

**CIVIL CODE OF THE KYRGYZ REPUBLIC**

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SECTION IV  
SPECIFIC TYPES OF OBLIGATIONS

CHAPTER 23  
PURCHASE AND SALE

§ 1. General Provisions on Purchase and Sale

Article 415. Sale Contract

1. Under the sale contract, one party (the seller) shall undertake to transfer goods into the ownership of the other party (the buyer), and the buyer shall undertake to accept the goods and pay for them a specified amount of money (the price).
2. The provisions stipulated in this paragraph shall apply to the sale of securities and currency values, unless the law provides for special rules of their sale.
3. As provided by this Code or another law, laws and other normative legal acts shall establish particularities of purchase and sale of specific types of goods.
4. The provisions stipulated in this paragraph shall apply to the sale of property rights, unless otherwise arises from the content or nature of these rights.
5. The provisions stipulated in this paragraph shall apply to specific types of the contract of sale (retail sale, delivery of goods, power supply, sale of enterprises), unless otherwise provided by the rules of this Code regarding contracts of such types.

Article 416. Form of a Sale Contract

1. Purchase and Sale Contract in respect to real estate property shall be subject to notarization, except as provided by Law.
2. Purchase and Sale Contract in respect to real estate property shall be subject to state registration in accordance with the Article 25 of this Code.

Article 417. Terms of Contract on Goods

1. Under the Contract of Sale, goods may be any things complying with the rules of Article 23 of this Code.
2. The Contract may be entered into to sell/purchase goods available from the seller at the time of entering into the contract and also goods which will be manufactured or acquired by the seller in future, unless otherwise provided by law or unless otherwise arises from the nature of the goods.
3. The terms of the contract of sale shall be considered agreed upon, if the contract specifies the name and amount of the goods.

Article 418. Seller's Obligation to Transfer Goods

1. The seller shall transfer the goods specified in the sale contract to the buyer.
2. Unless otherwise provided by the sale contract, the seller shall transfer to the buyer together with the thing its appurtenances and respective documentation (technical passport, certificate of quality, operation instructions, etc) provided by Law, other normative legal acts or by contract.

Article 419. Time Period of Performance of Obligation to  
Transfer Goods

1. The time period of performance of the seller's obligation to transfer the goods to the buyer shall be defined by the contract of sale, and if the contract fails to establish the period, the period shall be determined in accordance with the rules stipulated in Article 305 of this Code.
  2. The contract of sale shall be deemed entered into on condition that it shall be performed within a strictly fixed period, provided that the contract expressly specifies, that in the event of violation of the performance period, the buyer shall lose its interest in the contract.
- The seller shall have no right to perform such contract before the specified period or after its expiration without the consent of the buyer, and provided that the buyer did not waive the performance of the contract.

Article 420. Time of Performance of Seller's Obligation to  
Transfer Goods

1. Unless otherwise provided by the sale contract, the seller's obligation to transfer the goods to the buyer shall be deemed performed at the time of:

handing over the goods to the buyer or to a person designated by the buyer, if the contract stipulates the seller's obligation to deliver the goods;

placing the goods at the disposal of the buyer, if the goods must be handed over to the buyer or to a person designated by the buyer at the place of location of the goods.

The goods shall be deemed to have been placed at the buyer's disposal, if by the time stipulated in the contract the goods have been prepared for transfer at the appropriate location and the buyer has been notified in compliance with the contract about the goods having been prepared for transfer. The goods shall not be deemed ready for transfer, unless they have been identified for the purposes of the contract by marking or in any other way.

2. In the event the seller's obligation to deliver the goods or transfer the goods at the location of the same to the buyer does not arise from the sale contract, the seller's obligation to transfer the goods to the buyer shall be deemed performed at the time the goods were handed over to the carrier or communications organization to be delivered to the buyer, unless otherwise provided by contract.

Article 421. Seller's Obligation to Safeguard Sold Property

1. When ownership right (right of economic or operative management) is assigned to the buyer before the transfer of the property, the seller shall safeguard the property before its transfer and keep it from deterioration.

2. The buyer shall compensate the necessary related expenses to the seller, unless otherwise provided by the parties' agreement.

Article 422. Transfer of Risk of Accidental Loss of Goods

1. Unless otherwise provided by the contract of sale, the risk of accidental loss of or accidental damage to goods shall be assigned to the buyer from the time, when in compliance with Law or the contract the seller is deemed to have performed his obligation to transfer the goods to the buyer.

2. The risk of accidental loss of or accidental damage to goods transferred in transit shall be assigned to the buyer from the time of entering into the sale contract, unless otherwise provided by the contract or by the business customs.

3. The contract provision regarding the risk of accidental loss of or accidental damage to goods being passed to the buyer from the time the goods are turned over to the first carrier may be deemed invalid by court at the demand of the buyer, if at the time of entering into the contract the seller knew or should have known, that the goods had perished or had been damaged but failed to communicate this to the buyer.

Article 423. Seller's Obligation to Transfer Goods Free from  
Rights of Third Parties

1. The seller shall transfer to the buyer goods free from any rights of third parties, except for the cases, when the buyer has agreed to accept goods encumbered by the rights of third parties. The seller's failure to follow this rule shall entitle the buyer to demand a reduction of the purchase price or the cancellation of the contract of sale, unless it is proved that the buyer knew or should have known about the rights of third parties to these goods.

2. The rules set forth in this Article shall respectively apply, when with respect to the goods and by the time of their transfer to the buyer there existed claims of third parties which the seller was aware of, should these claims be subsequently declared lawful in accordance with the established procedure.

Article 424. Buyer's and Seller's Obligations in Case Action is  
Brought to Withdraw Goods

1. If a third party, on grounds which have arisen prior to the execution of the contract, brings an action against the buyer concerning withdrawal of the goods, the buyer shall involve the seller in the case, and the seller shall participate in the case on the buyer's side.

2. The buyer's failure to involve the seller in the case shall excuse the seller from any liability to the buyer, provided the seller proves that by participating in the case he may have prevented the withdrawal of the sold goods from the buyer.

3. The seller, who was involved in the case by the buyer, but failed to participate therein shall forfeit the right to prove that the buyer mishandled the case.

#### Article 425. Seller's Liability in the Event of Withdrawal of Goods from Buyer

If third parties withdraw the goods from the buyer on the grounds which have arisen prior to the performance of the contract, the seller shall compensate the buyer for the damages incurred by him, unless the buyer knew or should have known about those grounds.

#### Article 426. Consequences of Seller's Refusal to Transfer Goods

Should the seller refuse to transfer the sold goods to the buyer, the buyer shall have the right to demand the transfer of the sold goods to him and compensation for damages inflicted by the delay in performance of the sale contract or shall have the right to refuse to honor the contract of sale and demand compensation for damages.

#### Article 427. Consequences of Nonperformance of Obligation to Transfer Appurtenances and Documents Related to Goods

Should the seller fail or refuse to transfer to the buyer the appurtenances or documents related to the goods, which the seller must transfer in accordance with law, other normative legal acts or the contract of sale ( point 2 of Article 418), the buyer shall have the right to set for the seller a reasonable period of time for the transfer of the same.

Should the seller fail to transfer the appurtenances and documents related to the goods within the specified period, the buyer shall have the right to refuse to accept the goods and the payment, and if the goods have been paid for - to demand compensation of the paid amount of money, unless otherwise provided by contract.

#### Article 428. Amount of Goods

1. The amount of goods to be transferred to the buyer shall be defined in the contract of sale in relevant units of measurement or in money terms. The condition on the amount of goods may be agreed upon by establishing in the contract an appropriate quantifying procedure.

2. If the contract does not specify the amount of goods subject to transfer, the contract shall not be deemed entered into.

#### Article 429. Consequences of Breach of Contract Condition on Amount of Goods

1. Should the seller, in violation of the condition of the sale contract, transfer to the buyer a smaller amount of goods as compared to the amount specified in the contract, the buyer shall have the right, unless otherwise provided by contract, to demand the missing amount of goods be transferred or decline the transferred goods and payment therefor, and if the goods have been paid for - to demand the return of the amount paid.

2. In the event the seller has transferred to the buyer an amount of goods exceeding the quantity specified in the sale contract, the buyer shall notify the seller thereof in accordance with the procedure set forth in point 1 of Article 446 of this Code. If the seller fails to dispose of the respective goods within a reasonable period of time upon the receipt of the buyer's notification, the buyer shall have the right to accept the entire amount of the goods, unless otherwise provided by contract.

3. In the event the buyer accepts the goods in the amount exceeding that specified in the sale contract (point 2 of this Article), the excess goods shall be purchased at the price established for the goods to be accepted under the contract, unless another price is established by the agreement between the parties.

#### Article 430. Assortment of Goods

1. If under the contract of sale goods varying in a certain proportion in type, model, size, color and other characteristics (assortment) are subject to transfer, the seller shall deliver to the buyer the goods in the assortment agreed upon by the parties.

2. If the sale contract fails to specify the assortment and to establish the procedure for determining the same, while it arises from the essence of the obligation, that the goods must be delivered to the buyer in the assortment, the seller shall

have the right to deliver to the buyer the goods in the assortment based on the buyer's needs which the seller was aware of at the time of entering into the contract, or to refuse to perform the contract.

#### Article 431. Consequences of Breach of Contract Condition on Assortment of Goods

1. Upon the transfer by the seller of the goods in an assortment specified in the sale contract which do not comply with the contract, the buyer shall have the right to refuse to accept the goods and to pay for them, and if the goods have already been paid for, demand the return of the amount paid.

2. Should the seller deliver to the buyer together with the goods in assortment consistent with the sale contract the goods violating the contractual clause on assortment, the buyer shall have the right at its discretion to:

accept the goods consistent with the condition on assortment and reject the remainder of the goods;

reject all of the goods transferred;

demand the goods which do not conform to the contractual terms on assortment be replaced with goods in the assortment stipulated in the contract;

accept all of the goods transferred.

3. When rejecting the goods which assortment does not conform to the condition of the sale contract or demanding the replacement of the goods which do not conform to the condition on assortment, the buyer shall also have the right to refuse to pay for these goods, and if the goods have already been paid for - demand the return of the amount paid.

4. The goods which do not conform to the condition of the sale contract concerning assortment shall be considered accepted, if the buyer within a reasonable time upon the receipt of the same fails to inform the seller about its refusal to accept the goods.

5. Unless the buyer rejects the goods which assortment does not conform to the sale contract, the buyer shall pay for such goods the price agreed upon with the seller. In case the seller fails to take the necessary measures to negotiate the price with the buyer within a reasonable period of time, the buyer shall pay for the goods the price which at the time of entering into the contract is usually charged under similar circumstances for similar goods.

6. The rules of this Article shall apply, unless otherwise provided by the sale contract.

#### Article 432. Quality of Goods

1. The seller shall transfer to the buyer goods of the quality consistent with the contract of sale.

2. Where the contract fails to specify the quality of goods, the seller shall transfer to the buyer goods suitable for the purposes which such goods are typically used for.

If the seller is informed by the buyer at the time of entering into the contract about the specific purposes of purchasing the goods, the seller shall deliver to the buyer the goods suitable for use in conformity with these purposes.

3. When goods are sold by sample and (or) by description, the seller shall transfer to the buyer the goods conforming with the sample and (or) description.

4. If the procedure established by a law stipulates mandatory requirements to the quality of goods being sold, the seller involved in the business activity shall transfer to the buyer the goods conforming with these mandatory requirements.

Upon the agreement between the seller and the buyer, the goods to be transferred may conform with higher quality requirements as compared to the mandatory requirements defined in accordance with the procedure established by law.

#### Article 433. Goods Quality Guarantee

1. The goods that the seller must transfer to the buyer must meet the requirements specified in Article 432 of this Code at the time of transfer of the same to the buyer, unless the contract of sale stipulates otherwise time to verify the goods' conformance with the quality standards, and must suit the purposes for which such goods are generally used within a reasonable period of time.

2. In case the sale contract stipulates that the seller shall guarantee the quality of the goods, the seller shall transfer to the buyer goods which must meet the requirements set forth in Article 432 of this Code within the specified period of time established by the contract (guarantee period).

3. The goods' quality guarantee shall extend to all components of the goods (complementary articles) unless otherwise provided by the sale contract.

#### Article 434. Calculating Guarantee Period

1. The guarantee period shall commence to run from the moment of transfer of the goods to the buyer (Article 419), unless otherwise provided by the sale contract.

2. If the buyer is deprived of a possibility to use the goods with respect to which the contract of sale establishes a guarantee period due to circumstances contingent on the seller, the guarantee period shall not run until the seller has eliminated the relevant circumstances.

Unless otherwise provided by contract, the guarantee period shall be extended for a period during which the goods could not be used because of the disclosed defects, provided that the seller is informed about the defects in the goods in accordance with the procedure established by Article 446 of this Code.

3. The guarantee period for a complementary article shall be deemed equal in duration to the guarantee period for the main item, and shall commence to run simultaneously with the guarantee period for the main item, unless otherwise provided by the sale contract.

4. Unless provided otherwise by the sale contract, the same guarantee period as for the replaced products shall be established for the goods (complementary articles) transferred by the seller as a replacement of the goods (complementary articles) where defects are discovered within the guarantee period (Article 439).

#### Article 435. Service Life

1. Law, other normative legal acts, mandatory national standard requirements or other mandatory rules may establish a period of time upon the expiry of which the goods shall be considered non-appropriate for use according to their designation (service life).

2. The seller shall deliver the goods with a fixed service life to the buyer so that they can be used for their designated purpose before the expiry date.

#### Article 436. Calculation of Service Life

The service life of goods shall be determined by a period of time calculated from the manufacture date during which these goods are suitable for use or by the date before the expiry of which these goods are suitable for use.

#### Article 437. Examination of Quality of Goods

1. Examination of the quality of goods may be envisioned by law, other normative legal acts, mandatory national standard requirements or by the sale contract.

The procedure for examination of the quality of goods shall be set forth by law, other normative legal acts, mandatory national standard requirements, or by contract. In the event the examination procedure is set forth by law, other normative legal acts, mandatory national standard requirements, the procedure for the examination of the quality of goods provided by the contract must be consistent with those requirements.

2. If the procedure for examination of the quality of goods is not established in accordance with point 1 of this Article, the quality of goods shall be examined in accordance with the business customs or other practices commonly used to examine the quality of goods subject to transfer under the sale contract.

3. If law, other normative legal acts, mandatory national standard requirements or the sale contract provides for the seller's obligation to examine the quality of the goods to be transferred to the buyer (endurance tests, laboratory tests, visual inspection, etc.), the seller must provide to the buyer evidence of the quality examination of the goods.

4. The procedures and other conditions for examination of the goods quality to be carried out by the seller as well by the buyer must be the same.

#### Article 438. Consequences of Transfer of Goods of Improper Quality

1. If the seller fails to negotiate the defects in the goods with the buyer, the buyer to whom the goods of improper quality are transferred, shall have the right at its discretion to demand from the seller:

a commensurate reduction of the purchase price;

removal of the defects in the goods free of charge within the reasonable period of time;

reimbursement of the expenses on the removal of the defects.

2. In the event of a significant breach of requirements to the quality of goods (disclosure of unremovable defects, of defects which cannot be removed without incommensurable cash or time expenditures, or which are disclosed repeatedly or reappear after they have been removed, and other similar defects), the buyer shall have the right at its discretion to:

refuse to perform the contract of sale and demand the return of the amount paid for the goods;

demand the goods of improper quality be replaced with goods conforming with the contract.

3. If some part of the goods comprising a whole set (Article 441) is of improper quality, the buyer shall have the right to exercise in respect to these goods the rights set forth in points 1 and 2 of this Article.

4. The rules set forth in this Article shall apply, unless otherwise provided by this Code or another Law.

#### Article 439. Defects in Goods Pertaining to Seller's

##### Responsibility

1. The seller shall be held liable for any defects in the goods, if the buyer proves that the defects in goods appeared prior to the transfer of the goods to the buyer or for reasons that existed before the time of transfer.

2. With respect to the goods which have the seller's guarantee of quality, the seller shall be held liable for any defects in the goods, unless the seller proves that these defects appeared after the goods have been transferred to the buyer as a result of the buyer's violation of the rules on use or storage of goods, or as a result of actions of third parties, or as a result of insuperable force.

#### Article 440. Term for Discovering Defects in Transferred Goods

1. Unless otherwise provided by law or by the contract of sale, the buyer shall have the right to file claims in respect to the defects in the goods, provided that the defects were discovered within the term established in this Article.

2. If no guarantee period or service life is established in respect to the goods, the buyer may file claims related to the defects in the goods, provided that the defects in the sold goods are discovered within a reasonable period of time but not later than two years after the goods have been transferred to the buyer or within a longer term, where such period is established by law or by the sale contract. The period for discovering defects in goods subject to transportation or mailing shall start from the date the goods arrive at their destination.

3. If a guarantee period is fixed for the goods, the buyer shall have the right to file claims with regard to defects in the goods, provided these defects are discovered within the guarantee period. In the event the guarantee period for complimentary articles specified in the sale contract is less than that of the main item, the buyer shall have the right to file claims in respect to the defects in complimentary articles provided the defects are discovered within the guarantee period set for the main item.

If the guarantee period for complimentary articles specified in the contract is bigger than that of the main item, the buyer shall have the right to file claims in respect to the defects in the goods provided the defects in complimentary articles are discovered within the guarantee period set for the same irrespective of the expiry of the guarantee period for the main item.

4. With respect to the goods with fixed expiry dates, the buyer shall have the right to file claims related to the defects in the goods, provided such defects are discovered within the service life of the goods.

5. In the event the guarantee period set forth by contract is less than two years, and defects in the goods are discovered by the buyer after the expiry of the guarantee period but within two years from the date of transfer of the goods to the buyer, the seller shall be held liable, if the buyer proves that the defects existed before the transfer of the goods to the buyer or occurred for reasons that existed prior to that moment.

#### Article 441. Completeness of Goods

1. The seller shall transfer to the buyer goods conforming to the provisions on completeness in the contract of sale.

2. In the event the sale contract does not specify the completeness of goods, the seller shall transfer to the buyer goods which completeness is determined in accordance with the business customs or other commonly made requirements.

#### Article 442. Set of Goods

1. If the contract of sale stipulates the seller's obligation to transfer to the buyer specific goods as a complete set (a set of goods), the obligation shall be deemed performed once all the goods constituting a set have been transferred.

2. Unless otherwise provided by the sale contract or unless otherwise arises from the essence of the obligation, the seller shall transfer to the buyer all the goods constituting a set at the same time.

#### Article 443. Consequences of Transfer of Incomplete Set of Goods

1. In case of transfer of incomplete set of goods, the buyer shall have the right at its discretion to demand the following from the seller:

a commensurate reduction of the purchase price;

- completion of the set within a reasonable period of time.
2. If the seller fails to fulfill within a reasonable period of time the buyer's demand to have the set completed, the buyer shall have the right at its discretion to:
- demand the replacement of the incomplete set with a complete set;
  - refuse to perform the contract of sale and demand the return of the amount of money paid.
3. The consequences provided in points 1 and 2 of this Article shall also apply, if the seller violates its obligation to transfer to the buyer a set of goods (Article 442), unless otherwise provided by the contract of sale or unless otherwise arises from the essence of the obligation.

#### Article 444. Packing and Packaging

1. Unless otherwise provided by the contract of sale or unless otherwise arises from the essence of obligation, the seller shall transfer to the buyer packed and (or) packaged goods, except for the goods that by virtue of their nature do not require packing and (or) packaging.
2. Unless the contract specifies requirements to packing and packaging, the goods must be packed and (or) packaged in a way customary for such goods and in the absence of such - in a way ensuring safety of such goods under common conditions of storage and transportation.
3. If the procedure established by law stipulates mandatory requirements to packing and (or) packaging, the seller engaged in the business activities shall transfer to the buyer the goods packed and (or) packaged according to these mandatory requirements.

#### Article 445. Consequences of Transfer of Unpacked and (or) Unpackaged or Improperly Packed and (or) Packaged Goods

1. In the event the goods subject to packing and (or) packaging are transferred to the buyer unpacked and (or) unpackaged or improperly packed and (or) packaged, the buyer shall have the right to demand that the seller pack and (or) package the goods or replace the improper packing and (or) packaging, unless otherwise arises from contract, essence of the obligation or nature of the goods.
2. As stipulated in point 1 of this Article, the buyer shall have the right instead of making demands to the seller as provided in this point to address to him demands arising from the transfer of goods of improper quality (Article 438).

#### Article 446. Notification of Seller of Improper Performance of Sale Contract

1. The buyer shall notify the seller of any violation of the terms of the contract of sale relating to the amount, assortment, quality, completeness, packing and (or) packaging of the goods within the period of time established by law, other normative legal acts or by contract, and if no such period of time is established - within a reasonable time after the violation of the corresponding contract condition was to be discovered proceeding from the amount, nature and designation of the goods.
2. In case of failure to comply with the rule stipulated in point 1 of this Article, the seller shall have the right to refuse to satisfy in part or in full the buyer's demands that the missing amount of goods be transferred to him, or the goods not conforming to the sale contract terms on quality or assortment be replaced, or the defects in the goods be removed, or the incomplete goods be completed or replaced with a complete set of goods, or the goods be packed and (or) packaged, or the improperly packed and (or) packaged goods be replaced, if the seller proves that the buyer's noncompliance with these rules has resulted in impossibility to meet the buyer's demands or entails incommensurable expenses for the seller compared to those which the seller would have incurred, had he been informed in due time of the violation of the contract terms.
3. If the seller knew or should have known that the goods transferred to the buyer do not comply with the sale contract terms, the seller shall have no right to refer to the provisions of point 1 of this Article.

#### Article 447. Buyer's Obligation to Accept Goods

1. The buyer shall accept the goods transferred to him, except for cases when he has the right to demand replacement of the goods or refuse to perform the contract of sale.
2. Unless otherwise provided by law, other normative legal acts or the sale contract, the buyer shall take measures which, in compliance with typically made requirements, he is required to take to ensure the transfer and receipt of the appropriate goods.

3. In the event when the buyer, in defiance of a law, other normative legal acts or the sale contract, does not accept or refuses to accept the goods, the seller shall have the right to demand acceptance of goods from the buyer, or refuse to perform the contract.

#### Article 448. Buyer's Obligation to Pay the Price of Goods

1. The buyer shall pay for the goods the price stipulated in the contract of sale or, if the contract fails to specify the price and the price cannot be determined on the basis of the contract terms, the price which is determined according to point 3 of Article 390 of this Code, as well as perform other actions at his own expense which, in accordance with a law, other legal acts or the contract or typical requirements, are required to provide the payment.

2. When the price is conditional on the weight of the goods, it shall be determined by net weight, unless otherwise provided by the sale contract.

3. If the sale contract stipulates that the price of the goods is subject to change contingent on the indices conditioning the price of goods (cost of production, expenditures, etc.) but at the same time the method of price revision is not defined, the price shall be determined on the basis of correlation of such indices at the time of entering into the contract and at the time of transferring the goods.

If the seller delays to perform his obligation to transfer the goods, the price shall be determined on the basis of correlation of such indices at the time of entering into the contract and at the time of transferring the goods which is stated in the contract, and should the contract fail to establish the transfer time - at the time determined in accordance with Article 305 of this Code. The rules stipulated in this point shall apply, unless otherwise provided by this Code, other normative legal acts or the contract, or unless otherwise arises from the essence of obligation.

#### Article 449. Payment for Goods

1. The buyer shall pay for the goods directly before or after the seller has transferred the goods to him, unless otherwise provided by this Code, other normative legal acts or by the contract of sale.

2. Unless the sale contract provides for a deferred payment for the goods, the buyer shall pay the full price of the transferred goods to the seller.

3. If the buyer fails to pay in due time for the goods transferred according to the sale contract, the seller shall have the right to demand the payment for the goods and the payment of interest in accordance with Article 360 of this Code.

4. If the buyer, in violation of the sale contract, refuses to accept and pay for the goods, the seller shall have the right at his discretion either to demand the payment for the goods or refuse to perform the contract.

5. In the event when the seller is obliged under the sale contract to transfer to the buyer other goods in addition to those that were not paid for, the seller shall have the right to suspend the transfer of such goods till the time all the previously transferred goods have been fully paid, unless otherwise provided by normative legal acts or by the contract.

#### Article 450. Advance Payment for Goods

1. In the event when the contract of sale obligates the buyer to pay the price in full or in part before the seller has transferred the goods (prepayment), the buyer must effect the payment within the time indicated in the contract, and if the contract does not specify such time - within the time established in accordance with Article 305 of this Code.

2. In the event the buyer fails to comply with the obligation stipulated by the contract on advance payment for goods, the seller shall have the right to suspend the sale or to refuse the performance of the sale contract and to demand indemnification of losses. If the buyer made only partial payment for the goods the seller shall have the right to suspend the performance of the sale contract or refuse to perform the corresponding non-paid part of this contract.

3. In the event the seller upon receiving the advance amount fails to perform his obligation to transfer the goods within the established period of time (Article 419), the buyer shall have the right to demand the transfer of the pre-paid goods or the return of the advance amount for the goods that have not been transferred by the seller.

4. Unless otherwise provided by the sale contract, in the event the seller fails to perform the obligation related to the transfer of the pre-paid goods, interest shall be paid on the amount of prepayment in accordance with Article 360 of this Code, starting from the date when the goods were to be transferred under the contract until the date when the goods were actually transferred to the buyer or the pre-payment amount was returned to him.

5. The sale contract may provide for the seller's obligation to pay interest on the pre-payment amount starting from the day when this amount was received from the buyer.

#### Article 451. Payment for Goods Sold on Credit

1. In the event the contract of sale stipulates payment for goods following a certain period of time after the transfer of the goods to the buyer ( sale of goods on credit), the buyer must effect the payment within the period of time indicated in the contract, and if such period is not defined in the contract - within the period of time determined in accordance with Article 305 of this Code.

2. Where the seller fails to perform the obligations to transfer the goods, the rules stated in Article 450 point 2 of this Code shall apply.

3. Where the buyer, having received the goods, fails to fulfill his obligations to pay for them within the period of time established in the contract, the seller shall have the right to demand the payment for the transferred goods or the return of the goods which have not been paid for.

4. Unless otherwise provided by this Code or the sale contract, in the event the buyer fails to perform his obligation to pay for the goods transferred within the period of time established by the contract, interest shall be paid on the arrears in accordance with Article 360 of this Code starting from the date when the goods were to be paid under the contract till the date when the buyer actually paid for the goods.

5. The sale contract may provide for the buyer's obligation to pay interest on the amount corresponding to the price of the goods starting from the date when the goods were transferred by the seller.

6. Unless provided otherwise by the sale contract, from the time of the goods transfer to the buyer and until the payment thereof the goods sold on credit shall be considered as a pledge to secure the buyer's obligation to pay for the goods.

#### Article 452. Payment for Goods by Installments

1. The contract of sale of goods on credit may provide for payment for the goods by installments.

The contract on sale of goods on credit with the condition of payment by installments shall be deemed entered into, where it states the price for the goods, procedure, period and amount of payments along with other material terms and conditions of the sale contract.

2. Where the buyer fails to pay the next installment within the period established by the contract for the goods sold to him on credit or transferred to him, the seller shall be entitled, unless otherwise provided by the contract, to refuse to perform the contract and to demand the return of the sold goods, except for cases, where the amount of installments received from the buyer exceeds half of the value of the goods.

3. Rules stipulated in points 2, 4, 5 and 6 of Article 451 of this Code shall apply to the contract on sale of goods on credit with the condition of payment by installments.

#### Article 453. Insurance of Goods

1. Purchase and sale contract may provide for buyer's or seller's obligation to insure goods.

2. In the event the party obligated to insure goods fails to do so in accordance with the contract conditions, another party shall have the right either to insure the goods and demand from the obligated party to reimburse insurance expenses or to refuse to perform the contract.

#### Article 454. Seller's Retention of Title

1. In the event the purchase and sale contract provides, that the title to the goods transferred to the buyer shall remain with the seller until the goods are paid for or until other circumstances occur, the buyer shall not have the right, until he receives the title, to alienate the goods or otherwise dispose of them, unless otherwise provided by law or the contract or follows from the designation and nature of goods.

2. In the event the transferred good is not paid for within the period established in the contract or other circumstances which condition the transfer of the title to the buyer fail to occur the seller shall be entitled to require the buyer to return the good, unless otherwise provided by the contract.

### § 2. Retail Sale

#### Article 455. Retail Sale Contract

1. Under a retail sale contract a seller doing business by retail sale of goods shall undertake an obligation to transfer a good to the buyer, designated for personal, family, home or other use, other than connected with a business activity.

2. Retail sale contract is a public contract (Article 386).

3. Laws on protection of consumers' rights and other legal acts passed in accordance with them shall apply to the relationships under a retail sale contract between individuals, which are not governed by this Code.

#### Article 456. Form of Retail Sale Contract

Unless otherwise provided by law or retail sale contract, including the terms of requisite forms and other standard blanks which the buyer accedes to (Article 387), the retail sale contract shall be deemed entered into in due form from the time the seller issues to the buyer a cash voucher or sale receipt or any other document certifying payment for goods. The absence of the mentioned documents with the buyer shall not deprive him of the possibility to refer to witnesses' testimony when proving the fact of entering into the contract and terms thereof.

#### Article 457. Public Offer of Goods

1. An offer of goods through advertisements, catalogues and other descriptions of goods addressed to indefinite group of people shall be deemed a public offer (point 2 of Article 398), provided that it contains all essential terms of retail sale contract.

2. Demonstration of goods at sale outlets (counters, showcases, etc.) and demonstration of samples of goods and dissemination of information on goods being sold (specifications, catalogues, pictures, etc.) at sale outlets shall be deemed a public offer regardless of whether the price and other important terms and conditions of the retail sale contract are specified, except for cases when the seller has expressly indicated that the related goods are not intended for sale.

#### Article 458. Disclosure of Information on Goods to Buyer

1. The seller shall provide the buyer with necessary and accurate information on the goods offered for sale, which meets the requirements established by law, other normative legislative acts and usually applied in retail trade to the content and ways of presentation of such information.

2. The buyer shall have the right to examine the goods prior to entering into the retail sale contract, demand the goods' properties be tested in his presence or the goods be demonstrated in operation, unless this is impossible owing to the nature of the goods and contradicts the rules of retail trade.

3. If the buyer is not provided with an opportunity to immediately receive information on the goods at the sale outlet as provided in point 1 and 2 of this Article, the buyer shall have the right to demand the seller to compensate for the losses resulting from a groundless evasion to enter into the retail sale contract (point 4 of Article 406), and if the contract has been entered into - within a reasonable period of time to refuse to perform the contract, demand the return of the amount paid for the goods and compensation for other losses.

4. The seller who fails to provide the buyer with an opportunity to get relevant information on the goods shall be also liable for those defects in the goods, which emerged after the transfer of the goods to the buyer with respect to which the buyer will prove that the defects emerged due to his lacking the appropriate information.

#### Article 459. Sale of Goods Conditioning Buyer's Acceptance of Goods within Specified Period of Time

1. The parties may enter into a contract of retail sale stipulating the buyer's acceptance of goods within a specified period of time during which the goods may not be sold to another buyer.

2. Unless otherwise provided by a retail sale contract, the buyer's failure to show up or take other actions necessary to accept the goods at the time specified in the contract, may be regarded by the seller as the buyer's refusal to perform the contract.

3. Any additional expenses incurred by the seller when ensuring the transfer of the goods to buyer at the time specified in the contract shall be added to the price of the goods unless otherwise provided for by law, other normative legal acts or the contract.

#### Article 460. Sale of Goods by Sample

1. A retail sale contract may be entered into with the buyer based on a sample of goods (their description, catalogue, etc.) offered by the seller.

2. Unless otherwise provided by law, other normative legislative acts or contract of retail sale of goods based on a sample, such contract shall be considered discharged at the time the goods are delivered to the location specified in the contract, and if no goods transfer location is specified in the contract - at the time the goods are delivered to the place of residence of the individual or the location of the legal entity.

3. The buyer shall have the right prior to the transfer of the goods to refuse to perform the contract on retail sale on condition of compensating the seller for the necessary expenses relating to the performance of the contract.

#### Article 461. Sale of Goods by Using Vending Machines

1. In the event goods are sold by using vending machines, the owner of the automatic machines shall provide the buyer with information on the seller by attaching to the vending machines or in any other way supplying information about the seller's name (firm name), location, working hours and actions which customer needs to perform to obtain the goods.

2. The contract on retail sale by using vending machines shall be deemed entered into once the buyer performs actions necessary to obtain goods.

3. If the goods paid for are not provided to the buyer, the seller shall immediately provide the buyer with the goods at his request or return the amount paid by the buyer.

4. The rules on retail trade shall apply in the event the vending machines are used to change money, provide means of payment, exchange currency, unless otherwise arises from the essence of the obligation.

#### Article 462. Sale of Goods on Condition of Their Delivery to Buyer

1. In the event the contract on retail sale is entered into on condition of delivery of goods to the buyer, the seller shall deliver the goods to the location specified by the buyer within the period established in the contract, and if the goods transfer location is not specified by the buyer - to the place of residence of the individual or the location of the legal entity who is the buyer.

2. The retail sale contract shall be deemed discharged once the goods have been handed over to the buyer or, in the absence of the latter, to any person who produces the receipt or another document, certifying the contract or formalizing the delivery of the goods, unless otherwise provided by law, other normative legal acts or the contract or unless otherwise arises from the essence of the obligation.

3. In the event the contract does not specify the time of the goods delivery to the buyer, the goods must be delivered within a reasonable period, following the receipt of the buyer's request.

#### Article 463. Contract of Sale by Installments

The contract may establish that before transfer of the ownership right for the good to the buyer (Article 454) the latter shall be the lessee of the good transferred to him (lease and sale contract).

Unless otherwise provided by the contract the buyer becomes owner of the good from the moment of full payment of the price of the good.

#### Article 464. Price and Payment of Goods

1. The buyer shall pay for the goods the price announced by the seller at the time of entering into the contract of retail sale, unless otherwise provided by law, other normative legal acts or unless otherwise results from the essence of the obligation.

2. In the event the retail sale contract stipulates prepayment for the goods (Article 450), the buyer's failure to pay for the goods within the period specified by the contract shall be deemed as the buyer's refusal to perform the contract, unless otherwise agreed upon by the parties.

3. Contracts of retail sale of goods on credit, including those providing for the buyer to pay for the goods by installments, shall not be subject to the rules established in point 4 of Article 451 of this Code.

4. The buyer shall have the right to pay in full for the goods at any time within the period for payment by installments established in the contract.

#### Article 465. Exchange of Goods

1. The buyer shall have the right within fourteen days after the transfer of non-food products to him, unless a longer period is determined by the seller, to exchange the purchased goods at the place of purchase or other places indicated by the seller for similar goods of different size, shape, dimension, model or complementary parts, compensating the difference in price to the seller, if necessary.

In the event the seller does not have goods available for exchange, the buyer shall have the right to return the purchased goods to the seller and get back the amount of money paid for the goods.

The buyer's demand to have the goods exchanged or returned shall be satisfied, provided the goods have not been used, their consumer properties have been preserved and evidence of the goods having been purchased from the seller is available.

2. The list of goods which are not subject to exchange or return on the grounds stipulated in this Article, shall be defined in the procedure established by law or other normative legal acts.

#### Article 466. Buyer's Rights in the Event Goods of Improper Quality Have Been Sold to Him

1. The buyer, who has bought the goods of improper quality, provided the defects in the goods have not been pointed out in advance by the seller, shall have the right to demand at his own option:

replacement of the goods of improper quality with goods of proper quality;

a commensurate reduction in the purchase price;

immediate elimination without compensation of the defects in the goods;

reimbursement of the costs, relating to the elimination of the defects in the goods.

2. In the event of disclosing defects in goods whose properties preclude the elimination thereof (food products, household chemicals and the like), the buyer shall have the right to demand at his option the replacement of such goods with goods of proper quality or a commensurate reduction in the purchase price.

3. Instead of making the demands stipulated in points 1 and 2 of this Article, the buyer shall have the right to refuse to perform the contract of retail sale and demand the return of the amount of money paid for the goods, having returned the goods of improper quality to the seller.

While returning to the buyer the amount of money paid for the goods, the seller shall have no right to deduct from it the amount by which the value of goods was reduced due to a full or partial use of the goods, loss of their vendibility or other similar circumstances.

#### Article 467. Compensation for Difference in Price During Replacement of Goods, Reduction of Purchase Price and Return of Goods of Improper Quality

1. While replacing goods of improper quality with goods of proper quality consistent with the retail sale contract, the seller shall have no right to demand compensation of difference between the price specified in the contract and the price of the goods at the time of replacement thereof or at the time of a court passing the judgement on replacement of goods.

2. When goods of improper quality are replaced with similar goods of proper quality but of different size, model, grade, etc., the difference between the price of the goods being replaced and the price of the goods transferred in exchange for the goods of improper quality shall be compensated at the time of replacement. If the buyer's demand is not satisfied by the seller, the price of the good to be replaced and the price of the good given instead of it shall be determined at the time of a court judgment on replacement of the good.

3. In the event a demand is made regarding a commensurate reduction in the purchase price of the goods of improper quality, the price of the goods fixed at the time of their receipt shall be taken into account; and if the claim of the buyer is not satisfied - at the time of the court judgement on commensurate reduction of the price.

4. When returning the goods of improper quality to the seller, the buyer shall have the right to demand compensation of the difference between the price of the goods specified in the contract and the price of the relevant goods at the time of the voluntary satisfaction of the buyer's demand, and if the demand was not voluntarily satisfied - at the time of the corresponding court judgment.

#### Article 468. Seller's Liability and Performance of Obligation in Kind

In the event the seller fails to perform an obligation under the contract of retail sale, neither compensation for losses nor payment of penalty shall relieve the seller from performing the obligation in kind.

### § 3. Supply of Goods

#### Article 469. Supply Contract

Under the contract of supply, the supplier - seller involved in the entrepreneurial activity shall undertake to transfer to the buyer within the specified period or periods the goods manufactured or purchased by him to be used in business activity or for other purposes not related to personal, family, household or other similar use.

#### Article 470. Effective Period of Supply Contract

1. A contract of supply may be entered into for one year, for the period of more than one year (long-term contract) or for another period stipulated by the agreement of the parties. In the event the contract fails to specify the effective period, it shall be deemed entered into for one year.

2. In the event a long-term supply contract specifies a number of goods to be supplied or other conditions of the contract for one year or less, the contract must identify the procedure for negotiating these conditions for the next period by the parties until the expiration of the effective period of the contract. In the event the contract fails to specify such procedure, the contract shall be deemed entered into respectively for one year or for the period established for the conditions of the contract.

3. In the event one of the parties to a long-term contract refuses or evades to negotiate a number of goods to be delivered or other conditions of the contract for the next period in the procedure established by the contract, the other party shall have the right to petition to the court with the claim to define the terms of supply of goods for related periods or to annul the supply contract.

#### Article 471. Settlement of Disagreements When Entering into Supply Contract

In the event, during entering into a supply contract, disagreement arose between the parties regarding certain terms of the contract, the party which proposed to enter into the contract and received the proposal from the other party to negotiate these terms must within thirty days of the receipt of the proposal unless another period is stipulated by law or agreed upon between the parties take measures either to negotiate the respective terms of the contract or notify the other party in writing about the refusal to enter into the contract.

#### Article 472. Supply Periods

1. If the parties agreed upon supply of goods by separate shipments within the effective period of the supply contract and the term for shipments (supply periods) is not specified, the goods must be supplied by equal shipments on a monthly basis, unless otherwise arises from law, other normative legal acts, essence of the obligation or the customs of business turnover.

2. In addition to specifying the supply periods, the contract may also establish a schedule of goods delivery (on a ten-day, daily, hourly basis, etc.).

3. Delivery ahead of schedule may take place with the buyer's consent. Goods delivered ahead of time and accepted by the buyer shall be accounted for as part of the goods to be delivered in the future period.

#### Article 473. Procedure for Supply of Goods

1. Supply of goods shall be carried out by the supplier by shipping (transferring) the goods to the buyer under the supply contract or to the person indicated in the contract as consignee.

2. In the event the supply contract specifies the buyer's rights to instruct the supplier on the shipment (transfer) of goods to consignee (shipment instructions), the shipment (transfer) of the goods shall be carried out by the supplier to the consignee named in the shipment instructions.

The content of the shipment instruction and the time when it may be dispatched by the buyer to the supplier shall be regulated by the contract. In the event the time for dispatching the shipment instruction is not specified in the contract, it must be sent to the supplier no later than thirty days before the delivery period is due.

3. The buyer's failure to send a shipment instruction to the supplier within the stipulated time shall enable the supplier to refuse to perform the supply contract, unless otherwise provided by the supply contract.

#### Article 474. Delivery of Goods

Delivery of goods by the supplier shall be carried out by shipping goods by the means of transportation specified in the contract and on the terms provided by the contract.

In the event the contract does not specify the type of transportation or the terms of delivery, the supplier shall have the right to choose the type of transportation or terms of delivery, unless otherwise arises from law, other normative legal acts, essence of the obligation or customs of business turnover.

#### Article 475. Making up for Undersupplied Goods

1. A supplier who made incomplete delivery of goods during certain delivery period shall send the undersupplied amount of goods in the following period (periods) within the effective period of the supply contract, unless otherwise provided by the contract.

2. An amount of goods undersupplied during a certain supply period under the long-term contract shall be subject to supply during the next period (periods) within the year where undersupply occurred, unless otherwise provided by the contract.

3. In the event goods are shipped by the supplier to several consignees named in the supply contract or in the shipment instruction of the buyer, goods oversupplied to one consignee as compared to the amount specified in the contract or the shipment instructions shall not offset the undersupplied goods to the other consignees, unless the contract provides otherwise.

4. The buyer, upon notifying the supplier, shall have the right to refuse to accept the delayed shipment of the goods, unless the contract provides otherwise. The buyer shall accept and pay for the goods delivered prior to the supplier's receipt of such notice.

#### Article 476. Assortment of Goods Supplied to Make up for Undersupplied Goods

1. The assortment of goods to be supplied to make up for undersupplied goods shall be determined by agreement between the parties. Where there is no such agreement the supplier shall make up for the amount undersupplied in the assortment established for the period when the undersupply occurred.

2. The supply of one article of goods in excess of the amount provided by the supply contract shall not offset the undersupply of another article of goods included in the same assortment and shall be made up for, except for cases when such shipment was preceded by the buyer's written consent.

#### Article 477. Acceptance of Goods by Buyer

1. The buyer (consignee) shall take all necessary actions to ensure the acceptance of goods supplied according to the supply contract.

2. The goods accepted by the buyer (consignee) must be inspected by him within the term established by law, other normative legal acts, the supply contract or the customs of business turnover.

The buyer (consignee) shall within the same period of time verify the quantity and quality of the accepted goods in the procedure established by law, other normative legal acts, supply contract or the customs of business turnover and immediately notify the supplier in writing of the disclosed irregularities or defects in the goods.

3. When receiving goods from a transportation organization, the buyer (consignee) shall verify the conformity of the goods with the data indicated in the transport and accompanying documents and also accept the goods from the transportation organization in conformity with the rules regulating the operation of transport stipulated by legislation.

#### Article 478. Bailment of Goods Not Accepted by Buyer

1. When the buyer (consignee) in accordance with law, other normative legal acts or supply contract refuses to accept the goods transferred by the supplier, the buyer shall ensure the safety of the goods (bailment) and promptly notify the supplier.

2. The supplier shall remove the goods accepted by the buyer (consignee) for bailment or dispose of them within a reasonable period of time.

In the event the supplier fails to dispose of the goods within that period of time, the buyer shall have the right to sell the goods or return them to the supplier.

3. Necessary expenses incurred by the buyer as a result of accepting the goods for bailment, the sale of the goods or their return to the supplier shall be recompensed by the supplier. The proceeds from the sale of the goods shall be transferred to the supplier less the amount due to the buyer.

4. When the buyer, without any reason provided by law, other normative legal acts or the contract does not accept goods from the supplier or refuses to accept them, the supplier shall have the right to demand the buyer to pay for the goods.

#### Article 479. Goods Selection

1. When the supply contract provides for the transfer of goods to the buyer (consignee) at the supplier's location (goods selection), the buyer must ensure the inspection of the goods at the place of their transfer, unless otherwise provided by law, other normative legal acts or unless otherwise arises from the essence of the obligation.

2. The buyer (consignee) must make the selection of goods within the period specified by the supply contract, and where there is no such period - within a reasonable period of time after the receipt of supplier's notice on the readiness of the goods.

3. The buyer's (consignee's) failure to select the goods at the time established by the supply contract and if no such time was established - within a reasonable term after the receipt of the supplier's notice on the readiness of the goods shall enable the supplier to refuse to perform the contract or demand the buyer (consignee) to pay for the goods.

#### Article 480. Settlements for the Goods Supplied

1. The buyer shall pay for the goods supplied in compliance with the procedure and form of settlement provided by the supply contract. If no procedure and form of settlement are agreed upon by parties, the settlement shall be performed by payment orders.

2. In the event the supply contract provides that the goods are to be paid by the consignee (payer) while the latter without reason refused to effect the payment or failed to pay for the goods within the term stipulated in the contract, the supplier shall have the right to demand the buyer to pay for the supplied goods.

3. In the event the supply contract provides for the goods to be delivered by shipments of parts comprising a set, the buyer shall pay for the goods following the shipment (selection) of the last part of the set, unless otherwise provided by the contract.

#### Article 481. Tare and Packing

1. Unless otherwise provided by the supply contract, the buyer (consignee) shall return to the supplier re-usable tare and means of packing which came with the shipment of goods in the procedure and within the term established by law, other normative legal acts, mandatory rules adopted in compliance with them or the contract.

2. Other tare and packing shall be returned to the supplier only as specified in the contract.

#### Article 482. Consequences of Supplying Goods of Improper Quality

1. The buyer (consignee) to whom goods of improper quality have been supplied shall have the right to address to the supplier demands provided for in Article 438 of this Code, except for cases when the supplier upon the receipt of the buyer's notification concerning the defects of the delivered goods promptly replaces the goods delivered with goods of proper quality.

2. The buyer (consignee) selling goods by retail shall have the right to demand within a reasonable period of time the replacement of the goods of improper quality returned by the consumer unless otherwise provided by the supply contract.

#### Article 483. Consequences of Supplying Incomplete Sets of Goods

1. The buyer (consignee) to whom goods were delivered in violation of conditions of the supply contract, requirements of a law, other legal acts or general requirements to completeness of goods shall have the right to address to the supplier demands provided by Article 443 of this Code, except for the cases when the supplier upon the receipt of the buyer's (consignee's) notification concerning the goods having been delivered in an incomplete set promptly supplies the missing components or replaces such goods with a complete set of goods.

2. The buyer (consignee) selling goods by retail shall have the right to demand within a reasonable period of time the replacement of incomplete goods returned by the consumer with complete goods unless otherwise provided by the supply contract.

#### Article 484. Buyer's Right in Event of Undersupply of Goods, Non-Fulfillment of Demands to Eliminate Defects or Supply Missing Components

1. If the supplier has failed to deliver the amount of goods stipulated in the supply contract or meet the buyer's demand to replace the goods of improper quality or supply the missing components within the established time, the buyer shall have the right to purchase the non-supplied goods from other persons and charge the supplier for all necessary and reasonable costs related to the purchase thereof.

2. The buyer (consignee) shall have the right to refuse to pay for goods of improper quality or incomplete goods, and if such goods have been paid for - to demand the return of the amount paid until the defects are eliminated and the missing components supplied or until the goods are replaced.

#### Article 485. Penalty for Undersupply or Delay in Supply of Goods

Penalty established by law or the supply contract for undersupply or delayed delivery of goods shall be recovered from the supplier until the actual fulfillment of the obligation within the scope of supplier's obligation to make up for the missing amount of goods in subsequent delivery periods unless another penalty payment procedure is established by law or the contract.

#### Article 486. Unilateral Refusal to Perform Supply Contract.

##### Change of the terms of the supply contract

1. Unilateral refusal to perform the supply contract (in full or in part) or unilateral alteration thereof shall be allowed in the event of a material violation of the contract by one of the parties (paragraph 4 of point 2 of Article 411).

2. A violation of the supply contract on the part of the supplier shall be deemed material in the event of: supply of goods of improper quality with defects that cannot be eliminated within the time acceptable for the buyer; recurrent violations of the delivery schedule.

3. A violation of the supply contract on the part of the buyer shall be deemed significant in the event of: recurrent violations of the payment schedule; recurrent failure to select goods.

4. The parties' agreement may provide for other grounds for unilateral refusal to perform the supply contract.

5. The supply contract shall be deemed canceled from the time of receipt by one party of the notice from the other party concerning a unilateral refusal to perform the contract in part or in full, unless another time for the cancellation of the contract is specified in the notice or established upon agreement between the parties.

6. The alteration of the terms of the supply contract shall be allowed by agreement between the parties, and in case of failure to reach the agreement - in accordance with the procedure established in Article 413 of this Code.

### § 4. Power Supply

#### Article 487. Contract of Power Supply

1. Under the contract of power supply, the power supplying organization shall undertake to transmit electric power to the user (consumer) via a connected grid, and the user shall undertake to pay for the electric power received and comply with the regime of power consumption provided for by the contract, ensure safe operation of the power network within the user's jurisdiction and maintain the devices and equipment used by him for power consumption in working condition.

2. The contract of power supply shall be concluded with the user, provided that he has a power facility meeting the established technical requirements and connected to the grid of the power supplying organization, other necessary equipment, and ensures power consumption metering.

3. Relations under the contract of power supply not regulated by this Code shall be subject to law and other normative legal acts on power supply, and mandatory rules adopted in conformance therewith.

#### Article 488. Conclusion and Renewal of Contract of Power Supply

1. In the event the user under the contract of power supply is a citizen who consumes power for household purposes, the contract shall be considered entered into from the time of the first actual connection of the user to the grid in the established procedure.

2. The contract of power supply concluded for a specified term shall be considered prolonged for the same period and on the same terms if neither party announces before the expiry of the contract term the termination or alteration thereof or the conclusion of a new contract. While renewing the contract its terms may be altered subject to the agreement between the parties.

3. If either party initiates entering into a new contract before the expiry of the existing contract, the relations between the parties prior to entering into the new contract shall be regulated by the previously signed contract.

#### Article 489. Amount of Power

1. The power supplying organization shall transmit to the user electric power via the connected grid in the amount specified by the energy supply contract and in compliance with the regime of supply agreed by the parties. The amount of electric power transmitted by the power supplying organization and consumed by the user shall be determined on the basis of the data on its actual consumption.

2. The energy supply contract may provide for the user's right to change the amount of electric power received by him under the contract, provided that the user reimburses the power supplying organization for the costs sustained there by when ensuring the transmission of electric power in the amount not specified by the contract.

3. In the event the user under the contract of power supply is an individual who consumes electric power for household purposes, he shall have the right to consume as much electric power as he needs.

#### Article 490. Quality of Power

1. The quality of electric power transmitted by the power supplying organization must comply with the requirements established by the state standards and other mandatory rules or those provided by the energy supply contract.

2. In the event of violation by the power supplying organization of the requirements set to the quality of power, the user shall have the right to refuse to pay for such electric power.

#### Article 491. Buyer's Duty to Maintain and Operate Network, Metering Instruments and Equipment

1. The user shall ensure proper technical state and safety of operated power transmission lines, metering instruments and equipment, follow the established regime of power consumption and promptly notify the power supplying organization about accidents, fires, defects in electric power metering instruments and other faults arising in the process of power consumption.

2. In the event the user under the contract of power supply is an individual who consumes power for household purposes, the obligation to ensure proper technical condition and safety of power transmission lines as well as electric power metering instruments rests with the power supplying organization unless otherwise provided by the law or other legal acts.

3. Requirements to the technical state and operation of power network, metering instruments and equipment, as well as the procedure for monitoring the compliance with such requirements shall be determined by the law, other normative legal acts and mandatory rules passed in accordance with them.

#### Article 492. Payment for Power

1. Payment for power shall be made in accordance with the actual amount of electric power consumed by the user according to the readings of power consumption metering instruments, unless otherwise provided for by a law, other normative legal acts or agreement between the parties.

2. Settlement procedure for electric power shall be determined by law, other legal acts or agreement between the parties.

#### Article 493. Sub-User

The user may further transmit electric power received by him from the power supplying organization via a connected grid to another person (sub-user) only with the consent of the power supplying organization.

#### Article 494. Alteration and Cancellation of Contract

1. In event the user under the contract of power supply is an individual who uses electric power for household needs, he shall have the right to unilaterally cancel the contract, provided that he notifies the power supplying organization of the fact and pays in full for the power consumed.

In the event the user under the contract of power supply is a legal entity the power supplying organization shall have the right to unilaterally refuse to perform the contract on the grounds provided by Article 486 of this Code, except as stipulated by normative legal acts.

2. Interruption, discontinuance or limitation of power supply shall be allowed by agreement between the parties, except for cases when the unsatisfactory condition of the user's power facility certified by the state power supervision agency creates a risk of accident or threatens the life and safety of people. The power supply organization must warn the user about interrupting, discontinuing or limiting the power supply.

3. Interruption, discontinuance or limitation of power supply without the user's approval or appropriate notification shall be acceptable when urgent measures need to be taken to prevent or liquidate accidents in the system of the power supplying organization, provided the user is promptly notified of the fact.

#### Article 495. Liability under Contract of Power Supply

1. In the event of non-performance or improper performance of obligations under the contract of power supply, the party to have violated its obligation shall recompense for the resulting real damages (paragraph two point 2 of Article 14).

2. If power supply is interrupted due to regulation of the power consumption regime effectuated on the basis of normative legal acts, the power supplying organization shall be held liable for the non-performance or improper performance of its contractual obligations, provided there is evidence of the supplier being at fault.

#### Article 496. Application of Rules on Power Supply to Other Contracts

1. Rules of this section shall apply to relations concerning heat supply via a connected grid, unless otherwise established by normative legal acts.

2. Relations concerning the supply via a connected grid of natural gas, oil, oil products, water and other commodities shall be subject to the rules of this point, unless otherwise established by normative legal acts or arises from the essence of the obligation.

### § 5. Sale of Enterprise

#### Article 497. Contract of Sale of Enterprise

1. Under the contract of sale of an enterprise, the seller shall undertake to transfer in the buyer's ownership a whole enterprise as a property complex (Article 33), except for the rights and obligations which the seller is not entitled to transfer to other persons.

2. The rights to use the firm name, trade mark, service mark and other means of individualization of the seller and his products, work or services shall pass to the buyer unless provided otherwise by the contract.

3. The seller's rights obtained by him on the basis of a permit (license) to exercise an appropriate activity shall not be subject to transfer to the buyer of the enterprise unless otherwise provided by normative legal acts. The transfer to the buyer of obligations included in the composition of the enterprise which the buyer cannot perform unless he has such permit (license) shall not relieve the seller of the respective obligations to the creditors. Failing to perform such obligations, the seller and the buyer shall be held jointly and severally liable to the creditors.

#### Article 498. Form and State Registration of Contract of Sale of Enterprise

1. The contract of sale of an enterprise shall be entered into in written form (in accordance with Article 416) by drawing up a single document signed by the parties (point 2 of Article 395) and accompanied by mandatory documents specified in point 2 of Article 499 of this Code.

2. Failure to comply with the form of the contract of sale of an enterprise shall invalidate the contract.

3. The contract of sale of an enterprise shall be subject to state registration and deemed entered into as of the date of such registration.

#### Article 499. Verification of Composition and evaluation of Enterprise to Be Sold

1. The composition and value of an enterprise to be sold shall be determined in the contract of sale of the enterprise on the basis of total inventory of enterprise conducted in compliance with the rules established for such inventory.

2. Prior to entering into the contract of sale of the enterprise, the parties must draw up and examine the following documents: the inventory act, balance sheet on composition and value of the enterprise, and a list of all debts (liabilities) included in the composition of the enterprise complete with the creditors, nature, amount and maturity of their claims.

The property, rights and obligations specified in the above documents shall be subject to transfer from the seller to the buyer, unless otherwise arises from the rules of Article 497 of this Code or stipulated by agreement between the parties.

#### Article 500. Creditor's Rights in Event of Sale of Enterprise

1. Creditors on obligations included in the composition of the enterprise to be sold must be notified in writing by the seller of the enterprise at least 21 days prior to transfer of the enterprise to the buyer.

2. The creditor must inform the seller in written form on his consent or disagreement with the debt transfer within 45 days after receipt of the written notification. If the creditor fails to submit his notification on disagreement, then the consent of such creditor for the debt transfer is presupposed. The creditor who declared his disagreement for the debt transfer must immediately demand either termination or advance performance of the obligation and indemnification of the losses by the seller or deem the contract of sale of the enterprise invalid in full or in the appropriate part thereof.

3. The creditor who was not notified of the sale of the enterprise in compliance with the procedure stipulated in point 1 of this Article may bring an action to satisfy demands stipulated in point 2 of this Article within a year of the date he learned or should have learned about the seller's transfer of the enterprise to the buyer.

4. Following the transfer of the enterprise to the buyer, the seller and the buyer shall bear joint and several liability with regard to debts included in the composition of the transferred enterprise which were assigned to the buyer without the creditor's consent.

#### Article 501. Transfer of Enterprise

1. The seller shall transfer the enterprise to the buyer on the basis of a transfer deed which contains data on the composition of the enterprise, the notification of creditors of the sale of the enterprise and information concerning revealed defects in the transferred property which the seller has failed to transfer in discharge of his obligation due to its loss.

Preparation of the enterprise to transfer, including drawing up and presenting for signing the transfer deed, shall pertain to the seller's obligations to be carried out at his expense, unless otherwise provided by the contract.

2. The enterprise shall be deemed transferred to the buyer from the day the transfer deed is signed by both parties. Since that time the risk of accidental loss of or accidental damage to the property transferred in the composition of the enterprise shall pass to the buyer.

#### Article 502. Transfer of Ownership Right to Enterprise

1. The right of ownership to an enterprise shall pass to the buyer as of the date of the state registration thereof.

2. The ownership right of the buyer to the enterprise shall be subject to the state registration immediately after the enterprise has been transferred to the buyer (Article 501).

3. In the event the contract stipulates that the seller retains the right of ownership to the enterprise transferred to the buyer until the enterprise is paid for or until other circumstances ensue, the buyer shall have the right, before the ownership right has been transferred to him to dispose of the property and rights included in the composition of the transferred enterprise, to the extent it is necessary to ensure the operation of the enterprise as a property complex.

#### Article 503. Consequences of Transfer and Acceptance of Enterprise with Defects

1. The consequences of the seller transferring and the buyer accepting on the basis of a transfer deed an enterprise whose composition does not comply with that provided by the contract of sale of an enterprise, including with respect to the quality of the property transferred, shall be determined on the basis of the rules specified in Articles 423-425, 429, 432, 438, 442 of this Code, unless otherwise arises from the contract or provided by points 2-4 of this Article.

2. In the event an enterprise was transferred and accepted under a transfer deed which contained information on revealed defects in the enterprise and lost property (point 1 of Article 500), the buyer shall have the right to demand an adequate reduction of the purchase price of the enterprise, unless the right to lay other claims is provided by the contract of sale of an enterprise.

3. The buyer shall have the right to demand a reduction of the purchase price in the event of transfer to him in the composition of the enterprise of the seller's debts (obligations) which were omitted from the contract or transfer deed, unless the seller proves that the buyer knew about such debts (obligations) at the time of entering into the contract and the enterprise transfer.

4. The seller when receiving the buyer's notice of defects in the property transferred as part of the enterprise or of some types of property subject to transfer missing from the composition of the enterprise may promptly replace the property of improper quality or provide the missing property to the buyer.

5. The buyer shall have the right to demand through court the cancellation or alteration of the contract of sale of the enterprise and the return of what has been performed under the contract by the parties, if it is established that the enterprise due to the defects which the seller is liable for, is not suitable for the purposes indicated in the contract of sale of the enterprise, and the seller did not eliminate these defects in compliance with the terms, procedure and within the time established pursuant to this Code, other normative legal acts or the contract, or that such defects cannot be eliminated.

Article 504. Application to Contract of Sale of Enterprise of  
Rules on Consequences of Invalidity of Transactions  
and on Alteration and Cancellation of Contract

The rules of this Code on the consequences of invalidity of transactions and on alteration or cancellation of the contract of sale providing for the return or recovery in kind of all received under the contract from one or both parties shall apply to the contract of sale of an enterprise, unless such consequences considerably violate the rights and legally protected interests of the seller and buyer's creditors, other persons and do not contradict public interests.

CHAPTER 24  
BARTER

Article 505. Barter Contract

1. Under barter contract, each party undertakes an obligation to transfer in other party's ownership one good in exchange for another.

Rules on purchase and sale (Chapter 23) shall apply to barter contract, to the extent they do not contradict the rules of this Chapter and essence of barter. In this case, each party shall be recognized as the seller of a good, which it undertakes to transfer, and the purchaser of a good, which it undertakes to accept in exchange.

2. Legal entities established on the right of business management shall have the right to act as a participant in a barter contract, where they transfer immovable property, only with the consent of the owner of the property of that legal entity (point 3 Article 230).

3. The legal entities based on the right of operative management shall have the right to act as a participant in a barter contract, where they transfer the property assigned to them, only with the consent of the owner of the property of that legal entity (point 3 Article 231).

Article 506. Prices and Costs under Barter Contract

1. Unless otherwise follows from barter contract, goods subject to exchange are assumed equal, and the costs of their transfer and acceptance shall be incurred by the party, which bears corresponding obligations.

2. In the event pursuant to the contract the exchanged goods are found unequal, a party obligated to transfer the good which price is less than the price of the good to be exchanged, must pay the difference of the prices right before or immediately after the transfer of the good or transportation documents on it, unless otherwise provided by the contract.

Article 507. Transfer of Right of Ownership to Exchanged Goods

Unless otherwise provided by law or exchange contract, the ownership right to exchanged goods shall transfer to parties which act in compliance with the exchange contract as purchasers, along with the performance of the obligation to transfer the respective goods by both parties.

Article 508. Liability for Withdrawal of Good Acquired in  
Compliance with Exchange Contract

In the presence of grounds provided by Article 425 of this Code, a party, from which a good was withdrawn by a third party, which good was acquired in compliance with an exchange contract, shall have the right to demand that another party should return the good, received by the latter in exchange, and (or) that damages should be indemnified.

CHAPTER 25  
DONATION

Article 509. Donation Contract

1. Under the contract of donation, one party (donor) during its lifetime shall transfer or undertake an obligation to transfer without compensation to the other party (donee) a thing into ownership or a property right (claim) to itself or to a third person, or relieve or undertake an obligation to relieve such party of a property obligation to itself or to a third person.

2. The contract shall not be considered as a donation contract in case of existence of counter-transfer of a good or a right or existence of a counter-obligation. The rules of point 2 Article 188 of this Code shall apply to such agreement.

3. The promise to transfer to somebody certain thing or property right or to release somebody from property obligation (promise of donation) shall be considered as a donation contract and shall be binding for the promisor provided it is made in proper form (point 2 Article 510) and contains express intention to perform in future gratuitous transfer of the thing or right to specific person or to release the person from property obligation.

The promise to donate all its property or part of all the property, without specification of the donation item in the form of a thing, right or release from an obligation, shall be void.

#### Article 510. Form of Donation Contract

1. Donation accompanied by the transfer of the gift to the donee may be executed verbally, except as stipulated in point 2 and 3 of this Article.

The transfer of a gift shall be effected by handing it over, symbolic transfer (handing over the keys, etc.), or handing over the title documents.

2. Donation contract of the movable property must be in simple written form, in the event, where:

1) the donor is a legal entity and the value of the gift exceeds ten minimum wages established by the law;  
2) the contract contains the promise to donate in future. In cases provided in this point a verbal donation contract may be recognized as invalid by the court at the claim of the donor.

3. Contract of donation of immovable property must be notarized and is subject to state registration.

#### Article 511. Prohibition of Donation

Except for ordinary gifts, which value does not exceed ten minimum wages established by the law, no donation shall be allowed:

1) by legal entities of the property belonging to them on the right of business management or operative management;  
2) on behalf of minors and individuals deemed disabled by their legal representatives;  
3) to government officials and employees of agencies of the local self-governance employees in connection with the performance of their official duties;  
4) to the workers of medical, educational, social protection and other similar institutions by the citizens being there on treatment, keeping or education, or by spouses and relatives of these citizens;  
5) in relationships between commercial organizations.

#### Article 512. Restrictions on Donation

1. Donation of the property held in common joint ownership is allowed with the consent of all the participants of the joint ownership, provided the rules of Article 272 of this Code are observed.

2. Donation of the right of claim to a third party owned by the donor shall be subject to the rules stipulated in Articles 314-317 of this Code.

3. Donation by way of performance by the donor of the donee's duties to the third party shall be subject to the rules stipulated in point 1 of Article 303 of this Code.

Donation by way of the donor assuming the donee's debt to the third party shall be subject to the rules stipulated in Article 318 of this Code.

4. Any power of attorney to donate a gift by a representative which specifies neither the donee nor the object of donation shall be null and void.

#### Article 513. Refusal to Perform Donation Contract

1. The donor shall have the right to refuse to perform the contract containing a promise to transfer in future to the donee a thing or right or to relieve the donee of a property obligation if after conclusion of the contract the financial situation of the donor has been considerably worsened.

2. The donor shall have the right to refuse to perform the contract containing a promise to transfer in future to the donee a thing or right or to relieve the donee of a property obligation on the grounds entitling him to cancel donation (Article 514, point 1).

3. The donor's refusal to perform the donation contract on the grounds stipulated in point 1 and 2 of this Article shall not entitle the donee to demand compensation for damages.

#### Article 514. Cancellation of Donation

1. Donation may be canceled by court in the event the donee commits intentional crime against life or health of the donor, members of his family or close relatives.

In the event of wilful homicide of the donor by the donee, the right to claim the cancellation of the donation in court shall belong to the donor's heirs.

2. Donation contract may provide for the donor's right to cancel the donation in the event the donor outlives the donee.

3. In the event of cancellation of the donation, the donee shall return the gift if the gift has remained in kind by the time the donation is canceled.

#### Article 515. Cases, Where Refusal to Perform a Donation Contract and Cancellation of Donation Becomes Impossible

Rules about refusal to perform a donation contract (Article 513) and about cancellation of a donation (Article 514) shall not apply to ordinary gifts of small value.

#### Article 516. Consequences of Donating a Defected Gift

Harm caused to the donee's life, health or property due to defects in the gift shall be recompensed by the donor, in the event it is proved that these defects were in the gift before it was transferred to the donee, they were not obvious ones and the donor though aware of the defects did not notify the donee about them.

#### Article 517. Legal Succession in the event of Promise of Gift

1. The rights of the donee who is promised a gift under the donation contract shall not pass to his heirs (legal successors) unless otherwise provided by donation contract.

2. Donor's obligations who has promised a gift shall pass to his heirs (legal successors) unless otherwise provided by donation contract.

#### Article 518. Endowments

1. A gift of a thing or property right for purposes of common good shall be deemed as endowment.

Endowment may be made to individuals, social protection institutions, medical institutions, foundling homes, scientific, educational, charity and other similar institutions, museums, and other cultural institutions, foundations, public and religious organizations, as well as the state and administrative territorial units.

2. Acceptance of endowment shall not require anyone's permission or consent.

3. Endowment of an individual with property must and endowment of legal entities may be made by the endowment donor subject to the condition of specified utilization of the said property. Unless such condition is present, the endowment of an individual with property shall be considered as ordinary gift, and in other cases the endowed property shall be used by the donee in accordance with the designation of the property.

4. If the utilization of the endowed property in accordance with the purposes specified by the endowment donor becomes impossible due to changed circumstances, the property may be used for a different purpose only with the consent of the endowment donor, and in the event of the death of the individual acting as endowment donor or liquidation of the legal entity acting as endowment donor - in compliance with the decision of a court.

5. Utilization of the endowed property for purpose inconsistent with those stated by the endowment donor or a change of such purpose that is not consistent with point 4 of this Article shall entitle the endowment donor, his heirs or any other legal successor to demand the cancellation of the endowment.

6. Articles 513 and 514 of this Code shall not apply to endowments.

## § 1. General Provisions of Annuity and Permanent Alimony

### Article 519. Annuity Contract

1. Under annuity contract, one party (annuitant) transfers movable or immovable property to the other (annuity payer) into ownership, whereas the annuity payer in exchange for the property received, undertakes to periodically pay the annuitant annuity in a certain amount of money or provide for maintenance in other form.

2. Annuity contract may allow for obligation to pay annuity permanently (permanent annuity) or for the life term of the annuitant (life annuity). Life annuity may be established under the terms of permanent alimony.

### Article 520. Annuity Contract Form

Annuity contract shall be subject to notarization, and the contract which provides for alienation of immovable property against annuity shall also be subject to state registration.

### Article 521. Alienation of Property against Annuity

1. The property that is alienated against annuity may be transferred by the annuitant into the ownership of the annuity payer for payment or free of charge.

2. In the event the annuity contract provides for the property transfer for payment, relations between the parties relative to transfer and payment shall be governed by the purchase and sale rules (Chapter 23), whereas cases when such property is transferred free of charge are governed by rules of donation contract (Chapter 25), unless otherwise provided by the rules of this Chapter or being contrary to the substance of the annuity contract.

### Article 522. Annuity Encumbrance of Immovable Property

1. Annuity shall encumber the land parcel, enterprise, building, construction or other immovable property transferred against the payment thereof. In the event such property is alienated by the annuity payer his obligations under the annuity contract shall pass over to the property acquirer.

2. The person who transferred the annuity-encumbered immovable property into ownership to another person shall bear subsidiary liability (Article 364) for claims by the annuitant arising from violation of the annuity contract, unless this Code, another law or the contract provides for joint and several liability for this obligation.

### Article 523. Securing Annuity Payment

1. When immovable property is transferred against annuity, the annuitant shall acquire the right of pledge to that property, as a security for this obligation.

2. Deemed as a material term of the contract that provides for the transfer of an amount of money or other movable property against annuity shall be the condition binding the annuity payer to offer a security for performance of his obligation (Article 319) or take out insurance in favor of the annuitant against risk of liability for non-performance or improper performance under these obligations.

3. Should the annuity payer fail to perform his obligations provided by point 2 of this Article, as well as in the event of loss of security or deterioration of its conditions under circumstances for which the annuitant bears no liability, the annuitant shall have the right to cancel the annuity contract and claim damages resulting from the cancellation of the contract.

### Article 524. Liability for Delay in Annuity Payment

In the event of delay in the annuity payment, the annuity payer shall pay interest to the annuitant, as provided by Article 360 of this Code, unless another rate of interest is established by the annuity contract.

## § 2. Permanent Annuity

### Article 525. Permanent Annuitant

1. Deemed as permanent annuitants may only be individuals and non-commercial organizations if this does not contradict to a law and corresponds to the objectives of their activity.

2. The rights of annuitant under the permanent annuity contract may be transferred to such persons as indicated in point 1 of this Article through the assignment of claim, and passed by way of inheritance or legal succession in the event of restructuring of legal entities, unless otherwise provided by law or the contract.

#### Article 526. Form and Amount of Permanent Annuity

1. Permanent annuity shall be paid in cash in the amount fixed by the contract.

The permanent annuity contract may provide to have annuity paid by way of granting things, performance of work or provision of services corresponding in value to the amount of annuity.

2. Unless otherwise provided by the permanent annuity contract, the amount of annuity paid shall be changed in proportion to change of the corresponding rate of payment for use of the property or a bank interest rate.

#### Article 527. Permanent Annuity Payment Term

Unless otherwise provided by the permanent annuity contract, permanent annuity shall be paid at the end of each calendar quarter.

#### Article 528. Payer's Right of Redemption of Permanent Annuity

1. The permanent annuity payer shall have the right to waive further annuity through redemption thereof.

2. Such waiver shall be valid provided that notice thereof was submitted by the annuity payer in writing at least three months prior to termination of annuity or at longer notice as provided by the annuity contract. In this case the annuity obligation shall not be terminated until the entire amount of redemption is received by the annuitant, unless other procedure for redemption is provided by the contract.

3. Any provision of the contract with respect to waiver by the permanent annuity payer of his right to redeem it shall be null and void.

The contract may provide that the right of permanent annuity redemption may not be exercised during the term of life of the annuitant or within another term not exceeding thirty years following the conclusion of the contract.

#### Article 529. Redemption of Permanent Annuity on Demand of Annuitant

The annuitant shall have the right to demand redemption of the annuity by the payer in the event:

the annuity payer has delayed annuity payment for more than one year, unless otherwise provided by the permanent annuity contract;

the annuity payer has violated his obligations relating to security for annuity payment (Article 523);

the annuity payer is ruled insolvent, or there are other circumstances that obviously suggest that the annuity will not be paid by him in the amount and within the time limits fixed by the contract;

immovable property transferred under annuity has passed into common ownership or has been divided between several persons;

in other cases provided by the contract.

#### Article 530. Permanent Annuity Redemption Price

1. Redemption of permanent annuity as provided by Articles 528 and 529 of this Code shall be effected at a price fixed by the permanent annuity contract.

2. In the absence of redemption price covenant in the permanent annuity contract under which property was transferred against permanent annuity with payment therefor, redemption shall be effected at the price corresponding to the amount of annual annuity payments.

3. In the absence of redemption price covenant in the permanent annuity contract under which property was transferred against annuity without payment therefor, the redemption price shall include, apart from the amount of annual annuity payments, the price of the transferred property defined according to the rules provided by point 3 of Article 390 of this Code.

#### Article 531. Risk of Accidental Loss of Property Transferred against Payment of Permanent Annuity

1. The risk of an accidental loss of or accidental damage to the property transferred without compensation against the payment of permanent annuity shall be borne by the annuity payer.

2. In the event of an accidental loss of or accidental damage to the property transferred for compensation against the payment of permanent annuity, the annuity payer shall have the right to demand respectively either the termination of the annuity payment obligation or the alteration of the terms of payment thereof.

### § 3. Life Annuity

#### Article 532. Life Annuitant

1. Life annuity may be established for the term of life of an individual who transfers property against annuity, or for the term of life of another individual as indicated by him.

2. It shall be allowed to have life annuity established in favor of several individuals whose interests in annuity are presumed to be equal, unless otherwise provided by the life annuity contract.

In the event of death of one of the annuitants, his interest in annuity shall pass to the surviving annuitants, unless otherwise provided by the permanent annuity contract, and in the event of death of the last of the annuitants, obligation to pay annuity shall be terminated.

3. The contract establishing life annuity in favor of the individual who have died by the time of entering into the contract shall be null and void.

#### Article 533. Amount of Life Annuity

1. Life annuity shall be determined in the contract as an amount of money periodically paid to the annuitant through the course of his life.

2. The amount of life annuity determined by the contract per month must be at least the statutory minimum wages, and as provided by Article 308 of this Code, it shall be subject to increase.

#### Article 534. Life Annuity Payment Term

Unless otherwise provided by the life annuity contract, life annuity shall be paid at the end of each calendar month.

#### Article 535. Cancellation of Life Annuity Contract on Demand of Annuitant

1. In the event of material violation of the contract by the annuity payer, the annuitant shall have the right to demand annuity redemption from the annuity payer on conditions provided by Article 530 of this Code, or termination of the contract and compensation for damages.

2. Should there be alienation against life annuity without payment of an apartment, residential house or other property, the annuitant shall have the right, given substantial violation of the contract by the annuity payer, to demand the return of this property with its value deducted from the price of the annuity redemption.

#### Article 536. Risk of Accidental Loss of Property Transferred against Life Annuity

Accidental loss of or accidental damage to the property transferred against life annuity shall not relieve the annuity payer of his obligation to pay annuity on the terms provided by the life annuity contract.

### § 4. Permanent Alimony

#### Article 537. Permanent Alimony Contract

1. Under the contract of life annuity for permanent alimony, the individual annuitant shall transfer the residential house, apartment, or other immovable property he owns in the ownership of the annuity payer who undertakes to provide permanent alimony for the individual and (or) a third person (persons) indicated by him.

2. The contract of permanent alimony shall be governed by the rules of life annuity, unless otherwise provided by the rules of this paragraph.

#### Article 538. Duty on Providing Permanent Alimony

1. The duty of the annuity payer under permanent alimony may include provision for needs in accommodation, food and clothes, and, should the state of health of the individual demand so, nursing. The permanent alimony contract may also provide for the payment of ritual services by the annuity payer.

2. The contract of permanent alimony must determine the total amount of permanent alimony. In this case the total amount of monthly maintenance may not be less than two statutory minimum wages.

3. In settling the dispute arising between the parties on the amount of maintenance which is provided or should be provided to the individual, the court shall be guided by the principles of good faith and reasonableness.

#### Article 539. Replacement of Permanent Alimony with Periodic Payments

The contract of Permanent alimony may provide for an opportunity to replace provision of permanent alimony in kind by periodic payments of money during the individual's life term.

#### Article 540. Alienation and Use of Property Transferred to Secure Permanent Alimony

The annuity payer shall have the right to alienate, pledge or otherwise encumber immovable property transferred to him to ensure permanent alimony only with the prior consent of the annuitant.

The annuity payer shall undertake necessary measures so that throughout the term of permanent alimony the use of above property should not result in the reduction of value of the property.

#### Article 541. Termination of Permanent Alimony

1. Obligation of permanent alimony shall be terminated by the death of the annuitant.

2. In the event of material violation by the annuity payer of his obligations, the annuitant shall have the right to demand return of immovable property transferred as security of permanent alimony, or payment of the redemption price on conditions established by Article 530 of this Code. In this event the annuity payer shall have no right to demand compensation for costs incurred in connection with the maintenance of the annuitant.

### CHAPTER 27 LEASE

#### § 1. General Provisions

#### Article 542. Lease Contract

Under lease contract, the lessor undertakes the obligation to grant the lessee the temporary possession and enjoyment or the temporary enjoyment of property.

#### Article 543. Subjects of Lease

1. Land plots, subsoil plots and other solitary natural objects, enterprises and other property units, buildings, constructions, equipment, transport vehicles and other things which do not lose their physical qualities in the course of their use (non-consumable things) may be transferred into lease.

Law may establish types of property that cannot be leased out or may be leased out on a limited basis.

2. The law may establish the particularities of the lease of land plots and other solitary natural objects.

#### Article 544. Right of Ownership for the Production, Fruits and Receipts from the Leased Property

The fruits, production and receipts received by the lessee as a result of use of the leased property shall be his/her property unless otherwise provided by the contract.

#### Article 545. Form of the Lease Contract

1. A lease contract must be made in writing.

2. A lease contract which provides the subsequent assignment of the right of ownership to the property shall be made in a form provided for the sale contract for such property.
3. Contract on lease of immovable property shall be subject to state registration.
4. Contract on lease of movable property shall be subject to registration in cases provided by law.

#### Article 546. Lessor

The right to lease out property shall belong to its owner and other persons authorized by law or by the owner.

#### Article 547. Term of the Lease Contract

1. The lease contract shall be entered into for the term established by the contract.
2. If the contract does not specify the term of lease, it shall be considered entered into for an indefinite period. In this event any party shall have the right to recede from the contract at any time with one month prior notice of the other party, and in the case of lease of the immovable property - three months. The contract may establish another period for notifying on the termination of a lease contract entered into for an indefinite term.
3. The law may establish the maximum (utmost) term of the contract for specific types of lease and for leasing specific types of property. In such events, if the contract does not establish the term of the lease and neither party has receded from the contract before the expiration of the maximum term of the contract established by the law, the contract shall be terminated on expiration of the maximum term.

The lease contract entered into for a term exceeding the maximum term established by the law shall be considered as to have been entered into for a term equal to the maximum term.

#### Article 548. Conveying Property to Lessee

1. The lessor shall convey to the lessee the property in such a state which complies with the provisions of the lease contract and the designation of the property.
2. Property shall be leased with all its appurtenances and relevant documents (technical passport, quality certificate, etc.), unless otherwise provided by the contract.  
If the lessor fails to convey such appurtenances and documents, and without them the lessee is not able to use the property according to its designation or he is substantially deprived of what he was entitled to count on while entering into the contract, he may demand that the lessor provide such appurtenances and documents to him or that the contract be terminated and losses incurred as a result of failure to provide the appropriate appurtenances and documents be indemnified.
3. If the lessor fails to convey to the lessee the leased property within the period stipulated in the contract, and when such period is not stipulated in the contract, the lessee shall have the right to demand this property within a reasonable period of time, pursuant to Article 363 of this Code or to demand termination of the contract and indemnification of the damages inflicted by the default.

#### Article 549. Lessor's Liability for Defects in Leased Property

1. The lessor shall be liable for any defects of the leased property that fully or partially impede the enjoyment of this property, even though he was not aware of these defects while entering into the contract.  
Upon discovering such defects, the lessee shall have the right to do the following on his discretion:
  - to demand from the lessor either gratuitous elimination of the property defects, or a commensurate reduction of the rent, or reimbursement of his expenses related to the elimination of the property defects;
  - to withhold the amount of the incurred expenses pertaining to the elimination of the property defects directly from the rent payment, with the prior notice of the lessor;
  - to demand early termination of the contract.
2. The lessor being notified of the lessee's demands or on his intention to eliminate the defects in the property at the lessor's expense, may replace without delay the property conveyed to the lessee with other similar property in proper condition.
3. If granting the lessee's demands, or his withholding expenses from the rent payment to eliminate the defects do not cover the losses incurred by the lessee, he shall have the right to demand indemnification of the unsettled part of losses.
4. The lessor shall not be liable for the defects in the leased property which he specified while entering into the lease contract, or which were known to lessee in advance, or should have been discovered by the lessee during inspection of the property or check of its condition while entering into the contract or while leasing out the property.

#### Article 550. Rights of Third Parties to Leased Property

The transfer of property for lease shall not constitute grounds for terminating or changing the rights of third persons to this property.

When entering into the lease contract, the lessor shall notify the lessee of all rights of third persons to the property being leased (easement, lien, etc). The lessor's failure to fulfil this obligation shall entitle the lessee to demand that rent payment be reduced, or contract terminated.

#### Article 551. Payment for Enjoyment of Property

1. The lessee shall make timely payments for the enjoyment of the property.

The procedure, terms and time limitations of rent payment shall be determined by the lease contract.

2. The payment shall be determined for the whole of the leased property or individually for each of its components in the form of:

1) payments determined in fixed amounts to be paid regularly or in a lump sum;

2) an established share in the production, fruits or revenues received as a result of the enjoyment of the leased property;

3) certain services rendered by the lessee;

4) conveyance by the lessee of a thing stipulated in the contract in the lessor's ownership, or leasing that thing;

5) charging the lessee with the expenses related to the improvement of the leased property.

The parties may provide in the lease contract for a combination of the specified forms of the payment or other forms of payment for lease.

3. The amount of payment may be changed by the agreement of the parties within the prescribed time limits, but no more often than once a year. The law may establish other minimal time limits for reviewing the amount of the payment for specific types of lease, and for the lease of specific types of property.

4. Unless otherwise provided by law, the lessee shall have the right to demand an appropriate reduction of rent payment if, by virtue of circumstances beyond his control, the conditions of enjoyment stipulated by the contract or status of the property considerably deteriorated.

5. Unless otherwise provided by the lease contract, if a lessee substantially misses the payment time limits, the lessor shall have the right to demand advance payment for the lease within the time limits established by the lessor. In this event the lessor shall not be entitled to demand the advance payment for more than two consecutive periods.

#### Article 552. Use of Leased Property

1. The lessee shall use the leased property in accordance with the provisions of the lease contract, and if no such provisions were defined in the contract, in accordance with the designation of the property.

2. If the lessee uses the property in a way which contradicts the provisions of the contract or the designation of the property, the lessor shall have the right to demand the termination of the contract.

#### Article 553. Disposal of Leased Property. Sub-lease and Underlease

The lessee shall have the right, with the lessor's consent, to sub-lease the leased property, transfer his rights and duties under the lease contract to another person (underlease), and also pledge the lessee's rights and contribute them in the authorized capital of economic partnerships and companies, or a production cooperative unless otherwise provided by law. In the specified instances, except for sublease, the lessee shall remain liable to the lessor under the lease contract.

Sub-lease contract may not be entered into for a term exceeding the term of the lease contract.

Sub-lease contract shall be subject to the rules on lease contracts unless otherwise provided by legislation.

#### Article 554. Lessor's Obligations to Maintain Leased Property

1. The lessee shall make the overhaul repairs of the leased property at his own expense, unless otherwise provided by law or the lease contract.

The overhaul repairs must be performed within the time limits established by the contract, and if this term is not stipulated by the contract, or caused by the emergency, within a reasonable period of time.

2. The lessor's violation of the obligation to perform the overhaul repairs shall entitle the lessee at his discretion: to perform the overhaul repairs provided for by the contract or necessitated by an urgent need and collect the cost of the

repairs from the lessee, or include this amount in the rent payment; to demand a commensurate reduction of the rent payment; to demand termination of the contract and indemnification of losses.

#### Article 555. Lessee's Obligation to Maintain the Leased Property

The lessee shall maintain the property in good condition, perform current repairs at his own expense and bear the costs on maintaining the property, unless otherwise provided by law or the lease contract.

#### Article 556. Validity of the Lease Contract in the Event of Changing the Parties

1. The transfer of the ownership right (right of business management, right of operative management) to the leased property to another person shall not constitute the grounds for amending or terminating the lease contract.

2. In the event of the death of an individual leasing immovable property, his rights and duties under the lease contract shall pass to his heir, unless otherwise provided by law or the contract.

The lessor shall have no right to deny such entry into the contract for its remaining term, except for the cases when the contract was entered into based on the lessee's personal characteristics.

#### Article 557. Termination of the Under-lease Contract upon Early Termination of Lease Contract at Lessor's Request

1. Unless otherwise provided by the lease contract, the early termination of this contract shall entail termination of the sub-lease contract entered into in compliance therewith. Under-lessee in this case may enter into a lease contract in respect to the property, which he had used in compliance with the under-lease contract within the remaining term of under-lease on the conditions corresponding to the terms of the terminated lease contract.

2. If the lease contract is void due to the grounds provided by this Code, under-lease contracts entered into in compliance thereto shall be also deemed as void.

#### Article 558. Early Termination of the Lease Contract at Lessor's Request

At the lessor's request, the court may terminate the lease contract before time in the event the lessee:

1) uses the property in a way which considerably defies the terms of the contract or the designation of the property, or with repeated violations;

2) substantially worsens the property;

3) fails to effect rent payment more than two subsequent times upon expiration of the payment term established by the contract;

4) does not perform the overhaul repairs of the property within the period established by the lease contract, and if no period was provided by the contract, within the reasonable periods in the event in compliance with the law or the contract, the obligation to perform overhaul repairs was assigned to the lessee.

The lease contract may establish other grounds for early termination of the contract at the request of the lessor pursuant to point 2 of Article 411 of this Code.

2. The lessor shall have the right to demand early termination of the contract only after mailing a written notice to the lessee on the mandatory fulfillment of his obligation within a reasonable period of time.

#### Article 559. Early Cancellation of the Contract at Lessee's Request

At the lessee's request, the court may terminate lease contract before time in the event:

1) the lessor fails to convey the property in the lessee's use or impedes the use of the property in compliance with contract conditions or the designation of the property;

2) the conveyed property has defects which impede its use, which defects were not stipulated by the lessor while entering into the contract, of which the lessee was not previously aware, and which the lessee could not discover during the inspection of the property or verification of its good state or repair when entering into the contract;

3) the lessor fails to perform the overhaul repairs of the property within the period established by the contract, and if such term was not provided, within reasonable period of time in cases when the performance of such overhaul repairs in accordance with the law, other normative legal acts or the contract is the duty of the lessor;

4) the property becomes unfitting for the use, by virtue of circumstances beyond the lessee's control.

The lease contract may establish other grounds for the early termination of the contract at the lessee's request pursuant to point 2 of Article 411 of this Code.

#### Article 560. Continuing to Use the Property after Expiration of the Effective Period of the Lease Contract

1. Unless otherwise provided by law or by the contract the lessee who performed his duties in a proper way shall have priority right over other persons, all other conditions being equal, for entering into lease contract for another term after expiration of the term of the lease contract. The lessee must inform the lessor in written form on his intention to conclude such contract within the term indicated in the lease contract, and if such term is not defined, - then within the reasonable period of time before expiry of the term of the contract.

Where the lease contract is concluded for a new term the terms and conditions of the contract may be changed under agreement between the parties.

In the event the lessor refused the lessee to conclude the contract for a new term, but within one year from the date of expiration of the term of the contract with that lessee has concluded a lease contract with another person, the lessee shall have the right at his discretion to demand in court transfer of the rights and duties related to that contract to him and indemnification of losses caused by refusal to renew the lease contract with him, or only indemnification of such losses.

2. In the event the lessee continues to enjoy the property after expiration of the term of the lease contract, provided there are no objections from the lessor, the contract is deemed to be renewed under the same terms and conditions, except the cases provided by point 3 of Article 547 of this Code.

#### Article 561. Return of Leased Property to Lessor

1. The termination of the lease contract shall obligate the lessee to return to the lessor the property in the same condition as received, with account of its normal depreciation, or in the condition stipulated by the contract.

2. If the lessee fails to return the leased property or if he fails to return it in time, the lessor shall have the right to demand the payment of rent for the entire period of delay. If the indicated payment does not cover the losses incurred by the lessor he may demand the indemnification.

In the event the contract stipulates a penalty for the untimely return of the leased property, the losses may be recovered in full amount over the penalty, unless otherwise provided by the contract.

#### Article 562. Improvement of Leased Property

1. Certain improvements of the leased property made by the lessee, shall belong to him, unless otherwise provided by the lease contract.

2. In the event the lessee improved the leased property at his own expense and with the lessor's consent, and these improvements cannot be separated without damaging the property, after termination of the contract, the lessee shall have the right to receive the reimbursement of the cost of these improvements, unless otherwise provided by the lease contract.

3. The cost of inseparable improvements to the leased property performed by the lessee without the lessor's consent shall not be reimbursable, unless otherwise provided by law.

4. Both separable and inseparable improvements of the leased property made out of the depreciation deduction from this property shall belong to the lessor.

#### Article 563. Buy-Out of Leased Property

1. The lease contract may provide that the leased property shall be transferred into the ownership of the lessee after or before the expiration of the lease term, provided that the lessee has paid the full buy-out price stipulated in the contract.

2. If the lease contract does not provide for buying out the leased property, this provision may be established by additional agreement between the parties who are entitled to agree to include the previously paid rent in the buy-out price.

3. The lease contract with further buy-out shall be subject to state registration.

4. Law may establish cases of prohibiting buying out the leased property.

#### Article 564. Peculiarities of Specific Types of Lease and Lease of Specific Types of Property

The provisions of this paragraph shall apply to specific types of lease contracts or lease contracts for specific types of property (hire, lease of vehicles, lease of enterprises, lease of buildings and installations, financial leasing), unless otherwise provided by the rules of this Code on these contracts.

## § 2. Hire

### Article 565. Contract of Hire

1. Under contract of hire the lessor who leases the property as a regular entrepreneurial activity, shall undertake to grant to the lessee for compensation the temporary possession and use of movable property.

The property conveyed under the contract of hire shall be used for purposes of consumption, unless otherwise provided by the contract or unless otherwise arises from the essence of obligation.

2. The contract of hire shall be entered into in writing.

3. The contract of hire shall be a public one (Article 386).

### Article 566. Term of Contract of Hire

1. The contract of hire shall be entered into for a term of up to one year.

2. The rules on the renewal of a lease contract for an indefinite period and the lessee's priority right to renew the lease contract (Article 560 of this Code) shall not apply to the contract of hire.

3. The lessee shall have the right to recede from the contract of hire at any time, unless otherwise provided by the contract for hire.

### Article 567. Conveyance of Property to Lessee

The lessor who entered into the contract of hire shall verify the serviceability of the property being hired in the lessee's presence and familiarize the lessee with the property operating rules or to provide him with written instructions on the property's use.

### Article 568. Elimination of Defects in Hired Property

1. Should the lessee discover defects in the hired property hindering in part or in full its use, the lessor shall eliminate the specified defects in the property on the spot and without compensation or replace this property with other similar property in good order within ten days of the lessee's notification of the defects, unless a shorter term is stipulated by the contract of hire.

2. Should the defects in the hired property result from the lessee's violation of the rules of property use and maintenance, the lessee shall reimburse to the lessor the cost of the property repairs and transportation.

### Article 569. Payment for Use of the Property

1. Payment for use of the property shall be established in the form of specified fixed amounts paid periodically or in a lump sum.

2. In the instance of early returning of the property, the lessor shall refund him the appropriate portion of the received payment, which amount shall be calculated as of the day following the date of the actual return of property.

3. The lessee's indebtedness on payment for use of the property shall be recovered incontestably on the grounds of a notary's endorsement of execution.

### Article 570. Using Hired Property

1. Performance of overhaul and current repairs of property hired out under the contract of hire shall be the lessor's obligation.

2. Under-leasing of the property conveyed to the lessee under the contract of hire, transfer of the rights and duties by the lessee to another person under the contract of hire, pledging the lessee's rights and investing them as property contributions in economic partnerships and companies, as share contributions in production co-operatives shall be prohibited.

## § 3. Lease of Transport Facilities

## 1. Lease of a Vehicle with Provision of Operation and Maintenance

### Article 571. Contract of Lease of a Vehicle with a Crew

1. Under the contract of lease (time charter) of a vehicle with a crew, the lessor shall provide the lessee with a vehicle for temporary possession and use for payment, and render his own services on its operation and maintenance.
2. The rules of the renewal of the contract of lease for an indefinite term and the lessee's priority right to renew the contract of lease (Article 560 of this Code) shall not apply to the contract of lease of a vehicle with a crew.

### Article 572. Form of Contract of Lease of a Vehicle with a Crew

The contract of lease of a vehicle with a crew must be entered into in writing, irrespective of its effective period. Rules on the registration of lease contracts provided by point 4 of Article 545 of this Code, shall not apply to such contract.

### Article 573. Lessor's Duty to Maintain Vehicle

During the whole effective period of the contract, the lessor shall maintain the leased vehicle in good order, including the performance of current and overhaul repairs and provision of all necessary appurtenances.

### Article 574. Lessor's Duty to Operate the Vehicle

1. The services provided by the lessor in respect to operation and maintenance of the vehicle must ensure its normal and safe operation in compliance with the purposes of the lease specified in the contract. The contract of lease of a vehicle with a crew may provide for a wider range of services to be rendered to the lessee.
2. The crew of the vehicle and the skills of its members must comply with the rules and terms of the contract, which are mandatory for the parties, and if the mandatory rules do not establish such requirements, in compliance with the common practice of operation of a specified vehicle and the terms and conditions of the contract.
3. The members of the crew shall be the lessor's employees. They shall follow the lessor's instructions related to the vehicle operation and maintenance, as well as the lessee's instructions related to the commercial use of the vehicle.
4. Unless otherwise provided by the contract of lease, the lessor shall bear all expenses related to the payment for the services provided by the crew and for its maintenance.

### Article 575. Lessee's Obligations to Cover Expenses Related to Commercial Use of Vehicle

Unless otherwise provided by the contract of lease of a vehicle with a crew, the lessee shall bear all expenses arising from the commercial use of the vehicle, including the cost of fuel and other materials consumed in the course of the use, and payment of the fees.

### Article 576. Vehicle Insurance

Unless otherwise provided by the contract of lease of a vehicle with a crew, the lessor shall be charged with the duty to insure the vehicle and (or) insure the liability for the damage, which may be inflicted by it, or in connection with its use, when such insurance is mandatory by virtue of the law or contract.

### Article 577. Contracts with Third Persons on Use of the Vehicle

1. Unless otherwise provided by the contract of lease of a vehicle with a crew, the lessee shall have the right to sublease the vehicle without the lessor's consent.
2. In the course of commercial use of the leased vehicle, the lessee shall have the right to enter into carriage and other contracts with third persons on his own behalf without the lessor's consent, provided that these contracts do not contradict the purposes of vehicle use specified in the contract of lease or, should no purposes to that effect be stipulated therein, the designation of the vehicle.

### Article 578. Liability for Damage Caused to the Vehicle

In the event of perish of or damage to the leased vehicle, the lessee shall indemnify the inflicted losses to the lessor, provided the latter proves that the perish of or damage to the vehicle resulted from the circumstances for which the lessee is held liable in compliance with the law or the lease contract.

#### Article 579. Liability for Damage Caused by the Vehicle

The lessor shall be liable for the damage, inflicted to third parties by the leased vehicle, its mechanisms, devices, equipment, in accordance with the rules provided by Chapter 51 of this Code.

The lessor shall have the right to file a claim-over on indemnification of the amounts paid to third parties, provided that the lessor proves that the damage has been caused due to the lessee's fault.

#### Article 580. Particularities of Lease of Specific Types of Transport Facilities

Transport regulations and codes may provide for other particularities of lease of specific types of transport facilities with provision of operation and maintenance services, in addition to the types of lease specified in this paragraph.

### 2. Lease of a Vehicle Without Rendering Operation and Maintenance Services

#### Article 581. Contract of Lease of a Vehicle without Crew

Under the contract of lease of a vehicle without crew, the lessor shall provide the lessee with a vehicle for temporary possession and use in return for payment without rendering operation and maintenance services.

The rules on the renewal of the contract of lease of vehicle without the crew for an indefinite term, and on the preferential right of the lessee to renew the lease contract (Article 560 of this Code) shall not apply to the contract of lease of a vehicle without crew.

#### Article 582. Form of Contract of Lease of a Vehicle without Crew

The contract of lease of a vehicle without crew must be entered into in writing.

#### Article 583. Lessee's Duty to Keep the Vehicle in Good Order

The lessee within the entire effective period of the contract of lease of a vehicle without crew shall keep the hired vehicle in good order, including performance of the current and overhaul repairs.

#### Article 584. Lessee's Duties to Operate and Maintain the Vehicle

The lessee shall on his own operate the leased vehicle and use it both for commercial and technical purposes.

#### Article 585. Lessee's Duty to Bear Maintenance Expenses of the Vehicle

Unless otherwise provided by the contract of lease of a vehicle without crew, the lessee shall bear all expenses related to the maintenance of the leased vehicle, its insurance, including the insurance of his liability, as well as the expenses arising from use of that vehicle.

#### Article 586. Contracts with Third Persons on Use of the Vehicle

1. Unless otherwise provided by the contract of lease of a vehicle without crew, the lessee shall have the right to sublease the leased vehicle without the lessor's consent in compliance with the terms of the contract of lease of a vehicle with or without crew.

2. The lessee shall have the right to enter into carriage and other contracts with third parties on his own behalf without the lessor's consent, provided that these contracts do not contradict the purposes of vehicle use specified in the contract of lease or, should no such purpose be stipulated therein, the designation of the vehicle.

#### Article 587. Liability for Damage Caused by the Vehicle

The lessee shall be held liable for any damage caused by the vehicle, its mechanisms, devices, equipment, to third parties according to rules of Chapter 51 of this Code.

#### Article 588. Particularities of Lease of Specific Types of Vehicles

In addition to the types of lease specified in this paragraph, transport regulations and codes may provide for other particularities of lease of specific types of vehicles without rendering operation and maintenance services.

### § 4. Lease of Buildings and Installations

#### Article 589. Contract of Lease of Building or Installation

1. Under the contract of lease of a building or installation, the lessor undertakes the obligation to transfer the building or installation to the lessee for temporary possession and use or the temporary use.
2. The rules of this paragraph shall also apply to the lease of enterprises, unless otherwise provided by the rules of this Code on the lease of an enterprise.

#### Article 590. Form and State Registration of the Contract of Lease of Building or Installation

The contract of lease of building or installation shall be entered into in writing by drawing a single document signed by the parties (point 2 of Article 395), and shall be subject for notarization and state registration.  
Failure to comply with the form of the contract of lease of a building or installation shall entail its invalidity.

#### Article 591. Right to Land Plot while Leasing the Building or Installation Located on It

1. Under the contract of lease of a building or installation, transferred to the lessee simultaneously with the rights to possess and use such immovable property shall be the rights to the land plot occupied by that immovable property and necessary for its use.
2. Unless otherwise provided by law or by the contract, the right to use the part of the land plot occupied by the leased building or installation and which is needed for its use in accordance with its designation, shall be transferred to the lessee.
3. The lease of building or installation located on a land plot which does not belong to the lessor by right of ownership shall be allowed without the consent of the owner of the land plot, provided that this does not contradict to the rules of use of such land plot established by law.

#### Article 592. Amount of Rent Payment

1. The contract of lease of a building or installation must provide for the amount of rent payment. In the absence of a written provision on the amount of rent payment approved by the parties, the contract of lease of a building or installation shall be deemed as not entered into. In this event rules of calculating the price, provided by point 3 of Article 390 of this Code shall not apply.
2. The amount of payment for the use of the building or installation established in the contract shall include the payment for the use of the land occupied by this building or construction, or of the part of the land plot transferred into lease along with this building or construction, unless otherwise provided by law or the contract.
3. In the event the contract establishes payment for the lease of a building or installation per unit of floor space of that building (installation) or based on other indicator of its size, the rent payment shall be determined on the basis of the actual size of the building or installation conveyed to the lessee.

#### Article 593. Transfer of Building or Installation

1. The transfer of the building or installation by the lessor and its acceptance by the lessee shall be effectuated on the basis of a transfer deed or any document of transfer signed by the parties. Unless otherwise provided by law or contract of lease of a building or construction, the lessor's obligation to transfer the building or installation to the lessee shall be

deemed as performed after it has been conveyed to the lessee in possession or use, and after signing by the parties the appropriate document of transfer.

Evasion by either party to sign the document of transfer of the building or installation on the terms stipulated by the contract shall be deemed respectively as the lessor's refusal to fulfill his obligation to transfer the property and the lessee's refusal to accept this property.

2. Preparation of a building or installation for transfer including composition and submission for signing a transfer deed or another document on transfer shall be lessor's obligation and shall be performed at his expense, unless otherwise provided by the contract of lease of a building or installation.

3. In the event of termination of the contract of lease of a building or installation, the leased building or installation must be returned to the lessor in compliance with the rules provided by point 1 of this Article.

## § 5. Lease of Enterprises

### Article 594. Contract of Lease of Enterprise

1. Under the contract of lease of an enterprise as a whole property complex used to perform the business activity, the lessor undertakes to transfer to the lessee's temporary possession and use the land plots, buildings, installation, equipment and other fixed assets comprising the enterprise, for compensation, to transfer raw materials inventory, fuel, materials and other current assets, rights to use the land, water and other natural resources, buildings, installations and equipment, other property rights related to the enterprise, right to designation individualizing the activity of the enterprise and other exclusive rights, and to assign the right to claim and assign to him the debts related to the enterprise, except for those rights and duties, which the lessor is not entitled to transfer to other persons.

2. The rights of the lessor, received by him in compliance with the permission (license) to carry out the respective activities, may not be transferred to the lessee, unless otherwise provided by law. If obligations were included in the contract on transfer of the enterprise, which the lessee cannot perform without such a permission (license), this inclusion shall not relieve the lessor of the corresponding obligations to the creditors.

### Article 595. Rights of Creditors in the Event of Lease of an Enterprise

1. Creditors on the obligations included in the enterprise, must be notified in writing on transfer of the enterprise to the lessee before actual commencement of the lease of the enterprise.

2. The creditor shall have the right within one month from the date of receipt of the notification on lease of the enterprise to demand from the lessor either termination or early performance of the corresponding obligations. The creditor shall be deemed as given his consent for transfer of the corresponding debt to the lessee in the event no such claims were submitted within the indicated period of time.

3. The enterprise may be transferred to the lessee only after completion of the settlements with the creditors who demanded from the lessor the termination or early performance of his obligations.

4. A creditor who was not notified on the lease of the enterprise in compliance with the procedure provided by point 1 of this Article, may file a lawsuit on granting claims provided by point 2 of this Article, within one year after the day when he found out or was to find out about the lease of the enterprise.

5. The rights and duties in respect of the employees of the enterprise shall be transferred from the lessor to the lessee in accordance with the procedure provided by law on labor in respect of transfer of such rights and duties in case of restructuring of a legal entity.

### Article 596. Form and State Registration of Contract of Lease of Enterprise

1. The contract of lease of an enterprise shall be entered into in writing by drawing up a single document signed by the parties.

2. The contract of lease of an enterprise shall be subject to state registration, and shall be deemed as entered into as of the date of such registration.

3. Failure to comply with the form of the contract of lease of an enterprise shall entail its invalidity.

### Article 597. Transfer of Leased Enterprise

The transfer of an enterprise to the lessee shall be based on a transfer deed.

The obligation to prepare the enterprise for transfer, including the drawing up and submission for signing of the transfer deed, shall be assigned to the lessor and performed at his expense unless otherwise provided by the contract of lease of the enterprise.

Article 598. Lessee's Duty to Maintain the Enterprise and  
Pay Operation Costs

1. The lessee of an enterprise must maintain the enterprise in the proper technical condition, including its current and overhaul repairs, within the entire effective period of the contract of lease.

2. The lessee shall be liable for all costs related to the operations of the leased enterprise, unless otherwise provided by the contract, and for payment of the insurance fees for the leased property.

Article 599. Using the Property of Leased Enterprise

1. Unless otherwise provided by the contract of lease of an enterprise, the lessee shall have the right, without lessor's consent, to sell, exchange, to provide into temporary use or lend the material values, which are a part of the property of the leased enterprise, to sub-lease them, and transfer rights and duties under the contract of lease in respect to such values to other persons, provided that this does not entail reduction of value of the enterprise, and does not violate other provisions of the contract of lease of the enterprise.

This provision shall not apply in respect of land and other natural resources, as well as in other cases provided by law.

2. Unless otherwise provided by the contract of lease of the enterprise, the lessee shall have the right to introduce alterations in the leased property complex, to make renovations, enhancement, technical re-equipment which increases its value, without consent of the lessor.

Article 600. Improvement of the Leased Enterprise by the Lessee

The lessee of the enterprise shall have the right to indemnify the cost of the inseparable improvements of the leased property, irrespective of the permission by the lessor to such improvements, unless otherwise provided by the contract of lease of an enterprise.

The court may relieve the lessor of the obligation to reimburse the costs of such improvements to the lessee, if the lessor proves that the lessee's expenses related to such improvements increase the value of the leased property disproportionately to the increase of its quality and operational qualities, or, when introducing such improvements, the lessee has violated the principles of good faith and reason.

Article 601. Applying the Rules on Consequences of Invalidation  
of Transactions, on Amending and Terminating  
the Contract

The rules of this Code on consequences of invalidation of transactions and amending the contract, which provide for returning and collection in kind of the property received from one or both parties, shall apply to the contract of lease of enterprise, provided that such consequences do not violate significantly the rights and interests of the creditors of the lessor and the lessee, and of other persons, which rights are protected by the law, and if these rules do not contravene public interests.

Article 602. Return of Leased Enterprise

In the event of termination of the contract of lease of an enterprise, the leased property complex must be returned to the lessor in compliance with the rules provided by Article 595 and 597 of this Code. The obligation to prepare the enterprise for the transfer to the lessor, including drawing up and submission for signing the deed of transfer, shall be assigned to the lessee, and shall be performed at his expense, unless otherwise provided by the contract.

§ 6. Financial Leasing

Article 603. Contract of Financial Leasing

Under the contract of financial leasing (leasing contract) the lessor shall undertake to acquire in his ownership the property specified by the lessee from the seller defined by the latter and grant the lessee the temporary possession and

use of this property for business purposes in return for payment. The lessor in this event shall not be liable for the choice of the subject of lease and selection of the seller.

The contract of financial leasing may stipulate that the choice of the seller and the acquired property shall be made by the lessor.

#### Article 604. Subject of Contract of Financial Leasing

The subject of the contract of financial lease may be any nonconsumable things used for business activities, except for land plots and other natural objects.

#### Article 605. Notification of Seller on Lease of Property

When acquiring property for the lessee, the lessor must notify the seller that the property is designated for leasing to a certain person.

#### Article 606. Transfer of Subject of Contract of Financial Leasing to Lessee

1. Unless otherwise provided by the contract of financial leasing, the property constituting the subject of this contract shall be transferred by the seller directly to the lessee at the latter's location.

2. In the event the property constituting the subject of the contract of financial leasing is not transferred to the lessee within the term specified in the contract or, if such term is not specified in the contract, within a reasonable period of time, the lessee shall have the right to demand the termination of the contract and indemnification for losses, provided that the delay was the result of the circumstances for which the lessor is liable.

#### Article 607. Transfer to Lessee of Risk of Accidental Perish of or Damage to Property

The risk of accidental loss of or accidental damage to the leased property shall pass to the lessee at the moment of transfer of the leased property to the latter, unless otherwise provided by the contract of financial leasing.

#### Article 608. Seller's Liability

1. The lessee shall have the right to submit to the seller of the property constituting the subject of the contract of financial leasing claims arising from the contract of sale between the seller and the lessor, in particular with respect to the quality and completeness of the property, the time of its delivery, and in other cases of the seller's improper performance of the contract. In this event the lessee shall enjoy the rights and bear obligations provided by this Code for the buyer to the extent as if he were a party to the contract of sale of the specified property, except for the obligation to pay for the acquired property. However, the lessee may not terminate the contract of sale with the seller without the lessor's consent.

The lessee and the lessor shall act as joint and several creditors (Article 312) in relations with the seller.

2. Unless otherwise provided by the contract of financial lease, the lessor shall bear no liability to the lessee for the seller's fulfillment of requirements arising from the contract of sale, except for cases when the lessor is liable for the selection of the seller. In the latter instance, the lessee shall have the right to present at his option claims arising from the contract of sale both directly to the seller of the property and to the lessor who bear a joint and several liability.

### CHAPTER 28 RESIDENTIAL LEASE

#### Article 609. Residential Lease Contract

1. Under a residential lease contract, the owner of the living space or the person authorized by him (the lessor) is obligated to provide an individual (the lessee) with a residence for possession and use in order to reside in it for a certain payment.

2. The relations on residential lease contracts are regulated by the Housing Code.

### CHAPTER 29 GRATUITOUS USE (LOAN)

#### Article 610. Contract on Gratuitous Use

1. Under a contract on gratuitous use (loan agreement), the lender shall undertake an obligation to transfer or shall transfer a thing for gratuitous temporary use to the borrower; the latter shall undertake an obligation to return the said thing in the same condition as received with the account of natural wear and tear, or in the condition stipulated in the contract.

2. The lender shall transfer a thing in the condition consistent with its designation and terms of the contract on gratuitous use.

3. Rules of Article 543, points 1 and 2 of Article 547, point 2 of Article 548, Article 552, point 2 of Article 560, points 1 and 3 of Article 562 of this Code shall apply accordingly to the contract on gratuitous use.

#### Article 611. The Lender

1. The right to transfer a thing for gratuitous use shall belong to its owner or other persons authorized by the law or the owner.

2. A commercial organization shall not be entitled to transfer things for gratuitous use to the individual who is its founder (participant), shareholder, director, member of its management or supervisory boards.

#### Article 612. Consequences of Failure to Transfer a Thing for Gratuitous Use

Should the lender fail to transfer a thing to the borrower, the latter shall have the right to demand annulment of the contract on gratuitous use and compensation of actual damages incurred.

#### Article 613. Liability for Defects in a Thing Transferred for Gratuitous Use

1. The lender shall be held liable for any defects in a thing, which he, through gross negligence or intent, failed to indicate at the time of entering into a contract on gratuitous use. Where such defects are discovered, the borrower shall have the right at his discretion, to require gratuitous elimination of the defects in a thing by the lender, or compensation of his expenses on elimination of the defects in a thing or to demand early rescission of the contract and compensation of actual damages incurred.

2. The lender, notified of the borrower's demands or of his intention to eliminate the defects in a thing at the expense of the lender, may without further delay replace the defective thing with another similar thing in proper condition.

3. The lender shall not be liable for defects in a thing which were indicated by the lender at the time of entering into the contract on gratuitous use or which were known to the borrower in advance, or which should have been discovered by the borrower during the inspection of the thing or during the verification of its working condition at the time of entering into the contract or at the time of the transfer of the thing.

#### Article 614. Rights of Third Parties to a Thing Transferred for Gratuitous Use

1. Transfer of a thing for gratuitous use shall not constitute grounds for the alteration or termination of a third party's rights to the said thing.

2. At the time of entering into a contract on gratuitous use, the lender shall inform the borrower of all rights of third parties to the said thing (easement, pledge right etc.). Failure to fulfill this obligation shall entitle the borrower to demand the annulment of the contract and compensation of actual damages incurred.

#### Article 615. Borrower's Obligations to Maintain a Thing

The borrower shall maintain a thing received for gratuitous use in good order. Unless otherwise provided by the contract, the borrower shall perform overhaul and current repairs of the thing and to bear all expenses on its maintenance.

#### Article 616. Risk of Accidental Loss or Damage to a Thing

The borrower shall bear the risk of accidental loss or damage to a thing received for gratuitous use, in the event the thing was lost or damaged due to its use by the borrower in a manner inconsistent with the contract or designation of the thing, or due to transfer of the thing to a third party without the lender's consent.

The borrower shall also bear the risk of accidental loss or damage to the thing, if with the account of actual circumstances he could have prevented its perish or damage by sacrificing his own thing, but instead preferred to save his thing.

Article 617. Liability for Harm Inflicted to a Third Party  
from Using a Thing

The lender shall be liable for harm inflicted to a third party resulting from the use of a thing, unless he proves that the harm was inflicted as a consequence of intent or gross negligence of the borrower or a person, who happened to possess the said thing with the lender's consent, or where the damage was inflicted by the use of the thing, which was out of borrower's possession without the consent of the lender.

Article 618. Transfer of Thing Received for Gratuitous Use  
to Third Party

The borrower shall be entitled to transfer a thing received for gratuitous use to the third party only with the consent of the lender to whom he remains liable.

Article 619. Early Rescission of Contract on Gratuitous Use

1. The lender shall be entitled to demand early rescission of a contract on gratuitous use in the event the borrower:
  - 1) uses the thing in a manner inconsistent with the contract or designation of the thing;
  - 2) fails to fulfill obligations on keeping the thing in good condition and maintenance;
  - 3) significantly deteriorates the condition of the thing;
  - 4) transfers the item to a third party without the lender's consent.
2. The borrower shall be entitled to demand early rescission of a contract on gratuitous use:
  - 1) where defects are found in the thing rendering its use impossible or burdensome, defects of which the borrower was not aware and could not have been aware at the time the contract was entered into;
  - 2) where the thing due to the circumstances beyond the borrower's control, becomes unsuitable for use;
  - 3) where the lender did not notify the borrower of the right of third parties to the transferred thing at the time the contract was entered into.

Article 620. Repudiation of Gratuitous Use Contract

1. At any time each of the parties shall have the right to repudiate the contract on gratuitous use which was entered into without indication of the period, with a one-month notice to another party, unless other term for notification is provided by the contract.

2. At any time the borrower may repudiate the contract entered into with an indication of term in the procedure described in point 1 of this Article, unless otherwise provided by the contract.

Article 621. Change of Parties under Gratuitous Use Contract

1. The lender may alienate a thing or transfer it to a third party for gratuitous use. In this event, the new owner or user shall acquire rights under the previously entered into contract on gratuitous use and his rights related to the thing shall be encumbered by the borrower's rights.

2. In the event of the death of the individual - lender or reorganization or liquidation of the legal entity that is the lender, their rights and obligations under the contract on gratuitous use shall be transferred to the heir (legal successor) or to another person who has acquired the ownership right to the thing or another right, which served the basis for transfer of the thing for gratuitous use.

In the event of reorganization of the legal entity that is the borrower, the rights and obligations of the same under the contract of gratuitous use shall be transferred to the successor, unless otherwise provided by the contract.

Article 622. Termination of Contract on Gratuitous Use

A contract on gratuitous use shall be terminated in the event of death of the individual-borrower or liquidation of the legal entity, that is the borrower, unless otherwise provided by the contract.

## CHAPTER 30 WORK CONTRACT

### § 1. General Provisions

#### Article 623. Work Contract

1. Under the work contract, one party (contractor) undertakes to fulfill specified work commissioned by the other party (customer) and deliver its result to the customer within established period, while the customer undertakes to accept and pay for the result of the work. The work shall be performed at the contractor's risk, unless otherwise provided by the legislation or contract between the parties.

2. Provisions stipulated by this paragraph shall apply to specific types of the work contract (consumer contract, construction contract, work contract for fulfillment of design and survey work), unless otherwise provided by the rules of this Code on other types of agreements.

#### Article 624. Work Performed under Work Contract

1. The work contract shall be concluded for the manufacture or processing (treatment) of a thing or performance of any other work and delivery of its result or other transfer thereof to the customer.

2. The contractor shall independently determine the ways of performance of the customer's assignment, unless otherwise provided by the work contract.

#### Article 625. Fulfillment of Work at Contractor's Expense

1. Unless otherwise stipulated in the work contract, the work shall be fulfilled at the contractor's expense: from its materials, with its own means and resources.

2. The contractor shall be held liable for the inadequate quality of materials and equipment it supplies, and for supplying materials and equipment encumbered with rights of third persons.

#### Article 626. Distribution of Risks between Parties

1. Unless otherwise provided by this Code, other laws or work contract:  
the risk of accidental loss or damage to materials, equipment, handed over for processing (treatment) of the thing, or any other property used to fulfill the work contract shall be borne by the party to have provided those;  
the risk of accidental loss of or accidental damage to the result of work fulfilled prior to its acceptance by the customer shall be borne by the contractor.

2. In the event of a delay in the delivery or acceptance of the work result, the risks specified in point 1 of this Article shall be borne by the party responsible for the delay.

#### Article 627. General Contractor and Subcontractor

1. Unless it arises from a law or the work contract that the contractor is obliged to personally perform the work under the contract, the contractor shall have the right to involve other persons (subcontractors) in the fulfillment of part of its obligation. In this instance the contractor shall act as general contractor.

2. The general contractor shall be held liable to the customer for the consequences caused by the contractor's failure to perform, or inadequate performance of the obligations in compliance with the rules of point 1 of Article 303 and Article 367 of this Code, and to the subcontractor - for the customer's failure or inadequate performance of the obligations under the work contract.

Unless provided otherwise by law or the contract, the customer and subcontractor shall have no right to make claims to one another related to the violation of the work contract concluded by each of them with the general contractor.

3. The contractor who has engaged a subcontractor to fulfill the work contract in defiance of the provisions of point 1 of this Article or contract, shall be held liable to the customer for the losses caused by the subcontractor's participation in the execution of the contract.

4. With the consent of the general contractor, the customer shall have the right to enter into a contract with other persons for the execution of individual types of work. In this instance the specified persons shall be held directly liable to the customer for failure to perform or the improper performance of the work.

#### Article 628. Participation of Several Persons in Execution of Work

1. Should two or more persons act on the contractor's side, they shall be deemed with respect to the customer as joint and several obligors and, correspondingly, as joint and several obligees, provided the subject of obligation is indivisible.

2. Should the subject of obligation be divisible, and in other instances specified by law or the contract, each of the persons specified in point 1 of this Article shall acquire rights and duties in relation to the customer to the extent of its interest.

#### Article 629. Time of Work Execution

1. The work contract shall stipulate the opening and closing dates of work to be fulfilled. By agreement between the parties, the contract may also specify the deadlines for the completion of individual stages of work (interim dates).

Unless provided otherwise by law or contract, the contractor shall be held liable for the violation of the opening and closing dates, as well as the interim dates of work execution.

2. The opening, closing and interim dates specified in the contract may be altered in the instances and in the procedure established by the contract.

3. The legal consequences of a delay in execution indicated in point 2 of article 368 of this Code shall ensue if the closing date of work execution is violated.

#### Article 630. Price of Work

1. The work contract shall indicate the price of work to be performed or ways of defining thereof. In the absence in the work contract of any indication to that effect the price shall be defined in accordance with point 3 of Article 390 of this Code.

2. The price indicated in the work contract shall include the compensation for the contractor's expenses and fee due to it.

3. The price of work may be defined by way of drawing up an estimate.

In the instance when work is executed in accordance with the estimate drawn up by the contractor, the estimate shall become effective and part of the work contract following the customer's approval thereof.

4. The price of work (estimate) may be approximate or fixed. In the absence of other provisions in the work contract, the price of work shall be deemed fixed.

5. Should additional work be required necessitating a considerable excess of the approximately defined work price, the contractor shall timely apprise the customer of the fact. The customer who has disagreed with the excess of the work price specified in the work contract shall have the right to recede from the work contract. Should that be the case, the contractor may demand that the customer pay him for the share of work performed.

The contractor who has failed to apprise the customer in due time of the necessity to exceed the work price specified in the agreement, shall fulfill the agreement retaining the right to receive payment for the work at the price defined in the contract.

6. The contractor shall have no right to demand that the fixed price be increased, neither the customer may demand it decreased, inclusive of the instance when at the time of the conclusion of the work contract a possibility to make provisions for the full scope of work to be performed or the required costs was precluded.

In the event of a considerable increase in the cost of materials and equipment to be provided by the contractor and of services rendered by third persons to it after the contract was entered into, the contractor shall have the right to demand that the established price (estimate) be increased and, should the customer refuse to comply with its demand, cancel the contract in accordance with Article 412 of this Code.

#### Article 631. Contractor's Resource Saving

1. In the instances when the contractor's actual expenses prove less the amount taken into account when defining the price of work, the contractor shall retain the right to receive payment for the work performed at the price specified in the work contract, unless the customer proves that the resource saving achieved by the contractor have affected the quality of the work performed.

2. The work contract may provide for a distribution of the savings achieved by the contractor between the parties.

#### Article 632. Procedure for Contract Payment

1. Unless the work contract stipulates preliminary payment for the work performed or for individual phases thereof, the customer shall pay the contractor the stipulated price upon the final commissioning of the work results, provided the work has been done properly and within the specified term or ahead of time with the customer's consent.
2. The contractor shall have the right to demand payment of an advance or a deposit exclusively in the instances and in the amount stipulated by law or the work contract.

#### Article 633. Contractor's Right of Retention

Should the customer fail to fulfill the obligation to pay the specified price or any other sum due to the contractor in relation to the execution of the work contract, the contractor shall have the right to retain under Article 342 of this Code the result of the work, as well as the customer's equipment, thing handed over for processing (treatment), remainder or unused materials and other property of the customer currently at his disposal until the customer has paid the appropriate amount.

#### Article 634. Performance of Work from Customer's Materials

1. The contractor shall use the materials supplied by the customer thriftily and prudently, on completion of the work provide the customer with a report on the use of the materials, and return the remainder or on agreement with the customer, reduce the work price with account of the cost of the unused materials retained by the contractor.
2. The contractor shall be held liable for improper performance of the work caused by the defects of materials supplied by the customer, unless he proves that the defects could not have been discovered by him upon proper receipt of these materials.

#### Article 635. Contractor's Liability for Failure to Keep Safe Property Provided by Customer

The contractor shall be held liable for failure to keep safe the customer's materials, equipment, thing transferred for processing (treatment) or other property which came into the contractor's possession in connection with the execution of the work contract.

#### Article 636. Customer's Rights During Execution of Work by Contractor

1. The customer shall have the right to check at any time the course and quality of the work being performed by the customer without interfering with the latter's activity.
2. If the contractor fails to promptly commence the execution of the work contract or performs the work so slowly that the completion thereof on time becomes clearly impossible, the customer shall have the right to recede from the contract and demand compensation for damages.
3. If during the execution of work it becomes obvious that the work will not be properly performed, the customer shall have the right to set a reasonable term for the contractor to eliminate the defects and should the contractor fail to meet the requirement at the specified time, recede from the work contract or intrust another person to carry out corrective measures at the contractor's expense, and demand compensation for damages.
4. Unless otherwise provided by the work contract, the contractor may, at any time before presentation of the result of the work to it, recede from the performance of the contract after payment of the part of established price to the contractor in proportion to the part of work performed before the receipt of notification on recession of the contractor from the performance of the contract. The contractor shall also indemnify the contractor for damages inflicted by the recession of the work contract within the limits of the difference in price set for the whole work and part of the price paid for the performed work.

#### Article 637. Circumstances of Which Contractor Shall Notify Customer

1. The contractor shall promptly notify the customer and suspend work until receiving further instructions from the latter, should it discover the following:

unsuitability or inappropriate quality of the customer's materials, equipment, technical documentation or thing handed over for processing (treatment);

a possibility of adverse consequences for the customer resulting from the fulfillment of the customer's instructions concerning the way of performing the work;

other circumstances beyond the contractor's control threatening the suitability or durability of the results of the work in progress or preventing its timely completion.

2. The contractor who has failed to notify the customer of the circumstances stipulated in paragraph 1 of this Article or continues to work without waiting for the expiry of a period of time stipulated in the contract, and in the absence thereof - of a reasonable period for an answer to his notification or regardless of a timely receipt of the customer's instruction to terminate the work shall have no right to refer to the specified circumstances when appropriate claims are presented to it or to the customer by it.

3. If the customer, regardless of a timely and substantiated notification from the contractor concerning the circumstances specified in paragraph 1 of this Article, fails to replace within a reasonable period of time the unsuitable or inferior materials, equipment, technical documentation or thing handed over for processing (treatment), or change its instruction concerning the way of performing the work, or take other measures to eliminate the circumstances threatening the suitability of the work, the contractor shall have the right to recede from the work contract and demand compensation for damages inflicted by the termination thereof.

#### Article 638. Customer's Assistance

1. The customer shall render assistance to the contractor during the performance of the work in cases, volume and procedure provided by the work contract.

In case of non-fulfillment of this obligation by the customer the contractor may demand the indemnification of losses inflicted, including additional expenses, caused by the idleness or shifting of terms of the performance of work or by the increase of the price indicated in the contract.

2. In cases when the performance of the work under a work contract proves impossible in the result of actions or negligence of the customer, the contractor shall retain the right to be paid the price indicated in the contract with the account of performed part of the work, less the amount the contractor has received or may have received in relation with non-fulfillment of the contract.

#### Article 639. Customer's Non-fulfillment of Counter-Obligations Under Work Contract

1. The contractor shall have the right not to commence work and suspend work in progress in the instances when the customer's violation of its obligations under the work contract, including failure to provide materials, equipment, technical documentation or thing for processing (treatment), precludes the contractor's fulfillment of its obligations and also in the event of circumstances explicitly indicating that the said obligations will not be performed within the specified period of time .

2. Unless otherwise provided by the work contract, the contractor given the circumstances specified in point 1 of this Article shall have the right to refuse to perform its obligation and demand compensation for damages, unless otherwise provided by the work contract.

#### Article 640. Customer's Acceptance of Work Completed by Contractor

1. The customer shall within the term and in the procedure stipulated in the work contract inspect with the contractor's participation and accept the work completed (the result thereof), and on discovering deviations from the contract detracting from the quality of work or any other defects in the work, immediately notify the contractor of the fact.

2. The customer to discover defects in the work during the acceptance thereof shall have the right to refer to them only if the acceptance certificate or any other document confirming the work acceptance contains provisions with respect to such defects or a possibility of making a subsequent claim concerning the elimination thereof.

3. Unless provided otherwise by the work contract the customer to have accepted work without inspection shall forfeit the right to refer to the defects in the work that could be revealed in the course of a standard acceptance thereof (obvious defects).

4. The customer to discover after the work result has been accepted, deviations therein from the contract or other defects in the work that could not be established in the course of a standard inspection (latent defects), including such

which were intentionally concealed by the contractor, shall inform the contractor of the fact within a reasonable period of time upon the discovery of such defects.

5. In the event of a dispute between the customer and the contractor related to the defects in the work performed as well as the causes thereof, an expert appraisal must be performed at the request of either party. All expenses related to the expert appraisal shall be covered by the contractor, except instances when the expert appraisal establishes the absence of deviations from the contract or any direct connection between the contractor's actions and the exposed defects. In the specified instances all the expenses related to the expert appraisal shall be borne by the party to have demanded the performance thereof and, if the expert appraisal has been performed by the agreement between the parties, equally by the two parties.

6. Unless provided otherwise by the work contract, if the customer evades the acceptance of completed work, the contractor shall have the right upon the expiry of one month following the date when pursuant to the work contract, the work result must be transferred to the customer and two subsequent notification of the latter to sell the result of the work and deposit the proceeds, less all payments due to the contractor, in the customer's name pursuant to the procedure provided for by Article 310 of this Code.

7. If the customer's evasion to accept completed work delayed the commissioning of completed work, the risk of accidental perish of manufactured (processed or treated) thing shall be deemed to have passed to the customer at the time when the thing was to be transferred.

#### Article 641. Quality of Work Performed

1. The quality of the work performed by the contractor must meet the requirements of the work contract and in the absence or in event of incompleteness thereof, the requirements usually set to this type of work. Unless otherwise provided by law, other legal acts or the work contract, the work performed must at the time of delivery to the customer possess all the qualities specified in the contract or determined by usual requirements, and be suitable within a reasonable period of time for the purposes stipulated in the contract and should the contract fail to stipulate such purposes, any purposes which this type of work is generally used for.

2. Should law, other legal acts or the procedure established thereby stipulate mandatory requirements to the quality of work to be performed under the work contract, the contractor involved in the entrepreneurial activity shall perform the work in compliance with the specified mandatory requirements.

Under the contract the contractor may undertake an obligation to perform work of higher conformance as compared to the mandatory requirements established for the parties.

#### Article 642. Warranty of Quality of Work Performed

1. In the instance when law, another legal act, the work agreement or business customs prescribe a warranty period for the result of work performed, the result of the work must comply with the agreement provisions on the work quality during the whole term of the warranty period (Article 641(1) of this Code).

2. Warranty of the quality of work shall apply to all that constitutes the result of the work unless otherwise provided by the work agreement.

#### Article 643. Procedure of Calculating Warranty Period

1. Warranty period Article 642 (1)) shall run from the moment when performed work was accepted or was to be accepted by the customer, unless otherwise provided by the work contract.

2. In relation to calculation of warranty period under the work contract rules specified in points 2-4 of Article 434 of this Code shall be applied, unless otherwise provided by law, other normative legal acts, agreement of the parties or arises out of the peculiarities of the work contract.

#### Article 644. Contractor's Liability for Improper Quality of Work Performed

1. In the instances when the work performed by the contractor deviates from the work contract in a way deteriorating the work result or has other defects making the latter unsuitable for the purposes stipulated in the contract or, in the absence in the agreement of an appropriate provision, for general use, the customer shall have the right, unless otherwise provided by law or the contract, to demand from the contractor at option:

- elimination of the defects in the work result within a reasonable time;
- a commensurate reduction of the established work price;

- compensation of its costs in connection with the elimination of the defects if the customer's right to eliminate those is stipulated in the work contract (Article 362).

2. The contractor shall have the right, instead of eliminating the defects in the work which he is responsible for, to perform the work a new and compensate the customer for the damages caused by the delay in execution. Should that be the case, the customer shall return to the contractor the previously delivered result of the work if the nature of the work permits such return.

3. Should the deviations from the work contract or other defects prove significant and simultaneously unremovable, or if the exposed defects have not been eliminated within the reasonable period specified by the customer, the latter shall have the right to recede from the contract and demand compensation for inflicted damages.

4. The contractor to have provided materials for the work shall be responsible for the quality thereof under the rules on the seller's liability for goods of improper quality ( Article 438 of this Code).

#### Article 645. Term for Exposing Improper Quality of Work Result

1. Unless otherwise provided by law or the work contract, the customer shall have the right to bring claims regarding the improper quality of the result of work provided that this was discovered within the periods established by this Article.

2. In the event there is no warranty period with respect to the result of work, the claims connected with the defects in the result of work may be brought by the customer, provided that such defects have been revealed within a reasonable period of time, but no later than two years from the date of delivery of the result of work, unless other periods are not provided by law, the contract or business customs.

3. The customer shall have the right to make claims connected with the defects in the result of work discovered within the warranty period.

4. In the event the warranty period provided by the work contract is less than two years, and the defects in the result of work were discovered by the customer upon the expiration of the warranty period but within two years of the time provided for by point 1 of Article 643 of this Code, the contractor shall be held liable if the customer proves that defects appeared before the delivery of the result of work to the customer, or due to reasons which had arisen before this moment.

#### Article 646. Statute of Limitation for Actions Concerning Improper Work Quality

1. The statute of limitation for actions brought in connection with improper quality of work performed under a work contract shall amount to one year, and with respect to buildings and installations shall be determined according to the rules of Article 212 of this Code.

2. If, under the work contract, the work performed is accepted by the customer piecemeal, the statute of limitation shall commence to run on the date the work is accepted as a whole.

3. If law, other normative legal acts or the work contract stipulate a warranty period, and an application concerning defects in the work result is submitted within the warranty period, the statute limitation specified in point 1 of this Article shall commence to run on the date of the defect application submission.

#### Article 647. Contractor's Obligation to Transfer Information to Customer

The contractor shall transfer to the customer, together with the work result, information concerning the operation or any other utilization of the subject matter of the work contract, if this is provided for by the contract or if the nature of the information is such that the absence thereof will preclude the use of the work results for the purposes stipulated in the contract.

#### Article 648. Confidentiality of Information Received by Parties

Should a party, by virtue of fulfilling its obligation, received from the other party information about new methods and technical knowledge, including those unprotected by law, as well as information that may be regarded as commercial secret (Article 34), the party to have received such information shall have no right to disclose this information to third persons without the other party's consent. The procedure and terms of using such information shall be established by agreement between the parties.

#### Article 649. Contractor's Return of Property Provided by Customer

In cases where the customer on the basis of point 2 of Article 636 or point 3 of Article 644 of this Code rescinds the work contract, the contractor shall return the materials, equipment, thing handed over for processing (treatment), and other property of the customer or hand them over to the person specified by the customer or, should the latter prove impossible, recompense for the cost of the material, equipment, and other property.

Article 650. Consequences of Termination of Work Contract before  
Acceptance of Result of Work

In the event a work contract is terminated on the grounds provided for by law or the contract before the customer's acceptance of the result of work performed by the contractor (point 1 of Article 640), the customer shall have the right to demand that the result of work be transferred to him and shall compensate the contractor for the costs incurred.

§ 2. Domestic Work Contract

Article 651. Domestic Work Contract

1. Under a domestic work contract, the contractor involved in the appropriate entrepreneurial activity shall undertake to perform at the instruction of an individual (customer) specified work intended to satisfy the household and other personal needs of the customer, while the customer shall undertake to accept and pay for the work.

2. The domestic work contract shall be a public contract (Article 386).

3. Applied to relations under the domestic work contract not regulated by this Code shall be laws on consumer rights protection and other normative legal acts adopted in compliance therewith.

Article 652. Form of Domestic Work Contract

Unless otherwise provided by law, other normative legal acts or contract, including by conditions of blanks or other standard forms joined by the customer (Article 387), the domestic work contract shall be deemed entered into from the time the contractor issues to the customer a receipt or other document confirming the contract.

Failure to have such documents by the customer shall not deprive him of the right to refer to witnesses testimony to confirm the fact of entry into the contract and its conditions.

Article 653. Guarantee of Customer's Rights

1. The contractor shall have no right to impose on the customer the inclusion in the domestic work contract of additional work and services. The customer shall have the right to refuse to pay for work or service which is not provided by the contract.

2. The customer shall have the right to recede from the domestic work contract at any time before the work has been delivered to him by paying the contractor a portion of the established work price pro rata the portion of work fulfilled prior to the notice of the refusal to perform the contract and by compensating the contractor for the losses incurred prior to that time in execution of the contract, unless such losses are included in the specified portion of the specified work price. Any contract provisions depriving the customer of this right shall be null and void.

Article 654. Submission of Information to Customer about  
Offered Work

1. The contractor shall be obligated prior to the conclusion of the domestic work contract to provide the customer with all necessary and authentic information about the offered work, its types and specific characteristics, the price and the form of payment, as well as communicate to the customer at the customer's request any other information pertaining to the contract and work. Should it arise from the nature of work, the contractor shall indicate to the customer the concrete person to perform the work.

2. The customer shall have the right to demand the cancellation of the signed domestic work contract without payment for the work performed, and also compensation for damages in cases where, owing to the incomplete or inaccurate information received from the contractor, the customer has entered into a contract for performance of work not possessing the qualities the customer required.

Article 655. Fulfillment of Work from Contractor's Materials

1. Should the work under the domestic work contract be fulfilled from the contractor's materials, the customer shall pay for the furnished materials at the time of conclusion of the contract either in full or in part specified in the contract, with the final payment to be effected upon the customer's acceptance of the work performed by the contractor.

In conformity with the domestic work contract, the contractor shall supply materials on credit, and also permit the customer to pay for the materials by installments.

2. No alteration of the price of materials supplied by the contractor after the domestic work contract has been entered into shall entail recalculation.

#### Article 656. Fulfillment of Work from Customer's Materials

Should the work under the domestic work contract be fulfilled from the customer's materials, the receipt or any other document issued by the contractor to the customer at the time of entering into the contract must specify the exact name, description and price of the materials determined by the contract of the parties. The assessment of materials indicated in the receipt or another similar document may be subsequently challenged by the customer in court.

#### Article 657. Price and Payment of Work

Under the domestic work contract, the price shall be established by agreement between the parties and may not exceed the price set forth in the price list presented by the contractor. Work shall be paid for by the customer upon the fulfillment thereof by the contractor. With the customer's consent, the customer may pay for work at the time of entering into the contract in full or by way of an advance payment.

#### Article 658. Warning Customer about Requirements for Use of Completed Work

When transferring the work result to the customer, the contractor shall warn the customer about requirements which must be met to ensure an effective and safe use of the work result, and about possible consequences of failure to comply with the respective requirements for the customer and other persons.

#### Article 659. Consequences of Exposing Defects in Completed Work

1. If exposing defects while accepting the work result or utilizing it, the customer may within the general periods stipulated in Article 646 of this Code, and in the event of an established guarantee period - within such period, at customer's discretion:

exercise one of the rights stipulated in Article 644 of this Code, or demand to repeat the work for free, or to compensate the customer for the costs incurred in connection with the correction of defects by customer's own means or by third persons.

2. The demand to eliminate without compensation such defects in the work performed under a domestic work contract that may endanger the life and health of the customer and other persons may be made by the customer or customer's legal successor within ten years from the date of work acceptance, unless a longer term (service life) is stipulated in accordance with a legally established procedure. Such demand may be made irrespective of the time when the specified defects were exposed, including upon the expiry of the warranty period.

3. Should the contractor fail to fulfill the demand stipulated in point 2 of this Article, the customer shall have the right to demand within the same period of time the return of a portion of the price paid for work or the compensation of expenses incurred by the customer when eliminating the defects with own means or with the assistance of third persons.

#### Article 660. Consequences of Customer's Failure to Appear to Accept Work Results

Should the customer fail to appear to accept the result of work performed or otherwise evade the acceptance thereof, the contractor shall be entitled, upon notifying the customer in writing, on the expiry of two months from the date of notification to sell the result of the work for a reasonable price and deposit the proceeds from the sale, less all payments due to the contractor, in accordance with the procedure provided by Article 310 of this Code.

#### Article 661. Customer's Rights in Event of Improper Performance or Failure to Perform Work under Domestic Work Contract

In the event of improper performance or failure to perform work under the domestic work contract, the customer may enjoy the rights granted to the buyer in accordance with Articles 466-468 of this Code.

### § 3. Construction Contract

#### Article 662. Construction Work Contract

1. Under the construction work contract, the contractor shall undertake to construct within the term specified in the contract a specified facility or perform other construction work, while the customer shall undertake to ensure appropriate working conditions for the contractor, accept and pay the stipulated price for the result thereof.

2. The construction work contract shall be concluded for the construction or renovation of an enterprise, building (including a residential building), installation or any other facility, as well as for performance of erection work, start-up and adjustment work and other work directly related to the project under construction. The rules for the construction work contract shall also apply to overhaul repairs of buildings and installations, unless otherwise provided by the contract.

As provided by contract, the contractor shall undertake to ensure the operation of the facility following its acceptance by the customer within the term specified in the contract.

3. In the event where under the construction work contract, works are being performed to satisfy domestic or other personal needs of an individual (customer), the rules of § 2 of this Chapter regarding the rights of the customer under the domestic work contract shall apply to such contract.

#### Article 663. Distribution of Risk Between Parties

1. The risk of accidental loss of or accidental damage to the construction facility constituting the subject matter of the construction work contract prior to its acceptance by the customer shall be borne by the contractor.

2. Should the construction facility prior to its acceptance by the customer perish or be damaged as a result of inferior materials (components, structures) or equipment supplied by the customer, or the execution of the customer's erroneous instructions, the contractor shall be entitled to demand the payment of the estimated work cost in full, provided he has fulfilled the obligations stipulated in point 1 of Article 637 of this Code.

#### Article 664. Insurance of Construction Facility

1. The construction work contract may provide for the obligation of the party, bearing the risk of accidental loss of or accidental damage to the construction facility, material, equipment, and other property used in the course of construction or liability for inflicting harm to other persons during construction, to insure the respective risks.

The party vested with the insurance obligation must submit to the other party evidence of the insurance contract having been concluded thereby on the terms stipulated in the construction work contract, including information about the insurer, the insurance amount and insured risks.

2. Risk insurance shall not release the appropriate party from the obligation to take all necessary measures to avert the occurrence of an insured accident.

#### Article 665. Technical Documentation and Estimate

1. The contractor shall perform the construction and other related work in conformity with the technical documentation defining the scope, content and other requirements to work, and with the estimate specifying the work price.

In the absence of other provisions in the construction work contract, it shall be assumed that the contractor shall perform all the work defined in the technical documentation and estimate.

2. The construction work contract must define the composition and content of the technical documentation, and stipulate the party to submit the appropriate documentation and the time for submission thereof.

3. The contractor to discover in the course of construction types of work unaccounted for by the technical documentation requiring, consequently, the performance of additional work and an increase of the estimated construction cost, shall inform the customer thereof.

Failing to receive from the customer an answer to his notification within ten days, unless another term is stipulated by law or the contract, the contractor shall suspend the specified work and charge the losses caused by downtime to the customer's expense.

The customer shall be relieved from the loss compensation if it proves the absence of any necessity to perform additional work.

4. The contractor failing to fulfill the obligation specified in point 3 of this Article shall forfeit the right to demand from the customer payment for the additionally performed work and compensation for resultant losses, unless he proves the necessity of taking urgent measures in the customer's interests, in particular in connection with the fact that the suspension of work may result in the perishing of or damage to the construction facility.

5. With the customer's consent to the additional work and payment thereof, the contractor shall be entitled to refuse to perform the work only if this work is beyond the contractor's professional competence or may not be performed by the contractor owing to circumstances beyond its control.

#### Article 666. Introducing Amendments in Technical Estimate Documentation

1. The customer shall have the right to introduce amendments in the technical documentation, which do not require additional costs for the contractor.

2. Any amendments to the technical estimate documentation requiring additional costs for the contractor are carried out at the customer's expense on the grounds of agreed upon by the parties additional estimate.

3. Pursuant to Article 411 of this Code, the contractor shall have the right to demand the estimate review if, owing to circumstances beyond its control, the cost of work has exceeded the estimate at least by ten percent.

#### Article 667. Supply of Materials and Equipment for Construction

1. The obligation to supply materials for construction, including components, structures and equipment, shall be borne by the contractor, unless the construction work contract stipulates that the materials for construction shall be supplied in full or in certain part by the customer.

2. The party obligated to supply materials for construction shall be held liable for the disclosed impossibility to use the materials or equipment provided thereby without affecting the quality of the work in progress, unless it proves that the impossibility to use resulted from circumstances which the other party is responsible for.

3. In the event of disclosed impossibility to use without affecting the quality of the work in progress the materials or equipment supplied by the customer and if the customer refuses to replace them, the contractor shall have the right to recede from the construction work contract and demand that the customer pay the contractual price pro rata the completed portion of work.

#### Article 668. Payment for Work

1. Payment for work performed by the contractor shall be effected by the customer in the amount specified in the estimate, at the time and in the procedure stipulated by law or the construction work contract. In the absence of appropriate provisions to that effect in the law or the contract, the payment for work performed by the contractor shall be effected in accordance with Article 632 of this Code.

2. The construction work contract may provide for the work price to be paid as a lump sum and in full following the customer's acceptance of the facility.

#### Article 669. Customer's Additional Obligations under Construction Work Contract

1. The customer shall timely provide a land plot for construction. The area and condition of the land plot to be provided must conform with instructions stipulated in the construction work contract and in the absence thereof ensure a timely commencement, normal performance and timely completion of the work.

2. The customer must in cases and in the procedure stipulated in the construction work contract grant the contractor the use of buildings and installations required for the work performance, ensure the transportation of cargos to his address, construct temporary power supply, water main, and steam-pipe extensions, and render other services.

3. Payment for the services by the customer specified in point 2 of this Article shall be effected in cases and on the conditions stipulated in the construction work contract.

#### Article 670. Work Control and Supervision under Construction Work Contract

1. The customer shall have the right to exercise control over and supervision of the work in progress, the compliance with the construction term (schedule), the quality of materials supplied by the customer, and the proper use of the customer's materials by the contractor without interfering in the contractor's operational and economic activity.

2. The customer to discover while exercising control over and supervision of the work in progress deviations from the terms of the construction work contract that may detract from the quality of work or any other defects therein shall immediately apprise the contractor to that effect. The customer, failed to notify the contractor shall forfeit the right to refer in the future to the defects it has disclosed.

3. The contractor shall fulfill the customer's instructions received in the course of construction, unless such instructions contradict the terms of the construction work contract or represent interference in the contractor's operational and economic activity.

4. The contractor, failed to perform the work properly shall have no right to refer to the fact that the customer has not exercised control over or supervised the work in progress, except for cases where the customer is vested with obligation to exercise control and supervision by law.

#### Article 671. Cooperation of Parties under Construction Work Contract

1. Should obstacles impeding the proper execution of the construction work contract be disclosed in the course of construction and performance of other related work, each party shall take all reasonable measures in its power to eliminate such obstacles. The party that fails to fulfill this obligation shall forfeit the right to receive compensation for losses resulting from failure to eliminate the relevant obstacles.

2. Expenses of a party related to the execution of the obligations specified in point 1 of this Article shall be compensated by the other party as provided by the construction work contract.

#### Article 672. Contractor's Obligations Concerning Environmental Protection and Ensuring Safety of Construction Work

1. In the course of construction and other related work, the contractor shall comply with requirements of law and other normative legal acts on environmental protection and safety of construction work.

The contractor shall be held liable for violating the specified requirements.

2. The contractor shall have no right to use in the course of construction the materials and equipment supplied by the customer or fulfill its instructions if it may result in violating the requirements concerning environmental protection and safety of construction work which are binding upon the parties.

#### Article 673. Consequences of Closing-down of Construction

If, for reasons beyond the parties control, the work performed under the construction work contract is suspended and the project temporary closed down, the customer shall pay the contractor in full for the work completed prior to the temporary closing down of the project and compensate for the expenses resulting from the necessity to discontinue work and temporarily close down the construction project.

#### Article 674. Delivery and Acceptance of Work

1. The customer, upon receiving the contractor's notification of the completion of work performed under the construction work contract or the completion of a phase of the work, if it is provided by the contract, shall immediately commence the acceptance thereof.

2. The customer shall organize and perform the acceptance of work at his own expense, unless otherwise provided by the construction work contract.

As provided by law or other normative legal acts, representatives of state and local self-government agencies must participate in the acceptance of work result.

3. The customer who has preliminarily accepted the results of separate phases of work shall bear the risk of consequences of the loss or damage thereof which has occurred through no fault of the contractor.

4. The delivery of the work result by the contractor and the acceptance thereof by the customer shall be formalized by means of a certificate signed by both parties. Should one party refuse to sign the acceptance certificate, a note to that effect shall be made therein and the certificate shall be signed by the other party.

A unilateral certificate on the delivery or acceptance of the work result may be declared by court as invalid only if the court recognizes the motives to refuse to sign the acceptance certificate as substantiated.

5. As provided by law or the construction work contract or when it arises from the nature of the work performed under the contract, the acceptance of work must be preceded by preliminary tests. In such cases the work result may only be accepted if the preliminary tests show a positive result.

6. The customer shall have the right to refuse to accept the work result, should he disclose defects which preclude the use of the work result for the purpose specified in the construction work contract and may not be eliminated either by the contractor or the customer.

#### Article 675. Contractor's Liability for Quality of Work

1. The contractor shall be held liable to the customer for any deviations from the requirements specified in the technical estimate documentation and construction standards and rules binding upon the parties, as well as for failure to achieve the indices of the construction project indicated in the technical estimate documentation, including such as the production capacity of the enterprise.

In the event of modernization (renovation, reconstruction, restoration, etc.) of a building or installation, the contractor shall be held responsible for the reduction or loss of soundness, stability, reliability of the building, installation or its part.

2. The contractor shall not be responsible for minor deviations from the technical documentation committed without the customer's consent, if he proves that they have not affected the quality of the construction project.

#### Article 676. Warranty of Quality under Construction Work Contract

1. The contractor shall guarantee, unless otherwise provided by the construction work contract, the construction facility achieving the performance characteristics indicated in the technical estimate and a possibility to operate the facility in conformity with the construction work contract throughout the warranty period. The warranty period shall be ten years from the day of acceptance of the facility by the customer unless other warranty period provided by law. The warranty period established by the Code or any other law may be prolonged by agreement between the parties.

2. The contractor shall be held liable for the shortcomings (defects) exposed within the warranty period, unless he proves that they result from natural tear and wear of the object or its parts, incorrect operation or incorrect operating instructions elaborated either by the customer or third parties employed thereby for this purpose, improper maintenance of the object performed either by the customer or third parties employed thereby for this purpose.

3. The running of the warranty period shall be interrupted for the whole term during which the object could not be utilized on account of the defects which the contractor is responsible for.

4. In the event of disclosing within the warranty period defects indicated in point 1 of Article 675 of the Code, the customer must apprise the contractor of this fact within a reasonable time following the disclosure thereof.

#### Article 677. Elimination of Defects at Customer's Expense

1. The construction work contract may oblige the contractor to eliminate at the customer's request and expense defects which the contractor is not liable for.

2. The contractor shall have the right to refuse to fulfill the obligation specified in point 1 of this Article in cases where elimination of defects is not directly related to the subject of the contract or may not be effectuated by the contractor owing to reasons beyond its control.

### § 4. Contract for Performance of Design and Survey Work

#### Article 678. Work Contract for Performance of Design and Survey Work

Under the work contract for performance of design and survey work, the contractor (designer, surveyor) shall undertake to draw up technical documentation and (or) perform survey work at the customer's request, while the customer shall undertake to accept and pay for the result of the work.

#### Article 679. Initial Data for Design and Survey Work

1. Under the work contract for performance of design and survey work, the customer shall assign a task to perform design work to contractor and also submit other initial data necessary for the elaboration of the technical documentation. At the customer's request, the assignment to perform design work may be prepared by the contractor. In this event the assignment shall become binding upon the parties from the time of the customer's approval thereof.

2. The contractor shall comply with the requirements defined in the assignment and other initial data provided for the performance of design and survey work, and shall have the right to deviate from them only with the customer's consent.

#### Article 680. Customer's Obligations

Unless otherwise provided by the contract, under the work contract for performance of design and survey work, the customer shall:

- pay the contractor the established price in full upon the completion of the whole scope of work or piecemeal upon the completion of individual phases thereof;
- use the technical documentation received from the contractor exclusively for the purposes defined in the contract, neither hand over the technical documentation to third parties nor disclose the data it contains without the contractor's consent;
- render assistance to the contractor in the performance of design and survey work in the volume and on the terms stipulated in the contract;
- jointly with the contractor seek the approval of the elaborated technical documentation from appropriate government agencies;
- compensate the contractor for additional expenses related to the amendment of the initial data used for the design and survey work owing to circumstances beyond the contractor's control;
- involve the contractor in lawsuits filed against the customer by third party in connection with defects in the elaborated technical documentation or the survey work performed.

#### Article 681. Contractor's Obligations

1. Under the work contract for performance of design and survey work, the contractor shall:

- perform work in compliance with the assignment and other initial design data and the contract;
- seek the customer's approval of the elaborated technical documentation and, when necessary, jointly with the customer seek the approval of competent government agencies;
- hand over to the customer the elaborated technical documentation and the results of the survey work;
- not to hand over the elaborated technical documentation to third parties without the customer's consent.

#### Article 682. Contractor's Liability for Improper Performance of Design and Survey Work

1. Under the work contract for the performance of design and survey work, the contractor shall be held liable for the improper elaboration of technical documentation and improper performance of survey work, including defects subsequently discovered in the course of the construction and operation of the object erected on the basis of the elaborated technical documentation and survey.

2. Should defects be exposed in the technical documentation or survey work, the contractor shall amend the design estimates without compensation and respectively perform all additional survey work at the customer's request, as well as compensate the latter for inflicted losses, unless otherwise provided by law or the work contract for performance of design and survey work.

#### Article 683. Legal Regulation of Design and Survey Work Contract

The relations under the work contract for performance of design and survey work may be regulated equally with this Code and in accordance with it by the legislation on design and survey work contract.

### § 5. Performance of Research and Development and Process Engineering Work

#### Article 684. Contract for Performance of Research, Development and Process Engineering Work

1. Under the contract for the performance of research work, the contractor shall undertake to perform the research work specified in the customer's technical assignment and, under the contract for the performance of development and process engineering work, to develop a sample of a new item, design plans and specifications to it or to a new process technology, while the customer shall undertake to accept and pay for the work.

2. The contract with the contractor (performer) may extend to the full scope of research, development and manufacture of samples or to individual phases (elements) thereof.

3. Unless otherwise provided by law or the contract, the customer shall bear the risk of accidental impossibility to fulfill contracts for the performance of research work, development and process engineering work.

4. The terms of the contract for the performance of research, development and process engineering work shall comply with laws and other normative legal acts on exclusive rights (intellectual property).

#### Article 685. Performance of Work

1. The contractor (performer) shall personally perform the research work. The contractor shall have the right to employ third parties for the execution of the contract for the performance of research work only with the customer's consent thereto, unless otherwise provided by the contract.

2. When performing the development and process engineering work, the contractor (performer) shall have the right, unless otherwise provided by the contract, to employ third parties for the execution thereof. Applicable to relations between the contractor and the third parties shall be the rules on the general contractor and subcontractor (Article 627).

#### Article 686. Confidentiality of Information Constituting Subject Matter of the Contract

1. Unless otherwise provided by the contract for performance of research and development and process engineering work, the parties shall ensure confidentiality of information related to the subject matter of the contract, the execution thereof and results obtained. The scope of information deemed as confidential shall be defined by the contract.

2. Each party shall undertake to publish information obtained in the course of fulfilling the work and deemed as confidential only with the consent of the other party.

#### Article 687. Rights of Parties to Result of Work

1. Parties to the contract for the performance of research and development and process engineering work shall have the right to use the work results, including those liable to legal protection, within the limits and on terms specified in the contract.

2. Unless otherwise provided by the contract, the customer shall have the right to use the work results received thereby from the contractor, including those liable to legal protection, and the contractor shall have the right to use the work results obtained thereby for its own needs.

#### Article 688. Customer's Obligations

1. The customer under the contract for the performance of research and development and process engineering work must:

- submit to the contractor (performer) information necessary for the work execution;
- accept and pay for the work result.

2. The contract may also obligate the customer to give the contractor a technical assignment and coordinate with him the working schedule (technical and economic specifications) and subject-matter.

#### Article 689. Contractor's Obligations

The contractor (performer) under the contract for the performance of research and development and process engineering and technological work must:

- perform the work in accordance with the technical assignment (technical and economic specifications) approved by the customer and deliver the result to the customer within the term stipulated in the contract;
- negotiate with the customer the necessity to use protected results of intellectual activity belonging to third parties, and to acquire rights to use them;
- eliminate with own means and resources defects in the work fulfilled committed through its fault which may result in deviation from the technical and economic specifications stipulated in the technical assignment or the contract;
- promptly notify the customer of the established impossibility to obtain the anticipated results or inexpediency of further work;
- guarantee to the customer the transfer of results received under the contract which do not violate other persons' exclusive rights.

#### Article 690. Consequences of Impossibility to Achieve Result under Contract for Performance of Research Work

If impossibility to achieve the intended result, owing to circumstances beyond the contractor's (performer's) control, is established in the course of research work, the customer shall pay the cost of the work completed prior to the established impossibility to attain the results defined in the contract, although not exceeding the appropriate portion of the work price specified in the contract.

Article 691. Consequences of Impossibility to Continue Development  
and Process Engineering Work

If impossibility or inexpedience of further work occurring through no fault of the contractor is established in the course of development and process engineering work, the customer shall compensate the contractor (performer) for its expenses.

Article 692. Liability of Contractor (Performer) for Breach  
of Contract

1. The contractor (performer) shall be liable to the customer for breach of the contract for the performance of research and development and process engineering work, unless it proves that such violations have resulted through no fault of the contractor (performer) (point 1 of Article 356).

2. The contractor (performer) shall compensate the customer for the losses incurred by the latter within the limits of the cost of the work declared as faulty, should the contract stipulate indemnification of losses within the limits of the total cost of work under the contract. Lost profit shall be subject to compensation as provided by the contract.

Article 693. Legal Regulation of Contracts for Performance of  
Research and Development and Process Engineering  
and Technological Work

The rules of Articles 629, 630 and 660 of this Code are correspondingly applied to the term of fulfilment and price of work as well as to the consequences of the customer's failure to appear to accept the result of work.

CHAPTER 31  
PROVISION OF SERVICES FOR  
COMPENSATION

Article 694. Contract on Provision of Services for Compensation

Under a contract on provision of services for compensation, the contractor, by the customer's order, shall render a service (commit certain actions or carry out certain activity) not of material form, and the customer shall pay for the indicated service.

Article 695. Subject Matter of Contract on Provision of Services  
for Compensation

The subject matter of the contract on provision of services for compensation are communication services, medical, veterinary, audit, consultation, information services, services on education, tourist servicing etc.

Article 696. Execution of the Contract on Provision of Services  
for Compensation

The contractor shall to render a service (services) personally unless otherwise provided for by the contract on provision of services for compensation.

Article 697. Price for Services

1. The customer shall pay for the rendered service (services) within the time periods and in accordance with the procedure specified in the contract of services for compensation.

2. In the event that execution is impossible, which occurred through the fault of the customer, the services shall be paid in full, unless otherwise provided by law or the contract of services for compensation.

3. In the event that execution is impossible, which occurred through no fault of no party, the customer shall compensate the contractor the actual expenses made by the later, unless otherwise provided by law or the contract of services for compensation.

Article 698. Liability of the Contractor for the Breach of the  
Contract on Provision of Services for Compensation

1. In the event of failure to perform or improper performance of the contract of provision of services for compensation the contractor shall compensate the customer for the inflicted damages in full amount but not more than double price of a service, stipulated by the contract.

2. In the event of the contractor's failure to perform or improper performance of obligations while carrying out business activity, the contract may provide for an increased liability as opposed to point 1 of this Article.

Article 699. Rescission of the Contract on Provision of Services  
for Compensation

1. The customer shall be entitled to demand rescission of a contract on provision of services for compensation under the terms of full payment of actually made expenses.

2. The contractor shall be entitled to demand the rescission of the contract on provision of services for compensation only under the terms of full compensation to the customer for losses inflicted by the rescission of the contract.

Article 700. Legal Regulation of the Contract on Provision  
of Services for Compensation

The contract of provision of services for compensation shall be governed by the general regulations on work-contract (Articles 623650) and by the regulations on domestic work-contract (Articles 651-661), unless this contradicts the rules of the present chapter, as well as the particularities of the subject matter of the contract on provision of services for compensation.

CHAPTER 32  
CARRIAGE

Article 701. General Provisions on Carriage

1. Carriage of cargoes, passengers and baggage shall be executed under a contract on carriage.

2. General terms on carriage shall be specified by, transportation charters and codes, other laws and regulations issued in accordance with them.

Terms on carriage of cargoes, passengers and baggage by certain kinds of transportation as well as the liability of parties on these carriages shall be specified by the agreement of parties, unless otherwise provided by this Code, transportation charters and codes, other laws and regulations issued in accordance with them.

Article 702. Contract on Cargo Carriage

1. Under the contract on cargo carriage, the carrier shall deliver cargo entrusted to him by the shipper to the point of destination and hand it over to the person authorized to receive the cargo (the consignee), and the shipper shall pay a stated fee for carriage of the cargo.

2. Entering into the contract on cargo carriage shall be confirmed by completing a bill of lading, (consignment note, or other document stipulated in the transportation charters and codes).

Article 703. Contract on Passenger Carriage

1. Under a contract on passenger carriage, the carrier shall deliver the passenger to the point of destination, and in the event of checked baggage shall deliver baggage to the point of destination and hand it over to the person authorized to receive the baggage; the passenger shall pay a stated fee for carriage, and in the event of checked baggage, for the carriage of baggage.

2. The contract on passenger and baggage carriage shall be certified by a ticket and baggage check receipt respectively. The forms of tickets and baggage check receipts are provided by the procedure stipulated in the transportation charters and codes.

3. In accordance with the procedure provided by transportation charters and codes, the passenger shall have the right to:

- carry with him children for free or on other privileged terms;
- carry hand luggage free of charge within the established limits;
- check baggage for carriage free of charge within the established limits, and, in case of overloading, for a fee.

#### Article 704. Charter Contract (Freightage)

Under a charter contract (freightage), the charter carrier shall provide the freighter all or part of the capacity of one or several transport vehicles for one or several trips on carriage of cargoes, passengers and baggage for a fee.

The procedure for entering into the charter contract (freightage) and also the form of the said contract shall be specified by transportation charters and codes.

#### Article 705. Direct Inter-Modal Communication

The relationships between transportation organizations on carriage of cargoes, passengers and baggage by different modes of transportation under a single transport document (direct inter-modal communication), as well as the procedure for arranging these carriages, shall be specified in the agreement by the parties of the related modes of transportation, entered into in accordance with the legislation on direct inter-modal (combined) carriages.

#### Article 706. Carriage by Public Transport

1. Carriage executed by a commercial organization shall be deemed carriage by public transport if it follows from the law, other legal acts or authorization (license) issued to this organization, that this organization is obligated to execute carriages of cargoes, passengers and baggage upon application of any individual or legal entity.

2. A contract on carriage by public transport shall be considered a public contract (Article 386).

#### Article 707. Carriage Fare

1. A fee for the carriage of cargoes, passengers and baggage shall be specified by the agreement of the parties, unless otherwise provided for by the law or other legal acts.

2. A fee for the carriage of cargoes, passengers and baggage by public transport shall be determined on the basis of tariffs, approved in the procedure established by transportation charters and codes.

3. Works and services rendered at the request of cargo owners and not included in the tariffs shall be paid for by the agreement of the parties.

4. The carrier shall be entitled to withhold the cargoes transferred to him for carriage as security for the carriage fee payable to him and other payments related to carriage (Article 342), unless otherwise established by the law, other legal acts, or follows from the essence of the obligation.

5. When in accordance with law or other legal acts, carriage of cargoes, passengers and baggage by public transport is executed on privileged terms, the expenses occurred in relation with this are refunded to the carrier on the account of the corresponding budget.

#### Article 708. Provision of Transport Vehicles, Loading (Unloading) of Cargo

1. The carrier shall supply the cargo shipper for loading the cargo with transportation vehicles in good repair and condition suitable for carriage of the related cargo within the period established by the application (order), contract for carriage or other contract.

The cargo shipper shall be entitled to refuse the supplied transport vehicles which are not suitable for carriage of the related cargo.

2. Loading (unloading) of cargo shall be executed by the transport organization or the shipper (consignee) in the procedure stipulated by the contract, and in compliance with the rules, established by transportation charters and codes, and regulations issued in accordance therewith.

3. Loading (unloading) of cargo, performed using the resources and means of the shipper (consignee) of the cargo, shall be performed within the period stipulated in the contract, unless such time periods are provided for by the transportation charters and codes, and regulations issued in accordance therewith.

#### Article 709. Period for Delivery of Cargo, Passenger and Baggage

The carrier shall be obligated to deliver cargo, passenger or baggage to the point of destination within the period specified in the procedure established by transportation charters and codes; and within a reasonable period, if such period is not specified.

#### Article 710. Liability on Obligations Resulting from Carriage

In the event of failure to perform or improper performance of obligations, resulting from the carriage, the parties shall bear liability provided by this Code, transportation charters and codes and also by agreement of the parties.

#### Article 711. Carrier's Liability for Failure to Provide Transport Vehicles and Shipper's Liability for Failure to Use the Provided Transport Vehicles

1. In the event the carrier fails to provide transport vehicles for carriage of cargo, in accordance with the accepted application (order) or other contract, and the shipper fails to supply the cargo or use provided transport vehicles for other reasons, thus shall bear the liability established by transportation charters and codes and also by agreement of the parties.

2. The cargo carrier and shipper of cargo shall be relieved from the liability in the event of:  
the failure to provide transport vehicles or failure to use provided transport vehicles if these events occurred as a consequence of insuperable force, and other natural disaster (fire, snow-drift, flood, and others), or hostilities;  
cessation or limitation of cargo carriages in certain directions or along certain routes established in the procedure provided for by transportation charters and codes;  
and in other cases specified by transportation charters and codes.

#### Article 712. Liability of the Carrier for Delay in Passenger's Departure

1. In the event of delay in departure of passenger transport vehicle or delay in arrival of such transport vehicle to the point of destination, except for carriages by urban or suburban transportations, the carrier shall pay the passenger a penalty in the procedure and amount established by transportation charters and codes, unless he proves that the delay in departure or arrival occurred as a consequence of insuperable force, repair of a fault in the transportation vehicle which threatened the life and health of passengers, and other circumstances which are beyond the carrier's control.

2. In the event the passenger refuses carriage because of delay in departure of the transportation vehicle, the carrier shall be obligated to refund the passenger fare for carriage.

#### Article 713. Liability of the Carrier for Loss, Shortage and Damage to Cargo or Baggage

1. The carrier shall be liable for the safety of cargo or baggage from the moment of its acceptance until the moment of handing it over to the cargo receiver, person authorized by him or individual authorized to receive baggage, unless he proves that the loss, shortage of or damage to the cargo or baggage occurred as a consequence of circumstances which the carrier could not prevent and the elimination of which was beyond his control.

2. Damages, inflicted during carriage of cargo or baggage shall be compensated by the carrier in the following amount:

for loss of cargo or baggage - in the amount of the value of lost or missing cargo or baggage ;

for damage to cargo or baggage - in the amount of decrease in value, and should it be impossible to restore the damaged cargo or baggage, in the amount of its value;

for loss of cargo or baggage checked to carriage with the declaration of its value, in the amount of the declared 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 stipulated in the contract, and should the check or contract with indication of price not be available, - then on the basis of the price which is usually charged for similar goods under comparable circumstances.

3. In addition to the compensation for established damages connected with the loss, shortage, injury or damage to cargo, the transport organization shall return to the shipper (consignee) the transportation fare charged for carriage of lost, missing, damaged or injured cargo, unless this fare is included in the value of cargo.

4. Documentation detailing the reasons for failure to preserve cargo or baggage (commercial act, general form act, etc.), completed by the carrier unilaterally, shall be subject to evaluation along with other documents that certify circumstances which may serve as a ground for the liability of the carrier, shipper or consignee of cargo or baggage.

#### Article 714. Claims and Suits Relating to Cargo Carriage

1. Prior to bringing a suit against the carrier resulting from the carriage of cargo, it is obligatory to make a claim to him in the procedure provided by transportation charters and codes.

2. A suit against a carrier may be filed by the cargo shipper or consignee in the event of full or partial refusal of the carrier to satisfy the claim or failure to receive response from the carrier within a thirty day period.

3. The statute of limitation, of claims resulting from the carriage of cargo, shall be one year from the moment specified, in accordance with Article 208 of this Code.

#### Article 715. Long-term Contracts on Arrangement of Carriage

The carrier and cargo owner may enter into long-term contracts for arrangement of cargo carriage if there is a need for systematic carriages.

Under a long-term contract for arrangement of cargo carriage, the carrier shall within the specified period accept and the cargo owner shall provide cargo for carriage in the specified volume.

Such contract shall specify the volumes, time periods and other terms of provision of transportation vehicles and cargo for carriage, a settlement order, as well as other terms for arrangement of carriage.

#### Article 716. Contract Between Transportation Organizations

Transportation organizations of various modes of transportation may enter into contracts for arrangement of work to provide cargo carriage (junction agreements, contracts for the centralized import (export) of cargo, etc.).

The procedure for entering into such contracts shall be specified by transportation charters and codes, other laws and legal acts.

#### Article 717. Liability of the Carrier for Death or Personal Injury to a Passenger

The liability of the carrier for harm inflicted to the life or health of the passenger shall be determined under the rules of Chapter 51 of this Code, unless the law or carriage contract provides for the increased liability of the carrier.

### CHAPTER 33 FORWARDING

#### Article 718. Contract of Forwarding

1. Under a contract of forwarding, a forwarder shall render or arrange forwarding services related to cargo carriages specified by the contract for compensation and at the expense of the customer (shipper or consignee).

Contract of forwarding may provide for forwarder's obligation to arrange carriage of cargo by transportation and along the route selected by the forwarder or the customer, forwarder's obligation to enter into the contract (contracts) of cargo carriage in the name of customer or his own name, to foster shipment and receipt of cargo, and also other obligations related to carriage.

As additional services, a contract of forwarding may provide for the execution of operations necessary for shipment of cargo, such as receipt of documents necessary for import or export, completion of customs and other formalities, checking the number and condition of cargo, checking loading and unloading of cargo, paying duties, fees and other expenses laid upon the customer, storage of cargo, receipt of cargo at the point of destination, as well as fulfilment of other operations and services provided in the contract.

2. Rules of this Chapter shall apply in instances when, in accordance with the contract, the obligations of the forwarder are fulfilled by the carrier.

3. Terms for performance of a contract on forwarding shall be specified by the agreement of parties, unless otherwise provided for by the legislation.

#### Article 719. Form of Contract of Forwarding

1. The contract of forwarding shall be in writing.
2. The customer must issue a power of attorney to the forwarder, if necessary, for the performance of his obligations.

#### Article 720. Forwarder's Liability Under a Forwarding Contract

In the event that the forwarder fails to perform or improperly performs his obligations under the contract of forwarding, the forwarder shall be liable on the grounds and in amounts specified in accordance with the rules of Chapter 20 of this Code.

Should the forwarder prove that the breach of obligation was caused by the improper performance of the carriage contracts, forwarder's liability to the customer shall be specified by the same rules which govern the liability of the corresponding carrier to the forwarder.

#### Article 721. Documents and Other Information Provided to Forwarder

1. The customer shall provide the forwarder with documents and other information about the attributes of the cargo, conditions of its carriage and other information necessary for the forwarder's performance of the obligation provided by the forwarding contract.

2. The forwarder shall be obligated to inform the customer about deficiencies discovered in documents and, in the event of incomplete information, shall request the customer to provide the necessary additional data.

3. Should the customer fail to provide the forwarder with necessary documents and information, the forwarder may withhold performance of his obligations until such documents and information are provided.

4. The customer shall be liable for the losses inflicted to the forwarder as a result of breach of the obligation to provide documents and information indicated in point 1 of this Article.

#### Article 722. Performance of the Forwarder's Obligations by Third Party

The forwarder may involve other persons to perform his obligations, unless it follows from the forwarding contract that the forwarder should personally perform his obligations. Placing performance of obligation upon a third party shall not excuse the forwarder from his liability to the customer for the performance of the forwarding contract.

#### Article 723. Repudiation of the Forwarding Contract

Any of the parties may refuse to perform a forwarding contract having notified the other party within a reasonable period of time.

In the event of a unilateral refusal to fulfill the contract, the party to declare its refusal shall indemnify the other party's losses caused by the termination of the forwarding contract.

### CHAPTER 34 LOAN AND CREDIT

#### § 1. Loan

#### Article 724. Loan Agreement

1. Under a loan agreement, a lender shall transfer ownership of money or fungible objects to a borrower, and the borrower shall return the same amount of money (amount of loan) to the lender or the equal amount of items of the same type and quality.

2. A loan agreement shall be considered entered into as of the moment the money or objects are transferred, unless otherwise provided by the agreement.

#### Article 725. Form of Loan Agreement

1. A loan agreement must be in writing, in the event the value of the agreement exceeds the minimal wage provided by law by no less than ten times, and irrespective of the amount if a party to the agreement is a legal entity.

2. Failure to comply with the written form of the loan agreement shall entail consequences provided by Art. 178 of this Code.

3. A loan agreement between individuals is considered a written agreement, if there is a borrower's receipt or any other document, which certifies transfer by the lender of a definite amount of money or number of objects to him.

#### Article 726. Interest on Loan Agreement

1. Unless otherwise provided by law or agreement, the lender shall have the right to receive interest on the amount of a loan from the borrower in the amount and in the procedure, specified in the agreement. Should the agreement be lacking the provision on the amount of the interest it shall be defined on the basis of the bank interest rate as of the day when the borrower repays the debt or corresponding part thereof in the place of residence of the lender and in the place of location if the lender is a legal entity.

2. Loan agreement entered by citizens for the amount not exceeding 50-fold minimum wages established by the law and not connected with business activity carried out by either of the parties, shall be considered non-interest, unless otherwise provided directly therein.

3. If under the loan agreement fungible things are transferred to the borrower, interest shall be paid in case when the agreement provides for their amount and form (in money or in kind).

4. The procedure and terms for interest payment shall be established in the loan agreement. If the procedure and the terms for interest payment are not provided in the agreement they shall be paid monthly until the date of loan recovery.

#### Article 727. Borrower's Obligation to Return the Loan Amount

1. The borrower shall return to the lender the amount of the received loan and interests thereon within the term and in the procedure provided by the agreement.

In the event the date for recovery of the loan is not specified in the agreement or is determined by the time of demand, the borrower must return the amount of the loan and interests within thirty days after the lender presents such claim, unless otherwise provided by the agreement.

2. The amount of a non-interest loan can be returned by the borrower ahead of time, unless otherwise provided by the agreement.

The amount of an interest-bearing loan can be returned ahead of time, with the lender's consent, or if it is provided by the agreement.

3. The amount of a loan shall be considered returned, and interests paid at the moment of transfer of this amount to the lender or entry of this amount on his banking account, unless otherwise specified in the agreement.

#### Article 728. Consequences of Borrower's Breach of Agreement

1. Unless otherwise provided by legislation or agreement, in cases when a borrower fails to return the amount of the loan in time, interest on this amount, shall be subject to payment in the amount provided in point 1 of Article 360 of this Code, as of the date it was to be returned until the date it is returned to the lender, irrespective of interest payment, provided by point 1 of Article 726 of this Code.

2. If the agreement provides for returning the loan in parts (by installments), and if the borrower breaches the term provided for repayment of the next part of the loan, the lender may claim an advance return of the remaining amount of the loan with the interest due.

#### Article 729. Contesting a Loan Agreement

1. The borrower may contest a loan agreement based on its impecuniosity, by proving that he has not really received the money or items from the lender, or that their amount was less than had been specified in the agreement.

2. In those instances when the loan agreement must be in writing (Article 725), its contest with respect to its impecuniosity by way of witnesses' testimony shall not be allowed, except in those cases when the contract was entered into under the influence of fraud, duress, threat, or ill-intended agreement of the borrower's representative with the lender or a coincidence of grave circumstances.

3. If in the process of contesting the loan agreement by the borrower on the ground of his impecuniosity it is discovered that money and other things were not actually received from the lender, the loan agreement shall be deemed not entered into. When money or things were actually received by the borrower from the lender in the amount less than indicated in the agreement, the agreement shall be deemed entered into for this amount of money or things.

#### Article 730. Securing Performance of Borrower's Obligations

If the borrower fails to perform obligations provided by the loan agreement to secure return of the loan amount, and in cases of loss of security or deterioration of its conditions due to circumstances beyond the lender's liability, the lender may claim an advance return of the loan amount and payment of interest due, unless otherwise provided by the agreement.

#### Article 731. Target Loan

1. The borrower shall use funds received under the loan agreement at his own discretion, unless otherwise provided by the agreement.

2. If the agreement is entered into on condition that the borrower is obliged to use funds for a definite purpose (target loan), the borrower shall ensure the possibility for the lender to exercise control over the proper use of the loan.

3. If the borrower fails to perform the condition of the agreement on target use of the loan amount, as well as breaches the obligations provided by point 2 of this Article, the lender may demand from the borrower the return of the loan amount and interest payment due in advance, unless otherwise provided by the agreement.

#### Article 732. Novation of Debt into Loan Obligation

1. As agreed upon between the parties, a debt, arisen from purchase/sale, lease of property, or other grounds, can be substituted by a loan obligation.

2. Substitution of a debt by loan obligation shall be implemented in compliance with novation requirements (Article 375) and shall be completed in a form, provided for signing a loan agreement (Article 725).

#### Article 733. State Loan Agreement

1. Under a state loan agreement, the Kyrgyz Republic shall act as a borrower, and an individual or legal entity shall act as a lender.

2. State loans shall be voluntary.

3. State loans contracts shall be considered entered into when the lender acquires state-issued bonds or other state securities, which certify the lender's right to receive from the borrower money, which has been granted to the borrower or, depending on the terms of the loan, other property, established interests or other property rights within terms, provided by the conditions of issue of the loan.

4. Alteration of the conditions of a loan issued into circulation shall not be allowed.

### § 2. Credit

#### Article 734. Credit Agreement

1. Under a credit agreement, a bank or any other lending organization (creditor) shall grant funds (credit) to the borrower in the amount and based on the terms provided by the agreement, and the borrower shall return the amount of money lent and pay interest thereon.

2. The rules of § 1 of this Chapter shall apply to the relations under a credit agreement, unless otherwise provided by the rules of this section and arises from the essence of the credit agreement.

#### Article 735. Form of a Credit Agreement

1. A credit agreement must be in writing.

2. Failure to comply with the written form of agreement shall entail its invalidity.

#### Article 736. Refusal to Extend or Receive Credit

1. The creditor may refuse to grant to the borrower credit provided by an agreement, in full or in part, in the event an insolvency procedure has been brought against the borrower, or if circumstances specified in the credit agreement occurred.

2. The borrower may waive the credit, in part or in full, by notifying the creditor before the date, which has been scheduled in the agreement for granting the credit, unless otherwise provided by the law, bank regulations established in accordance with this law, or credit agreement.

3. If the borrower breaches his obligation to use a credit for certain purpose, provided by the credit agreement (Article 731), the creditor may refuse further grants of credit to the borrower under the agreement.

### § 3. Commodity and Commercial Credits

#### Article 737. Commodity Credit

Parties may enter into the contract providing for the obligation of one party to provide other party with fungible things (contract of commodity credit). Such contract shall be administered by the rules of § 2 of this Chapter, unless otherwise provided by the contract of commodity credit and arises from the essence of the obligation. Conditions on the number, assortment, complementalness, quality, packages and (or) packing of provided things must be performed in accordance with the rules on the contract of sale and purchase of goods (428-448), unless otherwise provided by the contract of commodity credit.

#### Article 738. Commercial Credit

1. Contracts performance of which is connected with transfer of money and other fungible things to the ownership of other party may provide for extending the credit to that party or by that party including in the form of advance payment, deferral and instalment payment for the goods, works or services (commercial credit), unless otherwise provided by law.

2. Commercial credit shall be administered respectively by the rules of this Chapter, unless otherwise provided by the rules on the contract from which the respective obligation arises and unless it contradicts the essence of such obligation.

### CHAPTER 35 FINANCING AGAINST ASSIGNMENT OF MONEY CLAIM

#### Article 739. Agreement of Financing Against Assignment of Money Claim

1. Under the agreement of financing against assignment of money claim one party (financial agent) shall transfer or shall undertake to transfer to the other party (customer) funds against customer's (obligee's) money claim to the third party (obligor) arising from provision of goods, performance of works or rendering services by the customer to the third party and the customer shall assign or shall undertake to assign this money claim to the financial agent.

Money claim to the obligor may be assigned by the customer to the financial agent with the purposes of securing the performance of the customer's obligation to the financial agent.

2. Financial agent's obligations under the agreement of financing against assignment of money claim may include keeping accounting for the customer as well as rendering other financial services to the customer related to money claims which are the subjects of assignment.

#### Article 740. Financial Agent

Banks and other lending organizations as well as other financial organizations which have authorization (license) for carrying out activity of such type may enter into an agreement of financing against assignment of money claim in the capacity of a financial agent.

#### Article 741. Money Claim Assigned With the Purpose of Obtaining Financing

1. Subject of assignment against which financing is provided may include both money claim, which is due (current claim) and the right to receive funds which will arise in future (future claim).

Money claim which is the subject of assignment must be defined in the agreement of the customer with the financial agent in such manner which allows to identify current claim at the moment of entering into the agreement and the future claim not later than at the moment of its arising.

2. Upon assignment of a future money claim it shall be considered transferred to the financial agent after arising of the right to receive funds from the obligor which are the subject of assignment of the claim provided by the agreement. If assignment of the money claim was caused by the definite event it shall be effective after the occurrence of this event.

Additional formalizing of the assignment of money claim in these case is not required.

#### Article 742. Customer's Liability to the Financial Agent

1. Unless otherwise provided by the agreement of financing against assignment of the money claim, the customer shall be liable to the financial agent for validity of the money claim which is the subject of assignment.

2. Money claim which is the subject of assignment shall be acknowledged valid if the customer enjoys the right to assignment of money claim and at the moment of assignment of this claim he is not aware of circumstances in the result of which the obligor may withhold its performance.

3. The customer shall not be liable for default or improper performance of the claim that is the subject of assignment by the obligor in case the financial agent submits it for the performance, unless otherwise provided by the agreement between the customer and the financial agent.

#### Article 743. Invalidity of Ban of Assignment of Money Claim

Assignment of the money claim to the financial agent shall be valid even though there is an agreement between the customer and his obligor on its ban or restriction.

#### Article 744. Reassignment of Money Claim

Unless otherwise provided by the agreement of financing against assignment of the money claim, reassignment of the money claim by the financial agent shall not be allowed.

In case reassignment of the money claim is allowed by the agreement it shall be respectively administered by the provisions of this Chapter.

#### Article 745. Performance of Money Claim of the Financial Agent to the Obligor

1. The obligor shall produce payment to the financial agent provided that he received a written notice of the customer or the financial agent about assignment of the money claim to this financial agent and the notice defines the money claim to be performed and the financial agent to whom the payment should be done.

2. On obligor's request the financial agent shall provide evidence to the obligor within the reasonable time period that assignment of the money claim to the financial agent did have place. Should the financial agent fail to perform this duty, the obligor may produce payment on this claim to the customer in the performance of his obligation to the latter.

3. Performance of the money obligation to the financial agent by the obligor in accordance with the rules of this Article shall excuse the obligor from the respective obligation to the customer.

#### Article 746. Financial Agent's Rights to Amounts Received from the Obligor

1. If pursuant to the provisions of the agreement of financing against the money claim financing of the customer is carried out through purchase of this money claim from him by the financial agent, the latter shall acquire the right to all amounts which he will receive from the obligor in performance of the claim and the customer shall not be held liable to the financial agent if the amount received turned out to be less than the price at which the agent had acquired the claim.

2. If assignment of the money claim to the financial agent was executed with the purpose of securing performance of the customer's obligation and the agreement of financing against assignment of the claim does not provide otherwise, the financial agent shall present the report to the customer and transfer the amount exceeding the amount of the customer's obligation secured by the assignment of the claim. If money received from the obligor by the financial agent turned out to be less than the amount of the customer's obligation to the financial agent secured by assignment of the claim, the customer shall remain liable to the financial agent for the remaining part of the obligation.

#### Article 747. Counter-Claims of the Obligor

1. In accordance with Article 373 of this Code, in case the financial agent files a claim to the obligor to produce payment, the obligor may present for set-off his money claims based on the agreement with the customer which the obligor had by the time when he received the notice about assignment of the claim to the financial agent.

2. Claims which the obligor could present to the customer in connection with the breach of the agreement on the ban or restriction of assignment of the claim by the latter shall not have force in relation to the financial agent.

#### Article 748. Repayment to the Obligor of Amounts Received by the Financial Agent

1. In case of breach of customer's obligations under the agreement entered into with the obligor the latter may not demand from the financial agent repayment of amounts paid to him on the claim assigned to the financial agent if the obligor may receive such amounts directly from the customer.

2. The obligor entitled to receive amounts paid to the financial agent in the result of assignment of claim directly from the customer may nevertheless demand from the financial agent repayment of these amounts if it is proved that the latter failed to perform his obligation to produce payment promised to the customer in connection with assignment of the claim or produced such payment knowing the breach by the customer of that obligation to the obligor to whom the payment connected with assignment of the claim is referred.

## CHAPTER 36 BANK DEPOSIT

### Article 749. Bank Deposit Agreement

1. Under a bank deposit agreement, a bank or other lending institution (hereinafter referred to as the bank), that accepted cash amount (deposit) from a depositor or for him, shall pay out the said amount plus interests or earnings in another form to the depositor on the terms and in the procedure, provided by the agreement. The bank deposit agreement shall be deemed entered into from the day the bank receives the deposit amount.

2. The bank deposit agreement in which the depositor is an individual shall be recognized a public contract (Article 386).

3. Regulations on a bank account agreement (Chapter 37) shall apply to the relationships between the bank and the depositor with respect to the account on which the deposit was made, unless otherwise provided by the rules of this Chapter or arises out of the essence of the bank deposit agreement.

### Article 750. Right to Solicit Funds into Deposits

1. The right to solicit funds into deposits shall be conferred only on banks which are granted such right pursuant to authorization (license), issued in the procedure established by law.

2. Should a deposit from an individual be accepted by a person who is not entitled thereto, or with the violation of the procedure provided by the law or bank regulations adopted in accordance with it, the depositor may demand an immediate return of the deposit, and also payment of interests provided in Article 360 of this Code plus indemnification of all losses to the depositor.

In the event such person has accepted funds from a legal entity under the terms and conditions of a bank deposit agreement, such agreement shall be deemed invalid (Article 185).

3. Unless otherwise established by law, the consequences specified in point 2 of this Article shall apply also in the event of: attraction of funds of individuals and legal entities into deposits against notes (bills) or other securities which exclude the receipt of deposit at first demand by holders and execution by the depositor of other rights provided by the rules of this Chapter attraction of funds of individuals and legal entities by selling to them shares and other securities, the issues of which were acknowledged unlawful.

### Article 751. Form of the Contract of Bank Deposit

1. The contract of bank deposit must be in writing.

The written form of the contract of bank deposit shall be considered observed if placement of the deposit is confirmed by a saving account book, saving certificate or certificate of deposit or other document issued by the bank to the depositor, which meets the requirements provided for such documents by law, bank regulations established in accordance therewith and business norms used in banking.

2. Non-compliance with the written form of bank deposit agreement shall entail invalidity of this agreement. Such agreement shall be void.

### Article 752. Types of Deposits

1. The bank deposit agreement shall be signed on terms of first demand withdrawal (the demand deposit) or on terms of return of deposit at the expiration of term specified by the agreement (the time deposit).

The agreement may specify the placement of deposits on other terms of their withdrawal not contradicting the legislation.

2. Under the bank deposit agreement of any type, the bank shall return the deposit or the part of it at first demand of the depositor, except for term deposits and deposits made by legal entities on other terms of return specified by the agreement. A provision of the agreement regarding the refusal of an individual from the right to receive the deposit at first demand shall be invalid.

3. In cases when the time or other deposit other than the demand deposit shall be withdrawn by the depositor at his demand before the expiration date or before occurrence of other circumstances indicated in the agreement, the amount of the deposit shall be paid by the bank within 48 hours from the moment of filing a request by the depositor, and the interest on the deposit shall be paid in the amount corresponding to the interest paid by the bank on demand deposits, unless the agreement provides a higher amount of interest.

4. In cases when the depositor does not demand the return of amount of time deposit at the expiration of the term or amount of deposit made on other conditions of withdrawal - upon ensuing of circumstances provided for by the agreement, the agreement shall be deemed prolonged on terms of a demand deposit unless otherwise established by the agreement.

#### Article 753. Interest on Deposit

1. The bank shall pay interest to the depositor on the deposit at the rate specified in the agreement of bank deposit. Where the contract does not specify the amount of interest, the bank shall pay the interest in the amount specified in accordance with point 1 of Article 726 of this Code.

2. The bank may change the interest to be paid on demand deposits, unless other is established by the agreement of bank deposit.

In the event of decreasing the amount of interest by the bank, the new interest rate shall be paid on deposits made before the notification of depositors of decreasing the interest rate, at the expiration of a month from the moment of corresponding notice, unless otherwise provided by the agreement.

3. The interest rate on deposit specified by the agreement of bank deposit with respect to the deposit made on terms of its withdrawal at the expiration of stated term or at the occurrence of circumstances stipulated in the agreement, may not be unilaterally decreased by the bank, unless otherwise provided for by the agreement.

#### Article 754. Procedure for Calculating and Paying Interest on Deposit

1. Interest on a deposit shall be calculated from the date following the date of its receipt in the bank up to the date preceding its return to the depositor or debiting it from the account of the depositor on other grounds.

2. Unless otherwise provided by the agreement of bank deposit, interest on deposit shall be paid to the depositor on his demand at the expiration of each quarter separately from the deposit itself, and uncollected interest at that time shall increase the amount of interest-bearing deposit.

All the interests calculated by this moment shall be paid to the depositor in the event of return of a deposit.

#### Article 755. Securing Deposit Return

1. The means and methods of securing by the bank the return of the deposits shall be specified by the agreement and law.

2. The bank shall provide the depositor with the information on securing the return of bank deposit.

3. In case of the bank's failure to perform obligations established by law or the agreement of bank deposit on securing return of deposit, as well as the loss of the security or deterioration of its conditions, the depositor shall have the right to demand the bank to return immediately the amount of the deposit and also pay interest on it in the amount specified in accordance with point 1 of Article 726 of this Code and indemnify losses inflicted as provided in Article 360 of this Code.

#### Article 756. Placement of Funds on Depositor's Account by Third Party

Unless otherwise provided by the agreement of bank deposit, funds received by the bank from third parties to the depositor's name with an indication of necessary data on his deposit account shall be credited to the deposit account. In this respect it is presumed that the depositor has consented to receive funds from such parties having provided them with the necessary data on the deposit account.

#### Article 757. Deposits in Favor of Third Party

1. A deposit may be put into a bank account to the name of a certain third party.

Such party shall acquire the depositor's rights from the time he files his first claim with the bank which is based on these rights, or expresses his intentions to use these rights to the bank in other ways, unless otherwise established by the agreement of bank deposit.

Indication of the name of individual (Article 54) or legal entity (Article 89) in favor of which the deposit has been made, shall be a significant provision of the corresponding agreement of bank deposit.

The agreement of bank deposit in favor of an individual who was dead by the moment of its signing or the legal entity that was not in existence by that moment shall be null and void.

2. Unless otherwise provided for by the agreement of bank deposit, third party to whose name the deposit was made shall acquire the depositor's right from the moment of wiring money to his account.

3. In cases when the third party to whose name the deposit was made refused it, the person who has concluded the agreement of bank deposit in the name of third party shall be entitled to demand the deposit back or to transfer it to his name.

#### Article 758. Saving Account Book

1. Unless other is provided by the agreement of the parties, the conclusion of the agreement of bank deposit with an individual and crediting funds to his deposit account shall be certified by a saving account book.

Name and location of the bank (Article 89) must be indicated and certified by the bank in a saving account book, and should the deposit been made to its subsidiary, - also its respective name and location, the deposit account number and the amount of funds credited to the account, the amounts of funds debited from the account and the account balance as of the moment of presentation of a saving account book to the bank.

As other state of the deposit is not proved, the data on the deposit indicated in a saving account book shall be the ground for settlement on account between the bank and the depositor.

2. The agreement of bank deposit may provide for the issue of a registered saving account book or a bearer saving account book.

A bearer saving account book shall be deemed a security.

3. A release of the deposit, payment of interest on it and performance of depositor's instructions on the transfer of money from the deposit account to other persons shall be executed by the bank upon presentation of a saving account book.

If a registered saving account book is lost or is in condition unsuitable for presentation the bank shall issue a new saving account book to the depositor upon his application.

Restoration of rights under a lost bearer saving account book shall be performed in accordance with the procedure specified for bearer securities (article 43).

#### Article 759. Saving (Deposit) Certificate

1. Saving (deposit) certificate shall be a security certifying the amount of deposit placed at the bank and rights of the depositor (certificate holder) to receive the deposit amount and interest specified in the certificate at the expiration of the established period in the bank which issued a certificate or in any affiliate of this bank.

2. Saving (deposit) certificate may be bearer's or registered.

3. In the event the saving (deposit) certificate is presented for payment before the expiration of the period, the bank shall pay the amount of the deposit and the interest payable on demand deposits, unless the conditions of the certificate provide for another amount of interest.

### CHAPTER 37 BANK ACCOUNT

#### Article 760. Contract of Bank Account

1. Under the contract of bank account the bank or other lending institution (further referred to as the bank) shall accept and credit funds to an account opened to the customer (the owner of the account), to execute the instruction of the customer on transfer and delivery of respective amounts of money from the account and performance of other operations on the account.

2. The bank may use the customer's funds on the account securing the customer's right to dispose of these funds at any time within the limits of the amount on account without any hindrance.

3. The customer shall independently dispose of his funds on the bank account.

The bank may not define and control the directions for the use of the funds of the customer and establish other limitations unprovided for by law or the agreement on his right to dispose of funds at his own discretion.

#### Article 761. Form of Agreement of Bank Account

1. The agreement of bank account shall be in writing.
2. Non-compliance with the written form of the agreement of bank account shall entail invalidation of the agreement. Such agreement shall be deemed void.

#### Article 762. Entering into Contract of Bank Account

1. Under the agreement of bank account the bank shall open an account in the bank for the customer or the person indicated by him on the terms agreed upon by the parties.

2. The bank shall enter into the agreement with the customer to have applied for opening an account on the terms announced by the bank for this particular kind of service, in compliance with the requirements provided by law and bank regulations established in accordance therewith.

The bank may not refuse to open an account on which the performance of respective operations is provided for by law, the incorporation documents of the bank and the license granted to it, except for cases when such refusal is caused by the lack of possibility for the bank to accept for banking services, or such refusal is permissible by law.

In the event of the unjustified evasion by the bank to enter into the agreement of bank account the customer may lodge his claim to it, as provided for by point 4 of Article 406 of this Code.

#### Article 763. Certification of Right to Dispose of Funds on Account

1. The customer shall certify the rights of persons exercising the instruction on the remittance and delivery of funds from the account on behalf of the customer, by providing the bank with documents specified by law, bank regulations established in accordance therewith and the agreement.

2. The customer may instruct the bank on writing the funds off the account on the demand of third parties including demands connected with the execution by the customer of his obligations to these persons. The bank shall accept these instructions on condition that they include the written indication of the necessary data allowing, should the corresponding claim be presented, to identify the person having the right to present it.

3. The agreement of bank account may specify the certification of rights to dispose of cash amounts on the account by means of electronic payment and by other documents with the use of facsimile (p.2 of Article 176), codes, pass words and other means confirming that the instruction was given by the person authorized to do this.

#### Article 764. Operations on Account Executed by Bank

The bank shall receive and credit the funds received on the account and execute instructions of the customer to transfer and remit cash funds by way of operations provided for by the law for this particular kind of accounts, bank regulations established in accordance with it and business practices used in banking, unless otherwise provided by the agreement of the bank account.

#### Article 765. Time Limits for Operations on Account

The bank shall credit funds received on account, remit or transfer them from the account on the customer's instruction not later than the day following the day of the receipt of the relevant payment document, unless other periods are provided by law, bank regulations established in accordance therewith or the agreement of the bank account.

#### Article 766. Crediting Account

1. In cases when in accordance with the agreement of bank account the bank exercises payments on claims to the customer from the account, despite the absence of funds on it, the bank shall be deemed to have granted the customer a loan for corresponding amount from the day the said payment was exercised (crediting account).

2. Rights and obligations of parties connected with crediting account shall be specified by regulations on loan and credit (Chapter 34), unless otherwise provided for by the agreement of bank account.

#### Article 767. Payment for Bank Expenses on Performing Operations

#### with Funds on Account

1. The customer shall pay for the bank services on performing operations with funds on the account, in the event it is stipulated by the agreement of bank account.
2. The payment for the services of the bank provided for by the point 1 of this Article shall be charged by the bank from the funds of the customer that are on the account following the expiration of each quarter, unless otherwise provided for by the agreement of bank account.

#### Article 768. Interests for Using Funds on Account by Bank

1. For the use of funds on customer's account the bank shall pay interest that shall be credited to the customer's account, unless otherwise provided for by the agreement of bank account. Interest shall be paid by the bank in the amount specified by the agreement of bank account, and should there be no such provision in the agreement - in the amount usually paid by the bank on demand deposits. (Article 753).
2. The amount of interests shall be credited within time limits stipulated by the agreement of bank account, and should there be no such time limits, - at the expiration of each quarter.

#### Article 769. Setting of Counter-Demands of Bank and Customer with Respect to Account

1. The money claims of the bank to the customer related to crediting the account (Article 766) and payment for the services of the bank (Article 767), and also the claims of the customer to the bank on paying interest for use of funds (Article 768) shall be terminated by set-off (Article 373), unless otherwise provided by the agreement of bank account.
2. The set-off of claims indicated in point 1 of this Article shall be performed by the bank which is obligated to inform the customer of the set-off performed in the procedure and within the time limits established by the agreement, should the parties fail to negotiate the related conditions - in the procedure and within the time limits customary for the banking practice of providing the customers with information on state of funds on the relevant account.

#### Article 770. Grounds for Writing off Funds from Account

1. The writing-off of funds from account shall be exercised by the bank on the grounds of the customer's instruction.
2. Without the customer's instruction the writing-off of the funds on account shall be allowed by decision of the Court, and in cases established by law or specified in the agreement between a bank and a customer.

#### Article 771. Priority of Writing Off Funds from Account

1. Should there be funds on the account in the amount sufficient for satisfying claims set to the customer, writing off of these funds from the account shall be exercised in accordance with the order of receiving instructions of the customer and other documents on writing off (calendar order), unless otherwise provided by law.
2. In the event funds on the account are not sufficient to satisfy all filed claims, the writing-off of funds shall be carried out in accordance with the following priorities:
  - the first priority shall be the writing-off based on the writ of execution providing for transfer or remittance of funds from the account for satisfaction of claims on compensation of damages caused to life and health, and claims on collection of alimony;
  - the second priority shall be the writing-off based on the writ of execution providing for transfer or remittance of funds for payment of vacation allowances and wages to persons employed under the labor agreement including the agreement, and to pay the royalties under the copyright agreement;
  - the third priority shall be the writing-off based on payment documents providing for payment to the budget and extra-budget funds;
  - the fourth priority shall be the writing-off based on the writ of execution providing for satisfaction of other monetary claims;
  - the fifth priority shall be the writing-off based on other payment documents in accordance with the procedure of calendar priorities.Writing-off of funds from the account under the claims in one priority shall be carried out in accordance with the chronological receipt of document.

#### Article 772. Bank's Liability for Delay in Executing Operations on Account and Unjustified Writing off of Funds

In the events of delay in crediting on account funds transferred to the customer or delay in delivery or transfer of funds from the account on the customer's instruction or their unjustified writing off by the bank from the account, the bank shall credit corresponding amount to the account on the customer's demand and also pay interest on this amount and indemnify the losses in accordance with Article 360 of this Code.

#### Article 773. Bank Accounts Privacy

1. The bank shall guarantee privacy of bank account and bank deposit, operations on the account and data on the customer.

2. Data comprising bank secret may be provided to the customers only or to their representatives. Government agencies and their officials shall be provided with such data only in cases and in the procedure directly specified by law.

3. In the event the bank discloses the data comprising the bank secret, the customer whose rights are violated may demand from the bank indemnification of inflicted damages.

#### Article 774. Limitations on Disposal of Account

Limitation of the customer's rights to dispose of the funds on the account shall not be allowed, except for the cases of seizure on the account or suspending operations on the account as provided for by law.

#### Article 775. Annulment of Agreement of Bank Account

1. The agreement of bank account shall be annulled on customer's application at any time.

2. The agreement of bank account shall be annulled on the demand of a bank in cases when the amount of funds on customer's account is less than the minimum amount established by law, bank regulations or the agreement of bank account.

3. Annulment of the agreement of bank account shall be the ground for closing the customer's account.

4. The balance of the funds on account shall be released to the customer or transferred to another account not later than five days after receiving a written instruction.

## CHAPTER 38 SETTLEMENT

### § 1. General Provisions

#### Article 776. Cash and Non-Cash Settlement

1. Settlements of legal entities, individuals, as well as settlements with the participation of individuals may be effected by cash without limiting the amount or in a non-cash procedure.

2. Settlements between legal entities, and settlements with participation of individuals related to their business activity shall be carried out in non-cash form. Settlements between these persons may also be carried out in cash, unless otherwise established by law.

3. Non-cash settlement shall be effected through banks, other lending organizations (hereinafter, banks) where the accounts of respective persons are opened, unless otherwise arose from law and stipulated by the applicable form of settlement.

#### Article 777. Forms of Non-Cash Settlement

1. When effecting non-cash settlement, the permissible settlement is the payment order, letters of credits, checks, payment for collection, and also settlement in other forms set forth by a law, other bank regulations issued in compliance therewith and business practices applicable in banking.

2. Parties to an agreement shall have the right to select and establish in the agreement any of the forms of settlement set forth in point 1 of this Article.

### § 2. Settlement by Payment Orders

#### Article 778. General Provisions

1. Settlement by payment orders shall obligate the bank to transfer upon the instruction of the payer (customer) with the use of funds that are on his account a certain amount to the account indicated by the payer in this or another bank within the established period specified by law or established in accordance therewith, unless a shorter period is specified in the agreement of bank account or is determined by business practices applicable in banking.

2. The procedure for settlement by payment orders shall be regulated by law, and by bank regulations established in accordance therewith and by business practices applicable in banking.

#### Article 779. Terms of Effectuation of Payments Order by Bank

1. The content of a payment order and settlement documents presented therewith and their forms must comply with the requirements specified by law and by bank regulations established therewith.

2. In the event the payment order does not comply with requirements established in point 1 of this Article, the bank may clarify the content of the order. Such inquiry must be sent to the payer immediately after receipt of the order. In the event the answer is not received within the period specified by law or bank regulations established therewith, and if such are not available - within a reasonable period, the bank may leave the order without execution and return it to the payer, unless otherwise established by law, bank regulations established in accordance therewith or the agreement between the bank and the payer.

3. The order of the payer shall be effectuated by the bank in the event of availability of funds on the account of the payer, unless otherwise provided by the agreement between the payer and the bank. Orders shall be executed by the bank subject to priorities of writing-off of funds from the account (Article 771).

#### Article 780. Execution of Order

1. The bank having accepted the customer's payment order shall transfer the relevant money amount to the receiving bank in order to credit it to the account of the person indicated in the order within the period provided by Article 778 (1) of this Code.

2. The bank shall have the right to involve other banks to fulfill operations on transfer of funds to the account indicated in the customer's order.

3. The bank shall be obligated to inform the payer of the execution of the payment order immediately. The procedure for formulating the notification on execution of the order and the requirements to its content shall be specified by law, bank regulations established in accordance therewith or the agreement of the parties.

#### Article 781. Liability for Failure to Execute or Improper Execution of Order

1. In the case of default or improper execution of the customer's order the bank shall be liable for breach in accordance with Article 360 of this Code.

2. In cases when default or improper execution of the order occurred due to the violation of regulations for performing settlement operations by the bank requested by the payer to execute the order, liability under point 1 of this Article may be laid by the court on this bank.

### § 3. Settlement by Letter of Credit

#### Article 782. General Provision

1. When executing settlement by a letter of credit, the bank acting on the order of the payer to open the letter of credit and pursuant to his instruction (the issuing bank) shall produce payments in case of presentment by the recipient of funds or the person indicated by him of documents and fulfillment of other terms provided by the letter of credit.

2. In the event a paid (deposited) letter of credit is opened, the issuing bank shall transfer upon its opening the payer's own funds or the credit extended to him at the disposal of the executing bank for the entire term of validity of the obligation of the issuing bank.

In the event an unpaid letter of credit is opened, the issuing bank shall confer on the executing bank the right to debit the whole amount of the letter of credit from the account of the issuing bank that the executing bank holds.

#### Article 783. Revocable Letter of Credit

1. A revocable letter of credit shall be deemed a letter of credit that may be changed or canceled by the issuing bank without preliminary notification of the recipient. The revocation of the letter of credit shall not create any obligations of the issuing bank to the recipient.

2. The executing bank shall produce payment or other operations under the revocable letter of credit, if by the moment of their effectuation he has not received the notice changing the terms or canceling the letter of credit.

#### Article 784. Irrevocable Letter of Credit

1. Irrevocable letter of credit shall be deemed a letter of credit that may not be changed or canceled without consent of the recipient.

2. At the request of the issuing bank, the executing bank participating in letter of credit operations may confirm the irrevocable letter of credit (guaranteed letter of credit). Such a confirmation implies that the executing bank assumes obligation in addition to that of the issuing bank to pay under the instruction of the letter of credit.

An irrevocable letter of credit confirmed by the executing bank may not be changed or canceled without consent of the executing bank.

#### Article 785. Execution of Letter of Credit

1. For the execution of the letter of credit, the recipient shall present documents certifying the fulfillment of all conditions of the letter of credit to the executing bank. Upon violation of at least one of these conditions, the letter of credit shall not be executed.

2. If the executing bank effected payment or another operation pursuant to the terms of the letter of credit, the issuing bank shall indemnify it all the losses incurred. These expenses, and also all other expenses of the issuing bank related to the execution of the letter of credit shall be reimbursed by the payer.

#### Article 786. Refusal from Accepting Documents

1. If the executing bank refuses to accept the documents external attributes of which are not consistent with the condition of the letter of credit, it shall immediately notify the recipient the issuing bank about that stating the reasons for the refusal.

2. If, upon receiving the document accepted by the executing bank, the issuing bank considers that their external attributes are not consistent with the conditions of the letter of credit, it may refuse their acceptance and demand that the executing bank pay the amount paid to the recipient in violation of the conditions of the letter of credit, and with respect to the unpaid letter of credit, refuse from refunding of the paid amounts.

#### Article 787. Liability of Executing Bank

In the case of incorrect payment under the letter of credit or unjustified refusal to pay the amount to the recipient of the funds due to violations by the executing bank of obligations established by bank regulations, the executing bank shall be liable to the issuing bank, and in cases when the execution of the letter of credit is performed by the issuing bank - to the payer.

#### Article 788. Termination of Letter of Credit

1. The executing bank shall terminate the letter of credit:  
upon the expiration of the validity of the letter of credit;  
at the application of the recipient on the refusal to use the letter of credit before the expiration of its validity, if the conditions of the letter of credit provide for such opportunity;  
at the request of the payer on full or partial revocation of the letter of credit if such revocation is possible under the conditions of the letter of credit.

The executing bank must notify the issuing bank of the termination of the letter of credit.

2. The unused amount of the deposited letter of credit shall be returned to the issuing bank simultaneously with the termination of the letter of credit. The issuer bank shall credit the returned amounts to the payer's account from which the funds were deposited.

### § 4. Payments for Collection

#### Article 789. General Provisions

1. When paying for collection, the customer shall send to this bank (the issuing bank) an order on executing on the account of the customer actions on acceptance of payment from the payer.

2. The issuing bank that received a collection order shall have the right to involve another bank (the executing bank) for its execution.

The procedure for payment for collection shall be regulated by legislation, bank regulations issued in conformity therewith and business practices applicable in banking.

#### Article 790. Execution of Collection Order

The received (collected) amounts must be immediately transferred by the executing bank at the disposal of the issuing bank that shall credit these amounts to the customer's account.

The executing bank shall have the right to deduct the due commission and reimbursement of the expenses and costs out of the collected amounts.

#### Article 791. Notice of Refusal of Payment

1. If payments and (or) acceptance were not received, the executing bank shall immediately notify the issuing bank of the reasons of non-payment or refusal of acceptance.

The issuing bank shall immediately notify thereof the customer and request his instructions for further actions.

2. If instructions for further actions were not received within the period established by bank regulations, and in case of its absence, within the reasonable period, the executing bank may return the documents to the issuing bank.

### § 5. Settlement by Checks

#### Article 792. General Provisions

1. Only the bank may be stated as the payer under check (Art. 45), where the check drawer has funds with respect to which he has the right of disposition by issuing checks.

2. The issuance of the check shall not cancel the monetary obligation for execution of which it has been issued.

3. Revocation of a check before the period for its presentment expires shall be prohibited.

4. The procedure and terms for using checks in payment turnover shall be regulated by this Code, and in the part not regulated by it by other laws and bank regulations issued in compliance therewith.

#### Article 793. Check Requisites

1. The check must contain:

1) the name "check" included in the text of the document;

2) the instruction to the payer to pay the specified monetary amount;

3) the name of the payer and indication of the account from which the payment must be made;

4) the indication of the currency of payment;

5) the statement of the date and place of completing the check;

6) the signature of the person who signed the check (the check drawer).

The absence of any of the stated components shall invalidate the document.

2. The form of the check and the procedure for completing the check shall be determined by law and bank regulations established in accordance therewith.

#### Article 794. Payment of Checks

1. The check shall be paid out of the funds of the check drawer.

2. The check shall be paid by the payer provided it has been presented for payment within the period established by legislation.

3. The person having paid on the check shall be entitled to demand that the check be transferred to him with a receipt certifying that the payment was received.

#### Article 795. Transfer of Rights under Check

1. Rights under check shall be transferred in the procedure established by Article 41 of this Code, in compliance with the rules of this Article.

2. The check issued in someone's name shall not be transferrable.

3. The endorsement with respect to the payer in the negotiable check shall have the same force as receipt for payment.

The endorsement made by the payer shall be invalid.

The person holding the negotiable check received by endorsement shall be deemed its legal owner if he substantiates his right with the continuous series of endorsements.

#### Article 796. Payment Guarantee (Aval)

1. The payment on the check may be guaranteed by aval either fully or partially.

The guarantee of payment on the check (aval) may be provided by any person except the payer.

2. Aval shall be noted on the face side of the check or on the additional list by inscribing "deem aval" and by indicating who and for whom it was provided. If there is no statement indicating for whom it was provided, then it shall be deemed to have been given for the check drawer.

The aval shall be signed by the avalist stating his address (whereabouts) and the date of making the note.

3. The avalist shall be liable in the same manner as those for whom it was given.

His obligation shall be effective even when the obligation which he had guaranteed proved to be invalid on any grounds other than the defect of the form.

4. The avalist who paid the check shall acquire rights arising from the check against those for whom he provided the guarantee and against those who are liable to the latter.

#### Article 797. Check Collection

1. Presentment of the check for collection to the bank servicing the check holder shall be deemed presentment for payment.

The check shall be paid in the procedure established by Article 794 of this Code.

2. The funds received pursuant to the check shall be credited to the account of the check holder upon receiving the payer's payment unless otherwise provided by the contract between the check holder and the bank.

#### Article 798. Payer's Obligations

The payer under the check shall:

- make sure by all applicable means in authenticity of the check, as well as in the fact that the bearer of the check is the person, authorized by it;

- at the moment of payment of collected check - verify the correctness of the endorsements, but not the signatures of endorsers.

#### Article 799. Certification of Refusal from Paying Check

1. The refusal to pay a check shall be certified by one of the following ways:

1) to have the notary lodge a protest or equivalent deed in the procedure established by law;

2) to have the payer make notes on the check regarding his refusal from payment with the statement of the date when the check was presented for payment;

3) to have the collecting bank make notes with the statement of the date when the check was timely presented but remained unpaid.

2. The protest or the equivalent deed shall be lodged before the expiration of the presentment period.

If the presentment of the check occurred on the final day of the period, the protest or the equivalent deed may be lodged on the following business day.

#### Article 800. Notice of Non-Payment of Check

1. The check holder shall notify his endorser and check drawer of non-payment within two business days following the day of executing the protest or the equivalent deed.

Each endorser must within two business days of his receiving the notice notify his endorser of the received notice. The notice shall be sent within the same period to those who provided the aval for this person.

2. The person who failed to send the notice within the stated period shall not lose his rights to the check. He shall indemnify the losses which may be caused by the failure to notify of the non-payment of the check in the amount of the check.

#### Article 801. Consequences of Non-Payment of Check

1. In the case the payer refuses to pay the check, the check holder may file a claim at his discretion against one, some or all persons obligated under the check (check drawer, aval grantor, endorser), who are liable jointly and severally to him.

2. The check holder may demand that the said persons pay the amount of the check, his expenses for receiving payment, and also interest pursuant to point 1 of Article 360 of this Code.

3. The claim of the check holder may be filed against the persons stated in point 1 of this Article within six months from the day of the expiration of the presentment period.

### CHAPTER 39 AGENCY

#### Article 802. Contract of Agency

1. Under the contract of agency, agent shall take the obligation to exercise definite juridical actions on behalf and at the expense of the principal. The rights and obligations in the transaction exercised by the agent shall emerge directly with the principal.

2. The agency may address implementation of one or some juridical actions by the agent, or conduct principal's business in accordance with his instructions.

#### Article 803. Form of Contract of Agency

The contract of agency shall be in writing.

#### Article 804. Remuneration to an Agent

1. A principal shall pay remuneration to the agent, if it is provided by law or the contract of agency.

2. If the clause of remuneration amount and payment procedure is missing from compensable contract of agency, the remuneration shall be paid after the task is performed, in the procedure set forth by point 3 of Article 389 of this Code.

#### Article 805. Implementation of Task in Accordance with Principal's Directives

1. The agent shall perform the given task, in accordance with the principal's directives. Principal's directives should be lawful, implementable and concrete.

2. The agent may deviate from the principal's directives, if in certain circumstances it is in the principal's interest, and the agent was not able to ask for the principal's permission beforehand, or did not receive the principal's reply within a reasonable term. In this case, the agent shall notify the principal of deviations admitted, as soon as such opportunity appears.

3. The principal may grant the right to the agent acting as a commercial representative to deviate from his directives without prior request about that (Article 202 (1)).

#### Article 806. Agent's Duties

The agent shall:

perform the task given to him personally, except as provided by Article 808 of this Code;

provide the principal with all the information about the task being performed, by his request;

transfer to the principal every item acquired through transactions, exercised to perform the task, without delay;

after the task is performed or the contract of agency is terminated before it is performed, return the principal's power-ofattorney immediately, if it has not expired, and submit the report with vouchers, if it is required by the terms of the contract or by the nature of the task.

#### Article 807. Principal's Duties

The principal shall:  
issue a power-of-attorney to the agent to exercise juridical actions, envisaged by contract of agency, except as provided by paragraph 2 of point 1, Article 200 of this Code;  
provide the agent with all means necessary to perform the task, unless otherwise provided by the contract;  
receive without delay every item performed by the agent in compliance with the contract of agency;  
indemnify to the agent all expenditures incurred by him while performing the task, unless otherwise provided by the contract;  
to pay remuneration to the agent, if according to Article 804 of this Code, the contract of agency is compensable.

#### Article 808. Appointment of a Subagent to Perform the Task

1. The agent shall be entitled to transfer the performance of the task to another person (subagent) only in cases on the terms, envisaged by Article 205 of this Code.
2. The principal may dismiss the subagent, appointed by the agent.
3. If the subagent is nominated in the contract of agency, the agent shall not be liable for administration of business by him.

If administration of business by a subagent is not provided in the contract, or it is provided, but the subagent is not nominated therein, the agent shall be liable for the subagent's actions.

#### Article 809. Termination of Contract of Agency

1. Along with common grounds of termination of obligations, the contract of agency may be terminated as a consequence of:  
revocation of the agency by the principal;  
agent's refusal;  
principal's or agent's death;  
finding either of them incapable, or restricted in capability, or missing.
2. The principal may cancel the task at any time, and the agent may refuse this task at any time.
3. The party, waiving the contract, which stipulates the agent's actions as a commercial representative, should notify another party on termination of the contract, not later than 30 days in advance, unless a longer term is provided by the contract of agency.

In case of restructuring of a legal entity, which is a commercial representative, the principal may revoke the task without prior notification.

#### Article 810. Consequences of Termination of Contract of Agency

1. If the contract of agency is terminated before the task is fully performed by the agent, the principal shall reimburse the costs incurred by the agent while performing the task, and if the remuneration was due to the agent, to pay him this remuneration proportionally to the work performed.

This rule shall not apply to performance of the task by the agent after he knew or should have known about the contract termination.

2. Annulment of agency by the principal shall not be the grounds for indemnification of losses caused to the agent by the termination of the contract of authority, except for the cases of terminating the contract which provides agent's actions as a commercial representative.

3. Agent's refusal to perform the principal's task shall not be the grounds for indemnification of losses, caused to the principal by termination of the contract, except for the cases of the agent's refusal in those conditions, when the principal is deprived of opportunity to otherwise ensure his interests, as well as cases of refusal to perform the contract, providing agent's actions as those of a commercial representative.

#### Article 811. Succession in Contract of Agency

In case of agent's death, his heirs and other persons, who are charged with duty to ensure the safeguard of the succession estate, shall notify the principal on termination of the contract of authority and take measures necessary for safeguard of the principal's property, particularly to safeguard the principal's things and documents, and then return them to the principal.

The same duty shall be laid on a liquidator of a legal entity, acting as an agent.

CHAPTER 40  
ACTIONS WITHOUT AGENCY IN  
OTHER PERSON'S INTEREST

Article 812. Actions Without Agency in Other Person's Interest

1. Actions without agency in other person's interest with the purpose of preventing the damage to a person or other property of an interested person, performance of his obligations or in his other not contradicting the law interest (actions in other person's interest), shall be exercised based on their obvious profit or benefit for this person and actual or probable intentions of the interested person and with care and precaution necessary in circumstances of the matter.

2. Rules provided by this Chapter shall not be applied to the actions in the interests of other persons committed by state or other bodies for which such actions are one of objectives of activity.

Article 813. Notice to the Interested Person on the Actions  
in his Interest

A person acting in other person's interest without agency, shall inform the interested person of that as soon as such opportunity appears and shall expect during the reasonable period of time for his decision on approval or disapproval of actions undertaken, unless such expectation does not entail serious damage to the interested person.

Article 814. Consequences of Notice to the Interested Person  
of Actions in Other Person's Interest

1. If a person in whose interest actions without his agency are exercised, approves these actions, further relationships of the parties shall be administered by the rules on contract of agency or any other contract, corresponding to the nature of the actions undertaken even though the approval was oral.

Article 815. Consequences of Disapproval by the Interested Persons  
of Actions in his Interest

1. Actions in other's interests committed after the person who commits them has learnt that they are not approved by the interested person shall not entail obligations for the latter nor with respect to the person who has committed them or with respect to third parties.

2. Actions with the purpose of preventing danger to life of the person in danger shall be allowed against the will of this person, and the performance of obligation to maintain anybody shall be allowed against the will of the person on whom this obligation is imposed.

Article 816. Duties of a Person, In Whose Interest Actions Had  
Been Implemented Without Agency

1. Necessary expenses and other actual damage incurred by the person who had acted in the other person's interest in accordance with the rules provided by this Chapter shall be recovered by the interested person except for the expenses which were caused by the actions indicated in point 1 of Art. 815 of this Code.

The right to recovery of necessary expenses and other actual damage shall be retained in cases when the actions in other's interest were reasonable, but the expected result had never been achieved. However, in case of preventing the damage to the property of the other person the amount of recovery must not exceed the value of the property.

2. If actions in other person's interest had been a part of his business activities, he shall be entitled to proportional remuneration, along with recovery of actual damage.

Article 817. Transacting in Other Person's Interest

1. Duties in transaction, concluded in other person's interest, shall be transferred to a person, in whose interest it had been concluded, as of the moment this transaction is approved, if the other party knew while concluding the transaction, that this transaction was concluded in other person's interest.

Along with the transfer of duties in such a transaction to a person, in whose interest it had been concluded, rights on this transaction shall be also transferred to the latter.

2. A person, who concluded the transaction can delay the transfer of rights until recovery of all losses, incurred by him while performing activities in other person's interest.

Article 818. Unjust Enrichment Caused by Actions in other  
Person's Interest

If actions not directly aimed at securing interests of the other person including cases when the person who has committed them erroneously supposed that he had acted in his interest caused the unjust enrichment of the other person shall be administered by the rules specified in Chapter 52 of this Code.

Article 819. Recovery of Costs Related to Prevention of Damage to  
Other Persons' Property

If a person without proper agency prevented a real threat of damaging other person's property, in conditions, excluding the possibility of notification about such a threat, he may claim recovery of necessary expenses suffered by this person, as well as recovery of other actual damage, related to these actions.

In this case the amount of recovery shall not exceed the value of the property.

Article 820. Recovery of Damage Caused by Actions in Other  
Person's Interest

Relationships in respect to recovery of damage, inflicted by the actions in other person's interest, shall be regulated by rules, stated in Chapter 51 of this Code.

Article 821. Report of a Person, Acting in Other Person's  
Interest

A person who acted in other person's interest shall submit the person in whose interests actions had been carried out a report on activities, indicating benefits gained and expenses or other damages incurred.

CHAPTER 41  
COMMISSION AGENCY

Article 822. Contract of Commission Agency

1. Under the contract of commission agency the commission agent shall on instruction of the principal for remuneration make one or several transactions in his own name, at the expense of the principal.

2. The contract of commission agency may be concluded for a definite term or without indication of the term, with or without indication of territory of its execution, with the exclusive rights of the commission agent, or without the latter, with or without conditions in relation to the assortment of goods being the subject of the commission agency.

3. The law may provide for the peculiarities of certain kinds of contracts of commission agency.

Article 823. Form of the Contract of Commission Agency

The contract of commission agency shall be in writing.

Article 824. Remuneration to the Commission Agent

1. The principal shall pay the commission agent a remuneration, and in the event that the commission agent has taken on the guaranty for execution of the transaction by the third party (del credere), also additional remuneration in the amount and in the procedures established by the contract of commission agency.

Should this amount or procedures be not specified by the contract and the amount of remuneration may not be determined on the basis of conditions of the contract, the remuneration shall be paid after the execution of the contract of commission agency in the amount specified in accordance with Article 390 (3) of this Code.

2. Should the contract of commission agency be not executed for the reasons out of the principal's control, the commission agent shall preserve the right for remuneration as well as for the reimbursement of expenses incurred.

Article 825. Rights and Obligations of the Commission Agent under  
the Transaction with the Third Party

1. Under the transaction with the third party committed by the commission agent the latter shall acquire the rights and bear liabilities even though the principal has been mentioned in the transaction or entered into direct relationships with the third party to commit the transaction.

2. On the principal's demand the commission agent shall assign the rights under such transaction to him having notified the third party with which the commission agent had transacted of this assignment. The third party may not object against the principal's claims based on the its claims to the commission agent not arising from this transaction.

#### Article 826. Execution of Instruction on Commission Agency

1. The commission agent shall execute all obligations and exercise all rights arising from the transaction entered with the third party.

2. The commission agent shall execute a commission taken on in accordance with the principal's instructions on terms most beneficial for the principal, should such instructions be not specified by the contract of commission agency - in accordance with business practices or other customary requirements, on terms most beneficial for the principal. In the event that the commission agent has made a transaction on terms more beneficial than those which were indicated by the principal, the profit shall be shared by the principal and the commission agent equally, unless otherwise provided by the contract.

3. The commission agent shall not be liable to the principal for the failure of the third party to execute transaction made with him at the expense of the principal, except for the cases, when the commission agent failed to undertake necessary circumspection in selecting this party or guaranteed the execution of the transaction (*del credere*).

4. In the event of failure of the third party to execute the transaction concluded with him by the commission agent, the latter shall inform the principal of this without delay, collect and ensure necessary evidence, and also on the principal's demand transfer to him all rights under such transaction.

#### Article 827. Sub-Commission Agency

1. The commission agent may enter into the contract of subcommission agency with the other person with the purpose of executing the contract of commission agency, remaining liable for the actions of the sub-commission agent to the principal, unless otherwise provided by the contract of commission agency.

Under the contract of sub-commission agency the commission agent shall acquire rights and obligations of the principal in relation to the sub-commission agent.

2. The principal may not get involved in direct relations with the sub-commission agent prior to the expiration of the contract of commission agency without the consent of the commission agent, unless otherwise provided by the contract of commission agency.

#### Article 828. Price for the Property Being Sold by the Commission Agent

Price for the property being sold by the commission agent shall be determined by the contract with the principal, unless otherwise established by the legislation.

#### Article 829. Deviation from the Principal's Instructions

1. The commission agent may deviate from the principal's instructions should it be necessary under the circumstances of the case in the interests of the principal and should the commission agent be unable to make preliminary inquiry with the principal or fail to receive a response for his inquiry within reasonable time. In this case the commission agent shall notify the principal of the deviations produced as soon as it becomes possible.

Should the commission agent act as a commercial representative (point 1 of Article 202), the principal may provide him with the right to deviate from his instructions in the interests of the principal without a preliminary inquiry.

2. The commission agent who has sold property at a price lower than agreed on with the principal, shall compensate the difference, unless he proves that he had no possibility to sell property at a specified price and the sale at a lower price has prevented greater losses, and also that he had no possibility to receive preliminary consent of the principal to deviation from his instructions.

3. Should the commission agent buy the property at a price higher than agreed upon with the principal, the latter if unwilling to accept such purchase shall announce of this to the commission agent without delay, on receipt of the notice on entering into transaction with the third party. Otherwise the purchase shall be acknowledged accepted by the principal.

Should the commission agent inform that he refers the difference in price to his account, the principal may not refuse the transaction concluded for him.

Article 830. Rights to the Property Being a Subject of the  
Commission Agency

1. The property transferred to the commission agent from the principal or purchased by the commission agent at the expense of the principal shall be the property of the principal.

2. The commission agent may in accordance with Article 342 of this Code withhold items subject to transfer to the principal or the third party in transaction entered into by the commission agent until disbursement of amounts due to him under the contract of commission agency.

Article 831. Satisfaction of Claims of the Commission Agent out  
of Amounts Due to the Principal

The commission agent may retain amounts payable to him under the contract of the commission agency out of all amounts transferred to him at the expense of the principal.

Article 832. Liability of the Commission Agent for Forfeiture,  
Shortage of or Damage to the Property of  
the Principal

1. The commission agent shall be liable to the principal for forfeiture, shortage of or damage to the principal's property in his possession.

2. Where upon the receipt by the commission agent of the property sent by the principal or transferred to the commission agent for the principal damages or shortage occur to this property, which may be noticed at external inspection, and also in the event that anybody inflict damage to the principal's property in possession of the commission agent, the latter shall take measures on protection of principal's rights, collect necessary evidence and inform the principal of everything without delay.

3. The commission agent who has failed to insure the principal's property in his possession shall be liable for this only in cases when the principal prescribed to get the property insured or the insurance of this property is obligatory by virtue of law.

Article 833. Deal for Oneself

The contract of commission agency may be performed by the commission agent, unless the principal provided otherwise, so that he himself as a seller supplies the goods which he must buy or as a buyer receives the goods which he must sell.

The commission agent who independently supplied the goods as a seller or received it as a buyer shall be entitled to regular commissions and may claim reimbursement of expenses arising from the commission transactions.

Article 834. Principal's Acceptance of Execution under the  
Contract of Commission Agency

The principal shall:

accept from the commission agent everything executed under the contract of commission agency;

inspect the property purchased for him by the commission agent and to notify the latter without delay of shortcomings discovered in this property;

excuse the commission agent of obligations undertaken by him with respect to a third party on execution of the commission.

Article 835. Reimbursement of Expenses on Execution of the  
Commission

1. The principal shall apart from the payment of agent's remuneration and in respective cases of an additional remuneration for del credere, reimburse the commission agent expenses on execution of the commission.

2. The commission agent shall not be entitled to reimbursement of expenses on storage of the principal's property in his possession, unless otherwise established by law or the contract of commission agency.

Article 836. Cancellation of the Contract of Commission Agency by  
the Principal

1. The principal may cancel the commission given to the commission agent at any time. In this case the damages incurred by the commission agent caused by the cancellation of the commission shall be indemnified on the general grounds.

In case of cancellation of the commission the principal shall dispose of the property in the possession of the commission agent within a month from the moment of cancellation of the commission, unless other time period is established by the contract. Should the principal fail to perform this obligation, the commission agent may either transfer the property for the bailment or sell it at the best possible price for the principal.

2. In case of cancellation by the principal of all commissions specified in the contract of commission the contract shall be terminated.

Article 837. The Commission Agent's Refusal to Execute the  
Contract of Commission Agency

1. The commission agent may not, unless otherwise provided in the contract, refuse to execute the accepted instruction on commission, except for the cases when the principal's violation of his obligations causes the impossibility of executing the commission in accordance with the principal's instructions or impossibility of execution arises in the result of other circumstances for which the commission agent is not liable.

The commission agent shall notify the principal of his refusal in writing and secure safety of the principal's property in his possession.

The principal notified of the commission agent's refusal to execute the commission shall dispose of the property in possession of the commission agent within thirty days from the day of receiving the refusal, unless other term is established by the contract. Should the principal fail to perform this obligation the commission agent may either transfer the property for bailment or sell it at the best possible price for the principal.

2. The commission agent having refused to execute the contract of commission agency because of the principal's violation of his obligations shall retain the right to the commission remuneration as well as to reimbursement of the expenses incurred.

3. In case of refusal of the commission agent from all commissions specified by the contract of commission agency the contract shall be terminated.

Article 838. Termination of the Contract of Commission Agency

The contract of commission agency shall be terminated along with general grounds for termination of obligations in the consequence of:

- refusal of the principal from execution of the contract;
- refusal of the commission agent from execution of the contract;
- in the event of death of the principal or the commission agent;
- acknowledgment of the principal or commission agent incapable, limitedly capable, absent for reason unknown, or declaration of either of them deceased;
- acknowledgment of the commission agent insolvent.

Article 839. Principal's Refusal to Execute the Contract Entered  
into without Indication of Term

The principal may refuse at any time from the contract of commission agency entered into without indication of term, having notified a commission agent of refusal in writing not later than within thirty days, unless longer term is provided by the contract.

In this case the principal shall pay the commission agent a commission compensation for the part of the contract executed before the termination of the contract and reimburse the commission agent for expenses incurred before the termination of the contract.

In case of refusal from the contract of commission agency the principal must perform obligations provided by part two of point 1 Art. 836.

Article 840. Refusal of the Commission Agent to Execute the  
Contract Entered into without Indication of Term

1. The commission agent may refuse at any time from the contract of commission agency entered into without indication of term having notified the principal of the refusal in writing not later than within thirty days, unless longer period is provided by the contract.

In this case, the commission agent shall take measures to ensure safety of the principal's property at his possession. The principal shall dispose of the property at the commission agent until the moment of termination of the contract. Should the principal fail to perform this obligation the commission agent may either transfer the property for bailment or sell it at the best possible price for the principal.

2. The commission agent having refused from the performance of the contract of commission agency shall retain the right to reimbursement of expenses incurred at the time of termination of the contract payable to him by the time of termination of the contract.

#### Article 841. Consequences of Death of Individual or Liquidation of the Institutional Principal

In case of death of the individual principal, acknowledgment of him operationally incapable, and in case of liquidation of institutional principal, the commission agent shall continue the execution of the commission instruction until he receives appropriate instructions from the principal's heirs or representatives.

#### Article 842. Consequences of Death of Individuals or Liquidation of the Institutional Commission Agent

In case of death of the individual or liquidation of the institutional commission agent the contract of the commission agency shall terminate.

In case of reorganization of the institutional commission agent its rights and obligations of the commission agent shall confer on the legal successors, unless the principal inform about the rescission of the contract within thirty days after receipt of the notification of the held reorganization.

### CHAPTER 42 AGENCY

#### Article 843. Contract of Agency

1. Under the contract of agency, one party (agent) shall commit for compensation legal and other actions by the instructions of the other party (the principal) on his own behalf but at the expense of the principal, or on behalf and at the expense of the principal.

The agent shall acquire rights and undertake obligations in the transaction with the third party committed by the agent on his own behalf and at the expense of the principal, notwithstanding that the principal was mentioned in the transaction or entered into direct relationships with the third party on execution of the transaction.

In the transaction with the third person committed by the agent on behalf and at the expense of the principal the rights and obligations shall arise directly with the principal.

2. In cases when the agency contract entered into in writing provides for general powers of the agent to execute transactions on behalf of the principal the latter may not refer to the absence of appropriate powers of the agent in relationships with the third parties, unless he proves that the third party knew or had to know of the restrictions of the agent's powers.

3. The agency contract may be entered into for a certain period or without indication of the its term.

4. The law may provide for specific features of certain types of agency contract.

#### Article 844. Remuneration to an Agent

A principal shall pay remuneration to the agent, in the amount and accordance to the procedures established in the contract of agency.

If the clause of remuneration amount is missing from contract of agency and it may not be determined based on the clauses of the contract, the remuneration shall be paid in the amount determined in accordance with point 3 of Article 389 of this Code.

If the clause of procedures for payment of remuneration to the agent is missing in the contract the principal shall pay remuneration within a week from the moment of submission by the agent of the report for the past period, unless other procedures for payment of remuneration arise from the essence of the contract or business practices.

Article 845. Restrictions of Principal's and Agent's Rights  
in the Contract of Agency

1. The contract of agency may provide for the principal's obligation not to enter into similar contracts of agency with other agents operating on the territory defined in the contract or to restrain from carrying out independent activity on this territory similar to the activity which is a subject matter of the contract of agency.

2. Contract of agency may provide for the agent's obligation not to enter into similar contracts of agency with other principals which are to be executed on the territory which corresponds in full or in part to the territory defined in the contract.

3. Clauses of the contract of agency by virtue of which the agent may sell goods, exercise works or render services exclusively to the definite category of buyers (customers) or exclusively to buyers (customers) located or residing on the definite territory shall be void.

Article 846. Agent's Reports

1. In the process of execution of the contract of agency the agent shall report to the principal pursuant to the procedure and in term provided in the contract. Should the appropriate clauses be missing in the contract the agent shall report in the course of execution of the contract of agency or at the expiration of the contract.

2. Unless otherwise provided by the contract of agency the agent's report shall enclose necessary proofs of expenses incurred by the agent at the expense of the principal.

3. The principal who has objections on the agent's report must inform about them the agent within thirty days from the day of receiving report, unless other term is established by the agreement of the parties. Otherwise the report shall be considered accepted by the principal.

Article 847. Contract of Subagency

1. Unless otherwise provided by the contract of agency, the agent may enter into the contract of subagency with other person though remaining liable to the principal for the subagent's actions.

The contract of subagency may provide for the obligation of the agent to enter into the contract of subagency with or without indication of concrete clauses of such contract.

2. The subagent may not transact with the third parties on behalf of the person being the principal under the contract of agency, with the exception of cases where pursuant to Art. 205 (1) of this Code the subagent may act on the basis of subagency. The procedure and consequences of such subagency shall be determined pursuant to the rules provided in Art. 808 of this Code.

Article 848. Termination of Contract of Agency

The contract of agency may be terminated as a consequence of:  
refusal of either of the parties to execute the contract entered into without defining its termination date;  
death of the agent, acknowledgment of him operationally incapable or missing;  
acknowledgment of the individual businessman being the agent insolvent (bankrupt).

Article 849. Termination of the Contract of Agency

The relationships arising out of the contract of agency shall be respectively regulated by the rules provided in Chapter 39 or Chapter 41 of this Code, depending on whether the agent is acting on the conditions of this contract on behalf of the principal or on his own behalf if these rules do not contradict the provisions of this chapter or the essence of the contract of agency.

CHAPTER 43  
TRUST MANAGEMENT OF A PROPERTY

Article 850. Contract of Trust Management of Property

1. Under the contract of trust management of a property, one party (management founder) shall transfer to another party (trust manager) the property to trust management for a certain period, and another party shall manage this property in the interests of the management founder or the persons indicated by him (beneficiary).

2. Transfer of a property to trust management shall not result in assignment of the title to the property to the trust manager.

#### Article 851. Grounds for Arising (Founding) of Trust Management

1. Trust management of the property shall arise (is founded) on the basis of the contract between the trust manager and the owner of the property.

2. Trust management of the property may be also founded:

in the event of necessity of continuous management of the property of a ward, as provided in Article 73 of this Code;  
in the event of appointment of the will executor (trust manager) in the testament;  
on other grounds stipulated in the law.

#### Article 852. Significant Conditions of the Contract of Trust Management of the Property

1. The contract of trust management of the property must set forth:  
the composition of the property which is transferred for trust management;  
the owner of the property which is transferred for trust management, and in the event the contract is entered into by the decision of another person pursuant to the law - also the name of this person;  
name of the legal entity or individual, in whose interest the management of the property is executed (beneficiary);  
designation or name of the trust manager;  
benefits granted to beneficiary;  
amount and form of remuneration to the manager, unless the contract provides for gratuitous trust management, where the contract is entered into, pursuant to the law, by the non-owner;  
conditions and procedure for submission by the trust manager of the report about his activity to the management founder and beneficiary;  
effective date of the contract.

2. The contract on trust management of the property shall be entered into for the period, which does not exceed five years. The law may provide for other time-limit of the contract for certain types of property transferred for trust management.

Where there is no application of one of the parties about the termination of the contract at the expiration of its effective period, the contract shall be deemed extended for the same period and on the same conditions which are stipulated in the contract.

#### Article 853. Form of the Contract of Trust Management of the Property

1. The contract of trust management of the property must be in writing.

2. The contract of trust management of the real estate must be in the form which is stipulated for contracts of sale of real estate. The transfer of real estate for trust management is subject to state registration in the same procedure as transfer of the title to this property.

3. Failure to observe the form of the contract of trust management of the property or to meet the requirements about registration of the transfer of the real estate for trust management shall result in invalidity of the contract.

#### Article 854. The Object of the Trust Management

1. Enterprises and other property complexes, separate facilities related to real estate, securities, rights certified by dematerialized securities, exclusive rights may be objects of trust management.

2. Separate objects related to movable property, money, fungible things (Article 31 of this Code) may not be independent objects of trust management.

Money may be an object of the trust management only as a part of enterprise or other property complex, and in the event of settlements in activity related to trust management.

#### Article 855. Transfer of the Pledged Property for Trust Management

1. The transfer of the pledged property for trust management shall not deprive the pledgeholder of the right to enforce the property.

2. The trust manager must be notified that the property transferred to him for trust management is pledged. In the event the trust manager did not know and should not have known about the pledge of the property which is transferred to him for trust management, he may claim in court the rescission of the contract of trust management of the property and payment of remuneration for one year due to him under the contract.

#### Article 856. Separation of the Property in Trust Management

1. The property transferred for trust management shall be separated from other property of the management founder and from the property of the trust manager. This property shall be reflected on a separate balance sheet by the trust manager and shall be accounted independently. For settlements in the activity related to trust management a separate banking account shall be set up.

2. Collection of debts of the management founder from the property which is transferred to him for trust management shall be prohibited, unless this person is insolvent (bankrupt). In the event of bankruptcy of the management founder the trust management of this property shall be discontinued and the property shall be included into the estate.

#### Article 857. Founder of the Trust Management and Beneficiary

1. The management founder shall include:

an owner of the property;

a person who holds the right of life-time possession of the land plot;

governmental body authorized for that with respect to the property in the state ownership;

enterprise based on the right of economic management with the permission of the owner.

2. In cases when the trust management of the property is founded on the grounds indicated in point 2 of Article 851 of this Code the rights of the management founder provided by the rules of this Chapter shall belong respectively to the body of guardianship and tutorship, will executor or other person indicated in the law.

3. The founder of the trust management shall transfer a property for trust management to the trust manager for the period agreed in the contract. He shall have the right to return the property which is in trust management after the expiration of the effective period of the contract, unless the contract provides otherwise. The founder of the trust management may not interfere with the activity of the trust manager. The founder of the trust management shall be entitled to receive a report from the trust manager about his activity within the period provided by the contract.

4. Any subject of the civil legal relations, except for the trust manager may be a beneficiary under the contract on trust management.

The beneficiary shall be entitled to benefits stipulated by the contract on trust management.

In the event a beneficiary is not named in the contract, the founder of the trust management shall be the beneficiary.

#### Article 858. Trust Manager

1. A private businessmen or a commercial organization except for the state-run enterprise may be the trust manager. In the event the trust management of the property is established by the body stated in the law Article 851 (2) of this Code), an individual other than businessman or a nonprofit organization except for institution may be the trust manager.

2. A property shall not be subject to transfer for trust management to the state body or the body of the local selfgovernance and local state administration.

3. The trust manager may not be a beneficiary under the contract on trust management of the property.

#### Article 859. Trust Manager's Rights

1. Performing the trust management of the property the trust manager may carry out any legal and actual actions in respect to this property in the interest of the beneficiary in accordance with the contract of trust management.

The law or the contract may provide for restrictions in respect to certain actions concerning trust management of the property.

2. The trust manager shall exercise the authority of the owner in respect to the property which is transferred to trust management within the scope stipulated by the law and the contract of trust management of the property. The trust manager shall manage the real estate as provided by the contract of trust management of the property.

The owner shall not exercise the authority which is entrusted to the trust manager.

3. To protect the rights to the property which is in trust management the trust manager may demand elimination of any infringement of his rights (Articles 289) including that on the part of the owner.

#### Article 860. Trust Management of Securities

The authority of the trust manager in management of the securities shall be defined in the contract of trust management.

Pooling of securities which are transferred for trust management by different persons may be provided in the event of transferring securities for the trust management.

Peculiarities of the trust management of securities shall be defined by the law.

The rules of this Article shall respectively apply to the rights certified by dematerialized securities (Article 39).

#### Article 861. Consequences of Actions Performed by the Trust Manager

1. Rights acquired by the trust manager in the result of the actions related to trust management of the property shall be included into the property which was transferred for trust management.

2. The trust manager shall execute transactions with the property transferred for trust management on his own behalf, stating herewith that he acts as a trust manager. This condition shall be deemed as observed, where in the event of performance of the actions which do not require written formalization, the other party is notified about the fact that the actions are performed by the trust manager and written documents after the name of the trust manager contain the entry "T.M."

Where there is no statement that the trust manager acts in this capacity, the trust manager shall be personally liable to third parties and shall be liable to them only with the property he owns.

#### Article 862. Trust Manager's Duties

1. In performing the management of the property the trust manager shall take necessary care in the interests of the management founder and beneficiary, prudence and skill.

2. The trust manager shall personally perform the trust management of the property, except as provided in paragraph 2 of this point.

The trust manager may authorize another person to perform actions necessary for management of the property on behalf of the trust manager, in the event he is authorized thereto by the contract of trust management of the property, or in the event he receives the consent thereto of the founder in writing or he is forced thereto by circumstances to secure the interests of the management founder or beneficiary and does not have opportunity herewith to receive instructions of the management founder within the reasonable period.

The trust manager shall be liable for the actions of his agent as for his own.

3. The trust manager shall report to the management founder and beneficiary about his activity within the period and in the procedure stipulated in the contract of trust management of the property.

#### Article 863. Liability of the Trust Manager

1. The trust manager who does not take proper care in trust management of the property in the interests of the management founder and beneficiary, shall indemnify to the beneficiary the benefit lost during the trust management of the property, and shall indemnify to the management founder damages inflicted by the loss of or damage to the property with the account of its natural depreciation.

2. The trust manager shall be liable for inflicted damages, unless he proves that the damages are inflicted in the result of insuperable force or due to the actions of the beneficiary or the management founder.

3. In the event of improper performance of management of the property the management founder may claim in court termination of the trust management and indemnification of damages.

4. The transaction committed by the trust manager with violation of the restrictions established for him shall be acknowledged valid unless third parties participating in the transaction knew or should have known of these restrictions. In this case the trust manager shall bear liability provided by point 1 of this Article.

5. The trust manager shall bear a secondary liability to the third parties with his personal property for the losses inflicted by the improper actions in relation to management of the property.

6. The contract of trust management of the property may provide for pledge by the trust manager to secure the indemnification of damages inflicted to the management founder and beneficiary by improper performance of the contract of trust management.

#### Article 864. Remuneration to the Trust Manager

The trust manager shall be entitled to remuneration stipulated in the contract on trust management of the property, and to reimbursement of necessary expenses incurred by him during the trust management of the property from revenues generated from use of this property, and in the event the trust management is founded by the owner of the property pursuant to the law - also from other means provided by the contract.

In the event when trust management of the property arises on the grounds provided by the law (Art. 851 (2)) the contract may provide for gratuitous performance of trust management.

#### Article 865. Termination of the Contract on Trust Management of the Property

1. The contract of trust management of the property shall be terminated as a result of:  
statement of one of the parties of the termination of the contract due to expiration of the effective period of the contract;

death of the individual who is the beneficiary, or liquidation of the legal entity - beneficiary, unless the contract provides otherwise;

renunciation of the benefit under the contract by the beneficiary, unless the contract provides otherwise;

death of the individual who is the management founder, acknowledgment of him as disabled or missing and acknowledgment of a private businessman as bankrupt (insolvent); liquidation of the legal entity which is the trust manager, its acknowledgment as bankrupt (insolvent);

renunciation of the trust manager or management founder to perform the trust management in connection with the necessity of the trust manager to perform the management of the property personally;

renunciation of the trust manager to perform the trust management as provided by Art.855 (2) of this Code;

renunciation of the contract by the management founder, provided that the trust manager is paid the remuneration agreed in the contract;

acknowledgment of the management founder as bankrupt (insolvent).

2. In the event of renunciation of the contract on trust management of the property by one party, the other party must be notified thereof three months in advance before the termination of the contract, unless the contract provides for other period of notification.

3. In the event of termination of the contract on trust management, the property which is in trust management shall be transferred to the management founder, unless the contract provides otherwise.

### CHAPTER 44 COMPLEX BUSINESS LICENSE (FRANCHISING)

#### Article 866. Contract of Complex Business License

1. Under a complex business license contract, one party (complex licensor) shall provide other party (complex licensee) for a fee with a set of exclusive rights (license set), which includes the right to use the firm name of the licensor and protected commercial information, as well as other exclusive rights (trade mark, service mark, patent) provided by the contract, in the licensee's business activities.

2. The complex business license contract shall provide for the use of the licensor's license set, business reputation and commercial experience in a definite volume (particularly, minimal and/or maximal volume of use shall be established), with or without indication of a territory where a particular scope of activities may be implemented (sale of goods, received from the licensor or produced by the licensee, carrying out other trading activities, rendering of services, performance of works).

3. The parties to a complex business license contract can be only commercial organizations and citizens, who are registered as businessmen.

4. The complex business license contract can be entered into with or without indication of term (termless contract).

5. The complex business license contract shall be respectively regulated by the rules of this Code on intellectual property, unless otherwise provided by this Chapter or arises from the essence of the contract.

#### Article 867. The Form of the Contract of Complex Business License

A complex business license contract must be entered into in writing.

Failure to comply with the form of the contract shall entail its invalidation.

#### Article 868. Complex Business Sub-license

1. The complex business license contract may provide for the licensee's right to allow other persons to use the license set or part thereof, provided to the licensee on the terms agreed with the licensor or determined in the complex business license contract. Similarly, the contract may include the licensee's obligation to issue within a definite period of time a definite number of sublicenses with or without specification of the territory where they can be used.

The complex business sub-license contract cannot be entered into for a term longer than the complex business license contract on the basis of which it is entered into.

2. Invalidity of the complex business license contract shall entail invalidity of complex business sub-license contract entered into on its basis.

3. Unless otherwise provided by the complex business sublicense entered into for a definite term upon early termination thereof the rights and obligations of the licensee under the complex business license contract shall confer on the licensor unless he refuses to undertake rights and obligations under this contract. This rule shall be respectively applied in recision of the complex business license contract entered into without indication of the term.

4. The licensee shall bear secondary liability for damage inflicted to the licensor by the actions of secondary licensees, unless otherwise provided by the complex business license contract.

5. The contract of complex business sub-license shall be regulated by the rules provided in this Chapter on the contract of complex business sub-license, unless other arises from the peculiarities of the sub-license.

#### Article 869. Form of Compensation under Complex Business License Contract

The licensee shall pay a compensation to the licensor in the form of fixed one-time or periodical payments, deductions from proceeds, mark-up in the wholesale price of goods, supplied by the licensor for re-sale, or in other form provided by the contract.

#### Article 870. Licensor's Obligations

The licensor shall transfer to the licensee technical and commercial documents and provide him with other information necessary for the licensee to exercise his rights, conferred on him under the contract, as well as to give instructions to the licensee and his employees on issues which relate to these rights; The contract may provide for other licensor's obligations.

#### Article 871. Licensee's Duties

Considering the nature and specific features of the activities, implemented by the licensee in accordance with a complex business license contract, the licensee shall:

use the licensor's firm name while implementing the activities provided by the contract, in a manner specified in the contract;

ensure an exact compliance of the quality of goods produced, services rendered, works performed by the licensee under the contract with that of similar goods, services or works produced, rendered or performed directly by the licensor;

follow all licensor's instructions and directives, aimed at achieving exact compliance with the nature, manner and conditions of using exclusive rights by the licensor, incorporated in the license set, including directives, which address internal and external decoration of commercial premises, used by the licensee to exercise rights, provided to him under the contract;

render all additional services to buyers (customers), which they expect while purchasing (ordering) goods (service, work) directly from the licensor;

refrain from revealing licensor's production secrets and other confidential commercial information received from the licensor; issue a stipulated number of sublicenses, if such a duty is directly provided by the contract;

inform buyers (customers), in a way most conspicuous to them, that the licensee uses the firm name, trade mark, the service mark or any other means of individualization, by virtue of complex business license.

The contract may provide for other licensee's duties.

#### Article 872. Restrictive Conditions

1. A complex business license contract may provide for restrictive (exclusive) conditions, in particular: the licensor's obligation to refrain from issuing other similar complex business licenses to be used on the territory assigned to the licensee, or refrain from directly implementing independent activities on this territory;

the licensee's obligation to refrain from competing with the licensor on the territory of the complex business license, which relates to business activities, being implemented by the licensee, using the licensor's exclusive rights;

the licensee's waiver of other complex business licenses, issued by the licensor's competitors (potential competitors); the licensee's obligation to coordinate with the licensor a place of location of the commercial premises, which are used in the exercise of exclusive rights provided to him by contract, as well as external and internal decoration of these premises.

By the claim of anti-trust agency or any other interested person, restrictive conditions may be rendered invalid, if the conditions contradict anti-trust legislation, giving consideration to the state of the corresponding market and economic status of the parties.

2. Restrictive conditions of complex business license contract shall be invalid, if by virtue of these conditions:

a licensor may determine the price of goods to be sold by the licensee, or the price of work (service), performed (granted) by the licensee, or set forth the maximum or minimum limits of these prices;

a licensee may sell goods, perform works and grant services only to a definite category of buyers (customers) or only to buyers (customers) located (living) on a territory, specified in the contract.

#### Article 873. Licensor's Liability on Claims against the Licensee

A licensor shall bear joint and several liability on claims against the licensee on indemnification of damage caused by the activities carried out by the licensee under the supervision of the licensor, unless he proves that damage is inflicted by default or improper performance by the licensee of his obligations under the contract of complex business license.

#### Article 874. Changing a Complex Business License Contract

A complex business license contract can be amended in accordance with rules of Chapter 22 of this Code.

#### Article 875. Termination of Complex Business License Contract

1. Complex business license contract, entered into with indication of term, can be terminated in accordance with rules of Chapter 22 of this Code.

2. Either of the parties may to waive the termless complex business license contract at any time with six months advance notification of another party, unless the contract provides for a longer term of notification.

3. A complex business license contract shall be terminated if the right to use a firm name, included in license set, has been terminated without its substitution for another firm name.

#### Article 876. Maintenance of Contract of Complex Business License in Force in Case of Changing the Parties

1. The transfer of any exclusive right, which is part of a license set, to another person, shall not be the ground for changing or terminating a complex business license contract. The new licensor shall enter into the contract, in the part of rights and obligations, related to the transferred exclusive right.

2. In the event of a licensor's death, his rights and obligations under the complex business license contract shall be conferred on his heir, provided that he is registered or will register as a businessman (entrepreneur) within six months from the day of commencement of inheritance. Otherwise, the contract shall be terminated.

The management of a license set during the period before acquisition of corresponding rights and obligations by the heir, or before the heir's registration as a businessman shall be exercised by a manager, appointed by the notary.

#### Article 877. Maintenance of the Contract of Complex Business License in Force in Case of Changing the Firm Name

In the event the licensor changes the firm name, the complex business license shall remain effective in relation to the licensor's new firm name, unless the licensee demands annulment of the contract and indemnification of losses. In the event the contract is kept in force, the licensee may demand commensurate reduction of remuneration due to the licensor.

#### Article 878. Consequences of Termination of Exclusive Right Included in License Set

If during the validity period of the complex business license contract the effective period of the exclusive right included in a license set, has expired, or such right had been terminated due to other grounds, the contract shall remain

effective, except the clauses, which address the terminated right, and the licensee may claim for commensurate reduction of the remuneration due to the licensor, unless otherwise provided by the contract.

## CHAPTER 45 BAILMENT

### § 1. General Provisions on Bailment

#### Article 879. Contract on Bailment

1. Under a contract of bailment a bailee shall keep in bailment an item transferred thereto by a bailor and to return the item intact.

2. A contract of bailment shall be recognized entered into from the moment of accepting the item for bailment.

#### Article 880. Contract on Accepting Items for Bailment

1. The bailee executing bailment as business or other professional activity may take on an obligation under the contract to accept items for bailment from the bailor and keep items transferred by the bailor in accordance with the rules provided by this Chapter.

2. The bailee having taken on an obligation under the contract to accept the item for bailment may not to demand that the item be transferred to him for bailment.

However, the bailor having failed to bail the item within the period of time, stipulated in the contract, shall bear liability to the bailee for losses inflicted in connection with unaccomplished bailment, unless otherwise provided for by the law or contract of bailment.

The bailor shall be relieved from liability if he notifies the bailee of waiver of his services within the reasonable time period.

3. Unless otherwise provided for by the contract, the bailee shall be relieved of his obligation to accept the item for bailment in cases when the item is not transferred to him for bailment within the time period stipulated in the contract, and where this time period is not specified after six months from the date of entering into the contract.

#### Article 881. Form of the Contract of Bailment

1. The contract of bailment must be entered into in writing as indicated in Article 177 of this Code.

Simple written form of a contract of bailment shall be recognized observed if the acceptance of an item for bailment is certified by the bailee by the way of issuance to the bailor of a deposit receipt, check, certificate or other document signed by the bailee.

2. Compliance with the written form of the contract shall not be required if the item was transferred for bailment under force major circumstances (fire, natural calamity, sudden illness, threat of assault etc.).

The transfer of items for bailment under force major circumstances may be provable by witnesses testimony regardless of the value of items transferred for bailment.

3. The contract of bailment may be entered into by the way of issuance to the bailor of a token with a number (number), other sign certifying the acceptance of items in bailment, should such form of confirmation of acceptance of items for bailment be provided for by the law or other legal act, or is usual for such kind of bailment.

4. In the event of a dispute on the identity of items to have been accepted for bailment and items returned by the bailee, witnesses testimony shall be allowed.

#### Article 882. Obligation to Accept Item for Bailment

A person to execute as business or other professional activity bailment in warehouses (in chambers, facilities) of public use may not refuse to enter into the contract of bailment. Contracts subject to signing in such cases shall be recognized public (Article 385).

#### Article 883. Term of Bailment

1. The bailee shall be obligated to keep an item in bailment for the term stipulated by the contract of bailment.

2. Should the term of bailment be not stipulated by the contract of bailment and may not be determined on the basis of its provisions the bailee shall keep the item in bailment until it is requested by the bailor.

3. In the event the term of bailment is specified by the moment when the bailor requests an item, the bailee may at the expiration of the term customary under such circumstances demand that the bailor take back the item within the reasonable period.

#### Article 884. Bailment with Respect to Fungible Property

As directly specified by the contract of bailment items of one bailor received for bailment may be mixed with items of the same kind and quality of other bailors. The bailor shall receive back an equal or specified by the parties number of items of the same kind and quality.

#### Article 885. Obligations of the Bailee to Ensure the Safety of an Item

1. The bailee shall be obligated to take all the measures specified by the contract of bailment, and other necessary measures to ensure the safety of an item transferred for bailment.

2. Should the bailment be performed free of charge, the bailee shall take care of the item accepted for bailment not less than of his own items.

3. The bailee shall return to the bailor or other person indicated by him as a recipient that item which was transferred to him for bailment, unless the contract of bailment of fungible property provides otherwise (Article 884).

4. The item must be returned in the same condition in which it was accepted for bailment with the account of its natural deterioration or natural loss.

5. Simultaneously with the return of the item the bailee shall transfer the fruits and proceeds received during its bailment, unless otherwise established by the contract.

#### Article 886. Use of an Item Transferred for Bailment

The bailee may not use the item transferred to him for bailment without the consent of the bailor as well as to provide a possibility for third person to use it, with the exception of cases when the use of bailed item is necessary to ensure its safety.

#### Article 887. Change of Terms of Bailment

1. In the event of a necessity to change conditions of bailment of an item stipulated by the contract of bailment, the bailee shall be obligated to notify the bailor thereof without delay and wait for his response.

If the change of conditions of bailment of an item is necessary to eliminate danger of forfeiture or damage to the item, the bailee may change the manner, place and other conditions of bailment stipulated by the contract of bailment without waiting for the response of the bailor.

2. If during the bailment the item was extended to damage, or circumstances not allowing to ensure its intactness occurred, and timely measures on the bailor's part cannot be expected, the bailee may independently sell an item or part thereof at a price formed at the place of bailment. Should the said circumstances occur for the reasons the bailee is not liable for, he shall be entitled to reimbursement of his expenses on sale from the purchase price.

#### Article 888. Bailment of Items with Dangerous Features

1. Items that are easily inflammable, explosive or generally dangerous in their nature, may be neutralized at any time or destroyed by the bailee without recompensing losses to the bailor if he failed to warn the bailee of these features. The bailor shall be liable for damages of the bailee and third parties caused by bailment of such items.

Upon transfer of the item with dangerous features for bailment to the professional bailee the rules stated in part one of this point shall be applied in the event when such items were transferred for bailment under improper name and the bailee could not identify their dangerous features after visual inspection upon acceptance thereof for bailment.

2. If items specified in part one of point 1 of this Article were accepted for bailment with the knowledge and consent of the bailee, but became dangerous for the environment or the property of the bailee or third parties despite of the compliance with the conditions of their bailment and circumstances do not allow the bailee to request the bailor to withdraw them immediately or the latter fails to satisfy this request, such items may be neutralized or destroyed by the bailee without recompensing the bailor for damages. The bailor shall not bear liability to the bailee and third parties for damages caused by the bailment of these items.

#### Article 889. Transfer of Item for Bailment to Third Party

Unless otherwise provided by the contract on bailment, the bailee may not transfer the item for bailment to the third party without the consent of the bailor, except for cases when he is forced thereto by circumstances in the interests of the bailor while the bailee has no possibility to obtain his consent.

The bailee shall notify the bailor without delay of the transfer of the item to the third party.

Under the transfer of the item to the third party, the conditions of the contract between the original bailee and the bailor shall remain valid and the original bailee shall be liable for the actions of the third party which he has transferred the item for bailment to as for his own.

#### Article 890. Remuneration for Bailment

1. Remuneration for bailment must be paid to the bailee at the expiration of bailment, and if the contract provides for periodic payment it shall be paid - at the expiration of each period.

2. Should there be a delay in payment of remuneration for bailment for longer than half of the period it should have been paid for, the bailee may refuse to execute the contract of bailment and request the bailor to withdraw the item transferred for bailment without delay.

3. In the event if bailment is terminated prior to the expiration of the stated term due to circumstances beyond the control of the bailee, he shall be entitled to a commensurate amount of remuneration.

In the event that bailment is terminated prior to the stated term due to circumstances beyond the control of the bailee, he may not claim remuneration for bailment, and he must return amounts received on the account of this remuneration to the bailor.

4. If at the expiration of the term stated by the contract of bailment, the bailor fails to withdraw the item that is in bailment, he shall pay the bailee remuneration for further bailment of the item.

5. Rules of this Article shall apply, unless otherwise provided by the contract of bailment.

#### Article 891. Reimbursement for Expenses on Bailment

1. Unless otherwise provided by the contract of bailment, the bailee's expenses on bailment of the item shall be included in the amount of the remuneration for bailment.

2. In the event of gratuitous bailment of the item the bailor shall reimburse the bailee for expenses he has incurred for bailment of the item, unless otherwise provided by the law or the contract.

#### Article 892. Additional Expenses with Respect to Bailment

1. Expenses with respect to bailment of an item which exceed regular expenses of such kind and that could not have been foreseen by the parties at the time of entering into the contract of bailment (additional expenses), shall be reimbursed to the bailee, if the bailor gave consent for these expenses or approved of them later, and also in other cases, provided by the law, other legal acts or the contract.

2. Should there be a necessity to incur additional expenses the bailee shall be obligated to require consent to incur such expenses from the bailor. Should the bailor fail to inform of his disagreement within the term indicated by the bailee, or within the period of time reasonably necessary for the response, he shall be considered to have concurred with the additional expenses.

In the event that the bailee has incurred additional expenses without receiving a preliminary consent to such expenses from the bailor, though it was possible under the circumstances of the case, and the bailor would not further approve of them, the bailee may claim reimbursement of additional expenses only within the amounts of damage that could have been inflicted to the item, should these expenses not been incurred.

3. Unless otherwise provided for by the contract of bailment, additional expenses shall be reimbursed in addition to the remuneration for bailment.

#### Article 893. Withdrawal of an Item by the Bailor

1. The bailor shall withdraw the item transferred for bailment at the expiration of term of bailment specified by the contract or term provided by the bailee for withdrawal of the item in accordance with point 3 of Article 883 of this Code.

2. Should the bailor evade from receiving the item, the bailee may sell the item independently at a price formed in the place of bailment after the written notification of the bailor, unless otherwise provided by the contract, and should the value of the item exceed 50-fold minimal salary established by the law he may sell it through the auction according to the procedure provided by Arts. 408-410 of this Code.

The amount of money received from sale of the item shall be transferred to the bailor less amounts payable to the bailee, including his expenses on sale of the item.

Article 894. Liability of the Bailee for Forfeiture, Shortage of  
or Damage to an Item

1. The bailee shall be liable for forfeiture, shortage of or damage to items received in bailment on the grounds provided for by Chapter 20 of this Code.

2. The bailee executing bailment as business or other professional activity (professional bailee), shall be liable for forfeiture, shortage of or damage to an item kept in bailment, unless he proves that the forfeiture, shortage of or damage to an item occurred:

as a consequence of insuperable force;

due to hidden qualities of the item of which the bailee has not known and should not have known when receiving in bailment;

in the result of ill-intent or gross negligence on the part of the bailor.

3. The bailee shall be liable for the forfeiture, shortage of or damage to items received in bailment after the obligation of the bailor to withdraw these items ensues (point 1 of Article 893) only in case of ill-intent or gross negligence on his part.

Article 895. Extent of Bailee's Liability

1. Losses inflicted to the bailor by forfeiture, shortage of or damage to items shall be reimbursed by the bailee in accordance with Article 358 of this Code, unless otherwise provided by a law or a contract.

2. In the event of gratuitous bailment losses inflicted to the bailor by the forfeiture, shortage of or damage to items shall be reimbursed for:

1) forfeiture and shortage of items - in the amount of the value of the forfeited or missing items;

2) damage to items - in the amount by which their value has decreased.

3. If as a result of damage, the bailee is liable for, the quality of item has changed to such an extent that it cannot be used according to its initial designation, the bailor may refuse it and demand from the bailee the reimbursement for its value, and also for other losses if it is provided by a law or a contract.

Article 896. Indemnification of Damages Inflicted to the Bailee

The bailor shall indemnify the bailee for damages inflicted to him by the qualities of an item transferred for bailment, if the bailee while receiving the item into bailment did not know or should not have known of these qualities.

Article 897. Termination of Obligation on Bailment upon Demand of  
the Bailor

The bailee shall return an item received in bailment upon first demand of the bailor, even though the term of bailment defined by the contract has not yet expired.

Article 898. Application of General Provisions on Bailment to its  
Specific Kinds

General provisions on bailment (Articles 879-897) shall apply to its specific kinds, unless otherwise established by regulations on specific kinds of bailment covered by §§ 2 and 3 of this Chapter and other laws.

Article 899. Bailment Arising by Virtue of Law

Rules of this Chapter shall apply respectively to obligations on bailment arising by virtue of law, unless otherwise established by the law.

§ 2. Bailment at Warehouse

Article 900. Warehouse

An organization implementing storage of goods as entrepreneurial activity and rendering services related to storage shall be deemed a warehouse.

#### Article 901. Public Warehouse

1. Warehouse shall be deemed public if according to the legislation it is not referred to warehouses which may receive goods in bailment from the limited range of people.
2. Contract of bailment of goods at a warehouse concluded by a public warehouse shall be deemed a public contract (Article 386).

#### Article 902. Contract on Bailment at Warehouse

1. Under a contract on bailment at a warehouse the warehouse (the bailee) shall store goods transferred to him by the owner of goods (the bailor) for remuneration and return these goods intact.
2. The written form of contract on bailment at a warehouse shall be considered observed, should its conclusion and acceptance of goods to the warehouse be certified by a warehouse document (Article 906).

#### Article 903. Obligations of a Warehouse

1. A warehouse shall observe the terms (regime) of storage, established in standards, technical conditions, technological instructions, instructions on storage, rules of storing certain kinds of goods, other special normative documents necessary for warehouse.
2. A warehouse shall carry out at its own expense visual inspection of goods when receiving them for bailment and define their amount (number of units or places, or measure - weight, volume) and exterior.
3. A warehouse shall provide the owner of goods during bailment with the possibility to inspect goods or their samples, in case of bailment with respect to fungible property, take tests and undertake measures necessary to ensure safety of goods.
4. In the event where in order to ensure the safety of goods it is necessary to change the conditions of bailment, the warehouse may take the required measures on its own. However it shall notify the owner of goods of measures taken, had it been necessary to change significantly the conditions of bailment of goods stipulated in the contract on bailment at a warehouse.
5. In the event that damage of goods that is beyond the limits of norms of natural deterioration or those provided for by the contract is discovered during bailment, the warehouse shall draw up a protocol without delay and notify the owner of goods within the same day.

#### Article 904. Cancellation of the Contract on Bailment at a Warehouse by the Warehouse

Warehouse may refuse to execute the contract on bailment at a warehouse, in cases when the bailor concealed the dangerous character of the goods which threatens to cause a significant damage.

#### Article 905. Inspection of Amount and State of Goods While Returning them to Owner of Goods

1. The owner of goods and the warehouse each may demand visual inspection of the goods and the check of its amount when the goods are returned. Expenses in this case shall be incurred by the party to have demanded the inspection or check of the goods.
2. If in the event when the goods were returned by the warehouse to the owner of goods, the goods were not jointly inspected and checked, the announcement on the shortage or damage of goods due to its improper bailment shall be made to the warehouse in writing on the acceptance of goods and with respect to shortage and damage that could not have been detected in the usual procedure of acceptance of goods within three days after acceptance.  
If no statement is made by the owner of goods, as indicated in paragraph 1 of this point, it shall be considered that goods were returned by the warehouse, unless proved otherwise in conformity with the terms of the contract.

#### Article 906. Warehouse Documents

1. In order to certify acceptance of goods for bailment, warehouse shall issue one of the following warehouse documents: double warehouse certificate;

ordinary warehouse certificate;  
warehouse receipt.

2. A double warehouse certificate, each part of it and an ordinary warehouse certificate shall be recognized securities.

3. Goods received for bailment with a double or an ordinary warehouse certificate may be a subject of pledge in the course of its bailment by way of pledging the respective certificate.

#### Article 907. Double Warehouse Certificate

1. Double warehouse certificate shall consist of two parts - a warehouse certificate and the certificate of pledge (warrant) that may be separated one from another.

2. Each part of the double warehouse certificate shall include identical indications of:

1) name and address of warehouse to have received the goods for bailment;

2) current number of warehouse certificate in the register of the warehouse;

3) name of the legal entity or individual the goods were received into bailment from, and also location (place of residence) of the owner of the goods;

4) name and amount of goods received in bailment - number of units and (or) commodity places and measure (weight, volume) of the goods;

5) the term, the goods were received for, should such a term be established, or the indication that the goods were received for bailment on demand;

6) the amount of remuneration for the bailment or the tariffs on the grounds whereof it shall be calculated, and the procedure of payment for bailment;

7) date of issuance of the warehouse certificate;

8) signature of the authorized person and the seal of the warehouse.

3. A document that does not conform to the requirements of this article shall not be recognized a double warehouse certificate.

#### Article 908. Rights of Warehouse and Pledge Certificates Holder

1. The holder of a warehouse and pledge certificates shall have the right to fully dispose of the goods in bailment at a warehouse.

2. The holder of a warehouse certificate separated from the pledge certificate may dispose of the goods, but cannot withdraw it from the warehouse prior to redeeming the credit granted against the pledge certificate.

3. The holder of a pledge certificate other than the holder of a warehouse certificate shall have lien with respect to the goods amounting to the sum of the credit given against the certificate of pledge and the interest on it. While establishing lien with respect to goods, the appropriate mark shall be made on the warehouse certificate.

#### Article 909. Transfer of Warehouse and Pledge Certificate

Warehouse and pledge certificate may be transferred both together and separately by endorsement.

#### Article 910. Ordinary Warehouse Certificate

1. An ordinary warehouse certificate shall be issued in bearer's form.

2. An ordinary warehouse certificate must contain data, specified in Article 907 of this Code, and also an indication that is issued in bearer's form.

3. A document that is not in conformity with the provisions of this Article shall not be recognized an ordinary warehouse certificate.

#### Article 911. Release of Goods against Double Warehouse Certificate

1. Warehouse shall release goods to the holder of the warehouse and pledge certificates (double warehouse certificate) in exchange for both of these certificates.

2. To the holder of the warehouse certificate who does not have a pledge certificate, but has contributed an amount of debt on it, the goods shall be released by the warehouse in no other manner than in exchange for the warehouse certificate and on condition that together with it he presents a receipt on paying the full amount of debt against the certificate of pledge.

3. The holder of warehouse and pledge certificate may demand that goods be released to him in parts. In this event in exchange for original certificates he shall be issued new certificates for goods which remained in the warehouse.

4. Warehouse that in violation of the requirements of this Article has issued the holder of the warehouse certificate who does not have a certificate of pledge and who has not contributed the amount of debt on it, shall bear liability to the holder of certificate of pledge for the payment of the full amount secured against it.

#### Article 912. Bailment of Items with Right to Dispose of Them

Should it follow from the law, other legal acts or contract that the warehouse may dispose of goods transferred in bailment, provisions on loan shall apply to the relations between the parties, however the time and place of return of goods shall be defined by provisions on bailment.

### § 3. Specific Types of Bailment

#### Article 913. Bailment at Pawnshop

1. A contract on bailment at a pawnshop of items belonging to an individual shall be acknowledged a public contract (Article 386).

2. The contract on bailment of item at a pawnshop shall be formalized by an issuance to the bailor of a registered deposit receipt.

3. An item placed in bailment at a pawnshop shall be subject to evaluation by the agreement of parties in compliance with prices for items of the same kind and quality which are usually established in trade at the moment and place of their acceptance for bailment.

4. A pawnshop shall insure for the bailor's benefit at its own expense items received for bailment for the total amount of their evaluation effectuated in accordance with point 3 of this Article.

#### Article 914. Items not Withdrawn from Bailment at Pawnshop

1. Should an item transferred for bailment at a pawnshop be not withdrawn by the bailor within the term determined by the pawnshop, the latter shall keep it in bailment for two months charging for it fees stipulated by the contract. At the expiration of this term items that are not withdrawn may be sold by the pawnshop in accordance with the procedure established in point 5 of Article 341 of this Code.

2. Payment for bailment and other payments due to the pawnshop shall be redeemed from the amount received for the sale of the item not withdrawn. The remaining amount shall be returned by the pawnshop to the bailor.

#### Article 915. Bailment of Valuables at Bank

1. A bank may accept in custody securities, precious metals and stones, items of value and other valuables, including documents.

2. Contract on bailment of valuables in a bank shall be formalized by the bank issuing to the bailor a registered deposit receipt, submission whereof shall be deemed grounds for issuance of valuables in bailment to the bailor.

#### Article 916. Bailment of Valuables in Individual Bank Safe

1. A contract on bailment of valuables in a bank may specify the bailment of valuables with the use by the bailor (the client) or with the bank providing him with an individual bank safe (cell in a safe, isolated room for bailment) safeguarded by the bank. Under the contract on bailment of valuables in an individual bank safe the client shall be granted a right to place valuables in safe and withdraw from the safe personally, for this purpose he shall be provided with a key from the safe, a card allowing to identify the client, or any other token or document, certifying the right of the client to access to the safe or its content.

2. Under the contract on bailment of valuables in a bank with the provision of an individual bank safe to a client, the bank shall ensure a possibility for the client to place valuables into and withdraw them from a safe without anybody's control whereof, including the control on the part of the bank.

The bank, unless otherwise established by the contract, may exercise control over access to the premises where the safe provided to the client is located. The contract may stipulate the possibility of access to the safe only with simultaneous participation both of the client and the bank.

Unless otherwise established by the contract on bailment of valuables in bank with the provision of an individual bank safe, the bank shall be relieved from the liability for failure to preserve the content of the safe, unless it proves that

under the terms of bailment anybody's access to the safe without the knowledge of the client was impossible or has become possible in the result of insuperable force.

3. In addition to the contract of providing other person with a bank safe for use without the liability of the bank for the content of the safe, the regulations of this Code on the contract of lease shall apply.

#### Article 917. Bailment at Check-Rooms of Transport Organization

1. Check-rooms that are managed by transport organizations shall take for bailment items of passengers and other individuals regardless of whether they have traveling documents or not.

Contract on bailment of items at check-rooms of transport organizations shall be recognized a public contract. (article 386)

2. To certify the acceptance of items in bailment at checkrooms (except for automatic ones) the bailor shall be issued a receipt or a token with a number inscribed thereon. Should the receipt or token be lost, the item placed in bailment to the checkroom shall be released to the bailor upon providing evidence that this item belongs to him.

3. Items may be transferred to the check-rooms for the period of time within the limits established by special regulations and contracts of parties. Items which remained unclaimed within the established period of time shall be stored in the check-room for thirty days. At the expiration of this term unclaimed items may be sold in accordance with the procedure established Article 893 (2) of this Code.

4. Losses of the bailor in the result of forfeiture, shortage of or damage to items transferred to the check-room in the amount of their evaluation by the bailor upon transfer for bailment shall indemnified by the bailee within twenty four hours from the moment of filing a claim for indemnification.

#### Article 918. Bailment at Cloak-Rooms of Organizations

1. Bailment at cloakrooms of organizations shall be presumed free of charge unless remuneration for storage is stipulated when transferring item for bailment.

2. In confirmation of acceptance of item for bailment the bailee shall issue to the bailor a token with the number or other token confirming the acceptance of item for bailment.

3. Item transferred for bailment shall be released to the bearer of the token. In this case the bailee shall not verify authorities of the bearer of the token bearer receipt of item. However the bailee may postpone the release of an item to the bearer of the token if he doubts that the token belongs to the bearer.

4. The bailee may release the item from the cloak-room also in the event that the bailor has lost the token, but the fact that he has transferred items to cloak-room or that they belong to him is undoubted to the bailee or is proved by the bailor.

5. Rules of this Article shall apply to bailment of over coat, head gears and other similar things left without transferring them for bailment by the citizens in places designated for these purposes in organizations and transport vehicles.

#### Article 919. Bailment at Hotel

1. A hotel shall be liable as a bailee and without a special contract thereon with the person staying in it (the guest) for forfeiture, shortage of or damage to his items, brought by a guest to the hotel, except for money, other currency values, securities and other items of value, except for cases when the forfeiture or damage occurred in the result of insuperable force, qualities of item itself or through the fault of the guest himself, individuals accompanying him or his visitors.

Item shall be recognized brought to the hotel if it was entrusted to the personnel of the hotel, or placed in facilities designated for this purpose (hotel suit and other).

2. The hotel shall be liable for forfeiture of money, other currency values, securities and other items of value of the guest provided that they were accepted for bailment or were placed by the guest to an individual safe provided to the quest by the hotel, regardless whether the safe is in his room or in other premises of the hotel. The hotel shall be relieved from the liability for failure to preserve the content of the safe if it proves that based on the terms of bailment anybody's access to the safe was impossible without the knowledge of the guest or became possible in the result of insuperable force.

3. A guest who discovers the forfeiture, shortage of or damage to his items shall notify thereof the hotel without delay. Otherwise the hotel shall be relieved of the liability for intactness of items.

4. A statement of the hotel that it is not assumed liability for failure to preserve items of guests shall not relieve it of the liability.

5. The rules of this Article shall correspondingly apply to bailment at rest homes, resorts, hostels, saunas and the like organizations and also organizations having special reserved places for bailment of outer clothes, headgear, and other similar items of individuals, visiting organization without placing them for bailment.

#### Article 920. Bailment of Contested Items (Sequestration)

1. Under the contract on sequestration two or several persons who are disputing the right to an item shall transfer the disputed item to the third person who shall assume the obligation upon resolution of the dispute to return the item to the person it will be awarded to by the decision of a court or upon the contract of all contestants (negotiated sequestration).

2. An item that is the subject of contest of two or several persons may be transferred for bailment in the procedure of sequestration by the decision of the court (court sequestration). A person assigned by the court or a person selected by the mutual agreement of the contesting parties may be a bailee with respect to court sequestration. In both cases the consent of the bailee shall be required, unless otherwise established by the law.

3. Both movable and immovable items may be transferred for bailment in the procedure of sequestration.

4. A bailee executing bailment in case of court sequestration shall be entitled to remuneration at the expense of the contesting parties, unless the contract or a court decision to have established sequestration provide otherwise.

### CHAPTER 46 INSURANCE

#### § 1. General Provisions

#### Article 921. Voluntary and Mandatory Insurance

1. Insurance shall be performed on the basis of contracts of property insurance and contracts of life insurance entered into by an individual or legal entity (the insured) and the insurance organization (the insurer).

2. In cases when the law imposes upon the persons indicated therein an obligation to insure in the capacity of the insured life, health or property of other persons or civil liability to other persons at their own expense or at the expense of interested persons (mandatory insurance), insurance shall be performed by entering into the contract in accordance with the rules of this Chapter. In the event of mandatory insurance the insured shall enter into a contract of property or life insurance with the insurer on the conditions provided for by the legislation regulating this kind of mandatory insurance.

#### Article 922. Interests Insurance of Which Is Not Allowed

1. Insurance of unlawful interests shall not be allowed.

2. Insurance of losses from participation in games, lotteries and wagers shall not be allowed. Clauses of contracts on insurance of such interests and losses shall be void.

3. Property interest which is the subject of insurance must be existing by the moment of occurrence of contingency (Art. 924 (2)).

#### Article 923. Contract of Property Insurance

1. Under the contract of property insurance one party (the insurer) shall for a fee specified in the contract (insurance premium) upon the occurrence of the event stipulated in the contract (contingency) indemnify other party (the insured) or other person, in favor of whom the contract has been entered into (beneficiary) for damages to the insured property inflicted in the result of this event or losses in connection with other insured proprietary interests of the insured (to pay out the indemnity).

2. Under the contract of property insurance following proprietary interests may be insured:

1) the risk of full forfeiture (perish), lack or damage to the certain property (Art.924);

2) the risk of civil liability - the risk of liability with respect to obligations arising in the result of infliction of harm to the life, health or property of other persons.

#### Article 924. Property Insurance

1. Property may be insured under the contract of insurance in favor of the person (the insured or beneficiary) who has an interest in preserving this property based on the legislation or the contract, in favor of its owner, person who has other substantive right to this property, buyer, lessee, contractor, bailor, commissioner, etc.

2. The contract of property insurance entered into without interest of the insured and beneficiary in preserving insured property by the moment of occurrence of contingency may be invalidated by the court at the claim of insurer.

3. The contract of property insurance in favor of beneficiary may be entered into without indication of the beneficiary's name or denomination.

Upon entering into such contract the insured shall obtain a bearer's insurance policy. Upon exercising rights under such contract this policy should be presented to the insurer.

#### Article 925. Insurance against Liability for Infliction of Harm

1. Under the contract of insurance against the risk of liability for obligations arising in the result of infliction of harm to the life, health or property of other persons the risk of liability of the insured himself or other person upon whom such liability may be imposed may be insured.

2. The person whose risk of liability for infliction of harm is insured must be indicated in the insurance contract. If this person's name is not indicated in the contract, the insured's risk of liability shall be considered insured.

3. In cases when the liability for infliction of harm is insured by reason of law, in other cases established by the law, as well as in cases when other is not provided in the insurance contract, the person who has sustained a loss, the liability for which is insured may bring an action for damages directly to the insurer within the limits of insurance payment.

#### Article 926. Contract of Life Insurance

1. Under the contract of life insurance, one party (the insurer) shall for a fee specified by the contract (insurance premium) paid by other party (the insured), pay a lump sum or pay periodically the amount specified by the contract (insurance payment) in the event of infliction of harm to the life or health of the insured person who may be an insured himself or other individual indicated in the contract, upon reaching by the insured person of certain age, or occurrence in his life of the other event envisaged by the contract (contingency).

The right to insurance payment shall belong to the person in whose favor the contract is entered into.

The provisions of this chapter on indemnity shall apply to the relationships connected with the right to receive and to lay out the insurance payment, except for the provisions which directly relate to the indemnity under the contract of property insurance.

2. The contract of life insurance shall be deemed entered into in favor of the insured person, if other person is not indicated in the contract as beneficiary. In the event of death of the person who has been insured under the contract where no other beneficiary was indicated, the heirs of the insured person shall be acknowledged beneficiaries.

The contract of life insurance in favor of the person other than the insured person, including in favor of the insured other than the insured person, may be entered into with the written consent of the insured person. Should such consent be absent, the contract may be invalidated at the claim of the insured person, and in case of death of this person, at the claim of his heirs.

#### Article 927. Group Life Insurance

1. Upon group life (collective) insurance under one contract of insurance, life, health and (or) property of several persons may be insured.

2. Group life insurance may be both personified and impersonal, covering definite category of individuals. Upon impersonal insurance, the range of insured persons must be specified in the contract of insurance to the extent which is necessary for individualization of contingency, its consequences in respect to each insured person and amount of insurance compensation payable to him.

3. In respect to group life contract of insurance the provisions of this Code on life insurance and property insurance respectively shall be applied.

#### Article 928. Mandatory Insurance

1. The law may establish the obligation to insure:

life, health or property of the persons defined in the law in the event of inflicting harm to their life, health or property;

against the risk of civil liability which may occur in the result of infliction of harm to the life, health or property of other persons or breach of contracts with other persons.

The law may establish other types of mandatory insurance, however, the obligation to insure the life of health may not be imposed on the individual.

2. In the events when the obligation of insurance of the property does not arise out of the law, but is based on the contract with the owner of property (lease agreement, pledge agreement, and others) or on the founding documents of the legal entity which is the owner of property, such insurance shall not be mandatory in the meaning of this Article and shall not entail consequences provided for by Art. 930 of this Code.

#### Article 929. Implementation of Mandatory Insurance

1. Mandatory insurance shall be implemented by the way of entering into the contract of insurance by the person on whom the obligation of such insurance is imposed (the insured) and the insurer.

2. Mandatory insurance shall be implemented at the expense of the insured, except for the insurance of public transport passengers which may be performed at their expense in cases established by law.

3. Objects subject to mandatory insurance, risks against which they must be insured, range of persons obligated to act as the insured, minimal sizes of insurance payments and other basic conditions of insurance shall be defined by law.

#### Article 930. Consequences of Breach of Mandatory Insurance Rules

1. The person in favor of whom mandatory insurance must be fulfilled in accordance with the law may, if he knows that insurance has not been fulfilled yet, demand in court implementation thereof by the person who has the obligation of insurance as the insured.

2. If the person, who has the obligation of insurance as the insured, fail to fulfil the insurance or entered into insurance contract on the conditions which worsen the situation of beneficiary in comparison to the conditions defined by the law, he shall be held liable upon the occurrence of the contingency in respect to the beneficiary on the same conditions on which the indemnity would have been paid in case of proper insurance. Such liability shall not relieve him from the liability with respect to beneficiary (injured) on other grounds (under labor contract or other agreement, or in the result of inflicting harm).

3. Amounts groundlessly saved by the person who has the obligation of insurance as the insured due to his failure to perform this obligation or improper performance, shall be collected at the claim of the State insurance supervisory bodies to the income of the Kyrgyz Republic with charging interests in accordance with Art. 360 (1) of this Code.

#### Article 931. Insurer

1. Legal entities which are profit organizations and have special permit (license) for performance of insurance of the respective kind may enter into insurance contracts as the insurer.

2. Requirements which the insurance organizations must meet, procedure for their licensing and implementation of state monitoring of their activity shall be determined by the law on arrangement of insurance in the Kyrgyz Republic.

#### Article 932. Reinsurance

1. The insurer may insure against the risk of payment of indemnity undertaken by him under the contract of insurance in full or in part at other insurer (s) under the reinsurance contract entered into with the latter.

In cases provided for by the law the insurer must reinsure against the risk undertaken under the insurance contract.

2. Rules of this Chapter shall be applied to reinsurance contract which shall also be subject to application in respect to insurance against business risk.

In this event the insurer under the insurance contract (general contract), who entered into reinsurance contract shall be considered the insured in this latter contract.

3. Upon reinsurance, the insurer under this contract shall remain liable to the insured under the general insurance contract for payment of indemnity.

4. Subsequent reinsurance against one and the same risk under two or several reinsurance contracts shall be allowed.

#### Article 933. Insurance Secrecy

The insurer may not disclose data received by him in the result of his professional activity about the insured, insured person, and beneficiary, about property status of these persons, and in case of life insurance, about the health as well. He shall be obligated to secure non-disclosure of these data by his employees and after their resignation from this insurance organization.

The insurer shall be held liable for breach of insurance secrecy, depending on the type of breached rules and nature of breach, in accordance with the provisions of Art. 34 or Art. 50 of this Code.

## § 2. Form, Content and Entering into Insurance Contract

### Article 934. Form of the Contract of Insurance

1. Contract of insurance must be entered into in writing. Non-compliance with the written form shall entail invalidity of the insurance contract. Such contract shall be void.

2. Contract of insurance may be entered into by the way of completing one document (Art. 395 (2)) or handing to the insured by the insurer of insurance policy (certificate, receipt), signed by the insurer on the ground of his written or verbal application. In the latter event the insured's consent to enter into the contract shall be confirmed by the acceptance of insurance policy from the insurer.

3. Upon contracting, the insurer may use drafted by him forms of insurance contract (insurance policy) for some types of insurance.

4. In case of forfeiture of bearer's insurance policy, the insurer must issue a duplicate to the insured at his expense. Restoration of rights under forfeited bearer's insurance policy (Art. 924(3)) shall be produced in accordance with the procedure established by the procedural legislation.

### Article 935. Material Conditions of Insurance Contract

1. Upon entering into contract of property insurance by the insured and the insurer they must agree:

- 1) on certain property or other proprietary interest which is the subject of insurance;
- 2) on the nature of event against the occurrence of which insurance is performed (contingency);
- 2) on the size of insurance payment;
- 4) on the validity period of the contract.

2. Upon entering into the contract of life insurance by the insured and the insurer, they must agree:

- 1) on the insured person;
- 2) on the nature of event against occurrence of which in the life of the insured person the insurance is performed (contingency);
- 3) on the size of the insurance payment;
- 4) on the validity period of the contract.

3. If the insured and the insurer did not agree about some of conditions of insurance indicated in this Article, the insurance contract shall not be considered entered into. However, this rule shall not be applied in cases when the contract of insurance is entered into on the basis of the law on mandatory insurance and when the condition which is not specified in the contract, is fairly precisely defined in the respective law (Art. 929).

### Article 936. Definition of Conditions of Insurance in the Contract and Insurance Rules

1. Conditions on which the insurance contract is entered into may be defined both in the contract itself (insurance policy) and in standard insurance rules of respective type, adopted, approved or authorized by the insurer or association of insurers (insurance rules).

2. Conditions contained in the insurance rules and not included in the text of the contract of insurance (insurance policy) shall be mandatory for the insured (beneficiary), if the contract (insurance policy) directly points out to the application of these rules and the rules are enclosed to the contract (insurance policy) or stated on the back side of it or attached to it. In the latter event, handing of insurance rules to the insured upon contracting must be certified by the record in the contract.

3. Upon entering into contract of insurance the insured and the insurer may agree on the alteration or obliteration of some provisions from insurance rules and on introduction of provisions which are absent in the rules into the contract.

4. The insured (beneficiary) may invoke to the insurance rules of the respective type, to which the reference is given in the contract of insurance (insurance policy) for protection of his interests, even if these rules are not mandatory for him by reason of this Article.

5. Upon entering into the contract of insurance with the use of forms of contract (Art.934 (3)) and (or) standard insurance rules, the contract entered into, shall be considered the contract of adhesion (Art. 387), unless other is proved by the insurer.

### Article 937. Data Provided by the Insured upon Entering into the Contract

1. Upon entering into the contract of insurance, the insured shall inform the insurer of circumstances known to the insured which have material significance for the determination of probability of contingency and the amount of possible losses from its occurrence (insured risk).

Circumstances shall be acknowledged material if they are explicitly stipulated by the insurer in the standard form of the contract of insurance (insurance policy), insurance rules transferred to the insured or in the written request.

2. If the contract of insurance is entered into with no responses of the insured to certain questions of the insurer, the latter may not then demand rescission of the contract or its invalidation on the ground that respective circumstances were not informed by the insured.

3. If after entering into contract it is discovered that the insured informed the insurer knowingly false data about circumstances indicated in point 1 of this Article, the insurer may demand invalidation of the contract and application of circumstances provided for by Art. 197 (2) of this Code.

The insurer may not demand invalidation of the contract if circumstances concealed by the insured no longer arise.

#### Article 938. Insurer's Right to Evaluation of Contingency

1. Upon entering into contract of property insurance, the insurer may inspect the insured property, and if necessary, appoint examination with the purposes of determining its actual value.

2. Upon entering into contract of life insurance, the insurer may conduct tests of the insured person for determination of actual status of his health.

3. Evaluation of the contingency by the insurer on the ground of this Article shall not be mandatory for the insured who may prove other.

#### Article 939. Insurance by General Policy

1. Systematic insurance of different lots of homogeneous property (the goods, cargoes, etc.) on similar conditions during certain period of time by the agreement of the insurer and insured may be performed on the ground of one contract of insurance, general policy.

2. The insured shall in respect to each lot of property which fall within the effect of floating policy, to inform the insurer data conditioned by such policy within the envisaged term, and if it is not envisaged, immediately after receipt thereof. The insured shall not be excused of this obligation even if by the moment of receiving such data the possibility of losses subject to indemnification by the insurer has already passed.

3. Unless otherwise provided for by the general policy, the insurer shall issue insurance policy by request of the insured for certain lots of property which fall within the effect of general policy. In case of incompliance of the content of the insurance policy with the general policy the preference shall be given to the insurance policy.

### § 3. Insurance Payment, Insurable Value, and Insurance Premium

#### Article 940. Insurance Payment

1. Insurance payment is the amount which the insurer shall pay as an indemnity under the contract of property insurance or which he shall pay under the contract of life insurance, unless otherwise established by this Code and other laws.

2. In contract of insurances entered into on the basis of laws on mandatory insurance, the insurance payment may not be less than the minimal size established by the respective law.

3. Unless otherwise established by the contract of insurance, upon insurance of the property or business risk, the insurance amount may not exceed their actual value (insurable value) which shall be:

for the property alienated under the contract of sale or other compensable contract, its price under this contract;  
for other property, its actual value at the place of its location on the day of entering into contract of insurance.

#### Article 941. Contesting of Insurable Value of Property

Insurable value of the property indicated in the contract of insurance may not be then contested by the insurer, except for the cases, when he proves that he had been intentionally misled concerning this value.

#### Article 942. Incomplete Property Insurance

1. In the event when the contract of property insurance or contract of insurance against business risk set up the insurance payment less than the insurable value (incomplete property insurance), the insurer upon occurrence of the contingency shall indemnify the insured (beneficiary) for the part of losses incurred by the latter in proportion to the insurance amount/insurable value ratio.

2. The contract may envisage bigger amount of indemnity in case of incomplete property insurance, including full indemnification of losses within the limits of insurance payment.

#### Article 943. Additional Property Insurance

1. If the property or the business risk are insured only in the part of insurable value, the insured (beneficiary) may perform additional insurance, including with the other insurer, but so that the total insurance payment in all contracts of insurance does not exceed the insurable value.

2. Non-compliance with the provisions of point 1 of this Article shall entail consequences provided by Art. 944 (1) of this Code.

#### Article 944. Consequences of Insurance in Excess of the Insurable Value

1. If the insurance payment indicated in the contract of property insurance or the contract of insurance against business risk exceeds the insurable value, the contract shall be deemed void in that part of the insurance amount which exceeds the insurable value.

Excessively paid part of insurance premium shall not be recovered in this case.

2. If in accordance with the contract of insurance the insurance premium is paid by installments and is not paid fully by the moment of defining circumstances indicated in point 1 of this Article, the remaining premiums must be paid at the amount reduced in proportion to the reduction of the insurance payment.

3. If an increase of the insurance payment in the contract of insurance was caused by fraud on the part of the insurer, the insured may demand invalidation of the contract of insurance in general and indemnification of losses inflicted by this at the amount exceeding the insurance premium received from the insured.

#### Article 945. Double Insurance

1. Rules provided for in Art. 944 of this Code shall be respectively applied in that case when the insurance payment exceeds the insurable value in the result of insurance of one and the same property or against business risk with two or several insurers (double insurance).

2. Upon double property insurance or insurance against business risk, each of the contracts of insurance shall be void in the part of insurance payment under this contract proportionate to the excess of the total insurance payment under all contracts of insurance over the insurable value.

With respect to insurance payments in the part of which contracts of insurance remain valid, each insurer shall bear the obligation to pay indemnity in accordance with the contract entered into, however, the total amount of indemnity received from all insured may not exceed actual damage caused by the contingency.

The insurer (beneficiary) may receive indemnity from any insurer. In the event if received indemnity does not cover actual damage, the insured (beneficiary) may receive lacking amount from another insurer.

3. Upon double insurance, the insured, fully or partially excused from payment of indemnity since the damage inflicted was compensated by other insurers, shall repay appropriate part of savings to these insurers.

4. Upon double insurance, each insurer shall execute his insurance obligations in respect to the insured, insured person and beneficiary independently, regardless of the commitment of obligations by other insurers.

#### Article 946. Property Insurance against Various Insurance Risks

1. Property and business risk may be insured against various insurance risks both under one and several contract of insurances, including contracts with various insurers.

In these cases, an excess of total insurance payment in all contracts over insurable value shall be allowed.

2. If the obligation of insurers to pay indemnity for one and the same consequence of contingencies arises out of two or several contract of insurances entered into in accordance with point 1 of this Article, the rules on double insurance shall be applied to such contracts respectively (Art. 945).

#### Article 947. Coinsurance

1. Subject of insurance may be insured under one contract jointly by several insurers (coinsurance). If such contract does not define obligations of each of the insurers in respect to the insured (beneficiary), they shall be jointly held liable for payment of indemnity under the contract of property insurance or insurance payment under the contract of life insurance.

2. For joint insurance against big and especially big risks coinsurers may incorporate in general partnerships on the basis of the contract on joint activity (insurance pools).

#### Article 948. Insurance Premium and Insurance Tariffs

1. Insurance premium means the fee for insurance, which the insured (beneficiary) must pay to the insurer by the procedure and within the time limits established by the contract of insurance.

2. The insurer, when determining the insurance payment pursuant to the contract of insurance may use insurance tariffs developed by him which determine premium collected from the unit of insurance payment, with the account of the subject of insurance and nature of contingency.

In cases provided for by the law the insurance payment shall be determined in accordance with insurance tariffs, established or regulated by the bodies of State Insurance Monitoring Unit.

3. The amount of insurance premium which has been already paid, may not be executed against obligations of the insured (beneficiary), even if indemnity payable to the insured (beneficiary) is accrued pursuant to the conditions of insurance at the expense of these amounts.

#### Article 949. Premiums

1. Contract of insurance may envisage payment of insurance premium to the insurer by installments (premiums).

2. If the contract of insurance does not envisage other consequences of delay in payment of premiums, not paid in time next premium may be paid by the insured (beneficiary) within a month grace period with interests charged to the amount of overdue premiums in accordance with point 1 of Art. 360 of this Code.

In the event of failure to pay premium during the grace period the contract of insurance shall be terminated.

If the contingency occurred before the payment of the next premium, the payment of which is overdue, but during the grace period, the insurer may upon the payment of indemnity set off the amount of overdue premium.

### § 4. Honoring of the Contract of Insurance

#### Article 950. Effectuation of Contract of Insurance

1. Contract of insurance shall take effect on the following day after payment of insurance premium or its first premium, unless otherwise provided for by the contract or law.

2. Should agreement on other be absent in the contract of insurance, provisions specified in the contract shall be applied to contingencies which have occurred after effectuation of the contract of insurance.

#### Article 951. The Insured's Obligations During the Validity Period of the Insurance Contract

During the validity period of the contract of insurance the insured shall in accordance with the provisions of this Chapter and terms of the contract:

pay timely insurance premiums, if the insurance premium is not paid in full upon entering into contract;  
inform the insurer of other contracts of insurance entered into with the same subject of insurance;  
inform promptly the insurer of the increase of contingency (Art. 953);  
notify the insurer of occurrence of contingency (Art. 955) and to take measures on its certification;  
to take measures on reduction of losses from contingency (Art. 954).

#### Article 952. Performance of Obligations under the Contract by the Insured and Beneficiary

1. Entering into the contract of insurance in favor of beneficiary, including when the beneficiary is the insured person shall not excuse the insured from the performance of obligations under this contract, unless otherwise provided for by the contract, or when obligations of the insured are performed by the person in whose favor the contract is entered into.

2. Upon bringing an action by the beneficiary for payment of the indemnity, the insurer may demand that he, including when the beneficiary is the insured person, honors obligations under the contract of insurance, including obligations imposed upon the insured, but not fulfilled by him. The beneficiary shall bear the risk of consequences of default or untimely performance of obligations which were to be performed earlier.

#### Article 953. Consequences of Increase of Contingency During the Validity Period of the Contract of Insurance

1. During the validity period of the contract of property insurance, the insured (beneficiary) shall inform promptly the insurer of the material changes in the circumstances which the parties have considered upon entering into the contract which became known to him, if these changes may significantly effect the increase of the contingency.

In any case, changes stipulated in the contract of insurance (insurance policy) and insurance rules transferred to the insured shall be deemed material.

2. The insurer notified of changes in the circumstances which entail increase of contingency may demand changes in the terms of contract of insurance or payment of additional insurance premium commensurate to the increase of risk.

3. If the insured (beneficiary) failed to inform the insurer of the material change in the circumstances which entails the increase of the contingency (point 1 of this Article), or if he objects against the insurer's proposal to make change in terms of the contract of insurance or additional payment of insurance premium (point 2 of this Article), the insurer may demand rescission of the contract in accordance with the provisions of Arts. 411- 414 of this Code.

4. The insurer may not demand change of terms or rescission of the contract of insurance, if circumstances which entail increase of contingency no longer arise.

5. Upon life insurance, the consequences of changes of contingency during the validity period of the contract of insurance indicated in points 2 and 3 of this Article may arise if only they are explicitly expressed in the contract.

#### Article 954. Reduction of Losses caused by Contingency

1. Upon occurrence of the contingency provided for by the contract of property insurance, the insurer shall take reasonable and available in new circumstances measures in order to reduce possible losses.

Taking such measures the insured must follow the instructions of the insurer if they are given to the insured.

2. Expenses produced with the purposes of reduction of losses subject to indemnification by the insurer if such expenses were necessary or were produced for the performance of insurer's instructions must be compensated by the insurer, even if appropriate measures did not succeed.

Such expenses shall be indemnified commensurately to the insurance amount/insurable value ratio, regardless of the fact that along with the indemnification of other losses they may exceed the insurance amount.

3. The insurer shall be excused from indemnification of losses which occurred due to the insured's intentional failure to take reasonable and available measures in order to reduce possible losses.

#### Article 955. Notification of the Insurer of the Occurrence of Contingency

1. After the insured under the property contract of insurance has known about the occurrence of contingency, he shall notify promptly the insurer or his representative of its occurrence. If the contract envisages period and (or) the way of notification, it must be done within the established period by the way specified in the contract.

The same obligation shall be imposed upon beneficiary who is aware of contract of insurance in his favor and knows that the insured did not notify or could not notify the insurer of the occurrence of contingency, if the beneficiary intends to exercise the right to indemnity.

2. Non-performance of obligation provided in point 1 of this Article enables the insurer to refuse to pay indemnity, unless it is proved that the insurer had been notified of the occurrence of the contingency in due time or that absence of this information could not affect the insurer's obligation to pay indemnity.

3. Provisions specified in points 1 and 2 of this Article shall be respectively applied to the contract of life insurance, if the contingency is the death of the insured person or infliction of harm to his health. In this case, the period for notification of the insurer, established by the contract may not be less than 10 days.

#### Article 956. Act of Contingency

The insurer notified of the occurrence of the contingency (Art. 955) shall certify its circumstances and consequences, completing the act of contingency with the participation of the person in whose favor the contract of insurance was entered into.

The copy of insurance act signed by the insurer shall be provided to the person who participated in its completing. If this person is the insured, the copy of insurance act must be send to the insured as well.

#### Article 957. Procedure and Time Limits for Payment of Indemnity

1. Indemnity shall be paid by the insurer on the basis of the written application of the person entitled to indemnification.

2. The application for payment of indemnity must enclose copies of contract of insurances (insurance policy) and act of contingency, or indicate the dates of completing and numbers of these documents.

Upon insurance under bearer's insurance policy (Art.924 (3)) presenting of the original policy shall be obligatory. Should the act on contingency be absent, the proofs of occurrence of contingency must be presented, and in case of property insurance, the amount of losses to be indemnified by the insurer.

3. The insurer may examine the reasons, circumstances and consequences of contingency before payment of indemnity. State bodies, bodies of local self-government and officials shall advise the insurer of the data which may be necessary in connection with such examination.

4. Amounts payable under contract of life insurance must be paid by the insurer not later than thirty days from the day of receipt of application on payment thereof, unless shorter period is established by the law or contract of insurance.

In other cases, indemnity must be paid by the insurer within thirty days from the day of receipt of application on payment thereof, unless other period is established by the contract of insurance.

5. In case of delay in payment of indemnity, including when the delay was caused by the groundless refusal to pay it, interests shall be charged to the amount of indemnity in accordance with Art. 360 (1) of this Code and penalty shall be paid at the amount of 0.1% of overdue amount for each day of delay.

#### Article 958. Grounds for Excuse of Insurer of Payment of Indemnity

1. The insurer shall be excused of payment of indemnity, if the contingency has occurred in the result of intent of the insured, beneficiary, or insured person, except for the cases when intentional actions were performed in state of necessary defense or extreme necessity, as well as the cases provided for by points 2 and 3 of this Article.

2. The insurer shall not be excused of payment of indemnity under the contract of liability insurance for infliction of harm to the life or health, if the harm was inflicted through the fault of the person liable for him.

3. The insurer shall not be excused from payment of the amount payable under the contract of life insurance in case of death of the insured person, if his death happened in the result of suicide and if by that time contract of insurance has been effective for not less than two years.

4. The law and the contract may envisage the cases of excuse of insurer of payment of indemnity under the contract of property insurances upon the occurrence of the contingency in the result of gross negligence of the insured or beneficiary.

5. Since other is not provided for by the law or contract of insurance, the insurer shall be excused of the payment of indemnity, if the contingency was caused by: 1) the effect of nuclear explosion, radiation or radioactive contamination; 2) hostilities, maneuvers, or other military events, as well as civil war.

6. Since the contract of property insurance does not stipulate otherwise, the insurer shall be excused of the payment of indemnity for losses incurred in the result of the withdrawal, confiscation, requisition, arrest or destruction of insured property by the instruction of the bodies of state power or local self-administration.

#### Article 959. Refusal to Pay Indemnity

1. The insurer may refuse to pay indemnity to the insured (beneficiary) in cases when:

1) the contract of insurance is repealed before the occurrence of the contingency, including on the grounds indicated in Article 965 of this Code;

2) the contract of insurance is void on the grounds provided for by this Code or other laws, including on the grounds indicated in Art. 966 of this Code;

3) the insurer is excused of payment of indemnity on the grounds indicated in Art. 958 of this Code;

4) the insurer has brought an action for invalidation of the contract of insurance on the grounds provided by this Code, including the grounds indicated in Art. 924 (2) and Art. 937 (3) of this Code, or on the rescission of the contract of insurance in the consequence of the insured's (beneficiary's) hindrance to investigation of circumstances of contingency or determination of the amount of losses inflicted;

5) in cases provided for by Art. 955 (2) and Art. 960 (4) of this Code.

2. The insurer's decision on refusal to pay indemnity must be advised to the person who had brought an action for payment thereof, within the period established for payment of indemnity (Art. 957 (4)) and must contain the justified substantiation of the reasons for refusal.

3. In case of refusal of the insurer to pay indemnity the claim for payment thereof may be filed to the court.

#### Article 960. Assignment of Insured's Right to Indemnification of Damage (Subrogation) to the Insurer

1. Unless otherwise provided by the contract of property insurance or the law, the insurer who paid indemnity under such contract shall obtain within the limits of paid amount the right of claim which the insured (beneficiary) has against the person liable for the losses indemnified in the result of insurance.

The provision of the contract of property insurance which excludes the assignment to the insurer of right of claim against the person who has intentionally inflicted losses shall be void.

2. The right of claim which was assigned to the insurer shall be exercised by him with observance of rules regulating relationships between the insured (beneficiary) and the person liable for losses.

3. The insured (beneficiary) shall transfer all documents and proofs to the insurer and to advise him of all data necessary for exercising the right of claim assigned to the insurer.

4. If the insured (beneficiary) waived his right of claim against the person liable for losses indemnified by the insurer, or exercise of this right became impossible through the fault of the insured (beneficiary), the insurer shall be excused of payment of indemnity in full or in the respective part and may demand the return of excessively paid amount of indemnity.

#### Article 961. Assignment of Rights to the Insured Property to the Insurer

If the property insured in full amount of its actual value in the result of contingency was damaged so that the use of this property by designation become then impossible, the insured (beneficiary) may assign his rights to the insured property to the insurer and receive indemnity in the full volume of the insurance payment.

### § 5. Alteration, Termination and Invalidation of the Contract of Insurance

#### Article 962. Replacement of the Beneficiary

The insured may replace the beneficiary nominated in the contract of insurance by other person after written notification of the insurer about this. The replacement of the beneficiary under the contract of life insurance appointed with the consent of the insured person (Art. 926 (2)) shall be allowed only with the consent of this person.

The beneficiary may not be replaced by other person without his consent after he had performed some of obligations under the contract of insurance or filed a claim against the insurer for payment of indemnity.

#### Article 963. Replacement of the Insured Person

1. In case, when under the contract of insurance against the risk of liability for infliction of harm (Art. 925), the liability of the person other than the insured, is insured, the latter may replace this person by another after written notification of the insurer about this at any time before the contingency occurs, since other is not provided by the contract.

2. The insured may replace the insured person nominated in the contract of life insurance by another only with the consent of the insurer, and if the contract was entered into not in favor of the insured person himself (Art. 926 (2) ), also with the consent of the insured person.

#### Article 964. Assignment of Rights To Insured Property to Another Person

Upon assignment of rights to insured property by the person in whose interests the contract of insurance was entered into, to another person, the rights and obligations under this contract shall be assigned to the person who had received the right to property, except for the cases of waiving ownership right (Art. 280 (2)) and compulsory seizure of the property on the grounds indicated in Art. 281 of this Code.

The person who acquired the rights to the insured property must notify the insurer of this in writing. Such notification shall not be required if the contract of property insurance was entered into without indication of beneficiary's name or denomination (Art. 924 (3)).

#### Article 965. Early Termination of the Contract of Insurance

1. Contract of insurance shall terminate before the term for which it was entered into, if after its effectuation the possibility of contingency disappeared and contingency discontinued due to circumstances other than contingency.

Such circumstances shall include in particular:

- 1) perish of insured property for reasons other than contingency;
- 2) termination of business activity by the established procedure by the person who has insured against business risk or risk of civil liability connected with this activity;
- 3) acknowledgment of operational incapability or partial capability of the person whose risk of civil liability was insured.

2. In case provided for by Art. 949 (2) of this Code, contract of insurance shall be terminated before the term for which it was entered into upon non-payment of next in turn insurance premium.

3. The insured (beneficiary) may repudiate this contract of insurance at any time, if by the moment of repudiation, the possibility of contingency disappeared under the circumstances indicated in point 1 of this Article.

4. Upon early termination of the contract of insurance under the circumstances indicated in points 1 and 2 of this Article, the insurer shall be entitled to the part of insurance premium commensurate to the time when insurance was effective and must return excessively received amount of insurance premium. Upon early repudiation of the contract of insurance by the insured (beneficiary), the insurance premium paid to the insurer shall not be returned, unless otherwise established by law or the contract.

#### Article 966. Invalidity of Contract of Insurance

The contract of insurance shall be void in cases when:

- 1) unlawful interest is insured under the contract;
  - 2) property obtained by the criminal way, which is the subject of crime or subject to confiscation is insured under the contract;
  - 3) the contract specifies as a contingency the event which is deprived of the features of possibility and likelihood of its occurrence;
  - 4) the object of insurance was not existing by the moment of entering into the contract of insurance;
- The contract of insurance shall be invalid also in other cases provided for by this Code.

### § 6. Special Types of Insurance

#### Article 967. Mutual Insurance

1. Individuals and legal entities may insure their property and other proprietary interests indicated in Art. 923 of this Code on the mutual basis by the way of foundation of mutual insurance societies and accumulation of funds necessary for this.

2. Mutual insurance society shall perform insurance of property and other proprietary interests of its members and shall be nonprofit organizations.

Particularities of legal status of mutual insurance societies and conditions of their activity shall be defined in accordance with this Code and Law on mutual insurance.

3. Insurance of the property and proprietary interests of its members by the mutual insurance societies shall be performed directly on the basis of membership, unless entering into contract of insurances is provided for in the founding documents of the society in these cases.

Provisions of this Chapter shall apply to the relationships on insurance between the mutual insurance society and its members, since other is not provided by the law on mutual insurance, founding documents of the respective society or insurance rules established by it.

4. Performance of mandatory insurance by the way of mutual insurance shall be allowed only in cases provided by the law on mutual insurance.

5. Mutual insurance society may as an insurer perform insurance of interests of persons other than members of the company, if such insurance activity is specified in its founding documents, the company is founded in the form of profit organization, has a license for the performance of insurance of respective type and meets other requirements established by the law on arrangement of insurance in the Kyrgyz Republic.

Insurance of persons other than members of the mutual insurance societies shall be performed by the company under the contract of insurance in accordance with the provisions of this Chapter.

#### Article 968. Mandatory State Insurance

1. With the purposes of protecting social interests of individuals and interests of state the law may establish mandatory insurance by state bodies of life, health and property of state employees of certain categories at the expense of funds allocated for these purposes from the state budget (mandatory state insurance).

2. The provisions of this Chapter shall apply to the mandatory state insurance since other is not provided by legislation on such insurance and does not arise out of the essence of respective relationships on insurance.

#### Article 969. Application of General Insurance Rules to Medical Insurance

Insurance rules contained in this Chapter shall apply to the medical insurance in the instances provided by the medical insurance legislation.

### CHAPTER 47 PARTNERSHIP

#### Article 970. Partnership Contract

1. Under the partnership contract (joint activities contract) two or more persons (partners), take the obligation to merge their contributions and act jointly without formation of a legal entity for gaining profit or achievement of other purpose, which do not contradict the law.

2. Parties to the partnership contract, concluded for implementation of business activities can be only individual entrepreneurs and (or) commercial organizations.

3. Partnership contract must be entered into in writing.

#### Article 971. Partners' Contributions

1. Partner's contribution shall be recognized what he contributes to the common business, including money, other property, professional and other knowledge, skills and abilities, as well as business reputation.

2. Partner's contributions are supposed to be equal in value, unless otherwise follows from the partnership contract. Money evaluation of a partner's contribution shall be exercised by the agreement between the partners.

#### Article 972. Partners' Common Property

1. Contributed property, which the partners had possessed on the ownership right, as well as goods produced as a result of joint activities and fruits and incomes gained from such activity shall be recognized their common shared property, unless otherwise provided by the law or contract.

Property in partners' common participatory share ownership, as well as their common exclusive rights shall constitute partners' common property. Partners' common property shall be used in interests of all partners.

2. Partners' common property accounting can be entrusted by them to a legal entity, participating in the partnership.

3. The use of partners' common property shall be exercised by their mutual consent, and in case of failure to achieve consent, in accordance with the procedure, established by the court.

4. Partners' duties in maintaining of the common property and the procedure for indemnification of expenditures, related to exercise of these duties, shall be provided by the contract.

#### Article 973. Administration of Partners' Common Business

1. Administration of joint activities contract participants' business shall be exercised in accordance with procedure, provided by the contract.

2. In administering of common business each partner may act on behalf of all partners, unless the partnership contract establishes, that administration of business is exercised by certain participants or jointly by all participants.

In case of joint administration of business, consent of all partners shall be required for exercise of each transaction.

3. In relations with third persons, a partner's authority to exercise transactions on behalf of other partners shall be confirmed by the power of attorney, issued to him by other partners, or follows from the partnership contract.

4. In relations with third persons, partners cannot refer to limitations of rights in administration of a partner, who exercised the transaction, unless they prove, that in the moment of exercise of the transaction the third person had known or should have known of such limitations.

5. A partner who exercised transactions on behalf of all the partners, and his rights in administration of business in relation to these transactions had been limited, or he exercised a transaction on his own behalf in all partners' interests, shall have a right for indemnification of expenses, made by him from his personal means, if there are sufficient grounds to assume, that these transactions had been necessary in all partners' interests.

If losses had been caused to other partners by these transactions, they may claim for indemnification.

6. Decisions involving common business, shall be accepted by partners by the common consent, unless otherwise is provided by the contract.

7. Partnership contract participants, authorized to administer common business, shall be entitled to a separate remuneration, if it is provided by the contract.

#### Article 974. Partner's Right for Information

Each partner, irrespective of his authority to administer common business, may get familiar with the entire documentation dealing with business administration. Denial or limitation of this right, including denial or limitation by the partners' consent shall not be allowed.

#### Article 975. Partners' Common Expenses and Losses

1. The procedure for recovery of expenses and losses, related to the partners' joint activities, shall be determined by their agreement. Should such agreement be absent each partner shall incur expenses and losses in proportion to the value of his contribution in the common business.

The agreement fully relieving any partner from sharing common expenses or losses shall be void.

#### Article 976. Partners' Liability on Common Obligations

1. Unless the partnership contract deals with implementation of business activities by the partners, each partner shall be liable on common contractual obligations with all his property, proportionally to the value of his contribution in the common business, and on common obligations, emerging from a source other than the contract, partners shall bear joint and several liability.

2. If the partnership contract deals with implementation of business activities, partners shall be jointly and severally liable for common obligations.

#### Article 977. Distribution of Profit

Profit, gained by the partners as a result of their joint activities, shall be distributed proportionally to the value of the partners' contributions in the common business, unless otherwise provided by the partnership contract. Agreement on ousting any partner from sharing profit shall be void.

#### Article 978. Apportionment of Partner's Share by His Creditor's Claim

Partnership contract participant's creditor may file a claim for apportionment of his share in common property in accordance with Article 274 of this Code.

#### Article 979. Termination of Partnership Contract

1. Partnership contract shall be terminated:

- 1) as a consequence of adjudication of any partner missing, disable, or partially capable;
- 2) as a consequence of acknowledgment of any partner bankrupt (insolvent);
- 3) as a consequence of partner's death or liquidation or restructuring of a legal entity, participating in the contract, unless the partnership contract or further agreement provide for the preservation of the contract in relationships between other partners or replacement of the deceased partner (reorganized legal entity) by his heirs (legal successors);
- 4) as a consequence of refusal of any partner from further participation in termless contract of partnership;
- 5) as a consequence of rescision of the contract of partnership entered into with indication of the term at the demand of one partner in relationships between him and the remaining partners;

- 6) as a consequence of rescission of the contract by the parties agreement
- 7) as a consequence of expiration of time of the contract;
- 8) as a consequence of achieving the objective of the contract of partnership or conditions which make the achieving of this objective impossible;
- 9) as a result of apportionment of partner's share by his creditor's demand;
- 10) on other grounds provided by this Code or the contract of partnership.

The partnership contract or the following contract of the participants can provide for preservation of the contract in relations between the remaining participants in cases, indicated in subpoints "1", " 2", "4", "5" and "9"of this point.

2. In case of termination of partnership contract the objects transferred for common possession and (or) use by the partners, shall be returned without compensation to the partners to have submitted them, unless otherwise provided by the partnership contract.

2. Upon termination of the partnership contract things transferred to the common possession and (or) use of the partners shall be returned to the partners to have provided them without compensation since other is not provided by the agreement of the parties.

As of the moment of termination of partnership contract, the participants shall bear joint and several liability on non-performed common obligations with respect to third parties.

Partition of property which had been in partners' common ownership, and the rights to claim which emerged with them, shall be exercised in accordance with the procedure, established by Article 271 of this Code.

A partner who contributed a non-fungible item into common property, may claim for returning of this item in case of termination of a partnership contract, provided that interests of the rest partners and creditors have been observed.

#### Article 980. Waiver of Termless Partnership Contract

Unless otherwise provided by the contract, partner's statement about waiver of termless partnership contract should be made no later than three months before the supposed withdrawal from the contract.

Agreement on restriction of the right to waver of termless partnership contract shall be void.

#### Article 981. Recision of the Partnership Contract on Demand of the Party

Along with the grounds indicated in subpoint 1 of point 2 of Art. 411 of this Code, the party to the partnership contract entered into with indication of term or the objective as the condition subsequent may claim for the recision of the contract in relationships between themselves and other partners due to valid reason with indemnification to other partners of actual damage inflicted by the recision of the contract.

#### Article 982. Liability of a Partner, Who Waived the Contract of Partnership

In case, when partnership contract was terminated as a result of any participant's statement on waiver of further participation in the partnership, a person, whose participation in the partnership was terminated, shall be liable to third persons on common obligations which have emerged at the time of his participation in the contract, as if he had remained a participant of partnership contract.

#### Article 983. Secret Partnership

1. Partnership contract may provide, that its existence should not be announced to third parties (secret partnership). Rules of partnership contract shall apply to such contract, unless otherwise provided by the this Article or arises from the essence of the secret partnership.

2. In relations with third parties, each participant of secret partnership shall be liable with all his property on transactions, which he had concluded on his behalf in the partners' common interests.

3. In relations between partners, the obligations, which emerge in the process of their joint activities shall be considered common.

### CHAPTER 48 PUBLIC COMPETITION

#### Article 984. Organization of Public Competition

1. The person to issue a public promise to pay a money reward or another award (on payment of an award ) for the best executed work or the achievement of other results (a public competition) shall pay the specified award to any person acknowledged as the winner of the public competition in compliance with the requirements thereof.

2. A public competition may be either open, when the proposal of the organizer of the competition to participate in the competition is addressed to all those willing to participate through the press or other means of mass media, or closed when the proposal to participate in the competition shall be addressed to a certain range of persons in accordance with the choice of the organizer of the competition.

An open public competition may be conditioned by the preliminary qualification of its participants, when the organizer of the competition conducts preliminary selection of individuals, willing to participate in the competition.

3. The announcement about a public competition must contain the requirements related to the essence of assignment, the criteria and procedure for evaluating the results of the work performed or other achievements, the place, time and procedure for the presentation thereof, the amount and form of award, as well as the procedure and time of announcing the results of the competition.

4. The rules of this Article shall apply to the public competition comprising an obligation to conclude a contract with the winner of the competition insofar as Articles 408-410 of this Code do not provide otherwise.

#### Article 985. Alternation of Requirements and Cancellation of Public Competition

1. The person to announce a public competition shall have the right to alter its requirements or cancel the competition only during the first half of the specified deadline for the submission of works.

2. The notification of the altered requirements or the cancellation of the public competition must be made in exactly the same way as the announcement about the public competition.

3. Should the terms of the public competition be altered or the competition be entirely canceled, the person to announce the public competition should reimburse the expenses incurred by any person to have performed fully or partially the work specified in the announcement.

4. Should the provisions specified in point 1 and 2 of this Article be violated in the course of the alternation of the requirements of the public competition or the cancellation thereof, the person to announce the public competition should compensate for the losses incurred due to this by the participants of the competition.

5. The person to announce the public competition shall be relieved of the obligation to reimburse expenses and damages, specified in points 3 and 4 of this Article, should he prove that the specified work has been performed not in connection with the open public competition and, in particular, prior to the announcement about the competition, or knowingly does not comply with the requirements of the public competition.

#### Article 986. Decision on Payment of Award

1. The decision on payment of award to competition winner should be made and announced to the participants in the public competition pursuant to the procedure and within the deadline specified in the announcement about the competition.

2. Should the results, specified in the announcement, be achieved as a result of work performed collectively by two or more persons, the award shall be distributed among them in accordance with their agreement. Should these people fail to come to an agreement, the procedure for the award distribution shall be determined judicially.

#### Article 987. Use of Works of Science, Literature and Art Winning at Open Competition

Should the object of public competition constitute a work of science, literature or art and the terms of the competition do not provide otherwise, the person to announce the competition shall acquire the priority right to enter into a contract with the author of the work to have received the award on the use of the work and paying an appropriate remuneration to him for it.

#### Article 988. Return of Presented Works to Participants in Public Competition

The person to announce the open public competition shall return to the participants in the competition the works that have been awarded no prize, unless otherwise provided by the announcement about the competition or results from the nature of the work performed.

CHAPTER 49  
PUBLIC PROMISE OF AWARD

Article 989. Obligation to Pay Award

1. The person having issued a public promise to pay a money award or any other award (on payment of an award) to a person, who performs within a specified period of time a legal action specified in the announcement, shall pay the promised award to any person who has performed the required actions, for instance, found a lost item, or informed a person to have declared the award the necessary information.

2. The obligation to pay the award shall ensue provided that the promise of the award allows to establish who had promised it.

The person to have reacted to the promise may demand the written confirmation of the promise and shall bear the risk of consequences of non-filing such a demand, in the event it appears that in reality the announcement of the award has not been made by the person indicated therein.

3. In the event the amount of the award is not indicated in the public promise, it shall be determined in the contract with the person to have promised the award, and in the event of a dispute - by the court.

4. An obligation to pay the award shall arise irrespectively from the performance of corresponding action in connection with the announcement or independently from it.

5. In cases when the advertized action is performed by a number of persons, the right to receive the award shall belong to the person who first succeeds in performing the appropriate action. If the advertized action was performed by two or more persons simultaneously, the award shall be split up among them equally or in other amount specified in the agreement between them.

6. Unless otherwise established in the advertisement about the award and arises out of the nature of the advertized action, the compliance of the performed action with the advertised one shall be determined by the person who has publicly promised an award, and in the event of a dispute, by the court.

Article 990. Cancellation of a Public Promise of Award

1. The person to publicly announce about the payment of a award may cancel this promise in the same way, except for the cases, where the announcement itself provides for prohibition of such cancellation or such prohibition follows from the announcement or a certain period is specified for performance of the action to be awarded, or by the time of cancellation one or several persons to respond to the announcement have already performed the advertized action.

2. The cancellation of the public promise of an award shall not excuse the person to have announced about an award from compensation to the persons to have responded to the announcement the expenses incurred by them in connection with performance of the advertized actions within the limits specified in the award announcement.

CHAPTER 50  
ARRANGING GAMES AND WAGERS

Article 991. Claims Related to Organization of and Participation  
in Games and Wagers

Claims of individuals and legal entities related to the organization of or participation in games and wagers shall not be subject to judicial protection, except for the claims of persons who have participated in games and wagers under influence of fraud, duress, threat or ill-intentioned agreement between their representative and the organizer of the games or wagers, and also provisions indicated in point 4 of Article 992 of this Code.

Article 992. Arranging Lotteries, Totalizators and Other Games by  
State and Municipal Entities

1. Relations between State, local authority, or an individual who has received from the authorized government agency a permit (license) to organize lotteries, totalizators (mutual betting) and other games of chance on the one hand, and the participants in these games on the other hand shall be based on an agreement. Such agreement shall be formalized by the issuance of a lottery ticket, a receipt or any other document and shall be deemed concluded from the moment of payment of the price for the ticket or other fee for participation in game by the participant.

2. Proposal on entering into the contract provided for by point 1 of this Article must include the provisions on the time for holding the games and the procedure for determining the award and its amount.

3. Persons deemed as winners in compliance with the terms of the lottery, totalizator or other games should be paid an award by the organizer of the games in the amount, form (in cash or in kind) and within the period of time stipulated by the terms of the games or, should the period of time not be specified, no later than ten days from the moment of summing up the results of the games.

4. Should the organizer of the games fail to fulfil the obligation specified in point 3 of this Article, the winner of the lottery, totalizator or other games may demand from the organizer of the games the payment of the award as well the compensation for losses inflicted by the organizer's breach of the agreement.

## CHAPTER 51 OBLIGATIONS ARISING AS CONSEQUENCE OF CAUSING HARM

### § 1. General Provisions on Indemnification of Harm

#### Article 993. General Grounds for Liability for Causing Harm

1. A harm inflicted to a person or the property of either an individual or a legal entity, must be indemnified in full by the person who inflicted the harm.

The law may impose an obligation to indemnify the harm upon the person other than the offender.

The law or the contract may establish the obligation of the offender to pay compensation to the injured party, besides the indemnification of harm.

2. The offender shall be relieved of the duty to indemnify the harm, if he proves that the harm was inflicted not through his fault.

The law may provide for indemnification of harm even in the instances when there is not fault of the offender.

3. Harm inflicted by lawful actions must be indemnified in the instances provided by law.

Indemnification of harm may be refused, should the harm be inflicted at the request or with the consent of the injured party, whereas the actions of the offender do not violate the public moral principles.

#### Article 994. Preventing Infliction of Harm

1. The danger of inflicting harm in future may serve the grounds for filing a lawsuit on prohibiting the activity which creates such danger.

2. If the inflicted harm is the consequence of utilization of an enterprise, construction or any other production activity which continues to cause harm or threatens a new harm, the court may obligate the defendant to suspend or seize such activity.

The court may refuse the claim on suspension or seizure of the respective activity if such suspension or seizure contravenes the public interests. The refusal to seize the activity shall not deprive the injured party of the right to claim for indemnification of harm inflicted by this activity.

#### Article 995. Inflicting Harm in Case of Necessary Defense

The harm inflicted in the case of necessary defense shall not be indemnified, unless the limits of necessary defense were exceeded.

#### Article 996. Inflicting Harm in Case of Extreme Necessity

Harm inflicted on the case of extreme necessity, that is to eliminate the danger which threatens to the offender himself and other persons, if this danger under such circumstances might not be eliminated by any other means, shall be indemnified by the person who inflicted the harm.

Taking into account circumstances under which harm was inflicted, the court may either obligate a third party in whose interest the offender acted to indemnify it, or to relieve from compensation of harm either in full or in part both the third party and the offender.

#### Article 997. Liability of Legal Entity or Individual for Harm Inflicted by His Employee

1. A legal entity or a citizen shall indemnify the harm inflicted by his employee while exercising his labor (working, official) duties.

2. With respect to the rules of this Chapter, citizens who exercise the work under the labor agreement (contract), and the citizens who exercise their work under civil law agreement shall be deemed employees, provided that they acted or were to act by the assignment of the appropriate legal entity or a citizen and under his control over safety of performance of the work.

3. Business partnerships and production cooperatives shall indemnify the harm inflicted by their participants (members) while exercising by the latter of business, production and other activity of partnership or cooperative.

Article 998. Liability for Harm Inflicted by State Bodies, Local  
Self-governance Bodies, and Also Their Officials

Harm inflicted to the citizen or legal entity as a result of illegal action (inaction) of the state bodies, bodies of local self-governance or officials of these bodies, including cases of issuance of legal acts by the state body or bodies of local self-governance, which contravene the law or other legal shall be subject to indemnification. The harm shall be indemnified at the cost of the respective state treasury (Art. 225 (2)), or the treasury of the local community (Art. 227 (2)).

Article 999. Liability for Harm Inflicted by Unlawful Actions of  
Investigation Bodies, Bodies of Pre-Trial  
Investigation, Procuracy and Court

1. Harm inflicted to the citizen as a result of unlawful conviction, unlawful bringing him to criminal responsibility, unlawful application such measures of providing appearance in court as custody or recognizance not to leave, unlawful imposition of an administrative penalty in the form of arrest or correctional labor, shall be indemnified from the funds of the treasury of the state in full amount irrespective of the fault of the officials of investigation bodies, pre-trial investigation bodies, Procuracy and court in accordance with the procedure established by the law.

2. Harm inflicted to the citizen or legal entity as the result of unlawful activity of bodies of investigation, pretrial investigation, Procuracy, which did not entail the consequences provided by point 1 of this Article, shall be indemnified on the grounds and in compliance with procedure provided by Article 998 of this Code. Harm inflicted while administration of justice, shall be indemnified in the instances, if the fault of the judge is established by the effective sentence of the court.

Article 1000. Compensation for Harm by a Person Who Insured His  
Liability

Legal entity or a citizen who insured his liability by way of voluntary or mandatory insurance for the benefit of the injured party (Article 925, Article 928 (1)) in the event when the insurance indemnity is not sufficient to indemnify the inflicted harm in full, shall indemnify the difference between the insurance compensation and the actual amount of damage.

Article 1001. Liability for Harm Inflicted by Minors under Age of  
Fourteen

1. Parents (adopted parents) or trustees shall be liable for the harm inflicted by a minor under age of fourteen, unless they prove that the harm was inflicted not through their fault.

2. Should the minor in need of trusteeship be in a foundling, medical, public social security institution, or any other similar institution that by force of the law is his trustee (Article 70), this institution shall be obligated to indemnify the harm inflicted by the minor, unless it proves that the harm was inflicted not through its fault.

3. Should a minor inflict harm at the time when he was under the supervision of an educational establishment, foundling home, medical or other institution obligated to exercise the supervision over him based on the agreement, this institution or the person shall be liable for the harm, unless it proves that the harm emerged not through his fault while exercising supervision.

4. The obligation of parents (adopted parents), trustees, educational establishments, foundling homes and other institutions to indemnify the harm inflicted by a minor shall not be terminated after the minor comes of age or receives property sufficient to indemnify the harm.

If the parents (adopted parents), trustees or other citizens indicated in point 3 of this Article deceased or the do not have sufficient funds to indemnify the harm inflicted to the life or health of the injured person, whereas the offender himself has acquired full legal capacity and possesses such means, the court, while taking into account the property

status of the injured person and the offender, and also other circumstances, shall be entitled to take a decision on the indemnification of harm in full or in part at the expense of the offender himself.

Article 1002. Liability for Harm Inflicted by Minors in the Age of  
Fourteen through Eighteen

1. Minors in the age of fourteen through eighteen shall independently be liable for inflicted harm on general grounds.
2. In the event when a minor in the age of fourteen through eighteen does not have property or other income sufficient for compensation of harm, his parents (foster parents) or trustees must compensate harm in full or in part, unless they prove that the harm emerged not through his fault.

In the event when a minor aged fourteen through eighteen in need of trusteeship was in a respective educational, medical, public social security or any other similar institution that by force of law was his trustee, this institution shall indemnify the harm either in full or insufficient part thereof unless it proves that the harm emerged not through his fault.

3. The liability of parents (foster parent), trustee and respective institutions on compensation for harm inflicted by minors aged from fourteen through eighteen shall be terminated when the offender comes of age, or in the event when prior to coming of age the offender starts to receive income and acquires other property sufficient to indemnify the harm, or when on coming of age he became dispositively capable.

Article 1003. Liability of Parents Divested of Rights of  
Parenthood for Harm Inflicted by Minors

The court may place responsibility on a parent divested of rights of parenthood for the harm inflicted by a minor who is his child, within three years after the parent is divested of rights of parenthood, should the conduct of the child who inflicted the harm be the result of improper exercise of parent's duties.

Article 1004. Liability for Harm Inflicted by Individual Found  
Dispositively Incapable

1. Harm inflicted by a citizen deemed dispositively incapable, shall be indemnified by either his trustee or organization obligated to exercise supervision over him, unless they prove that the harm emerged not through their fault.
2. Liability of a trustee or organization to indemnify the harm inflicted by an individual found dispositively incapable shall not be terminated in the event when the individual is subsequently found dispositively capable.
3. Should the trustee decease or should he have insufficient means to indemnify the harm inflicted to the life or health of the injured person, and the offender himself possess such means, the court with the account of both the property status of the injured person and that of the offender, and also other circumstances may take a decision on indemnification of harm in full or in part at the expense of the offender himself.

Article 1005. Liability for Harm Inflicted by Individual  
Recognized as Partially Dispositively Capable

Harm inflicted by an individual whose dispositive capacity is limited due to alcohol or drug abuse (Art. 65) shall be indemnified by the offender himself on general grounds.

Article 1006. Liability for Harm Inflicted by Individual Incapable  
to Realize the Meaning of His Actions

1. A dispositively capable individual, or a minor in the age of fourteen to eighteen who inflicted harm in such a state when he was unable to realize the meaning of his actions or to guide them, shall not be liable for the harm inflicted by him.

Should the harm be inflicted to the life or health of the injured person, the court may place the liability to indemnify the harm either in full or in part on the offender, with regard to the property status of the injured person and the offender, or to other circumstances.

2. The offender shall not be relieved of liability if he, by using alcoholic drinks, drugs or otherwise, brought himself into a state when he was not able to understand the meaning of his actions or guide them.

3. Should the harm be inflicted by a person who was unable to understand the significance of his actions and guide them as a result of mental distress or imbecility, the court may place the liability to indemnify the harm on the spouse, parents, adult children who live with this person, and who knew of such state of the offender, but did not bring up the issue of finding him as dispositively incapable and on establishing the guardianship over him.

Article 1007. Liability for Harm Inflicted by Activity Which  
Creates Excessive Danger for Others

1. Legal entities and individuals whose activity is associated with the excessive danger for others (use of vehicles, mechanisms, electric power of high voltage, explosives, strong poisons etc., construction and other activity related thereto etc.) shall indemnify the harm inflicted by the source of excessive danger, unless they prove that the harm emerged as the result of force majeure or the intention of the injured person.

Obligation to indemnify the inflicted harm shall be placed on the legal entity or individual who have the source of excessive danger on the right of ownership, right of economic management or right of operative management, or on any other legal grounds (right of lease, power of attorney to drive the transport vehicle, by virtue of the instruction issued by the appropriate body on the transfer of the source of excessive danger to him, etc).

2. Possessor of the source of excessive danger shall not be liable for the harm inflicted by the source if he proves that the source has passed out of his possession as the result of unlawful actions of other persons. In such instances, persons who unlawfully got into possession the source of excessive danger shall bear liability for harm inflicted by this source. Should the possessor of the source be at fault for the unlawful withdrawal of the source from his possession, the liability may be placed both on the possessor and the person who unlawfully became the possessor of the source of excessive danger.

3. Possessors of sources of excessive danger shall bear joint and several liability for the harm inflicted to third parties as the result of interaction of such sources (vehicle collision, etc.) on the grounds provided by point 1 of this Article.

A harm inflicted as the result of interaction of sources of excessive danger to their possessors shall be indemnified on general grounds. In which case:

harm inflicted at the fault of one party shall be indemnified in full by this party;

harm inflicted at the fault of both parties or several parties shall be indemnified in proportion to the fault of each of them.

Should it be impossible to determine the degree of fault of each party the liability shall be distributed among them equally.

In absence of the fault of the parties in inflicting harm neither of them shall be entitled to indemnification of harm. Each party shall bear the risk of incurred losses in such case.

Article 1008. Liability for Jointly Inflicted Harm

Persons who jointly inflicted harm shall bear joint and several liability to the injured party.

By the application of the injured person and in his interests, the court may place shared liability on persons who have jointly inflicted the harm.

Article 1009. Right of Exoneration Against Person Who Inflicted  
Harm

1. A person who indemnified the harm inflicted by other person (employee performing his professional, official or other labor duties, a person who drives a vehicle, etc), shall have the right of exoneration against this person in the amount of the paid out compensation, unless a different amount established by law.

2. The offender who indemnified the jointly inflicted harm may claim from each of other offenders a share of indemnification paid to the injured person in the amount commensurate to the degree of fault of this offender. Should it be impossible to determine the degree of fault, all shares shall be deemed equal.

3. The state, in the event of indemnification of the harm inflicted by an official person of investigation bodies, pre-trial investigation bodies, Procuracy or court (Article 900 (1)), shall have the right of exoneration to this person, should his fault be established by the verdict of the court, which came into legal force.

4. Persons who indemnified the harm on the grounds stipulated in Articles 1001-1004 of this Code, shall not have the right of exoneration to the person who inflicted the harm.

Article 1010. Ways of Indemnification of Property Harm

By honoring a claim for indemnification of harm, the court in accordance with the circumstances of the case, shall obligate the person who is liable for inflicting harm to indemnify the harm in kind (provide a fungible thing, or a thing of the same quality, repair the damaged thing, etc.), or to indemnify the losses (Article 14 (2)).

Article 1011. Account of Fault of the Injured Person and Property

## Status of the Offender

1. The harm inflicted through the intention of the injured person shall not be subject to indemnification.
2. Should the gross negligence of the injured person himself add to the emergence or increase of the harm depending on the degree of the fault of the injured person and the offender, the amount of compensation shall reduce.
3. In the event of gross negligence on the part of the injured person and absence of the fault of the offender in the instances when liability ensues irrespective of the fault, the amount of compensation shall reduce or indemnification of harm may be refused, unless otherwise provided by the law. Should the harm be inflicted to the life or the health of the individual refusal to indemnify the harm shall be prohibited.
4. The fault of the injured person shall not be taken into account in the event of indemnification of extra expenses (point 1 Article 1013), of compensation for harm in connection with the death of the bread winner (Article 1017), and also in the event of compensation for burial expenses (Article 1022).
5. The court may reduce the amount of indemnity for harm inflicted by a citizen with the account of his property status except for the cases when the harm is inflicted by actions committed intentionally.

### § 2. Compensation for an Injury to the Health and Compensation to Persons who Suffered Detriment as a Result of Individual's Death

#### Article 1012. Compensation for an Injury to the Health and Compensation to Persons who Suffered Detriment as a Result of Individual's Death Occurred in the Course of Exercising Contractual or Other Obligations

Any injury to the life or the health of an individual occurred in the course of exercising contractual obligations, military services, service in militia and other appropriate duties shall be compensated in compliance with the rules of this Chapter, unless a higher extent of liability is provided by the law or agreement.

#### Article 1013. Extent and Nature of Compensation for an Injury to the Health

1. In the event of any injury to the individual or other damage done to his health, the lost earnings (income) that he either had or could have definitely had, and also additional expenses caused by damage to the health including expenses for treatment, extra nutrition, acquisition of medicines, prosthesis, nursing, health resort treatment, acquisition of special transport vehicles, retraining in another profession shall be compensated, if it was established that the injured person needs these kinds of assistance and nursing and has no right to receive them for free.
2. When determining the lost earnings (income) the disablement allowance assigned to the injured person for an injury or other damage done to his health, and other pensions, allowances and similar payments assigned both before and after inflicting the harm to the health, shall not be taken into account and shall not entail reduction of the amount of compensation for harm (shall not be included into the amount of compensation). Earnings (income) received by the injured person after damaging the health shall not be included into compensation for harm.
3. The extent and amount of the compensation due to the injured person in accordance with this Article may be increased by law or by contract.

#### Article 1014. Determining Earnings (Income) Lost as Result of Health Injury

1. The amount of lost earnings (income) subject to compensation shall be determined in per cent with respect to the monthly earnings (income) prior to injury or other damage to the health, or prior to his loss of ability to work, which correspond to the extent of loss of professional ability to work by the injured person, and in the event of no professional working ability - the degree of loss of general ability to work.
2. The lost earnings (income) of the injured shall include all payments for his work on labor or civil law contracts, both in the place of his full-time and part-time job subject to income tax. Lumpsum payments, including compensation for unused vacation, dismissal wages etc., shall not be considered. For the period of temporary operational incapability or maternity leave paid awards shall be considered. Incomes from business activities, and royalties shall be included in the amount of lost earnings, in such event, the incomes received from the business activities shall be included on the basis of data of the tax inspectorate. All kinds of earnings (income) shall be computed in amounts calculated prior to tax deductions.

3. Average monthly earnings (income) of the injured person shall be calculated by dividing by twelve of the total amount of his earnings (income) within twelve months of work prior to health injury. In the event when by the time of injury the injured person has worked less than twelve months, the average monthly earnings (income) shall be calculated by way of dividing the total amount of earnings (income) for the months when he was actually working prior to health injury by the number of these months. The months when the injured person worked only part of the time by his consent shall be substituted by the completely worked months or shall be excluded from calculations when such substitution is impossible.

4. In the instance when the injured person at the moment of injury did not work, his earnings before dismissal, or usual amount of compensation of the employee with the similar level of skills in the given locality may be taken into consideration subject to his consent, but no than the amount of five established minimum salaries.

5. If stable changes have occurred in the earnings of the injured person before mutilation or otherwise damaging health, which changes improve his property status (the salary was raised at the position he occupied, he was transferred to a higher paid job, was employed after graduation from the full-time educational course and other instances when the stability of the change or the possibility of change in the salary of the injured is proved), only earnings (income) which he received or was to receive after the respective change shall be used while calculating the average monthly earnings.

#### Article 1015. Compensation for Health Injury of a Minor

1. In the event of injury or other damage to the health of a minor under the age of fourteen (infants) and who does not have earnings (income), the person liable for the infliction of damage shall be obligated to compensate the expenses related to the health injury.

2. In the instance of reaching of the age of fourteen by a minor, and in the instances of inflicting damage to a minor aged between 14 and 18, who does not have earnings (income), a person liable for the damage inflicted shall be obligated to compensate to the injured person, apart from the expenses caused by the health injury, the harm associated with the loss of ability to work or decrease of his ability to work, proceeding from the five-fold minimum wages established by the law.

If by the time of health injury the minor had any earnings, the compensation shall be calculated based on the amount of his earnings, but no less than the five-fold minimal wages established by the law.

3. After the commencement of the working activity the minor whose health was previously damaged shall be entitled to claim an increase of the amount of the compensation, based on his earnings, but not less than the amount of remuneration established in accordance with position occupied by him, or the earnings of the worker with the same skills at the place of his work.

#### Article 1016. Compensation for Harm to Persons Who Have Suffered Damages as Result of Individual's Death

1. In the event the individual's death the right to compensation shall pass to:  
dispositively incapable dependents of the deceased person or those who had the right to his maintenance by the date of his death;

the child of the deceased person, if he was born after his death;

a parent, spouse or other member of the family regardless of his dispositive capacity who does not work and is engaged in nursing the deceased person's children, grand-children, siblings under the age of fourteen, or those who despite the fact of being in the age of fourteen and over, still need permanent maintenance due to the bad state of health, as established by medical institutions;

the deceased person's dependents who became incapable of work within the period of five years after his death.

A parent, spouse or other member of the family who does not work and engaged in nursing the deceased person's children, grandchildren, siblings, and who became dispositively incapable during the period of nursing shall retain the right to compensation after their seizure to nurse these persons.

2. Damage shall be compensate to:

minors - upon achieving the age of eighteen;

students aged over eighteen years, until they finish their studies in a full-time educational establishment, provided that their age does not exceed twenty three years;

women in the age over fifty-five, and men aged over sixty - for life time;

disabled persons - for the period of disablement;

a parent, spouse or other member of the family engaged in nursing deceased person's dependent children, grandchildren, siblings - until they reach the age of fourteen, or their health improves.

#### Article 1017. The Amount of Compensation in Instances of Death of

## Breadwinner

1. The damage inflicted to persons who have the right to compensation associated with death of the breadwinner, the damage shall be compensated in the amount of the share of earnings (income) of the deceased person, established by rules of Article 1014 of this Chapter, which they received or were entitled to receive for their maintenance, when he was alive. In determining the compensation of damage to these persons, the income of the deceased shall be comprised, along with the earnings (income), of his pension, life long maintenance, and other similar payments.

2. Pensions, assigned to persons in connection with the breadwinner's death, as well as other pensions assigned to persons before or after the death of the breadwinner, and the earnings (income) and the scholarship, received by this persons, shall not be taken into consideration while determining the amount of compensation.

3. The amount of compensation established for all persons entitled to compensation in connection with the breadwinner's death cannot be subsequently re-calculated, except the following instances:

birth of a child after the death of the breadwinner;

assignment or termination of payment of compensation to persons engaged in nursing the deceased breadwinner's children, grandchildren and siblings.

The amount of compensation may be increased in compliance with the law or agreement.

### Article 1018. Subsequent Alteration of the Amount of Compensation for Damage

1. An injured person who partly lost his ability to work shall be entitled to demand at any time from the person charged with the duty to compensate the damage a respective increase of the amount of the compensation, should the injured person's ability to work decrease due to the damage inflicted to his health as compared to that which he had by the moment when the compensation was awarded to him.

2. A person charged with the duty to compensate the damage inflicted to the health of the injured person shall be entitled to demand a respective reduction of the amount of the compensation, should the injured person's ability to work increase as compared to that he had by the moment when the compensation was awarded to him.

3. An injured person shall have the right to demand an increase of the amount of compensation, should the property status of the person charged with the duty to compensate the harm improve, and the amount of compensation was reduced in compliance with Article 1011 (5) of this Code.

4. At request of a person who inflicted damage, the court may reduce the amount of compensation, should his property status worsen as a result of disablement or reaching the age of retirement, as compared to his property status at the moment when he was awarded the duty of compensation, except the cases when the damage was inflicted by intentional acts.

### Article 1019. Increase of Amount of Compensation in Connection with Rising Costs of Living and Increase of Minimal Wages

1. Should the cost of living increase, the amount of compensation of damage inflicted to life or health of an injured person shall be indexed in compliance with procedure established by law.

2. Should the amount of minimal wages increase in compliance with the procedure established by law, the amount of compensation of the lost earnings (income) and other payments awarded in connection with the infliction of damage to health or the death of the injured person, shall be increased proportionately to the increase of the minimal wages established by law (Art. 308).

### Article 1020. Payments with Respect to Compensation of Damage

1. Compensation of damage caused by the reduced ability to work or the death of the injured person shall be performed by monthly payments.

Should there be valid reasons, by the demand of the individual entitled to compensation, the court may, after consideration of the capacity of the offender, render a judgement on a single time payment of the due amounts, for no more than three year period.

2. Amounts for compensation of extra expenses may be awarded for the future within the time limits established on the basis of the medical examination report, and also in the event of necessity of the advance payment for services of the relevant services and property, (including purchase of a voucher, travel expenses, payment for special transport vehicles, etc).

3. In case when the injured person has the right to claim the termination or early performance of the obligation in accordance with the law such claims shall be satisfied by the way of capitalization of respective term payments.

Article 1021. Compensation for Damage in Instances of Termination  
of Legal Entity

1. Should a legal entity found liable for harm inflicted to health or life in compliance with the established procedure be reorganized, the liability to make all respective payments shall be borne by its legal successor. Claims for compensation of damage shall be also filed to it.

2. Should a legal entity found liable for harm inflicted to health or life in compliance with the established procedure be liquidated, respective payments shall be capitalized to be paid to the injured person in accordance with the rules established by law or other legal acts.

A law or other legal acts may establish other instances of exercise of payments.

Article 1022. Compensation for Burial Expenses

Persons liable for damage caused by the death of an injured person must compensate the expenses necessary to bury the person who incurred these expenses.

Burial allowance received by individuals who incurred these expenses shall not be included in the amount of the compensation.

§ 3. Compensation of Damage Inflicted by Defective  
Goods, Work or Service

Article 1023. Grounds for Compensation for Damage Inflicted by  
Defective Goods, Work or Service

Damage inflicted to life, health or property of an individual or the property of a legal entity as a consequence of faulty design, recipes or other defects in goods, work or service, and also as a result of inaccurate or insufficient information about the goods (work, service) must be compensated by the seller or manufacturer of the goods, by person who performed the work or rendered a service regardless of their fault, or the fact whether or not the latter and the injured person have been under contractual relationship.

The rules of this Article shall apply only in instances when goods were acquired (work performed, services rendered) for purposes of consumption, rather than in business activity.

Article 1024. Persons Held Liable for Damage Inflicted by  
Defective Goods, Work or Service

1. Damage inflicted as a result of defective goods must be compensated by the seller or manufacturer of this goods, subject to the injured person's option.

2. Damage inflicted as a result of faulty work or service must be compensated by the person who performed the work or rendered a service (executor).

3. Damage inflicted as a result of failure to provide full and accurate information on goods (work, service) must be compensated by persons specified in points 1 and 2 of this Article.

Article 1025. Time Period of Compensation of Damage Caused by  
Defective Goods, Work or Service

1. Damage inflicted as a result of defective goods (work, service) must be compensated if it ensued within the warranty period of goods (work, service) established in accordance with law and if the warranty period was not specified, within ten year period as of the date of manufacturing (performance) of the goods (work, service).

2. Beyond the time period specified in point 1 of this Article damage must be compensated in the following instances: if the warranty period has not been indicated in defiance of the established legal provisions;

if the person to whom the goods were sold, work performed, or service rendered, was not cautioned of the actions to be taken after the expiration of the warranty period, nor of the possible consequences in case of failure to comply with the specified precautions.

Article 1026. Grounds for Relieving of Liability for Damage Caused

## by Defective Goods, Work or Service

A seller or manufacturer of goods, performer of work (service) shall be relieved of liability, if they prove that the harm was caused by the force majeure or resulted from the consumer's violation of the instructions of use or storage of the goods, results of work or services.

### § 4. Compensation of Moral Harm

#### Article 1027. Compensation of Moral Harm

1. Moral harm shall be compensated by the injurer provided the injurer is guilty except for the cases envisaged by point 2 of this Article.

2. Moral harm shall be compensated regardless of the guilt of the injurer in cases when:  
harm is inflicted to the life or the health of the individual by the source of excessive danger;  
harm is inflicted to the individual in the result of illegal conviction, illegal holding him criminally liable, illegal imprisonment or recognizance not to leave as the measures to secure the appearance of the defendant, illegal imposing of administrative sanction in the form of arrest or correctional labor;  
harm is inflicted by the dissemination of data which defamed dignity and business reputation;  
as well as in other cases provided by the law.

3. Moral harm inflicted by the actions (inactivity) which breach the property rights of the individual are not subject to compensation except for the cases provided by the law.

#### Article 1028. Size of Compensation of Moral Harm

1. Moral harm shall be compensated in monetary form.

2. Size of compensation of moral harm shall be determined by the court depending on the nature of physical and moral sufferings inflicted to the injured as well as the extent of guilt of the injurer in cases when the guilt is the ground for compensation. In determination of the size of compensation the requirements of reason and fairness must be considered.

The nature of physical and moral sufferings shall be evaluated by the court with the account of actual circumstances in which the moral harm was inflicted and individual peculiarities of the injured.

3. Moral harm shall be compensated regardless of the property damage to be compensated.

## CHAPTER 52 OBLIGATIONS ARISING FROM UNJUST ENRICHMENT

#### Article 1029. Obligation to Return Unjust Enrichment

1. A person who have acquired or accumulated property (the acquirer) at the expense of other person (the injured) without grounds established by law or transaction, shall be obligated to return to the latter the unjustly acquired or accumulated property (unjust enrichment), except the instances provided by Article 1036 herein.

2. The rules provided by this Chapter shall apply, whether or not the unjust enrichment resulted from the actions performed by the acquirer of the property, the injured party himself, third parties, or occurred beyond their will.

#### Article 1030. Correlation between Claims on Return of Unjust Enrichment and Other Claims on Protection of Civil Rights

Unless otherwise established by this Code, other laws, and arise from the essence of existing relationships, the rules provided by this Chapter shall also apply to the claims on:

- 1) return of the performed acts pursuant to an invalid transaction;
- 2) withdrawal of property by the owner out of other person's unlawful possession;
- 3) claims filed by one party in the obligation to another party on returning of the performed acts pursuant to this obligation;
- 4) compensation of damage inflicted by the bad faith conduct of the person who enriched himself.

#### Article 1031. Return of Unjust Enrichment in Kind

1. Property constituting unjust enrichment by the acquirer must be returned to the injured party in kind.
2. The acquirer shall be held liable to the injured party for any, including accidental, shortage or deterioration of the unlawfully acquired or accumulated property, which occurred after he became aware or was to become aware of unjust enrichment. Before that moment, the acquirer shall be held liable only for intent and gross negligence.

#### Article 1032. Compensation of Value of Unjust Enrichment

1. If the acquirer is unable to return in kind the unjustly acquired or accumulated property, he must indemnify to the injured party the actual value of this property by the time when this property was acquired, and also for the losses caused by the subsequent increase in the value of the property, unless the acquirer has compensated for the property value immediately after he became aware of unjust nature of the enrichment.

2. Any person who has temporarily unjustly used the property without the intention to acquire it or unjustly used other person's services, should compensate to the injured party what has been accrued as a consequence of this use at the price which existed at the time when the use was terminated and at the place where it has occurred.

#### Article 1033. Consequences of Unjust Assignment of Right to Other Person

A person who assigned his right by way of cession of claims or otherwise, to another person on the grounds of non-existing or invalid obligation shall be entitled to claim for restitution, including returning the documents which certify the transferred right.

#### Article 1034. Compensation to Injured Party of Unreceived Incomes

1. A person who unjustly acquired or accumulated property shall be obligated to return or compensate the injured party for all gains that he derived or was to derive from this property from the moment he became aware or was to become aware of the unjust nature of enrichment.

2. Added to the amount of unjust monetary enrichment shall be (Article 360) from the moment the acquirer became aware or was to become aware of the unjust acquisition or accumulation of funds.

#### Article 1035. Compensation of Expenses on Property to be Returned

When returning the unjustly acquired or accumulated property (Article 1031 hereof) or compensation of its value (Article 1032 hereof), the acquirer shall be entitled to claim for compensation by the injured party of the inevitable expenses for maintenance and preservation of the property, incurred from the moment when he becomes obligated to return the incomes (Article 1034 hereof) with account of the received benefits. If the acquirer intentionally withholds the property subject to return, he shall forfeit the right to compensation of expenses.

#### Article 1036. Unjust Enrichment Not Subject to Return

The following shall not be subject to return as unjust enrichment:

- 1) property transferred in order to perform an obligation before the time of performance ensues, unless otherwise provided by the obligation.
- 2) property transferred in order to perform an obligation upon the expiration of the period of limitation;
- 3) wages and other similar payments, pensions, allowances, scholarships, compensation of damage, inflicted to the life and health, alimony, and other moneys, provided to a citizen as a maintenance funds, provided that there is no bad faith on his behalf, or calculation error;
- 4) moneys and other property provided in order to perform a non-existent obligation, if the acquirer proves that the person who claims the return of the property was aware of the absence of any obligation or provided the property for charitable purposes.

## SECTION V INTELLECTUAL PROPERTY

### CHAPTER 53 GENERAL PROVISIONS

#### Article 1037. Objects of Intellectual Property

Objects of intellectual property shall include following:

- 1) results of intellectual activity:  
works of literature, science and art;  
performances, sound recordings and programs of broadcasting companies;  
inventions, utility models, industrial design; selection achievements;  
topology of integral microcircuits;  
information not subject to disclosure, including classified information (know-how);
- 2) means of individualization of civil turnover participants, goods, works and services:  
firm names;  
trademarks (service marks);  
names of places of origin (indication of origin) of goods;
- 3) other results of intellectual activity and means of individualization of civil turnover participants, goods and services, in cases stipulated by this Code and other laws.

#### Article 1038. Grounds for Arising of Rights to Objects of Intellectual Property

Rights to the objects of intellectual property shall arise by virtue of the fact that these objects have been created, or as the consequence of legal protection provided by an authorized state body in cases and by the procedures established by this Code or other law. The provisions for legal protection of information not subject to disclosure shall be established by the law.

#### Article 1039. Personal Proprietary and Non-proprietary Rights to Objects of Intellectual Property

1. Author of the results of intellectual activity shall have personal property and non-property rights with respect to these results.

Personal non-property rights shall belong to the author regardless of his property rights and shall remain with him in the event of assignment of his property rights to the results of intellectual property to another person.

2. Possessors of the right to means of individualization of civil turnover participants, goods, works and services ( hereinafter - means of individualization) shall have property rights to these means.

3. The right of authorship ( right to be recognized as the author of the result of intellectual activity) shall be a personal non-property right which may only belong to the person who created the result of intellectual activity by his creative labor.

The right of authorship cannot be alienated and assigned.

4. If the result was created by joint creative labor of two persons or more, they shall be considered co-authors.

#### Article 1040. Exclusive Rights to Objects of Intellectual Property

1. The holder of the property rights to the result of intellectual activity or the means of individualization shall have exclusive right to lawful use of this object of intellectual property at his own discretion in any form and by any means.

Other persons may use objects of intellectual property in respect to which the right holder has exclusive right only with the consent of the right holder.

2. The holder of the exclusive right to object of intellectual property shall be entitled to assign this right to another person partially or in full, shall be entitled to allow another person to use this object and shall be entitled to otherwise dispose of it, unless it contradicts the rules of this Code and other laws.

3. Limitations of exclusive rights, including, by giving other persons the opportunity to use the object of intellectual property, recognition of these rights invalid and their termination (annulment) shall be allowed in cases, procedures and within the limits established by this Code and other laws.

Limitation of exclusive rights shall be allowed, provided that it does not cause damage to conventional use of the object of intellectual property and does not groundlessly infringe lawful interests of the right holders.

#### Article 1041. Assignment of Exclusive Rights to Another Person

1. Unless otherwise provided by this Code or another law, property rights belonging to the holder of exclusive rights to the object of intellectual property may be assigned by the right holder partially or in full to another person under

agreement, and also shall be assigned by universal succession in inheritance and in the result of restructuring of the legal entity - right holder.

2. Assignment of property rights under agreement and by universal succession shall not entail the assignment or limitation of authorship right and other inalienable and untransferable exclusive rights. Provisions in the agreement on assignment or limitation of such rights shall be void.

Exclusive rights which are assigned under the agreement must be stipulated therein. Rights which are not stipulated as alienable in the agreement shall be assumed untransferred, since otherwise is not proved.

An agreement on assignment of exclusive right to another person during its effective period for a limited period of time shall be governed by regulations on the license agreement.

#### Article 1042. License Agreement

1. In accordance with the license agreement the party possessing an exclusive right to the results of intellectual activity or to the means of individualization (licensor) shall provide another party (licensee) with the authorization to use the relevant object of intellectual property.

License agreement shall be contemplated compensable.

2. License agreement may stipulate the provision to the licensee of:

the right to use the object of intellectual property whereas the licensor shall preserve the right to its use and the right of issuing a license to other persons (simple, nonexclusive license);

the right to use the object of intellectual property whereas the licensor shall preserve the right to its use but without the right of issuing a license to other persons (exclusive license);

other types of licenses permitted by the law.

Unless otherwise provided by the license agreement, the license shall be contemplated simple (nonexclusive).

3. The agreement on provision by the licensee of the right to use the object of intellectual property to another person shall be recognized as sublicense agreement. The licensee shall be entitled to enter into the sublicense agreement only in cases stipulated by the license agreement.

The licensee shall be liable for the actions of the sublicensee to the licensor, unless the license agreement stipulates otherwise.

#### Article 1043. Agreement on Creation and Use of Results of Intellectual Activity

1. The author may take an obligation under agreement to create a work, invention or another result of intellectual activity in future and provide the customer who is not his employer with the exclusive right to use this result.

Agreement mentioned in point 1 of this Article must define the nature of the result of intellectual activity to be created, as well as purposes or ways of its use.

2. The agreement binding the author to provide a person with exclusive rights to use of any results of intellectual activity which will be generated by the author in future shall be void. Clauses of the agreement which set forth limitations for the author to create in future the results of intellectual activity of certain kind or in certain area shall be void.

#### Article 1044. Exclusive Rights and Proprietary Rights

Exclusive right to the result of intellectual activity or the means of individualization shall be independent of the proprietary right to a material object which is an expression of such result or means of individualization.

#### Article 1045. Effective Period of Exclusive Right

1. Exclusive right to the object of intellectual property shall be effective for the period stipulated in this Code or another law.

2. Personal non-property rights to the results of intellectual activity shall be effective without time-limit.

3. In cases stipulated by the law, exclusive right may be terminated as a result of failure to exercise this right within a certain period of time.

#### Article 1046. Ways of Protecting Exclusive Rights to the Objects of Intellectual Property

1. Protection of exclusive rights shall be undertaken by ways stipulated in Article 11 of this Code. Protection of exclusive rights may be undertaken also by the way of:

condemnation of material objects with the help of which exclusive rights have been violated and of material objects created in the result of such violation;

obligatory publication about violation including data about the holder of the violated right;

by other ways provided for by the law.

2. In case of breach of contracts on use of results of intellectual activity and means of individualization the general rules on the liability for breach of obligations shall be applied.

## CHAPTER 54 COPYRIGHT

### Article 1047. Works Protected by Copyright (Objects of Copyright)

1. Copyright shall extend to works of science, literature and art that are the results of creative activity regardless of their purpose and quality and also of means of their expression.

2. The work must be expressed in verbal, written or other objective form allowing its perception.

Any work expressed on a material carrier (manuscript, typescript, musical notation, recording with the use of technical means, including sound or video recording, fixation of an image in two dimensional or volume -spacial form) shall be considered as having objective form regardless of its accessibility for third parties.

A verbal or other work not expressed on a material carrier shall be considered as having objective form if it became accessible for perception of third parties (public speech, public performance etc.).

3. Copyright shall not extend both to published (promulgated, released) and to unpublished works.

4. Copyright shall not extend to ideas, concepts, principles, systems, proposed solutions, discoveries of objectively existing phenomena.

5. Arising of copyright shall not require registration of a work or observance of other formalities.

### Article 1048. Types of Objects of Copyright

1. Objects of copyright include:

literary works (literary-artistic, scholar, instructional, publicistic, etc.);

dramatic and film script works;

musical works with words and without words;

musical-dramatic works;

choreographic works and pantomimes;

sound and video works (motion picture, television and video films, slide films, transparency films and other motion picture, and television and video works), radio works;

works of painting, sculpture, graphics, design and other works of fine arts;

works of applied decorative and stage setting art;

works of architecture, city planning, and garden and park art;

photographic works, and works made by methods similar to photography;

geographic, geologic and other maps, plans, drawings and plastic works related to geography, topography and other sciences;

other works meeting the requirements established by Article 1047 of this Code.

### Article 1049. Parts of Work, Derivative and Composite Works

1. Objects of copyright shall include parts of works, their names and derivative works meeting the requirements established by Article 1047 of this Code.

Derivative works shall include works that are the results of processing other works (translations, revisions, annotations, summaries, resumes, surveys, staging, arrangements, and other the like works of science, literature and art).

Composite works collections (encyclopedias, anthologies) and other composite works representing the result of creative labor through selection or the placement of material.

2. Derivative and composite works shall be protected by copyright regardless of whether the works on which they are based or which they include are protected by copyright.

### Article 1050. Works and the Like Results of Activity that are not

## Objects of Copyright

Objects of copyright shall not include:  
official documents (statutes, resolutions, ordinance etc.), and also their official translations;  
state symbols and signs (flags, arms, medals, currency etc.);  
folk works;  
news of the day, reports on current events having the nature of general press-information;  
results obtained with the help of technical means which are intended for the production of certain kind, without having a man to carry out creative activity directed to the creation of individual work.

### Article 1051. Rights to Drafts of Official Documents, Symbols and Signs

1. Copyright to drafts of official document, symbol or sign shall belong to the person who developed the draft (drafter).

Drafter of official documents, symbols and signs shall be entitled to publish such drafts if it is not prohibited by the body by order of which the draft has been developed. Drafter shall be entitled to indicate his name when publishing the draft.

2. Draft may be used by the competent body to prepare official document without the consent of the drafter if he published the draft and sent it to the appropriate body.

When preparing official documents, symbols and signs on the basis of the draft, the body preparing the official document, symbol and signs may at its discretion introduce amendments and supplements into the draft.

After the draft has been approved by the competent body it may be used without indication of the drafter's name.

### Article 1052. Author of Work. Presumption of Authorship

1. The physical person by whose creative labor a work has been made shall be recognized as the author of a work.

The physical person indicated as the author at first publication of the work shall be considered the author of it since otherwise is not proved.

2. When publishing the work anonymously or under pseudonym (except for the case when the pseudonym of the author leaves no doubts in his personality) the editor whose name or title is indicated in the work with the absence of proofs of other shall be considered the representative of the author and have right to protect the copyrights and secure their execution. This provision shall be effective until the author of such work discloses his personality and announces of his authorship.

### Article 1053. Coauthorship

1. Copyright to the work created by joint labor of two or more persons shall belong to coauthors jointly, regardless of whether such work is one indivisible whole or consists of parts which have independent significance.

Part of the work shall be recognized as having independent significance if it may be used independently from other parts of the work.

Each of the coauthors shall be entitled to use the part of the work which has independent significance created by him at his own discretion, unless otherwise provided by the agreement between them.

2. As a rule, relations between coauthors shall be determined on the basis of the agreement. If such agreement is absent the copyright to the work shall be exercised by all authors jointly and compensation shall be distributed to them equally.

If the work of the coauthors makes one indivisible whole than no one of coauthors shall be entitled to enjoin the use of the work without sufficient grounds for this.

### Article 1054. Authors of Derivative and Composite Works

1. Authors of derivative and composite works shall include respectively persons having processed other works: translators, compilers of collections, and other composite works which represent results of creative labor in selection and arrangement of materials.

Author of derivative and composite work shall exercise the copyright to such work provided that he observes the copyright to the work which has been processed, translated or included in composite work.

2. Copyright of authors of composite works shall not impede other persons to create their derivative works on the basis of already used works.

#### Article 1055. Rights of Persons who Organize the Creation of Works

1. Persons organizing the creation of works (editors of encyclopedias, film makers, producers and etc.) shall not be recognized as authors of respective works. However, in cases provided by this Code or other statutes, such persons shall acquire exclusive rights to use these works.

2. Editors of encyclopedias, encyclopedic vocabularies, periodic and series of collections of scientific works, newspapers, journals and other periodic editions shall have exclusive rights to use of such works. The editor shall be entitled to indicate his name or to demand such indication upon any use of such work.

3. Authors of the works included in such editions shall preserve exclusive rights to use their works regardless of the edition as a whole unless otherwise provided by the agreement on the creation of the work.

4. Entering the agreement on creation of sound-video production including the film, shall not entail the assignment by the authors of this work to its maker of exclusive rights to reproduction, distribution, public performance, cable communication, air broadcasting or for any other public use of the work, subtitling and dubbing the text of the film, unless otherwise provided in the contract. Indicated rights shall be in effect during the effective period of the copyright to sound-video production.

Film maker shall be entitled to indicate his name or title or to demand such indication upon any use of the work.

Upon public performance of the film the author of the musical work (with or without words) shall preserve the right to compensation for public performance of the musical work.

The destruction of final version of the film (negatives, original record) shall be prohibited without the consent of the author and other holders of property rights to the film.

#### Article 1056. Signs of Copyright Protection

1. Holder of exclusive copyright may use with the purposes of declaring his rights the sign of copyright protection which is attached to each copy of the production and consists of three elements:

Latin letter "C" in a circle; name (title) of the holder of exclusive copyrights; the year of first publication of the work.

2. Since other is not proved the person indicated in the sign of copyright protection shall be considered holder of the right.

#### Article 1057. Personal Non-property Rights of Author

1. Author of the work shall have following personal nonproperty rights:

right to authorship;

right to author's name; right to inviolability of the work.

2. Agreement of the author with anybody and the declaration of the author's refusal to exercise personal non-property rights shall be void.

#### Article 1058. Right to Authorship

Authorship right of author (coauthors) to created work shall exclude the recognition of authorship of other persons for the same work.

#### Article 1059. Right to Author's Name

The author shall have exclusive right to use or authorize to use the work under his name, pseudonym or anonymously (right to author's name).

#### Article 1060. Right to Inviolability of the Work

1. The author shall have exclusive right to introduce amendments and supplements to his work and to the protection of the work from introducing amendments and supplements by somebody without the consent of the author (right to inviolability of the work.).

Upon the issuance, public performance or other use of the work the introduction of any amendments both to the work itself and to its title, and indication of the author's name shall be allowed only with the consent of the author.

It shall be prohibited to provide the work with the illustrations, forewords, afterwards, comments or any other explanations without the consent of the author.

2. After the author's death the protection of the inviolability of the work shall be exercised by the person indicated in the testament, should there be no such instructions - by the heirs of the author, and also by the persons who protects copyrights in accordance with the law.

#### Article 1061. Right to Publication of Work

1. The author shall have the right to provide access to the work to a definite range of people (right to publication).
2. The work shall be considered published when by the author or with his consent for the first time the access to the work has been open to indefinite range of people by issuance, public performance, public display of the work or its release in other way. Author shall have the right to refuse the previous decision on the publication of the work (right to withdrawal) provided that he compensates the persons having got the right to use the work for losses inflicted by such decision including for the loss of expected gain. If the work was published the author shall be obligated to inform publicly about the withdrawal of it. In this case he shall be entitled to withdraw previously issued copies of the work from circulation at his own expense. Provisions of this point shall be applied also to the business work, unless otherwise provided for by the agreement with the author.

#### Article 1062. Right of Author to Make Use of Work

1. The author shall have exclusive rights to make use of the work in any form and by any means.
2. The use of the work shall include reproduction and distribution of the work and its realization by other means which include in particular:
  - public display (showing, exhibition) of the work;
  - renting of a copy which makes the material carrier of the work;
  - public performance of the work;
  - transmission over the airwaves (communication by radio or television), including transmission by cable and communications satellite;
  - technical recording of the work;
  - playing of a technical recording of the work, including by radio or television;
  - translation or reworking of the work for their later use; practical realization by city planning of an architectural or design plan.

Reproduction shall include the repeated embodiment of the work in an objective form even in that one which the original had (publishing, copying of sound and video records and etc.). Distribution of the work shall include sale, exchange, lease and other operations with copies of the work, including the import of them.

3. If copies of the work were lawfully alienated, than their further distribution shall be allowed without the consent of the author and without payment of compensation , except for the cases provided by the law.
4. The work shall be considered used regardless of whether it was used with the purposes of generating income (profit) or its use was not directed to this.
5. Practical use of the matters constituting the content of the work (inventions, other technical, economic, administrative and the like solutions) shall not constitute the use of the work in the copyright sense.

#### Article 1063. Disposition of Right to Make Use of the Work

1. Author or other right holder may assign under the contract including one which was signed at a public auction all rights to make use of the work to other person (alienation of right to make use).
2. Right to make use of the work shall be assigned by the procedure of universal succession.
3. The right holder may issue to other person the authorization (license) to make use of work within certain limits. The authorization shall be required for use of the work both in the original and in processed form, in the form of translation, arrangement and etc.
4. Each type of use of the work shall require a special authorization of the right holder.

#### Article 1064. Limitations of Copyright

Limitations of exclusive rights of the author and other persons to make use of the work shall be allowed only in cases provided by Articles 1065-1068 of this Code or other laws.

Indicated limitations shall be applied provided that this does not entail unjustified damage to the conventional use of the work and does not infringe in a groundless manner the lawful interests of the author.

#### Article 1065. Reproduction of Someone's Work in Personal Interests

1. The use of someone's work released in public with personal aims shall be allowed without the consent of the author and without payment of author's compensation if it does not entail damage to the conventional use of the work and does not infringe the lawful interests of the author.

2. Part one of this Article shall not be applied to the relationships on:

- 1) use of works of architecture in the form of buildings and the like constructions;
- 2) use of databases or their significant parts;
- 3) use of software for computers except for the cases provided by law;
- 4) reproduction of books (as a whole) and notation text.

3. In exception from point 1 of this Article the law may state that in case of the use of sound- and video records with personal aims the author, performer and maker of corresponding record shall have the right to a respective compensation.

Compensation for reproduction shall be paid out in the form of deductions (interests) by manufacturers or importers of the equipment (sound equipment, video equipment and etc.) and material carriers (sound- and (or) video tape, cassettes, laser disks, compact disks and etc.) which are used for such reproduction.

#### Article 1066. Free Public Performance of Works

Public performance of lawfully published musical works during official, religious and funeral ceremonies in the volume justified by the nature of such ceremonies shall be allowed without the consent of the author and without payment of the author's compensation.

#### Article 1067. Free Reproduction of the Work for Judicial Purposes

Reproduction of the works for the purposes of court and administrative proceedings shall be allowed without the consent of the author and without the payment of the author's compensation in the volumes justified by the purpose of the use.

#### Article 1068. Right to Business Work

1. Copyright to the work created in the course of executing business assignment (business work), shall belong to the author of the work.

2. Right to make use of the business work in the way conditioned by the purpose of the assignment and within limits arising out of it, shall belong to the person by whose order the work has been created and with whom the author is affiliated in labor relations (employer), unless otherwise established in the contract between them. The employer shall be entitled to assign such right to make use of the business work to other person. The contract of the employer with the author may stipulate the payment of the author's compensation for use of business work and other terms of its use.

3. At the expiration of ten years period from the moment of presenting the work and earlier if the employer agrees, the author shall acquire in full length the right to make use of the work and to receive author's compensation regardless of the contract signed with the employer.

4. The right of the author to use the business work in the way not conditioned by the purpose of the assignment shall not be limited.

#### Article 1069. Effect of Copyright on the Territory of the Kyrgyz Republic

1. Copyright to the work first published on the territory of the Kyrgyz Republic or not published, but existing on its territory in some objective form shall be effective on the territory of the Kyrgyz Republic. In this case the copyright shall be recognized as belonging to the author and his heirs and also other legal successors of the author regardless of their citizenship.

2. Copyright shall be recognized as belonging to the citizens of the Kyrgyz Republic whose works were first published or are existing in some objective form on the territory of the foreign state as well as belonging to their heirs and other legal successors.

3. When providing the author with the legal protection in accordance with the international treaties the fact of publication of the work on the territory of the foreign state shall be determined according to the provisions of the respective international treaty. With the purposes of protection of the work on the territory of the Kyrgyz Republic the person recognized as the author of the work shall be determined under the laws of the state on the territory of which the work was first protected.

#### Article 1070. Beginning of the Effect of Copyright

1. Copyright to the work shall come into effect from the moment of putting the work into objective form available to perceiving by third parties regardless of publication. Copyright to verbal work shall come into effect from the moment of the communication to third parties.

2. If the work is not governed by Article 1069 of this Code, the copyright to such work shall be protected from the moment of first publication of the work if it was realized in the Kyrgyz Republic.

#### Article 1071. Effective Period of Copyright

1. Copyright shall be effective in the course of the whole life of the author and seventy years after his death counting from January 1 of the year following the year of death of the author.

2. Copyright to the work created in coauthorship shall be effective for the whole life of coauthors and seventy years after death of the last of authors who outlived other coauthors.

3. Copyright to the work first published under the pseudonym or anonymously shall be effective for seventy years counting from January 1 of the year following the year of publication of the work. If during the indicated period the anonym or pseudonym are disclosed than the periods indicated in point 1 of this Article shall be applied.

4. During the periods indicated in point one of this Article the copyright shall belong to the heirs of the author and shall be inherited. During the same periods the copyright shall belong to the legal successors having got this right under the contract with the author, his heirs and subsequent successors.

5. Copyright to the work first published during seventy years after death of the author shall be effective for seventy years after its publication counting from January 1 of the year following the year of publication.

6. Authorship, author's name and inviolability of the work shall be protected without time-limit.

#### Article 1072. Transfer of the Work to Public Property

1. At the expiration of the effective period of the copyright to the work the latter shall become public property.

Works which were never protected on the territory of the Kyrgyz Republic shall be considered public property.

2. Works that are considered public property may be freely used by any person without paying the author's compensation. In this event right to authorship, right to name and right to inviolability must be observed.

#### Article 1073. Author's Contract

1. Author or his heir may assign the right to use his work to other person by the way of entering the author's contract. Author's contract shall be contemplated compensable.

2. Author's contract may be signed for the ready work or for the work which the author is obligated to create (order contract). The contract on authorization to make use of the work in certain limits signed by the author or his heirs shall also be considered author's contract (author's license contract).

#### Article 1074. Terms of the Author's Contract

1. Author's contract must make provision for:

ways of making use of the work (concrete rights assigned under this contract);

size of compensation and (or) procedures of defining the size of the compensation for each way of making use of the work, procedures and term of its payment.

Should the author's contract have no provision for term for which the right to use the work is assigned, the contract may be broken by the author after the expiration of five years from the date of its signing, if the user is notified of this in writing six months prior to the termination of the contract.

Should the author's contract have no provision for the territory within the bounders of which the right is effective, the effect of the right assigned under the contract shall be limited by the territory of the Kyrgyz Republic.

2. Object of author's agreement may not include rights to make use of works not known as of the moment of signing the contract.

3. Size of the compensation for use of the work shall be determined in the author's contract by agreement of the parties.

If the author's contract on publication or other reproduction of the work defines the compensation in the form of fixed amount, than the contract must establish the maximum number of copies of the work.

Refusal of the author or his heirs from the right to receive compensation shall be void.

4. Rights assigned under the author's contract may be assigned by any party to the contract in full or in parts to other persons only in case when this is directly envisaged by such contract.

#### Article 1075. Form of the Author's Contract

Author's contract must be formalized in writing except for the cases provided by the law.

#### Article 1076. Liability under the Author's Contract

The party which failed to perform or improperly performed the obligation under author's contract shall indemnify the losses incurred by the other party including the loss of expected gain.

#### Article 1077. Effective Period of Author's License Contract

1. Author's license contract shall be effective for the period stipulated in it, but not longer than the effective period of the copyright.

2. Author of the work or his heirs regardless of the provision for the term in the author's license contract shall be entitled at the expiration of ten years from the date of signing the contract to unilaterally terminate it with written notification of his counterpart six months prior to termination of the contract. The author or his heirs shall have an opportunity to exercise such right every ten years.

3. The contract may have provisions for the period of making use of the work and the breach of such period shall entail the right of the right holder to terminate the contract.

#### Article 1078. Liability for Unlawful Non-contractual Use of the Work

In the event of making use of the work without entering the contract with the right holder the violator shall be obligated to compensate the right holder for the losses incurred including for the loss of expected gain. The right holder shall be entitled to collect from the violator gains which he has got in the result of violation instead of the losses incurred.

Use of the work in the way not stipulated in the author's contract or after the expiration of the effective period of such contract shall be considered non-contractual use of the work.

#### Article 1079. Legal Regulation of Author Relationships

Author relationships shall be regulated by this Code and other legislation.

### CHAPTER 55 NEIGHBORING RIGHTS

#### Article 1080. Object of Neighboring Rights

Neighboring rights shall extend to staging, performances, sound and video recordings of the performance (performance records), the programs of organizations of air and cable broadcasting.

#### Article 1081. Subjects of Neighboring Rights

1. Right to performance shall belong to performers - artists, producer-scenarist, directors and their heirs. The right to use such performance may be assigned to other legal successors.

2. Right to performance record shall belong to the person who has made such recording or to his legal successor.

3. Right to transmission shall belong to the organization of air broadcasting which has created the program or to its legal successors.

#### Article 1082. Signs of Protection of Neighboring Rights

The maker of performance record and the performer may use the sign of protection of neighboring rights to inform about their rights which is attached to all copies of sound or video record and (or) on each container and consists of three elements:

Latin letter "P" in circle;  
name (title) of the holder of exclusive neighboring rights;  
year of first publication of the record.

#### Article 1083. Performer's Rights

1. The performer shall hold a right to:  
indication of his name during the performance, on copies of performance record, during transmission or reproduction of the performance;  
protection of performance against distortion; realization or authorization to use the performance.
2. Right to make use of the performance shall include the right to authorize:  
broadcasting of the performance in air or by cable;  
recording of the performance with the help of technical means;  
broadcasting and public reproduction of performance records;  
copying and distribution of copies of performance records.
3. Performers shall exercise their rights with the observance of rights of authors of performed works.
4. Limitations of right to make use of performance shall be established by law.
5. The right to performance executed in the course of carrying out business assignment (business performance) shall be regulated by the provisions of Article 1068 of this Code.

#### Article 1084. Rights of Person Having Made the Recording of Performance

1. The maker of the sound recording of the performance and his legal successor shall have the exclusive right to this sound recording.  
Use of such sound recording by other persons shall be allowed only with the permission of the maker of the sound recording or his legal successor.
2. The maker of the sound recording or his legal successor may perform or allow:  
the public reproduction of the record reworking or other editing of the record;  
distribution of the copies of record (sale, lease and etc.);  
including the transfer abroad;  
import of copies of record.
3. If the right of ownership to copy of the performance record does not belong to its maker, the exclusive right to use the record including its commercial lease shall be preserved by the person having made the recording.
4. Limitations of rights to recording of performance shall be established by the law.
5. The holders of the right to recording of the performance shall exercise their rights taking into account the rights of authors of works and rights of performers.

#### Article 1085. Rights of Air Broadcasting Organization

1. Organization of air broadcasting shall have the right to use its program in any form and give authorization to use such program to third parties.  
Use of the program by third parties shall be executed under the contract. The right holders shall have the right to the compensation for each type of use.
2. Limitations of rights of air broadcasting organization shall be established by law.
3. Organization of air broadcasting shall exercise its rights taking into account rights of authors of the works and performers, and in relevant cases- of holders of rights to recording of performance and of other air broadcasting organization.

#### Article 1086. Rights of Organization of Cable Broadcasting

Rights of organization of cable broadcasting shall be established in conformity with the rights of organization of air broadcasting established by this Code and law.

#### Article 1087. Liability for Default or Improper Execution of Contract on Use of Neighboring Rights and for Unlawful Non-contractual Use of Work

Person who failed to execute or executed improperly the contract on the use of neighboring rights or unlawfully used the work without entering into a contract shall be liable under general provisions on liability for default or improper execution of the contract, or respectively on the liability for inflicting harm.

CHAPTER 56  
RIGHT TO INDUSTRIAL PROPERTY (RIGHT TO INVENTION,  
UTILITY MODEL, INDUSTRIAL DESIGN)

Article 1088. Legal Protection of Invention, Utility Model,  
Industrial Design

1. Right to invention, utility model and industrial design shall be protected provided that the preliminary patent, utility model patent, a certificate, has been issued.

2. Requirements to the invention, utility model and industrial design which entail the arising of the right to receive a preliminary patent, patent, certificate (hereinafter referred to as protection document), and the procedure of its issuance by a patent agency shall be established by law.

Article 1089. Right to Use the Invention, Utility Model,  
Industrial Design

1. Patent holder shall have an exclusive right to use the invention, utility model, industrial design protected by the patent at his sole discretion, including the right to manufacture the product using patented solutions, apply patented technology in his own production, sell or offer to sale articles containing patented solutions, import correlated articles.

Persons other than the patent holder shall not be entitled to use the invention, utility model, industrial design without his authorization except for the cases when such use is not the breach of rights of the patent holder in conformity with this Code or other law.

2. The breach of right of the patent holder shall include unlawful manufacture, utilization, importing, offering for sale, sale, other use in civil turnover or storage with this aim of the article, manufactured with the help of patented invention, utility model or industrial design, and application of the method protected by invention patent, or use in civil turnover or storage with this aim of the article manufactured with the help of the method protected by the invention patent.

The article shall be considered manufactured with the help of patented method since otherwise not proved.

Article 1090. Disposition of Right to Patent

The right to receive a patent, rights arising out of the registration of the application, right to hold the patent and rights arising out of the patent may be assigned fully or partially to another person.

Article 1091. Right to Authorship

1. The author of an invention, utility model, industrial design shall hold the right to authorship and right to assign a specific title to the invention, utility model, industrial design. Right to authorship and other personal rights to invention, utility model, industrial design shall arise from the moment of arising of rights based on the patent.

2. The law shall confer on the author of an invention, utility model and industrial design specific rights, preferentials and advantages of a social nature.

3. A person indicated in application as the author shall be considered the author until other is not proved. Evidence may include only fact and circumstances which have existed before the arising of right.

Article 1092. Coauthors of the Invention, Utility Model and  
Industrial Design

Relations of coauthors of the invention, utility model, industrial design shall be defined by the agreement between them.

Non-creative assistance to make the invention, utility model and industrial design (technical, organizational or mathematical help, assistance in perfection of rights and etc.) shall not entail coauthorship.

Article 1093. Service Inventions, Utility Model and Industrial  
Design

1. The right to obtain a protection document for an invention, utility model, industrial design created by the employee in connection with the performance of his service duties or a specific task received from the employer (service invention) shall belong to the employer if this is provided by the agreement between them.

2. Amount, terms and procedure of payment of a remuneration to the author of the service invention, utility model, industrial design shall be defined by the agreement with the employer. Should an agreement between the parties not be reached on the amount and procedure of payment of remuneration the dispute shall be examined in the court. Should it be impossible to measure the contribution of the author and the employer in creation of the service invention, utility model, industrial design the author shall be conferred with the right to half of the gain which was received or was to be received by the employer.

#### Article 1094. Form of the Contract on Assignment of Right to protection Document

The contract on concession of the right to protection document (on assignment of the protection document) must be formalized in writing and is subject to registration in patent agency. Noncompliance with the written form or registration requirements shall entail the invalidity of the contract.

#### Article 1095. Form of Authorization (License) for Use of Invention, Utility Model, Industrial Design

License agreement and sublicense agreement shall be formalized in writing and shall be subject to registration in patent agency. Non-compliance with the written form or registration requirements shall entail the invalidity of the contract.

#### Article 1096. Liability for Breach of the Protection Document

The breach of the protection document must cease by request of the patent holder, and the violator shall indemnify the losses incurred by the patent holder (Article 15). The patent holder shall be entitled to collect from the violator those gains which he has generated in the result of the violation instead of obtaining damages.

### CHAPTER 57 RIGHTS TO NEW GRADES OF PLANTS AND NEW BREEDS OF ANIMALS

#### Article 1097. Protection of Rights to New Grades of Plants and New Breeds of Animals

1. Rights to new grades of plants and new breeds of animals (selection achievements) shall be protected provided that the patent has been issued.

2. Requirements which entail the arising of rights to receive the patent and the procedure of issuance of the selection achievements patent shall be established by law.

3. The relationships related to rights to selection achievements and protection of such rights shall be respectively governed by the provisions of Article 1090-1096 of this Code since other is not established in this Chapter and by law.

#### Article 1098. Rights of Author of Selection Achievement to Compensation

Author of the selection achievement other than the patent holder shall have the right to receive compensation from the patent holder for use of selection achievement in the course of the effective period of the patent.

The size and terms of payment of compensation to the author of the selection achievement shall be defined by the contract signed by him and the patent holder.

#### Article 1099. Rights of Patent Holder

The holder of the selection achievement patent shall have the exclusive right to use this achievement within the limits established by law.

## Article 1100. Obligations of the Patent Holder

The holder of the selection achievement patent shall keep a respective grade of the plant or breed of animals up to the level during the effective period of the patent so that to preserve the characteristics indicated in the description of the grade or breed which was done upon their registration.

## CHAPTER 58 PROTECTION OF INFORMATION NOT SUBJECT TO DISCLOSURE AGAINST UNLAWFUL USE

### Article 1101. Right to Protection of Information Not Subject to Disclosure

A person lawfully possessing technical, organizational or commercial information, including secrets of production (know how), unknown to third parties (information not subject to disclosure) shall have the right to protection of this information against unlawful use if provisions set forth in Article 34 of this Code are observed.

The right to protection of information not subject to disclosure against unlawful use shall arise regardless of the execution of any formalities in relation to this information (its registration, receipt of certificates and etc.).

Rules on protection of information not subject to disclosure shall not be applied to data which according to the law may not constitute business or commercial secret (data about legal entities, rights to the property and transactions with it subject to state registration, data subject to presentation as state statistical report and others).

Right to protection of information not subject to disclosure shall be effective until the conditions set forth in part one of Article 34 of this Code are observed.

### Article 1102. Liability for Unlawful Use of Information Not Subject to Disclosure

1. A person who has got or delivered information not subject to disclosure without lawful grounds or is using it shall be obligated to compensate the person who possesses this information on lawful grounds for all losses inflicted in the result of its unlawful use.

If the person unlawfully using the information not subject to disclosure has received it from the person who was not entitled to deliver it and the appropriator of the information was not aware of it or had not to be aware (faithful appropriator) the lawful possessor of the information not subject to disclosure shall be entitled to demand compensation for losses inflicted in the result of using information not subject to disclosure after that the faithful appropriator has learnt that its use was unlawful.

2. A person lawfully possessing information shall be entitled to demand that he who unlawfully uses it would promptly cease its use. However, court may allow its further use on the conditions of compensable exclusive license with the account of funds spent by the faithful appropriator on its use.

3. A person having independently and lawfully received data which constitute the content of the information not subject to disclosure shall be entitled to use these data regardless of rights of the possessor of the related information not subject to disclosure and shall not be liable to him for such use.

### Article 1103. Assignment of Rights to Protection of Information Not Subject to Disclosure Against Unlawful Use

A person possessing information not subject to disclosure may assign all or part of data constituting the content of this information to other person under the license agreement.

The licensee shall be obligated to take all necessary measures to protect confidential information received under the contract and shall have the same rights to its protection against unlawful use by third parties as the licensor has. Since other is not provided for in the contract the licensee shall bear the liability to keep confidentiality of information after the cessation of the license agreement if the corresponding data keeps to be not subject to disclosure.

## CHAPTER 59 WAYS OF INDIVIDUALIZATION OF CIVIL TURNOVER PARTICIPANTS, GOODS AND SERVICES

### § 1. Firm name

#### Article 1104. Right to Firm Name

1. Legal entity has exclusive right to use firm name on goods, packaging, in advertisements, signboards, prospectuses, bills, publications, official forms and other documentation, related to its activity as well as in demonstration of goods at exhibitions and fairs which are conducted on the territory of the Kyrgyz Republic. Procedures for registration of firm names of the legal entities shall be specified in the normative legal acts.

#### Article 1105. Use of Firm Name of Legal Entity in Trade Mark

Firm name of the legal entity may be used in the trade mark which belongs to it.

#### Article 1106. Effect of the Right to Firm Name

1. Exclusive right to the name shall be effective on the territory of the Kyrgyz Republic which is registered in the Kyrgyz Republic as designation of the legal entity.

2. Exclusive right to the name which was registered or universally recognized in a foreign country shall be effective on the territory of the Kyrgyz Republic in cases stipulated by law.

3. Effect of the right to firm name shall be terminated with the liquidation of the legal entity and with the change of its firm name.

#### Article 1107. Alienation of the Right to Firm Name

Alienation or assignment of the right to firm name shall not be allowed except cases of restructuring of the legal entity and alienation of the enterprise as a going concern.

Holder of the right to firm name may allow another person to use its name (issue a license). However, under this licensed agreement the measures excluding the customer's confusion must be provided.

### § 2. Trade Mark (Service Mark)

#### Article 1108. Legal Protection of Trade Mark

1. Legal protection of the trade mark (service mark) shall be provided on the basis of its registration.

2. Right to trade mark shall be attested by the certificate.

#### Article 1109. Right to Use the Trade Mark

1. The holder of the right to the trade mark shall have exclusive right to use and dispose of the trade mark belonging to it.

2. Use of the trade mark shall include any its entry into the turnover in a manner established by law.

#### Article 1110. Consequences of Non-use of the Trade Mark

1. In the event of non-use of the trade mark without a good reason constantly within five years, its registration may be annulled at the claim of any interested person.

2. Issuance of license to use the trade mark shall be considered its use.

#### Article 1111. Assignment of Right to the Trade Mark

1. Right to the trade mark in respect to all types of goods and services or their parts stipulated in the certificate may be assigned by the right holder to another person under the agreement.

Assignment of the right to the trade mark shall not be allowed in the event this assignment is the reason for confusion concerning the goods or their manufacture.

2. Assignment of the right to the trade mark including its transfer under the agreement or in the procedure of succession must be registered in the patent agency.

#### Article 1112. Form of the Agreement on Assignment of the Right to the Trade Mark

Agreement on assignment of the right to the trade mark or on the issuance of a license must be formalized in writing and registered in patent agency.

Non-compliance with the written form and registration requirements shall entail invalidity of the agreement.

#### Article 1113. Liability for the Breach of the Right to the Trade Mark

A person unlawfully using the trade mark must discontinue the breach and compensate the owner of the trade mark for damages incurred by the owner.

A person unlawfully using the trade mark must destroy produced imprints of the trade mark, to eliminate the unlawfully used trade mark or marking similar to it to the extent of confusion from goods or its packaging.

In the event it is impossible to meet the requirements stipulated in part two of this Article, the relevant goods shall be subject to destruction.

### § 3. Appellation of the Place of Origin of Goods

#### Article 1114. Legal Protection of the Appellation of the Place of Origin of Goods

1. Legal protection of the appellation of the place of origin of goods shall be provided on the basis of its registration.

2. Appellation of the place of origin (indication of the origin) of goods shall include appellation of the country, built-up area, locality or other geographical place used to designate the commodity and which peculiar features exclusively and mainly are defined by natural conditions typical of this geographical place or by other factors or by the combination of natural conditions and those factors.

Historical appellation of the geographical place may be the appellation of the place of origin of goods.

3. Marking shall not be recognized as the appellation of place of origin of goods and shall not be subject to registration for the purposes of its legal protection in accordance with the rules of this section, although this marking represents or contains the appellation of the geographical place but which was universally used in the Kyrgyz Republic as marking of goods of certain types which is not connected with the place of its production. However the person whose rights were infringed by unfair use of this appellation shall not be deprived of the possibility of their protection by other means stipulated by the law, as well as on the basis of the rules of unfair competition.

4. Patent agency shall conduct registration of the appellation of the place of origin of goods.

5. Certificate of the right to use the appellation of the place of origin of goods shall be issued on the basis of registration.

6. The order and conditions of registration and issuance of the certificate, recognition of invalidity and cessation of the effect of the registration and of the certificate shall be determined by law.

#### Article 1115. Right to Use the Appellation of the Place of Origin of Goods

1. A person holding the right to use the appellation of the place of origin of goods shall be entitled to put this appellation on goods, packaging, advertisement, signboards, bills and use it otherwise in connection with the entry of those goods into civil circulation.

2. The appellation of the place of origin of goods may be registered by several persons both jointly and independently from each other to mark the goods which meet the requirements stipulated in item 2 of Article 1114 of this Code. The right to use the appellation of the place of origin of goods shall belong to every such person.

3. Alienation, other transactions of assignment of the right to use the appellation of the place of origin of goods and provision to use it on the basis of the license shall not be allowed.

#### Article 1116. Scope of Application of Legal Protection of the Appellation of the Place of Origin of Goods

1. The legal protection of the appellation of the place of origin of goods located on the territory of the Kyrgyz Republic shall be provided in the Kyrgyz Republic.

2. Legal protection of the appellation of the place of origin of goods located in another country shall be provided in the Kyrgyz Republic in the event that this appellation was registered in the country of origin of goods, in the Kyrgyz Republic as well as in the patent agency of the Kyrgyz Republic in accordance with this Code.

Article 1117. Liability for Unlawful Use of the Appellation of the  
Place of Origin of Goods

1. A person holding the right to use the appellation of the place of origin of goods and institution protecting the rights of customers may demand the person unlawfully using the appellation to discontinue its use, to remove the unlawfully used name or marking similar to the extent of confusion to it from goods, their packaging, forms and other documentation, to demand destruction of the produced imprints of the appellation or marking similar to it to the extent of confusion and in the event it is impossible to do this to withdraw and destroy goods and (or) their packaging.

2. A person holding the right to use the appellation of the place of origin of goods shall be entitled to demand from the violator of this right to compensate for the damages incurred.

SECTION VI  
LAW OF SUCCESSION

CHAPTER 60  
GENERAL PROVISIONS ON SUCCESSION

Article 1118. Succession

Succession is a transfer of the property by a deceased individual to another person (persons) - successor (successors) by the procedure of inheriting legal rights.

Article 1119. Grounds for Succession

1. Succession shall be effected by will and by law.

2. Intestate succession shall be effected in absence of testamentary disposition or where the whole estate is not covered therein, and in other cases stipulated in this Code.

Article 1120. Composition of Succession

1. Succession shall include all rights of the testator existing at the time of the commencement of the succession and obligations which are not terminated by his death.

2. Succession shall not include rights and obligations inseparably connected with the testator himself:

1) membership rights and rights to participate in organizations which are legal entities, unless otherwise provided by legislative acts or by agreement;

2) right to indemnify damages inflicted to the testator's life and health;

3) rights and obligations resulting from alimony obligations;

4) rights to pensions, benefits and other payments provided by Law of Labor and Social Security;

5) personal non-property rights which are not related to property rights.

3. Successors may enjoy and protect personal non-property rights and other intangible benefits owned by testator.

Article 1121. Succession of the Property in Common Joint Ownership

1. The death of the participant of the common joint ownership shall provide the grounds for defining his part in such ownership and sharing the common property or subtracting a share of the deceased from. In this case the succession shall commence on the share of the deceased in the common property, and in the case it is impossible to share the property in kind - on the value of such share.

2. A participant in common joint ownership shall be entitled to bequeath his share in common property which shall be defined after his death in accordance with point 1 of this Article.

Article 1122. Succession of Right to Possess Land Plot of Peasant  
Holding

Succession of the right to lifetime inherited possession of a land plot of the peasant (farm) holding shall be regulated by the rules of this Code, unless otherwise established by law.

Article 1123. Commencement of Succession

1. Succession shall commence as a result of the death of an individual or declaration of his death.
2. The time of the commencement of the succession shall be the day (the moment if necessary) when the testator dies, and in declaration of his death - the effective date of the court decision declaring the death of the individual, unless other date is provided in court decision.
3. In the event persons entitled to succeed one after another died during one calendar day (24 hours), they shall be acknowledged dead simultaneously, succession shall commence after death of each of them, and the successors of each of them shall be called to succession.

#### Article 1124. Place for Commencement of Succession

The place for commencement of the succession shall be the place of the last residence of testator, and in the event this place is not known - the location of the property or of the main part of it.

#### Article 1125. Successors

1. Individuals who are alive on the date of the commencement of succession, as well as those conceived during the testators lifetime and born alive after the commencement of the succession may be heirs at will or heirs at law.
2. Legal entities established before the commencement of the succession and existing by the time of the commencement of the succession, as well as the state and local communities may be heirs at will.

#### Article 1126. Elimination of Unworthy Successors from the Succession

1. Persons who have committed wilful homicide of the testator or of some potential successors or committed some criminal attempt to their lives shall not have the right to succession either intestate or testamentary. Except the cases where the testator names these persons in the will after the criminal attempt to his life.
2. Persons who intentionally obstruct the testator to express his last will or interfered with its performance which leads to their acknowledgment or acknowledgment of their relatives as successors or results in the increase of their share in succession shall not have the right to succession either intestate or testamentary.
3. Parents who outlived their children and who were deprived of parental rights towards them and were not restored in these rights by the time of commencement of the succession, as well as parents (adoptive parents) and major children (adopted children) who avoid to perform obligations of maintaining the testator imposed on them by law shall not have the right to intestate succession.
4. Circumstances providing the grounds for elimination of unworthy successors from the succession shall be defined by a court at the claim of a person who by this elimination shall have property consequences related to succession.
5. Rules of this Article shall also apply to legacy.
6. Rules of this Article shall extend to all the successors including those who have the right to legitime.

### CHAPTER 61 TESTAMENTARY SUCCESSION

#### Article 1127. General Provisions

1. Any declaration of intention of an individual to dispose of his property in case of his death properly formalized shall be deemed a testament.
2. A testament must be perfected by a person himself.  
Perfection of a testament through a representative shall be prohibited.
3. An individual may bequeath all or part of his estate to one person or more who may or may not be heirs at law, as well as to legal entities, the state or bodies of local governments.
4. The testator shall be entitled without explaining the reasons to bequeath to certain successors certain things or shares in the estate, to change the amount of shares, which the successors would have received in absence of the testament, to disinherit one, several or all the heirs at law. Disinheritance of an heir at law shall not extend to his descendants who inherit by representation, unless the testament provides otherwise.
5. The testator shall be entitled to perfect the testament of the disposal of any property.  
The testator shall be entitled to perfect the testament of the disposal of property which he does not own by the moment of perfection of a testament. If he owns such property by the moment of commencement of succession, the corresponding disposal shall be valid.

6. The testator shall be free to cancel and alter a drawn testament at any moment after perfection thereof and shall not be obliged to indicate reasons for cancellation or alteration.

7. The testator shall not be entitled to oblige the persons whom he named as his successors in his testament to administer in a certain way the bequeathed property, in the event of their death.

#### Article 1128. Testament on Condition

1. The testator shall be entitled to condition the receipt of the succession by certain lawful condition, related to the nature of the successor's behavior.

2. Unlawful conditions included into the testament on appointment of a successor and disinheritance shall be invalid.

3. In the event the conditions included into the testament cannot be performed by the successor due to his health or due to other objective reasons, this conditions may be recognized invalid at the claim of the successor.

#### Article 1129. Substitution of Successors

1. For the cases where the successor mentioned in the testament dies before the commencement of the succession, does not accept or renounces the succession, or shall be eliminated from succession as an unworthy successor in the manner stipulated in Article 1126 of this Code, and in the event the successor fails to perform testator's lawful conditions under the testament, the testator may appoint another successor (substitution of successors).

2. Any person who pursuant to this Code is entitled to be a successor may be a substitution successor.

3. Legacy of the heir at will to the disadvantage of the substitution successor shall not be allowed.

#### Article 1130. Succession of the Part of Estate Left Unbequeathed

Part of the estate left unbequeathed shall be allocated among the heirs at law called to succession in the manner of Articles 1141- 1150 of this Code.

These successors include those heirs at law who received the other part of the estate as testamentary succession.

#### Article 1131. General Rules of the Form of the Testament

1. The testament must be in writing stating the time and date of its composition, signed by the testator personally and notarized.

2. In the event due to deformity, sickness or illiteracy of the testator he cannot sign the testament himself, at his request it may be signed by another individual in the presence of the notary or another person certifying the testament, with the statement of the reasons due to which the testator cannot sign the testament himself.

3. Following persons may not sign the testament instead of the testator:

1) the notary or another person certifying the testament;

2) a person to whose favor the testament or legacy is made, the spouse of such person, his children, parents, grand children and great-grand children, as well as testator's heirs at law;

3) individuals who do not have full legal capacity;

4) illiterate and other person unable to read the testament.

#### Article 1132. Notarized Testament

1. Notarized testament must be written by the testator or written by the notary from the words of the testator. In writing the testament from the words of the testator the notary may use widely accepted technical means (typewriter, personal computer etc.).

2. The testament written from the words of the testator by the notary must be carefully read by the testator in the presence of the notary to sign the testament.

In the event due to deformity, sickness or illiteracy the testator cannot read the testament, the text of the testament is read for him out loud by the witness in the presence of the notary, which is recorded in the testament with the statement of the reason due to which the testator was unable to read the testament personally.

3. At the testator's request the testament is certified by the notary without reading the content of the testament (secret testament).

Secret testament under the exposure of invalidity must be personally written and signed by the testator. The testament must be enclosed into an envelope in the presence of two witnesses and the notary, where the witnesses put on their signatures, with indication of their last names, first names and patronymic and permanent place of residence. The

envelope signed by the witnesses shall be enclosed into another envelope in the presence of the witnesses and the notary signs it in certification.

After the testator's death secret testament shall be opened and read by the notary in front of the heirs.

#### Article 1133. Testaments of the Same Status as Notarized Ones

1. The following testaments have the same status as notarized ones:

1) testaments of individuals treated in hospitals and military hospitals, other in-patient medical institutions or living in houses of invalids and aged people certified by the head doctor of these hospitals, military hospitals and other medical institutions, and by heads of the military hospitals, by directors or head doctors of houses of invalids and aged people;

2) testaments of individuals involved in exploratory or other similar expeditions, certified by the heads of these expeditions;

3) testaments of servicemen, and in places of stationing of military units where there is no notary, the testaments of civilians, their family members and the members of the families of servicemen certified by commanders of these military units;

4) testaments of individuals who are kept in places of imprisonment certified by the heads of the places of imprisonment;

5) testaments of individuals living in populated area where there is no state or private notary, certified by a high official of the local self-government.

2. Testaments stipulated in point 1 of this Article must be signed by the testator in the presence of a witness who shall also sign the testament.

In all other cases the rules of Article 1132 of this Code shall apply respectively to such testaments, except the requirements of notarization of a testament.

#### Article 1134. Cancellation and Change of the Testament

1. The testator shall be entitled at any time without giving any reasons to cancel his testament fully or to change it by cancellation, change or amendment of some orders contained in it, having made a new testament.

2. The testament made earlier shall be canceled by the subsequent testament in full or in the part which contradicts it.

3. The earlier testament canceled in full or in part by the subsequent testament shall not be restored, in the event the latter in its turn is canceled or changed by the testator.

#### Article 1135. Privacy of the Testament

The notary, another person, witnesses who certify the testament, and an individual who signs the testament in testator's place may not disclose the information related to the content of the testament, its composition, cancellation or change before the commencement of the succession.

#### Article 1136. Interpretation of the Testament

In interpretation of the testament by the notary, testament executor or by court the literal meaning of the words and phrases therein is taken into account. In the event the literal meaning of a certain provision of the testament is not clear it shall be identified by comparison of this provision with other provisions and the sense of the testament in general.

#### Article 1137. Invalidity of the Testament

1. The testament perfected in an inappropriate form with the breach of the procedure of composing, signing and certifying stipulated in this Code shall be deemed invalid. Invalidity of the testament shall also be based on the rules on the invalidity of transactions herein.

2. The testament may be deemed invalid as a consequence of breach of the procedure for drawing, signing and certifying the testament established by this Code at the claim of a person for whom the invalidation of the testament shall have property related consequences.

3. Invalidity of separate orders in the testament shall not extend to the validity of the rest part of the testament.

4. In the event of the invalidation of the testament the successor who in accordance with this testament was eliminated from the succession shall have the right to intestate succession on general grounds.

#### Article 1138. Execution of the Testament

1. The testator may empower a person named by him in the testament other than his successor (testament executor) to the execute the testament. The consent of this person must be expressed either in personal inscription on the testament itself or in the application enclosed therein.

In the event the executor is not named in the testament, the successors may agree among themselves to empower one of the successors or another person to execute the testament. In the event such agreement is not reached the testament executor may be appointed by a court at the claim of one or several successors.

The testament executor shall have the right to refuse to perform the obligations imposed on him by the testator at any time, having notified the heirs at will in advance. The testament executor may also be relieved of his obligations by a court decision at the claim of the successors.

2. The testament executor must:

1) protect the succession and manage it;

2) take all possible measures to notify all the successors, legatees and persons who have the right to demand the performance of the imposition on the commencement of the succession;

3) collect the amount due to the testator;

4) allocate to the successors the estate payable to them pursuant to the testament of the testator and law;

5) secure the performance of the legacy by the successors (Article 22 of this Code);

6) perform succession imposition or to demand from the heirs at will the performance of succession imposition;

3. The testament executor may enter on his behalf into court and other proceedings related to administration of succession and execution of the testament, and may also be engaged in such proceedings.

4. The testament executor shall perform his functions during a reasonable period necessary to carry out the debt clearance of the succession, collection of the amount due to the testator, and the successors to enter into possession of the succession. In any case the indicated period may not be more than one year from the succession opening date.

5. The testament executor shall be entitled to compensation at the cost of the succession of necessary expenses on administration of the succession and execution of the testament. The testament may provide for the remuneration of the testament executor at the expense of the succession.

6. On execution of the testament the testament executor shall be required to present a report to the successors at their demand.

#### Article 1139. Legacy

1. The testator shall be entitled to impose on a heir at will the performance of some obligation at the expense of the succession (legacy) in favor of one or several persons (legatees) who shall acquire the right to demand the performance of legacy.

Persons included or not included into the number of heirs at law may be legatees.

2. The subject of the legacy may be the transfer of the property included into the succession to the legatee to his ownership, use or to another real right, acquisition and transfer to the legatee of the property not included into the succession, performance of a certain work for him, provision of a certain service, etc.

3. The successor who was imposed the legacy by the testator must perform it only within the limits of the actual value of his succession less the part of the debt of the testator assumed by him.

In the event the successor who was imposed legacy by the testator has the right to legitime in the succession, his obligation to perform the legacy shall be limited by the value of his part of succession which exceeds the value of the his legitime.

In the event the legacy is imposed on all or some successors, it burdens each of them in proportion to their shares in the succession, unless the testament provides otherwise.

4. The testator may impose upon the successor who succeeds a house, an apartment or another residential building the obligation to provide to another person the life use of this building or a certain part thereof. In the subsequent assignment of the title to the residential building the right to life use shall remain in force.

Right to life use shall be inalienable, unassignable and shall not be transferred to the legatee's heirs.

Right to life use granted to the legatee shall not be the ground for the members of his family to reside therein, unless the testament provides otherwise.

5. In the event of the death of the successor who was imposed the legacy or in the event he does not accept the succession, the legacy shall be transferred to other successors who have received his share, or to the state if the property became vacant succession.

The legacy shall not be executed in case the legatee dies before the commencement of the succession.

6. The legatee shall not be liable for the debts of the testator.

#### Article 1140. Imposition

1. The testator may impose on the successor at will the obligation to perform a certain action or to keep away from it to fulfill lawful general utility purpose. The same obligation may be imposed on the testament executor provided the testator apportions part of the estate for performance of this imposition.

2. The rules of Article 1139 of this Code shall relatively apply to the imposition the subject of which is an action of material nature.

3. The obligation to perform the imposition shall expire, in cases where under the circumstances stipulated in this Code, the share of the succession payable to or owned by the successor who had the obligation to perform the imposition, shall be transferred to other successors.

## CHAPTER 62 INTESTATE SUCCESSION

### Article 1141. General Provisions

1. Heirs at law shall be called to succession pursuant to the ranking of priorities stipulated in Articles 1142-1146 of this Code.

2. In intestate succession adopted persons and their descendants on the one hand and adoptive parents and their relatives on the other hand shall be deemed as blood relatives. Adopted persons and their descendants shall not inherit at law after the death of blood parents of the adopted person, his other blood relatives in the line of ascent. Parents of the adopted person and his other blood relatives in the line of ascent shall not inherit in intestate succession after the death of the adopted person and his descendants.

3. Every subsequent priority of heirs at law shall receive the right to succession in the event of the absence of the successors of the prior ranking, their elimination from the succession, their nonacceptance or renunciation of succession.

### Article 1142. Top Priority of the Heirs at Law

Children of the testator, including adopted, as well as the spouse and the parents (adoptive parents) of the testator shall have top priority in intestate succession. Children of the testator who were born after his death shall also be referred to top priority heirs.

### Article 1143. Second Priority of the Heirs at Law

Brothers and sisters of the whole blood and of the half blood of the testator, as well as his grandmother and grandfather both from his father's and from his mother's side shall have second priority in intestate succession.

### Article 1144. Third Priority of the Heirs at Law

Blood aunts and uncles, as well as cousins of the testator both from his father's side and from his mother's side shall have third priority in intestate succession.

### Article 1145. Forth Priority of the Heirs at Law

Other relatives of the testator to the sixth degree of kinship, inclusive, shall have forth priority in intestate succession, where the relatives of higher degree of kinship shall have preemptive right to succession comparing to relatives of lower degree of kinship.

### Article 1146. Fifth Priority of the Heirs at Law

Disabled dependents of the testator shall have sixth priority and equal shares in intestate succession on the basis of Article 1148 of this Code.

### Article 1147. Succession by Representation

1. In the event an heir at law died before the commencement of the succession, his share in the commenced succession shall transfer by representation to his descendants. The share of the deceased heir shall be equally divided among the descendants who are in the same close kinship degree with the said heir at law.

2. In succession in the direct descending line the right of representation shall be effective without any limitations of the degree of kinship, and in succession in collateral consanguinity, nephews (nieces) of the testator, representing his

blood brothers (sisters), or cousins of the testator, representing his blood uncle or aunt shall accordingly receive the right of representation.

#### Article 1148. Disabled Dependents of the Testator

1. Disabled persons who were maintained by him and resided with him for not less than a year shall be heirs at law. In the event there are other heirs at law, they shall inherit together with heirs of that priority which called for succession.

2. Disabled persons referred to heirs at law indicated in Arts. 1143-1145 of this Code but not included in the number of heirs of that priority which is called for succession shall inherit together with heirs of that priority if they were maintained by the testator for not less than a year before his death, regardless whether they lived together with him or not.

3. Persons called for succession on the basis of this Article in case if there are other heirs at law shall inherit together with them not more than one quarter of the succession.

#### Article 1149. Right to the Legitime in the Succession

1. Minor or disabled children of the testator, and his disabled spouse and parents shall inherit, regardless of the content of the testament, no less than half of the share that would be due to each of them in intestate succession (legitime).

2. The legitime shall include everything that the successor having the right to such share receives in testamentary and (or) intestate succession, including the value of the property which consists of pieces of house furniture and household articles, and the value of the legacy given to the successor.

3. Any limitations and encumbrances stated in the testament for the successor who has the right to the legitime shall be valid only in respect to such share of his succession which exceeds the legitime.

#### Article 1150. Spouse's Succession Rights

1. Succession right belonging to a spouse by virtue of testament or at law shall not affect his other property rights connected with marrying the testator including the ownership rights to part of the property commonly acquired during marriage.

2. The court may rule that a spouse may be eliminated from the succession at law, if it is proved that marriage with the testator has actually terminated before the opening of the succession and that spouses were residing separately during no less than five years before the opening of the succession, except for the succession on the basis of Art. 1149 of this Code.

#### Article 1151. Rights to Pieces of House Furniture and Household Articles

Pieces of house furniture and household articles shall transfer to heirs at law who have lived together with the testator for no less than one year before his death, regardless of their priority and amount of the succession share.

#### Article 1152. Protection of the Succession and its Management in Intestate Succession

1. In cases where part of the property is covered in testamentary succession, the testament executor appointed by the testator shall protect and manage the whole property, including the part of the property transferred in the procedure of intestate succession.

The testament executor appointed by heirs at will or by court pursuant to Article 1138 of this Code shall perform the functions of protecting and managing the whole property unless heirs at will demand the appointment of succession manager to perform the stated functions in respect to the part of the property transferred in the procedure of intestate succession.

2. Succession manager shall be appointed by the notary at the place of the commencement of the succession at the request of one heir at law or more. An heir at law who disagrees with the appointment of the succession manager or with his choice shall be entitled to contest the appointment of the succession manager in court.

3. In the event heirs at law are missing or unknown, the local executive body must apply to the notary for appointment of the succession manager. In the event heirs at law appear, the succession manager may be dismissed at the their request with the necessary indemnification of expenses and reasonable remuneration at the cost of the succession.

4. Succession manager shall perform the powers stipulated in Article 1138 of this Code in respect to the testament executor, unless otherwise follows from the peculiarities of intestate succession.

5. Succession manager shall be entitled to indemnification of necessary expenses on the protection of the succession and its management at the cost of the succession, and unless otherwise provided by his agreement with the heirs - to the remuneration.

## CHAPTER 63 ACQUISITION OF SUCCESSION

### Article 1153. General Provisions

1. An heir shall acquire the right to the succession or its part (share) payable to him, since the time of the commencement of the succession, unless later he renounces the succession, is disinherited and loses the right to inherit as a result of invalidation of testamentary disposition on his appointment as an heir.

2. Actions indicated in this Article must be executed within six months from the succession opening date.

### Article 1154. Issue of a Certificate of the Right to the Succession

1. At the place of the commencement of the succession the notary shall issue a certificate of the right to succession to an heir at his request.

2. Certificate of the right to succession shall be issued after expiration of six months from the date of the commencement of the succession.

In both intestate and testamentary succession the certificate may be issued before the expiration of the said period, in the event the notary has information that there are no other heirs in respect to the related property or the succession in general, except for the persons applying for the certificate.

### Article 1155. Consequences of Omitting Deadlines for Accepting Succession

1. If an heir within the established period fails to commit actions provided by Article 1153 of this Code he shall be deemed to have not accepted succession.

2. With the written consent of all heirs to have accepted succession, the heir who was late may file an application on acceptance of the succession.

3. By the claim of the successor who was late for valid reason the court may appoint the additional deadline sufficient for filing an application on the acceptance of succession.

### Article 1156. The Right of a Successor to Renounce the Succession

1. The heir shall be entitled to renounce the succession within six months from the date he came to know or must know that he was called to succession. If there are valid reasons this period may be prolonged by court, however no more than for two months.

2. Renunciation of succession shall be exercised by application submitted by the heir to the notary at the place of the commencement of the succession.

Renunciation of succession through a representative shall be possible provided the power of attorney specifically indicates the authority for such renunciation.

3. Renunciation of succession may not be canceled or taken back later.

4. The heir shall lose the right to renounce the succession after the expiration of the period given to him for this purpose. He shall also lose such right before the expiration of the said period, in the event he actually has taken possession of the succession, or has disposed of it, or applied to receive the documents certifying his title to the property.

5. In renunciation of succession the heir shall be entitled to name other persons out of the heirs at will or at law of any priority in whose favor he renounces the succession.

### Article 1157. Limitations of the Right to Renounce the Succession

1. In the event an heir is called to both testamentary and intestate succession, he may renounce the succession payable to him on one of these grounds or on both.

2. An heir may renounce the succession payable to him by accretion, regardless of the inheritance of the rest part of the succession.

3. In the event of the renunciation of the succession an heir may indicate that he renounces it in favor of other persons out of heirs at will and at law.

4. Except the cases stipulated in this Article renunciation of part of the succession, renunciation of succession with reservations or under conditions shall be prohibited.

#### Article 1158. The Right to Renounce Legacy

1. The legatee shall be entitled to renounce the legacy. Partial renunciation, renunciation with reservations, under conditions or in favor of another person shall be prohibited.

2. The right stipulated in this Article shall not depend on the right of the legatee who is an heir at the same time, to renounce the succession.

3. In the event the legatee uses the right stipulated in this Article, the heir burdened with the legacy shall be relieved from the obligation to perform it.

#### Article 1159. Partition of a Succession

1. Any heir at law who has accepted the succession may demand the partition of the succession.

2. Partition of the succession shall be conducted by the agreement of the heirs in accordance with the shares payable to them, and in the event of the failure to agree - in the court procedure.

2. The rules of this Article shall apply to the partition of the succession between the heirs at will, where the whole succession or part of it was bequeathed to heirs in shares without specifying the property.

#### Article 1160. Rights of Missing Heirs

1. In the event among heirs there are persons whose location is unknown, other heirs, testament executor (succession manager) and the notary shall be obliged to take reasonable measures to determine their location and to call them to succession.

2. In the event called-to-succession missing heir whose location was determined failed to renounce the succession within the period stipulated in Article 1156 of this Code, the rest of the heirs shall be obliged to notify him on their intention to prorate the succession.

If within three months from the date of notification stipulated in the above part the missing heir fails to notify the rest of the heirs on his wish to join the agreement on partition of the succession, the rest of the heirs shall be entitled to prorate under their own agreement, having apportioned the share payable to the missing heir.

3. If within one year from the date of the commencement of the succession the location of the missing heir was not determined and there is no information of his renunciation of the succession, the rest of the heirs may prorate in accordance with the rules of part two of point 2 of this Article.

4. In the event the heir was conceived but not born yet, the partition of the succession may be performed only after the birth of such heir.

If conceived but not born yet heir was born alive, the rest of the heirs shall be entitled to prorate the succession only with the apportionment of the share of succession payable to him. To protect the interests of the newborn a representative from the guardianship and tutorship body must be invited to participate in partition.

#### Article 1161. Succession of the Enterprise

Unless otherwise provided by the testament or by the agreement between all the heirs who have accepted the succession, an enterprise included into succession shall not be subject to partition in kind and shall be transferred to common shared ownership of the heirs proportionately to the shares payable to them.

#### Article 1162. Preferential Right of Certain Heirs to the Property, Included into Succession

1. Heirs who have lived together with the testator during three year before the commencement of the succession shall have preferential right over other heirs called to succession to inherit an apartment, residential house, other residential premise, as well as household articles.

2. Heirs who have right to common ownership to the property together with the testator shall have preferential right over other heirs called to succession to inherit the property which was in common ownership.

3. Where preferential rights established in point 1 and 2 of this Article are exercised, the property interests of other heirs who participate in the partition must be observed. If the property of the succession is not enough to provide the shares payable to them, the heir exercising the preferential right must provide them relevant cash or property compensation.

#### Article 1163. Accretion of Succession Shares

1. In the event the heir renounces the succession or loses his right to succession due to the circumstances indicated in Article 1153, the share which would be payable to such heir shall be transferred to the heirs at law called to succession and shall be allocated among them proportionately to their shares in succession, since other is not provided by the testament.

2. In the event the testator bequeathed the whole estate to heirs named by him, the part of the succession payable to the heir who has renounced the succession shall be transferred to the rest of the heirs at will and shall be allocated among them proportionately to their shares in succession, unless otherwise stipulated by the testament.

3. The rules established in point 1 of this Article shall not apply:

- 1) if the heir who has renounce the succession was substituted by another heir;
- 2) if the heir renounces the succession in favor of a certain person;
- 3) in cases where in intestate succession the renunciation or elimination of the heir results in calling the heirs of the next priority to succession.

#### Article 1164. Expenses Subject to Reimbursement at the Cost of Succession

Claims for reimbursement of necessary expenses caused by before-death disease of the testator, expenses for burial of the testator, expenses connected with the acquisition of the succession, its protection, management and execution of the testament, and payment of remuneration to the testament executor or to the succession manager shall be subject to satisfaction at the cost of the succession prior to its partition among the heirs. These claims shall be subject to satisfaction from the value of the succession prior to all other claims including those secured by the pledge.

#### Article 1165. Collection of the Debts of the Testator by Creditors

Testator's creditors may file their claims, resulting from the testator's obligations, with the testament executor (succession manager) or with the heirs. In this case the heirs shall be liable as joint debtors within the limits of the value of the property transferred to each of them.

#### Article 1166. Vacant Succession

1. In the event there are no heirs either at law or at will, or none of heirs has the right to succession, or they have renounced the succession, the succession shall be deemed vacant.

2. The succession shall be acknowledged vacant by the court on the basis of the application of the local executive body at the place of the commencement of the succession during one year from the date of the commencement of the succession. The succession estate may be acknowledged vacant before the expiration of the said period, in the event the expenses connected with the protection of the succession and its management exceeded its value.

3. Vacant succession shall be transferred to the ownership of local government body at the place of location of respective property, and in case of his renunciation of the property - to the state ownership.

4. Protection and management of the vacant succession shall be performed pursuant to Article 1138 of this Code.

### SECTION VII APPLICATION OF NORMS OF PRIVATE INTERNATIONAL LAW TO CIVIL LAW RELATIONS

#### CHAPTER 64 GENERAL PROVISIONS

#### Article 1167. Determination of Law Subject to Application to Civil Law Relations Complicated with Foreign Element

1. Law subject to application to relationships of private law with participation of foreign citizens or foreign legal entities or complicated with other foreign element shall be determined on the ground of this Code, other laws, international treaties and recognized international customs as well as on the ground of agreement of the parties.

2. Agreement of the parties on the choice of law must be explicitly expressed or directly arise out of clauses of the agreement and circumstances of the case considered aggregately.

3. In the event if in accordance with point 1 of this Article it is impossible to determine the law subject to application, the law shall be administered which is most closely connected with relationships of private law complicated with foreign elements.

4. Application of foreign law regulation may not be limited only on that ground that this regulation has a nature of public law.

#### Article 1168. Legal Qualification

1. Legal qualification by court or other government body of legal concepts shall be based on interpretation thereof in accordance with the law of the Kyrgyz Republic as the country of forum, unless otherwise provided by law.

2. If legal concepts are unfamiliar to the law of the Kyrgyz Republic as the country of forum or are familiar under other names or with other content and may not be determined through interpretation by the law of the Kyrgyz Republic, than the law of the foreign country may be applied to the legal qualification thereof as well.

#### Article 1169. Determination of the Content of Foreign Law Regulation

1. For application of foreign law the court shall determine the content of its regulations in accordance with their formal interpretation, the practice of application and doctrine in a corresponding foreign state.

2. With the purposes of determination of the content of foreign law regulations the court may address by the established procedure for assistance and clarifications to the Ministry of Justice and other competent bodies and institutions, including situated abroad or to involve experts.

3. Individuals participating in the case shall be entitled to provide documents confirming the content of foreign law regulations they refer to as a ground for their claims or objections and otherwise assist the court in determination of the content of these regulations.

4. In case if the content of foreign law regulations despite of measures undertaken in accordance with this article was not determined within reasonable time the law of the Kyrgyz Republic shall be applied.

#### Article 1170. Renvoi to a Third Law

1. Any reference to a foreign law in accordance with the rules of this section except for the cases stipulated in this article must be considered as a reference to the substantive law and not the conflict of laws of the corresponding country.

2. The renvoi to the law of the Kyrgyz Republic and renvoi to a third law shall be accepted in cases of application of foreign law according to Article 1177, points 1,3 and 5 of Article 1178, Articles 1180 and 1183 of this Code.

#### Article 1171. Consequences of Evasion of Law

Agreements and other actions of participants of relationships regulated by this Code, directed to subjection of corresponding relationships to the other law in evasion of rules of this section on the law subject to application, shall be invalid. In this case the law of the corresponding state subject to application in accordance with this section, shall be applied.

#### Article 1172. Reciprocity

1. The court shall apply foreign law regardless of whether the law of the Kyrgyz Republic is applied in corresponding foreign state to the similar relationships, except for the cases when the application of foreign law on the basis of reciprocity is provided by the law of the Kyrgyz Republic.

2. In case if the application of foreign law depends on reciprocity it shall be assumed that it exists as other is not proved.

#### Article 1173. Clause of Public Order

1. Foreign law shall not be administered in cases when its application would contradict to the fundamentals of law and order (public order). In these cases the law of the Kyrgyz Republic shall be applied.
2. Refusal to apply foreign law may not be based only on the difference of legal, political or economical system of the corresponding foreign state and legal, political or economical system of the Kyrgyz Republic.

#### Article 1174. Application of Imperative Norms

1. Rules of this section shall not touch upon the operation of imperative norms of law of the Kyrgyz Republic, regulating corresponding relationships regardless of the law subject to application.
2. For application of law of certain country according to the rules of this section, the court may apply imperative norms of law of other country which has close connection with the relationship, if according to the law of this country such norms must regulate corresponding relationships regardless of the law subject to application. In this event the court must take into account the designation and nature of such norms as well as the consequences of their application.

#### Article 1175. Application of Law of Country with Plurality of Legal Systems

In cases when the law of country with several territorial or other legal systems is subject to application, the legal system shall be administered in accordance with the law of this country.

#### Article 1176. Retorsions

The government of the Kyrgyz Republic may establish reciprocal restrictions (retorsions) on the rights of individuals and legal entities of those states which have special restrictions on rights of individuals and legal entities of the Kyrgyz Republic.

### CHAPTER 65 RULES GOVERNING CHOICE OF LAWS

#### § 1. Persons

#### Article 1177. Private Law of Physical Person

1. The personal law of an individual shall be the law of country of citizenship of this individual. In case of two or more citizenship of the individual the personal law shall be the law of the country which the individual is most closely connected with.
2. The personal law of the individual without citizenship shall be the law of the country where this individual permanently resides.
3. The personal law of the refugee shall be the law of the country having granted the asylum.

#### Article 1178. Legal Capacity and Operational Capability of Individual

1. Legal capacity and operational capability of the individual person shall be determined under his personal law.
2. Foreign citizens and individuals without citizenship shall have in the Kyrgyz Republic legal capacity equally with citizens of the Kyrgyz Republic except for the cases established by the laws or international treaties of the Kyrgyz Republic.
3. Operational capability of the individual related to transactions and obligations arising in the result of injurious action shall be determined under the law of the country of place of transactions or obligations arising out of injurious action.
4. Capacity of the individual carrying out business activity to be individual businessman and to have rights and obligations related thereto shall be determined under the law of the country where the individual is registered as an individual businessman. Should the country of registration be absent, the law of the country of basic place of individual business activity shall be administered.
5. Acknowledgment of the individual incapable or partially capable shall be subordinated to the law of the country of court.

#### Article 1179. Acknowledgement of Individual Missing and

## Declaration of His Death

Acknowledgement of the individual missing and declaration of his death shall be subordinated to the law of the country of forum.

### Article 1180. Name of Individual

Rights of the individual to his own name, its use and protection shall be determined under his private law as other does not arise out of the rules provided by subpoint 2 of point 2, point 4 of Article 54, Articles 1188 and 1189 of this Code.

### Article 1181. Registration of Acts of Civil Status of Citizens of the Kyrgyz Republic outside the Bounds of the Kyrgyz Republic

Registration of acts of civil status of citizens of the Kyrgyz Republic, residing outside the bounds of the Kyrgyz Republic, shall be performed in consular institution of the Kyrgyz Republic. In this event legislation of the Kyrgyz Republic shall be administered.

### Article 1182. Acknowledgment of Documents Issued by the Bodies of Foreign State in Certification of Acts of Civil Status

Documents issued by competent bodies of foreign state in certification of acts of civil status committed outside of the bounds of the Kyrgyz Republic according to the laws of corresponding states to citizens of the Kyrgyz Republic, foreign citizens and persons without citizenship shall be considered valid in the Kyrgyz Republic should there be legalization of these documents.

### Article 1183. Guardianship and Tutorship

1. Guardianship and tutorship over minors, incapable or partially capable adults shall be established and canceled by the law of the country of forum.

2. Obligation of the guardian (tutor) to take over the guardianship (tutorship) shall be determined under the private law of the person appointed as a guardian (tutor).

3. Legal relationships between the guardian (tutor) and a person being under the guardianship (tutorship) shall be determined under the law of the country institution of which has appointed the guardian (tutor). However, if the person being under guardianship (tutorship) resides in the Kyrgyz Republic, the law of the Kyrgyz Republic shall be applied if it is more favorable for this person.

4. Guardianship (tutorship) established over citizens of the Kyrgyz Republic residing outside the bounds of the Kyrgyz Republic shall be recognized valid in the Kyrgyz Republic if there are no objections based on the law of corresponding consular institution of the Kyrgyz Republic against the establishment of guardianship (tutorship) or against acknowledgment thereof.

### Article 1184. Law of Legal Entity

Law of the legal entity shall be the law of the country where this legal entity is founded.

### Article 1185. Legal Capacity of Legal Entity

1. Legal capacity of the legal entity shall be determined under the law of the legal entity.

2. Foreign legal entity may not refer to restrictions on authorities of its body or representative for entering into the transaction not familiar to the law of the country where the body or representative of the foreign legal entity has concluded transaction.

### Article 1186. National Regime of Activity of Foreign Legal Entity in the Kyrgyz Republic

The foreign legal entity shall carry out in the Kyrgyz Republic business and other activity regulated by the civil legislation in accordance with regulations established by this legislation, unless otherwise provided by the law of the Kyrgyz Republic for foreign legal entities.

Article 1187. Participation of State in Civil Relationships with  
the Foreign Element

The rules of this section shall be applied to civil relationships with the foreign element with participation of the state on the general grounds, unless otherwise provided by the law.

§ 2. Personal Non-property Rights  
Intellectual Property

Article 1188. Protection of Personal Non-Property Rights

Personal non-property rights shall be governed by the law of the country where the action or other circumstance has taken place which was the ground for claiming protection of such rights.

Article 1189. Rights to Intellectual Property

1. The rights to intellectual property shall be governed by the law of the country where the protection of these rights is solicited.

2. Contracts of rights to intellectual property shall be regulated by the law determined according to the provisions of this section on contractual obligations

§ 3. Transactions, Representation, Limitation  
of Actions

Article 1190. Form of Transaction

1. Form of transaction shall submit to the law of place of transaction. However, the transaction concluded abroad may not be recognized invalid in the consequence of failure to comply with the form if the requirements of the law of the Kyrgyz Republic were observed.

2. Foreign economic transaction at least one of the participants of which is the legal entity or individual of the Kyrgyz Republic shall be formalized in writing regardless of the place of transaction.

3. Form of transaction with immovable property shall submit to the law of the country where this property is located , and in case of immovable property, that which is registered in state registry in the Kyrgyz Republic under the law of the Kyrgyz Republic.

Article 1191. Power of Attorney

Form and effective period of the power of attorney shall be determined under the law of the country where the power of attorney was issued. However, the power of attorney may not be deemed invalid in the consequence of incompliance with the form if the latter meets the requirements of the law of the Kyrgyz Republic.

Article 1192. Limitation of Actions

1. Limitation of actions shall be determined under the law of the country administered for regulating the corresponding relationship.

2. Claims not subject to limitation of actions shall be determined under the law of the Kyrgyz Republic, if at least one of the participants of the corresponding relationship is the citizen of the Kyrgyz Republic or legal entity of the Kyrgyz Republic.

§ 4. Real Rights

Article 1193. General Provisions of Law Applicable to Real Rights

1. Proprietary right and other real rights to immovable and movable property shall be determined under the law of the country where this property is located, unless otherwise provided by the laws of the Kyrgyz Republic.

2. Classification of property as immovable or movable things as well as other legal relationship classification shall be determined under the law of the country where this property is located.

#### Article 1194. Perfection and Termination of Real Rights

1. Perfection and termination of real rights to property shall be determined under the law of the country where this property has been located by the moment of the action or other circumstance which became a ground for perfection or termination of real rights, unless otherwise provided by the laws of the Kyrgyz Republic.

2. Perfection and termination of real rights to the property being the subject of transaction shall be determined under the law of the country to which this transaction submits, unless otherwise established by the agreement of parties.

3. Perfection of proprietary right to the property as a consequence of the prescription shall be determined under the law of the country where the property has been located by the moment of completion of the prescription.

#### Article 1195. Real Rights to Transport Vehicles and Other Property Subject to State Registration

Real rights to transport vehicles and other property subject to state registration shall be determined under the law of the country where these transport vehicles or property are registered.

#### Article 1196. Real Rights to Movable Property en Route

Proprietary right and other real rights to movable property en route in transaction shall be determined under the law of the country from which this property has been sent, unless otherwise established by the agreement of parties.

#### Article 1197. Protection of Real Rights

1. Protection of proprietary right and other real rights shall be governed by choice of the applicant by the law of the country where the property is located or the law of the country of forum.

2. Protection of proprietary right or other real rights to immovable property shall be governed by the law of the country where this property is located. To the registered property which is included in the state registry of the Kyrgyz Republic the law of the Kyrgyz Republic shall be administered.

### § 5. Contractual Obligations

#### Article 1198. Choice of Law by the Agreement of Parties

1. The contract shall be regulated by the law of the country agreed upon by parties, unless otherwise provided by the law.

2. Parties to the contract may chose an applicable law both to the contract in general and to its separate sections.

3. Choice of applicable law may be committed by the parties to the contract at any time both at the moment of signing the contract and thereafter. Parties may also agree at any time on change of the law applicable to the contract.

#### Article 1199. Law Applicable to Contract in Absence of Agreement of Parties

1. Should there be no agreement of parties to the contract about the law subject to application to this contract, the latter shall be governed by the law of the country of foundation, whereabouts or place of major activity of the party which is being a:

- 1) seller - in sale contract;
- 2) donor - in donation contract;
- 3) lessor or lender - in lease agreement (bailment for hire);
- 4) lender - in contract of gratuitous use of the property;
- 5) contractor - in work contract;
- 6) carrier - in contract of carriage;
- 7) forwarder - in contract of forwarding;
- 8) creditor - in loan or other credit agreement;

- 9) agent - in contract of agency;
- 10) commission agent - in commission contract;
- 11) bailee - in contract of bailment;
- 12) insurer - in insurance agreement;
- 13) guarantee - in contract of guarantee;
- 14) pledgor - in pledge agreement;
- 15) licensor - in exclusive license agreement.

2. Should there be no agreement between the parties to the contract about the law subject to application regardless of provisions of point 1 of this Article following shall be applicable:

- 1) to the contract of immovable property - the law of the country where this property is located.
- 2) to the contracts of joint activity and contracts for construction, erection and other works of capital construction - the law of the country where such activity is performed or results provided by the contract are created.
- 3) to the contract signed at the auction, tender or exchange - the law of the country where auctions, tender are conducted or exchange is located.

3. To the contracts not enlisted in points 1-2 of this Article with no agreement between the parties about the law subject to application, the law of the country of foundation, whereabouts or place of major activity of the party which performs execution of crucial meaning for such contract shall be applied. In the event if it is impossible to determine the execution of crucial meaning for the contract the law of the country with which the contract is tied most closely shall be administered.

#### Article 1200. Law Applicable to Contract of Establishment of Legal Entities with Foreign Participation

The contract of establishment of legal entities with foreign participation shall be administered by the law of the country where the legal entity is registered.

#### Article 1201. Scope of Applicable Law

1. The law applicable to the contract in force of provisions of this point shall cover in particular:

- 1) interpretation of the contract;
- 2) rights and obligations of parties;
- 3) execution of the contract;
- 4) consequences of default or improper execution of the contract;
- 5) termination of the contract;
- 6) consequences of void or invalid contract;
- 7) cession of claims and transfer of debt pursuant to the contract.

2. With regard to means and procedure of execution as well as measures which must be taken in case of improper execution besides the applicable law, the law of the country where the execution takes place shall be taken into account.

### § 6. Extra Contractual Obligations

#### Article 1202. Obligations Arising out of Unilateral Actions

Obligations out of unilateral actions (public promise of award, activity in someone's interest without agency and others) shall be governed by rules of § 4 of this section.

#### Article 1203. Obligations Arising out of Inflicting Damage

1. Rights and duties under obligations arising out of inflicting damage shall be determined under the law of the country where action or other circumstance served as grounds for claims for indemnification of damage.

2. Rights and duties under obligations arising out of inflicting damage abroad if the parties are citizens or legal entities of one and the same state shall be determined under the law of this state.

3. Foreign law shall not be applied if the action or other circumstance as grounds for claiming for indemnification of damage under the legislation of the Kyrgyz Republic is legal.

#### Article 1204. Liability for Damage Inflicted to Customer

The claim for indemnification of damage incurred to the customer with regard to purchase of the commodity or rendering of service to the customer's discretion following shall be applied:

- 1) law of the country of whereabouts of the customer;
- 2) law of the county of whereabouts and place of the manufacturer or the person having rendered the service;
- 3) law of the country where the customer bought the commodity or the service was rendered.

#### Article 1205. Groundless Enrichment

1. The obligations arising out of groundless enrichment shall be governed by the law of the country of enrichment.
2. If the groundless enrichment arises out of defection of grounds on which the property was purchased or saved shall be governed by the law of the country to which these grounds were subject to. The concept of groundless enrichment shall be determined under the law of the Kyrgyz Republic.

### § 7. Law of Succession

#### Article 1206. Relation of Succession

Relations of succession shall be determined under the law of the country where the estate-leaver had last permanent residence as other is not provided by Articles 1207 and 1208 of this Code, unless the testator chose in the testament the law of country of his citizenship.

#### Article 1207. Ability of Persons to Draw up and Cancel Testament, Form of Testament and Act of its Cancellation

Ability of the person to draw up and cancel the testament as well as the form of the testament and act of its cancellation shall be determined under the law of the country where the estate-leaver had permanent residence at the moment of drawing up the act, if the estate leaver has chosen in the testament the law of the country of his citizenship. However, the testament or its cancellation may not be recognized invalid in the consequence of failure to comply with the form, if the latter meets the requirements of the law of the place of drawing up the act or the requirements of the Kyrgyz Republic.

#### Article 1208. Succession of Immovable Property and Property Subject to State Registration

Succession of immovable property shall be determined under the law of the country where this property is located and the property registered in the Kyrgyz Republic - under the law of the Kyrgyz Republic.

President of the Kyrgyz Republic A.Akaev

Adopted by the Legislative Assembly of the  
Jogorku Kenesh of the Kyrgyz Republic December 5, 1997