground (by right of lease, by procuration for the right to drive a transport vehicle, by decision of the corresponding body on the transfer of the source of special danger, etc.).

2. The owner of a source of special danger shall not be liable for the injury inflicted by this source, if he proves that the source has retired from his possession as a result of the illegal actions of other persons. In such cases liability for the injury inflicted by the source of special danger shall be borne by the persons who have acquired the source contrary to law. If the owner of the source of special danger is guilty of the withdrawal of this source from his possession contrary to law, liability may be imposed both the owner and on the person who has acquired the source of special danger contrary to law.

3. The owners of sources of special danger shall bear joint liability for the injury inflicted as a result of the interaction of these sources (the collusion of transport vehicles, etc.) to third persons on the grounds, provided for by Item 1 of this Article.

Injury inflicted as a result of the interaction of the sources of special danger to their owners shall be redressed on general grounds (Article 1064).

#### **Article 1080. Liability for the Injury Jointly Inflicted by Persons**

Persons who jointly inflicted injury shall be jointly liable to the injured party.

In response of the application of the injured person and in his interests the court of law shall have the right to impose liability on the persons who jointly inflicted injury in shares by estimating them with reference to the rules, provided for by Item 2 of Article 1081 of this Code.

#### **Article 1081. The Right of Recourse to the Person Who Has Inflicted Injury**

1. A person who has redressed the injury inflicted by another person (the employee who discharges official or other labour duties, the person who drives a transport vehicle, etc.) shall have the right to recourse to this person in the amount of the paid compensation, unless the law establishes a different amount of compensation.

2. The inflictor of injury who has redressed the injury jointly with others shall have the right to demand from each inflictor of injury the share of the compensation paid to the injured party in the amount that corresponds to the degree of guilt of this inflictor of injury. If it is impossible to determine the degree of guilt, the shares shall be recognized as equal.

3. The Russian Federation, the respective subject of the Russian Federation or the municipal formation shall have the right of recourse to the official of the body of inquest, preliminary investigation, procurator's office or the court of law in case of redress of the injury inflicted by them (Item 1 of Article 1070), if his guilt has been established by the court's judgement that has entered in legal force.

4. Persons who have redressed injury on the grounds, referred to in Articles 1073-1076 of this Code shall have no right of recourse to the inflictor of injury.

### **Article 1082. Methods of Redressing Injury**

While satisfying the claim for redressing injury, the court of law, in keeping with the circumstances of the case, shall bind the person responsible for the infliction of injury to redress injury in kind (to present a thing of the same sort and quality, to repair a damaged thing, etc.) or to recompense for the losses caused (Item 2 of Article 15).

### **Article 1083. The Registration of the Fault of the Injured Party and the Property Status of the Person Who Has Inflicted Injury**

1. Injury inflicted due to the intent of the injured party shall not be redressed.

2. If the gross negligence of the injured party himself has facilitated the emergence or increase of injury, the amount of compensation shall be reduced depending on the degree of the guilt of the injured party and the inflictor of injury.

In the event of gross negligence on the part of the injured person and in the absence of guilt of the inflictor of injury in cases where his liability commences regardless of his guilt, the amount of compensation shall be reduced or the redress of injury may be rejected, unless the law provides for otherwise. If injury is inflicted on the life or health of the individual, the refusal to redress injury shall not be allowed.

The fault of the injured party shall not be taken into account in case of the reimbursement of additional expenses (Item 1 of Article 1085), of the redress of injury in connection with the death of the breadwinner (Article 1089), and also in case of the compensation for the expenses on the burial (Article 1094).

3. The court of law may reduce the amount of compensation for the injury inflicted by an individual with due account of his property standing, with the exception of cases where injury has been inflicted by deliberate actions.

## **§ 2. The Redress of the Injury Inflicted on the Life or Health of an Individual**

### **Article 1084. The Redress of the Injury Inflicted on the Life or Health of an Individual During the Discharge of Contractual or Other Obligations**

Injury inflicted on the life or health of an individual during the discharge of contractual obligations, and also during the discharge of the military duty, during the service in the militia and during the discharge of other appropriate duties shall be redressed according to the rules, provided for by this Chapter, unless the law or the contract provide for a higher degree of responsibility.

**Article 1085.** The Extent and Character of the Redress of Injury Inflicted on the Person's Health

1. In case of maiming an individual or of any other injury to his health compensation shall be extended to the earnings (income) which has been lost by the injured person and which he had or could definitely have, and also to the expenses incurred by injury to his health, including the expenses on medical treatment, additional nutrition, the acquisition of medicines, prosthesis, care by other people, the sanatoria and spa treatment, the acquisition of special transport vehicles, retraining, if it is found out that the injured person is in need of aid of these kinds and care and has not the right to receive them free of charge.

2. In estimating the lost earnings (income) the disability pension, awarded to the injured person in connection with mutilation or any other injury to his health, and also other pensions, benefits and other similar payments, awarded both before and after the infliction of injury on his health, shall not be taken into account and shall not involve a reduction of the amount of the compensation for the injury (shall not be counted towards the redress of the injury). The earnings (income), received by the injured party after the impairment of his health, shall not be counted towards the redress of injury.

3. The extent and amount of the redress of injury due to the injured party in keeping with this Article may be increased by the law or the agreement.

**Article 1086.** The Estimation of the Earnings (Income) Lost as a Result of the Impairment of Health

1. The amount of the earnings (income) lost by the victim and subject to compensation shall be determined in percentage of the average monthly earnings (income) before maiming or any other impairment of health or before the loss of the capacity for work, which correspond to the degree of the loss by the victim of his professional ability to work, and in the absence of professional ability to work - to the degree of the loss of general capacity for work.

2. The lost earnings (income) of the victim shall include all types of taxable payment for his labour under labour and civil-law contracts in the place of his main work and in case of holding more than one office. Settled apart shall be lump-sum payments, in particular compensation for the non-used leave of absence and the retirement benefit in case of dismissal. The paid benefit shall be reckoned over the period of temporal physical disability or of maternity leave. Income from business activity, and also the author's fees shall be included in the lost earnings, with income from business being included on the basis of the data supplied by a tax inspection team.

All types of earnings (income) shall be reckoned in the amounts charged before tax.

3. The average monthly earnings (income) of the injured person shall be reckoned by dividing the total sum of his earnings (income) for the 12 months of work that preceded the impairment of his health by 12. If the victim had worked for less than 12 months by the time of the infliction of injury, the average monthly earnings (income) shall be reckoned by dividing the total sum of earnings (income) for the actually worked number of months that preceded the impairment of his health by the number of these months.

The months during which he has worked not in full measure shall be replaced at the wish of the victim by the preceding months in which he worked in full measure or shall be excluded from the counting if it is impossible to replace them.

4. In case where the victim of injury account shall be taken at his wish of his earnings before the dismissal or of the usual amount of labour remuneration for the worker of his qualification in the given locality, but not less than the value of the subsistence level of the employable population as a whole in the Russian Federation established in accordance with law.

5. If stable changes improving the property status of the victim (a rise in the wage according to the post held, the transfer to a high-paid job, employment after the graduation from an educational establishment with full-time instruction and in other cases when changes are stable and when it is possible to alter the payment for the victim's labour) took place before the maiming or other impairment of his health, account shall only be taken of the earnings (income) which he received or should have received after the appropriate change in case of estimating his average earnings (income).

**Article 1087.** The Redress of Injury in Case of Impairing the Health of the Person Who Has Not Reached Majority

1. In case of maiming or any other injury inflicted on the health of a minor who has not reached 14 years of age and who has not got earnings (income), the person responsible for the inflicted injury shall be obliged to reimburse the expenses incurred by the impairment of his health.

2. Upon the attainment by a minor of 14 years of age, and also in the event of the infliction of injury on a minor from 14 to 18 years of age, who has not got earnings (income), the person responsible for the inflicted injury shall be obliged to redress the injury caused by the loss of, or decreased in, capacity for work in addition to the reimbursement of the expenses incurred by the impairment of his health by proceeding from the value of the subsistence level of the employable population as a whole in the Russian Federation established in accordance with law.

3. If by the time of the impairment of his health a minor had earnings, the injury shall be redressed on the basis of their amount, but not less than the value of the subsistence level of the employable population as a whole in the Russian Federation established in accordance with law.

4. After the minor begins his labour activity after the injury was inflicted on his health, he shall have the right to demand an increased amount of compensation for the injury on the basis of his earnings, but not less than the amount of labour remuneration, fixed according to the post he occupies or the earnings of the worker of the same qualification in the place of his work.

**Article 1088.** The Redress of the Injury Inflicted on the Persons Who Have Suffered Damage as a Result of the Breadwinner's Death

1. In the event of the death of the victim (breadwinner) the right to the redress of injury shall belong to:

the non-able-bodied persons who were dependants of the deceased person or who had by time of his death the right to receive maintenance from him;

the infant of the deceased person which was born after his death;

one of the parents, the spouse or any other family member, regardless of his ability to work, who does not work and take the care for his dependent children, grandchildren, brothers and sisters who have not reached 14 years of age or although have reached the said age but are in need of care by other people because of poor health according to the finding of medical bodies;

the persons who were dependants of the deceased person and who have become non-able-bodied during five years after his death.

One of the parents, the spouse or any other family member, who does not work and takes care of the children, grandchildren, brothers and sisters of the deceased person and who has become non-able-bodied during the period of this case, shall retain the right to the referred of injury after the end of the care for these persons.

2. Injury shall be redressed for the following persons:

minors - until the attainment of 18 years of age;

students of over 18 years of age - until the graduation of educational establishments with full-time instruction and at least until 23 years of age;

women of over 55 years of age and men of over 60 years of age;

invalids - for the time of disability;

one of the parents, the spouse or another family member who take care of his dependent children, grandchildren, brothers and sisters - until the attainment by them of 14 years of age or the change in the state of their health.

**Article 1089.** The Amount of the Redress of Injury Sustained in Case of the Breadwinner's Death

1. Injury shall be redressed for the persons who have the right to the redress of injury in connection with the breadwinner's death in the amount of that share of the earnings (income) of the deceased person, determined according to the rules of Article 1086 of this Code, which they received or

had the right to receive for his maintenance during his lifetime. In estimating compensation for the injury inflicted on these persons it is necessary to include in the incomes on the deceased person his pension, life maintenance and other such payments on a par with his earnings (income).

2. In estimating the amount of compensation for injury the pensions awarded to the persons in connection with the breadwinner's death, and also other pensions awarded both before and after the breadwinner's death and the earnings (income) and the scholarship received by these persons shall not be counted towards the compensation for their injury.

3. The amount of compensation fixed for each person who is entitled to the redress of injury in connection with the breadwinner's death shall not be subject to further recalculation, except for the cases of:

the birth of a baby after the breadwinner's death;

the awarding of compensation payments to the persons who take care of the children, grandchildren, brothers and sisters of the deceased breadwinner or their discontinuance.

The law or the agreement may increase the amount of compensation.

#### **Article 1090.** Subsequent Changes in the Amount of Compensation for Injury

1. The victim who has lost his capacity for work partially shall have the right to demand at any time that the person entrusted with the duty of redressing injury that he should increase the amount of compensation accordingly, if the victim's ability to work has decreased afterwards due to the impairment of his health as compared with his ability to work by the time of awarding to him the compensation for the injury.

2. A person who is entrusted with the duty of redressing the injury inflicted on the victim's health shall have the right to demand a corresponding reduction of the amount of compensation, if the victim's ability to work has arisen as compared with that he had by the time of awarding to him the compensation for the injury.

3. The victim shall have the right to demand an increased amount of the redress of injury, if the person charged with the duty of redressing injury has improved his property standing, while the amount of compensation has been reduced in accordance with Item 3 of Article 1083 of this Code.

4. The court of law may on the demand of the person who has inflicted injury reduce the amount of compensation for the injury, if his property standing has deteriorated in connection of disability or the attainment of the pensionable age as compared with his standing at the time of awarding compensation for the injury, except for the cases where injury was inflicted by deliberate actions.

#### **Article 1091.** Increase of Amount of Compensation of Harm in Connection with Increased Cost of Living

Amounts to be paid to citizens for compensation of harm caused to the life or health of a victim shall be subject, in the event of an increase in the cost of living, to indexation in the procedure established by law (Article 318).

**Article 1092. Payments for the Redress of Injury**

1. The redress of the injury caused by the decrease in the capacity for work or by the victim's death shall be effected by monthly payments.

In the presence of valid reasons the court of law may, with due account of the possibilities of the inflictor of injury and on the demand of the individual who has the right to the redress of injury, adjudge to him the due payments in the lump, but for not more than three years.

2. Sums of money intended for the reimbursement of additional expenses (Item 1 of Article 1085) may be adjudged for the future within the time-limits, defined on the basis of a medical expert examination, and also in case of necessity for the preliminary payment for the appropriate service and property, including for the acquisition of a pass to a sanatorium or holding home, the payment of fare, the payment for special transport vehicles.

**Article 1093. The Redress of Injury in Case of the Termination of a Legal Entity**

1. In the event of the reorganization of the legal entity recognized in the statutory manner as responsible for the injury inflicted on human life or health, the obligation to make appropriate payment shall be borne by its legal successor. Claims for the redress of injury shall be made to this successor.

2. In the event of the liquidation of the legal entity, recognized in the statutory manner as responsible for the injury inflicted on human life or health, the appropriate payments shall be capitalized for their payment to the victim according to the rules, established by the law or other legal acts.

The law or other legal acts may also provide for other cases in which payments may be capitalized.

**Article 1094. The Reimbursement of Expenses on Burial**

Persons responsible for the injury caused by the death of the victim shall be obliged to reimburse the necessary expenses on burial to the person who incurred these expenses.

The burial benefit received by private persons who incurred these expenses shall not be counted towards the compensation for the injury.

**§ 3. The Redress of the Injury Inflicted by Defects in Goods, Works or Services**

**Article 1095.** The Grounds for the Redress of Injury Inflicted by Defects in Goods, Works and Services

Injury inflicted on the life, health or assets of an individual or damage done to the property of a legal entity in consequence of constructive, recipe or other defects of goods, works or services, and also in consequence of untrustworthy or insufficient information about goods (works, services) shall be subject to redress by the seller or the manufacturer of goods, by the person who has fulfilled the work or rendered the service (executor), regardless of their fault and of the fact whether the victim has been in contractual relations with them or not.

The rules, provided for by this Article, shall be applied only in cases of the acquisition of goods (performance of works or rendering of services) for purposes of consumption and not for use in business activity.

**Article 1096.** Persons Responsible for the Injury Inflicted Owing to Defects in Goods, Works and Services

1. Injury inflicted owing to defects in goods shall be subject to redress at the option of the victim by the seller or the manufacturer of goods.

2. Injury inflicted owing to defects in works and services shall be subject to redress by the person who has performed the work or rendered the service (executor).

3. Injury Inflicted owing to the non-submission of full and trustworthy information about goods (works, services) shall be subject to redress by the persons, referred to in Items 1 and 2 of this Article.

**Article 1097.** The Time-limits of the Redress of the Injury Inflicted as a Result of Defects in Goods, Works or Services

1. Injury inflicted owing to defects in goods, works or services shall be subject to redress, if it has appeared during the established period of suitability or service time of goods (works, services), and if the working life has not been established, during 10 years since the production of goods (works, services).

2. Regardless of the time of infliction, harm shall be subject to compensation if:

in violation of the requirements of a law, a period of suitability or a service time was not established;

the person to whom the goods were sold, for whom the work was done, or to whom the services were rendered was not warned of the necessary actions upon the expiration of the period of suitability or the service time and the possibility consequences in case of failure to take these actions or who was not provided with the full and veracious information about the goods (or work or service).

**Article 1098.** The Grounds for the Release from Liability for the Injury Inflicted Owing to Defects in Goods, Works or Services

A seller or a manufacturer of goods, an executor of a work or service shall be absolved from liability in case if he proves that injury took place owing to force majeure or the contravention by the consumer of the rules for using goods and by the results of the work, service or of their storage.

#### **§ 4. Compensation for the Moral Damage**

##### **Article 1099. General Provisions**

1. The grounds and the amount of compensation for the moral damage done to an individual shall be determined by the rules, provided for by this Chapter and Article 151 of this Code.

2. The moral damage inflicted by actions (inaction) that infringe the property rights of an individual shall be subject to compensation in cases, provided for by the law.

3. The moral damage shall be compensated regardless of the property damage subject to compensation.

##### **Article 1100. The Grounds for the Compensation of the Moral Damage**

The moral damage shall be compensated regardless of the guilt of the inflictor of damage in cases where:

injury has been inflicted the life or health of an individual by a source of special danger;

damage has been done to an individual as a result of his illegal conviction, the illegal institution of proceedings against him, the illegal application of remand in custody as a measure of suppression or of a written understanding not to leave his place of residence, the illegal imposition of the administrative penalty in the form of arrest or corrective labour;

damage has been inflicted by the spread of information denigrating the honour, dignity and business standing;

in other cases provided for by the law.

##### **Article 1101. The Method and Amount of the Compensation for the Moral Damage**

1. The moral damage shall be compensated in monetary form.

2. The amount of the compensation for the moral damage shall be determined by a court of law depending on the nature of physical and moral suffering caused to the victim, and also on the degree of guilt of the inflictor of damage in cases when guilt is a ground for the redress of injury. In estimating the amount of the compensation it is necessary to take into account the requirements of reasonable and justice.

The nature of physical and moral suffering shall be assessed by the court with due account of the actual circumstances under which the moral damage was inflicted and of the victim's individual features.

## **Chapter 60. Obligations Due to Unjust Enrichment**

### **Article 1102. The Obligation to Return Unjust Enrichment**

1. A person who has acquired or saved property (purchaser) without the grounds, established by the law, other legal acts or the transaction, at the expense of another person (victim) shall be obliged to return to the latter the property acquired or saved unjustly (unjust enrichment), except for the cases, provided for by Article 1109 of this Code.

2. The rules, provided for by this Chapter, shall be applicable regardless of the fact whether unjust enrichment resulted from the behaviour of the purchaser of property, the victim himself, third persons or took place regardless of their will.

### **Article 1103. The Correlation of Claims for the Return of Unjust Enrichment With Other Claims for the Protection of Civil Rights**

Inasmuch as the contrary is not established by this Code, other laws or other legal acts and does not follow from the essence of corresponding relations, the rules, envisaged by this Chapter, shall be applied to the following claims:

- 1) for the return of the executed in an invalid transaction;
- 2) for the reclamation of property by its owner from the illegal possession of other people;
- 3) of one party in the obligation to the other party for the return of the executed in connection with this circumstance;
- 4) for the redress of injury, including that inflicted by the dishonest behaviour of the enriched person.

### **Article 1104. The Return of Unjust Enrichment in Kind**

1. Assets comprising the unjust enrichment of the purchaser shall be returned to the victim in kind.

2. The purchaser shall be liable to the victim for any fortuitous shortage or deterioration of the groundlessly acquired or saved property, which have taken place after he knew or should have known about unjust enrichment. Until this time he shall be answerable for intent or gross negligence.

### **Article 1105. Compensation for the Value of Unjust Enrichment**

1. If it is impossible to return the groundlessly acquired or saved property in kind, the purchaser shall compensate to the victim for the actual value of this property at the time of its acquisition, and also for the losses, caused by the subsequent change in the value of property, if the purchaser has not reimbursed its value at once after he has known about unjust enrichment.

2. A person who groundlessly used the property of other people for the time being without his intention to acquire it or used the services of

other people shall recompense to the victim all that he has saved owing to such use at the price existing at the time when this use ended and in the place where the use took place.

**Article 1106.** The Consequences of the Groundless Transfer of the Right to Another Person

A person who has transferred claims by way of cession or the right belonging to him in other way to another person on the basis of a non-existent or invalid obligation shall have the right to demand the restoration of the former position, including the return to him of the documents certifying the transferred right.

**Article 1107.** The Reimbursement of Non-received Income to the Victim

1. A person who has received or saved property ungroundlessly shall be obliged to return to the victim or to reimburse all his incomes which he derived or should have derived from this property since the time when he knew or should have known about unjust enrichment.

2. Interest for the use of pecuniary means of other people (Article 395) shall be subject to addition for the sum of unjust pecuniary enrichment since the time when the purchaser knew or should have known about the groundless receipt or saving of monetary means.

**Article 1108.** The Reimbursement of Expenses on Property Subject to Return

In case of the return of the property groundlessly received or saved (Article 1104) or in case of the reimbursement of its value (Article 1105) the purchaser shall have the right to demand that the victim should compensate for the necessary expenses on the maintenance and upkeep of property since the time from which he is bound to receive income (Article 1106) with the offset of the received benefits. The right to compensation shall be lost in case when the purchaser deliberately retained property subject to return.

**Article 1109.** Unjust Enrichment Not Subject to Return

The following property shall not be subject to return as unjust enrichment:

- 1) property transferred for the execution of the obligation before the onset of the time for execution, unless the obligation provides for otherwise;
- 2) property transferred for the execution of the obligation upon the expiry of the period of limitation;
- 3) wages and salaries and payment equated therewith, pensions, benefits, scholarships, the redress of injury inflicted on human life or health, alimony and other pecuniary sums given to an individual as means of subsistence in the absence of dishonesty on his part and of calculation error;

4) pecuniary sums and other property given for the execution of a non-existent obligation, if the purchaser proves that the person who demands the return of property knew about the absence of the obligation or granted property for charity purposes.

President of the Russian Federation

Boris Yeltsin

### **Part 3**

**Adopted by the State Duma on November 1 2001**  
**Approved by the Federation Council on November 14 2001**

## **Section V. Law of Succession**

### **Chapter 61. General Provisions Governing Succession**

#### **Article 1110. Succession**

1. In the case of succession the deceased's estate (inheritance, assets of estate) shall pass to other persons by universal succession, i.e. in an unchanged, single form at the same time, except as otherwise required by the present Code.

2. Succession shall be governed by the present Code and other laws and, in the cases specified by law, by other legal acts.

#### **Article 1111. Grounds for Succession**

Succession shall be by will and by operation of law.

Succession by operation of law shall take place when and where it is not changed by a will and also in the other cases established by the present Code.

#### **Article 1112. Deceased's Estate**

The deceased's estate shall incorporate the items and other property owned by the deceased as of the date of opening of the inheritance, in particular, rights in rem and liabilities.

Rights and liabilities inseparable from the personality of the deceased, in particular the right to alimony, right to damages for harm inflicted to the citizen's life or health and also rights and liabilities prohibited for succession by the present Code or other laws shall not be included in the estate.

Personal incorporeal rights and other intangible wealth shall not be included in the estate.

#### **Article 1113. The Opening of an Inheritance**

An estate shall be opened on the death of a citizen. The announcement of a citizen's death by a court shall cause the same legal consequences as the death of a citizen.

**Article 1114. The Time of Opening of an Inheritance**

1. The day of the citizen's death shall be deemed the date of opening of the inheritance. In the case of announcement of a citizen's death on the day when the decision of the court whereby the citizen is announced dead becomes final shall be deemed the date of opening of the inheritance and in cases when under Item 3 of Article 45 of the present Code the day of death of the citizen is recognised as the date of the citizen's alleged death - the date of death indicated in the decision of the court.

2. Citizens who die on the same day shall be deemed to have died at the same time for the purposes of hereditary succession, and shall not inherit from each other. In such cases the heirs of each of them shall be called upon to inherit.

**Article 1115. The Place of Opening of an Inheritance**

The deceased's last abode shall be deemed the place of opening of an inheritance (Article 20).

If the last abode of a deceased person who had property on the territory of the Russian Federation is not known or is located outside of it, the place of opening the estate in the Russian Federation shall be deemed the place where the assets of such an estate are located. If such assets of estate are located in different places, the place where the immovable property of the estate or the most valuable part of the immovable property is located shall be deemed the place of opening of the inheritance, or should there be no immovable property, the place where movable property or the most valuable part thereof is located.

**Article 1116. Persons Who Can Be Called Upon to Inherit**

1. Those left alive as of the date of opening of the inheritance and also persons conceived during the lifetime of the deceased and born after the opening of the inheritance can be called upon to inherit.

In the case of succession by will the legal entities specified in the will and existing as of the date of opening of the inheritance can also be called upon to inherit.

2. In the case of succession by will the Russian Federation, Russian regions, municipal entities, foreign states and international organisations can be called upon to inherit, and in the case of succession by operation of law, the Russian Federation, constituent entities of the Russian Federation, municipal entities in compliance with Article 1151 of the present Code.

**Article 1117. Unworthy Heirs**

1. The following shall not be entitled to inherit either by operation of law or by will: citizens who by their deliberate illegal actions directed against the deceased or any of the deceased's heirs or against the exercise of the deceased's last intentions expressed in a will assisted or tried to assist in their being called upon to inherit or other persons' being called upon to inherit or who tried to assist in increasing the share of the estate they or other persons are entitled to, if such circumstances have been proven in court. However, citizens to whom the deceased has bequeathed property after they lost their right to inherit shall be entitled to inherit this property.

Parents shall not be entitled to inherit from children in respect of whom parents have been deprived of their parental rights by the court, provided these rights had not been restored as of the date of opening the inheritance.

2. On the application of a person concerned the court shall refuse entitlement to citizens who deliberately and persistently evaded performing their duties of upkeep which the deceased vested in them by law.

3. According to the rules set out in Chapter 60 of the present Code, a person not having a right of inheritance or deprived of a right of inheritance under the present article (unworthy heir) shall return all property received without grounds from the estate.

4. The regulations of the present article shall extend to heirs entitled to a compulsory share in the estate.

5. The regulations of the present article shall accordingly extend to the testamentary trust (Article 1137). If the subject matter of a testamentary trust was the performance of certain work for or the provision of a certain service to an unworthy beneficiary, the beneficiary shall reimburse the heir who has discharged the trust for the value of the work or service performed for the unworthy beneficiary.

## **Chapter 62. Succession by Will**

### **Article 1118. General Provisions**

1. Property can be disposed of on death only by means of a will.

2. The will can be created by a citizen who had his full dispositive capacity as of the time when it was created.

3. The will shall be created in person. The will cannot be created through a representative.

4. The will shall contain dispositions of only one citizen. The will shall not be created by two citizens or more.

5. The will is a one-party deal which creates rights and duties after the opening of the inheritance.

### **Article 1119. The Freedom of Will**

1. The testator has the right to bequest the property at his own discretion to any persons, to define in any way the shares of the heirs in the inheritance, to deprive of the inheritance several or all heirs at law, not explaining the reasons for such deprivation, and in the cases stipulated in the present Code to include into the will the other orders. The testator has the right to cancel or to amend the compiled will in conformity with the rules of Article 1130 of the present Code.

The freedom of the will shall be limited by the rules of compulsory share of estate (Article 1149).

2. The deceased shall not be obligated to inform anybody of the content, creation, alteration or revocation of a will.

#### **Article 1120.** The Right to Leave Any Property in a Will

The deceased shall be entitled to create a will containing dispositions relating to any property, in particular, a property that he/she might acquire in the future.

The deceased can dispose of his/her property or a portion thereof by means of one or several wills.

#### **Article 1121.** The Appointment of an Heir and an Alternate Heir in a Will

1. The deceased can create a will for the benefit of one or several persons (Article 1116) which are or are not his/her legal heirs.

2. In his/her will the deceased can indicate an alternate heir (can sub-appoint an heir) for the case of death of the heir appointed by him/her in the will or death of the legal heir prior to the opening of the inheritance or simultaneously with the deceased's death or after the opening of the inheritance but before accepting the inheritance or the heir's failure to accept the inheritance due to other reasons or refusal to accept it or lack of entitlement or the heir's being refused the inheritance as an unworthy heir.

#### **Article 1122.** The Shares of Heirs in Property Left by a Will

1. Property left by will to two or several heirs without their shares in the estate being specified and without an indication as to who is to take the specific items or rights from the estate shall be deemed left by will to heirs in equal shares.

2. In a will an indication of a portion of an indivisible item (Article 133) intended for each of the heirs in kind shall not cause the invalidity of the will. Such item shall be deemed left by will in shares corresponding to the value of these portions. The procedure for the heirs to use this indivisible item shall be established in compliance with the portions of the item intended for them in the will.

In a certificate of the right to inheritance relating to an indivisible item left by will in shares in kind, the shares of the heirs and the procedure for use of such item, given the consent of the heirs, shall be specified in compliance with the present article. If a dispute between the heirs occurs,

their shares and the procedure for use of the indivisible item shall be determined by a court.

**Article 1123. The Secrecy of a Will**

A notary, another person attesting to a will, translator, executor of the will and also a citizen who signs a will on the deceased's behalf shall not disclose information concerning the content of the will, its creation, alteration or revocation before the opening of the inheritance.

If the secrecy of a will is violated, the testator shall be entitled to claim reimbursement for moral harm and also use other remedies to protect civil rights as laid down in the present Code.

**Article 1124. General Rules Concerning the Form of and Procedure for the Creation of a Will**

1. The will shall be created in writing and attested by a notary. A will can be attested by other persons in the cases specified in Item 7 of Article 1125, Article 1127 and Item 2 of Article 1128 of the present Code.

Failure to observe the rules established by the present Code as concerning the written form and attestation of a will shall cause the invalidity of the will.

A will can be drawn up in simple written form only in exceptional cases as specified in Article 1129 of the present Code.

2. If under the rules of the present Code witnesses are in attendance when a will is drawn up, signed and attested or when a will is passed to a notary the following persons shall not be such witnesses and shall not sign the will on the testator's behalf:

a notary or other person who attests to the will;

a person being a beneficiary of the will or a testamentary trust, the spouse, children and parents of the person;

citizens without full dispositive capacity;

illiterate persons;

citizens with such physical disabilities that do not allow them to understand the essence of the event in full;

persons without a sufficient degree of command of the language in which the will is written, except for cases of a closed will.

3. In events when under the rules of the present Code the attendance of witnesses is compulsory when a will is drawn up, signed and attested or when a will is passed to a notary, the absence of a witness when the said actions are being committed shall cause the invalidity of the will and the lack of the witness's compliance with the provisions of Item 2 of the present article may be deemed a ground for the will's being recognised as void.

4. The will shall bear an indication of the place and date of its attestation, except for the case specified in Article 1126 of the present Code.

### **Article 1125. A Will Attested by a Notary**

1. A will attested by a notary shall be signed by the testator or written by a notary on the testator's words. Technical facilities can be used to write or record a will (computer, typewriter etc.).

2. A will written by a notary on a testator's words shall be read in full by the testator in the presence of the notary before it is signed. If the testator cannot read the will by himself (herself) the notary shall read out the text for him/her, with a relevant annotation to this effect being entered in the will as including the reasons why the testator could not read the will by himself (herself).

3. The will shall be signed by the testator's own hand.

If a testator, due to physical disability, grave illness or illiteracy, cannot sign a will by his/her own hand the will can be signed on his/her behalf on his/her request by another citizen with a notary in attendance. The will shall include the reasons why the testator could not sign the will by himself (herself) and also the full name and residential address of the citizen who signed the will on the testator's request, in compliance with the citizen's personal identity document.

4. A witness can be in attendance when a will is drawn up and attested by a notary if the testator so wishes.

If a will is drawn up and attested with a witness in attendance it shall be signed by the witness and it shall bear an indication of the full name and residential address of the witness in compliance with the witness's personal identity document.

5. The notary shall warn the witness and also citizens who signs a will on the testator's behalf of the need for observing the will nondisclosure clause (Article 1123).

6. While attesting to a will the notary shall explain to the testator the content of Article 1149 of the present Code and enter a relevant annotation.

7. Where under law the officials of local government bodies and officials of consular institutions of the Russian Federation have a right to accomplish notarial actions the will can be attested by a relevant official instead of a notary, in compliance with the rules of the present Code concerning the form of a will, the procedure for notarial attestation of a will and secrecy of a will.

### **Article 1126. Closed Wills**

1. The testator shall be entitled to create a will without providing other persons, including a notary, with the chance of familiarising himself with the content thereof (a closed will).

2. The closed will shall be hand-written and signed by the testator. Failure to observe these rules shall cause the invalidity of the will.

3. The closed will shall be passed in a sealed envelope by the testator to a notary in the presence of two witnesses who shall put their

signatures on the envelope. The envelope signed by the witnesses shall be put into another envelope and sealed in the presence of the notary, who shall enter an annotation on the envelope with information on the testator from whom the notary has accepted the closed will, on the place and date of acceptance thereof, the full names and residential addresses of each of the witnesses in compliance with their personal identity documents.

When the notary accepts the envelope with the closed will from the testator, the notary shall explain to the testator the content of Item 2 of the present article and Article 1149 of the present Code and shall enter a relevant annotation in the second envelope and shall also issue a document to the testator to confirm the acceptance of the closed will.

4. Upon the presentation of a certificate of death of a person who has created a closed will, a notary shall within 15 days after the presentation of the certificate open the envelope with the will in the presence of at least two witnesses and the persons concerned from among the legal heirs who expressed their desire to attend. After the opening of the envelope the text of the will contained therein shall be immediately read out by the notary, whereafter the notary shall draw up and sign together with the witnesses a protocol which acknowledges that the envelope with the will has been opened and that it contains the full text of the will. The original will shall be kept in the custody of the notary. A copy of the protocol attested by a notary shall be issued to the heirs.

#### **Article 1127. Wills Qualifying as Wills Attested by a Notary**

1. The following shall qualify as wills attested by a notary:

1) wills of citizens undergoing medical treatment in in-patient institutions, hospitals, other stationary medical treatment institutions or residing in old-age and disabled nursing houses attested by the chief physicians, deputy chief physicians in charge of medical work or physicians on duty at these in-patient institutions, hospitals and other stationary medical treatment institutions and also the chiefs of the hospitals, directors or chief physicians of old-age and disabled nursing houses;

2) wills of citizens who stay aboard vessels during their navigation, if such vessels navigate under the State Flag of the Russian Federation, attested by the captains of these vessels;

3) will of citizens who are in prospecting, Arctic or other similar expeditions, attested by the chiefs of these expeditions;

4) wills of military servicemen and in the places of deployment of military units where there are no notaries, also wills of civilians employed by these units, members of their families and members of the families of military servicemen, attested by the commanders of the military units;

5) wills of citizens staying at penitentiary institutions, attested by the chiefs of the penitentiary institutions.

2. A will qualifying as a will attested by a notary shall be signed by the testator in the presence of the person attesting to the will and of a witness, who shall also sign the will.

As far as the rest is concerned, such a will shall be subject to the rules of Articles 1124 and 1125 of the present Code.

3. A will attested in compliance with the present article shall be forwarded, as soon as possible, by the person who has attested it to the place of abode of the testator via the territorial bodies of the federal body of executive power performing the law-enforcement functions and the functions of control and supervision in the sphere of the notariat. If the person who has attested a will knows the place of abode of the testator the will shall be forwarded directly to a relevant notary.

4. If in any of the cases mentioned in Item 1 of the present article a citizen who intends to create a will expresses his/her intention to invite a notary for this purpose and there is a reasonable possibility for satisfying such an intention, the persons who enjoy under the said item the right of attesting a will shall do their best to invite a notary to the testator.

#### **Article 1128. The Testamentary Disposition of Funds in Banks**

1. The right to funds paid by a citizen as a bank deposit or in any other bank account of the citizen may be left by will or in compliance with the procedure set out in Articles 1124 - 1127 of the present Code or by means of creation of testamentary dispositions in writing in the branch of bank where the account is located. Such testamentary dispositions shall have the effect of a will attested by a notary in respect of the funds kept in the account.

2. Testamentary disposition of rights to funds in a bank shall be signed by the hand of the testator and include the date of creation and shall be attested by a bank official entitled to accept for execution the client's instructions concerning the funds in his/her account. The procedure for creation of testamentary dispositions in respect of funds in banks shall be set out by the Government of the Russian Federation.

3. Rights to funds in respect of which testamentary dispositions have been created in a bank shall be incorporated in the estate and be generally inherited in compliance with the rules of the present Code. These funds shall be handed out to heirs under a certificate of right to inheritance and in compliance therewith, except for the cases specified in Item 3 of Article 1174 of the present Code.

4. Accordingly, the rules of the present article shall be applicable to other credit organisations entitled to raise citizens' funds in deposit or other accounts.

#### **Article 1129. Wills under Extraordinary Circumstances**

1. A citizen who is in a situation that obviously threatens his/her life and who, by the virtue of prevailing extraordinary circumstances, is deprived of an opportunity to create a will under the rules of Articles 1124 - 1128 of the present Code may make his/her last wishes as to the disposition of his/her property in a simple written form.

The citizen's last wishes set out in simple written form shall be deemed his/her will, if the testator has written a document in his/her own hand in the presence of two witnesses the content whereof evidences that it is a will.

2. A will created under the circumstances specified in Paragraph 1 of Item 1 of the present article shall no longer be valid if within one month after the termination of these circumstances the testator fails to create a will in any other form specified in Articles 1124 - 1128 of the present Code.

3. In accordance with the present article a will created under extraordinary circumstances shall be subject to execution only on the condition that a court acting on the request of the persons concerned confirms the fact that the will has been created under extraordinary circumstances. The said claim shall be filed before the expiry of the term set for acceptance of the inheritance.

#### **Article 1130. The Revocation and Alteration of a Will**

1. The testator shall be entitled to revoke or alter a will he/she has created, at any time after the creation thereof without an indication of the reason for the revocation or alteration.

No one's consent is required for revoking or altering a will, in particular, of persons appointed as heirs in the will that is being revoked or altered.

2. The testator is entitled, by means of a new will, to revoke a previous will as a whole or to amend it by means of revocation or alteration of specific testamentary dispositions contained therein.

A subsequent will not containing a direct indication concerning revocation of a previous will or specific testamentary dispositions contained therein shall revoke the previous will in full or in as much as it conflicts with the subsequent will.

A will fully or partially revoked by a subsequent will shall not be deemed restored if the subsequent will is revoked by the testator in full or in as much as the relevant portion is concerned.

3. In the case of invalidity of the subsequent will, succession shall take effect according to the previous will.

4. Also a will can be revoked by means of will revocation dispositions. The will revocation dispositions shall be created in the form established by the present Code for the creation of a will. The will revocation instructions shall be therefore subject to the rules of Item 3 of the present article.

5. A will created under extraordinary circumstances (Article 1129) can only revoke or alter the same kind of will.

6. Testamentary dispositions in a bank (Article 1128) can only revoke or alter testamentary dispositions concerning the disposition of funds in this bank.

#### **Article 1131. Invalidity of a Will**

1. In the event of violation of the provisions of the present Code causing the invalidity of a will, depending on the grounds for the invalidity, the will shall be deemed invalid by virtue of having been recognised as such by a court (a contentious will) or irrespective of such recognition (a will that is null and void).

2. A will can be recognised as void by a court on the complaint filed by a person whose rights or lawful interests are violated by the will. A will shall not be subject to contention before the opening of the inheritance.

3. Slips of the pen and other insignificant breaches of the procedure for the creation, signing or attestation of a will shall not serve as grounds for the invalidity of a will if a court has established that they do not affect the construction of the testator's will.

4. Both a will and its specific testamentary dispositions can be void. The invalidity of specific dispositions contained in a will shall not be deemed to affect the rest of the will if one can suppose that it would have been included in the will even if the void dispositions were not there.

5. The invalidity of a will shall not deprive the persons specified therein as heirs or beneficiaries of the right to succession by operation of law or under another will that is valid.

#### **Article 1132. Construction of Wills**

While constructing a will a notary, executor or court shall take into account the literal meaning of the words and expressions contained therein.

If the literal meaning of a provision of a will is vague it shall be established by means of comparison with other provisions and the sense of the will as a whole. In such cases the fullest exercise of the testator's will shall be ensured.

#### **Article 1133. Execution of Wills**

Execution of a will shall be effected by heirs under the will, except for cases when its execution is fully or partially effected by the executor of the will (Article 1134).

#### **Article 1134. Executor of Wills**

1. The testator may appoint a personal representative (executor) specified in the will to execute the will, irrespective of his/her being an heir or not.

The citizen's consent to act as executor shall be expressed by the citizen by means of his signature in the will or in an application attached

thereto or in an application filed with the notary within one month after the date of opening of the inheritance.

A citizen shall be deemed to have granted his/her consent to act as the executor of a will if he/she proceeds to execute the will within one month after the date of opening of the inheritance.

2. After the opening of an inheritance the court can relieve the executor of the will from his/her duties either on his/her own request or on the request of heirs if there are circumstances obstructing the execution of his/her duties.

#### **Article 1135. The Powers of the Executor of the Will**

1. The powers of the executor of a will shall be based on the will whereby he/she is appointed as executor and they shall be certified by a certificate issued by the notary.

2. Except as otherwise required by the will, the executor of the will shall take the measures required for executing the will, namely:

1) arrange for the passage of assets of estate to the heirs entitled thereto in compliance with the wishes of the testator expressed in the will and law;

2) take measures on his/her own or through the notary for preserving the estate and administering it in the interests of the heirs;

3) receive the amounts of money owed to the testator and other assets for the purpose of passing them to the heirs, unless the assets are subject to transfer to other persons (Item 1 Article 1183);

4) perform testamentary dispositions or demand that heirs perform under testamentary trust provisions (Article 1137) under provisions whereby they are to execute a duty (Article 1139).

3. The executor of a will shall be entitled to act in connection with the execution of the will in his own name, in particular, in court, other governmental bodies and institutions.

#### **Article 1136. Reimbursement of Expenses Relating to the Execution of a Will**

The executor of a will shall be entitled to receive a reimbursement on the account of the estate for the necessary expenses incurred in connection with execution of the will and also a remuneration on the account of the estate if there is a provision to this effect in the will.

#### **Article 1137. Testamentary Trust**

1. The testator is entitled to vest in one or several heirs a duty by will or by operation of law the execution of a duty of property nature for the benefit of one or several persons (beneficiaries) who acquire a right to claim execution of the duty (testamentary trust).

A testamentary trust shall be established in the will.

A will may contain a testamentary trust only.

2. The object of the testamentary trust can be transferred to a beneficiary into his/her ownership, possession by another right in rem or use of an item incorporated in the estate, transfer to a beneficiary of an item in action incorporated in the estate, acquisition for a beneficiary and transfer thereto of another property, performance of specific work for him/her or the provision thereto of a specific service or the making of periodical payments for his/her benefit etc.

In particular, an heir entitled to a residential house, an apartment or other housing accommodation may be vested by a testator with the duty to grant a right to use this facility or a part thereof to another person for the lifetime of such a person or for another term.

At a subsequent transfer of the title to assets of estate to another person the right of use of such assets granted by a testamentary trust shall remain in effect.

3. Relationships between a beneficiary (creditor) and an heir vested with the duty of executing a testamentary trust (debtor) shall be subject to the provisions of the present Code concerning liabilities, except as otherwise required by the rules of the present section and the essence of the testamentary trust.

4. The right to receive a testamentary trust shall be in effect for a three-year term after the date of opening of an inheritance and shall be non-transferable to other persons. However, an alternate beneficiary may be appointed together with a beneficiary in cases when the beneficiary dies before the opening of the inheritance or simultaneously with the testator or refuses to accept the testamentary trust, did not exercise his/her right to receive the testamentary trust or is deprived of the right to receive the testamentary trust in compliance with the rules of Item 5 Article 1117 of the present Code.

### **Article 1138. Execution of a Testamentary Trust**

1. An heir vested with the duty to execute a testamentary trust shall execute it within the limits of the value of the portion of estate he/she took less the testator's debts relating to the heir.

If an heir vested with the duty to execute a testamentary trust is entitled to a compulsory share of estate, his duty to execute the testamentary trust shall be limited to the value of the portion of estate he/she took which exceeds the amount of his/her compulsory share.

2. If the duty to execute a testamentary trust is vested in several heirs, such a gift shall be an encumbrance on the right of each of them to the estate commensurately to one's share in the estate, except as otherwise required by the will.

3. If a beneficiary dies before the opening of the inheritance or simultaneously with the testator or refused to receive a testamentary trust (Article 1160), had not exercised his/her right to receive the testamentary trust within a three-year term after the opening of the inheritance or was

deprived of the right to receive the testamentary trust in compliance with the rules of Article 1117 of the present Code, the heir with the duty to execute the testamentary trust shall be relieved from the duty, except for cases when an alternate heir has been appointed for this heir.

#### **Article 1139. Private Purpose Trust**

1. In a will the testator may vest in one or several heirs a duty by will or by operation of law to commit an action of property or nonproperty nature aimed at attaining a commonly beneficial aim (private purpose trust). Such a duty may also be vested in the executor of a will on the condition that the will allocates a portion of assets of the estate for the purposes of execution of the private purpose trust.

The testator is also entitled to vest in one or several heirs the duty of upkeeping domestic animals belonging to the testator and also of exercising the necessary supervision and care in respect thereof.

2. A private purpose trust whose object is actions of property nature shall be subject to the rules of Article 1138 of the present Code.

3. Persons concerned, the executor of the will and any of the heirs are entitled to claim in court the enforcement of a private purpose trust, except as otherwise required by the will.

#### **Article 1140. Transfer of the Duty to Execute a Testamentary Trust or Private Purpose Trust to Other Heirs**

If, as the result of the circumstances specified in the present Code the portion of the estate due to a heir vested with a duty to execute a testamentary trust or private purpose trust is transferred to other heirs the latter shall execute the testamentary trust or private purpose trust, except as otherwise required by the will or law.

### **Chapter 63. Succession by Operation of Law**

#### **Article 1141. General Provisions**

1. Legal heirs shall be called upon to inherit in compliance with the priority ranking set out in Articles 1142 - 1145 and 1148 of the present Code.

The heirs of each next category shall inherit if there are no heirs of the preceding categories, i.e. if there are no heirs of the preceding categories

or if neither of them are entitled to inherit or if all of them have been barred from inheritance (Article 1117), or deprived of inheritance (Item 1 Article 1119), if neither of them have accepted inheritance or if all of them have disclaimed inheritance.

2. Heirs of one category shall inherit in equal shares, except for the heirs who inherit by right of representation (Article 1146).

**Article 1142. First Category Heirs**

1. Legal heirs of the first category are the children, spouse and parents of the testator.

2. The testator's grandchildren and their issue shall inherit by right of representation.

**Article 1143. Second Category Heirs**

1. If there are no heirs of the first category the legal heirs of the second category shall be the full and half brothers and sisters of the testator, his grandfather and grandmother both on the side of the father and on the side of the mother.

2. The children of full and half brothers and sisters of the testator (nephews, nieces of the testator) shall inherit by right of representation.

**Article 1144. Third Category Heirs**

1. If there are no heirs of the first and second categories the legal heirs of the third category shall be the full and half brothers and sisters of the of the parents of the testator (uncles and aunts of the testator).

2. Cousins of the testator shall inherit by right of representation.

**Article 1145. Next Category Heirs**

1. If there are no heirs of the first, second and third categories (Articles 1142 - 1144), the right to inherit by law shall be acquired by the testator's relatives of the third, fourth and fifth degree of kinship who do not qualify as heirs of the preceding categories.

The degree of kinship shall be determined by the number of births that separate relatives from each other. The birth of the testator in this case does not count.

2. Under Item 1 of the present article the following shall be called upon to inherit:

as heirs of the fourth category: relatives of the third degree of kinship - great grandfathers and great grandmothers of the testator;

as heirs of the fifth category: relatives of the fourth degree of kinship - children of full nephews and nieces of the testator (grandsons and granddaughters once removed) and brothers and full sisters of their grandfathers and grandmothers (grandsons and granddaughters once removed) and full brothers and sisters

of their grandfathers and grandmothers once removed);

as the heirs of the sixth category: relatives of the fifth degree of kinship - children of grandsons and granddaughters of the testator once removed (grand grandsons and grand granddaughters once removed), children of his cousins (nephews and nieces once removed) and children of his grandfathers and grandmothers once removed (uncles and aunts once removed).

3. If there are no heirs of the preceding categories the following shall be called upon to inherit as heirs of the seventh category by law: stepsons, stepdaughters, the stepfather and the stepmother of the testator.

**Article 1146. Succession by Right of Representation**

1. The share of a legal heir who has died before the opening of the inheritance or simultaneously with the testator shall be passed by right of representation to his relevant issue in the cases specified in Item 2 of Article 1142, Item 2 of Article 1143 and Item 2 of Article 1144 of the present Code and it shall be divided between them in equal shares.

2. The issue of a legal heir who has been deprived of inheritance by the testator (Item 1 of Article 1119) shall not inherit by right of representation.

3. The issue of an heir who has died before the opening of the inheritance or simultaneously with the testator and who would not have had a right of inheritance under Item 1 of Article 1117 of the present Code shall not inherit by the right of representation.

**Article 1147. Succession by Adopted Children and Adopters**

1. In the case of succession by operation of law an adopted child and his/her issue on one side and the adopter and his/her relatives on the other side shall qualify as relatives by origin (blood relatives).

2. The adopted child and his/her issue shall not inherit by operation of law after the death of the parents of the adopted child and other blood relatives thereof and the parents of the adopted child and other blood relatives thereof shall not inherit by operation of law after the death of the adopted child and his/her issue, except for the cases specified in Item 3 of the present article.

3. In cases when under the Family Code of the Russian Federation an adopted child retains under a court decision relations with one of his/her parents or other blood relatives the adopted child and his/her issue shall inherit by operation of law after the death of these relatives and the latter shall inherit by operation of law after the death of the adopted child and his/her posterity.

Inheritance under the present item shall not exclude inheritance under Item 1 of the present article.

**Article 1148. Succession by Disabled Dependants of the Testator**

1. Citizens qualifying as the legal heirs specified in Articles 1143-1145 of the present Code who are disabled as of the date of opening of the inheritance but not included in the category of heirs are called upon to inherit shall inherit by operation of law together and in equal shares with the heirs of that category if they had been dependants of the testator for at least a one-year term preceding the death of the testator, regardless of whether they resided together with the testator or not.

2. Legal heirs shall be deemed citizens not included in the circle of heirs specified in Articles 1142 - 1145 of the Code but who were disabled when the inheritance was opened who had been dependants of the testator at least for the one-year term preceding the death of the testator and resided together with him/her. If other legal heirs exist they shall inherit together *pari passu* with the heirs of the category called upon to inherit.

3. If there are no other legal heirs the disabled dependants of the testator shall inherit by themselves as eighth category heirs.

#### **Article 1149. The Right to a Compulsory Share of Estate**

1. The minor or disabled children of the testator, his disabled spouse and parents and also the disabled dependants of the testator who are subject to be called upon to inherit under Items 1 and 2 of Article 1148 of the present Code shall inherit irrespective of the content of the will at least half of the share each of them is entitled to in the case of succession by operation of law (compulsory share).

2. The right to a compulsory share in an estate shall be satisfied out of the residual part of the estate even if it is going to diminish the rights of other legal heirs to that portion of estate and if the nonbequeathed part of assets is insufficient to satisfy the right to compulsory share, out of the portion of assets that has been bequeathed.

3. Everything that an heir entitled to a compulsory share takes out of the estate on any ground shall count as part of the compulsory share, in particular, the value of a testamentary trust established for the benefit of such an heir.

4. If the exercise of a right to a compulsory share of an estate is going to cause the impossibility of passing to an heir property which was not used during the testator's lifetime by an heir entitled to a compulsory share and which had been used by an heir by will as his residential facility (a residential house, apartment, other living quarters, dacha etc.) or used as the main source of means of subsistence (means of labour, a creative studio etc.) the court may cut the size of the compulsory share or refuse to award such a share with due regard to the property status of the heirs entitled to a compulsory share.

#### **Article 1150. The Rights of a Spouse to Inheritance**

The right of inheritance that the surviving spouse of the testator has by will or by operation of law shall not diminish the spouse's right to the portion of property gained during the period of marriage with the testator and deemed their common property. The share of the deceased spouse in this property determined in compliance with Article 256 of the present Code shall be deemed a part of the estate and it shall pass to the heirs in compliance with the rules established by the present Code.

#### **Article 1151. Escheat**

1. If there are no legal heirs and heirs by will or if neither of the heirs has a right to inherit or all heirs have been deprived of their right of inheritance (Article 1117) or neither of the heirs have accepted the inheritance or all the heirs refused their inheritance and neither of them has indicated that the inheritance is waived for the benefit of another heir (Article 1158) the decedent's estate shall be deemed escheat.

2. Escheat property in the form of living quarters located in the territory of the Russian Federation shall pass by succession by operation of law into the ownership of the municipal entity where these living quarters are located or, if they are located in the constituent entities of the Russian Federation - the cities of federal importance Moscow or Saint-Petersburg, into the ownership of such constituent entities of the Russian Federation. These living quarters shall be included into the appropriate housing stock for social use. Other escheat property shall pass by succession by operation of law into the ownership of the Russian Federation.

3. The procedure for succession and recording of escheat property passing by succession by operation of law into the ownership of the Russian Federation and also the procedure for transferring such property into the ownership of Russian regions or municipal entities shall be set out by a law.

## **Chapter 64. Acquisition of Inheritance**

### **Article 1152. Acceptance of Inheritance**

1. To acquire inheritance a heir shall accept it. No acceptance is required for the acquisition of escheat property (Article 1151).

2. The acceptance of a portion of inheritance by an heir means acceptance of the whole inheritance due to him/her, whatever the nature and the whereabouts thereof.

When an heir is called upon to inherit simultaneously on several grounds (by will and by operation of law or by hereditary transition and as the result of opening an inheritance etc.) the heir may accept an inheritance he is entitled to on one of these grounds, on several of them or on all of them.

No acceptance of inheritance shall be stipulated by conditions or special clauses.

3. The acceptance of an inheritance by one or several heirs shall not mean an acceptance of inheritance by other heirs.

4. An accepted inheritance shall be recognised as owned by the heir from the date of opening of the inheritance, irrespective of the time of the actual acceptance and also irrespective of the time of state registration of the heir's rights to assets of estate where such a right is subject to state registration.

### **Article 1153. The Methods of Accepting an Inheritance**

1. An inheritance is accepted by means of the heir's filing an inheritance acceptance application or an application for a certificate of the right to the inheritance with the notary or personal representative under law at the place of opening of the inheritance.

If an heir's application is passed to the notary by another person or the signature of the heir is mailed on the application shall be attested by a notary, an official empowered to accomplish notarial actions (Item 7 of Article 1125) or a person empowered to attest powers of attorney in compliance with Item 3 of Article 185 of the present Code).

An inheritance can be accepted through a representative if the power of accepting an inheritance is specifically established in powers of attorney. No powers of attorney are required for a personal representative to accept an estate.

2. Until and unless the contrary is proven, an heir shall be deemed to have accepted an inheritance if he has committed actions evidencing an actual acceptance of the inheritance, in particular, if the heir:

has commenced possession or administration of assets of the estate;  
has taken measures for preserving assets of the estate, protecting it against third persons' encroachments or claims;

has incurred expenses on his account towards maintenance of assets of the estate;

has paid the testator's debts or received from third persons amounts of money payable to the testator.

#### **Article 1154. The Term for Acceptance of an Inheritance**

1. An inheritance can be accepted within six months after the date of opening of the inheritance.

If the inheritance is opened on the date of the alleged death of a citizen (Item 1 of Article 1114) the inheritance can be accepted within six months after the date when the court decision whereby the citizen is announced dead becomes final.

2. If a right of inheritance emerges for other persons as the result of an heir's disclaimer of an inheritance or an heir's disqualification on the grounds established by Article 1117 of the present Code such person can accept the inheritance within six months after the date of occurrence of their right of inheritance.

3. Persons whose right of inheritance occurs only due to an heir's non-acceptance of an inheritance can take the inheritance within three months after the expiry of the term specified in Item 1 of the present article.

#### **Article 1155. Acceptance of an Inheritance upon the Expiry of the Established Term**

1. On the application filed late by a heir as concerning the term set for acceptance of an inheritance (Article 1154) the court may reinstate the term and recognise the heir as having accepted the inheritance if the heir did not

know and was not supposed to know of the opening of the inheritance or if the heir has missed the term due to other legitimate reasons and on the condition that the heir who missed the term set for acceptance of the inheritance has filed his/her application with the court within six months after the time when the causes/reasons for the lateness ceased to exist.

Having recognised an heir as having accepted an inheritance, the court shall determine the shares of all the heirs in the estate and if necessary shall designate measures for safeguarding the rights of the new heir to his/her entitlement (Item 3 of the present Article). The certificates of a right of inheritance issued earlier shall be recognised by the court as void.

**2.** An heir can accept an inheritance after the expiry of the term set for the acceptance thereof without resorting to the court if all the other heirs who have accepted the inheritance grant their consent thereto in writing. If such a written consent is granted by heirs in the absence of a notary, their signatures on the documents whereby the consent is granted shall be attested in the manner specified in Paragraph 2 of Item 1 of Article 1153 of the present Code. The heirs' consent shall be deemed a ground for a notary to annul the certificate of right of inheritance issued earlier and to issue a new certificate.

If, under a certificate issued earlier, state registration has been accomplished in respect of a right to immovable property, the notary's decision to annul the certificate issued earlier and the new certificate shall be deemed a ground for amending the state registration records correspondingly.

**3.** A heir who accepts an inheritance after the expiry of the established term in keeping with the rules set out in the present article shall be entitled to take his/her entitlement in compliance with the rules of Articles 1104, 1105, 1107 and 1108 of the present Code which, in the case specified in Item 2 of the present Article, shall be applicable except as otherwise required by a written agreement concluded by the heirs.

#### **Article 1156.** The Transfer of a Right to Accept an Inheritance (Hereditary Transition)

**1.** If an heir called upon to inherit by will or by operation of law dies after the opening of the inheritance without having accepted it within the established term, the right of accepting his/her entitlement shall pass to his/her legal heirs, or if all assets of the estate have been left by will, to his/her heirs by will (hereditary transition). The right of accepting an inheritance by way of hereditary transition is not incorporated into the estate left after the death of such a heir.

**2.** The right of accepting an inheritance that belonged to a deceased heir may be exercised by his/her heirs on general terms.

If the portion of the term set for the purposes of inheritance acceptance that remains after the death of an heir is less than three months, the term shall be extended to reach three months. Upon the expiry

of the term set for inheritance acceptance purposes the heirs of a deceased heir may be recognised by the court as having accepted the inheritance under Article 1155 of the present Code if the court is of the opinion that the reasons for the lateness are legitimate.

3. The right of an heir to accept a portion of inheritance as a compulsory share (Article 1149) shall not be transferable to his/her heirs.

#### **Article 1157. The Right of Disclaimer**

1. The heir is entitled to disclaim the gift he is entitled to, for the benefit of other persons (Article 1158) or without an indication of a person for whose benefit he rejects his/her gift.

No disclaimer shall be possible in the case of escheat.

2. The heir is entitled to disclaim the gift he is entitled to within a term set for acceptance of inheritance (Article 1154), in particular, in cases when he has already accepted the gift.

If the heir has committed actions evidencing the actual acceptance of an inheritance (Item 2 of Article 1153) a court may recognise him/her as having disclaimed the inheritance on the application of such heir, in particular, after the expiry of the set term if the court finds that the reasons for the lateness are legitimate.

3. A disclaimer of an inheritance shall not be subject to alteration or reversed.

4. In the case of a minor heir, an heir lacking dispositive capacity or having a partial dispositive capacity disclaimer of an inheritance shall be admitted on a preliminary consent of the body of tutorship and guardianship.

#### **Article 1158. Disclaimer of an Inheritance for the Benefit of Other Persons and Disclaimer of a Portion of a Gift**

1. The heir is entitled to disclaim an inheritance for the benefit of other persons from among the heirs under a will or who belong to any category and who have not been refused inheritance (Item 1 Article 1119), in particular, for the benefit of those who were called upon to inherit by the right of representation or inheritance transition (Article 1156).

No disclaimer shall be for the benefit of any of the above persons:

of assets inherited under a will if the whole of the decedent's estate is left by will for heirs appointed by the decedent;

of a compulsory share of an estate (Article 1149);

if an alternate heir has been appointed for the heir in question (Article 1121);

2. No disclaimer shall be for the benefit of persons who are not specified in Item 1 of the present article.

No disclaimer of inheritance shall be stipulated by conditions or special clauses.

3. An heir shall not disclaim a portion of his/her gift. However, if an heir is called upon to inherit simultaneously on several grounds (by will, by law or by inheritance transition or as a result of opening of an inheritance etc.) he shall be entitled to disclaim the gift he is entitled to on one of these grounds, on several of them or on all of them.

#### **Article 1159. Methods of Disclaimer**

1. The disclaimer of an inheritance shall be effected by the heir by means of filing a disclaimer application with a notary or official empowered under law to issue certificates of inheritance at the place of opening of the inheritance.

2. If a disclaimer application is filed with a notary by a person other than the heir or if it is mailed the signature of the heir on such application shall be attested in the manner established in Paragraph 2 of Item 1 of Article 1153 of the present Code.

3. An inheritance may be disclaimed through a representative if disclaimer powers are laid down in the powers of attorney. No powers of attorney is required for a legal representative to disclaim inheritance.

#### **Article 1160. Right of Disclaimer of a Testamentary Trust**

1. The beneficiary is entitled to refuse accepting a trust (Article 1137). In this case no trust for the benefit of another person, a trust stipulated by a clause or condition is permitted.

2. If the beneficiary is at the same time an heir his/her right specified in the present article shall not depend on his/her right to accept the inheritance or disclaim it.

#### **Article 1161. Increment of Shares of Estate**

1. If an heir does not accept his/her gift, disclaims his/her gift without indicating that the disclaimer is for the benefit of another heir (Article 1158), does not have the right to inherit or if his/her right of inheritance is forfeited on the grounds established by Article 1117 of the present Code or as a result of invalidity of the will the portion of the estate to which such heir would have been entitled shall pass to the legal heirs called upon to inherit, pro rata to their shares of the estate.

However, if the testator has left all property to the heirs he appointed, the portion of the estate to which an heir who disclaimed his/her gift or who was dropped on the other specified grounds was entitled shall pass to the other heirs by will pro rata to their shares of the estate, except as otherwise required by the will in respect of distribution of that portion of the estate.

2. The rules contained in Item 1 of the present article shall not be applicable if an alternate heir (Item 2 Article 1121) has been appointed for the heir who disclaimed his/her gift or who was dropped on other grounds.

#### **Article 1162. Certificate of Right to Inheritance**

1. A certificate of right to inheritance shall be issued at the place of opening of the inheritance by a notary or an official empowered by law to accomplish such a notarial action.

The certificate shall be issued on the application of an heir. If heirs so wish one certificate may be issued for all the heirs or a separate certificate may be issued to each of the heirs, for the whole of the estate or for specific parts thereof.

The same procedure shall be applicable when a certificate is issued in the case of escheat in compliance with Article 1151 of this Code in the Russian Federation, a constituent entity of the Russian Federation or municipal entity.

2. If, after the issue of a certificate of right to inheritance, assets of the estate are discovered which are not covered by such a certificate, an additional certificate of right to inheritance shall be issued.

#### **Article 1163. Term for Issue of a Certificate of Right to Inheritance**

1. A certificate of right to inheritance shall be issued to heirs at any time upon the expiry of six months after the date of opening of the inheritance, except for the cases specified in the present Code.

2. In the case of succession both by will and by operation of law a certificate of right to inheritance may be issued before the expiry of six months after the opening of the inheritance if there is reliable information evidencing that there are no other heirs entitled to the inheritance or a portion thereof apart from the persons who have applied for the certificate.

3. The issuance of a certificate of right to inheritance shall be suspended by the decision of a court and also in the case of existence of a heir conceived but not yet born.

#### **Article 1164. Heirs' Common Ownership**

In the case of succession by operation of law if an estate passes to two or several heirs and in the case of succession by will if an estate is left by will to two or several heirs without an indication of specific assets of the estate to be taken by each of the heirs the estate shall be put into the share ownership of the heirs as of the time of opening of the inheritance.

Heirs' common ownership of assets of an estate shall be subject to the provisions of Chapter 16 of the present Code on share ownership with due regard to the rules set out in Articles 1165 - 1170 of the present Code. However, in the distribution of an estate the rules of Articles 1168 - 1170 of the present Code shall be applicable within three years after the opening of the inheritance.

#### **Article 1165. Distribution of Decedent's Estate by Agreement between Heirs**

1. The assets of estate in the share ownership of two or several heirs can be divided by agreement between them.

The agreement on distribution of estate shall be subject to the rules of the present Code concerning the form of deals and form of agreements.

2. An agreement on distribution of estate incorporating immovable property, in particular, an agreement on devolution of the share of one or several heirs may be concluded by heirs after a certificate of right to inheritance has been issued thereon.

The state registration of heirs' ownership of immovable property being the subject matter of an agreement on distribution of estate shall be accomplished on the basis of the agreement on distribution of estate and the certificate of a right to an inheritance issued earlier and in cases when the state registration of heirs' rights to immovable property has been accomplished before the heirs entered the agreement on distribution of estate, on the basis of the agreement on distribution of estate.

3. A discrepancy between the way an estate is distributed by heirs in an agreement they concluded and the shares of the estate to which the heirs are entitled as specified in the certificate of right to inheritance shall not cause refusal of state registration of their rights to the immovable property received as the result of distribution of the estate.

#### **Article 1166.** Safeguarding the Interests of a Child in the Case of Distribution of Estate

If there is an heir who has been conceived but not yet born, distribution of an estate shall be accomplished only after the birth of such a heir.

#### **Article 1167.** Safeguarding the Lawful Interests of Minors, Citizens Lacking Dispositive Capacity or Having a Limited Dispositive Capacity in the Case of Distribution of Estate

If among the heirs there are minor citizens, citizens without dispositive capacity or having a limited dispositive capacity an estate shall be distributed in compliance with the rules of Article 37 of the present Code.

For the purpose of safeguarding the lawful interests of the said heirs the tutorship and guardianship body shall be notified of the drawing up of an agreement on distribution of estate (Article 1165) has been drawn up and of a court's hearing a case of distribution of estate.

#### **Article 1168.** Right in Rem Relating to an Indivisible Item in Cases of Distribution of Estate

1. An heir who had a right of share ownership together with the testator in respect of an indivisible item (Article 133) the share in the right of which is incorporated in the estate shall have a preferential right of obtaining as offsetting his/her share of the estate the thing that was in

common ownership, over the heirs who had not been party to the common ownership before, irrespective of their having used the item or not.

2. An heir who had been permanently using an indivisible item (Article 133) incorporated in an estate shall have a preferential right of obtaining as offsetting his/her share in the estate this thing, over the heirs who had not been using the thing and had not been party to the common ownership thereof.

3. If an estate incorporates housing accommodation (residential house, apartment etc.) which cannot be physically divided, the heirs who had been residing in the housing accommodation as of the date of opening of the inheritance and who do not have other housing accommodation shall have the right to enjoy a preferential treatment, in cases of distribution of estate, over the other heirs not being owners of the housing accommodation incorporated in the estate in obtaining this housing accommodation as offsetting their shares of the estate.

#### **Article 1169. Preferential Right to Ordinary Household Articles in Cases of Distribution of Estate**

In the case of distribution of estate an heir who had been residing as of the date of opening of an inheritance together with the testator shall have a preferential right of obtaining as offsetting his/her share of the estate household articles.

#### **Article 1170. Compensation of Mismatch between Received Assets of an Estate and the Share in the Estate**

1. A mismatch between the assets of estate claimed by an heir by a preferential right under Articles 1168 or 1169 of the present Code and the heir's share of the estate shall be eliminated by means of his/her transferring other assets of the estate to other heirs or by the provision of another compensation, in particular, disbursement of the relevant amount of money.

2. Except as otherwise required by an agreement between all the heirs, the exercise of a preferential right by any of them shall be possible after the provision of a relevant compensation to other heirs.

#### **Article 1171. Preservation of an Estate and Administration of an Estate**

1. For the purpose of safeguarding the rights of heirs, beneficiaries and other persons concerned the executor of a will or the notary at the place where an inheritance is opened shall take the measures specified in Articles 1172 and 1173 of the present Code as well as other necessary measures for preservation and administration of the estate.

2. The notary shall take measures for preservation and administration of the estate on the application of one or several heirs, executor of the will, a local government body, the tutorship and guardianship body or other persons acting in the interests of preservation of the estate. If an executor

of the will has been appointed (Article 1134) the notary shall take measures for preservation and administration of the estate in agreement with the executor.

The executor of the will shall take measures for the preservation and administration of the estate on his own or at the request of one or several heirs.

**3.** For the purpose of ascertaining the subject matter of gifts and preserving it banks, other credit institutions and other legal entities shall inform the notary, at the notary's request, of the information they have concerning assets belonging to the testator. The information so obtained shall be passed by the notary only to the executor of the will and to the heirs.

**4.** The notary shall take measures for preservation and administration of the estate within a term set by the notary with due regard to the nature and value of the estate and also the time required for the heirs to commence owning their gifts but not exceeding six months, or in the cases specified in Items 2 and 3 of Article 1154 and Item 2 of Article 1156 of the present Code, not exceeding nine months after the opening of the inheritance.

The executor of the will shall take measures for the preservation and administration of the estate within the term required for executing the will.

**5.** In cases when assets of the estate are located in different places, the notary at the place where the inheritance has been opened shall forward instructions on the preservation and administration of the assets of the estate to the notary at the place where the relevant portion of the assets is located, via the territorial agencies of the federal executive body exercising law enforcement functions and functions of control and supervision in the notary field. If the notary at the place of opening of the inheritance knows who should take measures for the preservation of the estate, such instructions shall be forwarded to the relevant notary or official.

**6.** The procedure for preservation and administration of estate, in particular, the procedure for drawing up an inventory of the estate shall be determined by the legislation on notaries. The maximum limits on remuneration payable under an agreement of custody of estate and agreement of trust of estate shall be set by the Government of the Russian Federation.

**7.** In cases when a right to accomplish notarial actions is granted under law to officials of local government bodies and officials of consular institutions of the Russian Federation the necessary measures for preservation and administration of an estate can be taken by the relevant official.

## **Article 1172. Measures for Preservation of the Estate**

1. For the purpose of preserving an estate the notary shall draw up an inventory of the estate in the presence of two witnesses qualifying under the criteria established in Item 2 of Article 1124 of the present Code.

The executor of the will, heirs and in relevant cases representatives of the tutorship and guardianship body can be in attendance when an inventory of estate is being drawn up.

At the request of persons specified in Paragraph 2 of the present item, the estate shall be valued by agreement of the heirs. If no agreement is made the estate or the portion thereof not covered by a valuation agreement shall be valued by an independent appraiser on the account of the person who has demanded the valuation of the estate, with these expenses later being distributed among the heirs pro rata to the value of the assets of estate received by each of them.

2. Money in cash incorporated in the estate shall be deposited with the notary and foreign currency valuables, precious metals and stones, articles made from them and securities that do not require management shall be handed over to a bank into the custody thereof under an agreement in compliance with Article 921 of the present Code.

3. If the notary is aware that weapons make up a portion of the estate he shall notify the bodies of interior affairs accordingly.

4. Assets incorporated in the estate but not specified in Items 2 and 3 of the present article, if it does not require management, shall be passed by the notary under an agreement to an heir into the custody thereof, or if it cannot be passed to a heir, to another person at the notary's discretion.

In the case of succession by a will whereby an executor of the will is appointed, the executor of the will shall be responsible for the custody of the said assets of estate on his own or by means of entering into a custody agreement with an heir or another person chosen at the discretion of the notary.

#### **Article 1173. Management on Trust of the Estate**

If the estate incorporates assets that require management apart from preservation (an enterprise, an interest in the authorised (aggregate) capital of a partnership or company, securities, exclusive rights etc.) the notary, acting as a trustee under Article 1026 of the present Code, shall conclude a trust agreement in respect of such assets.

In the case of succession by a will whereby an executor of the will is appointed, the rights of the trustee shall belong to the executor of the will.

#### **Article 1174. Reimbursement of Expenses Incurred Due to the Death of the Testator and Expenses Towards Preservation and Administration of the Estate**

1. The necessary expenses incurred due to the pre-death illness of the testator, decent funeral expenses, including the necessary expenses incurred as payment for the place of burial of the testator, estate

preservation and administration expenses and also testamentary expenses shall be reimbursable out of the decedent's estate within the value thereof.

2. Claims for reimbursement of the expenses specified in Item 1 of the present article may be presented to heirs which have accepted their gifts and, before the acceptance of a gift, to the executor of the will or satisfied on the account of the estate.

Such expenses shall be reimbursed before the repayment of debts to creditors of the testator and within the limits of value of the portion of the estate taken by each of the heirs. In such cases expenses incurred in connection with the testator's illness and funeral shall rank as first category, estate preservation and administration expenses as second category and testamentary expenses as third category.

3. Any amounts of money owned by the testator, including bank deposits and accounts, may be used to bear the testator's decent funeral expenses.

The banks having in their deposits or accounts the testators' amounts of money shall provide them on the notary's decision to the person specified in the decision for the purpose of making payment towards these expenses.

An heir to whom amounts of money in the testator's deposit or any other bank account have been left by will, in particular in cases when they were left by means of testamentary instructions in a bank (Article 1128), shall be entitled at any time before the expiry of six months after the opening of the inheritance to receive from the testator's deposit or bank account amounts of money required for the funeral of the testator.

The amount of money handed out by the bank in keeping with the present item for funeral purposes to an heir or a person indicated in the notary's decision shall not exceed two hundred times the minimum monthly wage as established by the law as of the date of application for the money.

The rules of the present item shall be correspondingly applicable to other credit organisation entitled to raise citizens' funds in deposit and other accounts.

### **Article 1175. Heirs' Liabilities for the Testator's Debts**

1. Heirs who have accepted their gift shall be liable together for the debts of the testator (Article 323).

Each of the heirs shall be liable for the testator's debts within the limits of the value of the gift he/she takes.

2. An heir who has accepted his/her gift by way of hereditary transition (Article 1156) shall be liable for the testator's debts within the limits of the value of the gift and the gift shall not be collected for the debts of the heir from which he/she acquired the right to the gift.

3. Testator's creditors are entitled to present their claims to heirs who have accepted their gifts, within the statutory limitation term set for relevant claims. Until the acceptance of the gift creditors' claims may be presented

to the executor of the will or the estate may be collected to satisfy the claims. In the latter case a court shall suspend considering the case until the time when the estate is distributed among the heirs or passed under Article 1151 of this Code to the Russian Federation, a constituent entity of the Russian Federation or municipal entity by way of escheat.

When the testator's creditors file claims, the statutory limitation term established for relevant claims shall not be broken, suspended or reinstated.

## **Chapter 65. Succession of Specific Types of Assets**

### **Article 1176. Succession of Rights Connected with an Interest in Economic Partnerships and Companies and Production Co-Operatives**

1. The estate of a participant in a general partnership or of a general partner in a partnership in commendam, a participant in a limited liability company or a supplementary liability company or a member of a production co-operative shall include the participant's (member's) share of the share (authorised) capital (assets) of the respective partnership, company or co-operative.

If for an heir to join a business partnership or production cooperative or for an heir to acquire a share in the authorised capital of a business company the consent of the rest of the participants in the partnership or company or members of the co-operative is required under the present Code, other laws or the foundation documents of a business partnership or company or a production co-operative, and if the heir has been refused such a consent he/she shall be entitled to receive from the business partnership or company or production co-operative the actual value of inherited share or a portion of the assets pro rata to the share, in the manner established for such cases by the rules of the present Code, other laws or the foundation documents of the legal entity.

2. The estate of an investor in a partnership in commendam shall include his/her share in the share capital of the partnership. The heir to whom this share has been transferred shall become an investor in the partnership in commendam.

3. The estate of a participant in a joint-stock company shall include the shares he/she owned. The heirs by whom these shares have been taken shall become participants in the company.

### **Article 1177. Succession of Rights Relating to Participation in a Consumer Co-Operative**

1. The estate of a member of a consumer co-operative shall include his/her share.

An heir of a member of a housing, dacha or other consumer co-operative shall be entitled to admittance as member of a respective co-

operative. Admittance to membership in the co-operative shall not be refused for such an heir.

2. The decision of the issue as to which of the heirs may be admitted to become a member of a consumer co-operative in the case when the testator's share has been taken by several heirs and also the procedure, methods and term for disbursing amounts of money payable to the heirs who have not become members of the co-operative or for handing out assets in kind to them in place of the money shall be governed by the law on consumer co-operatives and the foundation documents of the respective co-operative.

#### **Article 1178. Succession of an Enterprise**

An heir who, as of the date of opening an inheritance, had been registered as an individual entrepreneur or a commercial organisation being an heir by will shall enjoy a preferential right in the case of estate distribution to receive an enterprise incorporated in the estate to offset his share of inheritance (Article 132), given the observance of the rules of Article 1170 of the present Code.

If neither of the heirs has the said preferential right or has not exercised such right, the enterprise incorporated in the estate shall not be subject to partition and shall come under the share ownership of the heirs in compliance with the gifts they are entitled to, except as otherwise required by an agreement of the heirs who have taken the estate incorporating the enterprise.

#### **Article 1179. Succession of Property of a Member of a Peasant (Individual) Farm**

1. On the death of any member of peasant (individual) farm inheritance shall be opened and succession shall be accomplished on general terms, given the observance of the rules of Articles 253-255 and 257-259 of the present Code.

2. If an heir of a deceased member of peasant (individual) farm is not himself/herself a member of the farm he/she shall be entitled to receive compensation pro rata to the share of the assets in share ownership of members of the farm he/she is entitled to. The term for disbursement of the compensation shall be set by agreement of the heir with the members of the farm, or if there is no agreement, by a court, but it shall not exceed one year after the opening of the inheritance. If there is no agreement between the members of the farm and the said heir to the contrary, the share of the testator in the assets shall be deemed equal to the shares of other members of the farm. If the heir is admitted as a member of the farm the said compensation shall not be payable for his/her benefit.

3. In cases when on the death of a member of a peasant (individual) farm the farm is terminated (Item 1 of Article 258), in particular, in connection with the fact that the deceased had been the sole member of

the farm and neither of his/her heirs wishes to keep running the peasant (individual) farm, the assets of the peasant (individual) farm shall be subject to distribution between the heirs according to the rules of Articles 258 and 1182 of the present Code.

**Article 1180. Succession of Items with Limited Alienability**

1. Weapons, highly effective and poisonous substances, narcotic drugs and psychotropic substances and other things with limited alienability (Paragraph 2 of Item 2 of Article 129) that had been owned by the testator shall be incorporated in the estate and be inherited on the general terms established by the present Code. No special permission shall be required for taking a gift that includes such things.

2. Until the time when the heir obtains a special permission for such things, measures for ensuring the security of the things with limited alienability shall be taken in keeping with the procedure established by law for this kind of property.

If the heir is refused the said permission his/her right of ownership of such property shall be subject to termination in compliance with Article 238 of the present Code and proceeds from the sale of the property less sales expenses shall be payable to the heir.

**Article 1181. Succession of Plots of Land**

A plot of land or a right of lifetime inheritable ownership of a plot of land owned by the testator shall be included in the estate and inherited on the general terms established by the present Code. No special permission is required for taking a gift incorporating this property.

In the case of succession of a plot of land or a right of lifetime inheritable ownership of a plot of land, the succession shall also include the surface layer of the plot of land (soil), bodies of water, the plants located thereon, except as otherwise established by a law.

**Article 1182. Peculiarities of Partition of a Plot of Land**

1. The partition of a plot of land belonging to heirs by the right of common ownership shall be accomplished on the basis of the minimum size of plot of land set for the participants with a relevant purpose.

2. If the plot of land cannot be divided in the manner established by Item 1 of the present article the plot of land shall pass to an heir having a preferential right of obtaining this plot of land as offsetting his/her share of the estate. Compensation shall be provided to the other heirs in the manner established by Article 1170 of the present Code.

If neither of the heirs has a preferential right of obtaining the plot of land or has exercised such his/her right the heirs shall possess, use and dispose of this plot of land by the right of share ownership.

**Article 1183. Succession of Outstanding Amounts of Money Granted to a Citizen as Means of Subsistence**

1. The right to receive the amounts of wage/salary and payments qualifying as such, pension, stipend, social insurance benefit, damages for harm to life or health, alimony and other amounts of money provided to the testator as means of subsistence which had been payable for his benefit but had not been received in his lifetime shall belong to the members of the testator's family who had been residing together with him and also his disabled dependants, irrespective of their having resided with the deceased or not.

2. Claims for the disbursement of amounts of money under Item 1 of the present article shall be presented to the persons liable within four months after the opening of the inheritance.

3. If there are no persons entitled under Item 1 of the present article to receive outstanding amounts of money that had been owing the testator or if these persons have not presented their claims for the disbursement of such amounts of money within the established term, these amounts of money shall be included in the estate and inherited on the general terms established by the present Code.

**Article 1184. Succession of Assets Granted to the Testator by the State or a Municipal Entity on Privileged Terms**

Means of transportation and other assets granted by the state or a municipal entity to the testator on privileged terms in connection with his disability or other similar circumstances shall be incorporated in the estate and inherited on the general terms established by the present Code.

**Article 1185. Succession of State Awards, Honour and Commemorative Badges**

1. The state awards bestowed on the testator and covered by the legislation on the state awards of the Russian Federation shall not be included in the estate. The transfer of the said awards on the death of the decedent to other persons shall be subject to the procedure established by the legislation on state awards of the Russian Federation.

2. The state awards that had belonged to the testator which are not covered by the legislation on state awards of the Russian Federation, honour, commemorative and other badges, including awards and badges being part of collections, shall be included in the estate and inherited on the general terms established by the present Code.

**Section VI. International Private Law**

**Chapter 66. General Provisions**

**Article 1186.** Determining the Law Governing Civil Legal Relations Involving the Participation of Foreign Persons or Civil Legal Relations Complicated by Another Foreign Factor

1. The law applicable to civil legal relations involving the participation of foreign citizens or foreign legal entities or civil legal relations complicated by another foreign factor, in particular, in cases when an object of civil rights is located abroad shall be determined on the basis of international treaties of the Russian Federation, the present Code, other laws (Item 2 of Article 3) and usage recognised in the Russian Federation.

The peculiarities of determining the law subject to application by the international commercial arbitration tribunal shall be established by a law on the international commercial arbitration tribunal.

2. If under Item 1 of the present article it is impossible to determine the law subject to application the law of the country with which a civil legal relation complicated by a foreign factor is most closely related shall apply.

3. If an international treaty of the Russian Federation contains substantive law norms governing a relevant relation, a definition on the basis of law of conflict norms governing the matters fully regulated by such substantive law norms is prohibited.

**Article 1187.** Construction of Legal Terms in the Definition of Applicable Law

1. When applicable law is being defined legal terms shall be construed in compliance with the Russian law, except as otherwise required by law.

2. If, when applicable law is being defined, legal terms that require qualification are not known to Russian law or are known in another wording or with another content and if they cannot be defined by means of construction under Russian law a foreign law may be applied to the construction thereof.

**Article 1188.** The Application of the Law of a Country with Several Legal Systems

In cases when the law of a country where several systems of law are in effect the system of law defined in compliance with the law of that country shall apply. If under the law of that country it is impossible to define which of the systems of law is applicable the system of law to which the relation is the strongest shall apply.

**Article 1189.** Reciprocity

1. A foreign law shall be applicable in the Russian Federation, irrespective of the applicability of Russian law to relations of the kind in the relevant foreign state, except for cases when the application of a foreign law on reciprocal basis is required by law.

2. Where the application of a foreign law depends on reciprocity such a reciprocity shall be deemed to exist unless the contrary is proven.

**Article 1190. Reverse Reference**

1. Any reference to a foreign law in compliance with the rules of the present section shall be deemed a reference to substantive law rather than the law of conflict of the relevant country, except for the cases specified in Item 2 of the present article.

2. A reverse reference of a foreign law may be accepted in the cases of reference to the Russian law defining the legal status of a natural person (Articles 1195 - 1200).

**Article 1191. Establishing the Content of Foreign Law Norms**

1. Where a foreign law is applied a court shall establish the content of its norms in compliance with the official construction, application practices and doctrine thereof in the relevant foreign state.

2. For the purpose of establishing the content of norms of a foreign law a court may apply in the established manner to the Ministry of Justice of the Russian Federation and other competent bodies or organisations in the Russian Federation and abroad for assistance and clarification or may use the services of experts.

Persons being party to a case may present documents confirming the content of foreign law norms to which they refer to substantiate their claims or objections and provide other assistance to a court in establishing the content of these norms.

As concerns claims relating to the pursuance of entrepreneurial activity by parties, the burden of proving the content of foreign law norms may be vested by a court in the parties.

3. If, despite measures taken in compliance with the present articles, the content of foreign law norms fails to be established within a reasonable term, the Russian law shall apply.

**Article 1192. Application of Imperative Norms**

1. The regulations of the present section shall not affect the applicability of the imperative norms of the legislation of the Russian Federation which, due to indication in the imperative norms themselves or due to their special significance, in particular, for safeguarding the rights and law-protected interests of participants in civil law relations, regulate relevant relations, irrespective of the law that is subject to application.

2. According to the rules of the present section, when the law of any country is applied a court may take into account imperative norms of another country closely related to the relationship if under the law of that country such norms are to govern relevant relations, irrespective of the law that is subject to application. In such cases the court shall take into account

the purpose and nature of such norms and also the consequences of their application or non-application.

**Article 1193. Public Order Clause**

A norm of a foreign law subject to application in keeping with the rules of the present section shall not be applicable in exceptional cases when the consequences of its application would have obviously been in conflict with the fundamentals of law and order (public order) of the Russian Federation. In such a case a relevant norm of Russian law shall be applied if necessary.

A refusal to apply a norm of a foreign law shall not be based exclusively on a difference of the legal, political or economic systems of a relevant foreign state from the legal, political or economic system of the Russian Federation.

**Article 1194. Retortions**

The Government of the Russian Federation may establish reciprocal limitations (retortions) on the proprietary and personal non-proprietary rights of citizens and legal entities of the states where special limitations exist on the proprietary and personal non-proprietary rights of Russian citizens and legal entities.

**Chapter 67. The Law Governing Determination of the Legal Status of Persons**

**Article 1195. The Personal Law of Natural Persons**

1. The personal law of a natural person shall be the law of the country of which the person is a citizen.

2. If, apart from being a Russian citizen, a person also has foreign citizenship, his/her personal law shall be deemed Russian law.

3. If a foreign citizen has place of residence in Russian Federation his/her personal law shall be deemed Russian law.

4. If a person has several foreign citizenships his/her personal law shall be deemed the law of the country in which the person has place of residence.

5. The personal law of a person without citizenship shall be deemed the law of the country where he/she has place of residence.

6. The personal law of a refugee shall be deemed the law of the country where he/she has been granted asylum.

**Article 1196. The Law Governing Determination of the Civil Legal Capacity of a Natural Person**

The civil legal capacity of a natural person shall be determined by his/her personal law. In such a case foreign citizens and persons without citizenship shall possess civil legal capacity in the Russian Federation in

equal measure with Russian citizens, except for the cases established by law.

**Article 1197.** The Law Governing Determination of the Civil Dispositive Capacity of a Natural Person

1. The civil dispositive capacity of a natural person shall be determined by his/her personal law.

2. A natural person who does not have civil dispositive capacity according to his/her personal law shall have no right to refer to his/her lacking dispositive capacity if he/she has dispositive capacity at the place where the deal was made, except for the cases in which the other party knew or was obviously supposed to know of the lack of dispositive capacity.

3. The recognition of a natural person in the Russian Federation as having no dispositive capacity or as having a limited dispositive capacity shall be governed by Russian law.

**Article 1198.** The Law Governing Determination of the Rights of a Natural Person to a Name

Natural person's rights to a name, the use and protection of a name shall be determined by his/her personal law, except as otherwise required by the present Code or other laws.

**Article 1199.** The Law Governing Tutorship and Guardianship

1. Tutorship and guardianship over minors, adults having no dispositive capacity or having a limited dispositive capacity shall be appointed and terminated according to the personal law of the person over which it is appointed or terminated.

2. The tutor's (guardian's) duty to accept tutorship (guardianship) shall be determined according to the personal law of the person who is appointed a tutor (guardian).

3. Relations between a tutor (guardian) and a person under his/her tutorship (guardianship) shall be determined according to the law of the country whose institution has appointed the tutor (guardian). However, when a person under tutorship (guardianship) has place of residence in the Russian Federation, Russian law shall apply if it is more favourable for such a person.

**Article 1200.** The Law Governing Cases of a Natural Person's Being Declared Missing or Dead

The declaration in the Russian Federation of a natural person as missing or dead shall be governed by Russian law.

**Article 1201.** The Law Governing Determination of the Possibility for a Natural Person to Pursue Entrepreneurial Activity

The natural person's right to pursue entrepreneurial activity as an individual entrepreneur, without the formation of a legal entity, shall be determined by the law of the country where the natural person is registered as an individual entrepreneur. If this rule cannot be applied due to lack of a compulsory registration the law of the country of the main place of business shall apply.

**Article 1202. The Personal Law of a Legal Entity**

1. The personal law of a legal entity shall be deemed the law of the country where the legal entity has been founded.

2. In particular the following shall be determined on the basis of the personal law of a legal entity:

- 1) an organisation's status as a legal entity;
- 2) the organisational legal form of a legal entity;
- 3) the standards governing the name of a legal entity;
- 4) issues concerning the formation, re-organisation and liquidation of a legal entity, in particular matters of succession;
- 5) the content of the legal capacity of a legal entity;
- 6) the procedure for acquisition of civil rights and assumption of civil duties by a legal entity;
- 7) in-house relations, in particular, relations between a legal entity and its founders;
- 8) a legal entity's capacity to be liable for its obligations.

3. A legal entity shall not refer to a limitation on the powers of its body or representative to enter into a deal which is not known in the law of the country where the body or the representative has entered into the deal, except for cases when it is proven that the other side in the deal knew or was obviously supposed to know of the said limitation.

**Article 1203. The Personal Law of a Foreign Organisation Not Qualifying as a Legal Entity under Foreign Law**

The personal law of a foreign organisation not qualifying as a legal entity under foreign law shall be deemed the law of the country where this organisation was founded.

If Russian law is applicable, the activity of such an organisation shall be accordingly subject to the rules of the present Code which govern the activities of legal entities, except as otherwise required by a law, other legal acts or the substance of the relation in question.

**Article 1204. Participation of a State in Civil Legal Relations Complicated by a Foreign Factor**

Civil legal relations complicated by a foreign factor as involving the participation of a state shall be subject to the rules of the present section on general terms, except as otherwise established by law.

## **Chapter 68. The Law Governing Proprietary and Personal Non-Proprietary Relations**

### **Article 1205.** General Provisions Concerning the Law Governing Rights in Rem

1. The content of a right of ownership and other rights in rem relating to immovable and movable property, the exercise and protection thereof shall be determined according to the law of the country where such property is located.

2. Property shall be classified as immovable or movable in compliance with the law of the country where such property is located.

### **Article 1206.** The Law Governing the Emergence and Termination of Rights in Rem

1. The emergence and termination of a right of ownership and other rights in rem relating to property shall be determined by the law of the country where such property was located as of the time when the action was committed or another circumstance occurred which served as a ground for the emergence or termination of the right of ownership or other rights in rem, except as otherwise required under law.

2. The emergence and termination of a right of ownership or other rights in rem relating to a deal concluded in respect of property en route shall be determined by the law of the country from which the property has been dispatched, except as otherwise required under law.

3. The emergence of a right of ownership or other rights in rem in respect of property by virtue of acquisitive prescription shall be determined by the law of the country where the property was located as of the time of expiry of the acquisitive prescription term.

### **Article 1207.** The Law Governing Rights in Rem Relating to Aircraft, Vessels and Spacecraft

An ownership right and other rights in rem in respect of aircraft, sea vessels, inland navigation vessels, space craft subject to state registration, the exercise and protection of such rights shall be subject to the law of the country where such aircraft, vessels and space craft are registered.

### **Article 1208.** The Law Governing Statute of Limitations

The statute of limitations shall be determined by the law of the country governing a relation in question.

### **Article 1209.** The Law Governing the Form of Transaction

1. The form of transaction shall be governed by the law of place of conclusion. However, a transaction concluded abroad cannot be declared null and void because of a failure to comply with the form, if the provisions of Russian law have been observed.

The rules set out in Paragraph 1 of the present item shall be applicable, in particular, to the form of powers of attorney.

2. The form of a foreign trade transaction in which at least one party is a Russian legal entity shall be governed by Russian law, irrespective of the place where the transaction was concluded. This rule shall be applicable, in particular, in cases when at least one of the parties to such a transaction is a natural person pursuing entrepreneurial activities whose personal law under Article 1195 of the present Code is Russian law.

3. The form of a transaction relating to immovable property shall be governed by the law of the country where the property is located and in respect of an immovable property recorded in a state register of the Russian Federation, by Russian law.

#### **Article 1210. Selection of Law by the Parties to a Contract**

1. When they enter into a contract or later on the parties thereto may select by agreement between them select the law that will govern their rights and duties under the contract. The law so selected by the parties shall govern the emergence and termination of a right of ownership and other rights in rem relating to movable property with no prejudice for the rights of third persons.

2. An agreement of parties as to the selection of law to be applicable shall be expressly stated or shall clearly ensue from the terms and conditions of the contract or the complex of circumstances of the case.

3. Selection of applicable law made by parties after the conclusion of a contract shall have retroactive effect and it shall be deemed valid, without prejudice for the rights of third persons, beginning from the time when the contract was concluded.

4. The parties to a contract may select applicable law both for the contract as a whole and for specific parts thereof.

5. If it ensues from the group of circumstances of a case that were in existence as of the time of selection of applicable law that the contract is actually connected with only one country the parties' selection of the law of another country shall not affect the imperative norms of the country with which the contract is actually connected.

#### **Article 1211. The Law Governing a Contract in the Case of Lack of Parties' Agreement on Applicable Law**

1. Where there is no agreement of parties on applicable law, the contract shall be subject to the law of the country with which the contract has the closest relation.

2. The law of the country with which a contract has the closest relation shall be deemed the law of the country where the party responsible for the performance under the contract of crucial significance for the content of the contract has its place of residence or main place of business,

except as otherwise ensuing from the law, the terms or substance of the contract or the group of circumstances of the case in question.

**3.** A party responsible for the performance under a contract of crucial significance for the content of the contract shall be a party which, in particular, is the following, except as otherwise ensuing from law, the terms or substance of the contract or the group of circumstances of the case in question:

- 1) a seller - in a sales contract;
- 2) a donor - in a donation contract;
- 3) a lessor/landlord - in a lease;
- 4) a lender - in a contract of gratuitous use;
- 5) a contractor - in a contract;
- 6) a carrier - in a carriage contract;
- 7) a forwarding agent - in a forwarding contract;
- 8) a lender (a creditor) - in a loan (credit) contract;
- 9) a financial agent - in a case in action assignment financing contract;
- 10) a bank - in a bank deposit contract and bank account contract;
- 11) a custodian - in a custody contract;
- 12) an insurer - in an insurance policy;
- 13) an agent - in a contract of agency;
- 14) a commission agent - in a contract of commission agency;
- 15) an agent - in a contract of agency service;
- 16) a franchisor - in a contract of franchise;
- 17) a mortgagor - in a mortgage contract;
- 18) a surety - in a suretyship contract;
- 19) a licensor - in a licence contract.

**4.** The law of the country with which the contract has the closest relation shall be as follows, except as otherwise ensuing from law, the terms or substance of the contract or the complex of circumstances of the case:

- 1) for a contract of independent building contractor work and a contract of independent design and prospecting contractor work - the law of the country where on the whole the results stipulated by the contract are created;
- 2) for a contract of general partnership - the law of the country where on the whole the activity of the partnership is pursued;
- 3) for a contract concluded by auction, tender or commodity market - the law of the country where the auction, tender is held or the commodity market is situated.

**5.** A contract that has features of various types of contract shall be subject to the law of the country with which this contract as a whole has the closest relation, except as otherwise ensuing from law, the terms or substance of the contract or the group of circumstances of the case in question.

6. If internationally accepted trading terms are used in a contract it shall be deemed, unless there are directions to the contrary in the contract, that the parties have agreed on their application to their relations of business transaction usage designated by relevant trading terms.

**Article 1212.** The Law Governing a Contract with Participation of a Consumer

1. Selection of the law governing a contract whereto a party is a natural person using, acquiring or ordering or intending to use, acquire or order movable things (works, services) for personal, family, household or other purposes and not connected with the pursuance of entrepreneurial activity shall not cause deprivation of the natural person (consumer) of remedies relating to his/her rights which are provided by imperative norms of the law of the country where the consumer has place of residence if any of the below circumstances have occurred:

1) in that country the conclusion of the contract had been preceded by an offer addressed to the consumer or an advertisement and the consumer has committed in the same country actions required for the purpose of entering into the contract;

2) a contract partner of the consumer or a representative of such a partner has received an order from the consumer in that country;

3) an order for acquisition of movable things, performance of works or provision of services has been made by the consumer in another country visited on the initiative of a contract partner of the consumer, if such an initiative was aimed at encouraging the consumer to enter into the contract.

2. If there is no agreement of the parties as to applicable law and if there are the circumstances specified in Item 1 of the present article the law of the country where the consumer has place of residence shall govern the contract with the participation of a consumer.

3. The rules established by Items 1 and 2 of the present article shall not be applicable to:

1) a carriage contract;

2) a work performance contract or a service provision contract if the work is to be performed or the service to be provided exclusively in a country other than the country where the consumer has place of residence.

The exemptions specified in the present item shall not extend to contracts for the provision of the services of carriage and accommodation for a single price (irrespective of the inclusion of other services in the single price), in particular, tourist service contracts.

**Article 1213.** The Law Governing Contracts Relating to Immovable Property

1. Where there is no agreement of parties on applicable law in respect of immovable property, the law of the country with which the contract has the closest relation shall apply. The right of the country with

which the contract has the closest relation shall be deemed the law of the country where the immovable property is located, except as otherwise ensuing from law, the terms or substance of the contract or the set of circumstances of the case in question.

**2.** Contracts relating to plots of land, tracts of sub-soil and other immovable property located on the territory of the Russian Federation shall be subject to Russian law.

**Article 1214.** The Law Governing Contracts for the Formation of a Legal Entity with Foreign Interest

A contract for the formation of a legal entity with foreign interest shall be subject to the law of the country in which the legal entity is to be founded.

**Article 1215.** The Applicability of Law Governing a Contract

The following shall be in particular determined by the law governing a contract in keeping with the rules of Articles 1210 - 1214, 1216 of the present Code:

- 1) the construction of the contract;
- 2) the rights and duties of the parties to the contract;
- 3) performance under the contract;
- 4) the consequences of a default on performance or improper performance under the contract;
- 5) the termination of the contract;
- 6) the consequences of invalidity of the contract.

**Articled 1216.** The Law Governing Assignment of a Claim

**1.** The law governing a claim assignment agreement between the initial and new creditors shall be determined in compliance with Items 1 and 2 of Article 1211 of the present Code.

**2.** The admissibility of a claim assignment, relations between the new creditor and the debtor, the conditions for the claim to be presented to the debtor by the new creditor and also the issue of the debtor's appropriate performance under his obligation shall be determined by the law applicable to the claim being the subject matter of the assignment.

**Article 1217.** The Law Governing Obligations Emerging from Unilateral Transactions

Except as otherwise required by law, the terms or substance of the transaction or the set of circumstances of the case in question, obligations emerging from unilateral transactions shall be governed by the law of the country where the party assuming obligations under a unilateral transaction has place of residence or main place of business.

The effective term of powers of attorney and the grounds for declaring it null and void shall be determined by the law of the country where the powers of attorney were issued.

**Article 1218.** The Law Governing the Relations of Payment of Interest

The grounds for collecting, the calculation procedure and the rate of interest on pecuniary obligations shall be governed by the law of the country governing a given obligation.

**Article 1219.** The Law Governing Obligations Emerging as a Result of Infliction of Harm

1. Obligations emerging as a result of infliction of harm shall be governed by the law of the country where the action or other circumstance that has served as ground for damages claim occurred. In cases when the action or other circumstances caused harm in another country, the law of that country may be applied if the person causing the harm foresaw or should have foreseen the onset of the harm in that country.

2. Obligations emerging as a result of infliction of harm abroad, if the parties are citizens or legal entities of one and the same country, shall be governed by the law of that country. If the parties to such an obligation are not citizens of one and the same country but have place of residence in one and the same country the law of that country shall apply.

3. After the committing of an action or onset of another circumstance that entailed infliction of harm the parties may come to an agreement that the obligation that has emerged as a result of infliction of the harm is to be governed by the law of the country of the court.

**Article 1220.** Applicability of the Law Governing Obligations Emerging as a Result of Infliction of Harm

The following, in particular, shall be determined on the basis of the law governing obligations emerging as a result of infliction of harm: 1) a person's capacity to be liable for harm inflicted;

2) the vesting of liability for harm in a person who is not the cause of harm;

3) grounds for liability;

4) grounds for limitation of liability and relief from liability;

5) the methods of compensation for harm;

6) the scope and amount of compensation for harm.

**Article 1221.** The Law Governing Liability for Harm Inflicted as a Result of Defects of Goods, Works or Services

1. At the discretion of the victim, the following shall be chosen to govern a claim for compensation of harm inflicted as a result of defects of goods, works or services:

1) the law of the country where the seller or manufacturer of the goods or other causer of harm has place of residence or main place of business;

2) the law of the country where the victim has place of residence or main place of business;

3) the law of the country where the works or services have been completed or the law of the country where the goods were acquired.

The selection of the law at the discretion of the victim from the options set out in Sub-items 2 or 3 of the present item may be recognised only in cases when the causer of harm fails to prove that the goods were brought into the given country without his consent.

2. If the victim did not exercise his right to choose applicable law as specified in the present article the applicable law shall be determined in compliance with Article 1219 of the present Code.

3. Accordingly, the rules of the present code shall be applicable to claims for compensation of harm inflicted as a result of unreliable or insufficient information on goods, works or services.

#### **Article 1222.** The Law Governing Obligations Emerging as a Result of Unfair Competition

Obligations emerging as a result of unfair competition shall be governed by the law of the country whose market has been affected by the competition, except as otherwise required by law or the substance of the obligation.

#### **Article 1223.** The Law Governing Obligations Emerging as a Result of Unjust Gains

1. Obligations emerging as a result of unjust gains shall be governed by the law of the country where the enrichment has taken place.

The parties may come to an agreement that the law of the court is to govern such obligations.

2. If an unjust gain occurs in connection with a legal relation that exists or is assumed to exist due to which property was acquired, the obligations emerging as a result of the unjust enrichment shall be governed by the national law that governed or could have governed this legal relation.

#### **Article 1224.** The Law Governing Succession Relations

1. Succession relations shall be determined by the law of the country where a testator had his last place of residence, except as otherwise required by the present article.

Immovable property succession shall be governed by the law of the country where property is located and succession of immovable property recorded in a state register of the Russian Federation shall be governed by Russian law.

2. The capacity of a person to create a will or revoke it, in particular, in relation to immovable property and also the form of such a will or will revocation act shall be governed by the law of the country where the testator had place of residence as of the time of creation of such a will or act. However, a will or revocation of a will shall not be declared void because the form has failed to be observed if the form meets the requirements of the law of the place of creation of the will or will revocation act or the provisions of Russian law.

## **Part 4**

**Adopted by the State Duma on November 24, 2006**

**Approved by the Federation Council on December 8, 2006**

### **Section VII Rights in the Results of Intellectual Activities and Means of Individualisation**

#### **Chapter 69. General Provisions**

**Article 1225.** The Protected Results of Intellectual Activities and Means of Individualisation

1. Below are the results of intellectual activities and the means of individualisation of legal entities, goods, works, services and enterprises which qualify as such which enjoy legal protection (by intellectual property):

- 1) scientific, literary and artistic works;
- 2) programmes for computers (computer programmes);
- 3) databases;
- 4) performances;
- 5) sound recordings;
- 6) broadcasting and cable radio and television programmes (the transmissions of broadcasting or cable organisations);
- 7) inventions;
- 8) utility models;
- 9) industrial designs;
- 10) breeding achievements;
- 11) integrated circuit layout-designs (topography);
- 12) know-how;
- 13) firm names;
- 14) trademarks and service marks;
- 15) the appellation of origin of goods;
- 16) commercial names.

2. Intellectual property is protected by law.

**Article 1226.** Intellectual Rights

For the results of intellectual activities and the means of individualisation qualifying as such (the results of intellectual activities and means of individualisation) intellectual rights are recognised as including an exclusive right deemed a property right, and also in the cases specified by the present Code personal non-property rights and other rights (artists resale right, right of access and others)

**Article 1227. Intellectual Rights and the Right of Ownership**

1. Intellectual rights do not depend on the right of ownership to the material medium (thing) in which the result of an intellectual activity or the means of individualisation is expressed.

2. The transfer of the right of ownership to the thing does not cause the transfer or granting of intellectual rights to the results of the intellectual activity or the means of individualisation expressed in the thing, except for the case described in Item 2 of Article 1291 of the present Code.

**Article 1228. The Author of the Result of an Intellectual Activity**

1. The author of the result of an intellectual activity is the citizen by whose creative labour such result has been created.

The following shall not be deemed authors of a result of an intellectual activity: citizens who have not made a personal creative contribution in the creation of such result, for instance, who have rendered only a technical, consultative, organisational or material assistance to the author thereof or who have only assisted in the completion of formalities for such result or for the use thereof, and also citizens who have supervised the performance of the relevant works.

2. The author of the result of an intellectual activity holds the right of attribution, and in the cases envisaged by the present Code a right to the name and other personal non-property rights.

The right of authorship, the right to the name and other personal non-property rights of the author are unalienable and unassignable. A waiver of these rights shall be deemed null and void.

The right of authorship and the name of the author shall be protected in perpetuity. After the author's death any person concerned may protect his authorship and name, except for the cases set out in Item 2 of Article 1267 and Item 2 of Article 1316 of the present Code.

3. The exclusive right to the result of an intellectual activity created by creative labour is initially vested in the author. This right may be transferred by the author to another person under a contract, and it may also be transferred to other persons on the other grounds established by law.

4. Rights in the result of an intellectual activity created jointly by the creative labour of two and more citizens (co-authorship) are jointly owned by the co-authors.

**Article 1229. Exclusive Right**

1. The citizen or legal entity holding the exclusive right to the result of an intellectual activity or a means of individualisation (right holder) is entitled to use such result or such means at his own discretion by any means that does not conflict with the law. The right holder may dispose of the exclusive right to the result of the intellectual activity or means of individualisation (Article 1233), unless otherwise envisaged by the present Code.

The right holder may at his own discretion permit or prohibit other persons to use the result of the intellectual activity or means of individualisation. The lack of prohibition shall not be deemed consent (permission).

Other persons shall not use the relevant result of the intellectual activity or means of individualisation without the right holder's consent, except for the cases envisaged by the present Code. If taking place without the right holder's consent, the use of the result of an intellectual activity or means of individualisation (including the use thereof by the methods envisaged by the present Code) is deemed illegal and it shall cause the liability established by the present Code and other laws, except for cases when the use of the result of an intellectual activity or means of individualisation by persons other than the right holder without his consent is permitted by the present Code.

2. The exclusive right to the result of an intellectual activity or means of individualisation (except for the exclusive right to a firm name) may be held by one person or jointly by several persons.

3. Where the exclusive right to the result of an intellectual activity or means of individualisation is jointly held by several persons each of the right holders may use the result or means at his own discretion, unless otherwise envisaged by the present Code or agreement between the right holders. Relationships between the persons jointly holding the exclusive right shall be defined by an agreement between them.

Incomes from the joint use of the result of an intellectual activity or means of individualisation shall be distributed among all right holders in equal parts, except as otherwise envisaged by agreement between them.

Right holders shall jointly dispose of the exclusive right to the result of an intellectual activity or means of individualisation, except as otherwise envisaged by the present Code.

4. In the cases envisaged by Item 3 of Article 1454, Item 2 of Article 1466, Item 1 of Article 1510 and Item 1 of Article 1519 of the present Code independent exclusive rights in one and the same result of an intellectual activity or one and the same means of individualisation may simultaneously be held by different persons.

5. Restrictions on exclusive rights in the results of intellectual activities or means of individualisation, in particular, in cases when the use of the results of intellectual activities is permitted without the right holders'

consent but when they retain their rights to a fee shall be established by the present Code.

These restrictions shall be established on the condition that they neither inflict an unjustified damage on the ordinary use of the results of the intellectual activities or means of individualisation nor infringe without a good reason on the lawful interests of the right holders.

**Article 1230. The Effective Term of Exclusive Rights**

1. Exclusive rights in the results of intellectual activities or means of individualisation shall be effective for a certain term, except for the cases envisaged by the present Code.

2. The duration of the effective term of an exclusive right to the result of an intellectual activity or means of individualisation, the procedure for counting the term, the grounds and procedure for extending the term, and also the grounds and procedure for terminating the exclusive right before the expiry of the term are established by the present Code.

**Article 1231. The Effect of Exclusive and Other Intellectual Rights on the Territory of the Russian Federation**

1. The exclusive rights in the results of intellectual activities and means of individualisation established by international treaties of the Russian Federation and the present Code are effective on the territory of the Russian Federation.

The personal non-property and other intellectual rights not deemed exclusive are effective on the territory of the Russian Federation in accordance with Paragraph 4 of Item 1 of Article 2 of the present Code.

2. When the exclusive right to the result of an intellectual activity or means of individualisation is recognised in accordance with an international treaty of the Russian Federation the content of the right, its effect, restriction, procedure for exercising and protecting the right shall be defined by the present Code irrespective of the provisions of the legislation of the country where the exclusive right came into being, unless otherwise envisaged by the international treaty or the present Code.

**Article 1232. The State Registration of the Results of Intellectual Activities and of Means of Individualisation**

1. In the cases envisaged by the present Code the exclusive right to the result of an intellectual activity or means of individualisation is recognised and protected on the condition that the result or means is registered by the state.

2. In cases when the result of an intellectual activity or means of individualisation is subject to state registration under the present Code the alienation of the exclusive right to such result or means under a contract, the pledge of the right and the granting of a right to use the result or means under a contract, and equally the transfer of the exclusive right to the result

or means without a contract are also subject to a state registration for which the procedure and terms are established by the Government of the Russian Federation.

3. The state registration of alienation of the exclusive right to the result of an intellectual activity or means of individualisation under a contract, the state registration of pledge of the right, and also the state registration of the assignment of a right to use the result of means under a contract shall be carried out by means of the state registration of the relevant contract.

4. In the case envisaged by Article 1239 of the Code the ground for the state registration of provision of the right of using the result of an intellectual activity or means of individualisation is the relevant court's decision.

5. The ground for the state registration of assignment of the exclusive right to the result of an intellectual activity or means of individualisation in line of succession shall be a certificate of inheritance, except for the case envisaged by Article 11657 of the present Code.

6. The non-observance of the provision requiring state registration for a contract of alienation of the exclusive right to the result of an intellectual activity or means of individualisation or a contract of assignment to another person of a right to use such result or means shall cause the invalidity of the relevant contract. If the provision requiring state registration for the assignment of the exclusive right without a contract is not observed, such assignment shall be deemed unaccomplished.

7. In the cases envisaged by the present Code the state registration of the result of an intellectual activity or means of individualisation may be carried out if the right holder so wishes. In these cases, the registered result of an intellectual activity or means of individualisation and the rights in such result are subject to the rules set out in Items 2-6 of the present article, except as otherwise envisaged by the present Code.

#### **Article 1233. Disposing of an Exclusive Right**

1. The right holder may dispose of his exclusive right to the result of an intellectual activity or means of individualisation in any manner not contradicting a law and the essence of such exclusive right, including its alienation under a contract to another person (a contract of alienation of the exclusive right) or the granting to another person of the right of using the relevant result of the intellectual activity or means of individualisation within the limits set by a contract (licence contract).

The conclusion of the licence contract shall not cause the assignment of the exclusive right to the licensee.

2. Contracts of disposing of the exclusive right to the result of an intellectual activity or means of individualisation, including contracts of alienation of an exclusive right and licence (sub-licence) contracts are subject to the general provisions on obligations (Articles 307-419) and on the contract (Article 420-453) in as far as otherwise is not established by

the rules of the present section or ensue the content or nature of the exclusive right.

3. A contract that does not expressly state that the exclusive right to the result of an intellectual activity or means of individualisation is assigned in full shall be deemed a licence contract, except for a contract concluded in respect of the right of using the result of an intellectual activity or means of individualisation that has been specifically created or is being created for being included into a complex object (Paragraph 2 of Item 1 of Article 1240).

4. The terms of a contract of alienating an exclusive right or of a licence contract limiting a citizen's right to create the results of an intellectual activity of a certain kind or in a certain area of intellectual activity or to alienate the exclusive right to such results to other people shall be deemed null and void.

5. Where a contract of pledge of the exclusive right to the result of an intellectual activity or means of individualisation is concluded the pledgor is entitled to use the result of the intellectual activity or means of individualisation during the effective term of the contract and dispose of the exclusive right to such result or means without the pledgee's consent, except as otherwise envisaged by the contract.

#### **Article 1234. The Contract of Alienation of an Exclusive Right**

1. Under a contract of alienation of an exclusive right one party (right holder) assigns or undertakes to assign its exclusive right to the result of an intellectual activity or means of individualisation to another party (acquirer) in full.

2. The contract of alienation of the exclusive right shall be made in writing and it shall be subject to state registration in the cases envisaged by Item 2 of Article 1232 of the present Code. The non-observance of the written form or of the provision requiring state registration shall cause the invalidity of the contract.

3. Under the contract of alienation of the exclusive right the acquirer undertakes to pay the fee envisaged by the contract to the right holder, except as otherwise envisaged by the contract.

If a contract of alienation of an exclusive right concluded on a compensation basis does not comprise a clause concerning the amount of fee or procedure for determining it, the contract shall be deemed uncompleted. In this case, the rules envisaged by Item 3 of Article 424 of the present Code for price-setting shall not be applicable.

4. The exclusive right to the result of an intellectual activity or means of individualisation is transferred from the right holder to the acquirer of the right as of the time of conclusion of a contract of alienation of the exclusive right, except as otherwise established by agreement of the parties. If the contract of alienation of the exclusive right is subject to state registration (Item 2 of Article 1232), the exclusive right to the result or means is

transferred from the right holder to the acquirer of the right as of the time of state registration of the contract.

5. If the acquirer has significantly failed to observe his duty to pay the right holder within the term established by the contract of alienation of the exclusive right a fee for the acquisition of the exclusive right to the result of the intellectual activity or means of individualisation (Subitem 1 of Item 2 of Article 450) the previous right holder shall be entitled to claim in court that the rights of the acquirer of the exclusive right be assigned to the previous right holder and also a payment of damages, if the exclusive right has been transferred to the acquirer thereof.

If the exclusive right has not been transferred to the acquirer then, if he has failed to execute his duty to pay within the term set by the contract a fee for the acquisition of the exclusive right the right holder may waive the contract unilaterally and claim a payment of damages due to the rescission of the contract.

### **Article 1235. The Licence Contract**

1. Under the licence contract one party being the holder of the exclusive right to the result of an intellectual activity or means of individualisation (licensor) undertakes to grant to the other party (licensee) the right of using the result or means within the limits set out in the contract.

The licensee may use the result of the intellectual activity or means of individualisation only within the limits of the rights and in the manner set out in the licence contract. The right of using the result of intellectual activity or means of individualisation not expressly mentioned in the licence contract shall not be deemed granted to the licensee.

2. Except as otherwise envisaged by the present Code, the licence contract shall be concluded in writing.

The licence contract shall be subject to state registration in the cases envisaged by Item 2 of Article 1232 of the present Code.

The non-observance of written form or of the provision requiring state registration shall cause the invalidity of the licence contract.

3. The licence contract shall make reference to the territory on which the use of the result of the intellectual activity or means of individualisation is permitted. If the contract does not comprise reference to the territory on which the use of the result of the intellectual activity or means of individualisation is permitted, the licensee is entitled to use them throughout the territory of the Russian Federation.

4. The term for which the licence contract is concluded shall not exceed the effective term of the right to the result of the intellectual activity or means of individualisation.

If the licence contract does not define its effective term, the contract shall be deemed concluded for a five-year term, except as otherwise envisaged by the present Code.

If the exclusive right is terminated the licence contract shall be terminated.

**5.** Under the licence contract the licensor undertakes to pay to the licensee the fee specified in the contract, except as otherwise envisaged by the contract.

If an onerous licence contract does not comprise a clause on the amount of fee or on the procedure for setting it, the contract shall be deemed unconcluded. In this case the pricing rules set out in Item 3 of Article 424 of the present Code are not applicable.

**6.** The licence contract shall set out the following:

1) the subject matter of the contract, by referring to the result of the intellectual activity or means of individualisation which may be used under the contract, and in relevant cases to the number and date of issue of a document certifying the exclusive right to the result or means (a patent or certificate);

2) the manner in which the result of the intellectual activity or means of individualisation is going to be used.

**7.** The transfer of the exclusive right to the result of an intellectual activity or means of individualisation to the new right holder shall not be deemed a ground for modifying or rescinding the licence contract concluded by the previous right holder.

#### **Article 1236.** The Types of Licence Contracts

**1.** A licence contract may serve to:

1) grant to a licensee the right of using the result of an intellectual activity or means of individualisation, with the licensor's retaining his right of issuing licences to other persons (a simple (non-exclusive) licence);

2) grant to the licensee the right of using the result of an intellectual activity or means of individualisation, with the licensor's not retaining the right of issuing licences to other persons (an exclusive licence).

**2.** Except as otherwise established by the licence contract, the licence is deemed simple (non-exclusive).

**3.** In respect of various types of using the result of an intellectual activity or means of individualisation one licence contract may comprise the terms set out in Item 1 of the present article for licence contracts of various types.

#### **Article 1237.** Performing the Licence Contract

**1.** The licensee shall provide reports to the licensor on the use of the result of the intellectual activity or means of individualisation, except as otherwise established by the licence contract. If a licence contract requiring the making of reports on the result of an intellectual activity or means of individualisation lacks a clause concerning the term and procedure for the provision of reports, the licensee shall present such reports to the licensor if requested by him.

2. During the effective term of the licence contract the licensor shall abstain from committing actions capable of impeding the licensee's exercising his right of using the result of the intellectual activity or means of individualisation within the limits set by the contract.

3. Using the result of the intellectual activity or means of individualisation in a manner not envisaged by the licence contract or upon the termination of such contract or otherwise beyond the limits of the rights granted to the licensee under the contract shall cause the accountability for a breach of the exclusive right to the result of the intellectual activity or means of individualisation established by the present Code, other laws or the contract.

4. If the licensee fails to execute his duty to pay to the licensor within the term set by the licence contract a fee for the granting of the right of using scientific, literary or artistic works (Chapter 70) or objects of allied rights (Chapter 71) the licensor may unilaterally waive the licence contract and claim a payment of the damages caused by the rescission of the contract.

#### **Article 1238. The Sub-licence Contract**

1. Given the licensor's consent in writing, the licensee may grant under a contract the right of using the result of the intellectual activity or means of individualisation to another person (a sub-licence contract).

2. Under the sub-licence contract a sub-licensee may obtain the rights of using the result of the intellectual activity or means of individualisation only within the limits of the rights and the manners of use set out in the licence contract for the licensee.

3. A sub-licence contract concluded for a term exceeding the effective term of the licence contract shall be deemed conclude for the effective term of the licence contract.

4. The licensee shall be liable before the licensor for the actions of a sub-licensee, except as otherwise established by the licence contract.

5. A sub-licence contract shall be subject to the rules of the present Code governing the licence contract.

#### **Article 1239. The Enforced Licence**

In the cases envisaged by the present Code a court may take a decision on the claim of a person concerned to grant to the person on the terms specified in the court's decision the right of using the result of intellectual activity in which the exclusive right is held by another person (enforced licence).

#### **Article 1240. Using the Result of Intellectual Activity as Part of a Complex Object**

1. The person that has organised the creation of a complex object incorporating several protected results of intellectual activities (a film,

another audiovisual work, theatre performance show, multimedia product, comprehensive technology) acquires the right of using these results under contracts of exclusive right alienation or licence contracts concluded by the person with the holders of the exclusive rights in the relevant results of the intellectual activities.

If the person that has organised the creation of a complex object acquires the right of using the result of intellectual activity that has been specifically created or is being specifically created for being included in the complex object the relevant contract shall be deemed a contract exclusive right alienation, except as otherwise envisaged by agreement of the parties.

A licence contract having a provision for using the result of intellectual activity within a complex object shall be concluded for the whole term and in respect of the whole territory of effect of the relevant exclusive right, except as otherwise envisaged by the contract.

**2.** The terms of a licence contract that impose limitations on the use of the result of intellectual activity within a complex object shall be deemed invalid.

**3.** If the result of intellectual activity is used within a complex object, the author of the result shall retain the right of attribution and other personal non-property rights to the result.

**4.** While using the result of intellectual activity within a complex object the person that has organised the creation of the object shall be entitled to indicate his/its name or claim that such indication be made.

**5.** The rules of the present article shall be applicable to the right of using the results of intellectual activity within a comprehensive technology created entirely or partially with federal budget funds, except as otherwise established by the rules of Chapter 77 of the present Code.

#### **Article 1241.** The Transfer of an Exclusive Right to Other Persons without a Contract

The transfer of the exclusive right to the result of intellectual activity or means of individualisation to another person without the conclusion of a contract with the right holder is admissible in the cases and on the grounds established by a law, for instance, in line of universal succession (inheritance, the reorganisation of a legal entity) and in the event of the levy of execution of the right holder's property.

#### **Article 1242.** The Organisations Collectively Managing Copyright and Allied Rights

**1.** The authors, performers and manufacturers of sound recordings and other owners of copyright and allied rights, when it is difficult for them to exercise their rights individually or when the present Code permits the use of objects of copyright and allied rights without the consent of the owners of the relevant rights but with a fee being paid to them, may form membership-based non-commercial organisations which have the powers

granted thereto by right holders and the duty to manage the relevant rights on a collective basis (organisations managing rights on a collective basis).

The formation of such organisations shall not impede the representation of the owners of copyright and allied rights by other legal entities and citizens.

**2.** Organisations managing rights on a collective basis may be formed to manage the rights classified as one or several types of objects of copyright and allied rights, manage one or several types of such rights in respect of certain manners in which the relevant objects may be used or to manage any copyright and/or allied rights.

**3.** A ground underlying the powers of an organisation managing rights on a collective basis shall be a contract of assignment of right management powers concluded by the organisation with a right holder in writing, except for the case envisaged by Paragraph 1 of Item 3 of Article 1244 of the present Code.

The said contract may be concluded with the right holders being members of the organisation and with the right holders not being members thereof. In this case, the organisation managing rights on a collective basis shall undertake to manage these rights if the management of this category of rights falls within the charter activities of the organisation. Also a ground underlying the powers of an organisation managing rights on a collective basis may be a contract with another organisation, including a foreign one managing rights on a collective basis.

The contracts mentioned in Paragraphs 1 and 2 of the present item are subject to the general provisions on obligations (Articles 307-419) and on contracts (Articles 420-453), in as much as otherwise ensues the content or nature of the right put in management. The rules of the present section on contracts of alienation of exclusive rights and on licence contract are not applicable to the said contracts.

**4.** Organisation managing rights on a collective basis are not entitled to use the objects of copyright and allied rights for which exclusive rights have been transferred thereto for management.

**5.** Organisation managing rights on a collective basis are entitled to present claims in court either on behalf of right holders or on their own behalf, and also to commit the other legal actions required for protecting the rights that have been transferred thereto for being managed on a collective basis.

An accredited organisation (Article 1244) is also entitled to present claims in the court on behalf of an indefinite group of right holders as may be required for protecting the rights managed by this organisation.

**6.** The legal status of organisations managing rights on a collective basis, the functions of such organisations, the rights and duties of their members are defined by the present Code, laws on non-commercial organisations and the charters of the relevant organisations.

**Article 1243.** The Performance of Contracts with Right Holders by an Organisation Managing Rights on a Collective Basis

1. An organisation managing rights on a collective basis shall conclude licence contracts with users for the provision to them of the rights transferred by right holders to the organisation for management concerning the relevant manner of use of objects of copyright and allied rights on the terms of a simple (non-exclusive) licence and collect fees for the use of these objects. In cases when objects of copyright and allied rights according to the present Code may be used without the right holder's consent but with a fee thereto the organisation managing rights on a collective basis shall conclude contracts with users for the payment of a fee and collect funds for the purpose.

The organisation managing rights on a collective basis is not entitled to refuse to conclude a contract with a user without a sufficiently good reason.

2. If a licence contract with a user is concluded directly by a right holder the organisation managing rights on a collective basis may collect fees for the use of objects of copyright and allied rights only if there is an expressly stated provision to this effect in the said contract.

3. On the request of the organisation managing rights on a collective basis users shall present their reports thereto on the use of objects of copyright and allied rights, as well as the other information and documents required for the purpose of fee collection and distribution, with the list thereof, and term for the provision thereof as defined in the contract.

4. The organisation managing rights on a collective basis shall distribute the fee for the use of objects of copyright and allied rights among right holders, and also pay out the said fee thereto.

The organisation managing rights on a collective basis is entitled to withhold from the fee amounts of money to cover the necessary expenses relating to the collection, distribution and disbursement of the fee as well as the amounts of money posted to the special funds set up by this organisation with the consent and in the interests of the right holders it represents, in the amounts and procedure set out in the charter of the organisation.

Fee distribution and disbursement shall take place on a regular basis on the dates set by the charter of the organisation managing rights on a collective basis pro rata to the actual use of relevant objects of copyright and allied rights determined on the basis of the information and documents received from users, and also other information on the use of the objects of copyright and allied rights, including statistical data.

Simultaneously with fee disbursement the organisation managing rights on a collective basis shall present a report to the right holder on the use of his rights, including the amount of fee collected and on the sums withheld from it.

5. The organisation managing rights on a collective basis shall maintain registers with information on right holders, the rights transferred to the organisation for management, and also objects of copyright and allied rights. The information found in the registers shall be provided to all persons concerned in the procedure established by the organisation, except for the information that according to a law cannot be disclosed without the consent of the right holder.

The organisation managing rights on a collective basis shall place information in a public information system on the rights transferred to the organisation for management, including the title of the object of copyright and allied rights and the name of the author or other right holder.

**Article 1244.** The State Accreditation of Organisations Managing Rights on a Collective Basis

1. An organisation managing rights on a collective basis may obtain state accreditation for the pursuance of activities in the below areas of collective management:

1) managing the exclusive rights in published musical works (with or without a text) and segments of dramatic-musical works in respect of the public performance thereof, broadcast or cable transmission, including re-transmission (Subitems 6-8 of Item 2 of Article 1270);

2) exercising the rights of the composers being the authors of the musical works (with or without a text) used in an audiovisual work to receive a fee for the public performance or broadcast or cable transmission of the audiovisual work (Item 3 of Article 1263);

3) managing the artist's resale right in respect of artistic works, and also the author's manuscripts (autographs) of literary and musical works (Article 1293);

4) exercising the rights of the authors, performers and manufacturers of sound recordings and audiovisual works to receive a fee for the reproduction/playback of the sound recordings and audiovisual works for personal purposes (Article 1245);

5) exercising the rights of performers to receive a fee for a public performance, and also for a broadcast or cable transmission of sound recordings that are published for commercial purposes (Article 1326);

6) exercising the rights of manufacturers of sound recordings to receive a fee for a public performance and also for a broadcast or cable transmission of sound recordings published for commercial purposes (Article 1326).

The state accreditation shall be carried out on the basis of a transparent procedure and of account being taken of the opinion of persons concerned, including right holders, in the procedure defined by the Government of the Russian Federation.

**2.** State accreditation for the pursuance of an activity in each of the collective management areas specified in Item 1 of the present article may be obtained by only one organisation managing rights on a collective basis.

An organisation managing rights on a collective basis may obtain a state accreditation for the pursuance of activities in one, two and more collective management areas specified in Item 1 of the present article.

The activities of an accredited organisation are not subject to the restrictions envisaged by antimonopoly legislation.

**3.** An organisation managing rights on a collective basis which has obtained state accreditation (an accredited organisation) is entitled, apart from managing the rights of the right holders with which it has concluded contracts in the procedure set out in Item 3 of Article 1242 of the present Code, to manage rights and collect fees for the right holders with which it has not concluded such contracts.

The existence of an accredited organisation shall not impede the formation of other organisations to manage rights on a collective basis, including those in the collective management areas specified in Item 1 of the present article. Such organisations are entitled to conclude contracts with users only in the interests of the right holders which have conferred thereon right management powers in the procedure envisaged by Item 3 of Article 1242 of the present Code.

**4.** A right holder that has not concluded a contract with an accredited organisation for the transfer of right management powers (Item 3 of the present article) is entitled at any time to waive in full or in part the management of his rights by that organisation. The right holder shall notify in writing the accredited organisation of his decision. If the right holder intends to waive the management by the accredited organisation of only part of copyright or allied rights and/or objects of these rights he shall present thereto a list of such removed rights and/or objects.

Upon the expiry of three months after the receipt of the relevant notice from the right holder the accredited organisation shall remove the rights and/or objects specified by him from contracts with all users and post information about it in a public information system. The accredited organisation shall pay to the right holder the fees he is entitled to that have been received from users under the contracts concluded earlier and present a report in compliance with Paragraph 4 of Item 4 of Article 1243 of the present Code.

**5.** The accredited organisation shall take reasonable and sufficient measures for identifying the right holders entitled to receive fees under the licence contracts and contracts of disbursement of fees concluded by this organisation. Except as otherwise established by a law, the accredited organisation is not entitled to refuse to admit as its member a right holder entitled to receive a fee in accordance with the licence contracts and contracts of disbursement of fees concluded by this organisation.

6. Accredited organisations shall pursue their activities under the supervision of the authorised federal executive governmental body.

Every year, accredited organisations shall present their reports to the authorised federal executive governmental body about their activities, and also publish them in an all-Russia mass medium. The form of the report shall be established by the authorised federal executive governmental body.

7. The model charter of an accredited organisation shall be approved in the procedure defined by the Government of the Russian Federation.

**Article 1245. The Fee for Free Reproduction/Playback of Sound Recordings and Audiovisual Works for Personal Purposes**

1. The authors, performers and manufacturers of sound recordings and audiovisual works are entitled to receive a fee for a free reproduction/playback of the sound recordings and audiovisual works exclusively for personal purposes. Such fee is of a compensatory nature, and is payable to right holders from the funds payable by the manufacturers and importers of the equipment and material media used for the reproduction/playback.

A list of the equipment and material media, and also the amount of, and procedure for collecting, the funds shall be approved by the Government of the Russian Federation.

2. The collection of the funds intended for disbursing fees for the free reproduction/playback of sound recordings and audiovisual works for personal purposes is the responsibility of the accredited organisation (Article 1244).

3. A fee for a free reproduction/playback of sound recordings and audiovisual works for personal purposes shall be distributed among the right holders in the following proportion: 40 per cent to the authors, 30 per cent to the performers, 30 per cent to the manufacturers of the sound recordings or audiovisual works. The distribution of the fee among specific authors, performers, manufacturers of sound recordings or audiovisual works shall be made pro rata to the actual use of the relevant sound recordings or audiovisual works. The procedure for distributing the fee and for paying it out shall be established by the Government of the Russian Federation.

4. No amounts of money for the purpose of paying out the fee for the free reproduction/playback of sound recordings and audiovisual works for personal purposes shall be collected from the manufacturers of the equipment and the material media which are deemed a subject matter of exportation, or from the manufacturers and importers of professional equipment not intended for home use.

**Article 1246. The State Regulation of Relationships in the Area of Intellectual Property**

1. In the cases envisaged by the present Code the enactment of normative legal acts for the purpose of regulating relationships in the area of intellectual property which relate to objects of copyright and allied rights is the responsibility of the authorised federal executive governmental body charged with normative legal regulation in the area of copyright and allied rights.

2. In the cases set out in the present Code the enactment of normative legal acts to regulate the relationships in the area of intellectual activity which are inventions, utility models, industrial designs, computer programmes, databases, integrated circuit layout-designs, trademarks and service marks and the appellation of origin of goods is the prerogative of the authorised federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. The legally-significant actions of state registration of inventions, utility models, industrial designs, computer programmes, databases, integrated circuit layout-designs, trademarks and service marks and the appellation of origin of goods, including the acceptance and expert examination of relevant applications, of the issuance of patents and certificates certifying the exclusive right of their right holders in the said results of intellectual activity and means of individualisation, and in the cases envisaged by a law, also other actions relating to the legal protection of the results of an intellectual activity and means of individualisation shall be committed by the federal executive governmental body charged with intellectual property matters. In the cases envisaged by Articles 1401-1405 of the present Code the actions mentioned in the present item may also be committed by the federal executive governmental bodies authorised by the Government of the Russian Federation.

4. In respect of breeding achievements the functions specified in Items 2 and 3 of the present article shall be carried out by the authorised federal executive governmental body charged with normative legal regulation in the area of agriculture, and the federal executive governmental body charged with breeding achievements respectively.

#### **Article 1247. Patent Attorneys**

1. Dealings with the federal executive governmental body charged with intellectual property matters may be carried out by an applicant, right holder, or other person concerned on his/its own or through a patent attorney registered with the said federal body or through another representative.

2. Citizens who permanently reside outside the territory of the Russian Federation and foreign legal entities shall carry out their dealings with the federal executive governmental body charged with intellectual property matters through patent attorneys registered with the said federal body, unless otherwise envisaged by an international treaty of the Russian Federation.

If an applicant, right holder or another person concerned carries out dealings with the federal executive governmental body charged with intellectual property matters on his/its own or through a representative not being a patent attorney registered with the said federal body, they shall provide an address on the territory of the Russian Federation for correspondence purposes on the request of the said federal body.

The powers of a patent attorney or another representative shall be certified by a power of attorney issued by the applicant, right holder or other person concerned.

3. A patent attorney may be a registered citizen of the Russian Federation who permanently resides on the territory thereof. The other requirements applicable to a patent attorney, the procedure for attestation and registration thereof, and also his powers in respect of dealing with cases relating to the legal protection of the results of intellectual activity and means of individualisation shall be established by a law.

#### **Article 1248. Disputes Relating to Intellectual Right Protection**

1. Disputes relating to the protection of violated or disputed intellectual rights shall be examined and resolved by the court (Item 1 of Article 11).

2. In the cases envisaged by the present code the protection of intellectual rights in relationships that have to do with the filing and examining patent applications for inventions, utility models, industrial designs, breeding achievements, trademarks and service marks and the appellation of origin of goods with the state registration of these results of intellectual activities and means of individualisation, the issuance of the relevant right-establishing documents, the disputing of granting legal protection to, or termination of the legal protection of, these results and means shall be carried out by administrative means (Item 2 of Article 11) by the federal executive governmental body charged with intellectual property matters and the federal executive governmental body charged with breeding achievements, respectively, and in the cases envisaged by Articles 1401-1405 of the present Code, by the federal executive governmental body authorised by the Government of the Russian Federation (Item 2 of Article 1401). Decisions of these bodies shall take effect starting from the date when they are taken. They may be challenged in the court in the procedure established by a law.

3. Rules for the examination and resolution of disputes in the procedure set out in Item 2 of the present article by the federal executive governmental body charged with intellectual property matters and by a patent disputes chamber set up under it, and also the federal executive governmental body charged with breeding achievements shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property, and the federal executive governmental body charged with normative legal

regulation in the area of agriculture respectively. The rules for the examination in the procedure set out in Item 2 of the present article of disputes relating to secret inventions shall be established by an authorised body (Item 2 of Article 1401).

#### **Article 1249. Patent Fee and Other Fees**

1. Relevant patent and other fees shall be charged for the committing of legally-significant actions relating to a patent to an invention, utility model, industrial design or breeding achievement, the state registration of a computer programme, database, integrated circuit layout-design, trademark and service mark, the state registration and granting of the exclusive right to the appellation of origin of goods, and also the state registration of transfer of exclusive rights to other persons and of contracts of disposing of such rights.

2. A list of the legally-significant actions which are related to a computer programme, database and integrated circuit layout-design, and for the committing of which state fees are levied, the rate, procedure and term of payment, and grounds for being relieved from the duty to pay, the state fees, rebate, payment deferment or refund shall be established by the legislation of the Russian Federation on taxes and fees.

A list of the other legally-significant actions, apart from those specified in Item 1 of the present article, for the commission of which patent and other fees are charged, the rates thereof, procedure and term for payment, and also grounds for being relieved from the duty to pay fees, rebate, deferment of payment or refund shall be established by the Government of the Russian Federation.

#### **Article 1250. The Protection of Intellectual Rights**

1. Intellectual rights shall be protected by the remedies envisaged by the present Code, with account taken of the essence of the right violated and of the consequences of the infringement of the right.

2. The remedies set out in the present Code for intellectual rights shall be applicable on the request of right holders, organisations managing rights on a collective basis, and also other persons in the cases established by a law.

3. The lack of fault of an infringer shall neither render him harmless in respect of the duty to stop infringement of intellectual rights nor preclude the imposition of the sanctions on the infringer to protect the rights. For instance, the publication of a court's decision on an infringement committed (Subitem 5 of Item 1 of Article 1252) and the stopping of the actions infringing on the exclusive right to the result of an intellectual activity or means of individualisation or creating the threat of infringement on the right shall take place irrespective of the infringer's fault and on the account of the infringer.

### **Article 1251. Protecting Personal Non-Property Rights**

1. If the personal non-property rights of an author are violated they shall be protected in particular by means of recognising the right, restoring the status quo as it was before the infringement of the rights, stopping the actions infringing on the right or creating the threat of infringement thereon, compensating for a moral harm and publishing the court's decision on the infringement committed.

2. The provisions of Item 1 of the present article are also applicable to protection of the rights mentioned in Item 4 of Article 1240, Item 7 of Article 1260, Item 4 of Article 1263, Item 3 of Article 1295, Item 1 of Article 1323, Item 2 of Article 1333 and Subitem 2 of Item 1 of Article 1338 of the present Code.

3. The author's honour, dignity and business reputation shall be protected in accordance with the rules set out in Article 152 of the present Code.

### **Article 1252. Protecting Exclusive Rights**

1. The protection of the exclusive rights in the result of an intellectual activity and means of individualisation shall be, in particular, carried out by means of presenting a claim for:

1) recognition of the right: to a person that denies or otherwise does not recognise the right and by doing so violates the interests of the right holder;

2) stopping the actions that infringe on the right or create the threat of infringement thereon: to a person committing such actions or making the necessary preparations for such actions;

3) payment of damages: to a person that has illegally used the result of intellectual activity or means of individualisation without concluding an agreement with the right holder (use without a contract) or otherwise has violated the right holder's exclusive right and inflicted a damage thereto;

4) seizure of a material medium in accordance with Item 5 of the present article: to its manufacturer, importer, keeper, carrier, seller, another distributor or non-bona fide acquirer;

5) publication of a court's decision on the infringement committed with reference to the actual right holder: to a violator of the exclusive right.

2. In the arrangement of provision of a security for a claim in a case of infringement of exclusive rights the material media, equipment and materials which are allegedly involved in an infringement of the exclusive right to the result of an intellectual activity or means of individualisation may be subjected to the security measures established by the procedural legislation, for instance, seizure of material media, equipment and materials.

3. In the cases envisaged in the present Code for certain types of results of intellectual activity or means of individualisation when an exclusive right is infringed upon the right holder is entitled to claim a

compensation from the infringer for the infringement of the said right. The compensation shall be collected if the fact of the infringement is proven. In this case, the right holder that has applied for a remedy shall be relieved from the duty to prove the amount of the damage inflicted thereto.

The amount of the compensation shall be determined by the court within the limits set by the present Code, depending on the nature of the infringement and of the other circumstances of the case with due regard to the requirements of reasonability and justice.

The right holder is entitled to claim compensation from the infringer for each case when the result of the intellectual activity or means of individualisation has been used or for the infringement in its entirety.

4. If the manufacture, distribution or another use, and also the importation, carriage or storage of the material media in which the result of an intellectual activity or means of individualisation is expressed cause an infringement of the exclusive right to the result or means such material media shall be deemed counterfeit and subject under a court's decision to withdrawal from circulation and destruction without any compensation whatsoever, except as other circumstances are envisaged by the present Code.

5. The equipment, other apparatus and materials primarily used or intended for infringing the exclusive rights in the result of intellectual activity and means of individualisation shall be subject under a court's decision to withdrawal from circulation and destruction on the infringer's account, except as their being subject to be converted into a revenue of the Russian Federation.

6. If various means of individualisation (a firm name, trademark, service mark or commercial name) turn out to be identical or similar to a degree of confusion, and as a result of this identity or similarity consumers and/or parties under a contract may be misled, then preference shall be for the means of individualisation in which the exclusive right came into being earlier. In the procedure established by the present Code the owner of this exclusive right may claim as invalid the granting of legal protection to the trademark (service mark) or claim a full or partial ban on the use of the company name or commercial name.

For the purposes of the present item "partial ban on use" has the following meaning:

in respect of a firm name: a ban on the use thereof in certain types of activity;

in respect of a commercial name: a ban on the use thereof within a certain territory and/or in specific types of activity.

7. When an infringement of the exclusive right to the result of an intellectual activity or means of individualisation has been recognised in the established procedure to be an unfair competition then the protection of the exclusive right infringed may be ensured both in the manner envisaged by the present Code and in accordance with antimonopoly legislation.

**Article 1253.** The Liabilities of Legal Entities and Individual Entrepreneurs for the Infringement of Exclusive Rights

If a legal entity infringes several times or bluntly the exclusive rights in the results of an intellectual activity and means of individualisation, the court may take a decision in accordance with Item 2 of Article 61 of the present Code on liquidating the legal entity on the demand of a prosecutor.

If such infringements are committed by a citizen, his activity as an individual entrepreneur may be terminated by a court's decision or judgement in the procedure established by law.

**Article 1254.** The Details of Protection of a Licensee's Rights

If an infringement by third persons of the exclusive right to the result of intellectual activity or means of individualisation of which the use is covered by an exclusive licence affects the licensee's rights obtained by the licensee under a licence contract then the licensee apart from other remedies may protect his/its rights by the methods envisaged by Articles 1250, 1252 and 1253 of the present Code.

**Chapter 70. Copyright Law**

**Article 1255.** Copyrights

1. The intellectual rights subsisting in scientific, literary and artistic works are copyrights.

2. The author of a work has the following rights:

- 1) an exclusive right to the work;
- 2) the right of attribution;
- 3) the author's right to the name;
- 4) a right to integrity of the work;
- 5) a right to publish the work.

3. Apart from the rights mentioned in Item 27 of the present article in the cases envisaged by the present Code the author of the work has other rights, including the right to a fee for the use of a service work, the right of withdrawal, the artists resale right, the right of access to artistic works.

**Article 1256.** The Effect of the Exclusive Right in Scientific, Literary and Artistic Works on the Territory of the Russian Federation

1. The exclusive right to scientific, literary and artistic works extends to:

1) the works promulgated on the territory of the Russian Federation or non-promulgated but located in any objective form on the territory of the Russian Federation, and it is recognised to be held by authors (their successors) irrespective of the citizenship thereof;

2) the works promulgated outside the territory of the Russian Federation or non-promulgated but located in any objective form outside of

the territory of the Russian Federation, and it is recognised to be held by authors being citizens of the Russian Federation (their successors);

3) the works promulgated outside the territory of the Russian Federation or non-promulgated but located in any objective form outside the territory of the Russian Federation, and it is recognised on the territory of the Russian Federation to be held by authors (their successors) being citizens of other states or stateless persons in accordance with international treaties of the Russian Federation.

2. A work is also deemed promulgated for the first time by publication in the Russian Federation is within 30 days after the date of the first publication outside the territory of the Russian Federation it is published on the territory of the Russian Federation.

3. When in accordance with international treaties of the Russian Federation protection is provided to a work on the territory of the Russian Federation, the author of the work or another initial right holder shall be determined by the law of the state on whose territory the legal fact serving as a ground for the acquisition of copyright has taken place.

4. On the territory of the Russian Federation protection shall be granted to works in accordance with international treaties of the Russian Federation in respect of the works which have not passed into the public domain in the country of origin of the work due to the expiry of the exclusive right's duration established in that country for these works, and which have not passed into the public domain in the Russian Federation due to the expiry of the effective term of exclusive right thereto envisaged by the present Code.

When protection is granted to works under international treaties of the Russian Federation the effective term of the right to these works on the territory of the Russian Federation shall not exceed the effective term of the exclusive right established in the country of origin of the works.

#### **Article 1257. The Author of a Work**

The author of a scientific, literary or artistic work is the citizen by whose creative work it has been created. The person indicated as an author on the original or a copy of a work shall be deemed its author, except as otherwise proven.

#### **Article 1258. Co-Authorship**

1. Citizens who have created a work by their joint creative work shall be deemed co-authors irrespective of this work's being an integral entity or being composed of parts each having an independent significance.

2. A work created through co-authorship shall be used by the coauthors jointly, except as otherwise envisaged by agreement between them. If the work is an integral entity, neither of the co-authors is entitled to ban the use of the work without a sufficiently good reason.

A work's part that cannot be used independently of other parts, i.e. a part having independent significance, may be used by its author at his own discretion, except as otherwise envisaged by agreement among the co-authors.

**3.** The co-authors' relationships relating to the distribution of incomes from the use of the work and to the disposition of the exclusive right to the work are subject to the rules of Item 3 of Article 1229 of the present Code respectively.

**4.** Each of the co-authors is entitled to take measures on his own to protect his rights, in particular, when the work created by the coauthors makes up an integral entity.

### **Article 1259.** The Objects of Copyrights

**1.** The objects of copyright are scientific, literary and artistic works, irrespective of the merit and significance of the work or the method whereby it is expressed:

- literary works;
- dramatic and dramatic-musical works, script works;
- choreographic works and dumb shows;
- musical works with or without a text;
- audiovisual works;
- painting, sculpture, graphic, design, graphic stories, comics and other works of the arts;
- artistic craftsmanship and scenographic works;
- works of architecture, city planning and landscaping, including designs, drawings, images and models;
- photographic works and works produced by methods similar to photography;
- geographic, geological and other maps, layouts, sketches and plastic works that have to do with geography, topography and other sciences;
- other works.

Also computer programmes protected as literary works are deemed objects of copyright.

**2.** The following shall be deemed objects of copyright:

- 1) derivative works, i.e. works being a remake of other works;
- 2) composite works, i.e. works being the result of a creative work in terms of selection or arrangement of materials.

**3.** Copyright extend both to promulgated and non-promulgated works expressed in any objective form, including a written or oral forms (in the form of a public pronouncement, public performance and in another similar form), in the form of an image, in the form of a sound or video recording or in a three-dimension spatial form.

**4.** The occurrence, exercising and protection of copyright require neither registration of the work nor observation of any formalities.

In respect of computer programmes and databases, registration is possible which takes place if the right holder so wishes in accordance with the rules of Article 1262 of the present Code.

5. Copyrights do not extend to ideas, concepts, principles, methods, processes, systems, manners or the resolution of technical, organisational or other problems, inventions, facts, programming languages.

6. The following is not objects of copyright:

1) the official documents of state bodies and the local self-government bodies of municipal formations, including laws, other normative acts, courts' decisions, other materials of legislative, administrative and judicial nature, the official documents of international, and also the official translations thereof;

2) state symbols and signs (flags, coats-of-arms, orders, banknotes and coins etc.) and also the symbols and signs of municipal formations;

3) popular creative works (folklore) having no specific authors;

4) announcements about events and facts which have an exclusively informative nature (news-of-the-day announcements, television programme timetables, transport timetables etc.).

7. Copyright extends to a part of a work, to the name of a work, a character in a work if by the nature thereof they may be deemed an independent result of the author's creative work and meet the requirements set out in Item 3 of the present article.

#### **Article 1260. Translations and Other Translated Works. Composite Works**

1. The translator and also the author of another derivative work (remake, screen version, arrangement, dramatisation or another similar work) own copyrights in the translation and the other processing of another (original) work respectively.

2. The compiler of a collection and the author of another composite work (anthology, encyclopaedia, database, atlas or another similar work) shall own copyrights in the selection or arrangement of materials (compilation).

A database is an aggregate, presented in an objective form, of independent materials (articles, calculations, normative acts, court decisions and other similar materials) which are systematised so that these materials can be found and processed by means of a computer.

3. The translator, compiler or other author of a derivative or composite work shall exercise his copyrights on the condition that the rights of authors of the works used to create the derivative or composite work are observed.

4. The copyrights of the translator, compiler or other author of a derivative or composite work are protected as rights in independent objects of copyright, irrespective of the protection of the rights of the authors of the works on which the derivative or composite work is based.

5. The author of a work placed in a collection or another composite work is entitled to use his work independently of the composite work, except as otherwise envisaged by a contract with the creator of the composite work.

6. Copyrights in a translation, collection, another derivative or composite work shall neither bar other persons from translating or processing the same original work nor create their own composite works by means of another selection or arrangement of the same materials.

7. The publisher of encyclopaedias, encyclopaedic dictionaries, periodical and serial collections of scientific works, newspapers, magazines/journals and other periodical publications have the right of using these publications. Every time the publication is used the publisher is entitled to have his name mentioned or to demand that it be mentioned.

The authors or other owners of exclusive rights in the works included in such publications shall preserve their rights, irrespective of the publisher's or other person's right, to use such publications as a whole, except for cases when these exclusive rights have been assigned to the publisher or other persons or have been transferred to the publisher or other persons on the other grounds envisaged by a law.

#### **Article 1261. Computer Programmes**

Copyrights in all and any types of computer programmes (including the operational systems and software complexes) which may be expressed in any language and in any form, including the initial text and compiled code are protected in the same way as copyrights in literary works. A computer programme is an aggregate of data and commands presented in an objective form and intended for the operation of a computer and other computer apparatus for the purpose of obtaining a certain result, including the preparatory materials produced in the course of elaboration of the computer programme, and the audiovisual representations generated by it.

#### **Article 1262. The State Registration of Computer Programmes and Databases**

1. Within the effective term of the exclusive right to a computer programme or database, the right holder, if he so wishes, may register the programme or database with the federal executive governmental body charged with intellectual property matters.

The computer programmes and databases containing information classified as state secrets are not subject to state registration. The person that files a state registration application (applicant) shall be accountable for disclosing information on the computer programmes and databases containing information classified as a state secret under the legislation of the Russian Federation.

**2.** An application for the state registration of a computer programme or database (a registration application) shall cover one computer programme or one database.

The registration application shall comprise the following:

an application for the state registration of the computer programme or database including reference to the right holder and the author, unless he has refused to be mentioned in this capacity, and the place of residence or whereabouts of each of them;

the deposited materials identifying the computer programme or database, including a synopsis;

a document confirming that a state duty has been paid at the established rate or that grounds exist for relieving from the payment of a state duty or for reducing the rate thereof or deferring the payment thereof.

The rules for drawing up a registration application shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

**3.** On the basis of the registration application the federal executive governmental body charged with intellectual property matters shall verify the availability of the necessary documents and materials, their compliance with the requirements set out in Item 2 of the present article. If the results of the verification are positive, the said federal body shall enter the computer programme or database to the Register of Computer Programmes and the Register of Databases respectively, issue a certificate of state registration to the applicant and publish information on the computer programme or database registered in a publication of that body.

On a request of the said federal body or on his own initiative the author or other right holder is entitled to do the following until the publication of the information in the publication: amending the documents and materials mentioned in the registration application.

**4.** The procedure for the state registration of computer programmes and databases, the forms of certificates of state registration, a list of the details to be indicated therein and a list of the details to be published in the publication of the federal executive governmental body charged with intellectual property matters shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

**5.** Contracts of alienation of the exclusive right to a registered computer programme or database and the transfer of the exclusive right to such programme or databases to other persons without a contract shall be subject to state registration with the federal executive governmental body charged with intellectual property matters.

Information on the change of the owner of an exclusive right shall be entered to the Register of Computer Programmes or the Register of Databases on the basis of a registered contract or another right establishing document and shall be published in the publication of the

federal executive governmental body charged with intellectual property matters.

6. The details entered in the Register of Computer Programmes or the Register of Databases shall be deemed reliable in as much as otherwise is not proven. Responsibility for the reliability of the information provided for state registration purposes shall be borne by the applicant.

### **Article 1263. Audiovisual Work**

1. An audiovisual work is a work made up of a fixed series of interrelated images (accompanied or not accompanied by sound) and intended for visual and audio (if accompanied by sound) perception by the relevant technical apparatus. Audiovisual works include cinematographic works, and also all works expressed by means similar to cinematographic ones (television and video films and other similar works), irrespective of the method whereby they are initially or subsequently fixed.

2. The following are the authors of an audiovisual work:

- 1) director;
- 2) the author of the script;
- 3) the composer being the author of a musical work (with or without a text) specifically created for the audiovisual work.

3. In the event of a public performance or broadcasting or cable transmission of an audiovisual work the composer being the author of a musical work (with or without a text) used in the audiovisual work shall retain a right to a fee for the said types of use of his musical work.

4. The rights of the manufacturer of an audiovisual work, i.e. the person that has organised the creation of the work (producer) shall be defined in accordance with Article 1240 of the present Code.

Every time the audiovisual work is used the manufacturer is entitled to have his/its name indicated or to demand that it be indicated. Unless otherwise proven, the manufacturer of an audiovisual work is the person whose name is indicated on the work in an ordinary manner.

5. Each author of a work that is incorporated in an audiovisual work, either existing before (the author of the work that underlies the script, and others) or created in the course of working on it (photography director, art director and others) shall retain an exclusive right to his work, except for cases when this exclusive right has been assigned to the manufacture or other persons or has been transferred to the manufacture or other persons on the other grounds set out by law.

### **Article 1264. Draft Official Documents, Draft Designs of Symbols and Signs**

1. The right of attribution in a draft official document, including a draft official translation of such document, and also a draft design of an official symbol or sign shall be owned by the person that has created the draft (designer/author).

The designer/author of a draft official document or a draft design of a symbol or sign is entitled to promulgate the draft, unless it is prohibited by the state body or the local self-government body of a municipal formation or the international organisation on whose order the draft has been elaborated. When the draft is promulgated the designer/author is entitled to indicate his/its name.

2. A draft official document or a draft design of a symbol or sign may be used by the state body or local self-government body or international organisation for the preparation of a relevant official document, elaboration of the symbol or sign without the designer's/author's consent if the draft has been promulgated by the designer/author for being used by the body or organisation or has been sent by the designer/author to the relevant body or organisation.

When an official document or an official symbol or sign is being elaborated on the basis of the relevant draft amendments may be made thereto at the discretion of the state body or local self-government body or international organisation that prepares the official document or elaborates the official symbol or sign.

After the draft has been formally accepted for consideration by the state body or local self-government body or international organisation the draft may be used without mentioning the name of the designer/author.

#### **Article 1265.** The Right of Attribution and the Author's Right to the Name

1. The right of attribution, i.e. the right of being recognised as the author of a work, and the author's right to the name, i.e. the right of using or permitting the use of a work under the author's name, a pseudonym or without an indication of a name, i.e. anonymously, are unalienable and unassignable, for instance, when the exclusive right to the work is assigned to another person or transferred to another person, and when the right of using the work is granted to another person. The waiver of these rights is deemed null and void.

2. When a work is published anonymously or pseudonymously (except for cases when the author's pseudonym leaves no doubt as to his identity) the publisher (Item 1 of Article 1287) whose name is indicated on the work shall be deemed the author's representative, unless otherwise proven, and in this capacity is entitled to protect the author's rights and ensure the exercising of such rights. This provision shall remain effective until the author of the work discloses his identity or announces his authorship.

#### **Article 1266.** The Right to the Integrity of a Work and the Protection of a Work against Distortions

1. Without the author's consent it is prohibited to make modifications, cuts and addenda to the work, to attach illustrations, a preface, afterword, comments or any explanations (the right of integrity of the work).

When a work is used on the author's death, the person owning the exclusive right to the work is entitled to permit modifications, cuts or addenda to the work, provided the author's idea is not distorted and the integrity of perception remains intact, and it does not conflict with the author's will expressly stated in a will, letters, diaries or other written form.

2. A perversion, distortion or another modification of a work that denigrates the honour, dignity or business reputation of the author, and equally an attempt at committing such actions authorises the author to claim protection for his honour, dignity or business reputation in accordance with the rules of Article 152 of the present Code. In these cases, the protection of the honour and dignity of an author is for instance admissible after his death if the persons concerned so claim.

#### **Article 1267. Protecting Authorship, Author's Name and Integrity of a Work on Author's Death**

1. The authorship, the name of the author and the integrity of a work shall be protected infinitely.

2. In the procedure set out for designating the executor of a will (Article 1134) the author may indicate the person in which he vests the duty to protect authorship, name of the author and the integrity of a work (Paragraph 2 of Item 1 of Article 1266) upon the author's death. The person shall execute his duties for life.

If there is no such indication or if the person designated by the author has refused to execute these powers, and also after the death of the person the protection of authorship, the name of the author and the integrity of the work shall be carried out by the author's heirs, their successors and other persons concerned.

#### **Article 1268. The Right to Promulgate a Work**

1. The author is entitled to promulgate his work, i.e. a right to commit the action or to consent to the commission of the action which opens the work to the public for the first time by means of publication, public show, public performance, broadcast or cable or in any other manner.

In this case, the publication (issuing) is the release for circulation of copies of the work which are copies of the work in any material form in a quantity sufficient for meeting the public's reasonable needs depending on the nature of the work.

2. An author who has transferred a work to another person for use shall be deemed to have agreed to the promulgation of the work.

3. A work that has not been promulgated in the author's lifetime may be promulgated on his death by the person having the exclusive right to the work, unless promulgation is contrary to the author's will expressly stated by the author in writing (in a will, letters, diaries etc.).

#### **Article 1269. Right of Withdrawal**

The author is entitled to waive a decision on promulgation of a work taken earlier (the right of withdrawal), provided compensation is provided to the person to which the exclusive right to the work has been alienated or to which a right to use the work has been granted for the damage caused by the decision. If the work has been promulgated, the author shall make a public announcement of the withdrawal. In this case the author is entitled to withdraw from circulation the copies of the work released earlier, having provided payment of the damages caused by this.

The rules of the present article are not applicable to computer programmes, service works and the works incorporated into a complex object (Article 1240).

**Article 1270. The Exclusive Right to a Work**

1. The author of a work or another right holder owns an exclusive right to use the work in accordance with Article 1229 of the present Code in any form and in any manner not conflicting with a law (the exclusive right to the work), including the methods specified in Item 2 of the present article. The right holder may dispose of the exclusive right to the work.

2. Irrespective of relevant actions being or not being committed for the purpose of getting a profit or without such purpose, the use of a work means the following:

1) the reproduction of the work, i.e. the manufacturing of one and more copies of the work or a part thereof in any material form, including the form of a sound or video recording, the manufacturing of one and more three-dimension copies of a two-dimension work and of one and more two-dimensional copies of a three-dimensional work. In this case, a recording of the work on an electronic medium, including saving in a computer memory, shall also be deemed reproduction, except for cases when such saving is temporary and is an integral and significant part of a technological process solely intended for legally using a record or legally making the work known to the public;

2) the distribution of the work by sale or another alienation of its original or copies;

3) the public show of the work, i.e. any showing of the original or a copy of the work directly either on a screen by means of a film, transparency, television still or other technical facilities, and also the showing of separate stills of an audiovisual work without the observance of sequence thereof directly by technical facilities in a place open to the public or in a place where a significant number of persons are present who do not belong to the ordinary family group, irrespective of the work's being perceived in the place where it is shown or in another place simultaneously with the showing of the work;

4) the import of the original or copies of the work for the purpose of distribution;

5) the hiring out of the original or a copy of the work;

6) the public performance of the work, i.e. the presentation of the work through live performance or technical facilities (radio, television and other technical facilities), and also the showing of an audiovisual work (with or without sound) in a place open to the public or in a place

where a significant number of persons are present who do not belong to the ordinary family group, irrespective of the work's being perceived in the place where it is performed or shown or in another place simultaneously with the performance or show of the work;

7) the radio or television broadcasting (including retransmission), i.e. making the work known to the public (including the show or performance thereof), except for cable communications. In this case, communications means any actions whereby the work becomes open for audio and/or visual perception, irrespective of its being actually perceived by the public. When a work is broadcast via a satellite the broadcasting means the reception of signals from a ground station at a satellite and transmission of signals from the satellite, such signals being capable of making the work known to the public, irrespective of the signals being actually received by the public. An encoded signal transmission is deemed broadcast if decoders are provided to an unlimited group of persons by a broadcasting organisation or on the consent thereof;

8) cable communications, i.e. the transmission of the work for the public's notice, by radio or television via a cable, wire, optical fibre or similar facilities (including re-transmission). An encoded signal transmission shall be deemed cable communications if decoders are provided to an unlimited group of persons by a cable services organisation or on the consent thereof;

9) the translation or other processing of the work. In this case, the processing of a work means the creation of a derivative work (remake, screen version, arrangement, dramatisation etc.). The processing (modification) of a computer programme or database means any change therein, including the translation of the programme or database from one language into another, except for adaptation, i.e. amendment made exclusively for the purposes of running the computer programme or database on a specific hardware of a user or under the control of specific programmes of a user;

10) the practical implementation of an architectural, design, town planning or landscaping project;

11) bringing the work to the notice of the public so that any person can obtain access to the work from any place and at any time as the person chooses (bringing it to the notice of the general public).

**3.** The practical implementation of the provisions making up the content of a work, including the provisions being a technical, economic, organisational or another solution, shall not be deemed a use of the work as much as the rules of the present chapter are concerned, except for the use envisaged by Subitem 10 of Item 2 of the present article.

4. The rules of Subitem 5 of Item 2 of the present article are not applicable to a computer programme, except for cases when such programme is the main object of hiring-out.

#### **Article 1271. Copyright Mark**

For the purpose of warning of his exclusive right to a work the right holder is entitled to use a copyright mark that is placed on each copy of the work and is composed of the following components:

- the Latin letter "C" in a circle;
- the name of the right holder;
- the year of the first publication of the work.

#### **Article 1272. Distributing the Original or Copies of a Published Work Article 1272. Distributing the Original or Copies of a Published Work**

If the original or copies of a legally published work have been introduced in civil-law transactions on the territory of the Russian Federation as they were sold or otherwise alienated the further distribution of the original or copies of the work may take place without the consent of the right holder and without a fee being paid to the right holder, except for the case envisaged by Article 1293 of the present Code.

#### **Article 1273. Free Reproduction for Personal Purposes**

A citizen may reproduce, without the author's or other right holder's consent and without paying out a fee, exclusively for personal purposes a legally promulgated work, except for the following:

- 1) the reproduction of works of architecture in the form of buildings and similar structures;
- 2) the reproduction of databases or significant parts thereof;
- 3) the reproduction of computer programmes, except for the cases envisaged by Article 1280 of the present Code;
- 4) the reproduction (Item 2 of Article 1275) of books (in full) and musical notation texts;
- 5) the video recording of an audiovisual work when it is publicly performed in a place open to the public or in a place attended by a significant number of persons who do not belong to the ordinary family group;
- 6) the reproduction of an audiovisual work by means of a professional equipment not intended for home use.

#### **Article 1274. The Free Use of a Work for Information, Scientific, Educational or Cultural Purposes**

1. The following is admissible without the consent of the author or other right holder and without paying out a fee but with a compulsory reference to the name of the author whose work is used and of the source as well:

1) quoting in the original and in a translation in scientific, discussion, critical or information purposes of legally promulgated works within a scope justified by the purpose of the quotation, including the reproduction of excerpts from newspaper and magazine articles in the form of press reviews;

2) using legally promulgated works and excerpts from them as illustrations in educational publications, radio and television programmes, sound and video recordings within a scope justified by the purpose set;

3) reproducing in the press, broadcasts or cable programmes the articles legally published in newspapers or magazines on current economic, political, social and religious issues or broadcast works of the same nature, unless such reproduction or announcement has been specifically prohibited by the author or other right holder;

4) reproducing in the press, broadcasts or cable programmes publicly pronounced political speeches, addresses, reports and other similar works within a scope justified for information purposes. In this case, the authors of such works retain a right to publish them in collections;

5) reproducing or communicating for the general public in current events reviews by means of photography, cinematography, by broadcasts or cable programmes the works which are seen or heard in the course of these events, as justified for information purposes;

6) reproducing without profit-making by a raised-point type or other special method for blind people legally published works, except for the works specifically created for being reproduced by such methods.

2. When a library provides copies of the works legally introduced in civil-law transactions for temporary-free-of-charge use such use is permitted without the author's or other right holder's consent and without paying out a fee. In this case, the digital copies of works provided by libraries for temporary free-of-charge use, for instance, in the line of mutual use of library resources, may be provided only on the premises of libraries on the condition that no copies thereof can be made in a digital form.

3. The creation of a work in the genre of literary, musical or other parody or in the genre of cartoon on the basis of another (original) legally promulgated work, and the use of the parody or cartoon is permitted without the consent of the author or other owner of the exclusive right to the original work and without a fee being paid thereto.

### **Article 1275. The Free Use of a Work by Reproduction**

1. The reproduction (Subitem 4 of Item 1 of Article 1273) of the following in a single copy without profit-making is admissible without the author's or other right holder's consent and without paying out a fee but with compulsory reference to the name of the author whose work is used and of the source:

1) a legally published work: by libraries and archives for the purpose of restoring and replacing lost or damaged copies of the work and of

providing copies of the work to other libraries which have somehow lost them from their stock;

2) specific articles and short works legally published in collections, newspapers and other periodical publications, short excerpts from legally published written works (with or without illustrations): by libraries and archives on citizens' requests for the purpose of being used for educational or scientific purposes, and also by educational institutions for being used in class-room studies.

**2.** Reproduction (reprographic copying) means the facsimile reproduction of a work by any technical means carried out for purposes other than publishing. Reproduction does not include the reproduction of a work or storage of copies thereof in electronic (including digital), optical or another machine-readable form, except for cases when temporary copies are created by technical facilities for the purpose of reproduction.

**Article 1276.** The Free Use of a Work Permanently Located in a Place Open to the Public

A photographic work, an architectural work or an artistic work that is permanently located in a place open to the public may be reproduced, broadcast or transmitted by cable without the consent of the author or other right holder and without paying out a fee, except for cases when the imaging of the work in this way is a main object of the reproduction, broadcast or cable transmission or when an image of the work is used for commercial purposes.

**Article 1277.** The Free Public Performance of a Musical Work

A musical work may be performed without the author's or other right holder's consent and without paying out a fee during an official or religious ceremony or funeral within a scope justified by the nature of the ceremony.

Article 1278. The Free Reproduction of a Work for Law-Enforcement Purposes **Article 1278.** The Free Reproduction of a Work for Law-Enforcement Purposes

A work may be reproduced without the author's or other right holder's consent and without paying out a fee for the purpose of implementing proceedings in a case of administrative offence, of inquiring, preliminary investigation or legal proceedings within a scope justified by the purpose.

**Article 1279.** The Free Recording of a Work by a Broadcasting Organisation for the Purpose of Short-Term Use

A broadcasting organisation is entitled to make a record, without the author's or other right holder's consent and without paying out a fee, for the purpose of short-term use of the work in respect of which the organisation has obtained a right to broadcast communication, provided the record is made by the broadcasting organisation by means of its own equipment and

for its own broadcasts. In this case, the organisation shall destroy the record within six months after it was made, unless a longer term has been agreed upon with the right holder or established by a law. Such record may be preserved without the consent of the right holder in state or municipal archives if it has an exclusively documentary nature.

**Article 1280. The Free Use of Computer Programmes and Databases.**  
**Decompiling Computer Programmes**

1. The person that legally possesses a copy of a computer programme or database (user) is entitled to do the following without the author's or other right holder's consent and without paying out a fee:

1) making amendments to the computer programme or database exclusively for the purpose of running it on the user's hardware and, and carrying out the actions required for running the computer programme or database in accordance with the intended purpose thereof, including storing and saving in a computer memory (of one computer or one network user), and also correcting obvious errors, except as otherwise envisaged by the contract concluded with the right holder;

2) making a copy of the computer programme or database, provided this copy is intended only for archiving purposes or for replacing the legally acquired copy if the copy is lost, destroyed or inoperable. In this case, the copy of the computer programme or database shall not be used for purposes other than those mentioned in Subitem 1 of the present item, and it shall be destroyed if the possession of the copy of the computer programme or database is no longer legal.

2. The person legally possessing a copy of a computer programme is entitled to do the following without the right holder's consent and without paying out a fee: to study, research or test the operation of the programme for the purpose of assessing the ideas and principles underlying any component of the computer programme by means of carrying out the actions envisaged by Subitem 1 of Item 1 of the present article.

3. The person legally possessing a copy of a computer programme is entitled to do the following without the right holder's consent and without paying out a fee: to reproduce and convert the compiled code into the initial text (to decompile the computer programme) or to instruct other persons to carry out such actions if they are needed for enabling a programme independently developed by this person for a computer to interact with the other programmes which can interact with the programme decompiled, provided the following conditions are observed:

1) the information required for enabling the interaction has not been available for this person from other sources;

2) the said actions are committed only in respect of those portions of the decompiled computer programme which are needed for enabling the interaction;

3) the information obtained as the result of the decompilation may only be used to enable the interaction of the independently developed computer programme with other programmes, it shall neither be transferred to other persons, except for cases when it is required for enabling the interaction of the independently developed computer programme with other programmes, nor be used for developing a computer programme of a kind significantly similar to the computer programme decompiled or for committing another action infringing the exclusive right to the computer programme.

4. The application of the provisions of the present article shall neither cause unjustified damage to the normal use of a computer programme or database nor infringe without grounds on the lawful interests of the author or another right holder.

#### **Article 1281. The Duration of the Exclusive Right to a Work**

1. The exclusive right to a work shall be effective for the whole lifetime of the author and 70 years from January 1 of the year following the year of the author's death.

The exclusive right in a work created by co-authors shall be effective for the whole lifetime of the author who survives the other co-authors and 70 years from January 1 of the year following the year of his death.

2. For a work promulgated anonymously or pseudonymously the effective term of the exclusive right shall expire after 70 years from January 1 of the year following the year of its legal promulgation. If within the said term the author of the work promulgated anonymously or pseudonymously discloses his identity or if his identity is no longer in doubt, the right shall be effective for the term established by Item 1 of the present article.

3. The exclusive right to a work promulgated after the author's death shall be effective for 70 years after the promulgation thereof from January 1 of the year following the year of the promulgation, provided the work is promulgated within 70 years of the death of the author.

4. If the author of a work has been subjected to repression and posthumously rehabilitated, the effective term of the exclusive right shall be deemed extended, and 70 years shall be counted from January 1 of the year following the year of rehabilitation of the author of the work.

5. If an author worked during the Great Patriotic War or took part in it, the effective term of the exclusive right established in the present article is extended by four years.

#### **Article 1282. The Passing of a Work into the Public Domain**

1. Upon the expiry of effective term of the exclusive right a scientific, literary or artistic work, be it promulgated or not, shall pass into the public domain.

2. A work that has passed into the public domain may be freely used by any person without anybody's consent or permission and without paying

out a royalty. In this case, the attribution, name of the author and integrity of the work are preserved.

3. A non-promulgated work that has passed into the public domain may be promulgated by any person, unless the promulgation thereof is contrary to the author's will expressly stated by the author in writing (in a will, letters, diaries etc.).

The rights of the citizen who has legally promulgated such work are determined in accordance with Chapter 71 of the present Code.

**Article 1283.** The Transfer of the Exclusive Right to a Work in Line of Succession

1. The exclusive right to a work is inheritable.

2. In the cases envisaged by Article 1151 of the present Code the exclusive right to a work included in a heritage shall be terminated, and the work shall pass into the public domain.

**Article 1284.** Levy of Execution on the Exclusive Right to a Work and the Right of Using a Work under a Licence

1. Levy of execution is prohibited on the exclusive right to a work owned by the author. However, the author's things in action in respect of other persons under contracts of alienation of the exclusive right to the work and under licence contracts, and also the incomes received from the use of the work are subject to levy of execution.

The exclusive right owned by a person other than the author and the right of using the work owned by a licensee are subject to levy of execution.

The rules of Paragraph 1 of the present item extend to the heirs of the author, their heirs and so on within the effective term of the exclusive right.

2. If the right to use a work owned by a licensee is sold at a public sale for the purpose of levying execution on the right, the author shall have a priority right to acquire it.

**Article 1285.** A Contract of Alienation of the Exclusive Right in a Work

Under a contract of alienation of the exclusive right to a work the author or other right holder shall assign or undertake to assign his exclusive right to the work in full to the acquirer of the right.

**Article 1286.** A Licence Contract Granting the Right of Using a Work

1. Under a licence contract one party, the author or other right holder (licensor), grants or undertakes to grant to the other person (licensee) a right to use the work within the limits set by the contract.

2. The licence contract shall be made in writing. A contract granting a right to use a work in a periodical printed publication may be concluded in oral form.

3. A licence contract granting a right to use a computer programme or database may be concluded by means of concluding a contract of accession between each user and the relevant right holder, the terms of the contract being available on the acquired copy of the programme or database or on the package thereof. The beginning of use of the programme or database by the user as it is defined in the terms shall be deemed the user's consent to the conclusion of the contract.

4. An onerous licence contract shall comprise the amount of fee charged for the use of the work or the procedure for calculating it.

A provision may be made in the contract for the licensor to receive a fee in the form of fixed one-off or periodical payments, interest on incomes (earnings) or in another form.

The Government of the Russian Federation is entitled to establish minimum rates of royalty for specific uses of works.

#### **Article 1287.** The Special Terms of a Publisher's Licence Contract

1. Under a contract of granting a right to use a work concluded by the author or other right holder with a publisher, i.e. the person which under the contract undertakes to publish the work (publisher's licence contract) the licensee shall commence the use of the work within the term set in the contract. If this duty is not observed the licensor is entitled to waive the contract without compensation to the licensee for the damages due to such waiver.

If the contract does not contain a specific term for commencing the use of the work it shall be commenced within the term which is usual for this type of work and the method of use. Such contract may be rescinded by the licensor on the grounds and in the procedure set out in Article 450 of the present Code.

2. Where a publisher's licence contract is rescinded on the basis of the provisions set out in Item 1 of the present article, the licensor is entitled to claim that the fee envisaged by the contract be paid out thereto in full.

#### **Article 1288.** The Contract of Author's Order

1. Under a contract of author's order one party (author) undertakes to create on the order of the other party (customer) the scientific, literary or artistic work stipulated by the contract on a material medium or in another form.

The material medium of the work shall be transferred to the customer for ownership, unless its being transferred to the customer for temporary use is required by agreement of the parties.

The contract of author's order is onerous, unless otherwise envisaged by agreement of the parties.

2. The contract of author's order may include a clause whereby the exclusive right to the work that has to be created by the author is going to

be alienated to the customer or that the customer is going to obtain a right to use the work within the limits set by the contract.

3. Where a contract of author's order requires the alienation of the exclusive right to the work that has to be created by the author to the customer, such contract is subject accordingly to the rules of the present Code on exclusive right alienation, except as otherwise ensues the essence of the contract.

4. If a contract of author's order is concluded on the condition that the customer acquires the right of using the work within the limits set by the contract such contract shall be subject accordingly to the provisions of Articles 1286 and 1287 of the present Code.

#### **Article 1289.** The Term for Discharging the Contract of Author's Order

1. The work that has to be created under a contract of the author's order shall be transferred to the customer within the term established by the contract.

A contract that neither specifies a term for the discharge thereof nor allows to determine the due date of the discharge thereof shall be deemed uncompleted.

2. Upon the onset of the due date of discharge of a contract of author's order the author -- if necessary and if there is a good reason for completing the work -- shall be given an additional grace period of one quarter of the term set for the discharge of the contract, unless a longer grace period is envisaged by agreement of the parties. In the cases envisaged by Item 1 of Article 1240 of the present Code this rule shall apply, unless otherwise envisaged by the contract.

3. Upon the expiry of the grace period granted to the author under Item 2 of the present article the customer shall be entitled to unilaterally waive the contract of author's order

Also the customer is entitled to waive the contract of author's order immediately upon the expiry of the term set by the contract for the discharge thereof, unless the contract has been discharged by that time, if it ensues the terms of the contract that the customer loses his interest in the contract if the term for discharge of the contract is broken.

#### **Article 1290.** Liabilities under the Contracts Concluded by the Author of a Work

1. The liability of an author under a contract of alienation of the exclusive right to a work and under a licence contract shall be limited by the sum of the actual damage caused to the other party, unless a smaller sum of the author's liability is envisaged by the contract.

2. In the event of the default on, or the improper performance of, a contract of author's order for which the author is responsible the author shall refund to the customer the advance payment and also to pay a forfeit money amount if envisaged by the contract. In this case, the sum total of

these disbursements shall be limited by the sum of the actual damage sustained by the customer.

**Article 1291.** Alienating an Original Work and the Exclusive Right to a Work

1. When alienation is effected by the author of an original work (manuscript, original work of painting, sculpture etc.), for instance, when an original work is alienated under a contract of author's order, the exclusive right to the work shall be retained by the author, unless otherwise envisaged by the contract.

If the exclusive right to the work has not been transferred to the acquirer of the original thereof the acquirer is entitled to do the following without the author's consent and without paying out a fee to the author: to show the original work acquired and reproduce it in the catalogues of exhibitions and in publications dedicated to his collection, and also to hand over the original work for being exhibited at exhibitions organised by other persons.

2. If an original work is alienated by its owner holding the exclusive right to the work but not being the author thereof the exclusive right to the work is transferred to the acquirer of the original work, unless otherwise envisaged by the contract.

3. The rules of the present article concerning the author of a work also extend to the heirs of the author, their heirs and so on within the effective term of the exclusive right to the work.

**Article 1292.** The Right of Access

1. The author of a work of fine arts is entitled to claim from the owner of an original work that an opportunity be given to him to exercise his right to reproduce his work (right of access). In this case, the owner of the original work shall not be asked to deliver the work to the author.

2. The author of a work of architecture is entitled to claim from the owner of the original work that an opportunity be given to him to make photographic pictures and video shooting of the work, unless otherwise envisaged by the contract.

**Article 1293.** Artists' Resale Right

1. If alienation is effected by the author of an original work of fine arts every time the original is publicly re-sold and the seller, buyer or mediator is an art gallery, an art shop, store or other similar organisation, the author is entitled to receive a fee from the seller in the form of interest on the re-sale price (artist's resale right). The rate of the interest and also the terms and procedure for paying out the interest shall be defined by the Government of the Russian Federation.

2. Authors shall exercise the artists' resale right in the procedure established by Item 1 of the present article, and also in respect of the authors' manuscripts (autographs) of literary and musical works.

3. The artists' resale right is unalienable but it shall pass to the heirs of the author for the effective term of the exclusive right to the work.

**Article 1294.** The Rights of the Author of a Work of Architecture, Town Planning or Landscaping

1. The author of a work of architecture, town planning or landscaping has an exclusive right to use his work in accordance with Items 2 and 3 of Article 1270 of the present code, including by means of elaborating construction documentation and by means of implementing an architectural, town-planning or landscaping project design.

The use of an architectural, town-planning or landscaping project design is only admissible as one-off event, except as otherwise established by the contract under which the project is created. The project and the construction documentation prepared on the basis thereof may be used again only on the consent of the author of the project design.

2. The author a work of architecture, town planning or landscaping is entitled to carry out author's control in respect of construction documentation elaboration and the author's supervision over the construction of a building or structure or another implementation of the project design. The procedure for exercising author's control and author's supervision shall be established by the federal executive governmental body charged with architecture and town planning matters.

3. The author of a work of architecture, town planning or landscaping is entitled to demand from the customer of an architectural, town-planning or landscaping project that he be given a right to take part in implementing his project design, unless otherwise established by a contract.

**Article 1295.** The Service Work

1. Copyrights to a scientific, literary or artistic work created within the job description limits established for an employee (author) (a service work) are owned by the author.

2. The employer has an exclusive right to a service work, unless otherwise envisaged by the labour contract or another contract between the employer and the author.

If within three years of the date when a service work was given to him to be at his disposal the employer did not start to use the work or did not assign the exclusive right to it to another person or did not inform the author that the work is kept in secret, the exclusive right to the service work shall be owned by the author.

If within the term mentioned in Paragraph 2 of the present item the employer starts to use the service work or assigns the exclusive right to another person, the author shall be entitled to a fee. Also the author shall

acquire the said right to a fee if the employer has decided to keep the service work in secret, and accordingly did not start to use the work within the said term. The rate of the fee, the terms and procedure for the employer to pay it out shall be defined by a contract between the employer and the employee, or by a court, in the case of a dispute.

3. If according to Item 2 of the present article the exclusive right to a service work is owned by the author the employer is entitled to use the work by the methods depending on the aim of the service assignment, and within the limits ensuing the assignment, and also to promulgate the work, except as otherwise envisaged by a contract between the employer and the employee. In this case, the author's right to use the service work by a method not depending on the aim of the service assignment, or even though by the method depending on the aim of the assignment but beyond the limits ensuing the employer's assignment is not limited.

While using a service work the employer may indicate his/its name or claim that it be indicated.

#### **Article 1296.** The Computer Programmes and Databases Created to Order

1. If a computer programme or database has been created under a contract having the creation thereof as its subject matter (on order), the exclusive right to the programme or database is owned by the customer, unless otherwise envisaged by a contract between the contractor (performer) and the customer.

2. If according to Item 1 of the present article the exclusive right to a computer programme or database is owned by the customer the contractor (performer) is entitled, in as far as is otherwise not envisaged by a contract, to use the programme or database for his own needs on the terms of a fee-free (non-exclusive) licence for the whole effective term of the exclusive right.

3. If according to a contract concluded between a contractor (performer) and a customer the exclusive right to a computer programme or database is owned by the contractor (performer), the customer is entitled to use the programme or database for his/its own needs on the terms of a fee-free (non-exclusive) licence for the whole effective term of the exclusive right.

4. The author of a computer programme or database who does not own an exclusive right to the programme or database is entitled to a fee in accordance with Paragraph 3 of Item 2 of Article 1295 of the present Code.

#### **Article 1297.** The Computer Programmes and Databases Created When Works Have Been Performed under a Contract

1. If a computer programme or database has been created when a contractor's contract or a contract for the performance of research and development works or technological works was performed, such contracts not expressly requiring the creation thereof, the exclusive right to the

programme or database is owned by the contractor (performer), except as otherwise envisaged by a contract between him and the customer.

Unless otherwise envisaged by a contract, in this case the customer is entitled to use the programme and database so created for the purposes for which the relevant contract has been concluded, on the terms of a simple (non-exclusive) licence over the whole effective term of the exclusive right without paying out an additional fee for the use. If the exclusive right to the programme or database has been assigned by the contractor (performer) to another person, the customer retains the right to use the programme or database.

**2.** If according to a contract between the contractor (performer) and the customer the exclusive right to the computer programme or database has been assigned to the customer or to the third person indicated by the customer, then the contractor (performer) is entitled to use the programme or database he has created for his own needs on the terms of a fee-free (non-exclusive) licence over the whole effective term of the exclusive right, except as otherwise envisaged by a contract.

**3.** The author of the computer programme or database mentioned in Item 1 of the present article who does not own an exclusive right to the programme or database is entitled to a fee in accordance with Paragraph 3 of Item 2 of Article 1295 of the present Code.

#### **Article 1298.** The Scientific, Literary and Artistic Works Created under a State or Municipal Contract

**1.** The exclusive right to a scientific, literary or artistic work created under a state or municipal contract for state or municipal needs is owned by the contractor being the author or by the other person performing the state or municipal contract, unless according to the state or municipal contract this right is owned by the Russian Federation, the subject of the Russian Federation or the municipal formation on whose behalf the state or municipal customer is acting, or is owned jointly by the contractor and the Russian Federation, the contractor and the subject of the Russian Federation or the contractor and the municipal formation.

**2.** If according to the state or municipal contract the exclusive right to the scientific, literary or artistic work is owned by the Russian Federation, the subject of the Russian Federation or the municipal formation the contractor shall acquire all rights by means of concluding the relevant contracts with his/its employees and third persons or have them acquired for the purpose of assigning to the Russian Federation, the subject of the Russian Federation and the municipal formation respectively. In this case, the contractor is entitled to a compensation for the costs incurred in connection with the acquisition of the relevant rights from third persons.

**3.** If the exclusive right to a scientific, literary or artistic work created under a state or municipal contract for state or municipal needs is owned according to Item 1 of the present article by a person other than the

Russian Federation, a subject of the Russian Federation or a municipal formation then if the state or municipal customer requests so the right holder shall grant to the person designated by the customer a fee-free simple (non-exclusive) licence for the use of the scientific, literary or artistic work for state or municipal needs.

4. If the exclusive right to a scientific, literary or artistic work created under a state or municipal contract for state or municipal needs is jointly owned by the contractor and the Russian Federation, the contractor and a subject of the Russian Federation or the contractor and a municipal formation then the state or municipal customer is entitled to grant a fee-free simple (non-exclusive) licence for the use of the scientific, literary or artistic work for state or municipal needs, having notified the contractor accordingly.

5. The employee whose exclusive right according to Item 2 of the present article has been transferred to a contractor is entitled to a fee according to Paragraph 3 of Item 2 of Article 1295 of the present Code.

6. The rules of the present article are also applicable to computer programmes and databases whose creation has not been envisaged by a state or municipal contract for state or municipal needs but which have been created when the contract was performed.

#### **Article 1299. Technical Facilities Intended for Copyright Protection**

1. Technical facilities intended for copyright protection are any technologies, technical apparatus or components thereof controlling access to a work, preventing or limiting the carrying out of actions not permitted by the author or other right holder in respect of a work.

2. The following is prohibited in respect of a work:

1) the commission of actions without the permission of the author or other right holder aimed at eliminating the limits imposed on the uses of the work by means of using the technical facilities intended for copyright protection;

2) manufacturing, distributing, hiring out, granting for temporary free-of-charge use, importing and advertising any technology, any technical apparatus or components thereof, using such technical facilities for profit-making or providing relevant services if such actions make it impossible to use the technical facilities intended for copyright protection or to disable them in terms of ensuring the appropriate protection of the copyright.

3. In the event of a breach of the provisions of Item 2 of the present article the author or other right holder is entitled to claim at his discretion from the infringer a payment of damages or compensation according to Article 1301 of the present Code, except for cases when the present Code permits the use of a work without the author's or other right holder's consent.

#### **Article 1300. Information on Copyright Law**

1. Information on copyright law is any information that identifies a work, an author or another right holder or the information on the terms of using a work available on the original work or a copy of the work, is attached thereto or appears in connection with a broadcast or cable programme or in connection with the bringing of the work to the notice of the general public, and also any figures and codes containing such information.

2. The following is prohibited in respect of a work:

1) deleting or modifying without the author's or other right holder's consent information on copyright law;

2) the playback/reproduction, distribution, importation for the purpose of distribution, public performance, broadcasting or cable transmission, bringing to the notice of the general public of the work in respect of which information on copyright law has been deleted or modified without the author's or other right holder's consent.

3. In the event of a breach of the provisions of Item 2 of the present article the author or other right holder is entitled at his discretion to claim from the infringer a payment of damages or a compensation in accordance with Article 1301 of the present Code.

#### **Article 1301.** Liability for a Breach of the Exclusive Right to a Work

In the event of a breach of the exclusive right to a work the author or other right holder may claim compensation from the infringer instead of payment of damages apart from the use of the other applicable remedies and measures of liability established by the present Code (Articles 1250, 1252 and 1253), in accordance with Item 3 of Article 1252 of this Code, at his choice, from the violator the payment of compensation instead of the recovery of damages:

in an amount from 10,000 to 5,000,000 roubles as determined at the discretion of the court;

in the amount equal to the double value of copies of the work or double value of the right of using the work determined on the basis of the price normally charged in comparable circumstances for the legal use of the work.

#### **Article 1302.** A Security for a Claim in a Copyright Violation Case

1. To a defendant or a person believed on sufficient grounds to be an infringer of copyright the court may interdict the carrying out of certain actions (manufacture, reproduction, sale, hiring out, importation or the other use envisaged by the present Code, and also the transportation, storage or possession) of copies of a work for the purpose of introducing them in civil-law transactions if the copies are understood to be counterfeit.

2. The court may order the seizure of all copies of a work which are assumed to be counterfeit, and also of materials and equipment used or intended for the manufacture or reproduction/playback thereof.

If sufficient information is on hand concerning an infringement of copyright the inquiry or investigation bodies shall take measures for searching and seizing the copies of the work assumed to be counterfeit, and also material and equipment used or intended for the manufacture or reproduction/playback of the said copies of the work, including, where necessary, measures for seizing them and putting in custody.

## **Chapter 71. The Rights Allied to Copyrights**

### **1. General Provisions**

#### **Article 1303. Basic Provisions**

1. Intellectual rights to the results of a performance activity (performance), sound recordings, broadcast or cable-transmitted radio and television programmes (the services of broadcasting and cable services organisations), to the contents of databases, and also to the scientific, literary and artistic works promulgated for the first time after they have passed into the public domain are deemed rights allied to copyright (allied rights).

2. Allied rights include the exclusive right, and also personal non-property rights in the cases envisaged by the present Code.

#### **Article 1304. The Objects of Allied Rights**

1. The objects of allied rights are as follows:

1) the performances by performers and conductors, the productions of directors (performances) if these performances are expressed in a form allowing its reproduction and distribution by technical facilities;

2) sound recordings, i.e. any exclusively sound records of performances or of other sounds or of their representations, except for a sound recording included in an audiovisual work;

3) the transmission of programmes of broadcasting or cable-services organisations, including programmes created by the broadcasting or cable services organisation proper or on its order with its funds by another organisation;

4) databases in as far as concerns their protection against unauthorised retrieval and repeated use of the materials available in the contents thereof;

5) scientific, literary and artistic works promulgated after they have passed into the public domain, in as much as it concerns the rights of publishers of such works.

2. For the purposes of the occurrence, exercising and protecting of allied rights, neither their objects need registration nor any other formalities need be completed.

3. The granting of protection on the territory of the Russian Federation to objects of allied rights in accordance with international

treaties of the Russian Federation shall take place in respect of the performances, sound recordings, transmissions of programmes of broadcasting or cable-services organisations which have not passed into the public domain in their countries of origin due to the expiry of the effective term of exclusive rights to such object established in those countries, and which have not passed into the public domain in the Russian Federation due to the expiry of the effective term of exclusive right envisaged by the present Code.

**Article 1305.** The Mark of Legal Protection of Allied Rights

For the purpose of warning of his exclusive right, the manufacturer of a sound recording and a performer, and also another owner of the exclusive right to a sound recording or a performance is entitled to use a mark of protection of allied rights that is placed on each original or copy of the sound recording and/or on each case containing it, the mark being composed of the following three elements: the Latin letter "P" in a circle, the name or company name of the owner of the exclusive right and the year of initial publication of the sound recording. In this case, a copy of the sound recording means its copy on any material medium manufactured directly or indirectly from the sound recording and including all the sounds or part of the sounds or a representation of the sounds fixed in the sound recording. The representation of sounds means their being represented in a digital form that required the relevant technical facilities to convert it into an audible form.

**Article 1306.** Using Objects of Allied Rights without the Consent of the Right Holder and without Paying Out a Fee

The use of objects of allied rights without the consent of the right holder and without paying out a fee is admissible in the cases of free use of works (Articles 1273, 1274, 1277, 1278 and 1279), and also in the other cases envisaged by the present chapter.

**Article 1307.** The Contract of Alienation of the Exclusive Right to an Object of Allied Rights

Under a contract of alienation of the exclusive right to an object of allied rights one party being a performer, the manufacturer of a sound, recording, a broadcasting or cable-services organisation, the manufacturer of a database, the publisher of a scientific, literary or artistic work or another right holder assigns or undertakes to assign his/its exclusive right to the relevant object of allied rights in full to the other party being an acquirer of the exclusive right.

**Article 1308.** The Licence Contract for Granting the Right of Using an Object of Allied Rights

Under a licence contract one party, a contractor, the manufacturer of a sound recording, a broadcasting or cable-services organisation, the manufacturer of a database, the publisher of a scientific, literary or artistic work or another right holder (licensor) grants or undertakes to grant to the other party (licensee) a right to use the relevant object of allied rights within the limits established by the contract.

**Article 1309. Technical Facilities Intended for Protecting Allied Rights**

Any technologies, technical apparatus or components thereof controlling access to an object of allied rights, preventing or restricting the commission of the actions not permitted by the right holder in respect of the object (technical facilities intended for protecting allied rights) respectively are subject to the provisions of Articles 1299 and 1311 of the present Code.

**Article 1310. Information on an Allied Right**

In respect of any information that identifies an object of allied rights or a right holder or information on the terms for using the object and that is available on the relevant material medium, is attached thereto or appears in connection with the broadcast or cable transmission of the object to the notice of the general public, and also any figures and codes comprising such information (information on a allied right) respectively is subject to the provisions of Articles 1300 and 1311 of the present Code.

**Article 1311. Liability for Infringement of the Exclusive Right to an Object of Allied Rights**

In the event of a breach of an exclusive right to an object of allied rights, the owner of the exclusive right is entitled, apart from the use of other applicable remedies and measures of liability established by the present Code (Articles 1250, 1252 and 1253), to claim in accordance with Item 3 of Article 1252 of the present Code from the infringer at the owner's discretion compensation instead of payment of damages:

in an amount of 10,000 to 5,000,000 roubles as determined at the court's discretion;

in the amount of double value of copies of the sound recording or double the value of the right of using the object of allied rights determined on the basis of the price normally charged in comparable circumstances for the legal use of the object.

**Article 1312. A Security for a Claim in a Case of Infringement of Allied Rights**

For the purpose of provision of a security for a claim in a case of infringement of allied rights a defendant or a person believed on a sufficient ground to be an infringer of allied rights, and also the objects of allied rights believed to be counterfeit are respectively subject to the measures set out in Article 1302 of the present Code.

## **§ 2. Performance Rights**

### **Article 1313. The Performer**

The performer (the author of a performance) is a citizen by whose creative labour a performance has been created, i.e. a performing actor (actor, singer, musician, dancer or another person playing a role, reading, reciting, singing, playing a musical instrument or otherwise taking part in the performance of a literary, artistic or folklore work, including a variety, circus or puppet show), and also the director of a play (a person who has staged a theatrical, circus, puppet, variety or another theatrical performance) and the conductor.

### **Article 1314. Allied Rights to a Joint Performance**

1. Allied rights to a joint performance are owned jointly by the members of the performing team who have taken part in the creation thereof (the actors engaged in a play, members of the orchestra and the other members of the performing team), irrespective of this performance being an integral entity or being composed of elements each having independent significance.

2. Allied right to a joint performance shall be exercised by the head of the performing team, or if there is no such head, jointly by the members of the performing team, unless otherwise envisaged by agreement among them. If a joint performance is an integral entity, neither of the members of the performing team is entitled without good reason to ban the use thereof.

An element of a joint performance which can be used independently of the other elements, i.e. an element having an independent significance may be used by the performer who has created it at his own discretion, unless otherwise envisaged by agreement among the members of the performing team.

3. The relationships of the members of a performing team which have to do with distributing earnings from a joint performance are subject respectively by the rules of Item 3 of Article 1229 of the present Code.

4. Each member of a performing team is entitled to take measures on his own to protect his allied rights to a joint performance, including in cases when such performance is an integral entity.

### **Article 1315. Performer's Rights**

1. The performer owns the following rights:

- 1) an exclusive right to the performance;
- 2) the right of attribution, i.e. the right to be recognised as the author of the performance;
- 3) a right to the name, i.e. the right to have his name or pseudonym indicated on copies of a sound recording and in other cases when the performance is used, and in the case described in Item 1 of Article 1314 of

the present Code a right to have the name of the performing team indicated, except for cases when the nature of the use of a work makes it impossible to indicate the name of the performer or the name of the performing team;

4) a right to the integrity of the performance, i.e. a right to have the performance protected against any distortion, i.e. against modifications in a record, broadcast or cable transmission leading to a perversion of the sense or a break in the integrity of perception of the performance.

2. Performers shall exercise their rights in the observance of the rights of the authors of the works performed.

3. The rights of a performer shall be recognised and shall have their effect irrespective of the existence or effect of copyrights in the work performed.

**Article 1316.** The Protection of Attribution, Performer's Name and Integrity of a Performance on the Death of a Performer

1. The attribution, the name of the performer and the integrity of a performance are protected indefinitely.

2. A performer is entitled, in the procedure envisaged for designating the executor of a will (Article 1134), to designate the person in whom he vests responsibility for protecting his name and integrity of performance on the death of the performer. That person shall execute his powers for life.

If no such indications have been made or if the person designated by the performer has refused to execute these powers, and also on the death of that person the protection of the name of the performer and the integrity of the performance shall be ensured by his heirs, their successors or other persons concerned.

**Article 1317.** The Exclusive Right to a Performance

1. The performer owns an exclusive right to use the performance in accordance with Article 1229 of the present Code in any manner that does not conflict with a law (the exclusive right to a performance), including the methods specified in Item 2 of the present article. The performer may dispose of the exclusive right to the performance.

2. The following is deemed the use of a performance:

1) the broadcasting, i.e. communicating of the performance for the notice of the general public, by means of its being broadcast by radio or television (including re-transmission), except for cable television. In this case, the communication means any action whereby the performance is made available for audio and/or visual perception, irrespective of its being actually perceived by the public. When the performance is broadcast via a satellite the broadcasting means the reception of the signals from a ground station at the satellite and the transmission of the signals from the satellite, such signals serving to bring the performance to the notice of the general public, irrespective of its actually being received by the public;

2) the cable communication, i.e. the communication of the performance for the notice of the general public by means of transmitting it by radio or television by means of a cable, wire, optical fibre or similar facilities (including re-transmission);

3) the recording of the performance, i.e. the fixation of sounds and/or an image or of representations thereof by means of technical facilities in any material form that allows their perception, reproduction/playback or communication more than once;

4) the reproduction of a record of the performance, i.e. the making of one and more copies of a sound recording or of a part thereof. In this case, a record of the performance on an electronic medium, including a record made in the memory of a computer, is also deemed reproduction, except for cases when such record is temporary and is an integral and significant part of a technological process solely aimed at legally using the record or legally bringing the performance to the notice of the general public;

5) the distribution of a record of the performance by means of selling or another alienation of its original or of copies being copies of the record on any material medium;

6) an action taken in respect of a record of the performance and envisaged by Subitems 1 and 2 of the present item;

7) the bringing of a record of the performance to the notice of the general public so that any person may get access to the record of the performance from any place and at any time at his own discretion (bringing to the notice of the general public);

8) a public playback of a record of the performance, i.e. any communication of the record by means of technical facilities in a place open for the public or in a place where a significant number of people are present who do not belong to the ordinary family group, irrespective of the record's being perceived in the place where it is communicated or in another place simultaneously with the communication thereof;

9) the hiring out of an original record of the performance or of copies thereof.

**3.** The exclusive right to a performance does not extend to the reproduction, broadcasting or cable transmission, and a public playback of a record of the performance in cases when such record has been made on the consent of the performer, and its reproduction, broadcasting or cable transmission or public playback takes place for the same purposes for which the performer's consent was obtained when the performance was recorded.

**4.** If a contract is concluded with a performer for the creation of an audiovisual work, the performer's consent to the use of the performance within the audiovisual work is assumed. The performer's consent to the separate use of the sound or image fixed in the audiovisual work shall be expressly stated in the contract.

5. When a performance is used by a person other than the performer thereof the rules of Item 2 of Article 1315 of the present Code are applicable respectively.

**Article 1318.** The Effective Term of the Exclusive Right to a Performance, the Inheritance of the Right and the Passing of the Performance into the Public Domain

1. The exclusive right to a performance is in effect for the whole life of the performer, but at least for fifty years from January 1 of the year following the year in which the performance took place or a record of the performance was taken or the communication of the performance by means of a broadcast or cable service took place.

2. If a performer has been subjected to repression and posthumously rehabilitated, the effective term of the exclusive right shall be deemed extended, and fifty years shall be counted from January 1 of the year following the year in which the performer was rehabilitated.

3. If a performer worked during the Great Patriotic War or took part in it, the effective term of the exclusive right established by Item 1 of the present article shall be extended by four years.

4. The transfer of the exclusive right to a performance in line of succession is subject to the rules of Article 1283 of the present Code.

5. Upon the expiry of the effective term of the exclusive right to a performance the right shall pass into the public domain. A performance that has passed into the public domain is subject to the rules of Article 1282 of the present Code.

**Article 1319.** Levy of Execution on the Exclusive Right to a Performance and on the Right of Using a Performance under a Licence

1. The exclusive right to a performance owned by a performer is not subject to levy of execution. However, the things in action of a performer in respect of other persons under contracts of alienation of the exclusive right to a performance and under licence contracts, and also in respect of incomes received from the use of a performance are subject to levy of execution.

An exclusive right owned by a person other than the performer proper and the right of using a performance owned by a licensee are subject to levy of execution.

The rules of Paragraph 1 of the present item extend to the heirs of the performer, their heirs and so on within the limits of the effective term of the exclusive right.

2. In the event of a public sale of a right of using a performance owned by a licensee for the purposes of levy of execution on the right the performer enjoys a priority right to acquire it.

**Article 1320.** A Performance Created in the Line of Duty

The rights to a performance that has been created by a performer in the line of duty, including the rights to a joint performance created in this line are subject to the rules of Article 1295 of the present Code respectively.

**Article 1321.** The Effect of the Exclusive Right to a Performance on the Territory of the Russian Federation

The exclusive right to a performance is effective on the territory of the Russian Federation if:

the performer is a citizen of the Russian Federation;

the first performance took place on the territory of the Russian Federation;

the performance is fixed as a sound recording protected in accordance with the provisions of Article 1328 of the present Code;

the performance that has not been fixed as a sound recording is included in a broadcast or cable transmission protected under the provisions of Article 1332 of the present Code;

in the other cases envisaged by international treaties of the Russian Federation.

### **§ 3. The Right to a Sound Recording**

**Article 1322.** The Manufacturer of a Sound Recording

The manufacturer of a sound recording is the person who has initiated, and is responsible for, the first recording of the sounds of a performance or other sounds or representations of these sounds. Unless otherwise proven, the manufacturer of a sound recording is the person whose name is indicated in an ordinary manner on a copy of the sound recording and/or on the package thereof.

**Article 1323.** The Rights of the Manufacturer of a Sound Recording

1. The manufacturer of a sound recording owns:

1) an exclusive right to the sound recording;

2) a right to indicate his/its name on copies of the sound recording and/or on the package thereof;

3) a right to have the sound recording protected against distortions as it is being used;

4) a right to have the sound recording promulgated, i.e. to commit an action that makes the sound recording available for the first time to the general public by means of its publication, public show, public performance, broadcast or cable transmission or otherwise. In this case, the publication (issuance) is the release for circulation of copies of the sound recording on the consent of the manufacturer in a quantity sufficient for meeting the public's reasonable needs.

2. The manufacturer of a sound recording shall exercise his/its rights in the observance of the rights of the authors of works and of the rights of performers.

3. The rights of the manufacturer of a sound recording are recognised and are effective, irrespective of the existence and effect of copyrights and performers' rights.

4. A right to indicate one's name on the copies of a sound recording and/or on the package thereof and a right to have a sound recording protected against distortions are effective and protected for the whole life of the citizen or until the termination of the legal entity being the manufacturer of the sound recording.

#### **Article 1324. The Exclusive Right to a Sound Recording**

1. The manufacture of a sound recording owns the exclusive right to use the sound recording according to Article 1229 of the present Code in any manner that does not conflict with a law (exclusive right to a sound recording), including the methods specified in Item 2 of the present article. The manufacturer of a sound recording may dispose of the exclusive right to the sound recording.

2. The uses of a sound recording are as follows:

1) a public performance, i.e. any communication of the sound recording by technical facilities in a place open for the public or in a place where a significant number of people are present who do not belong to the ordinary family group, irrespective of the sound recording's being perceived in the place where it is communicated or in another place simultaneously with the communication thereof;

2) a broadcast, i.e. the communication of the sound recording to the notice of the general public by means of its being broadcast by radio or television (including re-transmission), except for cable communication. In this case, the communication means any action whereby the sound recording is made available for audio perception, irrespective of its being actually perceived by the public. When the sound recording is broadcast via a satellite the broadcasting means the reception of the signals from a ground station at the satellite and the transmission of the signals from the satellite, such signals making it possible for the sound recording to be brought to the general public's notice, irrespective of its actually being received by the public;

3) a cable communication, i.e. the communication of the sound recording to the notice of the general public by a radio or television cable, wire, optical fibre or similar facilities (including retransmission);

4) the bringing of the sound recording to the notice of the general public so that a person may have access to the sound recording from any place and at any time at the person's own discretion (bringing to the notice of the general public);

5) reproduction, i.e. the manufacturing of one and more copies of the sound recording or of a part thereof. In this case, the recording of the sound recording or a part thereof on an electronic medium, including saving in the memory of a computer, is also deemed reproduction, except for cases when such record is temporary and is an integral and significant part of a technological process solely aimed at legally using the record or legally bringing the sound recording to the notice of the general public;

6) the distribution of the sound recording by means of a sale or another alienation of the original or copies which are copies of the sound recording on any material medium;

7) the importation of the original or copies of the sound recording for the purpose of distribution, including the copies' manufactures by permission of the right holder;

8) the hiring out of the original and copies of the sound recording;

9) the processing of the sound recording.

3. A person who has legally processed a sound recording acquires an allied right to the processed sound recording.

4. When a sound recording is used by a person other than the manufacturer thereof the rules of Item 2 of Article 1323 of the present Code are applicable.

#### **Article 1325.** Distributing the Original or Copies of a Published Sound Recording

If the original or copies of a legally published sound recording have been released for civil-law transactions on the territory of the Russian Federation by means of a sale or another alienation the further distribution of the original or copies is admissible without the consent of the owner of the exclusive right to the sound recording and without a fee being paid thereto.

#### **Article 1326.** Using a Sound Recording Published for Commercial Purposes

1. The public performance of a sound recording published for commercial purposes, and also the broadcasting or cable transmission thereof is admissible without the permission of the owner of the exclusive right to the sound recording and of the owner of the exclusive right to the performance fixed in the sound recording, but with a fee being paid thereto.

2. The collection of the fee described in Item 1 of the present article from users and the distribution of the fee shall be carried out by organisations managing rights on a collective basis and holding state accreditation for the pursuance of the relevant types of activity (Article 1244).

3. The fee described in Item 1 of the present article shall be distributed among the right holders according to the following proportion: 50 per cent to performers, 50 per cent to the manufacturers of sound

recordings. Fee distribution among specific performance and manufacturers of sound recordings shall be carried out pro rata to the actual use of the relevant sound recordings. The procedure for collecting, distributing and paying out a fee is established by the Government of the Russian Federation.

4. The users of sound recordings shall file their reports with the organisation managing rights on a collective basis on the uses of sound recordings, and also provide the other information and documents required for fee collection and distribution.

**Article 1327.** The Effective Term of the Exclusive Right to a Sound Recording, the Transfer of the Right to Successors and the Passing of a Sound Recording into the Public Domain

1. The exclusive right to a sound recording is in effect for 50 years from January 1 of the year following the year in which the recording took place. In the event of promulgation of a sound recording, the exclusive right is in effect for 50 years from January 1 of the year following the year in which it was promulgated, provided the sound recording is promulgated within 50 years after the recording took place.

2. The heirs and other successors of the manufacturer of a sound recording the exclusive right to the sound recording is transferred within the limits of the remaining portions of the terms specified in Item 1 of the present article.

3. Upon the expiry of the effective term of the exclusive right to a sound recording it shall pass into the public domain. A sound recording that has passed into the public domain is subject to the rules of Article 1282 of the present Code.

**Article 1328.** The Effect of the Exclusive Right to a Sound Recording on the Territory of the Russian Federation

The exclusive right to a sound recording is effective on the territory of the Russian Federation if:

the manufacturer of the sound recording is a citizen of the Russian Federation or a Russian legal entity;

the sound recording has been promulgated or its copies have been publicly distributed for the first time on the territory of the Russian Federation;

other cases contemplated by international treaties of the Russian Federation.

**§ 4. The Rights of Broadcasting and Cable-Services Organisations**

**Article 1329.** The Broadcasting or Cable-Services Organisation

The broadcasting or cable-services organisation is a legal entity communicating radio or television programmes (an aggregate of sounds and/or images or of representations thereof) by broadcasting or by cable.

**Article 1330.** The Exclusive Right to the Communication of Radio or Television Programmes

1. A broadcasting or cable-services organisation owns an exclusive right to use its legal communication of broadcast or cable programmes in accordance with Article 1229 of the present Code in a manner that does not conflict with a law (the exclusive right to the communication of a radio or television programme), including the methods specified in Item 2 of the present article. A broadcasting or cable-services organisation may dispose of the exclusive right to the communication of a radio or television programme.

2. The following is deemed to be a communication of a radio or television programme (broadcasting/transmitting):

1) the recording of the communication of a radio or television programme, i.e. the fixation of sounds and/or image or of representations thereof by technical facilities in any material form that makes it possible to be perceived, reproduced or communicated several times;

2) the reproduction of a record of a radio or television programme, i.e. the manufacturing of one and more copies of the record of the radio or television programme or of a part thereof. In this case, the recording of the communication of a radio or television programme on an electronic medium, including saving into the memory of a computer, is also deemed reproduction, except for cases when such record is temporary and is an integral and significant part of a technological process solely aimed at legally using the record or legally bringing the communication of the radio or television programme to the notice of the general public;

3) the distribution of the communication of a radio or television programme by selling or another alienation of the original or copies of a record of the communication of the radio or television programme;

4) the re-transmission, i.e. the communication by broadcasting (for instance via a satellite) or by cable of a radio or television programme by one broadcasting or cable-services organisation simultaneously with its receiving such communication of the programme from another such organisation;

5) the bringing of the communication of a radio or television programme to the notice of the general public so that each person can have access to the communication of the radio or television programme from any place and at any time at the person's own discretion (bringing to the notice of the general public);

6) the public performance, i.e. any communication of a radio or television programme by technical facilities in places where an entry fee is

charged, irrespective of its being perceived in the place where communicated or in another place simultaneously with the communication.

**3.** The use of the communication of a radio or television programme of a broadcasting organisation is both its re-transmission by broadcasting and by cable.

The use of the communication of a radio or television programme of a cable-services organisation is both its re-transmission by cable and by broadcasting.

**4.** The right of using the communication of a radio or television programme is subject respectively to the rules of Item 3 of Article 1317 of the present Code.

**5.** Broadcasting and cable-services organisations exercise their rights in observance of the rights of authors of works, the rights of performers, and in relevant cases of owners of the rights to a sound recording and the rights of other broadcasting and cable-services organisations to the communication of radio and television programmes.

**6.** The rights of a broadcasting and cable-services organisation are recognised and are effective independently of the existence and effect of copyrights, performers' rights, and also the rights to a sound recording.

**Article 1331.** The Effective Term of the Exclusive Right to the Communication of a Radio or Television Programme, the Transfer of This Right to Successors and the Passing of the Communication of a Radio or Television Programme into the Public Domain

**1.** The exclusive right to the communication of a radio or television programme is effective for 50 years from January 1 of the year following the year in which the communication of the radio or television programme by broadcasting or by cable took place.

**2.** The exclusive right to the communication of a radio or television programme is transferred to the successors of the broadcasting and cable-services organisation within the limits of the remaining portion of the term specified in Item 1 of the present article.

**3.** Upon the expiry of the effective term of the exclusive right to the communication of a radio or television programme it shall pass into the public domain. A communication of a radio or television programme that has passed into the public domain is subject to the rules of Article 1282 of the present Code respectively.

**Article 1332.** The Effect of the Exclusive Right to the Communication of a Radio or Television Programme on the Territory of the Russian Federation

The exclusive right to the communication of a radio or television programme is effective on the territory of the Russian Federation in the broadcasting and cable-services organisation is located on the territory of the Russian Federation and carries out the communication by means of transmitters located on the territory of the Russian Federation, and also in

the other cases envisaged by international treaties of the Russian Federation.

## **§ 5. The Right of the Manufacturer of a Database**

### **Article 1333. The Manufacturer of a Database**

1. The manufacturer of a database is the person that has organised the creation of the database and the work of gathering, processing and arranging the materials making up the database. Unless otherwise proven, the manufacturer of a database is the citizen or legal entity whose name is indicated in an ordinary manner on a copy of the database and/or on the package thereof.

2. The manufacturer of a database owns the following:  
the exclusive right of the manufacturer of the database;  
a right to indicate his/its name on copies of the database and/or on the package thereof.

### **Article 1334. The Exclusive Right of the Manufacturer of a Database**

1. The manufacturer of a database whose creation (including the processing or presentation of the relevant materials) requires significant financial, material, organisational or other costs owns an exclusive right to retrieve materials from the database and subsequently use them in any form and in any manner (the exclusive right of the manufacturer of the database). The manufacturer of the database may dispose of the said exclusive right. Unless otherwise proven, the database whose creation requires significant cost is a database comprising at least 10,000 independent information elements (materials) making up the content of the database (Paragraph 2 of Item 2 of Article 1260).

Nobody is entitled to retrieve materials from a database and subsequently use them without the permission of the right holder, except for the cases described in the present Code. In this case, the retrieval of materials means the transfer of the whole content of the database or of a significant portion of the materials making it up to another information medium through the use of any technical facilities and in any form.

2. The exclusive right of the manufacturer of a database is recognised and is effective independently of the existence and effect of the copyrights and other exclusive rights of the manufacturer of the database and of other persons to the materials making up the database, and also to the database as a whole as a composite work.

3. A person legally using a database is entitled without a permission of the right holder to retrieve materials from the database and subsequently use them for personal, scientific, educational and other non-commercial purposes within the scope justified by these purposes and to the extent in which such actions do not infringe the copyrights of the manufacturer of the database and of other persons.

The use of materials retrieved from a database in a manner that presumes that an indefinite group of persons have access thereto shall be accompanied with reference to the database from which the materials are retrieved.

**Article 1335.** The Effective Term of the Exclusive Right of the Manufacturer of a Database

1. The exclusive right of the manufacturer of a database comes into being as of the time of completion of creation thereof and it shall be in effect for 15 years, from January 1 of the year following the year in which it was created. The exclusive right of the manufacturer of a database promulgated within the said period is effective for 15 years, counted from January 1 of the year following the year in which it was promulgated.

2. The terms set out in Item 1 of the present article shall be resumed every time the database is updated.

**Article 1336.** The Effect of the Exclusive Right of the Manufacturer of a Database on the Territory of the Russian Federation

1. The exclusive right of the manufacturer of a database is effective on the territory of the Russian Federation if:

the manufacturer of the database is a citizen of the Russian Federation or a Russian legal entity;

the manufacturer of the database is a foreign citizen or a foreign legal entity, provided that the legislation of the relevant foreign state grants on the territory thereof protection to the exclusive right of the manufacturer of database manufactured by a citizen of the Russian Federation or a Russian legal entity;

in the other cases set out in international treaties of the Russian Federation.

2. If the manufacturer of a database is a stateless person, depending on his having his place of residence on the territory of the Russian Federation or a foreign state, is respectively subject to the rules of Item 1 of the present articles concerning citizens of the Russian Federation or foreign citizens.

**§ 6. The Right of a Publisher to a Scientific, Literary or Artistic Work**

**Article 1337.** The Publisher

1. The publisher is a citizen who has legally promulgated or organised the promulgation of a scientific, literary or artistic work that has not been promulgated earlier and that has not passed into the public domain (Article 1282) or that is being in the public domain due to its having not been protected by copyright.

2. The rights of a publisher extend to the works which irrespective of the time of creation thereof could be deemed objects of copyright in accordance with the rules of Article 1259 of the present Code.

3. The provisions of the present paragraph do not extend to the works kept in state and municipal archives.

**Article 1338. The Rights of the Publisher**

1. The publisher owns the following:

1) the exclusive right of the publisher to a work he has promulgated (Item 1 of Article 1339);

2) a right to have his name indicated on copies of a work he has promulgated and in other cases when it is used, including cases when it is translated or otherwise processed.

2. When a work is being promulgated the publisher shall observe the terms set out in Item 3 of Article 1268 of the present Code.

3. Within the effective term of the exclusive right of the publisher to a work the publisher has the authority set out in Paragraph 2 of Item 1 of Article 1266 of the present Code. The same rights are owned by the person to which the exclusive right of a publisher to a work has been transferred.

**Article 1339. The Exclusive Right of the Publisher to a Work**

1. The publisher of a work owns the exclusive right of using the work in accordance with Article 1229 of the present Code (the exclusive right of the publisher to the work) in the manners described in Subitems 1-8 and 11 of Item 2 of Article 1270 of the present Code. The publisher of the work may dispose of the said exclusive right.

2. The exclusive right of the publisher to a work is also recognised if the work has been promulgated by the publisher in a translation or in another processed form. The exclusive right of the publisher to a work is recognised and is effective independently of the existence and effect of the copyright of the publisher or of other persons to a translation or another processed form of the work.

**Article 1340. The Effective Term of the Exclusive Right of the Publisher to a Work**

The exclusive right of the publisher to a work comes into being as of the time when the work is promulgated, and it is in effect for 25 years, from January 1 of the year following the year in which it was promulgated.

**Article 1341. The Effect of the Exclusive Right of the Publisher to a Work on the Territory of the Russian Federation**

1. The exclusive right of the publisher extends to a work:

1) promulgated on the territory of the Russian Federation, irrespective of the publisher's citizenship;

2) promulgated outside of the territory of the Russian Federation by a citizen of the Russian Federation;

3) promulgated outside of the territory of the Russian Federation by a foreign citizen or stateless person, provided that the legislation of the foreign state where the work was promulgated grants on the territory thereof protection to the exclusive right of a publisher being a citizen of the Russian Federation;

4) in the other cases envisaged by international treaties of the Russian Federation.

2. In the case specified in Subitem 3 of Item 1 of the present article the effective term of the publisher's exclusive right to a work on the territory of the Russian Federation shall not exceed the effective term of the publisher's right to a work established in the state on whose territory the legal fact servicing as ground for the acquisition of the exclusive right took place.

#### **Article 1342.** The Early Termination of the Exclusive Right of the Publisher to a Work

The exclusive right of the publisher to a work may be terminated before due time in a judicial procedure on a complaint of a person concerned if in the use of the work the right holder violates the requirements set out in the present Code concerning the protection of attribution, name of the author or integrity of the work.

#### **Article 1343.** Alienation of the Original of a Work and the Exclusive Right of the Publisher to the Work

1. When the original of a work (manuscript, original work of painting, sculpture or another similar work) is alienated by its owner holding a exclusive right of publisher to the work alienated this exclusive right is transferred to the acquirer of the original work, except as otherwise envisaged by a contract.

2. If the exclusive right of the publisher to a work has not been transferred to the acquirer of the original of a work the acquirer is entitled without the consent of the holder of the exclusive right of the publisher to use the original work in the manners specified in Paragraph 2 of Item 1 of Article 1291 of the present Code.

#### **Article 1344.** Distributing the Original or Copies of a Work Protected by the Exclusive Right of the Publisher

If the original or copies of a work promulgated in accordance with the present paragraph have been legally put in civil-law transactions by means of being sold or otherwise alienated the further distribution of the original or copies is admissible without the consent of the publisher and without a fee being paid to the publisher.

## Chapter 72. The Patent Law

### § 1. Basic Provisions

#### **Article 1345. Patent Rights**

1. Intellectual rights to inventions, utility models and industrial designs are patent rights.

2. The author of an invention, utility model or industrial design owns the following rights:

- 1) an exclusive right;
- 2) the right of attribution.

3. In the cases envisaged by the present Code the author of an invention, utility model or industrial design also owns other rights, including a right to obtain a patent, a right to a fee for the use of a service invention, utility model or industrial design.

#### **Article 1346. The Effect of Exclusive Rights to Inventions, Utility Models and Industrial Designs on the Territory of the Russian Federation**

The following is recognised on the territory of the Russian Federation: the exclusive rights to inventions, utility models and industrial designs certified by patents issued by the federal executive governmental body charged with intellectual property matters or by patents effective on the territory of the Russian Federation in accordance with international treaties of the Russian Federation.

#### **Article 1347. The Author of an Invention, Utility Model or Industrial Design**

The author of an invention, utility model or industrial design is the citizen by whose creative labour the relevant result of intellectual activity has been created. Unless otherwise proven, the person mentioned as author in a patent application filed for an invention, utility model or industrial design shall be deemed the author of the invention, utility model or industrial design.

#### **Article 1348. The Co-Authors of an Invention, Utility Model or Industrial Design**

1. The citizens who have created an invention, utility model or industrial design shall be deemed co-authors.

2. Each of the co-authors shall be entitled to use the invention, utility model and industrial design at his own discretion, except as otherwise envisaged by agreement between them.

3. The relationships of the co-authors that have to do with the distribution of incomes from the use of the invention, utility model and industrial design and with the disposing of the exclusive right to the invention, utility model and industrial design are subject respectively to the rules of Item 3 of Article 1229 of the present Code.

The co-authors shall jointly dispose of a right to obtain a patent to the invention, utility model and industrial design.

4. Each of the co-authors shall be entitled to take measures on his own to protect his rights to the invention, utility model and industrial design.

#### **Article 1349. The Objects of Patent Rights**

1. The objects of patent rights are the results of intellectual activities in the area of science and technology that meet the requirements established by the present Code as applicable to inventions and utility models, and the results of intellectual activities in the area of artistic design that meet the requirements established by the present Code as applicable to industrial designs.

2. Inventions comprising information constituting a state secret (secret inventions) are covered by the provisions of the present Code, except as otherwise envisaged by the special rules of Articles 1401-1405 of the present Code and the other legal acts enacted in accordance with them.

3. The utility models and industrial designs comprising information constituting a state secret<sup>7</sup> shall not have legal protection in accordance with the present Code.

4. The following shall not be objects of patent rights:

- 1) human cloning techniques;
- 2) the techniques for modifying the genetic integrity of human embryo cells;
- 3) the uses of human embryos for industrial and commercial purposes;
- 4) the other solutions inconsistent with the public interest and humane and moral principles.

#### **Article 1350. The Conditions of the Patentability of an Invention**

1. As an invention a technical solution is protected in any area that is relating to a product (including a device, substance, strain of microorganisms, plant or animal cell culture) or a method (the process of carrying out actions in respect of a material object by material means).

An invention is provided with legal protection if it is novel, has an inventive step and is industrially exploitable.

2. An invention is novel if it is not known from the state of the art.

An invention has an inventive step if for a specialist it does not obviously ensue the state of the art.

The state of the art includes any information that have become available to the public in the world before the priority date of the invention.

When the novelty of an invention is being assessed the state of the art shall also include all patent applications filed for inventions and utility models by other persons in the Russian Federation if they have earlier priority dates and if any person is entitled to read the documents related

thereto in accordance with Item 2 of Article 1385 or Item 2 of Article 1394 of the present Code, and the inventions and utility models patented in the Russian Federation.

**3.** The disclosure of information concerning an invention by the author of the invention, by an applicant or any person that has received this information from them directly or indirectly which made the essence of the invention available to the general public shall not be deemed a circumstance precluding the recognition of the invention's patentability, provided a patent application has been filed with the federal executive governmental body charged with intellectual property matters within six months after the date of the disclosure. The burden of proving the existence of the circumstance due to which the information disclosure does not preclude the recognition of the invention's patentability shall be borne by the applicant.

**4.** An invention is deemed industrially exploitable if it can be used in industry, agriculture, public health and other branches of economy or in the social sphere.

**5.** The following shall not be deemed inventions:

- 1) discoveries;
- 2) scientific theories and mathematical methods;
- 3) solutions concerning only the appearance of articles and aimed at meeting aesthetical needs;
- 4) the rules and methods of games and of intellectual or economic activities;
- 5) computer programmes;
- 6) solutions consisting in the presentation of information only.

In accordance with the present item these objects cannot be deemed inventions only when a patent application for an invention concerns these objects per se.

**6.** No legal protection shall be provided to the following as inventions:

- 1) varieties of plants, breeds of animals and the biological methods for producing them, except for microbiological methods and products produced by such methods;
- 2) integrated circuit layout-designs.

#### **Article 1351.** The Conditions for the Patentability of a Utility Model

**1.** A technical solution relating to an apparatus is protected as a utility model.

A utility model is given legal protection if it is novel and industrially exploitable.

**2.** A utility model is deemed novel if the aggregate of its significant features is not known from the state of the art.

The state of the art includes the information published in the world concerning the facilities having the same intended purpose as the utility model declared, and information on the application thereof in the Russian

Federation, if such information became available to the general public before the priority date of the utility model. Also the state of the art includes all patent applications filed for inventions and utility models by other persons in the Russian Federation if they have earlier priority dates and if any person is entitled to read the documents related thereto in accordance with Item 2 of Article 1385 or Item 2 of Article 1394 of the present Code, and the inventions and utility models patented in the Russian Federation.

**3.** The disclosure of information concerning a utility model by the author thereof, applicant or another person that has directly or indirectly obtained this information from them making information on the essence of the utility model available to the public shall not be deemed a circumstance precluding the recognition of patentability of the utility model, provided a patent application for the utility model was filed with the federal executive governmental body charged with intellectual property matters within six months after the disclosure. The burden of proving the existence of the circumstances due to which information disclosure does not preclude the recognition of patentability of the utility model shall be borne by the applicant.

**4.** A utility model is industrially exploitable if it can be used in industry, agriculture, public health and other branches of economy or in the social sphere.

**5.** No legal protection is granted to the following as utility models:

- 1) solutions concerning only the appearance of articles and aimed at meeting aesthetical needs;
- 2) integrated circuit layout-designs.

#### **Article 1352. The Conditions for the Patentability of an Industrial Design**

**1.** The following is protected as an industrial design: the artistic and design solution of a factory-made or home-made article which determines the appearance of the article.

An industrial design enjoys legal protection if it is novel and original in terms of its significant features.

The significant features of an industrial design are the features determining the aesthetic and/or ergonomic details of the appearance of an article, including the form, configuration, decoration and colour pattern.

**2.** An industrial design is deemed novel if the aggregate of its significant features reflected on images of the article and available in a list of the significant features of the industrial design (Item 2 of Article 1377) is not known from the information that was made available to the public in the world before the priority date of the industrial design.

When the novelty of the industrial design is being established, account shall also be taken of all industrial design applications filed in the Russian Federation by other persons, provided they have earlier priorities and the documents concerning them have been made available to any

person under Item 2 of Article 1394 of the present Code, and of the industrial designs patented in the Russian Federation.

3. An industrial design is deemed original if its significant features are stipulated by the creative nature of the article's features.

4. The disclosure of information on an industrial design by the author thereof, an applicant or any person that has directly or indirectly received this information from them which made information on the essence of the industrial design available to the public shall not be deemed a circumstance precluding the recognition of patentability of the industrial design, provided a patent application was filed for the industrial design with the federal executive governmental body charged with intellectual property matters within six months after the disclosure. The burden of proving the existence of the circumstances due to which the disclosure of information does not preclude the recognition of patentability of the industrial design shall be borne by the applicant.

5. No legal protection is granted to the following as industrial designs:

- 1) solutions exclusively due to the technical function of an article;
- 2) objects of architecture (except for small-form architecture), industrial, hydraulic engineering and other immovable structures;
- 3) objects of an unstable fluid, gaseous, free-flowing or similar substances.

### **Article 1353.** The State Registration of Inventions, Utility Models and Industrial Designs

The exclusive right to an invention, utility model or industrial design is recognised and protected on the condition of the state registration of the relevant invention, utility model or industrial design, such registration serving as a ground for the federal executive governmental body charged with intellectual property matters to issue a patent for the invention, utility model or industrial design.

### **Article 1354.** The Patent for an Invention, Utility Model or Industrial Design

1. A patent for an invention, utility model or industrial design certifies the priority of the invention, utility model or industrial design, the authorship of, and the exclusive right to the invention, utility model or industrial design.

2. Protection of intellectual rights to an invention or utility model is granted under a patent within the scope defined by the invention or utility model claim respectively contained in the patent. A description and drawings (Item 2 of Article 1375 and Item 2 of Article 1376) may be used for the purpose of construing the invention claim and the utility model claim.

3. Protection of intellectual rights to an industrial design is granted under a patent within the scope defined by the aggregate of its significant features reflected images of the article and available in a list of the significant features of the industrial design (Item 2 of Article 1377).

**Article 1355.** Provision of State Incentives for Creating and Using Inventions, Utility Models and Industrial Designs

The state shall provide incentives for the creation and use of inventions, utility models or industrial designs, and grant privileges in accordance with the legislation of the Russian Federation to their authors and also to the patent holders and licensees which use the relevant inventions, utility models or industrial designs.

**§ 2. Patent Rights**

**Article 1356.** The Right of Attribution in Respect of an Invention, Utility Model or Industrial Design

The right of attribution, i.e. the right of being recognised as the author of an invention, utility model or industrial design is unalienable and unassignable, for instance, when this right or the exclusive right to the invention, utility model or industrial design is transferred to another person and when the right of using it is granted to another person. The waiver of this right is null and void.

**Article 1357.** The Right to Obtain a Patent for an Invention, Utility Model or Industrial Design

1. The right to obtain a patent for an invention, utility model or industrial design initially is owned by the author of the invention, utility model or industrial design.

2. The right to obtain a patent for an invention, utility model or industrial design may pass to another person (successor) or may be assigned thereto in the cases and on the grounds established by a law, including in line of universal succession or under a contract including a labour contract.

3. A contract of alienation of a right to obtain a patent to an invention, utility model or industrial design shall be concluded in writing. The non-observance of a written form shall cause the invalidity of the contract.

4. Except as otherwise envisaged by agreement of the parties to a contract of alienation of a right to obtain a patent for an invention, utility model or industrial design, the risk of non-patentability shall be borne by the acquirer of the right.

**Article 1358.** The Exclusive Right to an Invention, Utility Model or Industrial Design

1. The patent holder owns the exclusive right of using the invention, utility model or industrial design in accordance with Article 1229 of the present Code in any manner that does not conflict with a law (the exclusive right to an invention, utility model or industrial design), for instance, by the methods described in Items 2 and 3 of the present article. The patent

holder may dispose of the exclusive right to the invention, utility model or industrial design.

2. The following is deemed, without limitations, to be the use of an invention, utility model or industrial design:

1) the importation onto the territory of the Russian Federation, manufacturing, application, offer for sale, sale, other introduction in civil-law transactions or storage for such purposes of a product in which the invention or utility model is used or of an article in which the industrial design is used;

2) the commission of the actions described in Subitem 1 of the present item in respect of a product produced directly by a patented method. If the product produced by the patented method is novel then an identical product shall be deemed produced by the patented method, unless otherwise proven;

3) the commission of the actions described in Subitem 2 of the present item in respect of an apparatus in whose operation (exploitation) the patented method is automatically implemented;

4) the implementation of the method in which the invention is used, for instance, by means of applying the method.

3. An invention or utility model shall be deemed used in a product or by a method if the product contains and the method uses each feature of the invention or utility model that had been stated in an independent item of the invention or utility model claim, or a feature equivalent thereto, and that had become known as such in the given field of technology before the actions described by Item 2 of the present article were committed in respect of the relevant product or method of action.

An industrial design shall be deemed to be used in an article if this article contains all the significant features of the industrial design which are reflected in images of the article and stated in a list of the significant features of the industrial design (Item 2 of Article 1377).

If in the use of an invention or utility model all the features are also used which are stated in an independent item comprised by the subject of another invention or another utility model in a patent, and in the use of an industrial design all the features stated in a list of the significant features of another industrial design then the other invention, the other utility model and the other industrial design shall also be deemed to be used.

4. If the owners of a patent for one invention, one utility model or one industrial design are two and more persons the relationships between/among them respectively shall be governed by the rules of Items 2 and 3 of Article 1348 of the present Code, irrespective of any of the patent-owners being or not being the authors of this result of intellectual activity.

**Article 1359.** The Actions Not Deemed an Infringement of the Exclusive Right to an Invention, Utility Model or Industrial Design

The following is not deemed an infringement of the exclusive right to an invention, utility model or industrial design:

1) the use of a product in which the invention or utility model is used, and the use of an article in which the industrial design is used, in the design, in auxiliary equipment or in the operation of vehicles (water, air, road and rail means of transport) or spacecraft of foreign states, provided these vehicles or spacecraft are temporarily or incidentally located on the territory of the Russian Federation and the said product or article is used solely for the needs of the vehicles or spacecraft. Such action shall not be deemed an infringement of the exclusive right in respect of vehicles or spacecraft of the foreign states which grant the same rights in respect of the vehicles or spacecraft registered in the Russian Federation;

2) the carrying out of scientific research of a product or method in which the invention or utility model is used or of a scientific research of an article in which the industrial design is used or the carrying out of an experiment in respect of such product, method or article;

3) the using of the invention, utility model or industrial design in emergency circumstances (natural calamities, disasters, accidents), with the patent holder being notified of this use as soon as possible and with commensurate compensation being paid out henceforth to the patent holder;

4) the use of the invention, utility model or industrial design for meeting personal, family, household or other needs other than entrepreneurial activity, unless profit-making or earnings-making is the purpose of the use;

5) the one-off manufacturing of medicines with the use of the invention in a chemist's shop on a physician's prescription;

6) the importation onto the territory of the Russian Federation, the application, offer for sale, sale, another introduction in civil-law transactions or storage for such purposes of a product in which the invention or utility model is used or of an article in which the industrial design is used, if the product or article has been earlier introduced in civil-law transactions on the territory of the Russian Federation by the patent holder or by another person by permission of the patent holder.

**Article 1360.** Using an Invention, Utility Model or Industrial Design in the Interests of National Security

In the interests of national security the Government of the Russian Federation is entitled to permit the use of an invention, utility model or industrial design without the consent of the patent holder, with the patent holder being notified as soon as possible and with a commensurate compensation being paid out to the patent holder.

**Article 1361.** The Right of Prior Use of an Invention, Utility Model or Industrial Design

1. The person that prior to the priority date of an invention, utility model or industrial design (Articles 1381 and 1382) had been properly using on the territory of the Russian Federation an identical solution created independently of the author or had made the necessary preparations for this shall retain the right of further free use of the identical solution without broadening the scope of the use (the right of prior use).

2. The right of prior use may be assigned to another person only with the enterprise in which the use of the identical solution took place or the necessary preparations were made for it.

#### **Article 1362. The Compulsory Licence for an Invention, Utility Model or Industrial Design**

1. If an invention or industrial design is not used or is insufficiently used by the patent holder within four years after the issuance of the patent, and a utility model within three years after the issuance of the patent which leads to the insufficient offer of relevant goods, works or services in the market, any person willing and ready to use the invention, utility model or industrial design -- if the patent holder refuses to conclude a licence contract with this person on the terms meeting the prevailing practices -- is entitled to file a claim with the court for the patent holder to issue a compulsory simple (nonexclusive) licence for the use of the invention, utility model or industrial design on the territory of the Russian Federation. In its claim the person shall set out terms for the provision of the licence, including the scope of use of the invention, utility model or industrial design, the amount of, procedure and term for, payments.

Unless the patent holder proves that his/its non-use or insufficient use of the invention, utility model or industrial design was due to a good reason, the court shall take a decision on granting the licence specified in Paragraph 1 of the present Item and on the terms for the granting thereof. The sum total of payments for the licence shall be set in the court's decision at least as equal to a licence price determined in comparable circumstances.

A compulsory simple (non-exclusive) licence may be terminated in a judicial procedure on a claim of the patent holder, if the circumstances due to which the licence has been issued are no longer existing and it is unlikely that they are going to appear again. In this case the court shall establish a term and procedure for termination of the compulsory simple (non-exclusive) licence and of the rights that have come into being due to the receipt of the licence.

2. Unless a patent holder cannot use an invention to which he/it has an exclusive right, without infringing on the rights of the holder of another patent (first patent) for an invention or utility model which have refused to conclude a licence contract on the terms complying with the prevailing practices, the holder of the patent (second patent) is entitled to file a claim with the court against the holder of the first patent for the issuance of a

compulsory simple (non-exclusive) licence for the use of the invention or utility model of the holder of the first patent on the territory of the Russian Federation. In the claim the holder of the second patent shall indicate his/its terms for granting thereto such licence, including the scope of use of the invention or utility model, the amount of, procedure and term for, payments.

If the patent holder having an exclusive right to such dependent invention manages to prove that it is an important technical achievement and that it has significant economic advantages over the invention or utility model of the holder of the first patent, the court shall take a decision on granting a compulsory simple (non-exclusive) licence thereto. The right of using the invention protected by the first patent obtained under such licence shall not be assigned to other persons, except for the case of alienation of the second patent.

The sum total of payments for a compulsory simple (non-exclusive) licence shall be set in the court's decision at least as equal to a licence price determined in comparable circumstances.

When a compulsory simple (non-exclusive) licence is granted in accordance with the present item, the holder of the patent for the invention or utility model which may be used under the right granted on the basis of the said licence also has the right to obtain a simple (nonexclusive) licence for the use of the dependent invention in connection with which the compulsory simple (non-exclusive) licence was issued, on the terms complying with the prevailing practices.

**3.** Under the court's decision described in Items 1 and 2 of the present article the federal executive governmental body charged with intellectual property matters shall grant state registration to the compulsory simple (non-exclusive) licence.

Article 1363. The Effective Term of Exclusive Rights to an Invention, Utility Model and Industrial Design **Article 1363.** The Effective Term of Exclusive Rights to an Invention, Utility Model and Industrial Design

**1.** The effective term of the exclusive right to an invention, utility model, industrial design, and of the patent certifying this right shall be counted from the day when the initial patent application was filed with the federal executive governmental body charged with intellectual property matters, and it shall be as follows, provided the requirements established by the present Code are met:

- 20 years for inventions;
- 10 years for utility models;
- 15 years for industrial design.

The protection of a patented exclusive right may be exercised only after the state registration of the invention, utility model, industrial design and the issuance of the patent (Article 1393).

**2.** If more than five years have elapsed from the filing of a patent application for an invention relating to a medicine, pesticide or

agrochemical substance which require that permission be secured in the procedure established by a law to the receipt of the first permission for using it the effective term of the exclusive right to the relevant invention and the patent certifying this right shall be extended on an application of the patent holder by the federal executive governmental body charged with intellectual property matters. The said term shall be extended by the period that has elapsed since the filing of the patent application for the invention to the date of receipt of the first permission for using the invention, less five years. In this case, the effective term of the patent for the invention shall not be extended by a term exceeding five years.

A term-extension application shall be filed by the holder of a patent within the effective term of the patent before the expiry of six months after the receipt of a permission for using the invention or the date of issue of the patent, whichever of these terms expires the latest.

3. The effective term of the exclusive right to a utility model and the patent certifying this right shall be extended by the federal executive governmental body charged with intellectual property matters by application of the patent holder by the term specified in the application but in any case not exceeding three years, and the exclusive right to an industrial design and the patent certifying this right by the term specified in the application but in any case not exceeding ten years.

4. The procedure for extending the effective term of a patent for an invention, utility model, industrial design shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. The exclusive right to an invention, utility model, industrial design and the patent certifying this right shall be deemed invalid or shall be terminated before due date on the grounds and in the procedure set out in Articles 1398 and 1399 of the present Code.

**Article 1364.** The Passing of an Invention, Utility Model, Industrial Design into the Public Domain

1. Upon the expiry of the effective term of the exclusive right the invention, utility model, industrial design shall pass into the public domain.

2. An invention, utility model, industrial design that has passed into the public domain may be freely used by any person without anybody's consent or permission and without a fee being paid for the use thereof.

### **§ 3. Disposing of the Exclusive Right to an Invention, Utility Model or Industrial Design**

**Article 1365.** The Contract of Alienation of the Exclusive Right to an Invention, Utility Model or Industrial Design

Under a contract of alienation of the exclusive right to an invention, utility model, industrial design (contract of alienation of a patent) one party (patent holder) assigns or undertakes to assign his/its exclusive right to the relevant result of intellectual activity in full to the other party, the acquirer of the exclusive right (acquirer of the patent).

**Article 1366.** The Public Offer for Concluding a Contract of Alienation of a Patent for an Invention

1. While filing a patent application for an invention, the applicant being the author of an invention may attach to the application documents including a statement to the effect that if a patent is issued he/it undertakes to conclude a contract of alienation of the patent on the terms complying with the prevailing practices with any citizen of the Russian Federation or Russian legal entity which was first to express such will and has notified accordingly the patent holder and the federal executive governmental body charged with intellectual property matters. If such application exists the patent duties envisaged by the present Code shall not be collected from the applicant for the patent application for the invention and for the patent issued under the application.

The federal executive governmental body charged with intellectual property matters shall publish information on the said application in the gazette.

2. A person that has concluded a contract of alienation of a patent for an invention with the holder of the patent on the basis of his/its application described in Item 1 of the present article shall pay all the patent duties from which the applicant (patent holder) was relieved. Henceforth, patent duties shall be paid in the established procedure.

For the purpose of registering a contract of alienation of a patent with the federal executive governmental body charged with intellectual property matters a document shall be attached to the contract registration application to confirm that all the patent duties from which the applicant (patent holder) was relieved have been paid.

3. Unless within two years after the publication of information on the issuance of a patent for an invention in respect of which the application specified in Item 1 of the present article has been made the federal executive governmental body charged with intellectual property matters has received a notice in writing of the intention to conclude a contract of alienation of the patent, the holder of the patent may file a petition with the said federal body withdrawing his/its application. In this case, the patent duties specified by the present Code from which the applicant (patent holder) was relieved shall be payable. Henceforth, patent duties shall be paid in the established procedure.

The federal executive governmental body charged with intellectual property matters shall publish information on the withdrawal of the application specified in Item 1 of the present article in the gazette.

**Article 1367.** The Licence Contract of Granting a Right to Use an Invention, Utility Model or Industrial Design

Under the licence contract one party, patent holder (licensor) shall grant or undertakes to grant within the limits established by the contract to the other party (licensee) the right of using an invention, utility model or industrial design certified by a patent.

**Article 1368.** The Open Licence for an Invention, Utility Model or Industrial Design

1. The holder of a patent may file an application with the federal executive governmental body charged with intellectual property matters on the possibility of granting to any person the right to use the invention, utility model or industrial design (open licence).

In this case, the rate of patent duty for keeping the patent for the invention, utility model or industrial design in effect shall be cut by 50 per cent starting from the year following the year of publication by the federal executive governmental body charged with intellectual property matters of information on the open licence.

The licence terms on which a right to use the invention, utility model or industrial design may be granted to any person shall be announced by the patent holder to the federal executive governmental body charged with intellectual property matters which shall publish on the patent holder's account relevant information on the open licence. The patent holder shall conclude a licence contract on the terms of a simple (non-exclusive) licence with a person expressing his/its will to use the said invention, utility model or industrial design.

2. If within two years after the publication of information about the open licence has not received offers in writing to conclude a licence contract on the terms comprised by his/its application, then upon the expiry of two years he/it may file a petition with the federal executive governmental body charged with intellectual property matters withdrawing his/its open licence application. In this case, a patent duty for keeping the patent in effect shall be additionally paid for the period that has elapsed since the publication of information on the open licence, and henceforth it shall be payable in full. The said federal body shall publish information on the withdrawal of the application in the gazette.

**Article 1369.** The Form and State Registration of Contracts of Disposing of the Exclusive Right to an Invention, Utility Model and Industrial Design

A contract of alienation of a patent, a licence contract, and also the other contracts whereby one disposes of the exclusive right to an invention, utility model or industrial design shall be concluded in writing and shall be subject to state registration with the federal executive governmental body charged with intellectual property matters.

#### **§ 4. An Invention, Utility Model and Industrial Design Created in the Line of Execution of a Service Assignment or when Works Were Performed under a Contract**

**Article 1370.** The Service Invention, Service Utility Model and Service Industrial Design

1. An invention, utility model or industrial design created by an employee in the course of his duties or a specific assignment of the employer shall be deemed a service invention, utility model or industrial design.

2. The right of attribution in respect of a service invention, service utility model or service industrial design is owned by the employee (author).

3. The exclusive right to a service invention, service utility model or service industrial design and the right of obtaining a patent are owned by the employer, except as otherwise envisaged by a labour contract or another contract between the employee and the employer.

4. Unless a contract between the employer and the employee comprises agreement to the contrary (Item 3 of the present article), the employee shall notify in writing the employer that a result that can be legally protected has been created in the course of execution of his duties or of a specific assignment.

Unless within four months after being notified by the employee files a patent application for the relevant service invention, service utility model or service industrial design with the federal executive governmental body charged with intellectual property matters, assigns the right of obtaining a patent to the service invention, service utility model or service industrial design to another person or notifies the employee that information on the relevant result of intellectual activity is kept secret, the right to obtain a patent for the invention, utility model or industrial design shall be held by the employee. In this case within the effective term of the patent the employer shall be entitled to use the service invention, service utility model or service industrial design at the employer's production facilities on the terms of a simple (non-exclusive) licence, with compensation being paid to the holder of the patent of which the rate, terms and payment procedure are defined by a contract between the employee and the employer, or by the court in the case of a dispute.

If the employer obtains a patent for the service invention, service utility model or service industrial design or decides to keep information about the invention, utility model or industrial design secret and notify the employee accordingly or assigns the right of obtaining a patent to another person or does not receive a patent on an application filed by the employer for reasons under the employer's control, the employee shall be entitled to a fee. The amount of the fee, the terms and procedure for the employer to

pay it out shall be defined by a contract between the employer and the employee, or by the court in the case of a dispute.

The Government of the Russian Federation is entitled to set minimum rates of the fee payable for service inventions, service utility models or service industrial designs.

**5.** An invention, utility model or industrial design created by an employee through the use of money, technical or other material means of the employer but other than in the line of duty or a specific assignment of the employer shall not be deemed service. The right to obtain a patent and the exclusive right to such invention, utility model or industrial design are owned by the employer. In this case the employer is entitled at his/its own discretion to claim a free-of-charge simple (non-exclusive) licence for the use of the created result of intellectual activity for his/its own needs for the whole effective term of the exclusive right or a compensation for the expenses incurred by the employer in connection with the creation of the invention, utility model or industrial design

**Article 1371.** An Invention, Utility Model or Industrial Design Created When Works Have Been Performed under a Contract

**1.** If an invention, utility model or industrial design has been created in the course of performance of a contractor's contract or a contract of performance of research and development or technological works which did not directly require the creation thereof the right to obtain a patent and the exclusive right to the invention, utility model or industrial design are owned by the contractor (performer), except as otherwise envisaged by a contract between the contractor and the customer.

In this case the customer is entitled, except as otherwise envisaged by the contract, to use the invention, utility model or industrial design so created for the purposes for which the relevant contract was concluded, on the terms of a simple (non-exclusive) licence during the whole effective term of the patent without an additional fee being charged for the use. If the contractor (performer) assigns the right to obtain a patent or to alienate the patent proper to another person, the customer shall retain the right of using the invention, utility model or industrial design on the said terms.

**2.** If under the contract between the contractor (performer) and the customer the right to obtain a patent or the exclusive right to the invention, utility model or industrial design is assigned to the customer or to the third person designated by the customer the contractor (performer) is entitled to use the created invention, utility model or industrial design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the patent, except as otherwise envisaged by the contract.

**3.** In accordance with Item 4 of Article 1370 of the present Code a fee shall be paid to the author of the invention, utility model or industrial design described in Item 1 of the present article who is not the holder of the patent.

**Article 1372. The Industrial Design Created on Order**

1. If an industrial design is created under a contract which had the creation thereof as its subject matter (on order) the right to obtain a patent and the exclusive right to the industrial design is owned by the customer, except as otherwise envisaged by a contract between the contractor (performer) and the customer.

2. If according to Item 1 of the present article the right to obtain a patent and the exclusive right to an industrial design is owned by the customer the contractor (performer) is entitled, except as otherwise envisaged by a contract, to use the industrial design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence for the whole effective term of the patent.

3. If according to a contract between the contractor (performer) and the customer the right to obtain a patent and the exclusive right to the industrial design is owned by the contractor (performer), the customer is entitled to use the industrial design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence for the whole effective term of the patent.

4. In accordance with Item 4 of Article 1370 of the present Code a fee shall be paid to the author of an industrial design created on order who is not the holder of the patent.

**Article 1373. The Invention, Utility Model and Industrial Design Created When Works Have Been Performed under a State or Municipal Contract**

1. The right to obtain a patent and the exclusive right to an invention, utility model or industrial design created when works were performed under a state or municipal contract for state or municipal needs are owned by the organisation performing the state or municipal contract (contractor), unless according to the state or municipal contract these rights are owned by the Russian Federation, the subject of the Russian Federation or the municipal formation on whose behalf the state or municipal customer is acting or jointly by the contractor and the Russian Federation, the contractor and the subject of the Russian Federation or the contractor and the municipal formation.

2. If under a state or municipal contract a right to obtain a patent and an exclusive right to an invention, utility model or industrial design is owned by the Russian Federation, a subject of the Russian Federation or a municipal formation then the state or municipal customer may file a patent application within six months after the customer was notified in writing by the contractor that a result of intellectual activity had been obtained capable of being entitled to legal protection as an invention, utility model or industrial design. Unless within the said term the state or municipal customer files the application, the contractor shall have the right to obtain a patent.

3. If under a state or municipal contract a right to obtain a patent and an exclusive right to an invention, utility model or industrial design is owned by the Russian Federation, a subject of the Russian Federation or a municipal formation, the contractor shall either acquire all rights by means of concluding the relevant agreements with his/its employees and third persons or ensure the acquisition thereof to be transferred to the Russian Federation, the subject of the Russian Federation or the municipal formation respectively. In this case the contractor is entitled to a compensation for the expenses he/it has incurred in connection with the acquisition of the relevant rights from third persons.

4. If a patent for an invention, utility model or industrial design created when works were performed under a state or municipal contract for state or municipal needs is owned according to Item 1 of the present article to a person other than the Russian Federation, a subject of the Russian Federation or a municipal formation then if requested by the state or municipal customer the holder of the patent shall grant to the person designated by the customer a free-of-charge simple (non-exclusive) licence for the use of the invention, utility model or industrial design for state or municipal needs.

5. If a patent for an invention, utility model or industrial design created when works were performed under a state or municipal contract for state or municipal needs is obtained jointly in the name of the contractor and the Russian Federation, the contractor and the subject of the Russian Federation or the contractor and the municipal formation then the state or municipal customer is entitled to grant a free-of-charge simple (non-exclusive) licence for the use of the invention, utility model or industrial design for the purpose of carrying out works or product delivery for state or municipal needs, having notified the contractor accordingly.

6. If the contractor that has obtained a patent for an invention, utility model or industrial design in accordance with Item 1 of the present article in his/its name decides that the patent be terminated before the due date then he/it shall notify accordingly the state or municipal customer, and on the request thereof to transfer the patent free of charge to the Russian Federation, the subject of the Russian Federation or the municipal formation.

If a decision is taken on early termination of a patent obtained in accordance with Item 1 of the present article in the name of the Russian Federation, a subject of the Russian Federation or a municipal formation the state or municipal customer shall notify the contractor accordingly and in his/its request to transfer the patent thereto on a free-of-charge basis.

7. The author of the invention, utility model or industrial design mentioned in Item 1 of the present article not being a patent holder is entitled to a fee according to Item 4 of Article 1370 of the present Code.

## **§ 5. Obtaining a Patent**

## **1. The Patent Application, Its Amendment and Revocation**

### **Article 1374.** Filing a Patent Application for an Invention, Utility Model and Industrial Design

1. A patent application for an invention, utility model or industrial design shall be filed with the federal executive governmental body charged with intellectual property matters by a person entitled to obtain a patent according to the present Code (applicant).

2. The patent application for an invention, utility model or industrial design shall be filed in the Russian language. The other documents of the application shall be filed in the Russian language or in another language. If the documents of the application are filed in another language a translation thereof into Russian shall be attached to the application.

3. The patent application for an invention, utility model or industrial design shall be signed by the applicant, or if filed through a patent agent or another representative, by the applicant or his/its representative filing the application.

4. The requirements applicable to patent application documents for an invention, utility model or industrial design shall be established on the basis of the present Code by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. The patent application for an invention, utility model or industrial design shall be accompanied by a document confirming that a patent duty has been paid at the established rate or a document confirming the grounds for being relieved from a patent duty or for a patent duty rebate or deferment.

### **Article 1375.** The Patent Application for an Invention

1. A patent application for an invention (invention application) shall be relating to one invention or a group of invention interconnected to the extent that they form a united inventive concept (the concept of the unity of an invention).

2. The invention application shall comprise the following:

1) a patent application including an indication of the author of the invention and of the person for whose name the patent is sought, and also the residence or whereabouts of each of them;

2) a description of the invention that discloses it in a completeness sufficient for implementation;

3) the invention claim expressing the essence thereof and fully based on its description;

4) drawings and other materials if required for understanding the essence of the invention;

5) a synopsis.

3. The date of filing of the invention application is the date when the federal executive governmental body charged with intellectual property matters receives an application comprising a patent application, a description of the invention and drawings if the description comprises reference thereto, and the date of receipt of the last document if the said documents were not filed simultaneously.

**Article 1376. The Patent Application for a Utility Model**

1. A patent application for a utility model (a utility model application) shall relate to one utility model or a group of utility models interrelated to the extent that they form a united creative concept (the requirement for the unity of a utility model).

2. The utility model application shall comprise the following:

1) a patent application including an indication of the author of the utility model and the person for whose name the patent is sought, and also the residence or whereabouts of each of them;

2) a description of the utility mode disclosing it with a completeness sufficient for implementation;

3) the utility model claim expressing its essence and fully based on its description;

4) drawings if required for understanding the essence of the utility model;

5) a synopsis.

3. The date of filing of the utility model application is the date when the federal executive governmental body charged with intellectual property matters receives an application comprising a patent application, a description of the utility model and drawings if the description comprises reference thereto, and the date of the last of documents if the said documents were not filed simultaneously.

**Article 1377. The Patent Application for an Industrial Design**

1. A patent application for an industrial design (industrial design application) shall relate to one industrial design or a group of industrial designs interrelated to the extent of forming a united creative concept (the concept of the unity of an industrial design).

2. The industrial design application shall comprise the following:

1) a patent application with an indication of the author of the industrial design and the person for whose name the patent is sought, and also the residence or whereabouts of each of them;

2) a set of images of the article that provide a complete detailed idea of the article's appearance;

3) a general view drawing of the article, an ergonomic sketch, a building layout if they are required for disclosing the essence of the industrial design;

4) a description of the industrial design;

5) a list of the significant features of the industrial design.

3. The date of filing of the industrial design application is the date when the federal executive governmental body charged with intellectual property matters receives an application comprising a patent application, a set of images of the article, a description of the industrial design and a list of the significant features of the industrial design, and the date of receipt of the last of the documents if these documents were not filed simultaneously.

#### **Article 1378.** Amending the Documents of an Invention, Utility Model or Industrial Design Application

1. The applicant is entitled to amend the documents of the invention, utility model or industrial design application, for instance by means of filing additional materials, until a decision on issuing a patent or refusing to issue a patent is taken on the application, unless the amendment changes the essence of the declared invention, utility model or industrial design.

The additional materials are deemed to change the essence of the declared invention, utility model or industrial design if they comprise the features which are supposed to be included in the invention or utility model claim but which had not been disclosed as of the priority date in the documents serving as the ground for the establishment thereof, and also in the invention or utility model claim if as of the priority date the application contained the invention or utility model claim.

The additional materials are deemed to change the essence of the declared industrial design if they comprise features which were supposed to be included in the list of significant features of the industrial design but which are lacking on the images of the article when the application is filed.

2. A change in the details of the applicant, for instance when a right to obtain a patent is assigned to another person or due to the change of name of the applicant, and also the correction of obvious and technical errors may be made to the documents of the application until the registration of the invention, utility model or industrial design.

3. If the documents of an application are amended on the initiative of the applicant within two months after the filing of the application no patent duty shall be levied for the amendments.

4. The amendments made by the applicant to the documents of an invention application shall be taken into account when information on the application is published if such amendments are presented to the federal executive governmental body charged with intellectual property matters within 12 months after the filing of the application.

#### **Article 1379.** Transforming an Invention or Utility Model Application

1. Until the publication of information on an invention application (Item 1 of Article 1385) but not later than the date of a decision on the issuance of a patent the applicant is entitled to transform it into a utility model application by means of filing an appropriate application with the

federal executive governmental body charged with intellectual property matters, except for cases when the application is accompanied by an application proposing to conclude a contract for the alienation of the patent described in Item 1 of Article 1366 of the present Code.

2. The transformation of a utility model application into an invention application is permitted until the date of a decision on the issuance of a patent, or if a decision on refusing to issue a patent is taken, until the completion of the appeal against such decision envisaged by the present Code.

3. If an invention or utility model application is transformed in accordance with Items 1 or 2 of the present article the priority of the invention or utility model and the date of filing of the application shall remain intact.

#### **Article 1380.** Withdrawing an Invention, Utility Model or Industrial Design Application

An applicant is entitled to withdraw his/its invention, utility model or industrial design application until the registration of the invention, utility model or industrial design in the relevant register.

### **2. The Priority of an Invention, Utility Model and Industrial Design**

#### **Article 1381.** Establishing the Priority of an Invention, Utility Model or Industrial Design

1. The priority of an invention, utility model or industrial design shall be established by the date when the invention, utility model or industrial design application is filed with the federal executive governmental body charged with intellectual property matters.

2. The priority of an invention, utility model or industrial design may be established by the date when additional materials are received, if they are provided by the applicant as an independent application filed before the expiry of three months after the applicant's receipt of a notice from the federal executive governmental body charged with intellectual property matters stating that additional materials could not be taken into account because they were deemed to change the essence of the solution declared, unless as of the date of filing of the independent application the application containing the said additional materials has been withdrawn or deemed withdrawn.

3. The priority of an invention, utility model or industrial design may be established by the date when the same applicant filed with the federal executive governmental body charged with intellectual property matters an earlier application disclosing the invention, utility model or industrial design, unless the earlier application has been withdrawn or deemed withdrawn as of the date of filing of the application whereby the priority is sought, provided the application whereby the priority is sought was filed within 12

months after the filing of the earlier application concerning the invention, or six months after the filing of the earlier application concerning the utility model or industrial design.

Once an application seeking priority is filed the earlier application shall be deemed withdrawn.

Priority shall not be established by the date of filing of an application whereby an earlier priority has been sought.

4. The priority of an invention, utility model or industrial design under a divisional application shall be established by the date when the same applicant filed with the federal executive governmental body charged with intellectual property matters his/its initial application disclosing the invention, utility model or industrial design or if a right exists to establish an earlier priority, by the initial application by the date of that priority, unless the initial invention, utility model or industrial design application had not been withdrawn or deemed withdrawn, provided the divisional application had been filed before the completion of the appeal envisaged by the present Code against the decision on refusing to issue a patent under the initial application or the date of registration of the invention, utility model or industrial design if a decision on issuing a patent was taken on the initial application.

5. The priority of an invention, utility model or industrial design may be established on the basis of several applications filed earlier or of additional materials to such applications, given the observance of the conditions set out in Items 2, 3 and 4 of the present article and Article 1382 of the present Code respectively.

#### **Article 1382.** The Convention Priority of an Invention, Utility Model or Industrial Design

1. The priority of an invention, utility model or industrial design may be established by the date of filing of the first application for the invention, utility model or industrial design in a member state of the Paris Convention for the Protection of Industrial Property (conventional priority), provided an application for the invention or utility model is filed with the federal executive governmental body charged with intellectual property matters within 12 months after the said date or an application for the industrial design within six months after the said date. If due to reasons beyond the applicant's control an application seeking a convention priority could not be filed within the said term, that term may be extended by the federal executive governmental body charged with intellectual property matters by up to two months.

2. An applicant willing to exercise the right of convention priority in respect of a utility model or industrial design application shall notify accordingly the federal executive governmental body charged with intellectual property matters within two months after the filing of the application and present an attested copy of the first application specified in

Item 1 of the present article within three months after the filing with the said federal body of the application whereby a convention priority is sought.

3. An applicant willing to exercise the right of convention priority in respect of an invention application shall notify accordingly the federal executive governmental body charged with intellectual property matters and file a copy of the first application with that federal body within 16 months after it was filed with the patent department of the member state of the Paris Convention for the Protection of Industrial Property.

If within the said term no attested copy of the first application is filed, the priority right may nevertheless be recognised by the federal executive governmental body charged with intellectual property matters on the applicant's petition filed by him/it with that federal body within the said term, provided a copy of the first application was requested by the applicant from the patent department to which the first application has been submitted, within 14 months after the filing of the first application and was submitted to the federal executive governmental body charged with intellectual property matters within two months after its receipt by the applicant.

The federal executive governmental body charged with intellectual property matters is entitled to demand that the applicant files a Russian translation of the first application of the invention only if the verification of the validity of the claim for the priority of the invention has to do with assessing the patentability of the invention declared.

#### **Article 1383.** The Consequences of the Coincidence of Priority Dates of an Invention, Utility Model or Industrial Design

1. If an expert examination has established that various applicants have filed applications for identical inventions, utility models or industrial designs, and that these applications have one and the same priority date then a patent for an invention, utility model or industrial design may be issued only on one of these applications to the person designated by agreement among the applicants.

Within 12 months after the receipt of a relevant notice from the federal executive governmental body charged with intellectual property matters, the applicants shall inform that federal body of the agreement reached by them.

When a patent is issued on one of the applications all the authors mentioned in the application shall be deemed co-authors in respect of the identical inventions, utility models or industrial designs.

If applications for identical inventions, utility models or industrial designs having one and the same priority date have been filed by one and the same applicant, a patent shall be issued on the application chosen by the applicant. The applicant shall notify of its choice within the term and in the procedure set out in Paragraph 2 of the present article.

Unless within the established term the federal executive governmental body charged with intellectual property matters receives from

the applicants the said notice or petition for extension of the established term in the procedure set out in Item 5 of Article 1386 of the present Code, the applications shall be deemed withdrawn.

2. In the event of coincidence of the priority dates of an invention and a utility model identical thereto for which patent applications have been filed by one and the same applicant when a patent is issued under one of the applications a patent under the other application shall be possible only on the condition that an application for termination of that patent is filed with the federal executive governmental body charged with intellectual property matters by the owner of the earlier patent for the identical invention or the identical utility model. In this case the patent issued earlier shall be terminated starting from the date of publication of information on the issuance of the patent on the other application in keeping with Article 1394 of the present Code. Information on the issuance of the patent for the invention or the utility model and information on the termination of the earlier patent shall be published simultaneously.

### **3. The Expert Examination of a Patent Application. The Temporary Legal Protection of an Invention, Utility Model and Industrial Design**

**Article 1384.** The Formal Expert Examination of an Invention Application

1. A formal expert examination shall be carried out in respect of an invention application received by the federal executive governmental body charged with intellectual property matters to verify the availability of the documents mentioned in Item 2 of Article 1375 of the present Code, and their compliance with established requirements.

2. If the applicant has filed additional materials for the invention application in keeping with Item 1 of Article 1378 of the present Code it shall be verified if they change the essence of the invention declared or not.

In as much as they change the essence of the invention declared the additional materials shall not be taken into account during the examination of the application but they may be presented by the applicant as an independent application. The federal executive governmental body charged with intellectual property matters shall notify the applicant accordingly.

3. Immediately after the completion of the formal expert examination the applicant shall be notified by the federal executive governmental body charged with intellectual property matters of the positive result of the formal expert examination and of the date of filing of the invention application.

4. If the invention application does not comply with the established requirements applicable to application documents the federal executive governmental body charged with intellectual property matters shall send a request to the applicant asking him/it to file corrected or missing documents within two months upon the receipt of the request. Unless the applicant files the documents so requested within the established term or files a petition for extension of the term, the application shall be deemed withdrawn. The

term may be extended by the said federal executive governmental body by up to ten months.

5. If the invention application is filed in breach of the concept of the unity of invention (Item 1 of Article 1375) the federal executive governmental body charged with intellectual property matters shall suggest that the applicant within two months after the receipt of the relevant notice tell which of the inventions declared is to be examined, and if necessary amend the application documents. The other inventions declared by means of that application may be formalised under divisional applications. Unless within the established term the applicant notifies which of the inventions declared has to be examined and if necessary files relevant documents, the invention indicated in the invention claim first shall be considered.

#### **Article 1385.** The Publication of Information on an Invention Application

1. Upon the expiry of 18 months after the filing of an invention application that has passed a formal expert examination with a positive result the federal executive governmental body charged with intellectual property matters shall publish information on the invention application in the gazette. The composition of the details published shall be determined by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

The author of the invention is entitled to refuse to be mentioned as such in the published information on the invention application.

On a petition of the applicant filed before the expiry of 12 months after the filing of the invention application the federal executive governmental body charged with intellectual property matters may publish information on the application until the expiry of 18 months after the filing thereof.

No publication shall take place if before the expiry of 12 months after the filing of the invention application it is withdrawn or deemed withdrawn or the invention is registered on the basis of the application.

2. After the publication of information on the invention application any person is entitled to become acquainted with the documents of the application, unless the application is withdrawn or deemed withdrawn as of the date of publication of information concerning it. The procedure for reading application documents and for the issuance of copies of such documents shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. When information is published on an invention application which has been withdrawn or deemed withdrawn as of the date of publication, such information shall not be included in the state of the art for the subsequent applications of the same applicant filed with the federal executive governmental body charged with intellectual property matters

until the expiry of 12 months after the publication of information on the invention application.

**Article 1386.** The Expert Examination of an Invention Application on the Merits Thereof

1. On a petition of an applicant or third persons that may be filed with the federal executive governmental body charged with intellectual property matters when an invention application is filed or within three years after the filing of the application, provided a formal expert examination is completed in respect of the application with a positive result, the application shall undergo an expert examination on the merits thereof. The federal executive governmental body charged with intellectual property matters shall notify the applicant of the third persons' petitions received.

The term for filing a petition for an expert examination of an invention application on the merits thereof may be extended by the federal executive governmental body charged with intellectual property matters on a petition of the applicant filed before the expiry of the term, by up to two months, provided a document confirming that a patent duty has been paid is submitted together with the petition.

Unless a petition for expert examination of the invention application on the merits thereof is filed within the established term, the application shall be deemed withdrawn.

2. The expert examination of an invention application on the merits thereof includes the following:

information retrieval concerning the declared invention to assess the state of the art in comparison with which the novelty and inventive level of the invention is going to be assessed;

verifying the compliance of the declared invention with the patentability conditions set out in Article 1350 of the present Code.

No information retrieval shall be carried out in respect of a declared invention deemed one of the objects specified in Item 4 of Article 1349 and in Items 5 and 6 of Article 1350 of the present Code, with the applicant being notified accordingly by the federal executive governmental body charged with intellectual property matters before the expiry of six months after the commencement of the expert examination of the invention application on the merits thereof.

The procedure for carrying out information retrieval and for filing a report on it shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. Upon the expiry of six months after the commencement of the expert examination of the invention application on the merits thereof the federal executive governmental body charged with intellectual property matters shall send a report to the applicant on the information retrieval, unless an earlier priority is claimed under the application in comparison

with the date of filing of the application, and unless a petition for expert examination of the invention application on the merits thereof was filed when the application was filed.

The term for sending a report on information retrieval to the applicant may be extended by the federal executive governmental body charged with intellectual property matters if the need has been discovered for requesting information from other organisations from a source lacking among the resources of the said federal body or if the declared invention is characterised so that the conduct of an information retrieval in the established procedure is impossible. The applicant shall be notified by the said federal body of the extension of the term for sending a report on the information retrieval and on the reasons for the extension.

4. The applicant and third persons are entitled to petition for an information retrieval concerning an invention application that has undergone a formal expert examination with a positive result in order to assess the state of the art in comparison with which the novelty and inventive level of the invention declared is going to be assessed. The procedure and conditions for such information retrieval and provision of information on the results thereof shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. In the course of an expert examination of an invention application on the merits thereof the federal executive governmental body charged with intellectual property matters may request from the applicant additional materials (including a modified invention claim) without which the expert examination is impossible. In this case, additional materials without a change in the essence of the invention shall be provided within two months after the applicant's receipt of the request or copies of the materials contradicting the application, provided the applicant has asked for the said copies within one month after having received the request from the said federal body. Unless within the established term the applicant provides the requested materials or files a petition for extension of this term, the application shall be deemed withdrawn. The term established for the applicant's submitting the materials requested may be extended by the said federal body by up to ten months.

**Article 1387.** A Decision on the Issuance of a Patent for an Invention or on Refusing to Issue It

1. If as the result of an expert examination of an invention application on the merits thereof it is established that the declared invention expressed in the invention claim proposed by the applicant meets the conditions of patentability set out in Article 1350 of the present Code the federal executive governmental body charged with intellectual property matters shall take a decision on issuing a patent for the invention with this invention claim. The decision shall comprise the priority date of the invention.

If in the course of the expert examination of the invention application on the merits thereof it is established that the declared invention expressed in the invention claim proposed by the applicant does not comply with the conditions of patentability set out in Article 1350 of the present Code the federal executive governmental body charged with intellectual property matters shall take a decision on refusing to grant a patent.

Until the taking of a decision on issuing a patent or on refusing to issue a patent the federal executive governmental body charged with intellectual property matters shall send a notice to the applicant of the results of verification of patentability of the invention declared with a proposal for presenting its arguments concerning the reasons set out in the notice. The applicant's arguments shall be taken into account in decision-making if they are provided within six months after the receipt of the notice.

**2.** The invention application shall be deemed withdrawn under the provisions of the present chapter on the basis of a decision of the federal executive governmental body charged with intellectual property matters, except for cases when it is withdrawn by the applicant.

**3.** Decisions of the federal executive governmental body charged with intellectual property matters on refusing to grant a patent for the invention, on issuing a patent for the invention or on deeming the invention application withdrawn may be challenged by the applicant by means of filing his/its objection with the chamber of patent disputes within six months after the applicant's receipt of the decision or of the copies of materials contradicting the application requested from the said federal body and mentioned in the decision on refusal to grant a patent, provided the applicant has requested copies of these materials within two months after the receipt of the decision taken on the invention application.

#### **Article 1388.** The Applicant's Right to Read Patent Materials

The applicant is entitled to read all the materials relating to invention patenting to which reference is made in the requests, reports, decisions, notices or other documents received by the applicant from the federal executive governmental body charged with intellectual property matters. Copies of the patent documents requested by the applicant from the said federal body shall be sent thereto within one month after the receipt of the request.

#### **Article 1389.** The Renewal of Term in the Case of Laches Concerning the Expert Examination of an Invention Application

**1.** In the event of the applicant's laches in respect of the main term or extended term for filing documents or additional materials on a request of the federal executive governmental body charged with intellectual property matters (Item 4 of Article 1384 and Item 5 of Article 1386), the term for filing a petition for expert examination of an invention application on the merits thereof (Item 1 of Article 1386) and the term for filing an objection with the

chamber of patent disputes (Item 3 of Article 1387) the terms may be renewed by the said federal body, provided the applicant presents proof of a good reason existing for the laches and a document confirming that a patent duty has been paid.

2. A petition for renewal of term in case of laches may be filed by the applicant within 12 months after the expiry of the established term. The petition shall be filed with the federal executive governmental body charged with intellectual property matters simultaneously with:

the documents or additional materials whose filing requires that the term be renewed or with a petition for extending the term for filing these documents or materials;

or with a petition for expert examination of the invention application on the merits thereof;

or with an objection with the chamber of patent disputes.

#### **Article 1390. The Expert Examination of a Utility Model Application**

1. An expert examination shall be carried out in respect of a utility model application received by the federal executive governmental body charged with intellectual property matters to verify the availability of the documents mentioned in Item 2 of Article 1376 of the present Code, their compliance with established requirements and the observance of the unity of the utility model (Item 1 of Article 1376), and also it shall be established if the declared solution is a technical solution protectable as a utility model.

The compliance of the utility model declared with the conditions of patentability set out in Item 1 of Article 1351 of the present Code shall not be verified in the course of the expert examination.

The expert examination of a utility model application is subject to the provisions established by Items 2, 4 and 5 of Article 1384, Items 2 and 3 of Article 1387, Articles 1388 and 1389 of the present Code respectively.

2. The applicant and third persons are entitled to petition for an information retrieval in respect of the utility model declared intended for assessing the state of the art in comparison with which the patentability of the utility model can be assessed. The procedure and term for carrying out the information retrieval and the provision of information on the results thereof shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

3. If the utility model claim proposed by the applicant comprises features that were lacking as of the date of filing of the application in the description of the utility model and features that were lacking in the utility model claim (if the utility model application as of the date of filing thereof contained such claim) the federal executive governmental body charged with intellectual property matters shall send a request to the applicant to remove these features from the claim.

4. If as the result of the expert examination of the utility model application it is established that the application is filed for a technical

solution protected as a utility model, and the documents of the application meet the established requirements, the federal executive governmental body charged with intellectual property matters shall take a decision on issuing a patent with an indication of the date of filing of the utility model application and the priority established.

If as a result of the expert examination it is established that the utility model application is filed for a solution not protected as a utility model the federal executive governmental body charged with intellectual property matters shall take a decision on refusing to issue a patent for the utility model.

5. If as a result of the examination of a utility model application by the federal executive governmental body charged with intellectual property matters it is established that the information contained therein is deemed a state secret the documents of the application shall be classified as secret in the procedure established by the legislation on state secrets. In this case the applicant shall be informed that the utility model application may be withdrawn or transformed into a secret invention application. The examination of the application shall be suspended until a relevant application is received from the applicant or until the application is classified as non-secret.

#### **Article 1391.** The Expert Examination of an Industrial Design Application

1. An industrial design application received by the federal executive governmental body charged with intellectual property matters shall be subjected to a formal expert examination to verify the availability of the documents mentioned in Item 2 of Article 1377 of the present Code and their compliance with established requirements.

If the result of the formal expert examination is positive an expert examination of the industrial design application on the merits thereof shall be carried out as including the verification of the declared industrial design's compliance with the conditions of patentability established by Article 1352 of the present Code.

2. In the course of the formal expert examination of the industrial design application and the expert of the application on the merits thereof the provisions of Items 2-5 of Article 1384, Item 5 of Article 1386, Item 3 of Article 1387, Articles 1388 and 1389 of the present Code shall be respectively applicable.

#### **Article 1392.** The Temporary Legal Protection of an Invention

1. An invention for which an application has been filed with the federal executive governmental body charged with intellectual property matters shall enjoy temporary legal protection starting from the date of publication of information on the application (Item 1 of Article 1385) until the date of publication of information on the issuance of a patent (Article 1394), within the scope of the invention claim published but not exceeding the

scope defined in the claim contained in the decision of the said federal body on the issuance of the patent for the invention.

2. The temporary legal protection shall be deemed non-existent if the invention application has been withdrawn or deemed withdrawn or if in respect of the invention application a decision has been taken to refuse to issue a patent and the possibility of appealing against this decision envisaged by the present Code has been exhausted.

3. The person that uses a declared invention during the period specified in Item 1 of the present article shall pay monetary compensation to the patent holder after a patent is received. The amount of the compensation shall be set by agreement of the parties or, in the case of a dispute, by the court.

#### **4. The Registration of an Invention, Utility Model and Industrial Design, and the Issuance of a Patent**

**Article 1393.** The Procedure for the State Registration of an Invention, Utility Model and Industrial Design, and the Issuance of a Patent

1. On the basis of a decision on issuing a patent for an invention, utility model or industrial design the federal executive governmental body charged with intellectual property matters shall enter the invention, utility model or industrial design to the relevant state register, i.e. the State Register of Inventions of the Russian Federation, the State Register of Utility Models of the Russian Federation and the State Register of Industrial Designs of the Russian Federation, and it shall issue a patent for the invention, utility model or industrial design.

If a patent has been sought for the names of several persons, one patent shall be issued thereto.

2. The state registration of an invention, utility model or industrial design, and the issuance of a patent shall be completed if the relevant patent duty has been paid. If the applicant has not filed a document in the established procedure confirming that the patent duty had been paid the invention, utility model or industrial design shall not be registered, and the relevant application shall be deemed withdrawn.

3. The form of a patent for an invention, utility model or industrial design, and the composition of the details available therein shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

4. The federal executive governmental body charged with intellectual property matters shall enter corrections of obvious and technical errors in a patent issued for invention, utility model or industrial design and/or in the relevant state register.

5. The federal executive governmental body charged with intellectual property matters shall publish information in the gazette about any amendments made to entries in the state registers.

**Article 1394.** The Publication of Information on the Issuance of a Patent for an Invention, Utility Model or Industrial Design

1. The federal executive governmental body charged with intellectual property matters shall publish information in the gazette on the issuance of a patent for an invention, utility model or industrial design, including the name of the author (unless the author has refused to be mentioned as such), the name of the holder of the patent, the title and invention or utility model claim or a list of the significant features of an industrial design and an image thereof.

The composition of the details to be published shall be defined by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

2. After information has been published according to the present article about the issuance of the patent for the invention, utility model or industrial design any person is entitled to read the documents of the application and the report on information retrieval.

The procedure for reading the documents of the application and the report on information retrieval shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

**Article 1395.** Patenting Inventions or Utility Models in Foreign States and in International Organisations

1. A patent application for an invention or utility model created in the Russian Federation may be filed in a foreign state or with an international organisation upon the expiry of six months after the filing of the relevant application with the federal executive governmental body charged with intellectual property matters, unless within the said term the applicant is notified that the application comprises information deemed a state secret. An invention or utility model application may be filed earlier than indicated above but after the completion of a verification of the application's comprising information deemed a state secret on the applicant's request. The procedure for carrying out such verification shall be established by the Government of the Russian Federation.

2. The patenting under the Patent Cooperation Treaty or the Eurasian Patent Convention of an invention or utility model created in the Russian Federation is admissible without the prior filing of a relevant application with the federal executive governmental body charged with intellectual property matters if the application has been filed in accordance with the Patent Cooperation Treaty (international application) with the federal executive governmental body charged with intellectual property matters as a receiving department and in that application the Russian Federation is referred to as the state in which the applicant intends to obtain a patent,

and the Eurasian application has been filed through the federal executive governmental body charged with intellectual property matters.

**Article 1396.** The International and Eurasian Applications Having the Effect of the Applications Envisaged by the Present Code

1. The federal executive governmental body charged with intellectual property matters shall commence the examination of an international application for an invention or utility model which is filed in accordance with the Patent Cooperation Treaty and in which the Russian Federation is referred to as the state in which the applicant intends to obtain a patent for the invention or utility model, upon the expiry of 31 months after the priority date sought in the international application. On the applicant's request the international application shall be considered before the expiry of this term if the application is filed in the Russian language or if before the expiry of the said term the applicant has submitted with the federal executive governmental body charged with intellectual property matters a Russian translation of the patent application for the invention or utility model which is contained in the international application filed in another language.

The filing with the federal executive governmental body charged with intellectual property matters of a Russian translation of the patent application for the invention or utility model contained in the international application may be replaced with the submission of the patent application envisaged by the present Code.

Unless the said documents are filed within the established term, the effect of the international application in accordance with the Patent Cooperation Treaty shall be terminated in respect of the Russian Federation.

For the purposes of making amendments to application documents the term set out in Item 3 of Article 1378 of the present Code shall be counted from the day of commencement of consideration of the international application by the federal executive governmental body charged with intellectual property matters in accordance with the present Code.

2. The consideration of an Eurasian invention application having under the Eurasian Patent Convention the effect of the invention application envisaged by the present Code shall be commenced from the day when the federal executive governmental body charged with intellectual property matters receives an attested copy of the Eurasian application from the Eurasian Patent Department. The term set out in Item 3 of Article 1378 of the present Code for making amendments to application documents shall be counted from the same date.

3. The publication in the Russian language of an international application by the International Office of the World Organisation Intellectual Property Organisation under the Patent Cooperation Treaty or the publication of a Eurasian application by the Eurasian Patent Department in

accordance with the Eurasian Patent Convention shall replace the publication of information on an application envisaged by Article 1385 of the present Code.

**Article 1397.** The Eurasian Patent and the Patent of the Russian Federation for Identical Inventions

1. If a Eurasian patent and a patent of the Russian Federation for identical inventions or an identical invention and utility model having the same priority date are owned by different patent holders, such inventions or the invention and utility model may be used only in the observance of the rights of all patent holders.

2. If a Eurasian patent and a patent of the Russian Federation for identical inventions or an identical invention and utility model having the same priority date are owned by the same person, that person may grant a right to any person to use the inventions or the invention and utility model under licence contracts concluded on the basis of these patents.

## **§ 6. Terminating and Reinstating a Patent**

**Article 1398.** The Deeming as Invalid of a Patent for an Invention, Utility Model or Industrial Design

1. A patent for an invention, utility model or industrial design may be declared invalid in full or in part during the effective term thereof if:

1) the invention, utility model or industrial design does not comply with the conditions of patentability established by the present Code;

2) the invention or utility model claim or the list of significant features of the industrial design given in the decision on issuance of the patent contains features which were lacking as of the date of filing of the application in the description of the invention or utility model and in the invention or utility model claim (if the invention or utility model application contained such claim as of the date when it was filed) or on the images of the article;

3) the patent has been issued when there were several applications for identical inventions, utility models or industrial designs having one and the same priority date, in breach of the conditions envisaged by Article 1383 of the present Code;

4) the patent has been issued indicating as the author or patent holder a person not being such in accordance with the present Code or without an indication in the patent as the author or patent holder of the person being such in accordance with the present Code.

2. The issuance of a patent for an invention, utility model or industrial design may be challenged by any person that has learned about the irregularities set out in Subitems 1-3 of Item 1 of the present article, by means of filing an objection with the chamber for patent disputes.

The issuance of a patent for an invention, utility model or industrial design may be challenged in the court by any person that has learned about the irregularities set out in Subitem 4 of Item 1 of the present article.

**3.** A patent for an invention, utility model or industrial design shall be deemed invalid in full or in part under a decision of the federal executive governmental body charged with intellectual property matters adopted in accordance with Items 2 and 3 of Article 1248 of the present Code or a court's decision that has become final.

If the patent is deemed partially invalid an new patent shall be issued for the invention, utility model or industrial design.

**4.** A patent for an invention, utility model or industrial design that has been declared invalid in full or in part shall be annulled from the date when the application for the patent was filed.

The licence contracts concluded on the basis of a patent that was later deemed invalid shall remain effective in as much as they have been discharged as of the time when the decision on the patent's invalidity was issued.

**5.** The deeming of a patent as invalid shall mean the revocation of the decision of the federal executive governmental body charged with intellectual property matters on the issuance of the patent for the invention, utility model or industrial design (Article 1387) and the annulment of the entry made in the relevant state register (Item 1 of Article 1393).

#### **Article 1399.** The Early Termination of a Patent for an Invention, Utility Model or Industrial Design

A patent for an invention, utility model or industrial design shall be terminated before the due date:

on the basis of an application filed by the holder of the patent with the federal executive governmental body charged with intellectual property matters, as of the date of receipt of the application. If the patent is issued for a group of inventions, utility models or industrial designs, and the patent holder's application is not filed in respect of all the objects of patent rights included in the group the patent shall be terminated only in as much as it concerns the inventions, utility models or industrial designs indicated in the application;

if a patent duty was not paid when due for the maintenance of the patent for the invention, utility model or industrial design in effect, as of the date of expiry of the term established for the payment of the patent duty for the maintenance of the patent in effect.

#### **Article 1400.** Reinstating a Patent for an Invention, Utility Model or Industrial Design

**1.** A patent for an invention, utility model or industrial design terminated due to the fact that no patent duty has been paid when due for the maintenance of the patent in effect may be reinstated by the federal

executive governmental body charged with intellectual property matters on the petition of the person who owned the patent. A petition of reinstatement of the patent may be filed with the said federal body within three years of the expiry of the patent duty payment term but before the expiry of the effective term of the patent envisaged by the present Code. A document shall be attached to the petition confirming that a patent duty has been paid in the established amount for the reinstatement of the patent.

2. The federal executive governmental body charged with intellectual property matters shall publish information in the gazette on the reinstatement of the patent for the invention, utility model or industrial design.

3. A person that started to use an invention, utility model or industrial design within the period between the termination of the patent for the invention, utility model or industrial design and the date of publication in the gazette of the federal executive governmental body charged with intellectual property matters of information on the reinstatement of the patent or that made the necessary preparations for it within the said period shall retain the right of further free-of-charge use thereof without the broadening of the scope of such use (right of after-use).

## **§ 7. The Details of the Legal Protection and Use of Secret Inventions**

### **Article 1401. Filing and Considering a Patent Application for a Secret Invention**

1. The filing of a patent application for a secret invention (a secret invention application), the consideration and the handling of such application shall take place in the observance of the legislation on state secret.

*Federal Law No. 318-FZ of December 1, 2007 amended Item 2 of Article 1401 of this Code*

*See the Item in the previous wording*

2. Applications for secret inventions for which the secrecy classifications "special importance" or "top secret" have been established, and also the secret inventions deemed means of weaponry and military machinery and methods and means in the area of intelligence, counter-intelligence and operative search activities and for which the secrecy classification "secret" has been established shall be filed depending on the their topical belonging with the federal executive governmental bodies, the State Atomic Power Corporation Rosatom authorised by the Government of the Russian Federation (authorised bodies). Applications for other secret inventions shall be filed with the federal executive governmental body charged with intellectual property matters.

3. If it has been established when the federal executive governmental body charged with intellectual property matters considered an invention application that the information contained therein is classified as a state secret such application shall be classified as secret in the procedure established by the legislation on state secrets, and it shall be deemed a secret invention application.

It is prohibited to classify as secret an application filed by a foreign citizen or a foreign legal entity.

4. When a secret invention application is being examined the provisions of Articles 1384, 1386-1389 of the present Code shall be applicable respectively. In this case no information shall be published concerning the application.

5. While establishing the novelty of a secret invention the state of the art (Item 2 of Article 1350) shall also include -- if having an earlier priority -- the secret inventions patented in the Russian Federation and the secret inventions for which certificates of authorship have been issued in the USSR, unless the degree of secrecy established for these inventions exceeds that of the invention whose novelty is being assessed.

6. An objection against a decision taken on a secret invention application by the authorised body shall be considered in the procedure established by it. A decision taken on such objection may be challenged in the court.

7. The secret invention applications are not subject to the provisions of Article 1379 of the present Code on the transformation of an invention application into a utility model application.

**Article 1402.** The State Registration of a Secret Invention and the Issuance of a Patent for It. Propagating Information on a Secret Invention

1. The state registration of a secret invention in the State Register of Inventions of the Russian Federation and the issuance of a patent for the secret invention shall be carried out by the federal executive governmental body charged with intellectual property matters, or if the decision on the issuance of a patent for the secret invention has taken by an authorised body, by that body. The authorised body that has registered a secret invention and issued a patent for a secret invention shall notify accordingly the federal executive governmental body charged with intellectual property matters.

The authorised body that has registered a secret invention and has issued a patent for it shall make introduce amendments relating to the correction of obvious and technical errors in the patent for the secret invention and/or the State Register of Inventions of the Russian Federation.

2. No information shall be published on applications and patents for secret inventions and also on the amendments relating thereto made to the State Register of Inventions of the Russian Federation. Information about

such patents shall be passed in accordance with the legislation on state secrets.

**Article 1403.** Changing the Degree of Secrecy and Declassifying Inventions

1. The change of the degree of secrecy and the declassification of inventions, and also the change and removal of secrecy stamps from the documents of a secret invention application or patent shall take place in the procedure established by the legislation on state secrets.

2. When the degree of secrecy of an invention is stepped up, the federal executive governmental body charged with intellectual property matters shall hand over the documents of application for the secret invention according to their topical belonging to the relevant authorised body. The further consideration of the application of which examination has not been completed by the said federal body shall be the responsibility of the authorised body. When the degree of secrecy of an invention is stepped down the further examination of the application for the secret invention shall be carried out by the same empowered body which had been considering it before.

3. When an invention is declassified, the authorised body shall hand over the declassified application documents it has to the federal executive governmental body charged with intellectual property matters. The further examination of the application of which examination has not been completed by the empowered body shall be the responsibility of the said federal body.

**Article 1404.** Deeming as Invalid a Secret Invention Patent

An objection against the issuance by an authorised body of a patent for a secret invention on the grounds set out in Subitems 1-3 of Item 1 of Article 1398 of the present Code shall be filed with the authorised body and it shall be considered in the procedure established by it. A decision of the authorised body taken on the objection shall be confirmed by the head of that body, and it shall enter into force on the day when it is confirmed and it may be challenged in the court.

**Article 1405.** The Exclusive Right to a Secret Invention

1. The use of a secret invention and the disposal of an exclusive right to a secret invention shall take place in the observance of the legislation on state secret.

2. A contract of alienation of a patent and also a licence contract for the use of a secret invention shall be subject to registration with the body that has issued the patent for the secret invention or the successor thereof, and if there is no successor, with the federal executive governmental body charged with intellectual property matters.

3. In respect of a secret invention it is prohibited to make a public offer to conclude the contract of alienation of a patent and an open licence statement envisaged by Item 1 of Article 1366 and Item 1 of Article 1368 of the present Code respectively.

4. The compulsory licence envisaged by Article 1362 of the present Code shall not be granted in respect of a secret invention.

5. The following shall not be deemed a breach of the exclusive right of the holder of a patent for a secret invention: the actions envisaged by Article 1359 of the present Code, and also the use of the secret invention by a person who on legal grounds did not know or could not know of the existence of a patent for the invention. After the invention is declassified or after the said person is notified by the holder of the patent that the patent for the invention exists that person shall stop using the invention or conclude a licence contract with the holder of the patent, except for cases when a right of prior use existed.

6. The exclusive right to a secret invention is not subject to levy or execution.

## 8. The Protection of the Rights of Authors and Patent Holders § 8. The Protection of the Rights of Authors and Patent Holders

### **Article 1406.** Disputes Relating to the Protection of Patent Rights

1. Disputes relating to the protection of patent rights shall be considered by the court. Such disputes include, without limitation, disputes:

- 1) on the authorship of an invention, utility model or industrial design;
- 2) on the establishment of the patent holder;
- 3) on a breach of the exclusive right to an invention, utility model or industrial design;
- 4) on the conclusion, performance, amendment and termination of contracts of assignment of an exclusive right (alienation of a patent) and licence contracts for the use of an invention, utility model or industrial design;
- 5) on a right of prior use;
- 6) on a right of after-use;
- 7) on the amount of, term and procedure for paying out, a fee to the author of an invention, utility model or industrial design in accordance with the present Code;
- 8) on the amount of, term and procedure for paying out, the compensations envisaged by the present Code.

2. In the cases specified in Articles 1387, 1390, 1391, 1398, 1401 and 1404 of the present Code the protection of patent rights is carried out on administrative lines in accordance with Items 2 and 3 of Article 1248 of the present Code.

**Article 1407.** The Publication of a Court's Decision on an Infringement of a Patent

In accordance with Subitem 5 of Item 1 of Article 1252 of the present Code a patent holder is entitled to demand that a court's decision on the illegal use of an invention, utility model or industrial design or another infringement of his/its rights in the gazette of the federal executive governmental body charged with intellectual property matters.

## **Chapter 73. The Right to a Breeding Achievement**

### **§ 1. Basic Provisions**

**Article 1408.** Rights to Breeding Achievements

1. The author of a breeding achievement that complies with the conditions for provision of legal protection set out in the present Code (breeding achievement) owns the following intellectual rights:

- 1) an exclusive right;
- 2) the right of attribution.

2. In the cases set out in the present Code the author of a breeding achievement also has other rights, including a right to obtain a patent, a right to give a name to the breeding achievement, a right to a fee for the use of a service breeding achievement.

**Article 1409.** The Effect of an Exclusive Right to a Breeding Achievement on the Territory of the Russian Federation

The following shall be recognised on the territory of the Russian Federation: an exclusive right to a breeding achievement certified by a patent issued by the federal executive governmental body charged with breeding achievement matters, or a patent effective on the territory of the Russian Federation in accordance with international treaties of the Russian Federation.

**Article 1410.** The Author of a Breeding Achievement

The author of a breeding achievement is the citizen by whose creative labour the breeding achievement has been created, developed or discovered. Unless otherwise proven, the person specified as the author in a patent application for a breeding achievement is deemed the author of the breeding achievement.

**Article 1411.** The Co-Authors of a Breeding Achievement

1. The citizens who have created, developed or discovered a breeding achievement by their joint labour are deemed co-authors.

2. Each of the co-authors is entitled to use the breeding achievement at his/its own discretion, except as otherwise envisaged by agreement between them.

3. The Relationships of the co-authors relating to the distribution of incomes from the use of the breeding achievement and to the disposing of an exclusive right to the breeding achievement are subject to the Rules of Item 3 of Article 1229 of the present Code respectively.

The co-authors shall jointly dispose of the right of obtaining a patent for the breeding achievement.

4. Each of the co-authors is entitled to take measures on his/its own to protect his/its rights.

#### **Article 1412.** The Objects of Intellectual Rights to Breeding Achievements

1. The objects of intellectual rights to breeding achievements are the plant varieties and animal breeds registered in the State Register of Protected Breeding Achievements if these results of intellectual activity meet the requirements established by the present Code as applicable to such breeding achievements.

2. The plant variety is a group of plants where irrespective of protectability is defined by the traits characteristic of a given genotype or combination of genotypes, and differs from other groups of plants of the same botanical taxon by one or several traits.

A variety may be represented by one or several plants, a part or several parts of a plant, provided the part or parts can be used to reproduce entire plants of the variety.

The clone, line, first-general hybrid and population are the protected categories of a plant variety.

3. For animals the breed is a group of animals that, irrespective of protectability, possesses genetically-specific biological and morphological properties and traits, some of these being specific to the given group and distinguishing it from other groups of animals. A breed may be represented by a female or male individual animal or by a breeding material, i.e. by animals (pedigree animals), their gametes or zygotes (embryos).

For animals the protected categories of breed are the type and cross of lines.

#### **Article 1413.** The Conditions of Protectability of a Breeding Achievement

1. A patent shall be issued for a breeding achievement that meets the protectability criteria and concerns the botanical and zoological genera and species whose list is established by the federal executive governmental body charged with normative legal regulation in the area of agriculture.

2. The criteria of protectability of a breeding achievement are as follows: novelty (Item 3 of the present article), distinctness (Item 4 of the present article), uniformity (Item 5 of the present article) and stability (Item 6 of the present article).

3. A plant variety and an animal breed are deemed novel if when a patent application is filed the seeds or breeding material of this breeding achievement had neither been on sale nor had been otherwise transferred

by the breeder, his successor or on their consent to other persons for the breeding achievement to be used:

1) on the territory of the Russian Federation more than one year before the said date;

2) on the territory of another state more than for years, or for varieties of vine, arboreal decorative and arboreal fruit cultures, more than six years before the said date.

4. A breeding achievement shall be clearly different from any other generally known breeding achievement in existence as of the time of filing of a patent application.

The generally-renowned breeding achievement is a breeding achievement about which information is available in official catalogues or reference information stock or which has a precise description in a published material.

The filing of a patent application also makes a breeding achievement generally known starting from the date of filing of the application, provided a patent has been issued for the breeding achievement.

5. Plants of the same variety and animals of the same breed shall be sufficiently uniform in terms of their traits, with account taken of individual deviations that may take place due to the specific features of reproduction.

6. A breeding achievement shall be deemed stable if its basic traits remain unchanged after several reproduction cycles or in the case of a special reproduction cycle, at the end of each reproduction cycle.

#### **Article 1414. The State Registration of a Breeding Achievement**

The exclusive right to a breeding achievement shall be recognised and protected on the condition of state registration of the breeding achievement in the State Register of Protected Breeding Achievements according to which the federal executive governmental body charged with breeding achievements matters issue a patent to the application for the breeding achievement.

#### **Article 1415. A Patent for a Breeding Achievement**

1. A patent for a breeding achievement shall certify the priority of the breeding achievement, authorship and the exclusive right to the breeding achievement.

2. The scope of the protection of intellectual rights to the breeding achievement granted under the patent is defined by the entirety of significant traits recorded in a description of the breeding achievement.

#### **Article 1416. The Certificate of Authorship**

The author of a breeding achievement is entitled to obtain a certificate of authorship that is issued by the federal executive governmental body charged with breeding achievements matters and certifies authorship.

**Article 1417.** State Incentives for the Creation and Use of Breeding Achievements

The state shall provide incentives for the creation and use of breeding achievements, and it shall provide the authors thereof and other holders of exclusive rights to breeding achievements (patent holders) and the licensees using the breeding achievements with privileges in accordance with the legislation of the Russian Federation.

**§ 2. Intellectual Rights to Breeding Achievements**

**Article 1418.** The Right of Attribution in Respect of a Breeding Achievement

The right of attribution, i.e. the right of being recognised as the author of a breeding achievement, is unalienable and unassignable, for instance when the exclusive right to the breeding achievement is assigned or transferred to another person or when a right to use it is granted to another person. The waiver of this right is null and void.

**Article 1419.** The Right to the Name of a Breeding Achievement

1. The author is entitled to give a name to the breeding achievement.

2. The name of the breeding achievement shall allow the identification of the breeding achievement, it shall be brief and different from the names of existing breeding achievements of the same or similar botanical or zoological species. It shall neither be made up of figures only nor be misleading as to the properties, origin, significance of the breeding achievement, the personality of its author nor be conflicting with the principles of humanity and moral principles.

3. The name of the breeding achievement suggested by the author or on the consent thereof by another person (applicant) filing a patent application shall be approved by the federal executive governmental body charged with breeding achievement matters.

If the name suggested does not meet the requirements established by Item 2 of the present article the applicant shall suggest another name within 30 days on the request of the said federal body.

Unless within the said term the applicant suggests another name meeting the said requirements or disputes the refusal to approve the name of the breeding achievement in the court, the federal executive governmental body charged with breeding achievements matters shall be entitled to refuse to register the breeding achievement.

**Article 1420.** The Right of Obtaining a Patent for a Breeding Achievement

1. A right to obtain a patent for a breeding achievement is initially owned by the author of the breeding achievement.

2. A right to obtain a patent for a breeding achievement may be transferred to another person (successor) or be assigned thereto in the cases and on the grounds established by a law, for instance, in the line of universal succession or under a contract, including a labour contract.

3. A contract of alienation of a right to obtain a patent for a breeding achievements shall be concluded in writing. The non-observance of written form shall cause the invalidity of the contract.

4. Unless otherwise established by agreement of the parties to a contract of alienation of a right to obtain a patent for a breeding achievement, the risk of unprotectability is borne by the acquirer of the right.

#### **Article 1421. The Exclusive Right to a Breeding Achievement**

1. The holder of a patent owns the exclusive right to use a breeding achievement in accordance with Article 1229 of the present Code in the manner specified in Item 3 of the present article. The patent holder may dispose of the exclusive right to the breeding achievement.

2. The exclusive right to a breeding achievement also extends to plant material, i.e. to a plant or a part thereof used for purposes other than the purposes of reproducing a variety, to commercial animals, i.e. animals used for purposes other than the purposes of reproducing a breed, which have been obtained from seeds or from pedigree animals respectively if such seeds or pedigree animals have been introduced in civil-law transactions without a permission of the patent holder. In this case, seeds shall mean a plant or its part used to reproduce the variety.

3. The use of a breeding achievement means the carrying out of the following actions with seeds and breeding materials of the breeding achievement:

- 1) production and reproduction;
- 2) bringing to planting condition for subsequent multiplication;
- 3) offering for sale;
- 4) sale and other methods of introduction in civil-law transactions;
- 5) exportation from the territory of the Russian Federation;
- 6) importation onto the territory of the Russian Federation;
- 7) storage for the purposes set out in Subitems 1-6 of the present

item.

4. Also the exclusive right to the breeding achievement extends to seeds and breeding materials which:

essentially inherit the characters of another protected (initial) plant variety or animal breed, unless the protected variety or breed, of its own, is a breeding achievement essentially inheriting the characters of other breeding achievements;

differ not obviously from a protected plant variety or animal breed;

require the use of a protected plant variety several times to produce seeds.

The following shall be deemed a breeding achievement that essentially inherits the characters of another protected (initial) breeding achievement: a breeding achievement which has an obvious distinction from the initial one and which:

inherits the most essential characters of the initial breeding achievement or of a breeding achievement which, on its own, inherits the essential characters of the initial breeding achievement while retaining the basic traits reflecting the genotype or the combination of genotypes of the initial breeding achievement;

correspond to the genotype or the combination of genotypes of the initial breeding achievement, except for the deviations caused by the use of such methods as individual selection from the initial plant variety or animal breed, selection of an induced mutant, back-cross and genetic engineering.

#### **Article 1422. Actions Not Deemed an Infringement of the Exclusive Right to a Breeding Achievement**

The following is not deemed an infringement of the exclusive right to a breeding achievement:

1) actions carried out to meet personal, family, household or other needs not relating to entrepreneurial activity, unless the purpose of such activities is profit-making or earnings;

2) actions committed for scientific-research or experimental purposes;

3) the use of the protected breeding achievement as an initial material for creating other plant varieties and animal breeds, and also the actions in respect of these created varieties and breeds specified in Item 3 of Article 1421 of the present Code, except for the cases described in Item 4 of Article 1421 of the present Code;

4) the use of a vegetable material produced on a farm for two years as seeds for growing on the area of the farm a plant type available on the list of genera and species established by the Government of the Russian Federation;

5) the reproduction of commercial animals for being used on the given farm;

6) any actions involving seeds, vegetable materials, breeding materials and commercial animals which have introduced in civil-law transactions by a patent holder or by other persons on his/its consent, except for:

the subsequent multiplication of the plant variety and animal breed;

the export from the territory of the Russian Federation of the vegetable materials or commercial animals that allow to multiply the plant type or animal breed to a country where this genus or species is not protected, except for exportation for the purpose of processing for subsequent consumption.

**Article 1423. The Compulsory Licence for a Breeding Achievement**

1. Upon the expiry of three years after the issuance of a patent for a breeding achievement any person willing and ready to use the breeding achievement, provided the holder of the patent has refused to conclude a licence contract for the production or sale of seeds, breeding material on terms that comply with the prevailing practices, is entitled to file a complaint with the court claiming a compulsory simple (non-exclusive) licence from the holder of the patent for the use of the breeding achievement on the territory of the Russian Federation. In his claim the person shall indicate the terms he has offered for the granting of such licence, including the scope of use of the breeding achievement, the rate of, and the procedure and term for, payment.

Unless the patent holder proves that there is a good reason for refusing to grant to the applicant a right to use the breeding achievement, the court shall take a decision on granting the said licence and on the terms for the grant thereof. The sum total of payments for the licence shall be set by the court's decision at least at a licence price defined in comparable circumstances.

2. On the basis of the court's decision envisaged by Item 1 of the present article the federal executive governmental body charged with breeding achievements matters shall carry out the state registration of the compulsory simple (non-exclusive) licence.

3. On the basis of the court's decision on granting the compulsory simple (non-exclusive) licence the patent holder shall provide the holder of the licence for a payment and on the terms acceptable thereto seeds or breeding materials respectively in quantities sufficient for the use of the compulsory simple (non-exclusive) licence.

4. The compulsory simple (non-exclusive) licence may be terminated in a judicial procedure on the complaint of the patent holder if the holder of the licence is in breach of the terms on which the licence has been granted, or if the circumstances due to which the licence was granted have changed so that if they were in existence as of the time when the licence was granted it would not have been granted at all or it would have been granted on significantly different terms.

**Article 1424. The Effective Term of Exclusive Right to a Breeding Achievement**

1. The effective term of exclusive right to a breeding achievement and of a patent certifying such right shall be counted from the date of state registration of the breeding achievement in the State Register of Protected Breeding Achievements, and it is equal to 30 years.

2. For varieties of vine, arboreal decorative, fruit cultures and forest varieties, including their stock, the effective term of exclusive right and of a patent certifying such right is equal to 35 years.

**Article 1425.** The Passing of a Breeding Achievement into the Public Domain

1. Upon the expiry of effective term of the exclusive right the breeding achievement shall pass into the public domain.

2. A breeding achievement that has passed into the public domain may be freely used by any person without consent or permission and without a fee being paid for its use.

**§ 3. Disposing of the Exclusive Right to a Breeding Achievement**

**Article 1426.** The Contract of Alienation of the Exclusive Right to a Breeding Achievement

Under a contract of alienation of the exclusive right to a breeding achievement (contract of alienation of a patent) one party (patent holder) assigns or undertakes to assign his/its exclusive right to the breeding achievement in full to the other party being the acquirer of the exclusive right (the acquirer of the patent).

**Article 1427.** A Public Offer to Conclude a Contract of Alienation of a Patent for a Breeding Achievement

1. While filing a patent application for a breeding achievement the applicant being the author of the breeding achievement may attach to the documents of the application his/its application to the effect that if a patent is issued he/it undertakes to conclude a contract of alienation of the patent on the terms complying with the prevailing practices with any citizen of the Russian Federation or a Russian legal entity that is the first to express his/its wish to do so and to notify the holder of the patent and the federal executive governmental body charged with breeding achievements matters. If such application is filed the patent duties envisaged by the present Code shall be charged to the applicant neither for the patent application for the breeding achievement nor for the patent issued under such application.

The federal executive governmental body charged with breeding achievement matters shall publish information about the said application in the gazette.

2. A person that has concluded a contract of alienation of the patent with the patent holder on the basis of his/it application specified in Item 1 of the present article shall pay all the patent duties from which the applicant (patent holder) has been relieved. Henceforth, patent duties shall be payable in the established procedure.

For the purposes of state registration of the contract of alienation of the patent with the federal executive governmental body charged with breeding achievement matters, a document shall be attached to the contract registration application to confirm that all the patent duties from which the applicant (patent holder) has been relieved have been paid.

3. Unless within two years after the publication of information on the issuance of the patent in respect of which the application specified in Item 1 of the present article has been filed the federal executive governmental body charged with breeding achievement matters received a notice in writing of somebody's will to conclude a contract of alienation of the patent, the patent holder may file a petition for withdrawal of his/its application with the said federal body. In this case the patent duties envisaged by the present Code from which the applicant (patent holder) has been relieved shall become payable. Henceforth, patent duties shall be payable in the established procedure.

The federal executive governmental body charged with breeding achievement matters shall publish information on the withdrawal of the said application in the gazette.

**Article 1428.** The Licence Contract for Grant of the Right of Using a Breeding Achievement

Under the licence contract one party being the holder of a patent (licensor) grants or undertakes to grant to the other party being a user (licensee) the right of using the breeding achievement certified by the patent, within the scope established by the contract.

**Article 1429.** The Open Licence for a Breeding Achievement

1. The holder of a patent may file an application with the federal executive governmental body charged with breeding achievement matters to the effect that any person may obtain a right to use the breeding achievement (open licence).

In this case the rate of duty for the maintenance of the patent in effect shall be cut by 50 per cent starting from the year following the year in which the federal executive governmental body charged with breeding achievement matters published information on the open licence in the gazette.

The terms on which the right of using the breeding achievement may be granted to any person shall be sent to the federal executive governmental body charged with breeding achievement matters which shall publish relevant information on the open licence in the gazette on the account of the patent holder. The patent holder shall conclude a licence contract with the person that has expressed his/its desire to use the breeding achievement, on the terms of a simple (non-exclusive) licence.

2. Upon the expiry of two years after the publication by the federal executive governmental body charged with breeding achievements matters in the gazette of information concerning the open licence the patent holder shall be entitled to file a petition with the said federal body for withdrawal of his/its open licence application.

Unless until the withdrawal of the open licence somebody has expressed his/its will to use the breeding achievement, the patent holder

shall additionally pay a duty for the maintenance of the patent in effect for the period of time elapsed since the publication of information about the open licence, and henceforth shall pay it in full.

If until the withdrawal of the open licence the relevant licence contracts had been concluded on the terms of an open licence, the licensees shall retain their rights over the whole effective term of these contracts. In this case the patent holder shall pay a duty for the maintenance of the patent in effect in full starting from the date of withdrawal of the open licence.

The federal executive governmental body charged with breeding achievement matters shall publish information on the open licence in the gazette.

#### **§ 4. A Breeding Achievement Created, Developed or Discovered in Line of Duty or when Works Were Performed under a Contract**

##### **Article 1430. The Service Breeding Achievement**

1. A breeding achievement created, developed or discovered by an employee in the line of duty or a specific assignment of the employer shall be deemed a service breeding achievement.

2. The right of attribution in respect of the breeding achievement is owned by the employee (author).

3. The exclusive right to the service breeding achievement and the right of obtaining a patent are owned by the employer, except as otherwise envisaged by a labour contract or another contract between the employee and the employer.

4. Except as otherwise agreed by the employer and the employee in a contract (Item 3 of the present article), the employee shall notify the employer in writing of the creation, development or discovery in line of the employer's duty or a specific assignment of the employer, of a result which can enjoy legal protection as a breeding achievement.

Unless within four months after the employee's notice of the result created, developed or discovered which can enjoy legal protection as a breeding achievement the employer files a patent application for the breeding achievement with the federal executive governmental body charged with breeding achievement matters or assigns the right of obtaining a patent for the service breeding achievement to another person or informs the employee that information about that result is to be kept secret, the employee shall own the right of obtaining a patent for the breeding achievement. In this case, the employer shall be entitled over the effective term of the patent to use the service breeding achievement on the employer's own production facilities on the terms of a simple (non-exclusive) licence, with the patent holder being entitled to compensation of which the amount, payment terms and procedure shall be defined by a

contract between the employee and the employer or by the court in the case of a dispute.

5. The employee is entitled to receive a fee from the employer for the use of the service breeding achievement created, developed or discovered, in the amount and on the terms defined by agreement between them but below two per cent of the sum of annual income from the use of the breeding achievement, including incomes from licence granting. A dispute concerning the amount of, procedure or terms for payment of, a fee in connection with the use of the service breeding achievement shall be referred to the court to be resolved by it.

A fee shall be paid to the employee within six months after the expiry of each year in which the breeding achievement was used.

6. A breeding achievement created, developed or discovered by an employee with the use of monetary, technical or other material means of the employer but otherwise than in line of duty or a specific assignment of the employer shall not be deemed a service breeding achievement. The employee owns the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement. In this case, the employer is entitled at his/its own discretion to claim a free-of-charge simple (non-exclusive) licence for the use of the breeding achievement for the employer's own needs for the whole effective term of the exclusive right to the breeding achievement or a compensation for the expenses incurred by the employer in connection with the creation, development or discovery of the breeding achievement.

#### **Article 1431. Breeding Achievements Created, Developed or Discovered on Order**

1. If a breeding achievement has been created, developed or discovered under a contract whose subject matter was the creation, development or discovery of such breeding achievement (on order) the customer owns the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement, except as otherwise envisaged by a contract between the contractor (performer) and the customer.

2. If the customer owns the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement under Item 1 of the present article the contractor (performer) is entitled, unless otherwise envisaged by a contract, to use the breeding achievement for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence during the whole effective term of the patent. A licence of another type may be envisaged by the contract on the basis of which the work was carried out.

3. If according to a contract between the contractor (performer) and the customer the right of obtaining a patent for the breeding achievement and the exclusive right to the breeding achievement are owned by the

contractor (performer) the customer is entitled to use the breeding achievement for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence for the whole effective term of the patent.

4. The author of the breeding achievement described in Item 1 of the present article who is not a holder of the patent is entitled to a fee under Item 5 of Article 1430 of the present Code.

#### **Article 1432. Breeding Achievements Created, Developed or Discovered When Works Were Performed under a State or Municipal Contract**

Breeding achievement created, developed or discovered when works were performed under a state or municipal contract are subject to the rules of Article 1373 of the present Code respectively.

### **§ 5. Obtaining a Patent for a Breeding Achievement. Terminating a Patent for a Breeding Achievement**

#### **Article 1433. The Patent Application for a Breeding Achievement**

1. A patent application for a breeding achievement (patent application) shall be filed with the federal executive governmental body charged with breeding achievements matters by a person having a right to obtain a patent in accordance with the present Code (applicant).

2. The patent application shall comprise the following:

1) a patent application including an indication of the author of the breeding achievement and the person for whose name the patent is sought, and also the place of residence or whereabouts of each of them;

2) a breeding achievement questionnaire;

3) a document confirming that a duty has been paid in the established amount or the grounds for relief from duty or a duty rebate or duty payment deferment.

3. The requirements applicable to a patent application shall be established on the basis of the present Code by the federal executive governmental body charged with normative legal regulation in the area of agriculture.

4. The patent application shall cover one breeding achievement.

5. The documents specified in Item 2 of the present article shall be filed in the Russian or in another language. If the documents are filed in another language their Russian translations shall be attached to the patent application.

#### **Article 1434. The Priority of a Breeding Achievement**

1. The priority of a breeding achievement is established by the date on which the federal executive governmental body charged with breeding achievement matters received the patent application.

2. If on one and the same day the federal executive governmental body charged with breeding achievements matters receives two or more

patent applications for one and the same breeding achievement the priority shall be established by the earlier application dispatching date. If according to an expert examination these applications have one and the same dispatch date a patent may be issued on the application having an earlier registration number assigned by the federal executive governmental body charged with breeding achievement matters, unless otherwise envisaged by agreement between the applicants.

**3.** If a patent application received by the federal executive governmental body charged with breeding achievement matters was preceded by an application filed by an applicant in a foreign state with which the Russian Federation has concluded an agreement on the protection of breeding achievements the applicant shall use the priority of the first application for 12 months after the filing thereof.

In the application sent to the federal executive governmental body charged with breeding achievement matters the applicant shall indicate the priority date of the first application. Within six months after the receipt of the application by the federal executive governmental body charged with breeding achievements matters the applicant shall file a copy of the first application attested by a competent body of the relevant foreign state, and its Russian translation as well. While meeting these requirements the applicant need not file additional documents and materials for testing within three years after the filing of the first application.

#### **Article 1435. The Preliminary Expert Examination of a Patent Application**

**1.** During a preliminary expert examination of a patent application it is necessary to establish a priority date, verify the availability of the documents required according to Item 2 of Article 1433 of the present Code, and their compliance with the established requirements. The preliminary expert examination of the patent application shall be completed within one month.

**2.** During the preliminary expert examination the applicant is entitled to add, update or correct the documents of the application on his/its own initiative.

The federal executive governmental body charged with breeding achievement matters may request the provision of missing or updating documents which have to be filed by the applicant within the established term.

Unless the documents missing as of the time of receipt of the application are filed when due, the application shall not be accepted for consideration, with the applicant being informed accordingly.

**3.** Immediately on the completion of the preliminary expert examination the applicant shall be informed by the federal executive governmental body charged with breeding achievements matters about a positive result thereof and of the date of filing of the patent application.

Information on accepted applications shall be published in the gazette of the said federal body.

4. If the applicant disagrees with the decision of the federal executive governmental body charged with breeding achievement matters taken on the results of the preliminary expert examination of the patent application he/it is entitled to challenge it in a judicial procedure within three months after the receipt of the decision.

**Article 1436. The Temporary Legal Protection of a Breeding Achievement**

1. A breeding achievement for which an application has been filed with the federal executive governmental body charged with breeding achievements matters shall enjoy temporary legal protection starting from the date of filing the application to the date of issuance of a patent for the breeding achievement to the applicant.

2. Having received a patent for a breeding achievement the holder of the patent is entitled to monetary compensation from a person that committed the actions specified in Item 3 of Article 1421 of the present Code within the term of temporary legal protection of the breeding achievement. The amount of the compensation shall be defined by agreement of the parties, or by the court in the case of a dispute.

3. During the period of temporary legal protection of the breeding achievement the applicant is permitted to sell and otherwise transfer seeds or breeding materials only for scientific purposes, and also in cases when the sale and other transfer are relating to the alienation of the right of obtaining a patent for the breeding achievement or with the production of seeds or breeding materials on the applicant's order for the purpose of stockpiling.

4. The temporary legal protection of a breeding achievement shall be deemed invalid if the patent application has not been accepted for consideration (Article 1435) or if a decision has been taken on the application to refuse to issue a patent, and if the possibility of filing an objection against such decision envisaged by the present Code has been exhausted, and also if the applicant has committed a breach of the provisions of Item 3 of the present article.

**Article 1437. The Expert Examination of a Breeding Achievement for the Novelty Thereof**

1. Within six months after the publication of information about a patent application any person concerned may send a petition to the federal executive governmental body charged with breeding achievements matters for an expert examination of the breeding achievement declared to assess the novelty thereof.

The applicant shall be notified of the receipt of the petition by the federal executive governmental body charged with breeding achievements matters, with the essence of the petition being provided. Within three

months after the receipt of the notice the applicant is entitled to send a substantiated objection against the petition to the federal executive governmental body charged with breeding achievements matters.

2. On the materials it has on hand the federal executive governmental body charged with breeding achievements matters shall take its decision and inform the person concerned about it. If the breeding achievement does not qualify under the novelty criterion, a decision shall be taken to refuse to issue a patent for the breeding achievement.

**Article 1438.** Testing a Breeding Achievement for Distinctness, Uniformity and Stability

1. A breeding achievement shall be tested for distinctness, uniformity and stability by the methods and within the term established by the federal executive governmental body charged with normative legal regulation in the area of agriculture.

For testing the applicant shall provide the necessary quantity of seeds or breeding material to the address and within the term specified by the federal executive governmental body charged with breeding achievements matters.

2. For the purposes set out in Item 1 of the present article the federal executive governmental body charged with breeding achievements matters is entitled to use the results of tests carried out by competent bodies of other states with which relevant contracts have been concluded, the results of tests carried out by other Russian organisations under a contract with the said federal body, and also the information provided by the applicant.

**Article 1439.** The Procedure for State Registration of a Breeding Achievement, and the Issuance of a Patent

1. If a breeding achievement meets the protectability criteria (Item 2 of Article 1413) and the name of the breeding achievement meets the requirements set out in Article 1419 of the present Code the federal executive governmental body charged with breeding achievement matters shall take a decision on the issuance of a patent for the breeding achievement, and it shall also draw up a description of the breeding achievement and enter the breeding achievement in the State Register of Protected Breeding Achievements.

2. The following details shall be entered in the State Register of Protected Breeding Achievements:

- 1) the gene and species of the plant or animal;
- 2) the name of the plant variety or animal breed;
- 3) the date of state registration of the breeding achievement and registration number;
- 4) the name of the patent holder and his place of residence or its whereabouts;

- 5) the name of the author of the breeding achievement and his place of residence;
- 6) a description of the breeding achievement;
- 7) the fact of the patent for the breeding achievement being assigned to another person with an indication of the name thereof, place of residence or whereabouts;
- 8) information on the licence contracts concluded;
- 9) the date of expiry of the patent for the breeding achievement with an indication of reason.

3. The patent for the breeding achievement shall be issued to the applicant. If in the patent application several applicants were mentioned, the patent shall be issued to the applicant that stands first in the application, and it shall be used by the applicants jointly by agreement among them.

#### **Article 1440. Preserving a Breeding Achievement**

1. The holder of a patent shall maintain the plant variety or animal breed during the effective term of the patent for the breeding achievement so as to preserve the characters specified in the description of the plant variety or animal breed drawn up as of the date of inclusion of the breeding achievement in the State Register of Protected Breeding Achievements.

2. On a request of the federal executive governmental body charged with breeding achievements matters the patent holder shall dispatch on his/its own account seeds or breeding materials for check testing and allow a field inspection.

#### **Article 1441. Deeming a Patent for a Breeding Achievement Invalid**

1. A patent for a breeding achievement may be deemed invalid for its effective term if it is established that:

1) the patent has been issued on the basis of unconfirmed information on the uniformity and stability of the breeding achievement provided by the applicant;

2) as of the date of issuance of the patent the breeding achievement did not meet the novelty or distinctness criterion;

3) the person mentioned in the patent of the holder thereof did not have legal grounds for obtaining a patent.

2. The issuance of a patent for a breeding achievement may be challenged by any person who has learned about the irregularities described in Item 1 of the present article, by means of filing an application with the federal executive governmental body charged with breeding achievement matters.

The federal executive governmental body charged with breeding achievement matters shall send a copy of the said application to the patent holder, who may submit a substantiated objection within three months after the dispatch of such copy thereto.

The federal executive governmental body charged with breeding achievement matters shall take a decision on the said application within six months after the submission of the application, unless additional testing is required.

3. A patent for a breeding achievement that is deemed invalid shall be annulled as of the date of filing of the patent application. In this case, the licence contracts concluded before the taking of the decision on the invalidity of the patent shall remain effective to the extent to which they have been discharged by that date.

4. The deeming of a patent for a breeding achievement invalid shall mean the revocation of the decision of the federal executive governmental body charged with breeding achievement matters on the issuance of the patent (Article 1439) and the annulment of the relevant entry in the State Register of Protected Breeding Achievements.

#### **Article 1442. The Early Termination of a Patent for a Breeding Achievement**

A patent for a breeding achievement shall be terminated its before due date in the following cases:

1) the breeding achievement no longer complies with the uniformity and stability criteria;

2) on the request of the federal executive governmental body charged with breeding achievement matters the holder of the patent did not provide seeds or breeding materials, the documents and information required for verifying the preservation of the breeding achievement or did not allow a field inspection of the breeding achievement for such purposes within 12 months;

3) the patent holder has filed an early patent termination application with the federal executive governmental body charged with breeding achievement matters;

4) the patent holder did not pay when due a duty for the maintenance of the patent in effect.

#### **Article 1443. Publishing Information on Breeding Achievements**

1. The federal executive governmental body charged with breeding achievement matters shall publish a gazette in which it shall publish information on:

1) received patent applications, including an indication of the priority date of the breeding achievement, the name of the applicant, the name of the breeding achievement, and also the name of the author of the breeding achievement, unless the latter has refused to be mentioned as such;

2) the decisions taken on the patent application;

3) the changes that have taken place in the names of breeding achievements;

4) deeming patents for breeding achievements invalid;

5) other information concerning the protection of breeding achievements.

2. After the publication of information on a received patent application for a breeding achievement and on the decision taken on this application, any person is entitled to read the materials of the application.

#### **Article 1444. Using Breeding Achievements**

1. The seeds and breeding materials sold in the Russian Federation shall have a document certifying their variety, breed and origin.

2. The document mentioned in Item 1 of the present article shall be issued for the breeding achievements included in the State Register of Protected Breeding Achievements only by the patent holder and a licensee.

#### **Article 1445. Patenting a Breeding Achievement in Foreign States**

A patent application for a breeding achievement may be filed in a foreign state. The expenses relating to the protection of a breeding achievement outside of the Russian Federation shall be borne by the applicant.

### **§ 6. Protecting the Rights of Authors of Breeding Achievements and of Other Patent Holders**

#### **Article 1446. The Infringement of Rights of the Author of a Breeding Achievement or of Another Patent Holder**

The following shall be deemed without limitation an infringement of the rights of the author of a breeding achievement or of another patent holder:

1) the use of the breeding achievement in breach of requirements set out in Item 3 of Article 1421 of the present Code;

2) the assigning to produced and/or sold seeds or breeding materials of a name different from the name of the relevant registered breeding achievement;

3) the assigning of the name of the relevant registered breeding achievement to produced and/or sold seeds or breeding materials which are not seeds or breeding materials of that breeding achievement;

4) the assigning to produced and/or sold seeds or breeding materials of a name similar with the name of a registered breeding achievement to the degree of confusion.

#### **Article 1447. Publishing a Court's Decision on an Infringement of the Exclusive Right to a Breeding Achievement**

The author of a breeding achievement or another patent holder is entitled to demand that the federal executive governmental body charged with breeding achievements matters publish in the gazette a court's decision on an illegal use of the breeding achievement or on another

infringement of the patent holder's rights in accordance with Item 1 of Article 1252 of the present Code.

## **Chapter 74. The Right to Integrated Circuit Layout-Designs**

### **Article 1448. The Integrated Circuit Layout-Design**

1. The integrated circuit layout-design (topology) is a spatial-geometric arrangement of an array of integrated circuit elements fixed on a material medium and the interconnections thereof. Here, the integrated circuit is a microelectronic article of a final form or an intermediate form intended for performing the functions of an electronic circuit whose elements and connections are integrally formed in, and/or on the surface of, the material on the basis of which the article is manufactured.

2. The legal protection granted by the present Code extends only to an original integrated circuit layout-design created as the result of a creative activity of the author and unknown to the author and/or specialists in the field of integrated circuit topography development as of the date when it was created. An integrated circuit layout-design shall be deemed original, unless otherwise proven.

An integrated circuit layout-design composed of the elements known to specialists in the field of integrated circuit topography development as of the date of creation thereof shall enjoy legal protection if the entirety of such elements meets the originality requirement.

3. The legal protection granted by the present Code does not extend to the ideas, methods, systems, technologies or encoded information that can be embodied by an integrated circuit layout-design.

### **Article 1449. Rights to an Integrated Circuit Layout-Design**

1. The author of an integrated circuit layout-design that qualifies for legal protection under the criteria set out in the present Code (layout-design) owns the following intellectual rights:

- 1) an exclusive right;
- 2) the right of attribution.

2. In the cases specified by the present Code the author of an integrated circuit layout-design also owns other rights, including the right to a fee for the use of the service layout-design.

### **Article 1450. The Author of an Integrated Circuit Layout-Design**

The author of an integrated circuit layout-design is the citizen by whose creative labour the layout-design has been created. The person indicated as the author in an application for a certificate of state registration of an integrated circuit layout-design is deemed the author of the layout-design, unless otherwise proven.

### **Article 1451. The Co-Authors of an Integrated Circuit Layout-Design**

1. The citizens who have created an integrated circuit layout design by joint creative labour shall be deemed co-authors.

2. Each of the co-authors is entitled to use the layout-design at his own discretion, except as otherwise envisaged by agreement between them.

3. The relationships of the co-authors that have to do with the distribution of incomes from the use of the layout-design and with disposing of the exclusive right to the layout-design respectively are subject to Item 3 of Article 1229 of the present Code.

The co-authors shall jointly dispose of the right of obtaining a certificate of state registration of the integrated circuit layout design.

**Article 1452.** The State Registration of an Integrated Circuit Layout-Design

1. Within the effective term of the exclusive right to an integrated circuit layout-design (Article 1457) the right holder may at his own discretion register the layout-design with the federal executive governmental body charged with intellectual property matters.

A layout-design containing information deemed a state secret is not subject to state registration. The person that has filed an application for a certificate of state registration of a layout-design (applicant) is accountable for the disclosure of information on the layout-design containing a state secret in accordance with the legislation of the Russian Federation.

2. If prior to the filing of an application for a certificate of state registration of a layout-design (registration application) the layout-design has been used the application may be filed within a term not exceeding two years after the first time the layout-design was used.

3. The registration application shall cover one layout-design and it shall comprise the following:

1) an application for state registration of the layout-design with reference to the person for whose name the state registration is sought, and also the name of the author, unless he has refused to be mentioned as such, the place of residence or whereabouts of each of them, the date on which the layout-design was used for the first time, if any;

2) deposited materials intended to identify the layout-design, including a synopsis;

3) a document confirming that a duty has been paid at the established rate or the grounds for being relieved from the duty or for duty rebate or for duty payment deferment.

4. The rules for drawing up the registration application shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

5. On the basis of the registration application the federal executive governmental body charged with intellectual property matters shall verify the availability of the necessary documents and their compliance with the requirements set out in Item 3 of the present article. If the result of the

verification is positive the said federal body shall enter the layout-design in the Register of Integrated Circuit Layout-Designs, issue a certificate of state registration of the integrated circuit layout-design and publish information on the registered layout-design in the gazette.

On a request of the federal executive governmental body charged with intellectual property matters on his own initiative the applicant is entitled to add, update and correct the materials of the registration application until the publication of information in the gazette.

**6.** The procedure for state registration of layout-designs, the forms of certificates of state registration, a list of the details entered in certificates and a list of the details published by the federal executive governmental body charged with intellectual property matters in the gazette shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

**7.** Contracts of alienation and of pledge of the exclusive right to a registered layout-design, licence contracts for the grant of a right to use a registered layout-design and the transfer of the exclusive right to such layout-design to other persons without a contract are subject to state registration with the federal executive governmental body charged with intellectual property matters.

Information on the change of right holder and on an encumbrance on the exclusive right to a layout-design shall be entered in the Register of Integrated Circuit Layout-Designs on the basis of a registered contract or another right-establishing document and shall be published in the said gazette.

**8.** The information entered in the Register of Integrated Circuit Layout-Designs shall be deemed trustworthy, unless otherwise proven. Responsibility for the trustworthiness of the information provided for registration purposes shall be borne by the applicant.

### **Article 1453.** The Right of Attribution in Respect of an Integrated Circuit Layout-Design

The right of attribution, i.e. the right of being recognised as the author of a layout-design is unalienable and unassignable, including in the event of the assignment to another person or transfer to another person of the exclusive right to the layout-design and of granting the right of using it to another person. The waiver of this right is null and void.

### **Article 1454.** The Exclusive Right to a Layout-Design

**1.** A right holder owns an exclusive right to use a layout-design in accordance with Article 1229 of the present Code in any manner not conflicting with a law (exclusive right to a layout-design), including by the methods specified in Item 2 of the present article. The right holder may dispose of the exclusive right to the layout-design.

2. Actions aimed at making a profit are deemed the uses of a layout design, including the following without limitation:

1) the reproduction of the layout-design in full or in part by means of including in an integral circuit or otherwise, except for the reproduction of only the part of the layout-design which is not original;

2) the importation onto the territory of the Russian Federation, the sale and another introduction in civil-law transactions of the layout-design or an integrated circuit incorporating the layout-design or an article including such integrated circuit.

3. A person that has independently created a layout-design identical to another layout-design is deemed to own an independent exclusive right to that layout-design.

#### **Article 1455. The Sign of Protection of Integral Circuit Layout-Design**

For the purpose of warning of his exclusive right to a layout design the right holder is entitled to use a protection sign which shall be placed on the layout-design and also on articles incorporating the layout-design, and which is composed of the accentuated capital letter "T" ("T", [T], (T), T\* or [T]), the date of commencement of the effective term of the exclusive right to the layout-design and information allowing to identify the right holder.

#### **Article 1456. The Actions Not Deemed an Infringement of the Exclusive Right to a Layout-Design**

The following is not deemed an infringement of the exclusive right to a layout-design:

1) the committing of the actions specified in Item 2 of Article 1454 of the present Code in respect of an integrated circuit incorporating an illegally reproduced layout-design, and also in the respect of any article incorporating such integrated circuit if the person that commits such actions did not know and did not need to know that the integrated circuit incorporated the illegally reproduced layout design. Having received a notice of the illegal reproduction of the layout-design, the said person may use the available stock of the articles incorporating the integrated circuit that incorporates the illegally reproduced layout-design, and such articles that had been ordered before that time. In this case, the said person shall pay compensation to the right holder for the use of the layout-design commensurate with the fee that can be paid out in comparable circumstances for a similar layout-design;

2) the use of a layout-design for non-profit making personal purposes, and also for the purpose of assessing, analysing, researching or teaching;

3) the distribution of the integrated circuits with a layout-design that has been earlier introduced in civil-law transactions by the person having an exclusive right to the layout-design or by another person on the permission of the right holder.

**Article 1457. The Effective Term of Exclusive Right to a Layout-Design**

1. The exclusive right to a layout-design is effective for ten years.
2. The effective term of an exclusive right to a layout-design shall be counted either from the date of the first use of the layout-design, i.e. the earliest documented date of introduction in civil-law transactions in the Russian Federation or in any foreign state of the layout-design or an integrated circuit incorporating the layout-design or an article incorporating such integrated circuit or from the date of registration of the layout-design with the federal executive governmental body charged with intellectual property matters, depending on which of these events came about first.
3. In case there is an identical original topology created independently by another author, then the exclusive rights to both topologies shall terminate upon the expiry of ten years from the day of the origin of the exclusive right to the first one of them.
4. Upon the expiry of the effective term of the exclusive right the layout-design shall pass into the public domain, i.e. it may be freely used by any person without anybody's consent or permission and without a fee being paid for its use.

**Article 1458. The Contract of Alienation of Exclusive Right to a Layout-Design**

Under a contract of alienation of the exclusive right to a layoutdesign one party (right holder) assigns or undertakes to assign his/its exclusive right to the layout-design in full to the other party being the acquirer of the exclusive right to the layout-design.

**Article 1459. The Licence Contract for the Granting of the Right to Use an Integrated Circuit Layout-Design**

Under the licence contract one party being the owner of an exclusive right to a layout-design (licensor) grants or undertakes to grant to the other party (licensee) a right to use the layout-design within the scope established by the contract.

**Article 1460. The Form and State Registration of a Contract of Alienation of the Exclusive Right to a Layout-Design and of a Licence Contract**

1. A contract of alienation of the exclusive right to a layout-design and a licence contract shall be made in writing.
2. If the layout-design has been registered (Article 1452) the contract of alienation of the exclusive right to the layout-design and the licence contract shall be subject to state registration with the federal executive governmental body charged with intellectual property matters.

**Article 1461. The Service Layout-Design**

1. A layout-design created by an employee in the line of duty or a specific assignment of the employer shall be deemed a service layout-design.

2. The right of attribution in respect of the service layout-design is owned by the employee.

3. The employer owns an exclusive right to the service layout design, except as otherwise envisaged by agreement between the employer and the employee.

4. If the exclusive right to the layout-design is owned by the employer or if it has been assigned by the employer to a third person, the employee is entitled to receive a fee from the employer. The rate of the fee, and the terms and procedure for paying out the fee shall be defined by a contract between the employee and the employer, or by the court in the case of a dispute.

5. A layout-design created by an employee through the use of monetary, technical or other material means of the employer but other than in line of his duty or a specific assignment of the employer shall not be deemed a service layout-design. The employee owns the exclusive right to such layout-design. In this case the employer is entitled at his/its discretion to claim a free-of-charge simple (non-exclusive) licence for the use of the created layout-design for the employer's own needs for the whole effective term of the exclusive right to the layout design or compensation for the expenses incurred by the employer in connection with the creation of the layout-design.

#### **Article 1462.** The Layout-Design Created When Works Were Performed under a Contract

1. If a layout-design has been created when a contractor's contract or a contract of research and development or technological work was performed which did not expressly envisage the creation thereof, then the contractor (performer) owns an exclusive right to the layout design, except as otherwise envisaged by a contract between him/it and the customer.

In this case, the customer is entitled, except as otherwise envisaged by a contract, to use the layout-design so created for the purposes for the attainment of which the relevant contract has been concluded, on the terms of a simple (non-exclusive) licence for the whole effective term of the exclusive right, without an additional fee being payable for the use. If the contractor (performer) assigns the exclusive right to the layout-design to another person the customer shall retain the right of using the layout-design on the said terms.

2. If according to a contract between the contractor (performer) and the customer the exclusive right to the layout-design has been assigned to the customer or to the third person designated by him/it the contractor (performer) is entitled to use the created layout-design for his/its own need on the terms of a free-of-charge simple (non-exclusive) licence for the

whole effective term of the exclusive right to the layout-design, except as otherwise envisaged by the contract.

3. The author of the layout-design mentioned in Item 1 of the present article who does not own the exclusive right to the layout design is entitled to a fee in accordance with Item 4 of Article 1461 of the present Code.

#### **Article 1463. The Layout-Design Created on Order**

1. If a layout-design has been created under a contract whose subject matter was the creation thereof (on order) the customer owns the exclusive right to the layout-design, except as otherwise envisaged by the contract between the contractor (performer) and the customer.

2. If according to Item 1 of the present article the exclusive right to the layout-design is owned by the customer or the third person designated by him/it the contractor (performer) is entitled, except as otherwise envisaged by a contract, to use the layout-design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence for the whole effective term of the exclusive right.

3. If according to the contract between the contractor (performer) and the customer the contractor (performer) owns exclusive right to the layout-design, the customer is entitled to use the layout-design for his/its own needs on the terms of a free-of-charge simple (non-exclusive) licence for the whole effective term of the exclusive right.

4. According to Item 4 of Article 1461 a fee is payable to the author of a layout-design created to order.

#### **Article 1464. A Layout-Design Created when Works Were Performed under a State or Municipal Contract**

A layout-design created when works were performed under a state or municipal contract is subject to the rules of Article 1298 of the present Code respectively.

### **Chapter 75. The Right to a Manufactory Secret (Know-How)**

#### **Article 1465. The Production Secret (Know-How)**

The production secret (know-how) is information of any nature (production, technological, economic, organisational and others), including information on the results of intellectual activities in the area of science and technology and also information on the methods of carrying out professional activities which has a real or potential commercial value due to its not being known by third persons, which is not freely accessible for third persons on a legal ground, and which are covered by a commercial secret regime introduced by the owner of that information.

#### **Article 1466. The Exclusive Right to a Manufacturing Secret**

1. The owner of a production secret has an exclusive right to use it in accordance with Article 1229 of the present Code in any manner not conflicting with a law (exclusive right to a manufacture secret), including the case of manufacturing articles and realising economic and organisational solutions. The owner of the manufacture secret may dispose of the said exclusive right.

2. A person that has become bona fide and independently of other owners of a manufacture secret an owner of the information constituting the content of the protected manufacture secret acquires an independent exclusive right to this production secret.

#### **Article 1467.** The Effect of Exclusive Right to a Production Secret

The exclusive right to a production secret shall keep effective as long as the confidentiality of the information making up its content exists. Once the relevant information are no longer confidential the exclusive right to manufacture secret is terminated for all right holders.

#### **Article 1468.** The Contract of Alienation of Exclusive Right to a Manufacture Secret

1. Under a contract of alienation of the exclusive right to a manufacturing secret one party (right holder) assigns or undertakes to assign his/its exclusive right to the manufacturing secret in full to the other party being the acquirer of the exclusive right to the manufacture secret.

2. In the event of alienation of an exclusive right to a manufacturing secret the person that has disposed of his/its right shall keep the manufacturing secret confidential until the termination of the exclusive right to the manufacturing secret.

#### **Article 1469.** The Licence Contract for the Grant of a Right to Use a Manufacturing Secret

1. Under the licence contract one party being the owner of an exclusive right to a production secret (licensor) assigns or undertakes to assign to the other party (licensee) a right to use the production secret within the scope established by the contract.

2. A licence contract may be concluded either with or without an indication of its effective term. Unless the effective term of the licence contract is not specified therein, any of the parties may waive the contract at any time, having notified the other party at least six month in advance, except as a longer term is envisaged by the contract.

3. In the event of grant of the right of using a production secret the person that has disposed of his/its right shall keep the confidential nature of the manufacturing secret for the whole effective term of the licence contract.

The persons that have acquired relevant rights under a licence contract shall keep the confidential nature of the secret until the termination of the right to the manufacturing secret.

**Article 1470. The Service Production Secret**

1. The exclusive right to a production secret created by an employee in line of duty or a specific assignment of the employer (service production secret) is owned by the employer.

2. A citizen who has learned a manufacturing secret in connection with his carrying out labour duties or a specific assignment of the employer shall keep the confidential nature of the information so received until the termination of the exclusive right to the manufacturing secret.

**Article 1471. The manufacturing Secret Produced When Works Were Performed under a Contract**

If a production secret has been produced when a contractor's contract, a contract for the performance of research and development or technological works or a state or municipal contract for state or municipal needs was performed the contractor (performer) has an exclusive right to the production secret, except as otherwise envisaged by the relevant contract (state or municipal contract).

If a manufacturing secret has been produced when works were performed under a contract concluded by a chief manager of budget funds or a manager of budget funds with federal state institutions the contractor (performer) owns an exclusive right to the manufacturing secret, unless according to the contract this right is owned by the Russian Federation.

**Article 1472. Liability for an Infringement of Exclusive Right to a manufacturing Secret**

1. The perpetrator of an infringement of an exclusive right to a production secret, including a person that has illegally received the information constituting a production secret and has disclosed or used the information, and also a person whose duty was to keep a manufacturing secret confidential according to Item 2 of Article 1468, Item 3 of Article 1469 or Item 2 of Article 1470 of the present Code shall compensate the damage caused by the infringement of the exclusive right to the manufacturing secret, unless another liability is set out in a law or in the contract concluded with the person.

2. A person that has used a manufacturing secret but did not know and did not need to know that the use thereof was illegal, for instance after having got access to the manufacturing secret incidentally or by mistake, is not accountable in accordance with Item 1 of the present article.

**Chapter 76. Rights to the Means of Individualisation of Legal Entities, Goods, Works, Services and Enterprises**

**§ 1. The Right to a Company Name**

### **Article 1473. The Company Name**

1. A legal entity being a commercial organisation acts in civil-law transactions under its own company name, which is defined in its constitutive documents and is included in the comprehensive state register of legal entities at the state registration of the legal entity.

2. The company name of the legal entity shall comprise a reference to its organisational legal form and the name of the legal entity proper, which cannot be composed only of words designating a kind of activity.

3. The legal entity shall have a full company name and is entitled to have a brief company name in Russian. The legal entity is also entitled to have a full and/or an abbreviated company name in the languages of peoples of the Russian Federation and/or in foreign languages.

The company name of the legal entity in Russian and in the languages of peoples of the Russian Federation may comprise borrowed foreign words in a Russian transcription or in a transcription of the languages of peoples of the Russian Federation, except for the terms and abbreviations reflecting the legal entity's organisational legal form.

4. The following shall not be included in the company name of a legal entity:

1) the full or abbreviated official names of the Russian Federation, foreign states, and also derivative words from such names;

2) the full or abbreviated official names of federal governmental bodies, governmental bodies of subjects of the Russian Federation and local self-government bodies;

3) the full or abbreviated names of international and inter-governmental organisations;

4) the full or abbreviated names of public associations;

5) designations inconsistent with the public interest and also with humane and moral principles.

The company name of a state unitary enterprise may contain reference to the enterprise's belonging to the Russian Federation and to a subject of the Russian Federation respectively.

The official name of the Russian Federation and the words derivative from that name may be included in the company name of a joint-stock company by the permission of the Government of the Russian Federation if over 75 per cent of its shares belong to the Russian Federation. Such permission shall be issued without an indication of the specific effective term of the permission and it may be revoked if the circumstances due to which it has been issued no longer exist. The procedure for issuing and revoking permissions shall be established by a law.

If a permission for inclusion of the official name of the Russian Federation or derivatives from it in the company name of a joint-stock company has been revoked the joint-stock company shall amend its charter accordingly within three months.

5. If the company name of a legal entity does not comply with the provisions of Items 3 or 4 of the present article the body responsible for the state registration of legal entities is entitled to file a claim against such legal entity whereby it is forced to change its company name.

**Article 1474. The Exclusive Right to a Company Name**

1. A legal entity owns an exclusive right to use its company name as a means of individualisation in any manner not conflicting with a law (exclusive right to a company name), for instance by posting it on billboards, letterhead papers and other documents, in announcements and advertisements, on goods or packages of goods.

Abbreviated company names and also company names in the languages of peoples of the Russian Federation and in foreign languages are protected by an exclusive right to a company name if they are included in the comprehensive state register of legal entities.

2. The disposal of an exclusive right to a company name (for instance by means of the alienation or grant to another person of a right to use the company name) is prohibited.

3. It is prohibited for a legal entity to use a company name identical to the company name of another legal entity or similar to such name to the degree of confusion if the said legal entities pursue similar activities and if the latter's company name had been included in the comprehensive state register of legal entities earlier than the former's.

4. If a right holder so demands a legal entity in breach of the rule set out in Item 3 of the present article shall stop using a company name identical to the company name of the right holder or similar thereto to the extent of confusion in respect of the types of activity similar to those pursued by the right holder, and he/it shall compensate the right holder for the damages inflicted.

**Article 1475. The Effect of Exclusive Right to a Company Name on the Territory of the Russian Federation**

1. The exclusive right to a company name included in the comprehensive state register of legal entities is effective on the territory of the Russian Federation.

2. An exclusive right to a company name comes into being as of the date of state registration of the legal entity and is terminated as of the time when the company name is deleted from the comprehensive state register of legal entities in connection with the termination of the legal entity or a change in its company name.

**Article 1476. Correlation Between Rights to a Company Name and Rights to a Commercial Name, a Trademark and a Service Mark**

1. A company name or specific elements thereof may be used by the right holder as a part of a commercial name owned by the right holder.

A company name included in a commercial name is protected irrespective of the protection of the commercial name.

2. A company name or specific elements thereof may be used by the right holder in his/its trademark and service mark.

A company name included in a trademark or service mark shall be protected irrespective of the protection of the trademark or service mark.

## **§ 2. The Right to a Trademark and the Right to a Service Mark**

### **1. Basic Provisions**

#### **Article 1477. The Trademark and the Service Mark**

1. An exclusive right certified by a certificate of a trademark (Article 1481) is recognised for the trademark, i.e. a designation serving for individualising goods of legal entities or individual entrepreneurs.

2. The rules of the present Code concerning trademarks are applicable to service marks, i.e. to designations serving for individualising the works or services performed/provided by legal entities or individual entrepreneurs respectively.

#### **Article 1478. The Owner of an Exclusive Right to a Trademark**

A legal entity or an individual entrepreneur may be the owner of an exclusive right to a trademark.

#### **Article 1479. The Effect of Exclusive Right to a Trademark on the Territory of the Russian Federation**

An exclusive right to a trademark registered by the federal executive governmental body charged with intellectual property matters is effective on the territory of the Russian Federation as well as in the other cases envisaged by an international treaty of the Russian Federation.

#### **Article 1480. The State Registration of a Trademark**

The state registration of a trademark shall be carried out by the federal executive governmental body charged with intellectual property matters in the State Register of Trademarks and Service Marks of the Russian Federation (the State Register of Trademarks) in the procedure established by Articles 1503 and 1505 of the present Code.

#### **Article 1481. The Trademark Certificate**

1. A trademark certificate shall be issued for a trademark registered in the State Register of Trademarks.

2. A certificate of a trademark certifies the priority of the trademark and the exclusive right to the trademark in respect of the goods specified in the certificate.

**Article 1482.** The Types of Trademarks

1. Word, image, 3-dimension and other designations or combinations thereof may be registered as trademarks.

2. A trademark may be registered in any colour or in any colour-combination.

**Article 1483.** Grounds for Refusing to Grant State Registration to a Trademark

1. No trademark state registration shall be granted designations not having a distinguishing capability or composed only of the elements:

1) that have come into general usage as designations for goods of a certain kind;

2) being generally-accepted symbols and terms;

3) that characterise goods, for instance indicating their kind, quality, quantity, properties, intended purpose, value, and the time, place and method of their manufacture or sale;

4) representing a form of goods that is defined exclusively or mainly by the properties or intended purpose of the goods.

The said elements may be included in a trademark as non-protected elements, unless they dominate therein.

The provisions of the present item are not applicable to designations that have acquired a distinctive capability as the result of the use thereof.

2. In accordance with an international treaty of the Russian Federation no trademark state registration shall be granted to designations composed only of elements being:

1) state coats-of-arms, flags and other state symbols and signs;

2) the abbreviated or full names of international and intergovernmental organisations, their coats-of-arms, flags, other symbols and signs;

3) official control, guarantee or assay hall-marks, seals, decorations and other signs of distinction;

4) designations similar to the extent of confusion to the elements mentioned in Subitems 1-3 of the present item.

Such elements may be included in a trademark as non-protected elements, if the relevant competent body has given its consent thereto.

3. No trademark state registration shall be granted to designations which are or comprise elements:

1) which are false or capable of misleading the consumer concerning goods or the manufacturer of goods;

2) which conflict with the public interest and with humanity and moral principles.

4. No trademark state registration shall be granted to designations identical or similar to the extent of confusion with the official names and images of especially-precious objects of cultural heritage of the peoples of the Russian Federation or objects of world cultural or natural heritage, and

also with images of cultural valuables preserved in collections, collected items and stocks if registration is sought for the names of persons not being owners without the consent of the owners or persons authorised by the owners for these designations being registered as trademarks.

**5.** In accordance with an international treaty of the Russian Federation, no trademark state registration shall be granted to designations which are or which comprise elements protected in a member state of that international treaty as designations allowing to identify wines or alcoholic beverages as originating from its territory (produced within the borders of a geographical object of that state) and having a special quality, reputation or other characteristics predominantly defined by the origin thereof, if the trademark is intended for designating wines or alcoholic beverages not originating from the territory of the given geographical object.

**6.** No trademark registration shall be granted to designations identical or similar to the extent of confusion with:

1) other persons' trademarks declared for registration purposes (Article 1492) for uniform goods and having an earlier priority, unless the trademark state registration application is withdrawn or is deemed withdrawn;

2) other persons' trademarks protected in the Russian Federation, including under an international treaty of the Russian Federation for uniform goods and having an earlier priority;

3) other persons' trademarks that have been recognised in the procedure established by the present Code generally-renowned trademarks in the Russian Federation, for uniform goods.

The registration as a trademark for uniform goods of a designation similar to the extent of confusion with any of the trademarks mentioned in the present item is only admissible on the consent of the right holder.

**7.** No trademark registration shall be granted for any goods to any designations identical or similar to the extent of confusion with the appellation of origin of goods which is protected in accordance with the present Code, except for cases when such designation is included as a non-protected element in a trademark registered for the name of a person having an exclusive right to that name, if the trademark registration takes place in respect of the same goods for the individualisation of which the appellation of origin of the goods has been registered.

**8.** No trademark registration shall be granted for uniform goods to designations identical or similar to the extent of confusion to a company name or a commercial name (specific elements of such names) protected in the Russian Federation or with the name of a breeding achievement registered in the State Register of Protected Breeding Achievements to which rights had emerged as owned by other persons in the Russian Federation prior to the priority date of the trademark being registered.

**9.** No trademark registration shall be granted to designations identical to:

1) the title/name of a scientific, literary or artistic work, a character or quotation from such work, known in the Russian Federation as of the date of filing of the trademark state registration application (Article 1492) or to an artistic work or a fragment thereof without the consent of the right holder, if rights to the relevant work emerged prior to the priority date of the trademark being registered;

2) the name (Article 19), pseudonym (Item 1 of Article 1265) or a designation derivative from them, a portrait or facsimile of a person known in the Russian Federation as of the date of filing of the application, without the consent of that person or his heir;

3) an industrial design, mark of compliance, domain name in respect of which rights had emerged prior to the priority date of the trademark being registered.

**10.** Also on the grounds set out in the present article no legal protection is granted to designations deemed trademarks under international treaties of the Russian Federation.

## **2. Using a Trademark and Disposing of Exclusive Right to a Trademark**

### **Article 1484.** The Exclusive Right to a Trademark

1. A person for whose name a trademark has been registered (right holder) owns an exclusive right to use the trademark in accordance with Article 1229 of the present Code in any manner not conflicting with a law (exclusive right to a trademark), including the methods specified in Item 2 of the present article. The right holder may dispose of the exclusive right to the trademark.

2. The exclusive right to a trademark may be exercised to individualise the goods, works or services for which the trademark has been registered, for instance by placing the trademark:

1) on the goods including labels, the packages of goods which are manufactured, offered for sale, are sold, exhibited at exhibitions and fairs or are otherwise introduced in civil-law transactions on the territory of the Russian Federation or are stored or transported for that purpose or are imported onto the territory of the Russian Federation;

2) when works are performed or services are provided;

3) on the document relating to the introduction of the goods in civil-law transactions;

4) in offers for the sale of goods, performance of works, provision of services, and also in announcements, billboards and in advertisements;

5) on the Internet, including in a domain name or in other address methods.

3. Nobody has the right to use without a right holder's permission designations which are similar to his/its trademark for the goods for the

individualisation of which the trademark has been registered or of uniform goods if such use might result in confusion.

**Article 1485. The Mark of Trademark Protection**

For the purpose of warning of his/its exclusive right to a trademark the right holder is entitled to use a protection mark that is placed next to the trademark and is composed of the Latin letter "R" or the Latin letter "R" in a circle (R) or the word designation "trademark" or "registered trademark" and indicates that the designation used is a trademark protected on the territory of the Russian Federation.

**Article 1486. The Consequences of the Non-Using of a Trademark**

1. The legal protection of a trademark may be terminated before due date in respect of all the goods or part of the goods for the individualisation of which the trademark has been registered, due to the trademark's not being continuously used for any three years after its state registration. An application for early termination of the legal protection of a trademark due to its not being used may be filed by a person concerned with the chamber of patent disputes upon the expiry of the said three years, provided the trademark has not been used until the filing of the application.

2. For the purposes of the present article the use of a trademark means its being used by the right holder or the person to which such right has been granted by a licence contract in accordance with Article 1489 of the present Code or another person using the trademark under the control of the right holder, provided the trademark is used in accordance with Item 2 of Article 1484 of the present Code, except for cases when relevant actions are not directly related to the introduction of goods in civil-law transactions, and also the use of the trademark involving a modification of specific elements thereof not affecting its distinguishing capability and not limiting the protection granted to the trademark.

3. The right holder shall bear the burden of proving that the trademark is in use.

When resolving the issue of early termination of the legal protection of a trademark due to its non-use, account may be taken of the evidence of the trademark's not being used due to circumstances beyond the right holder's control, such evidence being provided by the right holder.

4. The termination of legal protection of a trademark means the termination of the exclusive right to the trademark.

**Article 1487. The Exhaustion of the Exclusive Right to a Trademark**

The exclusive right to a trademark shall not be deemed infringed if the trademark is used by other persons in respect of goods that have been introduced in civil-law transactions on the territory of the Russian Federation directly by the right holder or on the consent thereof.

**Article 1488.** The Contract of Alienation of Exclusive Right to a Trademark

1. Under a contract of alienation of an exclusive right to a trademark one party (right holder) assigns or undertakes to assign in full his/its exclusive right to the relevant trademark in respect of all the goods or in respect of a part of the goods for the individualisation of which it has been registered to the other party being the acquirer of the exclusive right.

2. The alienation of an exclusive right to a trademark is prohibited if it can mislead the consumer in respect of the goods or of the manufacturer thereof.

3. The alienation of an exclusive right to a trademark incorporating as non-protected element an appellation of origin that enjoys legal protection on the territory of the Russian Federation (Item 7 of Article 1483) is admissible only if the acquirer has an exclusive right to the appellation of origin.

**Article 1489.** The Licence Contract for the Granting of a Right to Use a Trademark

1. Under a licence contract one party being the owner of an exclusive right to a trademark (licensor) assigns or undertakes to assign to the other party (licensee) the right of using the trademark within the scope defined by the contract either with or without an indication of the territory on which the use is permitted as applicable to a certain area of entrepreneurial activity.

2. The licensee shall ensure the compliance of quality of the goods manufactured or sold by him/it on which he/it places the licensed trademark with the quality standard set by the licensor. The licensor is entitled to monitor the observance of this condition. The licensee and the licensor are jointly liable for the claims addressed to the licensee as the manufacture of the goods.

3. The grant of a right to use a trademark incorporating as non-protected element an appellation of origin of goods that enjoys legal protection on the territory of the Russian Federation (Item 7 of Article 1483) is admissible only if the licensee has the exclusive right to use the appellation of original.

**Article 1490.** The Form and State Registration of Contracts for the Disposing of Exclusive Right to a Trademark

1. A contract of alienation of an exclusive right to a trademark, a licence contract, and also the other contracts used to dispose of the exclusive right to a trademark shall be concluded in writing and are subject to state registration with the federal executive governmental body charged with intellectual property matters.

2. The procedure for the state registration of the contracts specified in Item 1 of the present article shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

**Article 1491.** The Effective Term of Exclusive Right to a Trademark

1. The exclusive right to a trademark shall be effective for ten days after the filing of the trademark state registration application with the federal executive governmental body charged with intellectual property matters.

2. The effective term of the exclusive right to the trademark may be extended by ten years by application of the right holder filed during the last year of the right's effective term.

The effective term of exclusive right to the trademark may be extended an infinite number of times.

By petition of the right holder a six-month term may be granted thereto upon the expiry of the effective term of the exclusive right to the trademark to file the said application, provided the duty is paid.

3. An entry on an extension of effective term of the exclusive right to the trademark shall be made by the federal executive governmental body charged with intellectual property matters in the State Register of Trademarks and in the certificate of the trademark.

### **3. The State Registration of a Trademark**

**Article 1492.** The Trademark Application

1. An application for state registration of a trademark (trademark application) shall be filed with the federal executive governmental body charged with intellectual property matters by a legal entity or individual entrepreneur (applicant).

2. The trademark application shall cover one trademark.

3. The trademark application shall comprise the following:

1) an application for the state registration of a designation as a trademark with reference to the applicant, his/its place of residence/whereabouts;

2) the designation being declared;

3) a list of the goods for which the trademark state registration is sought and which are classified under the classes of the International Classification of Goods and Services for Marks Registration;

4) a description of the designation being declared.

4. The trademark application shall be signed by the applicant or if the application is filed through a patent attorney or another representative, by the applicant or his/its representative who files the application.

5. The following shall be attached to the application:

1) a document confirming that a duty has been paid for the filing of the application at the established rate;

2) the charter of the collective mark if the application is filed for a collective mark (Item 1 of Article 1511).

6. The application for a trade mark shall be submitted in the Russian language.

The documents attached to the application shall be submitted in Russian or another language. If such documents are submitted in another language, then their translation into Russian shall be attached to the application. The Russian translation may be submitted by the applicant within two months from the day of sending to him by the federal body of executive power for intellectual property of a notification about the necessity of fulfilling such a requirement.

7. The requirements applicable to the documents contained in the trademark application and the documents attached thereto (application documents) shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

8. The date of filing of a trademark application is the date when the documents envisaged by Subitems 1-3 of Item 3 of the present article were received by the federal executive governmental body charged with intellectual property matters, or if these documents were not filed simultaneously, the date of receipt of the last document.

#### **Article 1493.** The Right of Reading the Documents of a Trademark Application

1. After a trademark application is filed with the federal executive governmental body charged with intellectual property matters any person is entitled to read the documents of the application filed as of the date of filing thereof.

2. The procedure for reading application documents and for issuing copies of such documents shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

#### **Article 1494.** The Priority of a Trademark

1. The priority of a trademark shall be established by the date of filing of the trademark application with the federal executive governmental body charged with intellectual property matters.

2. The priority of a trademark on an application filed by an applicant in accordance with Item 2 of Article 1502 of the present Code (divisional application) on the basis of another application of the same applicant for the same designation (initial application) shall be established by the date of filing of the initial application with the federal executive governmental body charged with intellectual property matters, or if a right exists to an earlier priority on the initial application, by the date of that priority, unless as of the date of filing of the divisional application the initial application is withdrawn or deemed withdrawn, and if the divisional application had been filed prior to the decision taken on the initial application.

#### **Article 1495.** The Convention and Exhibition Priority of a Trademark

1. The priority of a trademark may be established by the date of filing of the first trademark application in a member-state of the Paris Convention for the Protection of Industrial Property (convention priority) if the trademark application is filed with the federal executive governmental body charged with intellectual property matters within six months after the said date.

2. The priority of a trademark placed on exhibits of the official or officially-recognised international exhibitions organised on the territory of a member-state of the Paris Convention for the Protection of Industrial Property may be established by the date of commencement of the open show of the exhibit at the exhibition (exhibition priority), if the trademark application is filed with the federal executive governmental body charged with intellectual property matters within six months after the said date.

3. An applicant willing to use a right of convention priority or a right of exhibition priority shall indicate that while filing a trademark application or within two months after it was filed with the federal executive governmental body charged with intellectual property matters and shall attach the necessary documents confirming the legality of such claim or file these documents with the said federal body within three months after the filing of the application.

4. The priority of a trademark may be established by the date of its international registration in accordance with the international treaties of the Russian Federation.

#### **Article 1496.** The Consequences of Coincidence of the Priority Dates of Trademarks

1. If applications were filed by different applicants for identical trademarks in respect of fully coinciding or partially coinciding lists of goods, and these applications have one and the same priority date the trademark so declared for the goods of which lists coincide may be registered only in the name of one of the applicants to be chosen by agreement between them.

2. If applications for identical trademarks for fully or partially coinciding lists of goods have been filed by one and the same applicant, and these applications have one and the same priority date, the trademark for the goods for which the said lists are coincident may be registered only under one of the applications to be chosen by the applicant.

3. If applications for identical trademarks have been filed by different applicants (Item 1 of the present article), then within six months after the receipt of a relevant notice from the federal executive governmental body charged with intellectual property matters they shall notify that federal body of the agreement they have reached in choosing the specific application whereby the state registration will be sought for the trademark. During the same term the applicant that has filed applications for identical trademarks shall notify of his/its choice made (Item 2 of the present article).

Unless during the established term the federal executive governmental body charged with intellectual property matters receives the said notice or a petition for extension of the established term, the trademark applications shall be deemed withdrawn on the basis of a decision of that federal body.

**Article 1497.** The Expert Examination of a Trademark Application and the Making of Amendments to Application Documents

1. An expert examination of a trademark shall be carried out by the federal executive governmental body charged with intellectual property matters.

The expert examination of the application shall include a formal expert examination and an expert examination of the designation declared as a trademark (declared designation).

2. During the expert examination of the trademark application the applicant is entitled to amend, update or correct the materials of the application, for instance by means of filing additional materials, until the time when a decision is taken on the application.

If the additional materials comprise a list of the goods not mentioned in the application as of the date when the application was filed or significantly modify the declared designation of the trademark such additional materials shall not be accepted for consideration. They may be arranged and filed by the applicant as an independent application.

3. A change in the details of the applicant is a trademark application, for instance in the event of assignment or transfer of the right of registering the trademark or due to a change in the name of the applicant, and also the correction of obvious and technical errors in application documents may be made until the state registration of the trademark (Article 1503).

4. During the expert examination of a trademark application the federal executive governmental body charged with intellectual property matters is entitled to request additional materials from the applicant without which the expert examination is impossible.

The additional materials shall be submitted by the applicant within two months after his/its receipt of the relevant request or copies of the materials specified in the applicant's reciprocal request, provided these copies have been requested by the applicant within one month after his/its receiving the request from the federal executive governmental body charged with intellectual property matters. Unless within the said term the applicant files the additional materials requested or a petition for extension of the term set for the filing thereof, the application shall be deemed withdrawn under a decision of the federal executive governmental body charged with intellectual property matters. On the applicant's petition the term set for the filing of the additional materials may be extended by the said federal body by up to six months.

The additional materials comprising a list of the goods not mentioned in the application as of the date when it was filed or significantly modifying the declared designation of the trademark are subject to the rules of Item 2 of the present article.

**Article 1498.** The Formal Expert Examination of a Trademark Application

1. A formal expert examination of a trademark application shall be carried out within one month after it was filed with the federal executive governmental body charged with intellectual property matters.

2. During the formal expert examination of the trademark application the presence of the necessary application documents and their compliance with established requirements shall be verified. According to the results of the formal examination, either the application shall be accepted for consideration or a decision shall be taken on refusal to accept it for consideration. The applicant shall be notified of the results of the formal expert examination by the federal executive governmental body charged with intellectual property matters.

Simultaneously with a notice of a positive result of the formal expert examination of the application information shall be sent to the applicant about the date of filing of the application established according to Item 8 of Article 1492 of the present Code.

**Article 1499.** The Expert Examination of a Designation Declared as a Trademark

1. An expert examination of a designation declared as a trademark (expert examination of a declared designation) shall be carried out on an application accepted for consideration as the result of a formal expert examination.

During the expert examination the compliance of the declared designation with the requirements set out in Article 1477 and Items 1-7 of Article 1483 of the present Code shall be verified and the priority of the trademark shall be established.

2. According to the result of the expert examination of the declared designation, the federal executive governmental body charged with intellectual property matters shall take a decision either on the state registration of the trademark or on the refusal to grant registration thereto.

3. Until the taking of a decision on the results of the expert examination of the declared designation a notice in writing may be sent to the applicant on the results of the verification of compliance of the declared designation with the requirements set out in Paragraph 2 of Item 1 of the present article with a proposal to provide the applicant's arguments concerning the reasons set out in the notice. The applicant's arguments shall be taken into account when a decision is taken on the results of the expert examination of the declared designation, if they are submitted within six months after the dispatch of the said notice to the applicant.

4. A decision on the state registration of a trademark may be reviewed by the federal executive governmental body charged with intellectual property matters until the registration of the trademark, in connection with:

1) the receipt of an application having an earlier priority in accordance with Articles 1494, 1495 and 1496 of the present Code for an identical designation or a designation similar thereto to the extent of confusion in respect of uniform goods;

2) the state registration as an appellation of origin of goods of a designation identical or similar to the extent of confusion to the trademark specified in the decision on registration;

3) the finding of an application comprising an identical trademark or the finding of a protected identical trademark in respect of fully or partially coinciding lists of goods having the same or an earlier trademark priority;

4) the change of applicant that can lead in the event of state registration of the declared designation as a trademark to the consumer's being misled concerning the goods or the manufacturer thereof.

#### **Article 1500.** Challenging Decisions on a Trademark Application

1. The decisions of the federal executive governmental body charged with intellectual property matters on a refusal to accept for consideration a trademark application, on the state registration of a trademark, on refusal to grant state registration to a trademark and on deeming a trademark application withdrawn may be challenged by the applicant by means of filing an objection with the chamber of patent disputes within three months after the receipt of the relevant decision or of the copies of the materials opposing the application requested from the said federal executive governmental body, provided the applicant requested copies of the materials within one month after his/its receipt of the relevant decision.

2. During the examination of the objection by the chamber of patent disputes the applicant may make to the application documents the amendments permitted in accordance with Items 2 and 3 of Article 1497 of the present Code if such amendments eliminate the reasons serving as the only ground for refusal to grant state registration to the trademark, and if the making of these amendments allows to take a decision on granting state registration to the trademark.

#### **Article 1501.** The Renewal of the Term in the Case of Laches Concerning the Expert Examination of a Trademark Application

In the event of the applicant's laches in respect of the term set out in Item 4 of Article 1497 and Item 1 of Article 1500 of the present Code the term may be renewed by the federal executive governmental body charged with intellectual property matters by petition of the applicant filed within two months after the expiry of the term, if it is confirmed that the term has not been observed for a good reason and if the relevant duty has been paid.

The petition for renewal of term in the case of laches shall be filed by the applicant with the said federal body simultaneously with the additional materials requested in accordance with Item 4 of Article 1497 of the present Code or with a petition for extension of the term for the filing thereof or simultaneously with the filing of an objection with the chamber of patent disputes under Article 1500 of the present Code.

**Article 1502.** Withdrawing a Trademark Application and Dividing the Application

1. A trademark application may be withdrawn by the applicant at any stage of examination thereof but not later than the date of state registration of the trademark.

2. During the expert examination of the trademark application the applicant is entitled until the taking of a decision on the application to file a divisional application with the federal executive governmental body charged with intellectual property matters for the same designation. Such application shall comprise a list of the goods from among those specified in the initial application as of the date of filing thereof with this federal body which are not uniform with the other goods mentioned in the list comprised by the initial application which shall remain covered by the initial application.

**Article 1503.** The Procedure for State Registration of a Trademark

1. Under a decision on the state registration of a trademark (Item 2 of Article 1499) the federal executive governmental body charged with intellectual property matters shall complete the state registration of the trademark in the State Register of Trademarks within one month after the receipt of a document confirming that a duty has been paid for the state registration of the trademark and for the issuance of a certificate for it.

The entry in the State Register of Trademark shall comprise the trademark, information on the right holder, the priority date of the trademark, a list of the goods to be individualised by the registered trademark, the date of its state registration, other information relating to the registration of the trademark, and also subsequent amendments to these details.

2. Unless the document on the payment of the duty specified in Item 1 of the present article is filed, the trademark shall not be registered and the relevant trademark application shall be deemed withdrawn under a decision of the federal executive governmental body charged with intellectual property matters.

**Article 1504.** The Issuance of a Trademark Certificate

1. A certificate of a trademark certificate shall be issued by the federal executive governmental body charged with intellectual property

matters within one month after the state registration of the trademark in the State Register of Trademarks.

2. The form of a trademark certificate and a list of the details to be given therein shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

#### **Article 1505. Making Amendments to the State Register of Trademarks and in a Trademark Certificate**

1. The right holder shall notify the federal executive governmental body charged with intellectual property matters of any changes relating to the state registration of the trademark, including those in the name of the right holder, a reduction of the list of the goods to be individualised by the registered trademark, and a change in specific elements of the trademark that does not modify its essence.

2. If the provision of legal protection to a trademark is challenged (Article 1512) the state registration of the trademark effective in respect of several goods may be separated on an application of the right holder to make a separate registration of the trademark for one goods item or a part of the goods from among those specified in the initial registration as being non-uniform with the goods given on the list remaining in the initial registration. Such application may be filed by the right holder until a decision is taken on the results of consideration of the dispute on the registration of the trademark.

3. Entries concerning modifications relating to the state registration of a trademark shall be made to the State Register of Trademarks and in the trademark certificate if the relevant duty has been paid.

4. The federal executive governmental body charged with intellectual property matters may introduce amendments to the State Register of Trademarks and in a trademark certificate on its own initiative to correct obvious and technical errors, having notified accordingly the right holder in advance.

#### **Article 1506. Publishing Information on the State Registration of a Trademark**

Information concerning the state registration of a trademark and entered to the State Register of Trademarks in accordance with Article 1503 of the present Code shall be published by the federal executive governmental body charged with intellectual property matters in the gazette immediately after the registration of the trademark in the State Register of Trademarks or after the relevant amendments have been made to the State Register of Trademarks.

#### **Article 1507. Trademark Registration in Foreign States and International Trademark Registration**

1. Russian legal entities and citizens of the Russian Federation are entitled to register a trademark in foreign states or to carry out its international registration.

2. An application for the international registration of a trademark shall be filed through the federal executive governmental body charged with intellectual property matters.

#### **4. The Details of Legal Protection of a Generally-Recognised Trademark**

##### **Article 1508. The Generally-Recognised Trademark**

1. On an application of a person that deems a trademark he/it uses or a designation used as a trademark to be "a trademark generally-recognised in the Russian Federation" the trademark protected on the territory of the Russian Federation on the basis of its state registration or under an international treaty of the Russian Federation or the designation used as a trademark but not having legal protection on the territory of the Russian Federation may be deemed "a trademark generally-renowned on the territory of the Russian Federation" by a decision of the federal executive governmental body charged with intellectual property matters, if as the result of an intensive use this trademark or this designation had become as of the date indicated in the application broadly known in the Russian Federation among relevant consumers in respect of the applicant's goods.

The trademark and the designation used as a trademark shall not be deemed "generally-recognised trademarks" if they have become broadly known after the priority date of another person's identical or similar to the extent of confusion trademark that is intended for being used in respect of uniform goods.

2. The legal protection envisaged by the present Code for a trademark shall be granted to a generally-recognised trademark.

The grant of legal protection to a generally-recognised trademark means the recognition of an exclusive right to the generally-recognised trademark.

The legal protection of a generally-recognised trademark has infinite duration.

3. The legal protection of a generally-recognised trademark also extends to goods which are not uniform with those for which it has been declared generally-recognised if the use of this trademark by another person in respect of the said goods is going to be associated for consumers with the holder of the exclusive right to a generally-recognised trademark and it may infringe the lawful interests of the holder.

##### **Article 1509. The Grant of Legal Protection to a Generally-Recognised Trademark**

1. Legal protection shall be granted to a generally-recognised trademark under a decision of the federal executive governmental body charged with intellectual property matters taken in accordance with Item 1 of Article 1508 of the present Code.

2. A trademark deemed generally-recognised shall be entered by the federal executive governmental body charged with intellectual property matters in the List of the Trademarks Generally-Recognised in the Russian Federation (List of Generally-Recognated Trademarks).

3. A certificate of a generally-recognised trademark shall be issued by the federal executive governmental body charged with intellectual property matters within one month after the trademark is entered in the List of Generally-Recognised Trademarks.

The form of a certificate of a generally-recognised trademark and a list of the details that have to be available in the certificate shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

4. Information concerning a generally-recognised trademark shall be published by the federal executive governmental body charged with intellectual property matters in the gazette immediately after it is entered in the List of Generally-Recognised Trademarks.

## **5. The Details of Legal Protection of a Collective Mark**

### **Article 1510. The Right to a Collective Mark**

1. An association of persons whose creation and activity do not conflict with the legislation of the state in which it is formed is entitled to register a collective mark in the Russian Federation. The collective mark is a trademark intended for designating the goods which are manufactured or sold by the persons being members of the association and which have their uniform characteristics of quality or other common characteristics.

Each person being a member of the association may use the collective mark.

2. A right to a collective mark is unalienable and it shall not be the subject matter of a licence contract.

3. A person being a member of an association that has registered a collective mark is entitled to use his/its own trademark and the collective mark.

### **Article 1511. The State Registration of a Collective Mark**

1. The application for registration of a collective mark (collective mark application) filed with the federal executive governmental body charged with intellectual property matters shall be accompanied by a charter of the collective mark comprising the following:

1) the name of the association authorised to register the collective mark in its name (right holder);

- 2) a list of the persons entitled to use the collective mark;
- 3) the purpose of registration of the collective mark;
- 4) a list of, the uniform characteristics of quality of, or other common characteristics of the goods which are going to be designated by the collective mark;
- 5) terms for using the collective mark;
- 6) provisions on the procedure for monitoring the use of the collective mark;
- 7) provisions on liability for a breach of the charter of the collective mark.

2. In addition to the details required by Articles 1503 and 1504 of the present Code the following shall be entered to the State Register of Trademarks and a certificate of a collective mark: information on the persons entitled to use the collective mark. This information and also an abstract from the charter of the collective mark on the uniform characteristics of the quality of, and the common characteristics of the goods for which this mark is registered shall be published by the federal executive governmental body charged with intellectual property matters in the gazette.

The right holder shall notify the federal executive governmental body charged with intellectual property matters of the amendments made to the charter of a collective mark.

3. If a collective mark is used on goods not having uniform quality characteristics or other common characteristics the legal protection of the collective mark may be terminated before due date in full or in part under a court's decision adopted on an application of any person concerned.

4. A collective mark and a collective mark application may be transformed into a trademark and a trademark application respectively and vice versa. The procedure for such transformation shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

## **6. Terminating the Exclusive Right to a Trademark**

**Article 1512.** Grounds for Challenging and Deeming Invalid the Grant of Legal Protection to a Trademark

1. Challenging the grant of legal protection to a trademark means challenging the decision on the state registration of the trademark (Item 2 of Article 1499) and the recognition of an exclusive right to the trademark based thereon (Article 1477 and 1481).

Deeming the granting of legal protection to a trademark invalid shall cause the revocation of the decision of the federal executive governmental body charged with intellectual property matters on the registration of the trademark.

**2.** The granting of legal protection to a trademark may be challenged and deemed invalid:

1) in full or in part for the whole effective term of the exclusive right to the trademark if legal protection has been granted thereto in breach of provisions of Items 1-5, 8 and 9 of Article 1483 of the present Code;

2) in full or in part within five years after the date of publication of information on the state registration of the trademark in the gazette (Article 1506) if legal protection has been in breach of provisions of Items 6 and 7 of Article 1483 of the present Code;

3) in full for the whole effective term of the exclusive right to the trademark if legal protection has been granted thereto in breach of provisions of Article 1478 of the present Code;

4) in full for the whole effective term of legal protection if it was granted to the trademark with a later priority in comparison with a another person's trademark recognised as generally-recognise which is under legal protection in accordance with Item 3 of Article 1508 of the present Code;

5) in full for the whole effective term of the exclusive right to the trademark if legal protection has been granted thereto in the name of an agent or a representative of the person being the holder of that exclusive right in a member-state of the Paris Convention for the Protection of Industrial Property in breach of the provisions of the Convention;

6) in full or in part for the whole effective term of legal protection if the right holder's actions relating to the state registration of the trademark have been recognised in the established procedure as an abuse of law or unfair competition.

**3.** The grant of legal protection to a generally-recognise trademark by means of registration thereof in the Russian Federation may be challenged and deemed invalid in full or in part during the whole effective term of the exclusive right to this trademark if legal protection has been granted thereto in breach of provisions of Item 1 of Article 1508 of the present Code.

### **Article 1513.** Procedure for Challenging and Deeming Invalid the Grant of Legal Protection to a Trademark

**1.** The grant of legal protection to a trademark may be challenged on the grounds and within the term envisaged by Article 1512 of the present Code by means of filing an objection against such granting with the chamber of patent disputed or with the federal executive governmental body charged with intellectual property matters.

**2.** Objections against the grant of legal protection to a trademark on the grounds set out in Subitems 1-4 of Item 2 and Item 3 of Article 1512 of the present Code may be filed with the chamber of patent disputes by the person concerned.

**3.** An objection against the grant of legal protection to a trademark on the ground set out in Subitem 5 of Item 2 of Article 1512 of the present Code may be filed with the chamber of patent disputes by the concerned

owner of the exclusive right to the trademark in a member state of the Paris Convention for the Protection of Industrial Property.

An objection against the granting of legal protection to a trademark on the ground set out in Subitem 6 of Item 2 of Article 1512 of the present Code shall be filed by a person concerned with the federal executive governmental body charged with intellectual property matters.

4. Decisions of the federal executive governmental body charged with intellectual property matters on deeming invalid the granting of legal protection to a trademark or on refusing to deem it as such shall take effect in accordance with the rules of Article 1248 of the present Code and they may be challenged in the court.

5. If the grant of legal protection to a trademark is deemed invalid in full the certificate of the trademark and the entry in the State Register of Trademarks shall be annulled.

If the grant of legal protection to a trademark is deemed partially invalid a new certificate for the trademark shall be issued and relevant amendments shall be made to the State Register of Trademarks.

6. The licence contracts concluded until a decision is taken on deeming invalid the grant of legal protection to a trademark shall remain in effect to the extent in which they had been discharged as of the time when the decision was taken.

#### **Article 1514. Terminating the Legal Protection of a Trademark**

1. The legal protection of a trademark shall be terminated:

1) in connection with the expiry of the effective term of the exclusive right to the trademark;

2) on the ground of a court's decision on early termination of the legal protection of the collective trademark in accordance with Item 3 of Article 1511 of the present Code in connection with this mark being used on goods not having uniform quality characteristics or other common characteristics;

3) on the basis of a decision on early termination of the legal protection of the trademark due to its not being used, such decision being taken in accordance with Article 1486 of the present Code;

4) on the basis of a decision of the federal executive governmental body charged with intellectual property matters on early termination of the legal protection of the trademark in the event of termination of the legal entity being the right holder or termination of the entrepreneurial activity of the individual entrepreneur being the right holder;

5) if the right holder has waived his/its right to the trademark;

6) on the basis of a decision taken by the federal executive governmental body charged with intellectual property matters on the application of a person concerned on early termination of the legal protection of the trademark if it has turned into a designation commonly used as a term for goods of a certain kind.

2. The legal protection of a generally-recognise trademark shall be terminated on the grounds set out in Subitems 3-6 of Item 1 of the present article, and also by a decision of the federal executive governmental body charged with intellectual property matters if the generally-renown trademark has lost the characters established by Paragraph 1 of Item 1 of Article 1508 of the present Code.

3. When an exclusive right to a trademark is transferred without the conclusion of a contract with the right holder (Article 1241) the legal protection of the trademark may be terminated by a court's decision on a claim of a person concerned if it is proven that the transfer misleads consumers concerning goods or the manufacturer thereof.

4. The termination of legal protection of a trademark means the termination of the exclusive right to the trademark.

## **7. The Protection of a Right to a Trademark**

### **Article 1515. Liability for the Illegal Use of a Trademark**

1. The goods, labels, packages of goods on which a trademark or a designation similar thereto to the extent of confusion has been placed are counterfeit.

2. The right holder is entitled to claim withdrawal from transactions and destruction at the expense of the infringer the counterfeit goods, labels, packages of goods on which the illegally used trademark or a designation similar thereto to the extent of confusion has been placed. If the placing of these goods in transactions is required for public interests the right holder is entitled to demand removal on the infringer's account of the illegally used trademark or a designation similar thereto to the extent of confusion that has been placed on the counterfeit goods, labels and packages of goods.

3. A person that has infringed an exclusive right to a trademark while carrying out works or providing services shall remove the trademark or a designation similar thereto to the extent of confusion from the materials involved in the performance of such works or the provision of such services, including from documents, advertisements and billboards.

4. The right holder is entitled to demand at his/it discretion that the infringer pay a compensation in place of reimbursement of damages:

1) in an amount of 10,000 to 5,000,000 roubles as defined at the court's discretion on the basis of the nature of the infringement;

2) in the amount equal to the double value of the goods on which the trademark has been illegally placed or to the double value of the right of using the trademark assessed on the basis of the price normally charged in comparable circumstances for the legal use of the trademark.

5. A person carrying out a preliminary marking in respect of a trademark not registered in the Russian Federation is liable in the procedure established by the legislation of the Russian Federation.

## **§ 3. The Right to the Appellation of Origin of Goods**

### **1. General Provisions**

#### **Article 1516. The Appellation of Origin**

1. The appellation of origin of a merchandise to which legal protection is granted means a designation being or containing a contemporary or historical, official or unofficial, full or abbreviated name of a country, urban or rural inhabited settlement, locality or another geographic object, and also a designation which is derivative from such name and which has become recognised as the result of being used in respect of a merchandise whose special properties are exclusively or predominantly defined by the natural conditions and/or human factors characteristic of the given geographic object. The manufacturers of such merchandise may be recognised to own the exclusive right to use the appellation of origin (Article 1229 and 1519).

2. The following shall not be deemed an appellation of origin: a designation though being or containing a name of a geographic object that is generally used in the Russian Federation as a designation of goods of a certain kind but not relating to the place where manufactured.

#### **Article 1517. The Effect of Exclusive Right to Use an Appellation of Origin on the Territory of the Russian Federation**

1. An exclusive right to use an appellation of origin registered by the federal executive governmental body charged with intellectual property matters, and also in other cases envisaged by an international treaty of the Russian Federation is effective on the territory of the Russian Federation.

2. The state registration of a geographic object located in a foreign state as an appellation of origin for a merchandise is admissible if the name of the object is protected as an appellation of origin in the country of origin of the merchandise. The exclusive right to use the appellation of origin of the merchandise shall only be owned by a person whose right to use the appellation of origin is protected in the country of origin of the merchandise.

#### **Article 1518. The State Registration of an Appellation of Origin**

1. An appellation of origin shall be recognised and protected by virtue of state registration thereof.

An appellation of origin may be registered by one or several citizens or legal entities.

2. The persons that have registered an appellation of origin acquire the exclusive right to use the appellation of origin, provided the merchandise manufactured by these persons meets the requirements set out in Item 1 of Article 1516 of the present Code.

An exclusive right to use an appellation of origin in respect of one and the same merchandise may be granted to any person manufacturing

merchandise having the same special properties within the boundary of the same geographic object.

## **2. Using an Appellation of Origin**

### **Article 1519. The Exclusive Right to an Appellation of Origin**

1. A right holder has the exclusive right to use an appellation of origin in accordance with Article 1229 of the present Code in any manner not conflicting with a law (exclusive right to an appellation of origin), including the methods specified in Item 2 of the present article.

2. The use of an appellation of origin is the placement of the appellation of origin on/in the following, without limitation:

1) the goods, the labels, packages of the goods manufactured, offered for sale, sold, shown at exhibitions and fairs or are otherwise introduced in civil-law transactions on the territory of the Russian Federation or are stored or transported for this purpose or are imported onto the territory of the Russian Federation;

2) the letterhead papers, bills, other documents and printed publications relating to the introduction of goods in civil-law transactions;

3) offers of sale of goods, and also in announcements, on billboards and in advertisements;

4) the Internet, for instance in a domain name or in other addressing methods.

3. A registered appellation of origin is prohibited for being used by persons not holding the relevant certificate even though the real place of origin of merchandise is indicated or a name is used in translation either in combination with such words as "kind/genus", "type", "simulation" etc., and also the use of a similar designation for any goods that is capable of misleading consumers as to the place from which the goods originate and to the special properties of the goods (illegal use of an appellation of origin).

The goods, labels, packages of goods on which appellations of origin or designations similar thereto to the extent of confusion have been illegally used are deemed counterfeit.

4. It is prohibited to dispose of an exclusive right to an appellation of origin, for instance by means of alienating it or assigning a right to use the appellation of origin to another person.

### **Article 1520. The Mark of Protection of an Appellation of Origin**

For the purpose of warning about his/its exclusive right the holder of a certificate of exclusive right to an appellation of origin may place the following next to the appellation of origin: a protection mark in the form of a word designation "registered appellation of origin" or "registered NMPT" indicating that the designation used is an appellation of origin registered in the Russian Federation.

**Article 1521. The Effect of Legal Protection of an Appellation of Origin**

1. An appellation of origin is protected for the whole period when it is possible to manufacture the merchandise whose special properties are exclusively or predominantly defined by the natural conditions and/or human factors characteristic of the relevant geographic object (Article 1516).

2. The effective term of a certificate of exclusive right to an appellation of origin and the procedure for extending this term are defined by Article 1531 of the present Code.

**3. The State Registration of an Appellation of Origin and the Granting of Exclusive Right to an Appellation of Origin**

**Article 1522. The Application for an Appellation of Origin**

1. An application for state registration of an appellation of origin and for the granting of an exclusive right to such appellation of origin, and also an application for the granting of an exclusive right to an appellation of origin registered earlier (an application for an appellation of origin) shall be filed with the federal executive governmental body charged with intellectual property matters.

2. An application for an appellation of origin shall cover one appellation of origin.

3. The application for an appellation of origin shall comprise the following:

1) an application for state registration of the appellation of origin and for the granting of an exclusive right to the appellation of origin or only for the granting of an exclusive right to an appellation of origin that has been registered earlier, with an indication of the applicant, his/its place of residence/whereabouts;

2) the designation being declared;

3) an indication of the merchandise for which the state registration of the appellation of origin and the granting of an exclusive right to the appellation of origin is sought or only the grant of an exclusive right to an appellation of origin that has been registered earlier is sought;

4) an indication of the place of origin (production) of the merchandise (the boundary of the geographic object) whose natural conditions and/or human factors exclusively or predominantly define or can define the special properties of the merchandise;

5) a description of the special properties of the merchandise.

4. The application for an appellation of origin shall be signed by the applicant, or if the application is filed through a patent attorney or another representative, by the applicant or his/its representative who files the application.

5. If the geographic object whose name is being declared as an appellation of origin is located on the territory of the Russian Federation the

application shall be accompanied by a statement of a body authorised by the Government of the Russian Federation to the effect that within the boundary of the given geographic object the applicant manufactures a merchandise whose special properties are exclusively or predominantly due to the natural conditional and/or human factors characteristic of the given geographic object.

Attached to the application for an exclusive right to an appellation of origin that has been registered earlier as the name of a place located on the territory of the Russian Federation shall be a statement of the competent body designated in the procedure established by the Government of the Russian Federation to the effect that within the boundary of the given geographic object the applicant manufactures a merchandise possessing the special properties specified in the State Register of Appellations of Origin of the Russian Federation (the State Register of Appellations of Origin) (Article 1529).

If the geographic object whose name is being declared as an appellation of origin for merchandise is outside of the Russian Federation the application shall be accompanied by a document confirming the applicant's right in the country of origin of the merchandise to the appellation of origin being declared.

Also attached to the application shall be a document confirming that a duty has been paid for the filing of the application at the established rate.

**6.** The application for an appellation of origin shall be filed in the Russian language.

The documents attached to the application shall be filed in the Russian or another language. If these documents are filed in another language, Russian translations thereof shall be attached to the application. A Russian translation may be submitted by the applicant within two months after a notice is sent thereto by the federal executive governmental body charged with intellectual property matters on the need for meeting this requirement.

**7.** The requirements applicable to the documents contained in an application for an appellation of origin or to the documents attached thereto (application documents) shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

**8.** The date of filing of the application for an appellation of origin is the date of receipt of the documents specified in Item 3 of the present article by the federal executive governmental body charged with intellectual property matters, or if these documents were not filed simultaneously, the date of receipt of the last document.

**Article 1523.** The Expert Examination of an Application for an Appellation of Origin and the Making of Amendments to Application Documents

1. An expert examination of an application for an appellation of origin shall be carried out by the federal executive governmental body charged with intellectual property matters.

The expert examination of the application shall include a formal expert examination and an expert examination of the designation declared as the appellation of origin (declared designation).

2. During the term for completion of the expert examination of the application for an appellation of origin the applicant is entitled to amend, update or correct the materials of the application until a decision is taken on the application.

If additional materials modify the essence of the application these materials shall not be accepted for consideration, and they may be arranged by the applicant as an independent application.

3. During the term for completion of the expert examination of the application for an appellation of origin the federal executive governmental body charged with intellectual property matters is entitled to request from the applicant the provision of the additional materials without which the expert examination cannot be completed.

The additional materials shall be submitted by the applicant within two months after the receipt of the relevant request. On an application of the applicant this term may be extended if the petition is received before the expiry of the term. If the applicant has not observed the term or did not reply to the request for additional materials, the application shall be deemed withdrawn under a decision of the federal executive governmental body charged with intellectual property matters.

#### **Article 1524.** The Formal Expert Examination of an Application for an Appellation of Origin

1. A formal expert examination of an application for an appellation of origin shall be completed within two months after the application was filed with the federal executive governmental body charged with intellectual property matters.

2. During the formal expert examination of the application for an appellation of origin the presence of the necessary application documents, and also their compliance with established requirements shall be verified. According to the results of the formal expert examination either the application shall be accepted for consideration or a decision shall be taken on refusal to accept the application for consideration. The applicant shall be notified of the results of the formal expert examination.

Simultaneously with a notice of the positive result of the formal expert examination of the application that applicant shall be informed of the date of filing of the application as established in accordance with Item 8 of Article 1522 of the present Code.

**Article 1525.** The Expert Examination of a Designation Declared as an Appellation of Origin

1. An expert examination of a designation declared for merchandise as an appellation of origin (expert examination of a declared designation) for the purpose of verifying the compliance of the designation with the provisions of Article 1516 of the present Code shall be carried out on an application accepted for consideration as the result of a formal expert examination.

During the expert examination of the declared designation it shall also be verified whether there is a good reason for indicating the place of origin (production) of the merchandise on the territory of the Russian Federation.

On an application accepted for consideration for the granting of an exclusive right to an appellation of origin that has been registered earlier an expert examination of the declared designation shall be carried out to verify its compliance with the provisions of Paragraph 2 of Item 5 of Article 1522 of the present Code.

2. Until a decision is taken on the results of an expert examination of the declared designation in the event of anticipated refusal to grant state registration to an appellation of origin and/or to grant an exclusive right to such appellation of origin a notice in writing shall be sent to the applicant on the results of verification of the compliance of the declared designation with the provisions of Article 15167 of the present Code and a proposal for submitting his/its arguments concerning the reasons available in the notice. The applicant's arguments shall be taken into account when a decision is taken according to the results of the expert examination of the declared designation, if they are submitted within six months after the said notice was sent to the applicant.

**Article 1526.** A Decision Taken on the Results of an Expert Examination of a Declared Designation

According to the results of an expert examination of a declared designation the federal executive governmental body charged with intellectual property matter shall take a decision on the state registration of the appellation of origin and on the grant of an exclusive right to such appellation of origin or on refusal to grant state registration of the appellation of origin and/or the grant of an exclusive right to such appellation of origin.

If the application for an appellation of origin sought the granting of an exclusive right to an appellation of origin that has been registered earlier the federal executive governmental body shall take a decision on the grant of or refusal to grant such exclusive right.

**Article 1527.** Withdrawing an Application for an Appellation of Origin

An application for an appellation of origin may be withdrawn by the applicant at any stage of its consideration until information on the state registration of the appellation of origin and/or on the grant of an exclusive right to it is entered in the State Register of Appellations of Origin.

**Article 1528.** Challenging Decisions on an Application for an Appellation of Origin. Renewal of Term in the Case of Laches

1. Decisions of the federal executive governmental body charged with intellectual property matters on refusal to accept for consideration an application for an appellation of origin, on deeming such application withdrawn, and also decisions of this body taken on the results of an expert examination of a declared designation (Article 1526) may be challenged by the applicant by filing an objection with the chamber of patent disputes within three months after the receipt of the relevant decision.

2. The periods envisaged by Item 3 of Article 1523 of the present Code and Item 1 of the present article in respect of which an applicant is in laches may be renewed by the federal executive governmental body charged with intellectual property matters on a petition of the applicant filed within two months after the expiry of the periods, provided it is proven that there is a good reason for the laches, and that the relevant duty has been paid.

The petition for renewal of a term in the case of laches shall be filed by the applicant with the federal executive governmental body charged with intellectual property matters simultaneously with the additional materials requested in accordance with Item 3 of Article 1523 of the present Code or with a petition for extension of the term for the submission thereof simultaneously with the filing of an objection with the federal executive governmental body charged with intellectual property matters under Item 1 of the present article.

**Article 1529.** Procedure for the State Registration of an Appellation of Origin

1. Under a decision taken on the results of an expert examination of a declared designation (Article 1526) the federal executive governmental body charged with intellectual property matters shall carry out the state registration of the appellation of origin in the State Register of Appellations of Origin.

2. The entry in the State Register of Appellations of Origin shall comprise the appellation of origin, information on the holder of the certificate of exclusive right to the appellation of origin, an indication and description of the special properties of the merchandise for individualisation of which the appellation of origin was registered, other information concerning the state registration and the granting of exclusive right to the appellation of origin, extension of the certificate's effective term and also subsequent changes in these details.

**Article 1530.** Issuing a Certificate of Exclusive Right to an Appellation of Origin

1. A certificate of an exclusive right to an appellation of origin shall be issued by the federal executive governmental body charged with intellectual property matters within one month after the receipt of a document confirming that a duty has been paid for the issuance of the certificate of exclusive right to the appellation of origin.

Unless a document confirming that the established duty has been paid is submitted in the established procedure, no certificate shall be issued.

2. The form of a certificate of exclusive right to an appellation of origin and a list of the details that shall be available therein shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

**Article 1531.** The Effective Term of a Certificate of Exclusive Right to an Appellation of Origin

1. A certificate of exclusive right to an appellation of origin have to effective for ten years after the date of filing of the application for the appellation of origin with the federal executive governmental body charged with intellectual property matters.

2. The effective term of a certificate of exclusive right to an appellation of origin may be extended on an application of the holder of the certificate and on the condition that the holder submits a statement of the competent body designated in the procedure established by the Government of the Russian Federation to the effect that the holder of the certificate manufactures within the boundary of the relevant geographic site a merchandise possessing the special properties indicated in the State Register of Appellations of Origin.

Form a merchandise in respect of such appellation of origin being the name of a geographic site located outside of the Russian Federation the holder of the certificate shall submit in place of the statement specified in Paragraph 1 of the present item a document confirming his/its right to the appellation of origin in the country of origin of the merchandise as of the date of filing of an application for extension of the effective term of the certificate.

The application for extension of the effective term of the certificate shall be filed within the last year of its effective term.

On a petition of the holder of the certificate a six-month term may be granted thereto upon the expiry of the effective term of the certificate for filing an application for extension of the term, provided an additional duty has been paid.

Each time the effective term of the certificate shall be extended by ten years.

3. An entry on the extension of the effective term of a certificate of exclusive right to an appellation of origin shall be made by the federal executive governmental body charged with intellectual property matters in the State Register of Appellations of Origin and in the said certificate.

**Article 1532. Making Amendments to the State Register of Appellations of Origin and to a Certificate of Exclusive Right to an Appellation of Origin**

1. The holder of a certificate of exclusive right to an appellation of origin shall notify the federal executive governmental body charged with intellectual property matters of the changes occurring in his/its name and the other changes relating to the state registration of the appellation of origin and the granting of exclusive right to the appellation of origin (Item 2 of Article 1529).

An entry on the change shall be made to the State Register of Appellations of Origin and in the certificate, provided the relevant duty has been paid.

2. The federal executive governmental body charged with intellectual property matters may on its own initiative make amendments to the State Register of Appellations of Origin and in a certificate of exclusive right to an appellation of origin for the purpose of correcting obvious and technical errors, having notified the holder of the certificate in advance.

**Article 1533. Publishing Information on the State Registration of an Appellation of Origin**

Information concerning the state registration of an appellation of origin and the granting of an exclusive right to it that has been entered in the State Register of Appellations of Origin in accordance with Articles 1529 and 1532 of the present Code, except for information comprising a description of the special properties of goods, shall be published by the federal executive governmental body charged with intellectual property matters in the gazette immediately after it has been entered in the State Register of Appellations of Origin.

**Article 1534. The Registration of an Appellation of Origin in Foreign States**

1. Russian legal entities and citizens of the Russian Federation are entitled to register an appellation of origin in foreign states.

2. An application for registration of an appellation of origin in a foreign state may be filed after the state registration of the appellation of origin and the grant of an exclusive right to the appellation of origin in the Russian Federation.

**4. Terminating the Legal Protection of an Appellation of Origin and of the Exclusive Right to an Appellation of Origin**

**Article 1535.** Grounds for Challenging and Deeming Invalid the Granting of Legal Protection to an Appellation of Origin and an Exclusive Right to an Appellation of Origin

1. Challenging the grant of legal protection to an appellation of origin means challenging a decision of the federal executive governmental body charged with intellectual property matters on the state registration of the appellation of origin and on the granting of an exclusive right to the appellation of origin, and also challenging the issuance of a certificate of exclusive right to the appellation of origin.

Challenging the granting of an exclusive right to an appellation of origin that has been registered earlier means challenging a decision on the granting of the exclusive right to the appellation of origin that has been registered earlier and the issuance of a certificate of the exclusive right to the appellation of origin.

Deeming invalid the grant of legal protection to an appellation of origin shall cause the revocation of a decision on the state registration of the appellation of origin and on the granting of an exclusive right to the appellation of origin, and the cancellation of entries in the State Register of Appellations of Origin and a certificate of exclusive right to the appellation of origin.

Deeming invalid the granting of an exclusive right to an appellation of origin that has been registered earlier shall cause the revocation of a decision on the granting of the exclusive right to the appellation of origin that has been registered earlier, the cancellation of entries in the State Register of Appellations of Origin and in a certificate of the exclusive right to the appellation of origin.

2. The grant of legal protection to an appellation of origin may be challenged and deemed invalid for the whole term of protection if legal protection has been granted in breach of the provisions of the present Code. The granting of an exclusive right to an appellation of origin that has been registered earlier may be challenged and deemed invalid for the whole effective term of the certificate of the exclusive right to the appellation of origin (Article 1531).

If the use of an appellation of origin for a merchandise can mislead the consumer concerning the merchandise or the manufacturer thereof due to the existence of a trademark having an earlier priority the grant of legal protection to the said appellation of origin may be challenged and deemed invalid within five years after the publication of information on the state registration of the appellation of origin in the gazette.

3. On the grounds set out in Item 2 of the present article a person concerned may file an objection with the federal executive governmental body charged with intellectual property matters.

**Article 1536.** Terminating the Legal Protection of an Appellation of Origin and a Certificate of Exclusive Right to Such Appellation of Origin

1. The legal protection of an appellation of origin of a merchandise shall be terminated if:

1) the conditions characteristic of the given geographic object have disappeared, and it impossible to manufacture the merchandise possessing the special properties indicated in the State Register of Appellations of Origin for this appellation of origin;

2) a foreign legal entity, foreign citizen or stateless person has lost his/its right to this appellation of origin in the country of origin of the merchandise.

2. The effect of a certificate of an exclusive right to an appellation of origin of a merchandise shall be terminated if:

1) the merchandise manufactured by the holder of the certificate has lost the special properties indicated in the State Register of Appellations of Origin for this appellation of origin;

2) the legal protection of the appellation of origin has been terminated on the grounds set out in Item 1 of the present article;

3) the legal entity being the holder of the certificate has been wound up or the entrepreneurial activity of the individual entrepreneur being the holder of the certificate has been terminated;

4) the effective term of the certificate has expired;

5) the holder of the certificate has filed an application to this effect with the federal executive governmental body charged with intellectual property matters.

3. On the grounds set out in Item 1 and Subitems 1 and 2 of Item 2 of the present article, any person may file an application with the federal executive governmental body charged with intellectual property matters asking for termination of the legal protection of an appellation of origin and of a certificate of exclusive right to such appellation of origin, and on the ground set out in Subitem 3 of Item 2 of the present article, for termination of a certificate of exclusive right to the appellation of origin.

The legal protection of an appellation of origin and a certificate of the exclusive right to such appellation of origin shall be terminated on the basis of a decision of the federal executive governmental body charged with intellectual property matters.

## **5. The Protection of an Appellation of Origin**

**Article 1537.** Liability for the Illegal Use of an Appellation of Origin

1. A right holder is entitled to claim the withdrawal from transactions and destruction on the account of an infringer of counterfeit goods, labels and packages of goods on which an illegally used appellation of origin or a designation similar thereto to the extent of confusion is placed. Where the introduction of such goods in transactions is required for the public interest the right holder is entitled to claim on the account of an infringer the removal of an illegally used appellation of origin or a designation similar

thereto to the extent of confusion from counterfeit goods, labels and packages of goods.

2. A right holder is entitled to claim compensation at his/it own discretion from an infringer in place of a reimbursement of damages:

1) in an amount of 10,000 to 5,000,000 roubles as determined at the court's discretion depending on the nature of the infringement;

2) in the amount of double value of the goods on which the appellation of origin was placed illegally.

3. A person applying warning marks to an appellation of origin that has not been registered in the Russian Federation shall be liable in the procedure set out in the legislation of the Russian Federation.

#### **§ 4. The Right to a Commercial Name**

##### **Article 1538. The Commercial Name**

1. The legal entities pursuing entrepreneurial activities (including non-commercial organisations to which a right to pursue such activities has been conferred in accordance with a law by their constitutive documents) and also individual entrepreneurs may use commercial names to individualise their trade, industrial and other enterprises (Article 132), such names not being company names and not subject to compulsory inclusion in the constitutive documents and in the comprehensive state register of legal entities.

2. A commercial name may be used by the right holder to individualise one or several enterprises. Two and more commercial names shall not be simultaneously used to individualise one enterprise.

##### **Article 1539. The Exclusive Right to a Commercial Name**

1. A right holder owns an exclusive right to use a commercial name as a means of individualisation of his/its enterprise in any manner not conflicting with a law (exclusive right to a commercial name), including by means of posting the commercial name on billboards, letterhead paper, bills and other documents, in announcements and advertisements, on goods or on the packages thereof, if the name has sufficient distinctiveness of characters and if its use by the right holder for the purpose of individualising his/its enterprise is renowned within a certain territory.

2. It is prohibited to use a commercial name capable of misleading as to the belonging of an enterprise to a certain person, for instance a name similar to the extent of confusion with a company name, trademark or a commercial name protected by an exclusive right that is owned by another person whose exclusive right had come into being earlier.

3. A person that has violated the rules of Item 2 of the present article shall terminate on the right holder's demand to use the commercial name and reimburse the right holder for the damages caused.

4. An exclusive right to a commercial may pass to another person (for instance, under a contract, in line of universal succession or on other grounds established by a law) only within the enterprise for whose individualisation it is being used.

If a right holder uses a commercial name to individualise several enterprises the transfer to another person of the exclusive right to the commercial name within one of the enterprises shall deprive the right holder of the use of this commercial name to individualise the rest of his/its enterprises.

5. A right holder may grant to another person a right to use his/its commercial name in the procedure and on the terms set out in a contract of lease of an enterprise (Article 656) or a contract of franchise (Article 1027).

#### **Article 1540. The Effect of Exclusive Right to a Commercial Name**

1. An exclusive right to a commercial name used to individualise an enterprise located on the territory of the Russian Federation is effective on the territory of the Russian Federation.

2. The exclusive right to a commercial name shall be terminated if the right holder has not been using it continuously for one year.

#### **Article 1541. The Relationship of the Right to a Commercial Name with the Rights to a Company Name and to a Trademark**

1. The exclusive right to a commercial name including the company name of the right holder or specific elements thereof comes into being and is effective irrespective of the exclusive right to the company name.

2. A commercial name or specific elements thereof may be used by the right holder in his/its trademark. A commercial name included in a trademark is protected irrespective of the protection of the trademark.

### **Chapter 77. The Right of Using the Results of Intellectual Activity within a Unified Technology**

#### **Article 1542. The Right to a Technology**

1. For the sense of the present chapter, "unified technology" means the result of a scientific and technological activity expressed in an objective form that includes in a certain combination inventions, utility models, industrial designs, computer programmes or other results of intellectual activities subject to legal protection in accordance with the rules of the present section, and can serve as a technological foundation for a certain practical activity in the civilian or military field (unified technology).

A unified technology may also include the results of intellectual activities subject to legal protection on the basis of the rules of the present section, for instance, technical data and other information.

2. Exclusive right to the results of an intellectual activity which are incorporated in a unified technology are recognised and subject to protection in accordance with the rules set out in the present Code.

3. The right of using the results of intellectual activities within a unified technology as a complex object (Article 1240) is owned by the person that has organised the creation of the unified technology (right to a technology) under contracts with the owners of exclusive rights to the results of intellectual activities incorporated in the unified technology. Also the unified technology may incorporate protected results of intellectual activities created by the person that has organised the creation thereof.

**Article 1543.** The Applicability of the Rules Concerning the Right to a Technology

The rules of the present chapter are applicable to relationships relating to the right to a civilian, military, special or dual-purpose technology created on the account of or with the involvement of the funds of the federal budget or of the budgets of subjects of the Russian Federation allocated for paying for works under state contracts, other contracts, and for financing under revenue/expenditure estimates and also subsidies as well.

The said rules are not applicable to relationships that come into being when a unified technology is created on the account of or with the involvement of funds of the federal budget or of the budgets of subjects of the Russian Federation on a non-compensatory basis in the form of a budget credit.

**Article 1544.** The Right of the Person That Has Organised the Creation of Unified Technology to Use the Results of Intellectual Activities Incorporated Therein

1. The person that has organised the creation of a unified technology on the account of or with the involvement of funds of the federal budget or of the budget of a subject of the Russian Federation (contractor) owns a right to the technology created, except for cases when this right in accordance with Item 1 of Article 1546 of the present Code is owned by the Russian Federation or a subject of the Russian Federation.

2. A person owning in accordance with Item 1 of the present article a right to a technology shall immediately take the measures set out in the legislation of the Russian Federation for being recognised as owning and for obtaining rights to the results of intellectual activity incorporated in the unified technology (file patent applications, applications for state registration of the results of intellectual activities, introduce non-disclosure regime for relevant information, conclude contracts of alienation of exclusive rights and licence contracts with the owners of exclusive rights to the relevant results of intellectual activities incorporated in the unified technology and take other measures), unless such measures have been taken before or during the process of creation of the technology.

3. In cases when the present Code allows different methods of legal protection for the results of intellectual activities incorporated in a unified technology the person owning a right to the technology shall choose the most suitable legal protection method corresponding for his/its interests and for the practical application of the unified technology.

**Article 1545. The Duty to Implement a Unified Technology in Practice**

1. A person having under Article 1544 of the present Code a right to a technology has the duty of implementing it in practice (implementation).

The same duty shall be executed by any person to which this right is assigned or transferred in accordance with the rules of the present Code.

2. The content of the duty of implementing a technology, the term and other conditions and the procedure for executing the duty, the consequences of a default on the duty and the terms for terminating the duty shall be defined by the Government of the Russian Federation.

**Article 1546. The Rights of the Russian Federation and of the Subjects of the Russian Federation**

1. A right to a technology created on the account of or with the involvement of funds of the federal budget is owned by the Russian Federation when:

1) the unified technology is directly relating to the safeguarding of the defence and security of the Russian Federation;

2) prior to the creation of the unified technology or thereafter the Russian Federation had/has undertaken to finance the work of bringing the unified technology to the stage of practical implementation;

3) the contractor did not ensure that within six months after the termination of the work of creating the unified technology all the actions were committed as required for his/its being deemed to have the exclusive rights or for his/its acquiring the exclusive rights to the results of intellectual activities incorporated in the technology.

2. A right to a technology created on the account of or with the involvement of funds of the budget of a subject of the Russian Federation is owned by the subject of the Russian Federation if:

1) prior to the creation of the unified technology or thereafter the subject of the Russian Federation had/has undertaken to finance the work of bringing the technology to the stage of practical implementation;

2) the contractor did not ensure within six months after the termination of the work of creating the unified technology that all the actions were committed as required for his/its being deemed to have or for his/its acquiring exclusive rights to the results of intellectual activities incorporated in the technology.

3. In cases when according to Items 1 and 2 of the present article a right to a technology is owned by the Russian Federation or a subject of the Russian Federation the contractor shall in accordance with Item 2 of Article

1544 of the present Code take measures for being deemed to have rights and to acquire rights to the relevant results of intellectual activities for the subsequent assignment of these right to the Russian Federation and to the subject of the Russian Federation.

4. The right to a technology owned by the Russian Federation shall be administered in the procedure defined by the Government of the Russian Federation.

The right to a technology owned by a subject of the Russian Federation shall be administered in the procedure defined by the executive governmental bodies of the subject of the Russian Federation.

5. The right to a technology owned by the Russian Federation or a subject of the Russian Federation shall be disposed of in the observance of the rules set out in the present section.

The details of disposing of the right to a technology owned by the Russian Federation shall be defined by a law on the transfer of federal technologies.

#### **Article 1547. Alienating the Right to a Technology Owned by the Russian Federation or a Subject of the Russian Federation**

1. In the cases envisaged by Subitems 2 and 3 of Item 1 and Item 2 of Article 1546 of the present Code within six months after the Russian Federation or a subject of the Russian Federation received the rights to the result of intellectual activity that are required for the practical use of the result within a unified technology the right to the technology shall be alienated to a person interested in implementing the technology and having a real capability for implementing it.

In the case envisaged by Subitem 1 of Item 1 of Article 1546 of the present Code the right to the technology shall be alienated to a person interested in implementing the technology and having a real capability for implementing it immediately after the Russian Federation's losing the need for retaining these rights.

2. The alienation by the Russian Federation or a subject of the Russian Federation of a right to a technology to third persons shall be carried out according to the general rule for a compensation according to the results of a tender.

If a right to a technology owned by the Russian Federation or a subject of the Russian Federation cannot be alienated by tender, such right shall be assigned according to the results of an auction.

The procedure for holding a tender or auction for the alienation by the Russian Federation or subjects of the Russian Federation of a right to a technology and also the possible cases and procedure for the Russian Federation or a subject of the Russian Federation to assign a right to a technology without holding a tender or auction shall be defined by a law on transfer of technologies.

3. Given the other equal conditions, the contractor that has organised the creation of the results of intellectual activity incorporated in a unified technology has a priority right to conclude a contract for acquisition of a right to the technology with the Russian Federation or with the subject of the Russian Federation.

**Article 1548. Fee for the Right to a Technology**

1. The right to a technology is granted free of charge in the cases envisaged by Article 1544 and Item 3 of Article 1546 of the present Code.

2. When the right to a technology is alienated under a contract, for instance according to the results of a tender or auction, the rate of, terms and procedure for paying out, a fee for that right shall be defined by agreement of the parties.

3. When the implementation of a technology is of important socioeconomic significance or of important significance for the defence or security of the Russian Federation, and the amount of costs of implementing it makes the acquisition for compensation of the right to the technology economically ineffective, the transfer of the right to such technology by the Russian Federation, the subject of the Russian Federation or the other right holder that has received the right free of charge may also take place on a free-of-charge basis. The cases in which a right to a technology may be transferred free of charge shall be defined by the Government of the Russian Federation.

**Article 1549. The Right to a Technology Owned Jointly by Several Persons**

1. A right to a technology created with the involvement of budget funds and other investors' funds may be owned simultaneously by the Russian Federation, a subject of the Russian Federation, other investors in the project that has resulted in the technology, the contractor and other right holders.

2. If a right to a technology is owned by several persons they shall exercise the right jointly.

The several persons jointly owning a right to a technology shall dispose of the right by common agreement.

3. A transaction of disposing of a right to a technology carried out by one of the persons that jointly owns the right to the technology may be deemed invalid on a claim of the rest of the right holders due to the fact that the person that has carried out the transaction lacks the necessary authority, if it is proven that the other party to the transaction knew or apparently was supposed to know of the lack of such authority.

4. Incomes from the use of a technology to which a right is owned jointly by several right holders, and also from the disposition of the right shall be distributed among the right holders by agreement between them.

5. If a part of a technology to which a right is owned by several persons can have an independent significance, the right holders may agree

among themselves as to each right holder's right to a specific part of the technology. A part of a technology may be of independent significance if it can be used independently of the other parts of the technology.

Each of the right holders is entitled to use at his/its own discretion the relevant part of the technology having an independent significance, except as otherwise envisaged by agreement between them. In this case, the right to the technology as a whole and also the disposition of the right to it shall be exercised jointly by all the right holders.

Incomes from the use of a part of the technology shall come to the person owning the right to this part of the technology.

**Article 1550.** The General Terms for Transferring the Right to a Technology

Except as otherwise envisaged by the present code or another law, the person owning a right to a technology may at his/its own discretion dispose of the right by assigning it in full or in part to other persons under a contract or another transaction, including a contract of alienation of the right, a licence contract or another contract comprising the elements of a contract of alienation of right or of a licence contract.

A right to a technology shall be assigned simultaneously in respect of all the results of intellectual activity incorporated in the unified technology as a single whole. The assignment of rights to specific results from the said results (to a part of the technology) is only admissible in cases when the part of the unified technology may have independent significance in accordance with Item 5 of Article 1549 of the present Code.

**Article 1551.** The Terms for Exporting a Unified Technology

**1.** A unified technology shall be implemented in practice (implementation) predominantly on the territory of the Russian Federation.

The right to the technology may be assigned for the unified technology being used on the territories of foreign states on the consent of the state customer or the manager of budget funds in accordance with the legislation on foreign economic activity.

**2.** The transactions involving the use of a unified technology outside of the Russian Federation are subject to state registration with the federal executive governmental body charged with intellectual property matters.

The non-observance of the provision requiring state registration of a transaction shall cause the invalidity of the transaction.

President  
of the Russian Federation

V. Putin

The Kremlin, Moscow