



MINISTÉRIO DAS
FINANÇAS
REPÚBLICA DE ANGOLA



PUBLIC PROCUREMENT **LAW**



Law N° 9/16 Of June 16

With the approval of Law N° 20/1 of September 7, which established the general bases and the legal regime related to the public procurement, it was possible to unify, in the same legal instrument, the public works contracting regime, acquisition of goods and services, and also granting of public works or public services, allowing to safeguard the principles provided for by the Constitution of the Republic of Angola for the operation of the State administration;

In the interim, on April 2013, the Law N° 3/13 of April 17 was approved, which proceeded with the specific amendment to the Law N° 20/10 of September 7, namely Paragraph 2 of Article 41. This is aimed at aligning the competency to authorize the expense with the competency to appoint the Assessment Committee, as well as adding a new Paragraph to the same Article, allowing the Executive Power to create an administrative model of constituting and designating technical and specialized services in public procurement procedures, whose competency to authorize the expenses falls under its responsibility.

Over 5 years since Law N° 20/10 of September 7 was passed, now a revision is justified. Said revision is more comprehensive and is aimed at filling the gaps detected and introducing the refinements that the law enforcement deemed required.

With the goal of modernizing and simplifying the public procurement procedures, the new item is the provision on the express inclusion of the simplified procurement procedure applicable to the execution of the reduced value contracts. This includes the material situations that justify adoption of a non-competition procedure, elimination of the qualifying stage for the bid tender, clarifying the difference between this procedure and the bid tender limited by prior qualification; elimination of the negotiating procedure, simultaneously providing for the competency of the public contracting entity to include in any public contracting procedure a bid negotiating stage; elimination of the special procedure named “electronic dynamic acquisition systems”, considering that the national and international practice revealed its near-nullity in its use, elimination of the special procedure for the procurement of consulting services, from

then on being submitted to the general contracting regime applicable to the acquisition of services; institution of a new regime devoted to the to the master agreements, as special contracting instruments;

However, this Law goes beyond than ever it was achieved in the national tradition regarding unification and uniformity of creation and execution of public contracts. For that purpose, the legal instrument encompasses the regime for creation of more relevant contracts in the administrative practice, that is, execution of contracts related to contract works, leasing and acquisition of goods and services. Accordingly, the current legislative scenario is amended, in which, among the main contracts made and entered into by the Public Administration, only the contract works are specifically governed by law, originating worrisome gaps and an intolerable legal insecurity with regard to rights and obligations by the Parties of the usual contracts that the Public Administration executes and whose object is the goods and services;

However, it does not prejudice the maintenance of the previous regime essentials of execution of public contract works, whose discipline the Law has been governing in a detailed fashion. Its discipline is consolidated and deep-rooted in the practice of the public contracting entities;

As a consequence of the amendments carried out and taking into account the expansion of the Law scope enforcement, the name of “Public Procurement Law” has been changed to “Public Contracts Law”.

In summary, with this new regime of public contracts creation and execution, it is intended to provide its public and private operators with an enforcement that is easier, more uniform and more coherent, with a goal to promoting the principles of public interest, equality, impartiality, transparency, economy probity, efficiency, effectiveness and respect for public patrimony;

Finally, it should be noted that the legal regime, now retired, encourages and fosters the participation of the Angolan entrepreneurship, through the granting to the various public contracting entities of a number of mechanisms, cross-sectional to the various procedures, which allow promoting its preferred contracting e prioritizing the national production;

Now, therefore, the National Assembly approves, as the people mandates, in terms of the combined provisions of Subparagraph b) of Article 161, Paragraph 2 of Article 165

and Subparagraph d) of Paragraph 2 of Article 166, all of the Constitution of the Republic of Angola, the following:

PUBLIC CONTRACTS LAW

TITLE I General Principles

CHAPTER I General Provisions

Article 1 (Object)

This Law establishes the legal regime for creation and execution of public contracts.

Article 2 (Scope)

1. This Law is applicable to public contract works, leasing or acquisition of movable goods and services made and entered into by a public contracting entity, as well as:

- a) Creation of other contracts to be completed by public entities, which are not subject to a special legal regime;
- b) Creation of contracts whose materialization is carried out through a Public and Private Partnership;
- c) Notwithstanding the provisions of Subparagraph b) of Article 7 of this Law, this is, likewise, applicable to contracts made and entered into by the defense, security and internal order bodies.

2. The execution of public contracts not governed by this Law is applicable additionally to the provisions of Title V or VI, as per the specificity of the case.

Article 3 (General Principles)

The creation and execution of public contracts are especially applicable to the principles of public interest fulfilment, justice, equality, competition, impartiality, transparency, probity, economy, efficiency, effectiveness and respect for the public patrimony.

Article 4

(Good Practices of Corporate Governance in the Creation and Execution of Public Contracts)

1. The economic operators that participate in the creation and execution of contracts subject to this Law shall abide by the corporate governance principles and rules, namely regular provision of information, organized accounting, internal control systems and social and environmental accountability.

2. In the contracts earmarked to be in force within a period of time longer than 3 years, the candidates or competitors shall document in the respective procedure the adoption of good corporate governance compatible with the standards recommended in Angola by the reference institutions, as well as with the publication of annual report on good corporate governance or equivalent document.

Article 5 (Definitions)

For the purposes of this Law, the following terms shall have the meaning as follows:

- a) "Master agreement", a contract by which one or more public contracting entities discipline the terms and conditions applicable to the contracts to be made and entered into with one or more entities during a determinate period of time;
- b) "Awarding", an act by which the supervising body, for the decision to hire, accepts the sole bid as presented or chooses one among the various presented;
- c) "Acquisition of movable goods", a contract by which a public contracting entity acquires movable goods, including merchandise and livestock assets from a supplier through payment of a price;
- d) "Acquisition of services", a contract by which a public contracting entity obtains a certain result of manual, intellectual or consulting work through payment of a price;
- e) "Candidate", a person or corporate body that takes part in a qualification phase of a bid tender limited by prior qualification and through presentation of an application;
- f) "Granting of public works", a contract by which the

co-contracting party, concessionaire, shall, before a public contracting entity, granting entity, the performance or design and performance of a public work, through the exploration counterpart of said work for a determinate period of time and, if so stipulated, the right to payment of a price;

g) "Granting of public services", a contract by which the co-contracting party, concessionaire, shall, before a public contracting entity, granting entity, manage, on its behalf and under its responsibility, a public service activity for a determinate period of time, being remunerated directly by the granting entity or through the whole or part of the granted activity;

h) "Candidate", a person or corporate body that takes part in any procedure to create a contract through presentation of a bid;

i) "Bid tender limited by invitation", a procedure of public procurement in which the public contracting entity invites various persons or corporate bodies to put forward a bid, based on the registration stipulated in Article 13 of this Law or based upon the ability procedure or recognized credibility for the execution of the intended contract;

j) "Bid tender limited by prior qualification", a procedure of public procurement in which the public contracting entity allows that any interested party can participate as a candidate. The selected candidates are invited to present a bid, following the assessment of their technical and financial ability;

k) "Bid tender", a procedure of public procurement in which the public contracting entity allows that any interested party can participate as a competitor;

l) "Simplified contracting", a procedure of public procurement in which the public contracting entity invites a person or corporate body to put forward a bid;

m) "Public works contracts", a contract whose object is any construction works or civil engineering design and construction, reconstruction, expansion, alteration or adaptation, repair, conservation, cleaning, restoration, adaptation, improvement and demolition of real estates, to perform on behalf of a public contracting entity, through payment of a price;

n) "Leasing of movable property", a contract by which a leaser shall provide the public contracting entity with

a temporary enjoyment of a movable property, through rewarding, and it may be as a lease, financial lease or lease that involves the purchase of leased goods;

o) "Bid", a document by which a bidder indicates to the public contracting entity the willingness of hiring and presents the conditions it is available to do so.

Article 6

(Public Contracting Entities)

For the purposes of this Law, public contracting entities are as follows:

a) The President of the Republic, Central and Local Administration Bodies of the State, Courts, Attorney General Office, Independent Institutions and Administrative Entities and the Angolan Representations Overseas;

b) Local authorities;

c) Public Institutes;

d) Public Funds;

e) Public Associations;

f) Public companies, companies with public domain, as established by Law.

Article 7

(Exclusion of Enforcement)

1. The following are excluded from the scope of this Law, whatever the values:

a) The contracts made and entered into by virtue of rules of an international organization, which the Republic of Angola is part of;

b) The contracts for the acquisition of weapons and military and police techniques related to the State Defense and Security or others that are declared secret under the law;

c) The contracts for leasing or acquisition of real estates;

d) The contracts whose creation procedure and/or whose execution are governed by a special law with re-

gard to matters encompassed by said law;

e) The contracts made and entered into with contractors, supplier of goods or services that are themselves a public contracting entity, unless when the economic activity developed by them, they subject themselves to the market logics and free competition;

f) The contracts for acquisition of financial services related to the issuance, purchase and sale or transfer of securities or other financial products, as well as the services provided by the National Bank of Angola.

2. The following are also excluded from the scope of this Law: the contracts made and entered into by the Public Companies and the Companies with Public Domain, whose amount is lower than the limits provided for in Annex I of this Law.

3. In the creation and execution of contracts mentioned in the preceding Paragraphs, the public contracting entities are bound to abide by the general principles of this Law and those that govern the administrative activity, unless when such opposes to the nature or object of the contract.

CHAPTER II

Ethics in Creation and Execution of Public Contracts

Article 8

(Conduct of Civil Servants)

1. The servants and agents of the public contracting entity involved in the planning, preparation or performance of the public procurement procedures or execution of the public contracts, as well as the Assessment Committee members, shall:

- a) Perform their tasks in an impartial fashion;
- b) Act according to the public interest and pursuant to the objectives, norms and procedures provided for in this Law;
- c) Avoid conflicts of interest, as well as apparent conflicts of interest, in the performance of said tasks;
- d) Avoid the practice, participation or support of fraudulent acts or under the terms of active or passive corrup-

tion;

e) Abide by the laws, regulations and norms related to the conduct of civil servants and the general regime for impediment and incompatibility in force in the public administration;

f) Keep secret, treating as confidential all the information obtained in line with the procedure they are well aware of, unless otherwise provided for by this Law.

2. The persons mentioned in the preceding Paragraph who have any patrimony interest, direct or indirect, in the creation or execution of the public contracts shall immediately inform the supervising entity with the decision of hiring. They shall refrain from, in any manner, participating in this procedure, taking part in discussions or deliberations.

3. Any persons referred to in Paragraph 1 of this Article, during the performance of their tasks, are forbidden to:

a) Participate whatsoever, directly or indirectly, in public contracting procedures or impugnation processes related to these procedures, over which they have a financial interest or other interest, or through their spouse, children or any other relative or kinship in direct line or until the third degree, person who lives with in non-marital partnership or in common economy or of which is a partner or business associate;

b) Practice or cease to practice any act with the goal or expectation of obtaining any inappropriate payment, offer, favor or advantage, for themselves or for any other person or entity;

c) Influence or seek to influence any action or deliberation of the Assessment Committee or decision of any member of said Committee for the purposes or expectation of obtaining any inappropriate payment, offer, favor or advantage, for themselves or for any other person or entity;

d) Solicit or receive, directly or indirectly, any inappropriate payment, offer, favor or advantage, for themselves or for any other person or entity;

e) Seek or negotiate any work or contract with a person or entity interested in the procedure.

4. The provisions of Subparagraph e) of the preceding Paragraph are also applicable during the twelve mon-

ths after the end of their tasks.

5. Any of the persons, referred to in Paragraph 1 of this Article, shall annually declare, in the form prescribed by a specific normative act of the President of the Republic, their revenues and that of their family members, as well as their investments, assets and substantial offers or benefits of which may result in conflict of interests related to their tasks.

6. The declarations mentioned in the preceding Paragraphs shall be confidential and shall not be publicly released. They shall be strictly used aimed at the supervising the compliance with the provisions of this Article.

7. Notwithstanding the civil and criminal liability, the breach of the obligations provided for in this Article subjects the violator to a disciplinary proceeding under the law.

Article 9 (Conduct of Interested Parties)

1. The interested parties in public procurement procedures shall not involve themselves, participate or support the following:

a) Corrupt practices, such as offering any asset advantages, aimed at inappropriately influencing deliberations or decisions to be made during the procedure;

b) Fraudulent practices, such as intentional declaration of false or wrong facts, with the objective of obtaining favorable deliberations or decisions in contracting procedures or execution of a contract;

c) Practices restrictive of competition, translated into any acts of collusion or simulation between interested parties, at any moment of the procedure, namely aimed at artificially establishing the bid price, prevent any interested parties from participating in the procedure or, in any manner, preventing from, render false or restricting the competition;

d) Criminal practices, such as threats to people or entities, aimed at coercing them to take part or not in contracting procedures;

e) Any other practices, ethically or specially censurable.

2. The public contracting party, which is made aware

re of the practices stipulated in the preceding Paragraph, shall:

a) Rule out the bid as presented by this party interested in the contracting procedure, notifying it of the exact reasons for the exclusion;

b) Inform the body responsible for the public contracting regulation and supervision of the illegal practice that occurred and the exclusion carried out.

3. Notwithstanding other administrative procedures in some of the practices stipulated in this Article, said interested parties may also be prevented from participating, for the period from one to three years, in other public contracting procedures under the law.

4. The ruling and decision on the process associated with the impediment established in the preceding Paragraph, as well as the inclusion of the entity penalized on the list of referred to in the Paragraph 4 of Article 56 of this Law falls under the competency of the body responsible for the regulation and supervision of the public contracting.

Article 10 (Denunciation of Illegal Practices)

1. Anyone who, by any way, learns about the occurrence, attempt or imminence of occurrence of any of the illicit practices provided for in Article 8 and 9 of this Law, shall immediately communicate this fact to the supervising entity with the decision to hire to the body responsible for regulating and supervising the public contracting and any other bodies of supervision or inspection with regards to public contracting.

2. The participations of good faith, even the facts that may be found out as false, shall not be object of any administrative penalty or any other provided for by law.

3. Notwithstanding the provisions of the preceding Paragraph, the false denunciations carried out with willful misconduct or gross negligence shall be punishable under the law.

4. Whenever any complain is deemed ungrounded, the public contracting entity shall, immediately upon learning about the false complain, restore the situation that would exist should there be no complain.

CHAPTER III

Body Responsible for Regulating and Supervising of Public Procurement, Portal for Public Procurement, Registration and Certification of Suppliers

Article 11

(Body Responsible for Regulating and Supervising of Public Procurement)

1. The operation, regulation, inspection, observation, auditing and supervision of the public procurement system shall be secured by the body responsible for regulating and supervising the public procurement.
2. The rules on the organization, activity and operation of the body responsible for regulating and supervising the public procurement are established in specific normative act of the President of the Republic.

Article 12

(Portal for Public Procurement and Electronic Platforms)

1. The Portal for Public Procurement is the privileged means for centralizing and publicizing the information on the public procurement system.
2. The rules for the operation and use of electronic platforms by the public contracting entities, as well as the rules related to the inter-connection of said entities with the Public Procurement Portal are established in specific normative act of the President of the Republic.

Article 13

(Registration and Certification of Suppliers)

1. The registration of suppliers is a centralized system for gathering and maintenance of information on contractors, suppliers of goods and service providers that make and enter into contracts with public contracting entities;
2. In line with the registration mentioned in the preceding Paragraph, the certification of contractors, suppliers of goods and service providers may be carried out, regarding which there is confirmation of their professional good standing and qualifications, for the purposes of Paragraph 7 of Article 58 of this Law.
3. The rules applicable to the certification of suppliers

are those established in specific normative act of the President of the Republic.

CHAPTER IV

Administrative Impugnation

Article 14

(Applicable Regime)

The administrative impugnation of acts exercised in the framework of the creation and execution of public contracts is governed by this Chapter and, additionally, by the provisions of the administrative procedure norms.

Article 15

(Impugnable Acts and Nature)

1. Any acts practiced by the public contracting entity are susceptible to administrative impugnation in the framework of the procedures of this Law that may violate the interests legally protected of the individuals.
2. For the purposes of the preceding Paragraph, any procedures provided for in Article 44 of this Law are susceptible to direct impugnation.
3. The claims included in the public act, as well as the hierarchical appeals presented as a result of the deliberations of the Assessment Committee, which decide on said claims, shall be mandatory.
4. The administrative impugnation not included in the provisions of the preceding Paragraph is optional.

Article 16

(Impugnation Timeframe)

The administrative impugnation shall be put forward within 5 (five) days as from the notice on the act to be disputed, unless any other timeframe is stipulated in this Law.

Article 17

(Presentation of Impugnation)

1. The claims shall be addressed to the author of the act to be disputed.
2. The hierarchical appeals and the inappropriate hierarchical appeals shall be presented respectively to the hierarchical superior of the author or to the supervising

body.

3. The interested party shall explain in the claim or petition for presentation of hierarchical appeal or also inappropriate hierarchical appeal, all the grounds for impugnation and it may add the documents it deems required.

4. The hierarchical appeals and the inappropriate hierarchical appeals shall be presented before the public contracting entity, in hard copy or through the respective electronic platform, and shall always be accompanied by the duplicate addressed to the body responsible for regulating and supervising the public procurement.

5. The bodies, to which a hierarchical appeal or inappropriate hierarchical appeal are addressed, shall advise of the respective decision to the body responsible for regulating and supervising the public procurement on whether the impugnation presented is founded or unfounded.

Article 18 (Effects of Impugnation)

1. The presentation of administrative impugnation has no suspensive effect.

2. As long as the administrative impugnation is not decided or the timeframe for the respective decision has not elapsed, it is not possible to proceed, as the case may be, with the following:

- a) Decision on qualification;
- b) Commencement stage of the negotiation;
- c) Decision on awarding;
- d) Execution of the contract.

Article 19 (Hearing of Counter-Interested Parties)

When the administrative impugnation has, as the object, the decision on the qualification or decision on the awarding, the competent body, to be aware of it, shall, within five days of the respective presentation, give notice to the candidates or competitors, should they like, to give an opinion within five days on the petition and its grounds.

Article 20 (Impugnation of Decision)

1. The administrative impugnation shall be decided within five days of the date of presentation, and the silence shall be deemed as approved.

2. Should there be hearing of counter-interested parties, the timeframe for the decision shall be from the end of the term established for that hearing.

3. The interested entities, which, out of ill-faith resort to administrative impugnation, rendering inoperative any phase of the procedure, shall be hereby forbidden to take part in any public contracting procedures, during a period of time of up to three years, established according to the seriousness of their conduct, estimated contract value and the losses they have caused.

4. The competence to instruct and decide on the processes associated with the impediment enforcement as provided for in the preceding Paragraph falls under the body responsible for regulating and supervising the public contracting.

Article 21 (Judicial Appeal)

The decisions put forward on the administrative impugnation shall be susceptible to litigious appeal under the law.

TITLE II Types and Selection of Procedures

CHAPTER I (Types of Procedures and Selection of Procedure According to Contract Estimated Value)

Article 22 (Procedures to Create Contracts)

1. Notwithstanding the contracting special rules provided for in Chapter VI of Title III of this Law to create the contracts subject to the this Law, the public contracting entities shall adopt one of the following types of procedures:

- a) Bid tender;
- b) Bid tender limited by prior qualification;
- c) Bid tender limited by invitation;
- d) Simplified contracting.

2. In any of the procedures stipulated in the preceding Paragraph, the public contracting entities may elect to in-

clude a bid negotiating phase.

Article 23

(Estimated Contract Value)

1. Notwithstanding the material procedure selecting criteria provided for in Articles 27 to 30 of this Law, the selection of the type of procedure shall be carried out pursuant to the contract estimated value.

2. For the purposes of this Law, the maximum estimated value shall be the basic price that the public contracting entity makes it available to pay for compensation for the execution of the contract to be made and entered into.

3. The estimated contract value shall be calculated according to the economic value of all the contractual services, object of the contract, to be executed.

4. Should a lower value not be stipulated in the tender documents, the base price corresponds to the lowest of the following values:

a) The maximum value of the contract to be executed permitted by the selection of the procedure, when this is adopted under the provisions of Paragraphs 2 and 3 of the following Article;

b) The competence limit, established by law or delegation, to authorize the expense associated with the contract to be executed.

Article 24

(Selection of the Type of Procedure According to Contract Estimated Value)

1. The selection of procedure for bid tender or bid tender limited by prior qualification when the contract estimated value is equal to or higher than the level 6 of the Table on Value Limits included in Annex II of this Law.

2. The selection of procedure for bid tender limited by invitation only allows the execution of contracts with an estimated value lower than the level 6 of the Table on Value Limits included in Annex II of this Law.

3. The selection of procedure for simplified contracting only allows the execution of contracts with estimated value is equal or lower than the level 1 of the Table on Value Limits included in Annex II of this Law.

4. The public contracting entity may also, if deemed required, adopt the procedures for bid tender or bid tender limited by prior qualification when the contract estimated value is lower than the value referred to in Paragraph 1 of this Article.

Article 25

(Division into Parts)

When contractual services of the same type, susceptible to constituting object of a sole contract, are split into various parts, each one of them corresponding to a separate contract, the value to be considered, for the purposes of selecting the procedure applicable to the creation of the contract related to each part, shall be the sum of the estimated values of the various parts.

CHAPTER II

Selection of Procedure According to Material Criteria

Article 26

(General Rule)

The selection of procedure for simplified contracting under the provisions of this Chapter allows the execution of contracts of any value.

Article 27

(Selection of Procedure for Simplified Contracting, Regardless of the Object of the Contract to be Executed)

1. Whatever the object of the contract to be executed, the procedure for simplified contracting may be adopted when:

a) Inasmuch as it is strictly required and for reasons of needed urgency arising out of unpredictable events, not imputable to the public contracting entities, the timeframes or formalities anticipated for the remaining procedures for public contracting cannot be evidently complied with;

b) For the reasons of technical or artistic abilities or related to the protection of exclusive rights or copyrights, the contract may only be executed by a sole contractor, supplier or service provider, as the case may be;

c) In previous bid tender or bid tender limited by prior qualification, no competitor has presented a bid or no can-

didate has presented themselves and provided that the tender documents and, in the case of bid tender limited by prior qualification, the minimum requirements for technical and financial abilities are not substantially altered.

d) In case of preliminary termination of contract made and entered into following a procedure for public contracting, for reason imputable to the co-contracting party:

e) When we deal with public works contracts, service rendering, acquisitions or leasing of movable goods to be carried out under a master agreement executed with only one entity.

2. In the case of the provisions of Subparagraph d) of the preceding Paragraph, the contract may be awarded to the bidder whose bid is classified as second, provided that the price of this bid does not exceed by more than 10% the price of the bid awarded in the first place and the warranties are offered.

Article 28

(Selection of Procedure for Simplified Contracting to Create Contracts of Leasing or Acquisition of Movable Goods)

Notwithstanding the provisions of the preceding Article, the procedure for simplified contracting may be adopted to create contracts for leasing or acquisition of movable goods, when:

a) It comes to leasing or acquiring goods or equipment earmarked for partial replacement or increase of goods or equipment to be used;

b) We deal with a public contracting entity, provided that the contract is executed with the previous leaser or supplier and the change of the latter obliges leasing or acquisition of the movable goods and equipment of different technical characteristics, originating technical incompatibilities or difficulties of usage and disproportionate maintenance;

c) The matter is acquiring goods fixed at raw materials stock exchanges;

d) The matter is acquiring goods and equipment under market conditions especially more advantageous, namely arising out of stock settlement for reasons of closing of business or others, bankruptcy, insolvency or forced sale.

Article 29

(Selection of Procedure for Simplified Contracting to Create Contracts of Acquisition of Services)

Notwithstanding the provisions of Article 27 of this Law, the procedure for simplified contracting may be adopted to create contracts for acquisition of services, when:

a) It comes to new services that consist of repetition of similar services, object of the contract, previously executed with the same service provider, following a bid tender or a bid tender limited by a prior qualification, provided that the previous contract has been executed for a period of time less than three years and the possibility of adopting a procedure for simplified contracting has been indicated in the announcement or in the bid tender program;

b) We deal with services supplemental to those included in the contract previously executed with the same service provider, following a bid tender or a bid tender limited by prior qualification, which, by virtue of unpredictable circumstances, became necessary for the performance of the services of the original contract, provided that the supplemental services may not be, technically or economically, separated from those ones, without serious inconvenience for the public contracting entity;

c) Intellectual services are at stake, namely consulting services, the nature of the respective contractual services do not allow generation of contractual specifications sufficiently accurate for presentation of qualitative attributes of the bids required to establish the criterion for awarding of the bid economically more advantageous.

Article 30

(Selection of Procedure for Simplified Contracting to Create Contracts for Public Works)

Notwithstanding the provisions of Article 27 of this Law, the procedure for simplified contracting may be adopted to create contracts for public works, when it comes to new works that consist of repetition of similar works object of the contract previously executed with the same contractor, following a bid tender or a bid tender limited by prior qualification, provided that the previous contract has been executed for a period of time less than three years and that the possibility of adopting a procedure for simplified contracting has been indicated in the announcement or in

the bid tender program;

TITLE III Creation of Contract

CHAPTER I Common Provisions

SECTION I Commencement of Procedure

Article 31 (Decision to Contract)

1. The procedures for public contracting start with the decision to contract, presented by the competent body to authorize the expense associated with the contract to be executed.
2. The public contracting entity can only make the decision to contract when the amount is included in its budget, unless it is included in the announcement, invitation or procedure program that the awarding is contingent upon the approval of the corresponding budget inclusion.
3. The decision to contract shall be mandatorily communicated by the public contracting entity to the body responsible for regulating and supervising the public contracting, based on the template included in Annex III of this Law.

Article 32 (Decision on Selection of Procedure)

1. The decision on selection of procedure for public contracting to actually adopt falls under the competent body for the decision to contract.
2. The decision mentioned in the preceding Paragraph shall always be reasoned, even though for remissions for studies or reports that have been carried out for that purpose.

Article 33 (Delegation of Competencies)

Notwithstanding the provisions of Paragraph 2 of Article 43 of this Law, the competence for the practice of any acts provided for in this Law may be delegated or sub-delegated.

Article 34 (Association of Public Contracting Entities)

1. The public contracting entities may associate among themselves aimed at creating a contract or a master agreement, whose execution is of the interest of all the parties or benefit all the parties.
2. Under the preceding Paragraph, the public contracting entities shall appoint which one of them represents the Association, through execution of a protocol.
3. The Association representative is responsible for conducting the contracting procedure to be selected, and shall be tacitly responsible for all the powers required for that purpose.
4. The decisions to contract, select the procedure, qualification of candidates and awarding shall, however, be made jointly by the competent body of each one of the public contracting entities of the Association, unless express delegation in the Association representative, of all or some of these powers, pursuant to the applicable norms.

SECTION II Authorization for Expenditure

Article 35 (Competence to Authorize the Expenditure)

The competence to authorize the expenditure related to the creation and execution of the contracts encompassed in line with this Law shall be determined under the Annex IV of this Law.

Article 36 (Competence to Authorize the Expenditure with Insurance Contracts)

1. In exceptional cases in which it is deemed convenient the execution of insurance contracts whose acquisition is not legally mandatory, the respective expenditure requires prior authorization of the President of the Republic or to whom he may delegate, under the proposal of the competent body to authorize the expenditure.
2. The provisions of the preceding Paragraph is not applicable to the expenditures with the acquisition of insurance:

- a) That, as imposed by local laws or that of the holder of the rights to be insured, have to be carried out overseas;
- b) Of cultural assets.

Article 37

(Competence to Authorize the Expenditure in Cases of Procedures for Simplified Contracting Adopted According to Material Criteria)

The competence to authorize the expenditure related to the creation and execution of the controls performed, following the simplified contracting procedure adopted according to the material criteria provided for in Articles 27 to 30 of this Law, shall be determined under the provisions of Paragraph 2 of Annex IV of this Law.

Article 38

(Unit of Expenditure)

1. For the purposes of this Section, the expenditure to be considered is that of the total cost with the execution of the respective contract, even if the price has to be settled and paid in fractions according to the respective contractual clauses or the applicable legal and regulatory provisions.
2. The fractioning of expenditures, which is aimed at defrauding the provisions of the preceding Paragraph, shall be forbidden.

Article 39

(Alteration of Authorized Expenditure Amount)

1. The competence established under the preceding Paragraphs shall be maintained for the expenditures resulting from the alterations, variants, price revisions and additional contracts, provided that the respective total cost does not exceed 5% of the limit of the original competence.
2. When the percentage limit is exceeded as established in the preceding Paragraph, the authorization to increase the expenditure falls under the responsibility of the body which, under the preceding Articles of this Section, holds the competence to authorize the expenditure by its total amount, including the increases.
3. Notwithstanding the provisions of the preceding Paragraphs of this Article, the execution of addenda to

contracts is forbidden, that is, addenda under execution or finalized whose value exceeds the amount imposed by the annual rules of execution of the General State Budget in force.

Article 40

(Economic Year)

1. Without prejudice to the provisions of Paragraph 3 of this Article, the expenditures related to contracts that result in budgetary charges by more than one economic year or in one year that is not of its realization shall not be carried out without prior consent granted through Joint Executive Decree by the head of the competent ministerial department, unless there are cumulatively the following conditions:

- a) Result from plans or programs for various years legally approved;
- b) Do not exceed the limit established in Paragraph 3 of Annex IV of this Law;
- c) The execution timeframe for the contract does not exceed 3 (three) years.

2. The Joint Executive Decrees and the contracts mentioned in the preceding Paragraphs shall establish the maximum limit of the charge corresponding to each economic year.

3. Within sixty days prior to the end of the economic year, contracts that imply the realization of expenditures at the beginning of the immediate economic year may be executed, provided that there are cumulatively the following conditions:

- a) The expenditure is certain and indispensable;
- b) The charges incurred do not exceed the amount of two duodecimals of the money earmarked for the expenditure of the same nature in the budget of the year in which the contract is made and entered into.

4. Any charge resulting from the provisions of the preceding Paragraph shall only be assumed as long as it is duly declared by the competent body of the ministerial department responsible for the public finance, which, in the applicable draft budget, the money to bear that expenditure has been included.

5. The declaration referred to in the preceding Paragraph meets the information legally required and abides by the condition of the charge to be supported by the corresponding budgetary money of the immediate economic year.

6. The provisions of Paragraphs 3 to 5 of this Article are not applicable to the expenditures resulting from the alterations, variants, price revisions and additional contracts, provided that the new charges are included in the budget in force on the date the public contracting entity instructs the performance of the alteration or variant, approves the price revisions or executes the additional contract.

SECTION III

Assessment Committee

Article 41

(Constitution and Impediments)

1. Notwithstanding the provisions of Article 146 of this Law, the procedures for public contracting shall be conducted by an Assessment Committee, constituted by three or five full members, one of which presides over, and two alternate members.

2. The Assessment Committee members shall be appointed by Order of the competent body for the decision to contract.

3. The Assessment Committee members shall have experience in matters of public contracting in Angola and qualifications that meet the requirements and the instructions issued by the Government or by the body responsible for regulating and supervising the public contracting.

4. Persons who are included in the provisions of Paragraph 3 of Article 8 of this Law shall not be appointed as members of the Assessment Committee.

5. Any person who is appointed as member of the Assessment Committee and who is under the circumstances provided for in the preceding Paragraph shall immediately inform the competent body for the decision to contract that is superior in relation to the public contracting entity about the existence of the impediment.

6. Failure to comply with the duty provided for in the preceding Paragraph subjects the violator to the discipli-

nary proceeding under the terms of the law, and the penalty may include the impediment to future participation in any other assessment committees.

7. Through specific normative act of the President of the Republic, an administrative template may be created for constitution of specialty technical services in public contracting procedures.

Article 42

(Operation)

1. The Assessment Committee members shall start their tasks on the date indicated in the Order that determines their constitution.

2. The Assessment Committee members shall exercise their activity independently and impartially.

3. The Assessment Committee shall operate when the majority of its full members are present.

4. The Assessment Committee deliberations shall be made by the majority of the votes of the members present, and abstentions shall not be accepted.

5. The Assessment Committee may appoint, among its members or among the service personnel of the public contracting entity, a secretary who is namely responsible for producing the meeting minutes.

6. Whenever necessary, the competent body for the decision to contract may appoint experts or consultants to support the Assessment Committee in the performance of their tasks, and they may take part in the meetings of the Committee, but without any right to vote.

7. In the deliberations where there is vote subdued of any of the members, the motives that justify their disagreement shall be included in the relevant meeting minutes, in the form of explanation of the vote.

Article 43

(Competence)

1. The Assessment Committee shall be namely responsible for the following:

a) Provide the clarification required for the good understanding of the procedures;

- b) Receive the applications and the bids;
- c) Conduct the public act of the bid tender, practicing, in its scope, the admission acts, conditional admission and non-admission of bids;
- d) Proceed with the review of the applications and bids;
- e) Produce the review reports and conduct the assessment of the applications and bids;
- f) Propose to the competent body for the decision to contract the act of excluding the applications and bids, qualification of candidates and bid awarding.

2. In addition to other competencies attributed to them by this Law, the Assessment Committee is also responsible for exercising the competencies delegated to them by the competent body for the decision to contract. However, they shall not be delegated the decisions mentioned in Subparagraph f) of the preceding Paragraph.

3. The Assessment Committee shall learn about the procedures prior to the performance of any of the competencies stipulated in Paragraph 1 of this Article:

SECTION IV Procedural Parts

Article 44 (Types of Parts)

- 1. The procedural parts shall be as follows:
 - a) In the bid tender - the announcement, bid tender program and tender documents;
 - b) In the bid tender limited by prior qualification - the announcement, bid tender program, tender documents and the invitation to present the bids;
 - c) In the bid tender limited by invitation - the invitation to present the bids and the tender documents;
 - d) In the procedure for simplified contracting - the invitation to present the bids and the tender documents.
- 2. When the object of the contract is the acquisition of consulting services, the bid tender program and the tender

documents are replaced by the terms of reference.

3. In the special procedure of bid tender for designing works, the bid tender program and the tender documents are replaced by the terms of reference, under Article 156 of this Law.

4. The procedural parts referred to in the preceding Paragraphs shall be approved by the competent body for the decision to contract.

5. The provisions of the bid tender program shall prevail over any indications that are not in accordance with the announcement or the invitation.

Article 45 (Bid Tender Program)

The bid tender program has the nature of administrative regulations and establishes the terms, to which the whole procedure until the contract execution, abide by.

Article 46 (Tender Documents)

1. The tender documents are the procedural part that contains the legal clauses, including those related to the matter of technical and financial nature, which shall be included in the contract to be made and entered into.

2. The master tender documents for the categories of the most frequent contracts shall be approved by a specific normative act of the President of the Republic.

3. In the cases of express simplicity of the contractual services, which are the object of the contract to be executed, the clauses of the tender documents may consist of a mere establishment of technical specifications or in reference to other essential aspects of the execution of the contract, such as the price or the timeframe.

Article 47 (Invitation)

The invitation is the procedural part through which the public contracting entity requests the presentation of bids from the qualified bidders, in the case of bid tender limited by prior qualification, or to the entities they select, in the event of bid tender limited by invitation or procedure for simplified contracting.

Article 48

(Project in the Contract Works and Concessions of Public Works)

1. Without prejudice to the provisions of Paragraph 3 of Article 46 of this Law, in the event of contract works and concessions of public works, the tender documents include a project formed by parts in writing and designed necessary to accurately define the works and its execution, namely as related to their location, volume and type of works, the estimated contract value, from the nature of the soil to the general outline and other construction and technical details.

2. For the purposes of the preceding Paragraph, among other elements deemed necessary, the parts in writing are comprised of the following:

- a) Descriptive document;
- b) The measurement chart, containing the anticipated quantity and quality of the works as required for the performance of the works;
- c) The work program, including the indication of the performance timeframe and possible intermediate timeframes;
- d) The environmental impact studies, under the applicable legislation;
- e) The social, legal, economic and/or cultural impact studies, which justify, including the expropriation actions to be carried out, the goods and rights to be acquired and the onus or services to be imposed.

3. For the purposes of the provisions of Paragraph 1 of this Article, in addition to other elements deemed necessary taking into account the nature of the works in question, the designed parts include the following: the location plan, plans, vertical projections, cuts, defining elements of the specialty projects, construction details indispensable for an accurate and detailed definition of the works, finishing charts and, if any, perforations plans and geological profiles.

4. Should there be no geological study of the soil, the main characteristics of same shall be mandatorily established by the public contracting entity.

5. In the event of lack of conformity between the parts in writing and the designed parts, the latter shall prevail.

6. In exceptional cases, duly reasoned and in which the contractor shall assume under the terms of the tender documents, the obligations of result related to the works to be performed or in which the technical complexity of the construction process of the works to be carried out require, by virtue of the technicality of the bidders themselves, the special link of them to the design of the works, the public contracting entity may anticipate, as an aspect of the contract to be made and entered into, the production of the implementation project, in which case the tender documents shall only be integrated by a base program.

Article 49

(Technical Specifications)

1. The technical specifications shall be included in the tender documents and shall be established in order to allow the bidder participation under equality conditions and fostering of competition.

2. The technical specifications define the characteristics required for a product, namely the levels of quality or usage, safety, dimensions, including the prescriptions applicable to the products regarding the terminology, symbols, tests and the testing methods, to the packaging, marking and labeling and that allow objectively characterizing a material, product or goods to be supplied in a manner to correspond to the use for which is earmarked by the public contracting entity.

3. The technical specifications may be completed by a material or element prototype, and the same shall be expressly identified in the procedural parts.

4. The technical specifications may be defined by reference to the national or foreign norms.

5. The technical specifications shall be defined by reference to the following:

- a) National technical specifications with regard to the product design and usage, if any;
- b) Other documents, namely and per order of preference, to the national norms that transpose the international norms already accepted, and other internal norms and conditions of national technical homologation or any other

norm.

6. Without prejudice to the provisions of Paragraph 1 and Subparagraph d) of Paragraph 2 of Article 52 of this Law, it is not allowed to establish technical specifications that mention products of a certain fabrication or origin or mention particular fabrication processes whose effect is to favor or eliminate certain companies or products. Likewise, it is forbidden to use brands, patents, or types of brands, or indicate a particular origin or production, unless it is impossible to describe the specifications, in which case the use of those is allowed, accompanied by the expression “or equivalent”.

Article 50

(Clarification on and Rectification of Procedural Parts)

1. The clarification required to the good understanding and interpretation of the procedural parts shall be requested by the interested parties, in writing, until the end of the first third of the timeframe established for presentation of the applications or the bids, pursuant to the case, and shall be provided, in writing, until the second third of the same timeframe.

2. The competent body for the decision to contract may also, through its own initiative, until the end of the second third of the timeframe established for presentation of the applications or bids, as appropriate, proceed with the rectification of the elements or data included in the procedural parts.

3. When the clarification or rectifications provided for in the preceding Paragraphs are communicated beyond the established timeframes for that purpose, the timeframes stipulated for presentation of applications or bids, as appropriate, shall be at least extended for a period equivalent to that of the occurred delay.

4. The clarification and rectifications referred to in the preceding Paragraphs shall immediately be added to the procedural parts that are available for consultation and, when this is used, be made available in the electronic platform of the public contracting entity. All the interested parties, which have acquired or downloaded it, shall promptly be notified of this fact.

5. The clarification and rectifications referred to in the preceding Paragraphs shall, from then on, be an integral part of the procedural parts, and the latter shall prevail in

the event of divergence.

Article 51

(Project Errors and Omissions in Procedures to Create Contract Works or Concession of Public Works)

1. Until the end of half the timeframe stipulated for presentation of bids in the procedure to create contract works or concession of public works, the interested parties shall present to the competent body for the decision to contract a list in which they identify, expressly and unequivocally, the project errors and omissions that are related to the anticipated type or quantity of the works required to the full performance of the works and that arise out of a difference between the existing local conditions and those provided for in the project or between the data upon which is based and the reality.

2. The following are exempted from the provisions of the preceding Paragraph: all the project errors and omissions that the interested parties, acting with the diligence objectively required in light of the timeframe for presentation of the bids and other actual circumstances, may only detect in the contract implementation phase.

3. The presentation of the list mentioned in Paragraph 1 of this Article, by any interested party, suspends the timeframe established for presentation of the bids since the end of half of said timeframe until publication of the decision stipulated in Paragraph 5 of this Article or, should there be no express decision, until the end of said timeframe.

4. The list identifying the errors and omissions detected by the interested parties shall be made available to all of those who have acquired the procedural parts.

5. Until the end of the timeframe established for presentation of the bids, the competent body for the decision to contract shall give an opinion on the errors and omissions identified by the interested parties, and all the errors and omissions that they do not expressly accept shall be considered as refused.

6. The decision provided for in the preceding Paragraph shall be notified to all the interested parties that have acquired the procedural parts.

SECTION V **Participation Rules**

Article 52

(Fostering of Angolan Entrepreneurship)

1. The procedural parts may contain rules earmarked for fostering the contracting of national persons or corporate bodies and prioritizing the national production.
2. For the purposes of the preceding paragraph:
 - a) With regard to the negotiating stage, the bid tender program or invitation for presentation of bids may establish preference rules in the access to said stage on the part of bidders that are national persons or corporate bodies;
 - b) With regard to the awarding, when the criterion for the awarding is the lowest price, the bid tender program or invitation for presentation of bids may establish a margin of preference for the prices proposed by the bidders who are national persons or corporate bodies;
 - c) As for the awarding, when the criterion for the awarding is the most economically advantageous bid, the bid tender program or invitation for presentation of bids may establish an increase of the overall score attributed to the bids of the bidders who are national persons or corporate bodies, which may not exceed 10% of the price proposed by the latter;
 - d) Regarding prioritizing the national production, the bid tender program or invitation for presentation of bids may, in the event that the criterion of awarding the contract is to the one economically most advantageous, contain rules that anticipate attributing superior score to goods produced, extracted or cultivated in Angola;
 - e) As for the procedures to create contracts in which the bidder intends to use subcontracted parties, the bid tender program or invitation for presentation of bids may impose that a minimum percentage of the value of the subcontracted contractual services shall be reserved to national persons or corporate bodies.
3. In the cases provided for in Subparagraphs b), c) and d) of the preceding Paragraph, the rules of first refusal may also be established in benefit of bids from national bidders of States that integrate the common market of the Southern Africa, COMESA or SADC, or with head office in said territories or on behalf of goods produced, extracted or cultivated in the referred to States.

4. For the purposes of the provisions of the preceding Paragraphs, national persons and corporate bodies shall mean those as defined in the legislation in force, namely Law N^o 14/03 of July 18 on Fostering of National Entrepreneurship.

5. The provisions of Paragraphs 2 and 4 of this Article may be applied, with the required adaptations, in benefit of micro, small and medium national companies defined as such by Law N^o 30/11 of September 13, or the national companies based locally, when the contract is to be executed in a specific territorial division.

Article 53

(Foreign Candidates and Bidders)

1. The foreign persons or corporate bodies may only apply or present bids in procedures to create contracts whose estimated value is equal to or higher than that stipulated in Annex V of this Law, as well as in the procedures for simplified contracting, when adopted under the provisions of Article 27 to 30 of this Law.

2. The foreign persons or corporate bodies may also apply and present bids to create contracts whose estimated value is lower than that established in the preceding Paragraph, when, by virtue of the technical specificity of the contractual services, object of this contract, it is reasonable to anticipate that no national person or corporate body shall be able to execute it appropriately.

3. The foreign persons or corporate bodies may also take part in bid tenders associated with design, unless the public contracting entity expressly and strictly restricts said participation under the terms of reference.

4. For the purposes of the provisions of the preceding Paragraphs, foreign persons or corporate bodies shall mean those who are not included in the scope of Law N^o 14/13 of July 18 on Fostering of National Entrepreneurship.

Article 54

(Associations)

1. Associations of persons and corporate bodies may be candidates or bidders, regardless of the activity they perform, without, among them, existing any legal method of association.

2. The members of a candidate or bidder association

may not, among them, individually or integrating another association, be candidates or bidders in the same procedure.

3. All the members of an association shall be jointly responsible for the maintenance of the respective bid or, if applicable, of the respective application.

4. In the event of awarding, all the members of the association shall associate themselves, prior to the contract execution, in the legal method provided for in the bid tender program.

Article 55 (Impediments)

The following entities may not be candidates or bidders; neither integrate any candidate or bidder association:

a) That are object of boycott on the part of international and regional organizations of which Angola is an integral part, namely the United Nations Organization (U.N.), International Monetary Fund (I.M.F.), International Bank for Reconstruction and Development (World Bank), African Union, Southern Africa Development Community (SADC), Central Africa Economic Community (CAEC), and the African Bank for Development (ABD);

b) That are under insolvency or bankruptcy, declared by court sentence, in a liquidation stage, dissolution or termination of activity, subject to any preventive means of any assets liquidation or any similar situation or have a relevant process pending;

c) Have been convicted, through a court sentence, for a crime that affects their professional honor, if, meanwhile, their rehabilitation has not occurred, in the event that they are corporate bodies, the holders of their social bodies of administration, directorship or management have been convicted for those crimes, and they are performing their tasks;

d) Have been object of administrative penalty for serious misconduct in professional matter, if, in the meantime, their rehabilitation has not occurred, in case they are persons or, in the event that they are corporate bodies, have been object of enforcement of said administrative penalty, the holders of their social bodies of administration, directorship or management are performing their tasks;

e) Have not their situation regularized related to contributions for the social security;

f) Have not their situation regularized related to their fiscal obligations;

g) Have, in any way, provided, directly or indirectly, technical consulting or support in the preparation and generation of procedural parts, susceptible to render false the regular conditions of competition;

h) That are included on the list generated by the body responsible for regulating and supervising the public contracting referred to in the following Article.

Article 56 (List of Companies in Default)

1. The contracting public companies shall submit, on a quarterly basis, to the body responsible for regulating and supervising the public contracting, a detailed report indicating the contractors, suppliers of goods or service providers, persons or corporate bodies that have incurred serious or reiterated failure to comply with the contractual obligations which have resulted in preliminary termination of contract or application of fines in percentage higher than 20% of the contract value.

2. Upon evaluation of the seriousness of the facts contained in the reports submitted to the public contracting entities, the body responsible for regulating and supervising the public contracting produce a list of the persons and corporate bodies that have incurred the situation provided for in the preceding Paragraph, and their publication shall be through the Public Contracting Portal and State Supplier Registration, for the purposes of the provisions of Subparagraph h) of the preceding Article.

3. The body responsible for regulating and supervising the public contracting shall maintain the list referred to in the preceding Paragraph updated. It should remove from said list any persons or corporate bodies upon three years after the inclusion of same.

4. The list mentioned in Paragraph 2 of this Article also includes the persons and corporate bodies to which penalties provided for in Paragraphs 3 and 4 of Article 9 of this Law have been applied, during all duration of penalty.

Article 57 (Professional Qualifications)

1. In case of a procedure to create a contract work or concession of public works, only companies that are holders of the business licenses of public works contractor are allowed to participate as candidates or bidders in the category or subcategory indicated in the announcement or bid tender program or, when it is the case, the invitation to present bids, of the class corresponding to the bid value.
2. In case of a procedure to create a contract for acquisition of services or concession of public services, only holders of specific professional abilities or authorizations or members of particular professional organizations are allowed to take part as candidates or bidders for the performance of the activity object of this contract.

SECTION V Bid

Article 58 (Qualification Documents)

1. Together with the bid, the bidder shall present the following qualification documents:
 - a) Declaration in which the bidder shall indicate its name, taxpayer number, Identity Card number and residence or, in the event it is a corporate body, the relevant identification number, corporate name, head office, names of the holders of their administration, directorship or management bodies or that of other persons with powers to make them binding, as well as the business registration or equivalent;
 - b) Supporting documentation on regularized situation associated with contributions to the social security in Angola;
 - c) Supporting documentation on regularized situation related to taxation before the Angolan State;
 - d) Supporting documentation on delivery of the most recent tax return;
 - e) Supporting documentation on holder of the professional qualification, under the provisions of Article 57 of this Law.

2. In the event that the bidder is a foreigner, the documents mentioned in Paragraphs b) to e) of the preceding Paragraph shall be supporting documentation of the situations provided for in the same related to the State of which it is a national.
3. In the event that, in the State of which the bidder is a national, the documents mentioned in Subparagraphs b) to e) of Paragraph 1 of this Article, are not issued, the bidder shall add, as a replacement, an affidavit before the notary public, judicial or administrative authority or any other competent body, which certify that the documents in question are issued in said State.
4. The document provided for in Subparagraph a) of Paragraph 1 of this Article shall be written in the Portuguese language.
5. The documents stipulated in Subparagraphs b) to e) of Paragraph 1 and Paragraphs 2 and 3 shall be written in the Portuguese language or, in the event that they are not due to its origin, shall be accompanied by a translation duly legalized and in relation to which the bidder declares to accept prevalence, for all purposes, on the relevant original documents.
6. All the qualification documents that, by its own origin, are issued overseas shall be authenticated, under the applicable law, by the Angolan Consulate in the country of issuance of said documents.
7. The provisions of the preceding Paragraphs is not applicable to the persons or corporate bodies that are certified under Paragraph 2 of Article 13 of this Law, provided that the information this certification is based upon allows to prove the compliance with each of the obligations established in Article 57 of this Law and Subparagraphs b) to e) of Paragraph 1 of this Article.
8. For the purposes of the provisions of the preceding Paragraph, the bidder shall present, as a sole qualification document, the supporting documentation on its certification.
9. Without prejudice to the provisions of the preceding Paragraph, in the awarding stage, the public contracting entity shall consult in the Public Contracting Portal the validity of the qualification documents.

Article 59 (Documents that Constitute the Bid)

1. The bid shall be constituted by the following documents:

- a) Declaration from the bidder unconditionally accepting the contents of the tender documents, produced in accordance with the template included in the bid tender program or invitation to present bids.
- b) Supporting documentation on the provision of a temporary guarantee, if required in the bid tender program or invitation to present bids;
- c) Documents that contain the miscellaneous attributes earmarked for its assessment according to the awarding criterion adopted, namely the price;
- d) Other documents related to the execution of the contract, provided that they are required in the bid tender program or invitation to present bids.

2. In the case of procedure to create contract works or concession of public works, the bid shall also be comprised of the following documents:

- a) List of unit prices of all the types of works established in the implementation project;
- b) Work program, including work plan, manpower plan and equipment plan;
- c) Justifying and descriptive memory for the process of work performance;
- d) Financial timeline;
- e) Commitment declaration in which same assumes full responsibility for compliance with all the obligations associated with the contract execution, in the event the bidder intends to use subcontractors;
- f) List of subcontractors, in the case provided for in the preceding Paragraph and when the provisions of Subparagraph e) of Paragraph 2 of Article 52 of this Law are applied;
- g) Prior study, in the cases provided for in Paragraph 6 of Article 48 of this Law.

3. In the case of procedures mentioned in the preceding Paragraph, the bid program and invitation to present

the bids may also determine the bid that includes, among others, the following documents:

- a) Price list by memory;
- b) List of lease of equipment;
- c) List of provision of manpower.

4. The declaration mentioned in Subparagraph a) of Paragraph 1 of this Article shall be signed by the bidder or by the representative with the powers to create a binding obligation.

5. When the bid is presented by a bidding association, the declaration mentioned in Subparagraph a) of Paragraph 1 of this Article shall be signed by the common representative of the integrating members, in which case they shall add to the declaration the powers of attorney issued by one of their members or, should there be no common representative, it shall be signed by all its members or relevant representatives.

6. Without prejudice to the provisions of the following Paragraph, all documents that constitute the bid shall written in the Portuguese language.

7. The bid tender program and invitation to present the bids may allow that all or any of the documents referred to in Paragraphs c) or d) of Paragraph 1 and Paragraphs 2 and 3 of this Article be written in foreign language, indicating the languages admitted.

Article 60 (Varying Bid)

1. The bids that present alternative conditions are deemed as varying bids related to one or more clauses of the tender documents, under the terms expressly submitted by the same.

2. The presentation of varying bids, when admitted by the bid tender program or invitation to present bids, shall not exempt the bidders from presenting a base bid in accordance with the tender documents.

3. The aspects of the bid tender related to which alternatives are admitted for the purposes of presentation of varying bids shall correspond to factors or sub-factors to render dense the criterion for awarding the bid economically more advantageous.

4. Exclusion of the base bid shall imply, necessarily, exclusion of the varying bid as presented by the same bidder.
5. In the cases in which the bid tender program or invitation do not allow the presentation of varying bids, each bidder may only present one bid.

Article 61 (Price Indication)

1. The bid price shall always be indicated in words. This should be considered in the event of divergence with the price indicated in figures.
2. In the bid price, all the taxes, rates and charges legally applicable shall be included.
3. Whenever in the bid various prices are indicated, in case of divergence between them, the partial prices, unit prices or not, plus broken down prices shall prevail.
4. The bids presented in the procedures to create contract works or concession of public works shall contain, mandatorily, the partial prices of the miscellaneous works to be performed.

Article 62 (Bid Security)

1. The public contracting entity may require, in the bid tender program or invitation to present bids, that the bidders present a bid security as an integral part of the bid.
2. The bid security shall be triggered if the bidder removes the bid after the timeframe established for its presentation and before the end of the timeframe for its maintenance, including the possible automatic removal of same.
3. The bid security value may not exceed 5% of the estimated contract value.

Article 63 (Method for Providing Bid Security)

1. The bid security shall be provided by deposit in cash, certified check, securities issued or warranted by the State, bank guaranty or insurance-bond.
2. The bid tender program or invitation to present the bids shall contain the templates related to the provision of

the bid security per guarantee or insurance-bond.

3. The deposit in cash, certified check or securities shall be carried out in Angola, in any credit institution, addressed to the entity that is indicated in the bid tender program or invitation to present bids, and the objective for which it is earmarked shall be specified.

4. When the deposit is carried out in securities, these shall be assessed by the relevant nominal value, unless in the last three months the average quotation in the stock exchange is below the par, in which case the assessment shall be carried out in 90% of this average.

5. In the event that the bidder provides the bid security through a bank guaranty, it shall present a document by which a legally authorized bank guarantees, up to the limit of the bid security value, the immediate payment of any amounts required by the public contracting entity, by virtue of the failure to comply with the obligation to maintain the bid the guaranty is associated with.

6. In the event that the bidder provides the bid security through an insurance-bond, the bid tender program or invitation to present bids may require the presentation of an insurance policy by which an entity legally authorized to carry out this insurance assumes, up to the limit of the bid security value, the charge to immediately meet any amounts required by the public contracting entity, by virtue of the failure to comply with the obligation to maintain the bid the guaranty is associated with.

7. Out of the bank guaranty or insurance-bond policy conditions may not, in any case, arise the decreased guaranties of the public contracting entity, in the methods in which they are assured by the other forms admitted for the provision of the bid security.

8. All the expenditures related to the provision of the bid security shall fall under the responsibility of the relevant bidder.

Article 64 (Restitution or Termination of Provisional Bid Security)

1. Once the timeframe for the obligation to maintain the bid has elapsed or, if such occurs first, as soon as the contract with Contractor is made and entered into, the public contracting entity shall promote, within ten days, the

restitution of the provisional bid security, exercising all diligences for that purpose deemed as required.

2. In the event that the bid is excluded in the public act of the bid tender, the timeframe of ten days as provided for in the preceding Paragraph shall be counted from the closing date of same.

Article 65

(Method for Presentation of Bids and Qualification Documents in Hard Copy)

1. In the event that the public contracting entity opts for the presentation of the bids in hard copy, the documents that constitute the bid shall be presented in an opaque, closed and sealed envelope, in front of which shall be written the word "Bid" and the name or corporate name of the bidder.

2. In the envelope referred to in the preceding Paragraph, a duplicate of each of the documents, which constitute the bid, shall be included.

3. Another envelope, with the same characteristics mentioned in Paragraph 1 of this Article, shall include the qualification documents provided for in Article 58 of this Law, and in front of the envelope "Qualification Documents" shall be written, indicating the name or corporate name of the bidder.

4. In case of presentation of varying bids, each one of them shall be presented in an opaque, closed and sealed envelope, in front of which "Varying Bid" and the name or corporate name of the bidder shall be written, and the provisions of Paragraph 2 of this Article shall be applied.

5. The envelopes referred to in the preceding Paragraphs shall, in turn, be kept in another opaque, closed and sealed envelope, in front of which the indication of the procedure shall be identified.

6. The bid tender program and invitation to present the bids may establish that the documents, when they include more than one sheet of paper, constitute a booklet or inseparable booklets with all the pages numbered, created by a process that prevents separation or addition of pages, and the first page written shall mention the total number.

7. The delivery of the envelope that is referred to in Paragraph 5 of this Article may be carried out in person or

through registered mail with acknowledgement of receipt and, in any case, its receipt occurs within the timeframe established for the presentation of bids.

Article 66

(Method for Presentation of Bids and Qualification Documents in Electronic Version)

1. The public contracting entity may impose, under the terms of the provisions of Subparagraph f) of Paragraph 1 of Article 70 or Subparagraph e) of Paragraph 2 of Article 134 of this Law, that the bids be presented in an electronic platform, provided that this guarantees that the same may only be opened after the end of the timeframe for their presentation.

2. In the hypothesis established in the preceding Paragraph, all the bids shall be mandatorily presented in an electronic platform indicated by the public contracting entity.

3. The qualification documents shall be gathered in an appropriate file, identified with the indication "Qualification Documents".

4. The documents that constitute the bids shall be gathered in an appropriate file, identified with the indication "Bids".

5. The date and time of receipt of the bids shall be registered by the platform, and a receipt shall be delivered to the bidders as a supporting document for said receipt.

6. The terms for the presentation and receipt of the bids, under the provisions of the preceding Paragraphs, shall be defined by a specific normative act of the President of the Republic.

7. When, by its nature, any qualification document or any document that constitutes the bid cannot be presented under the provisions of Paragraph 1 of this Article, it shall be closed out in an opaque, closed and sealed envelope, and delivered to the public contracting entity, abiding by the following:

a) In front of the envelope, the procedure and public contracting entity shall be identified;

b) The delivery may be carried out in person or through registered mail with acknowledgement of receipt, and,

in any case, its reception shall occur within the timeframe established for the presentation of the bids.

Article 67

(Timeframe for Presentation of Bids)

1. The public contracting entity shall establish, in the announcement and the bid tender program or in the invitation, the date and time the timeframe for the presentation of the bids end, which shall take into consideration the time required for its production, in accordance with the nature, characteristics, volume, complexity of the contractual services, object of the contract, to be executed.

2. The timeframe for the presentation of bids shall be established reasonably, between twenty (20) to a hundred and twenty (120) days, in order to allow the appropriate and effective conditions of the competition.

3. Without prejudice to Paragraph 3 of Article 50 of this Law, the timeframe for the presentation of the bids shall only be extended in the cases duly reasoned by decision of the competent body for the decision to contract.

Article 68

(Timeframe for Maintenance of Bids)

1. Notwithstanding the possibility of establishing a timeframe different from that in the bid tender program or invitation to present the bids, the bidders shall maintain their bids during sixty (60) days as from the date of commencement of the public act.

2. The timeframe to maintain the bids shall be deemed automatically extended, for equal period, should the bidders not request the contrary.

CHAPTER II Bid Tender

SECTION I Bid Tender Parts

Article 69

(Announcement of Bid Tender)

1. The announcement for the bid tender shall be published in the Official Gazette, Series III and in the Public Contracting Portal, and shall be generated in accordance with the template included in Annex VI of this Law, as well

as in a newspaper of big circulation in the country and the bid tender may also be published through displays of notices in the head offices of the State local administration bodies.

2. The publication of the announcement in a newspaper of big circulation in the country may include only the summary of the most important elements contained in the Annex referred to in the preceding Paragraph, provided that the date of submission for publication in the Official Gazette is indicated.

3. Among the elements referred to in the preceding Paragraph, the following shall be included: address or, when applicable, the Internet website or the public contracting entity electronic platform, where the procedural parts are available.

4. Whenever that, under the provisions of Article 53 of this Law, the participation of foreign persons or corporate bodies are admitted, the announcement carried out under the terms of paragraph 2 of this Article, is also replicated in means that, demonstrably take the information to international markets.

Article 70

(Bid Tender Program)

1. The bid tender program shall indicate the following;

a) The identification of the bid tender;

b) The public contracting entity, the body that made the decision to contract and, in the event that this decision is made in the use of the delegation or sub-delegation of competency, the quality in which said body has decided, with the mention of the delegation or sub-delegation decisions and the venue of the relevant publication;

c) The price of supply of the bid tender parts, under the provisions of Paragraph 3 of Article 71 of this Law;

d) The manner of presentation of the bids, under the provisions of Article 65 or Article 66 of this Law;

e) When the presentations of the bids should be carried out in hard copy, the address and the name of the receipt service of same, with mention of the relevant working hours;

f) When the presentations of the bids should be car-

ried out electronically, the electronic platform used by the public contracting entity for that purpose;

g) The date and time limit for the presentation of the bids, under the provisions of Article 67 of this Law;

h) The qualification documents, under the provisions of Article 58 of this Law;

i) The documents that constitute the bids, under the provisions of Article 59 of this Law;

j) The documents that constitute the bids that may be written in foreign language, under the provisions of Paragraph 7 of Article 59 of this Law, with the mention of the languages admissible;

k) The possibility of presentation of the varying bids and the maximum number of variants admitted;

l) In the event that varying bids are admitted, what clauses of the tender documents may be object of variation and under which terms those should be assessed, under the provisions of Article 60 of this Law.

m) The timeframe of bid maintenance obligation, if it is different from the provisions of Paragraph 1 of Article 68 of this Law;

n) The provisional bid security value and the permanent bid security value, provided for in Articles 62 and 102, respectively, of this Law, when required, as well as in the templates related to its provision;

o) The date, time and venue for the commencement of the bid tender public act;

p) In the event that the bids presented are or not subject to negotiation and, if so, what are the factors or sub-factors of the awarding criterion on which the negotiation should focus, as well as if the case provided for in Subparagraph a) or b) of Article 89 of this Law shall be applicable;

q) Should there be an electronic auction, the rules and other operation information of same, under Article 93 of this Law;

r) In the event that the adoption of a negotiating stage or an electronic auction is anticipated, if the same is open to all bidders whose bids are not excluded or res-

tricted or the bidders whose bids were classified in the first places and, in this case, what the number of bids to be selected;

s) The awarding criterion, as well as, when the criterion of the bid economically more advantageous, explanation of the factors and possible sub-factors that materialize it, the relevant consideration and other elements required for awarding the bid scoring, materialized in an assessment grid;

2. The bid tender program may also contain any specific rules on the procedure for the bid tender considered convenient by the public contracting entity, provided that they are not aimed at preventing, restricting or rendering false the competition.

Article 71

(Consultation and Provision of Bid Tender Parts)

1. The bid tender parts shall be available for consultation by the parties interested in the service indicated in the announcement, within the relevant work schedule and until the end of the timeframe stipulated for presentation of the bids.

2. The bid tender parts shall also be available for consultation in the electronic platform of the public contracting entity, when it is used in the procedure.

3. The supply of the parts may be onerous or free.

4. The downloading of bid tender parts available in the electronic platform depends upon the authentication of the interested party.

5. As long as it is timely requested, and payment of the relevant shipment costs, the bid tender parts shall be sent or delivered to the interested parties as soon as the request has been received.

6. The President of the Republic or to whom he may delegate shall define, through specific normative act, the maximum rates to be charged by the public contracting entities for the supply and downloading of the bid tender parts.

7. The acquisition of the bid tender parts shall not constitute, in any case, participation condition on same.

SECTION II Bid Tender Public Act

Article 72 (Public Act)

1. On the business day immediately subsequent to the deadline for presentation of the bids, the Assessment Committee proceeds with, in public act, the opening of the envelopes referred to in Paragraph 65 of this Law, or, in the case of the public contracting chose to opt for the electronic receipt of the bids, its decryption, downloading and opening, as referred to in Article 66 of this Law.

2. For a justified reason, the bid tender public act shall be carried out within ten days subsequent to that indicated in the preceding Paragraph, on a date to be determined by a public contracting entity.

3. The alteration of the public act date shall immediately be communicated to the interested parties that proceed with the acquisition of the bid tender parts and publicized through the means that the public contracting entity deemed more convenient, and the copies of the decision on alteration shall be added to the parts.

Article 73 (Public Act Session)

1. The public act session shall be continuous, comprised of the number of meetings required for compliance of all the formalities.

2. The Assessment Committee may, when it deems necessary, meet in a reserved session.

3. The Assessment Committee shall limit itself, during the public act, to proceed with a formal analysis, both of the bidder qualification documents and the documents that constitute the bids.

Article 74 (General Rules)

1. The public act may be attended by any interested party, and in the referred to act only the bidders and their representatives may intervene, provided that they are duly certified.

2. The bidders and their representatives may, in the public act:

a) Examine all the documents presented, during a reasonable timeframe to be determined by the Assessment Committee;

b) Request clarification;

c) Present claims whenever, in the act itself, any violation of the provisions of this Law, other applicable legislation or bid tender program is committed.

d) Put forward claims against the conditional or final admission of any bidder, as well as admission of their bids;

e) Present claims against their own conditional admission or non-admission, as well as non-admission of their bids;

f) Present mandatory hierarchical appeal against the Assessment Committee deliberations.

3. When the documents have been presented electronically, the Assessment Committee guarantees, for the purposes of the provisions of Subparagraph a) of the preceding Paragraph, that the bidders have access to same during the public act, both electronically and in hard copy.

4. The bidders' claims may consist of a statement put forward for the meeting minutes or in petition in writing.

5. The claims shall be decided in the public act itself, and for that purpose the Assessment Committee may meet in a reserved session.

6. Out of the public act the minutes shall be produced and signed by all the full members of the Assessment Committee, and it may also be signed by the bidders or their representatives that attend said act.

Article 75 (Opening of Public Act)

1. The Chairman of the Assessment Committee shall begin the act public session with the following formalities:

a) Identification of the bid tender and reference to the relevant announcement;

b) Reading of the bidder list, organized by entry order of the relevant bids;

c) Opening of the external envelopes, as well as those related to the bidders' qualification documents, by the order mentioned in the preceding Paragraph, or, as if applicable, opening, by the same order, of the electronic files corresponding to the qualification documents, and the documents or electronic files shall not be violated, as appropriate, constituting the bids;

d) Review of the qualification documents and deliberation, in a reserved session, on the final admission, conditional admission or non-admission of the bidders.

Article 76

(Non-admission and Conditional Admission of Bidders)

1. The following bidders shall not be admitted:

a) Whose bids are not received in the established timeframes;

b) Who do not comply with the formalities related to the method for presentation of the bids, under the provisions of Articles 65 or 66, as well as Paragraph 6 and 7 of Article 59 of this Law.

c) Whose qualification documents include any reference that is considered an indication of the bid price or any other contractual conditions;

d) The bidders that do not put forward the document provided for in Subparagraph a) of Paragraph 1 of Article 59 of this Law.

2. The following bidders shall be conditionally admitted;

a) Who do not present any document or any documents referred to in Paragraph 1 of Article 59 of this Law, as well as, if applicable, in Paragraphs 2 and 3 of the same Article;

b) Who present the qualification documents issued by the foreign authorities that are not still recognized by the Angolan Consulate in the country of issuance of said documents;

3. Once the deliberations provided for in the preceding Paragraphs are made, the Chairman of the Assess-

ment Committee shall proceed with the reading of the list of the bidders admitted, those admitted conditionally and those do not admitted, indicating for the latter cases, the relevant reasoning.

4. In the event of conditional admission, provided for in Subparagraph a) of Paragraph 2 of this Article, the documents to be provided shall immediately be presented in the public act itself, otherwise, the bidders shall not be admitted.

5. In the case of conditional admission provided for in Subparagraph b) of Paragraph 2 of this Article, the Assessment Committee grants the bidders a timeframe of five days for the bidders to deliver the documents as recognized by the Angolan Consulate.

6. Once the formalities, provided for in the preceding Paragraphs, have been complied with, the Assessment Committee may deliberate on the possible claims presented by the bidders related to this phase in the public act.

7. Once the situation, stipulated in Paragraph 5 of this Article, the Assessment Committee, if required, shall suspend the public act session, indicating the venue, day and time for its continuation.

Article 77

(Further Public Act)

1. In the event that the provisions of Paragraph 7 of the preceding Article are not applicable, the public act shall immediately proceed with the compliance with the formalities established in the following Article.

2. When the provisions of Paragraph 7 of the preceding Article are applicable, the public act proceeds with the review of the documents, which, in the meantime, have been delivered, if necessary in a reserved session, and the Assessment Committee shall deliberate on the admission or non-admission of the bidders that were conditionally admitted.

3. Those bidders who have not complied with the provisions of paragraph 5 of the preceding Paragraph shall not be admitted.

4. The Chairman of the Assessment Committee shall proceed with the reading of the list of bidders finally admitted and those not admitted, indicating in the latter case,

the relevant reasoning.

5. Once the formalities, provided for in the preceding Paragraphs, have been complied with, the Assessment Committee may deliberate on the possible claims presented by the bidders related to this phase in the public act.

Article 78 (Opening and Review of Bids)

1. The public act session may proceed with the opening of the envelopes or downloading of the electronic files that contain the bids of the bidders admitted.

2. Upon opening of the bids or downloading of the electronic files, the bidders may jointly sign all the bids.

3. In the event that the bids have been presented in hard copy, all the original documents that constitute the bids shall be initialed or stamped by, at least, two members of the Assessment Committee.

4. Once the provisions of the provisions of the preceding Paragraphs have been complied with, the Assessment Committee shall proceed, if necessary in a reserved session, with the formal examination of the documents that constitute the bids, deliberating on the admission or exclusion of the bids.

Article 79 (Non-admission of Bids)

1. The following bids shall not be admitted:

a) That are not constituted by all the documents required by the law or in the bid tender program;

b) That do not abide by Articles 65 or 66, as well as Paragraphs 6 and 7 of Article 59 of this Law, or specific rules of the bid tender program regarding the method to present the bids;

c) Whose documents that constitute the bids do not contain the miscellaneous attributes, namely the price, earmarked for their assessment, or that omit other elements required by the bid tender program related to the contract execution, in breach of the provisions of Subparagraphs c) and d) of Paragraph 1 of Article 59 of this Law.

2. The Chairman of the Assessment Committee further proceeds with the reading of the list of bids admitted

and those not admitted, indicating, in the latter case, the relevant reasoning.

3. The Assessment Committee shall deliberate on possible claims presented by the bidders related to the admission or non-admission of the bids.

4. Once the provisions of the preceding Paragraphs have been complied with, the Chairman of the Assessment Committee closes out the public act, by complying with the provisions of Paragraph 6 of Article 74 of this Law.

Article 80 (Hierarchical Appeal)

1. Out of the deliberations from the Assessment Committee on the claims drawn in the public act, the interested party may appeal to the head of the competent ministerial department, when the contract is earmarked to be executed by the State or for the highest body of the public contracting entity, in the remaining cases, to be presented within five days of the delivery date of the public act minutes.

2. The appeal shall be deemed as approved, if the appellant is not notified of the decision within five days of its receipt by the competent body to decide.

3. Should the appeal be granted, all the acts and operations, required to restore the legality and meet the legitimate rights and interests of the appellant shall be practiced.

4. The provisions of Articles 17, 18 and 21 of this Law shall additionally be applicable to the hierarchical appeals.

5. To the appeals, provided for in the preceding Paragraphs, the provisions of Paragraphs 4 and 5 of Article 17 of this Law shall not be applicable.

SECTION III Review and Assessment of Bids

Article 81 (Review of Bids)

Once the public act is complete, the Assessment Committee shall proceed with the review of the bids in order to verify whether the same are vitiated by any cause of exclusion.

Article 82
(Clarification on Bids)

1. The Assessment Committee may request the bidders any clarification on the bids presented that it considers necessary for review and assessment.
2. The clarification provided by the bidders shall be an integral part of their bids, as long as they do not contradict the elements contained in the documents that constitute them, do not alter or complete them neither is aimed at suppressing omissions that determine the relevant exclusion from the contract.
3. The clarification provided shall be notified to all the bidders.

Article 83
(Causes for Exclusion of Bids)

1. The following bids shall be excluded:
 - a) That are presented by bidders in violation of the provisions of Paragraph 2 of Article 54 of this Law;
 - b) That are presented by bidders or members of bidding associations regarding which any of the situations provided for in Article 55 of this Law are verified;
 - c) That are presented as variants, when they are not admitted by the bid tender program or presented in a number higher than the maximum admitted therein;
 - d) That are presented as variants, when the base bid is not presented or is excluded;
 - e) That are constituted by false documents or in which the bidders provide false declarations;
 - f) That are contractually not acceptable, since they violate the tender documents;
 - g) That present a price higher than the base price.
 - h) That breach the applicable legal or regulatory provisions;
 - i) That present a total price abnormally low, whose justifying clarification have not been presented or do not enable to objectively justify the price presented, when the

awarding criterion is the lowest price;

- j) That reveal the existence of strong indication of acts, agreements, practices or information susceptible to rendering false the rules of competition;
 - k) That are presented by bidders in breach of the rules provided for in Paragraph 2 of Article 70 of this law, as long as the bid tender program expressly so stipulates.
2. For the purposes of the provisions of Paragraph i) of the preceding Paragraph, the bidder shall present justifying clarification on the price they propose, when the Assessment Committee considers, in a reasoned fashion, that this is abnormally low.

3. In the clarification provided for in the preceding Paragraph, the bidder may base the justifications upon factors such as, namely, the economy of the construction process, of fabrication or service rendering, originality of the works, of the goods or proposed services, selected technical solutions or conditions exceptionally favorable that the bidder has available for the contract execution.

4. In this procedural stage, the bids related to which it is concluded that they are vitiated by one of the causes of non-admission stipulated in Paragraphs 1 and 4 of Article 76, Paragraph 3 of Article 77 and Paragraph 1 of Article 79 of this Law, without the same being timely detected in the public act.

Article 84
(Bid Evaluation and Awarding Criteria)

1. The bids regarding which there are no causes for exclusion shall be evaluated in accordance with the awarding criterion established in the bid tender program.
2. The awarding criterion may be:
 - a) That of the bid economically more advantageous, which may take into account, among other factors, the technical, aesthetical or functional characteristics, technical assistance, delivery or execution timeframes, price and degree of impact on public health, social assistance or environmental impact;
 - b) That of the lowest price.
3. Notwithstanding the provisions of Subparagraphs c) to e) of Paragraph 2 of Article 52 of this Law, the factors

and possible sub-factors that materialize the criterion for the economically most advantageous bid shall not, directly or indirectly, pertain to situations, qualities, characteristics or other elements in fact related to the bidders.

Article 85 (Preliminary Report)

Upon review and evaluation of the bids, the Assessment Committee shall produce a reasoned report in which it proposes, when appropriate, the exclusion of the bids, instructing the remaining bids for the purposes of awarding.

Article 86 (Prior Hearing)

Once the preliminary report is produced, the Assessment Committee shall send to all the bidders, establishing for them a timeframe up to five days, so that they can provide their opinion, in writing, under the terms of the right to prior hearing.

Article 87 (Final Report)

1. Once the provisions of the preceding Paragraph has been complied with, the Assessment Committee produces a reasoned final report, which the bidders' observations, which are presented in the prior hearing, are considered, maintaining and modifying the contents and conclusions of the preliminary report. Likewise, they may propose exclusion of any bid, if there is any in this phase, any exclusion cause of the same.

2. In the case anticipated in the final part of the preceding Paragraph, as well as when the final report results in an amendment of the order of the bids contained in the preliminary report, the Assessment Committee shall proceed with the new prior hearing, under the provisions of the preceding Article, then applying the provisions of this Article.

3. The final report shall be submitted to the competent body for the decision to contract for the purposes of approval.

4. When only one bid has been presented, the Assessment Committee shall proceed with its review and, in the event that any cause for exclusion is found, it shall prepare the awarding bid for approval of the competent body for

the decision to contract, and there should be no reason to produce the preliminary and final reports, neither the prior hearing.

Article 88 (Sequence of Procedure)

1. In the event that the bid tender program does not anticipate the adoption of a negotiating stage or electronic auction, the competent body for the decision to contract considers the contents and conclusions of the final report for the purposes of awarding, and the provisions of Article 98 and the following Articles of this Law shall apply.

2. In the event that the bid tender program anticipates the adoption of a negotiating stage or electronic auction, the competent body for the decision to contract considers the contents and conclusions of the final report for the purposes of negotiation or auction, and the provisions, respectively, of Article 89 and the following Articles or in the Article 92 and the following Articles of this Law.

SECTION IV Negotiation of Bids

Article 89 (Selection of Bids for Negotiation)

In the event that the bid tender integrates a bid negotiating stage, the following shall be selected for said negotiation, pursuant to the provisions of the bid tender program:

- a) All the bids that are not vitiated by any cause for exclusion;
- b) Only the bids that are ordered in the first places, in the corresponding number to that established in the bid tender program, unless the number of bids not excluded is lower.

Article 90 (Negotiation)

1. The Assessment Committee shall notify the bidders whose bids have been selected for negotiation, in advance of, at least, three days of the date, time and venue of the of the first negotiating session, and the remaining sessions shall be scheduled under the terms deemed convenient.

2. In the notice referred to in the preceding Paragraph, the Assessment Committee shall indicate the format to

be followed in the negotiations, namely whether they occur separately or jointly with the miscellaneous bidders or occur partially or in whole electronically.

3. The bidders shall be represented in the negotiating sessions by the legal representatives or common representatives of the bidding associations, when appropriate, and they may be accompanied by technicians they appoint.

4. The bids that are not amended in the negotiating sessions, as well as those delivered by the bidders, which are not present in the session, shall be deemed, for the purposes of review, under the terms that they were originally presented.

5. As a result of each negotiating session, minutes shall be generated, signed by all intervening parties, and they shall mention the possible refusal of any of the bidders' representatives to sign them.

6. The minutes and other information or communications, in writing or oral, given by bidders to the Assessment Committee shall be maintained confidential during the negotiating stage.

Article 91 (Subsequent Procedure)

1. Once the negotiations are closed out, the Assessment Committee shall produce a preliminary negotiation report, instructing in a reasoned manner the bids for awarding, and it may also propose the exclusion of any bid, if there is in this phase, any cause for exclusion of same.

2. In the event that a negotiating stage restricted to the bidders is adopted, whose bids are ordered in the first places, the Assessment Committee shall also propose, in the referred to preliminary report, exclusion of the final bids whose total scoring is lower than that of the respective original bids.

3. Once the negotiation preliminary report is produced, the provisions of Articles 86 and 87 of this Law shall be applicable followed by the procedure stipulated in Article 98 and the following Articles of this Law.

SECTION V Electronic Auction

Article 92 (Electronic Auction)

1. The public contracting entity, should it be technically feasible, shall have recourse to an electronic auction.

2. The electronic auction shall consist of an interactive process based upon an electronic device earmarked for enabling the bidders to progressively improve their bids, after evaluation, classification of same shall be obtained through an automated handling.

3. The public contracting entity can only utilize an electronic auction, provided that the awarding criterion adopted is that of the lowest price.

4. The public contracting entity may not utilize the electronic auction in an abusive manner or in a way to hinder, restrict or render false the competition.

Article 93 (Indications Related to Electronic Auction)

When the public contracting entity decides to utilize an electronic auction, the bid tender program shall indicate, in addition to the elements referred to in Subparagraph q) of Paragraph 1 of Article 70 of this Law, the following:

a) The conditions in which the bidders may propose new prices, namely the minimum differences required among the bidding actions;

b) Other rules for the operation of the electronic auction;

c) The information related to the electronic device to be used and the methods and the technical specifications to link the bidders to said device.

Article 94 (Invitation)

1. All the bidders shall be simultaneously invited by the public contracting entity, by electronic means, to take part in the electronic auction.

2. The invitation provided for in the preceding Para-

graph shall indicate the following:

- a) The ordering of the bids of the invited bidder;
- b) Date and time of beginning of the auction;
- c) Manner to close out the auction.

Article 95 (Rules for Electronic Auction)

1. The electronic auction shall not be kicked off prior to, at least, three days as from the date of submission of the invitation.
2. The electronic device used shall enable to permanently inform all the bidders on the new proposed prices and ordering of all the bids.

Article 96 (Confidentiality)

During the electronic auction, the public contracting entity shall not publicize, directly or indirectly, the identity of the bidders participating therein.

Article 97 (Method to Close out the Electronic Auction)

1. The public contracting entity may close out the electronic auction as follows:
 - a) On the date and time established in the invitation to participate in the electronic auction;
 - b) After the maximum timeframe as from receipt of the last bidding, when they do not receive new prices corresponding to the minimum differences required among bidding actions.
2. The maximum timeframe referred to in Subparagraph b) of the preceding Paragraph shall be stipulated in the invitation to participate in the electronic auction.

SECTION VI Awarding

Article 98 (Notice on Decision to Award)

1. The decision to award, which is made following the provisions of Article 88 of this Law, shall be notified to

Contractor, determining that they shall provide, within ten days, the final bid security, whose value shall expressly be indicated in said notice.

2. The awarding shall be notified to the remaining bidders as soon as the provision of said bid security is confirmed, and the timeframe, time and venue on which the whole bid process for public consultation shall be indicated or, in the event that this has been moved onto the electronic platform, and the electronic access to same shall be granted.

3. The timeframe provided for in Paragraph 1 of this Article may, for purposes duly reasoned, be extended up to five days.

4. In the event that the bid security is not due, under the terms provided for in Article 101 of this Law, the draft contract shall be submitted to Contractor, together with the awarding notice, as approved by the competent body for the decision to contract, simultaneously abiding by the provisions of Paragraph 2 of this Article.

Article 99 (Advertisement on Awarding)

1. The awarding of bids for execution of contracts subject to preventive inspection of the Court of Auditors, under the terms established by Law that approves the General State Budget, shall be communicated by the competent body for the decision to contract to the body responsible for regulating and supervising the public contracting, for the purposes of publication in the Public Contracting Portal for the remaining goals legally provided for.
2. The information referred to in the preceding Paragraph shall be provided through the template contained in Annex VII of this Law.

Article 100 (Causes for Non-awarding)

1. There shall be no awarding in the following cases:
 - a) When no bid has been put forward;
 - b) When all the bids have been excluded;
 - c) When, for unpredicted circumstance, it is necessary

to amend fundamental aspects of the bid tender parts after the end of the timeframe for presentation of the bids;

d) When the interest of the public contracting entity imposes the postponement of the bid tender for a timeframe no lower than one year;

e) When the public contracting entity loses the interest to execute the contract, in light of the occurrence of fortuitous events related to the premises of the decision to contract.

2. The non-awarding decision, as well as the relevant reasoning, shall be notified in writing to all bidders.

3. In case of Subparagraph c) of Paragraph 1 of this Article, it is compulsory to start a new procedure within six months of the notice date of decision on non-awarding.

4. In case of Subparagraph d) of Paragraph 1 of this Article, in the notice that is referred to in Paragraph 2, the public contracting entity shall determine the postponement timeframe, and it shall initiate a new procedure after said timeframe.

SECTION VII Final Bid Security

Article 101 (Function and Obligation of Bid Security)

1. The Contractor shall guarantee, through the provision of a final bid security, the accurate and rigorous compliance with the obligations that it shall assume with the execution of the contract.

2. The provision of the bid security referred to in Paragraph 1 of this Article shall be mandatory in the cases of awarding of bids for the execution of contracts subject to preventive inspection of the Court of Auditors, under the terms established by the Law that approves the General State Budget.

3. The competent body for the decision to contract may also require the provision of the bid security referred to in the preceding Paragraph 1 of this Article, in the case of awarding of bids for the execution of contracts not subject to preventive inspection of the Court of Auditors provided for in the preceding Paragraph, provided that it is previously indicated in the invitation or in the procedural program.

Article 102 (Value of Bid Security)

1. The value of the final bid security is determined in the bid tender program in the amount of up to 20% of the total price of the awarded bid.

2. The value referred to in the preceding Paragraph may not be lower than the value of the provisional bid security, when this is required under the provisions of Article 62 of this Law.

Article 103 (Method for Provision of Bid Security)

1. The final bid security shall be provided by deposit in cash, certified check, security issued or guaranteed by the State, bank guarantee or insurance-bond, applying the provisions of Article 63 of this Law.

2. Contractor may convert the provisional bid security into final, by conducting all diligences required for that purpose and confirming its execution in the timeframe established in Paragraph 1 of Article 98 of this Law.

Article 104 (Failure to Provide the Bid Security)

1. The awarding may be forfeit if, for the fact imputable to them, Contractor does not provide, timely and under the terms stipulated in the preceding Paragraphs, the required bid security.

2. In the case provided for in the preceding Paragraph, the competent body for the decision to contract shall award the bid ordered in the subsequent place.

Article 105 (Activation of Bid Security)

1. The public contracting entity shall activate the final bid security without the need for a prior judicial or arbitration decision.

2. The partial or total activation of the final bid security shall imply renewal of the relevant value, within fifteen days of the notice by the public contracting entity for that purpose.

Article 106

(Supplemental Bid Securities for Advances)

1. The public contracting entity may only proceed with price advances on account of contractual services to be carried out by Contractor when:
 - a) The values of advances do not exceed 15% of the total contract value;
 - b) Contractor provides a bid security in the value equal to the advance, by applying the provisions of Article 63 of this Law regarding the method to provide the bid security.
2. The public contracting entity may exceptionally make advances that do not abide by the provisions of Subparagraph a) of the preceding Paragraph when provided for in the execution rules of the General State Budget.

Article 107

(Return of Bid Security)

1. Within ninety days as from the compliance, on the part of Contractor, with all contractual obligations, the public contracting entity shall endeavor to return all of the bid securities that Contractor may have provided.
2. The delay in the provision of the bid security grants Contractor the right to demand from the public contracting entity interests on the amount of the bid security withheld, calculated at the annual rate of 2%, as from the day following the end of the timeframe established in the preceding Paragraph.

SECTION VIII

Contract Execution

Article 108

(Contract in Writing)

1. Unless in the cases provided for in the following Article, the contract shall be made and entered into in writing.
2. The expenditures and charges associated with the contract in writing fall under the responsibility of Contractor, unless otherwise provided for in the bid tender program.

Article 109

(Unenforceability and Waiver of Contract in Writing)

1. Unless expressly provided for in the bid tender program, the contract in writing shall not be required:
 - a) When it is a leasing contract or acquisition of movable goods and acquisition of services whose price do not exceed the level 1 of the Limited Values Table contained in Annex II of this Law;
 - b) When we deal with public works contract whose price do not exceed the level 2 of the Limited Values Table contained in Annex II of this Law.
2. The contract in writing shall be waived by the competent body for the decision to contract, through a reasoned decision, when:
 - a) The internal or external public security so justify;
 - b) For reasons of imperative urgency arising out of events unpredictable by the public contracting entity, it is immediately necessary to execute the contract.
3. In the cases provided for in the preceding Paragraphs, it is understood that the contract results from the combination of the tender documents with the contents of the awarded bid.

Article 110

(Contents of Contract)

1. The contract shall contain, under the penalty of nullity, the following:
 - a) Identification of the parties and respective representatives, as well as the title they intervene;
 - b) Indication of the awarding act and approval act of the draft contract;
 - c) Description of the object of the contract;
 - d) Contractual price;
 - e) The timeframe for execution of the main contractual services, object of the contract;

f) Reference to the bid security provided by Contractor, when required, under the terms of Article 101 of this Law.

2. The following documents shall always be part of the contract, regardless of being in writing:

- a) The clarification and amendments related to the tender documents;
- b) The tender documents;
- c) The awarded bid;
- d) The clarification on the awarded bid provided by Contractor.

3. Whenever the public contracting entity deems convenient, the clauses of the contract may also include a reproduction of the bid tender completed by all elements arising out of the remaining documents referred to in the preceding Paragraphs.

4. The public contracting entity may expressly exclude from the contract any elements contained in the awarded bid, which are related to the contract execution that are not governed by the tender documents and that are not considered extremely necessary to said execution.

5. Should there be divergence between the documents referred to in Paragraph 2 of this Article, the prevalence is determined by the order by which they are indicated in the said Paragraph.

6. In case of divergence between the documents referred to in Paragraph 2 of this Article and the clauses of this contract, the first ones shall prevail.

Article 111 (Approval of Draft Contract)

1. The draft contract shall be approved by the competent body for the decision to contract after confirming the provision of the bid security by Contractor.

2. After the draft of the contract to be executed has been approved, this shall be submitted to Contractor by the competent entity for the decision to contract.

Article 112 (Acceptance of Draft Contract)

The draft of the contract to be executed shall be deemed

accepted by Contractor when there is express acceptance or when there is no complaint within five days of the notice.

Article 113 (Complaint on Draft Contract)

1. The complaints on the draft contract shall only be reasoned by the anticipated obligations that contradict or that are not contained in documents integrating the contract, under the provisions of Paragraph 2 of Article 110 of this Law.

2. Within ten days of the receipt of complaint, the body that approved the draft minute shall notify Contractor of its decision, and the silence shall be equivalent to the refusal of claim.

Article 114 (Timeframe to Execute the Contract)

1. The contract shall be executed within fifteen days of the acceptance date of the relevant draft or decision on the claim provided for in the preceding Paragraph.

2. The competent body for the decision to contract shall be communicate to Contractor, at least five days in advance, the date, time and venue on which the signing of the contract shall occur.

Article 115 (Representation in Signing of Contract)

1. When signing the contract, the representation of the public contracting entity, provided for in Subparagraph a) of Article 6 of this Law, shall fall under the responsibility of the competent body for the decision to contract.

2. In the case of the public contracting entities, referred to in Paragraphs b) to f) of Article 6 of this Law, the representation in signing of the contract shall fall under the responsibility of body designated in the respective legal instrument or in the relevant by-laws.

3. In the cases of the competent body, under the terms of the preceding Paragraphs, is a collegial body, the representation in signing of the contract shall fall under the Chairman of said body.

4. The competency provided for in the preceding Paragraphs may be delegated in general terms.

Article 116 (Expiry of Contract)

1. Notwithstanding the provisions of Paragraph 1 of Article 104 of this Law, the awarding shall also expire if, for the fact that it is imputable to them, Contractor does not show up on the day, time and venue established for signing of the contract, as well as, in the event that Contractor is an association, if its members are not associated under the terms provided for in Paragraph 4 of Article 54 of this Law, unless in the cases of force majeure.

2. In the cases provided for in the preceding Paragraph, Contractor shall lose the bid security provided to the public contracting entity, and the competent body for the decision to contract shall award the bid ordered in the subsequent place.

3. If, it is for a fact imputable to them, the public contracting entity do not sign the contract within the timeframe provided for in Paragraph 1 of Article 114 of this Law, Contractor may release themselves from their bid, and the public contracting entity shall release the bid security the Contractor has provided, notwithstanding the right to be indemnified for all the expenses and the remaining charges that they demonstrably incur with the production of the bid and the provision of the bid security.

CHAPTER III Bid Tender Limited by Prior Qualification

SECTION I General provisions

Article 117 (Applicable Regime)

The bid tender limited by prior qualification shall be governed by, with the required adaptations, the provisions that regulate the bid tender, in all matters that are not especially provided for in the following Paragraphs.

Article 118 (Stage of Procedure)

1. The bid tender limited by prior qualification shall be developed in two stages:

a) Presentation of the applications and qualification of candidates;

b) Presentation, review and evaluation of the bids and awarding.

2. The stage provided for in the Subparagraph a) of the preceding Paragraph shall be public in nature, in said stage all the interested parties may participate through presentation of application.

3. In the stage provided for in the Subparagraph b) of Paragraph 1 of this Article, only the qualified candidates may participate, which shall be invited by the public contracting entity to present a bid.

Article 119 (Announcement)

1. The Announcement on the Bid Tender Limited by Prior Qualification shall be published in the Official Gazette, Series III, and in the Public Contracting Portal, generated in accordance with the template contained in Annex VII of this Law, as well as in a newspaper of big circulation in the country. The bid tender may also be announced through the publication of procurement notices in the head offices of the State local administration bodies.

2. The provisions of Paragraphs 2 to 4 of Article 69 of this Law shall be applicable to the bid tender limited by prior qualification.

Article 120 (Bid Tender Program)

1. The program for the bid tender limited by prior qualification shall indicate:

a) The identification of the bid tender;

b) The public contracting entity, the body that has made the decision to contract and, in the event that this is made through the use of delegation or sub-delegation of competency, the condition in which that one has decided, with mention to the decisions of delegation or sub-delegation and venue of the relevant publication;

c) The price for the supply of the bid tender parts, under the provisions of Paragraph 3 of Article 71 of this Law;

d) The method to present the applications, under the terms of Article 126 of this Law;

e) When the presentation of the applications should

be carried out in hard copy, the address and designation of the receipt service of same, indicating the relevant business hours;

f) When the presentation of the applications should be carried out electronically, the electronic address or the electronic platform used by the public contracting entity for that purpose;

g) The deadline for presentation of the bids;

h) The documents earmarked for the qualification, which constitute the applications, required under the terms of Articles 122 and 123 of this Law;

i) The documents referred to in the preceding Subparagraph that may be written in foreign language, under the provisions of Paragraph 7 of Article 125 of this Law, indicating the admissible languages;

j) The minimum technical and financial abilities to be fulfilled by the candidates;

k) Whether, upon invitation to the qualified candidates, the presented bids are or are not subject to negotiation and, if so, what the factors or sub-factors are of the awarding criteria on which the negotiation focuses, as well as if the provisions of Subparagraph a) or Subparagraph b) of Article 89 of this Law shall be applicable.

l) Should there be electronic auction and, if so, the rules and other information of operation of same, under the provisions of Article 93 of this Law;

m) In the event that a negotiating stage or an electronic auction is adopted, if the same is open to all the bidders whose bids are not excluded or restricted to the bidder whose bids have been ordered in the first places and, in the latter case, what the number of bids to be selected;

n) The awarding criterion, as well as, when the criterion is adopted for the most economically advantageous bid, the explanation on the factors and possible sub-factors that materialize them, the relevant consideration and the other elements required to attribute the scoring to the bids, materialized in an evaluation grid;

o) The provisional bid security value and the final bid security value provided for in Article 62 and 102, respectively, of this Law, when required, as well as the models

related to its provision.

2. The bid tender program may also contain any specific rules on the procedure for the bid tender limited by prior qualification considered as convenient by the public contracting entity, provided that they are not aimed at hindering, restricting or rendering false the competition.

Article 121

(Other Rules Applicable to Bid Tender Limited by Prior Qualification)

1. The provisions of Article 71 of this Law shall be applicable to the procedure for bid tender limited by prior qualification.

2. Simultaneously with the program for the bid tender limited by prior qualification the public contracting entity shall make available to the interested parties the tender documents on the procedure.

Article 122

(Technical Ability)

1. The minimum requirements for the technical ability to be determined in the bid tender program shall be appropriate to the object of the contract to be executed, describing situations, qualities, characteristics and other elements in fact related to the applicants, namely regarding C.V. experience, human, technical, functional resources or others associated with the organizational capacity or environmental management.

2. Unless otherwise legally provided for, the public contracting entity may not establish any minimum requirements for technical ability that may be discriminatory or susceptible to hindering, restricting or rendering false any competition.

3. In order to fulfill the minimum requirements for technical ability, the bid tender program may require the presentation of any documents appropriate for that purpose, namely:

a) The bidders' Curriculum Vitae;

b) List of works performed, supply of goods and rendering of services, which include relevant references, such as amounts, dates and addressees, to be demonstrated, if

necessary, by declaration of the latter;

c) Description of the technical equipment of the candidates;

d) List of human resources, namely the technicians integrated in the applicant companies, which include relevant references, such as the respective education and professional experience;

e) Description of the processes and methods to be adopted by the applicants, namely for the purposes of quality assurance regarding the execution of the contract;

f) Certificates issued by the official or independent entities.

4. The candidate may also, under their responsibility, present other documents, alternatively to those required in the bid tender program, if they consider that they also demonstrate the fulfillment of certain minimum requirements for technical ability.

Article 123 (Financial Ability)

1. The minimum requirements for the financial ability to be determined in the bid tender program shall be appropriate to the object of the contract to be executed, reporting to the candidates' estimated aptitude to mobilize the financial means predictably necessary for the full compliance with the contractual obligations.

2. The provisions of Paragraphs 2 and 4 of the preceding Article shall be applicable to the evaluation of the financial ability.

3. In order to fulfill the minimum requirements for financial ability, the bid tender program may require the presentation of any documents appropriate for that purpose, namely:

a) Balances, earning statements or any other documents of accounting or financial nature, which demonstrate the assets, economic or financial situation of the candidates;

b) Fiscal documents;

c) Relevant bank statements to attest, namely, the

candidates' credit risks.

Article 124 (Fulfillment of Minimum Requirements for Associations-Candidates)

Unless the bid tender program provides for differently, in the event that the candidate is an association, it is deemed that this fulfills the minimum requirements of technical and financial ability, provided that, regarding each requirement:

a) Any of the members that integrate the association individually fulfill said requirements;

b) Any of the members that integrate the association jointly fulfill the requirements, when such is possible in accordance with the nature of the requirement.

SECTION II Presentation of Applications and Qualification of Candidates

Article 125 (Documents for Application)

1. The application shall be comprised of the documents able to demonstrate the fulfillment of the minimum requirements on the technical and financial abilities required by the bid tender program, under the terms provided for in Paragraph 3 of Article 122 and Paragraph 3 of Article 123 of this Law.

2. The application shall also be comprised of a declaration in which the applicant indicates his name, taxpayer number, identity card number and residence or, in the event that it is a corporate body, the relevant number of identification number, corporate name, head office, names of the heads of their administration, directorship or management bodies and other persons with the powers to bind them, as well as the business registration or equivalent.

3. The declaration referred to in the preceding Paragraph shall be signed by the candidate or representative with the powers to bind them.

4. When the application is presented by an association, the declaration referred to in Paragraph 2 of this Article shall be signed by the common representative of the members integrating it, in which case the declaration shall be joined by the powers of attorney issued by each one of

their members or, should there be no common representative, it shall be signed by all their members or respective representatives.

5. The documents constituting the application shall compulsory be presented in the Portuguese language, notwithstanding the provisions of the following Paragraphs.

6. The documents that, since they are written by third parties, are not in the Portuguese language, shall be accompanied by a duly legalized translation and in relation to which the candidate declares to accept the prevalence, for all due purposes, over the respective original documents.

7. The bid tender program may allow that some of the documents that constitute the applications shall be written in foreign language, indicating the admissible languages.

8. The Assessment Committee may always require the candidates to present the original of any documents of the applications whose reproduction has been presented electronically, in case of reasonable doubt on their contents or authenticity.

Article 126

(Methods to Present Applications)

1. The bid tender program shall determine that the applications are presented through the following means:

a) In person, through a protocol, in the address of the public contracting entity as indicated in the bid tender program;

b) By registered letter with acknowledgement of receipt;

c) By electronic mail, with acknowledgement of receipt and reading;

d) By electronic platform used by the public contracting entity, with the issuance of receipt as a supporting documentation on the date and time the application has been received.

2. In the event that the bid tender program determines that the applications be presented in hard copy, the documents that constitute it shall be presented in an opaque, closed and sealed envelope, in the face of which the designation of the procedure shall be identified.

3. In the envelope referred to in the preceding Paragraph, a duplicate of each one of the documents that constitute the application shall be included.

4. The receipt of the envelope referred to in Paragraph 2 of this Article, whether the same has been presented in person or by registered mail, it shall, in any case, occur within the timeframe established for presentation of the applications.

5. In the event that the bid tender program determines that the applications be presented in electronic platform, the rules for its presentation and receipt shall be stipulated by a specific normative act of the President of the Republic.

Article 127

(Timeframe to Present Applications)

1. The public contracting entity shall determine, in the announcement and bid tender program, the deadline for presentation of the applications, which shall take into account the time necessary for its production, in accordance with the required technical and financial abilities.

2. Notwithstanding the provisions of Paragraph 3 of Article 50 of this Law, the timeframe for presentation of the bids can only be extended in cases duly reasoned, by decision of the competent body for the decision to contract.

Article 128

(Opening and Review of Applications)

1. In the business day immediately following the end of the timeframe to present the applications, the Assessment Committee shall meet in a reserved session to open the bids.

2. For a justified reason, the opening of the bids may occur ten days following the timeframe indicated in the preceding Paragraph.

3. In the session referred to in Paragraph 1 of this Article, the Assessment Committee shall proceed with the review of the applications in order to verify whether they have any cause for exclusion.

Article 129

(Clarification on Applications)

1. The Assessment Committee may request the appli-

cants any clarification on the presented applications deemed as necessary for their review and evaluation.

2. The clarification provided by the candidate is an integral part of their applications, as long as they do not contradict the elements contained in the documents that constitute them, do not change or complete them, and they are not aimed at suppressing omissions that determine the respective exclusion.

3. The clarification provided shall be notified to all the applicants.

Article 130

(Causes for Exclusion of Applications)

1. The following applications shall be excluded:

a) When they are not received in the established timeframe;

b) They do not abide the formalities related to the method of presentation, under the terms of the provisions of Article 126, as well as Paragraphs 6 and 7 of Article 125 of this Law;

c) They are not constituted by any of the documents required by law or in the bid tender program, unless as provided for in Paragraph 4 of Article 122 of this Law;

d) They are presented by the applicants in violation of the provisions of Paragraph 2 of Article 54 of this Law;

e) They are presented by the applicants or members of candidates-associations related to which some of the situations provided for in Article 55 of this Law occurred;

f) They are constituted by false documents or the applicants provide false declarations;

g) They are presented by the applicants in violation of the rules provided for in Paragraph 2 of Article 120 of this Law, provided that the bid tender program expressly so anticipates;

h) They contain any reference that is indication of any of the contractual conditions to be included in the bid.

Article 131

(Evaluation of Applications)

1. Also in a reserved session, the applications regarding which any causes for exclusion are not verified shall be evaluated aimed at checking the compliance with the minimum requirements for the technical and financial abilities.

2. All the applicants that fulfill the minimum requirements for the technical and financial abilities, as stipulated in the bid tender program, shall be qualified.

3. The fulfillment of the minimum requirements mentioned in the preceding Paragraph shall be proven through the elements contained in the documents that constitute the application.

4. The Assessment Committee may request any third parties to provide any information deemed relevant to demonstrate fulfillment of the minimum requirements of technical and financial abilities.

Article 132

(Preliminary Qualification Report, Prior Hearing and Final Qualification Report)

1. Upon review and evaluation of the applications, the Assessment Committee shall produce a preliminary qualification report, in which it proposes the exclusion of applications, when appropriate, as well as the qualification or non-qualification of each one of the candidates whose applications are not vitiated by any cause for exclusion.

2. The Assessment Committee shall send to all the candidates the report provided for in the preceding Paragraph, stipulating a timeframe no lower than five days, so that they can provide their opinion in writing, under the right to prior hearing.

3. Once the provisions of the preceding Paragraph is complied with, the Assessment Committee shall produce a reasoned final report, in which it considers the candidates' observations carried out in the prior hearing, maintaining or modifying the contents and conclusions of the preliminary qualification report.

4. In the event that the report provided for in the preceding Paragraph imply alteration of the proposed exclusion of one or more applications or qualification or non-qualification bid of one or more candidates, the Assessment Committee shall proceed with the prior hearing, under the provisions of the preceding Article, then applying the provisions of this Article.

5. The final qualification report shall fall under the responsibility of the competent body for the decision to contract, for the purposes of approval.

6. When only one bid has been presented, the Assessment Committee shall proceed with the review and evaluation and, in the event that any cause for exclusion is not detected and there is the fulfillment of the minimum requirements of technical and financial abilities, it prepares the qualification bid for approval of the competent body for the decision to contract, and there should not be production of preliminary and final qualification reports and nor the prior hearing.

Article 133 (Decision on Qualification)

1. The competent body for the decision to contract shall consider the contents and conclusions of the final report for the purposes of qualification of the candidates.

2. The decision on the qualification shall be notified to all the candidates, and the provisions of Articles 14 and the following Articles of this Law shall apply.

SECTION III Presentation of Bids and Awarding

Article 134 (Invitation for Presentation of Bids)

1. With the notice on the qualification decision, the competent body for the decision to contract shall simultaneously send to all qualified candidates the invitation to present the bids.

2. The invitation to present the bids shall indicate:

- a) Identification of the bid tender;
- b) The reference to the bid tender announcement;
- c) The method to present the bids, under the provisions of Article 65 or Article 66 of this Law;

d) When the presentation of the bids shall be carried out in hard copy, the address and the designation of the receipt service of same, indicating the respective business hours.

e) When the presentation of the bids shall be carried out electronically, the electronic platform used by the public contracting entity for that purpose;

f) The deadline for presentation of the bids, under the provisions of Article 67 of this Law;

g) The qualification documents, under the provisions of Article 58 of this Law;

h) The documents that constitute the bids, under the provisions of Article 59 of this Law;

i) The documents that constitute the bids, which may be written in foreign language, under the provisions of Paragraph 7 of Article 59 of this Law, indicating the admissible languages;

j) If the presentation of variant bids is admissible and the maximum number of variant bids admitted;

k) In the event that variant bids are admitted, what clauses of the bid tender may be object of variation and the terms under which this should be evaluated, under the provisions of Article 60 of this Law;

l) The timeframe for maintenance of the bids, when it is different from that stipulated under the provisions of Paragraph 1 of Article 68 of this Law;

m) The date, time and venue of the commencement of the bid tender public act.

3. Should there be no specifications referred to in Subparagraphs j) and k) of the preceding Paragraph, presentation of variant bids shall not be admitted.

4. The invitation to present the bids may also contain any specific rules on the following procedure, as considered convenient by the public contracting entity, provided that they are not aimed at hindering, restricting or rendering false the competition.

Article 135 (Subsequent Procedure)

With the required adaptations, the provisions of Articles 72 to 116 of this Law shall be applicable to the public act for opening of the bids.

CHAPTER IV Bid Tender Limited by Invitation

Article 136 (Applicable Regime)

The bid tender limited by invitation shall be governed by, with the required adaptations, the provisions that regulate the bid tender, in matters that are not incompatible with the provisions of the following Articles.

Article 137 (Stages of Procedure)

The procedure for bid tender limited by invitation shall be comprised of the following stages:

- a) Submission of invitation to the bidders;
- b) Presentation, review and evaluation of bids;
- c) Negotiation of bids, if the public contracting entity has anticipated it in the invitation;
- d) Awarding.

Article 138 (Invitation)

1. The invitation for presentation of bids shall be carried out at least to three entities, through any means in writing, and it shall be registered in the Public Contracting Portal.

2. The entities to be invited shall be selected based on the registration of the record provided for in Article 13 of this Law or based upon the knowledge on the aptitude and credibility recognized to them for execution of the intended contract.

3. The invitation for presentation of the bids shall indicate the following:

- a) Identification of the bid tender;
- b) The public contracting entity, the body that made the decision to contract and, in the event that this decision is made in the use of the delegation or sub-delegation of competency, the quality in which said body has decided, with the mention of the delegation or sub-delegation decisions and the venue of the relevant publication;

c) The method to present the bids, under the provisions of the following Article;

d) When the presentation of the bids shall be carried out in hard copy, the address and the designation of the receipt service of same, indicating the respective business hours;

e) When the presentation of the bids shall be carried out electronically, the electronic platform used by the public contracting entity for that purpose;

f) The deadline for presentation of the bids, under the provisions of Article 140 of this Law;

g) The qualification documents, under the provisions of Article 58 of this Law;

h) The documents that constitute the bids, under the provisions of Article 59 of this Law;

i) The timeframe for maintenance of the bids, when it is different from that stipulated under the provisions of Paragraph 1 of Article 68 of this Law;

j) In the event that the bids presented are or not subject to negotiation and, if so, what are the factors or sub-factors of the awarding criterion on which the negotiation should focus, as well as what are the terms and rules that this abides by, and if the case provided for in Subparagraph a) or Subparagraph b) of Article 89 of this Law shall be applicable.

k) The awarding criterion, as well as, when the criterion of the bid economically more advantageous, explanation of the factors and possible sub-factors that materialize it, the relevant consideration and other elements required for awarding the bid scoring, materialized in an assessment grid;

l) The final bid security value provided for in Article 102 of this Law, when required, as well as in the templates related to its provision.

4. The invitation to present the bids may also contain any specific rules on the following procedure, as considered convenient by the public contracting entity, namely related to presentation of the variant bids, presentation of documents in foreign language or adoption of electronic auctions, provided that they are not aimed at hindering,

restricting or rendering false the competition.

5. The invitation shall compulsorily be accompanied by the tender documents, and it shall be simultaneously sent to all the persons or corporate bodies to be invited.

Article 139

(Method for Presentation of Bids)

1. The invitation for presentation of bids shall determine that these are presented through one of the following means;

a) In person, through protocol, in the address of the public contracting entity indicated in the bid tender program;

b) By registered letter, with acknowledgement of receipt;

c) By electronic mail, with acknowledgement of receipt and reading.

2. In the event that the invitation for presentation of bids determine that these should be presented in hard copy, all the qualification documents and all the documents that constitute the bid referred to in Paragraphs 56 and 59 of this Law, respectively, may be closed out in a sole, opaque, closed and sealed envelope, in front of which the procedure designation shall be indicated.

3. A duplicate of each of the documents that constitute the bid shall be included in the envelope referred to in the preceding Paragraph.

4. The receipt of the envelope referred to in the preceding Paragraph, if it is presented in person or by registered mail, shall, in any case, occur within the timeframe established for presentation of bids.

Article 140

(Timeframe for Presentation of Bids)

The timeframe for presentation of bids shall not be lower than six days of the date of submission of the invitation.

Article 141

(Clarification on and Rectifications of Procedural Parts)

1. The clarification and rectifications provided for in

Article 50 of this Law may be carried out up to the day before the end of the timeframe for presentation of the bids.

2. In case of failure to comply with the provisions of the preceding Paragraph, the timeframe for presentation of bids shall be extended for a period equivalent to that of the verified delay.

Article 142

(Subsequent Procedure)

1. On the business day immediately following the end of the timeframe for presentation of the bids, the Assessment Committee shall meet in a reserved session for opening of same.

2. The provisions of Articles 81 and 116 of this Law shall be applicable to the subsequent procedure up to the contract execution.

CHAPTER V

Procedure for Simplified Contracting

Article 143

(Applicable Regime)

The procedure for simplified contracting shall be governed by, with the required adaptations, the provisions that regulate the bid tender limited by invitation, in all matters that are not incompatible with the provisions the following Articles.

Article 144

(Invitation)

1. Unless as provided for in Subparagraph b) of Article 27, in Subparagraphs a) and c) of Article 28, Subparagraphs a) and b) of Article 29 and Article 30 of this Law, the public contracting entity shall freely chooses, based upon the knowledge on the potential bidders, the entity to be invited to present the bid.

2. The submission of the invitation to present the bid shall be carried out through any means in writing, and its registration in the Public Contracting Portal shall be performed.

3. The invitation for presentation of bids may only indicate;

a) The indication of the procedure;

b) The public contracting entity and the body that has made the decision to contract;

c) The method for presentation of the bid, which shall be freely selected by the public contracting entity;

d) The deadline for the presentation of the bid, as freely established by the public contracting entity;

e) The qualification documents, under the provisions of Article 58 of this Law;

f) The documents that constitute the bids, under the provisions of Article 59 of this Law;

g) The value of the final bid security, as stipulated in Article 102 of this Law, when required, as well as the templates related to its provision.

4. The invitation shall compulsory be accompanied by the tender documents, and both may be aggregated in a single document.

Article 145 (Impediment to Invitation)

The following shall not be invited to present bids to the entities: those that have been already awarded, in the current or previous economic year, following the procedures for simplified contracting adopted under the provisions of Paragraph 3 of Article 24 of this Law, bids for execution of contractual services of the same type or those identical to the contract to be executed, whose cumulative value is higher than that included in the Level 1 of the Table on Value Limits contained in Annex II of this Law.

Article 146 (Release of Assessment Committee)

The competent body for the decision to contract may release the constitution of an Assessment Committee, and the services of the public contracting entity shall be responsible for requesting clarification on the bid presented and shall submit to that one the draft decision on awarding.

Article 147 (Negotiation)

1. The services of the public contracting entity or, when there is one, the Assessment Committee may ne-

gotiate the bid presented in order to better adjust to the needs underlying the intended contracting.

2. If, under the terms of the preceding Paragraph, there is negotiation, the format, terms and timeframes of same shall be freely established by the public contracting entity.

Article 148 (Subsequent Procedure)

Unless there is a cause for exclusion of the presented bid, there should be no production of the preliminary and final reports nor holding of the prior hearing.

Article 149 (Awarding Based on Invoice)

In the cases provided for in Paragraph 3 of Article 46 of this Law, the awarding may consist of a mere approval of the invoice or equivalent document, with express reference to the budget inclusion note.

CHAPTER VI Special Contracting Rules

SECTION I Bid Tender for Design Works

Article 150 (Bid Tender for Design Works)

1. The bid tender for design works is the procedure that allows the public contracting entity to select one or more design works, idealized in the artistic, spatial planning, urban planning, architecture, civil engineering or data processing domains.

2. When the public contracting entity intends to acquire the plan generating service or design work development project referred to in the preceding Paragraph, for that purpose, it shall adopt the following:

a) A bid tender limited by invitation, when two or more design works have been selected;

b) A procedure for simplified contracting, when a single design work has been selected.

Article 151

(Method of Bid Tender for Design Works)

1. The bid tender for design works shall follow the method for bid tender or bid tender limited by prior qualification.
2. The bid tender for design works shall follow the method for bid tender limited by prior qualification when the nature or complexity of its object requires the technical ability of the candidates, namely recognized prior experience in specific domains.
3. When the method of bid tender limited by prior qualification is selected, the minimum requirements for technical ability shall be adjusted to the nature of the intended design works and shall be established in a non-discriminatory manner.

Article 152

(Commencement of Bid Tender for Design Works)

1. The bid tender for design works shall begin with the decision on selecting one or more design works, and the competent body, by law or delegation shall be responsible for the decision to authorize the expenditure related to the premiums or payments that the bidders are entitled to, and said decision may be implicit in the latter.
2. When the bid tender for design works does not imply the payment of premiums to the bidders, the decision to select one or more design works shall fall under the body of the public contracting entity that is competent for that purpose, under the terms of the respective organic law.

Article 153

(Decision on Selecting the Method of Bid Tender for Design Works)

1. The decision on selecting the method of bid tender for design works shall fall under the responsibility of the competent body for the decision stipulated in the preceding Paragraph.
2. The decision on selecting the method of bid tender limited by prior qualification shall be reasoned.

Article 154

(Association of Public Contracting Entities)

The public contracting entities may associate themselves aimed at adopting a bid a tender for design works, and, with the required adaptations, the provisions of Article 34 of this Law shall apply.

Article 155

(Announcement of Bid Tender for Design Works)

1. The bid tender for design works shall be published in the Official Gazette, Series III, through an announcement, per the template as prepared by the body responsible for regulating and supervising the public contracting and approved by a specific normative act of the President of the Republic or to whom he may delegate.
2. The announcement referred to in the preceding Paragraph or a summary of its most important elements shall be then publicized by any means considered as convenient, namely through its publication in the Public Contracting Portal, in an electronic platform used by the public contracting company or in a newspaper of significant circulation in the country, as well as, in the case of design works with local relevance, through its publication in local notices in the respective province, municipality or commune.
3. Whenever, under the provisions of Paragraph 3 of Article 53 of this Law, the participation of foreign persons or corporate bodies is admitted, the announcement or summary produced under the terms provided for in the preceding Paragraph shall also be publicized in means that, demonstrably, take the information to the international markets.

Article 156

(Terms of Reference)

1. In the bid tenders for design works a document shall be previously approved, designated as terms of reference, which shall indicate:
 - a) The identification of the bid tender, as well as the respective method selected;
 - b) A description, as full as possible, of the characteristics, particulars, references and any other requirements of aesthetic, functional or technical nature that the design works presented shall abide by;
 - c) The public contracting entity;

d) The body that has made the decision to select one or more design works and, in the event that is made in the use of the competency delegation or sub-delegation, the condition in which said entity has decided, indicating the delegation or sub-delegation decisions or the venue of the respective publication;

e) The specific professional qualifications that the bidders shall have, if applicable;

f) The documents that materialize the design works to be presented;

g) The timeframe and venue for presentation of the documents mentioned in the preceding Paragraph;

h) The selection criterion, explaining the factors and possible sub-factors that densify it;

i) The total amount of the possible participation premiums to be awarded to the bidders whose design works are not excluded;

j) The number of design works presented to be selected;

k) The value of recognition prize to be awarded to each of the bidders selected.

2. When the procedure for bid tender by prior qualification is adopted, the terms of reference also indicate:

a) The minimum requirements for technical ability that the candidates shall fulfill;

b) The documents earmarked for the qualification of the candidates.

3. The terms of reference may also contain any specific rules on the bid tender for design works deemed convenient by the public contracting entity, provided that they are not aimed at hindering, restricting or rendering false the competition, as well as they shall be accompanied by any supplemental documents necessary to the full description mentioned in Subparagraph b) of Paragraph 1 of this Article or indicate the entity and venue said documents may directly be obtained by the interested parties.

4. The terms of reference may also provide for the obligation to present the design works by electronic mail or

other means of electronic data transmission, in which case they shall establish the terms said presentation shall abide by in order to guarantee the relevant anonymity and safety.

5. The terms of reference norms shall prevail over any indications contained in the announcements that are not in conformity with them.

6. With the required adaptations, the provisions of Article 50 of this Law shall be applicable to the terms of reference.

Article 157 (Assessment Committee)

1. The Assessment Committee appointed by the competent body for the decision provided for in Article 152 of this Law shall be comprised of, in an odd number, by at least three full members, one of which shall preside over and two substitutes.

2. When, in the terms of reference, the bidders are required to have specific professional qualifications, the majority of the Assessment Committee members shall have the same qualifications.

3. The provisions of Article 42 of this Law shall be applicable for the Assessment Committee operation.

4. The Assessment Committee deliberations on ordering the design works presented or on the exclusion of same per failure to comply with the description mentioned in Subparagraph b) of Paragraph 1 of the preceding Article shall be binding in nature for the public contracting entity, and they shall not, in any case, be amended after the identity of the bidders is known.

Article 158 (Anonymity)

1. In the bid tender for design works, regardless of the method adopted, the identity of the bidders, which are the authors of the design works presented, may only be known and revealed after the bid tender final report is produced.

2. The public contracting entity, Assessment Committee and the bidders shall practice and refrain from practicing, as appropriate, all the acts necessary to comply with the provisions of the preceding Paragraph.

Article 159
(Presentation of Design Works)

Each bidder may present various design works.

Article 160
(Establishment of Timeframes for Presentation of Documents)

The timeframe for presentation of documents earmarked for qualification, when the method selected is that of a bid tender limited by prior qualification, as well as the timeframe for presentation of the documents that materialize the design works, shall be freely stipulated by the contracting entity, taking into account the time required for the respective generation, according to the nature, characteristics and complexity associated with the bid tender in question.

Article 161
(Bid Tender Rules)

1. When the method selected is the bid tender, the documents that materialize each of the design works shall be placed in an opaque, closed and sealed envelope, in front of which only the word "Work" and the designation of the bid tender shall be written.

2. In an envelope with the characteristics mentioned in the preceding Paragraph, a document with the bidder's identification and contacts shall be included, in front of which only the word "Bidder" and the designation of the bid tender shall be written.

3. The envelopes referred to in the preceding Paragraphs shall be included in another one, also opaque, closed and sealed, which is named "External Envelope", indicating only the designation of the bid tender and the awarding entity.

4. The documents that materialize the design works, as well as all the envelopes referred to in the preceding Paragraphs, shall be presented in a manner that guarantees the total and absolute anonymity of the bidders, and it shall not contain any element that allows, directly or indirectly, identify its author or authors.

5. The external envelope may be delivered directly or sent by registered mail, without indication of the sender, and, in any case, the respective receipt shall occur within the timeframe and at the venue established for presentation of the design works.

6. The receipt of the external envelopes shall be registered, indicating the date and time the same are received and, in the event of direct delivery, and its bearer shall only be provided with a supporting documentation on acknowledgement of receipt.

7. After the end of the timeframe established for presentation of the design works, the Assessment Committee shall allocate a number for each of the external envelopes, open them and write the exact same number in the respective envelopes referred to in Paragraphs 1 and 2 of this Article.

8. The Assessment Committee shall then proceed with the opening the envelopes that contain the documents that materialize the design works presented by the bidders, proceeding with its review and producing a final report, signed by all its members, in which the following shall mainly be indicated:

a) The ordering of the design works presented in accordance with the selection criterion established in the terms of reference;

b) The exclusion of the design works:

i. The ordering of the design works presented after the end of the timeframe established in the terms of reference;

ii. Whose documents that materialize them or the envelopes referred to in Paragraphs 1 to 3 contain any element that allow, directly and directly, identify their author or authors;

iii. That do not abide by the description mentioned in Subparagraph b) of Paragraph 1 of Article 156 of this Law.

9. The Assessment Committee may proceed with the opening of the bids referred to in Paragraph 2 of this Article after fully complying with the provisions of the preceding paragraph.

10. In the event that the terms of reference stipulate the obligation to present the design works through electronic mail or other means of electronic data transmission, the provisions of the preceding Paragraphs shall be applicable with the necessary adaptations.

Article 162

(Rules for Bid Tender Limited by Prior Qualification)

1. When the method selected is the bid tender limited by prior qualification, the documents earmarked for the qualification should be presented in an opaque, closed and sealed envelope, in front of which only the word "Application", the candidate name or corporate name, the designation of the bid tender and the public contracting entity shall be written.

2. The envelope mentioned in the preceding Paragraph may be delivered directly or sent by registered mail, and, in any case, the respective receipt shall occur within the timeframe and venue established for presentation of the applications.

3. The receipt of the envelopes shall be registered, indicating the date and venue they are received and, in case of direct delivery, the identity of the persons who have delivered them, and they should be provided with a supporting documentation as acknowledgement of receipt.

4. After the end of the timeframe established for presentation of the applications, the Assessment Committee shall proceed with their review, qualifying the candidates who, since they have presented their application on a timely fashion, comply with the minimum requirements for the technical ability established in the terms of reference.

5. Once the qualification is carried out, the Assessment Committee shall simultaneously send to all the qualified candidates an invitation to present the design works pursuant to the rules established in the terms of reference.

6. Once the provisions of the preceding Paragraph have been complied with, the bid tender for design works shall proceed with their terms, in accordance with the provisions of the terms of reference.

7. The bid tender final report shall also indicate, in a reasoned manner, the candidates to be excluded, either for not fulfilling the minimum requirements for technical ability required in the terms of reference or they have presented the respective applications after the timeframe stipulated for that purpose.

8. In the event that the terms of reference establish the obligation for presentation of the design works by electro-

nic mail or other means of electronic data transmission, the provisions of the preceding Paragraphs shall be applicable, with the required adaptations.

Article 163

(Decision on Selection and Premiums)

1. The competent body for the decision, as provided for in Article 152 of this Law, shall select one or more design works, per the number stipulated in the bid tender terms of reference, according to the contents and conclusions of the final report, namely with the binding deliberations made by the Assessment Committee.

2. Out of decision on selection, the awarding of recognition prizes to the selected bidders shall also be included, as well as awarding of possible participation prizes.

3. The decision on selection, referred to in the preceding Paragraphs, shall be simultaneously notified to all the bidders and, when the method selected is the bid tender limited by prior qualification, also to all excluded candidates.

4. The recognition prizes shall be pecuniary in nature, and the amount of each one of them shall be pre-determined in the terms of reference.

5. The participation premiums may be pecuniary in nature or consist of honorable mention, and, in the first case, the terms of reference shall indicate their total amount.

Article 164

(Expiry of Decision on Selection)

1. When the terms of reference of the bid tender for design works require the bidders to have specific professional qualifications, the bidders selected shall present the supporting documentation on same within five days of the notice date of the decision on selection.

2. The decision on selection shall expire if the selected bidder does not present the documents referred to in the preceding Paragraph within the timeframe established therein.

3. In the case provided for in the preceding Paragraph, the competent body for the decision shall select the design work ordered in the following place.

Article 165
(Prevalence)

The norms contained in this Chapter related to the bid tender for design works shall prevail over any provisions of the terms of reference and respective supplemental documents that are not in conformity with them.

SECTION II
Master Agreements

SUBSECTION I
Execution of Master Agreements

Article 166
(Master Agreements)

The public contracting entities may execute master agreements to regulate future contractual relations through establishment in advance of the respective terms and conditions.

Article 167
(Methods of Master Agreements)

1. The master agreements may be executed with one or various Contractors, suppliers of goods or service providers.
2. A master agreement executed with a sole Contractor, supplier of goods or service provider shall specify all the aspects of the contracts to be executed that are submitted for competition by the tender documents of said agreement.
3. A master agreement executed with various Contractors, suppliers of goods or service providers may not specify all the aspects for the contracts to be executed that are submitted for competition by the tender documents of said agreement.
4. In the case provided for in the preceding Paragraph, the aspects not specified in the master agreement shall be defined in line with the procedure for the creation of the contracts to be executed under said master agreement.
5. The public contracting entities may not opt for executing master agreements, in any of the methods referred to in the preceding Paragraphs, in an abusive manner or in order to hinder, restrict or render false the competition.

Article 168
(Procedure for Creation of Master Agreements)

1. In order to create a master agreement, the procedures provided for in Subparagraphs a), b) and c) of Paragraph 1 of Article 22 of this Law shall be adopted.
2. If, under the terms provided for in the preceding Paragraph, to create a master agreement the procedure for the bid tender limited by invitation is selected, contracts may only be executed as long as the sum of the respective prices is lower than the threshold applicable under the terms of the provisions of Paragraph 2 of Article 24 of this Law.
3. The procedure program to create master agreements, in the method provided for in Paragraph 3 of the preceding Article, shall indicate the number of bids to be awarded, which shall not be lower than three.

Article 169
(Maximum Timeframes for Effectiveness of Master Agreements)

1. The original timeframe for effectiveness of the master agreements shall not be longer than two years, and it may be extended, under the provisions of the master agreement tender documents, for equivalent periods, and in any case their effective period shall not be longer than four years.
2. In exceptional cases and duly reasoned, when such is necessary in light of the nature of the contractual services object of the master agreement or conditions of the respective execution, the master agreement bid tender may provide for timeframes longer than those established in the preceding Paragraph, provided that the effectiveness of the master agreement, including extensions, are never longer than eight years.

Article 170
(Regulations)

The definition of the categories of goods, services and works that may be object of master agreements, as well as regulations on the terms for their creation and execution, shall be determined by specific normative act by the President of the Republic.

Article 171
(General Rules)

1. Contracts may only be executed under a master agreement by the parties in the referred to master agreement.
2. Out of the execution of contracts under master agreements shall not arise significant amendments to the conditions stipulated in the master agreements.
3. The parties to the master agreements shall compulsorily present bids to execute contracts whenever they are invited for that purpose by the public contracting entity, in line with the procedures referred to in the preceding Paragraphs.
4. Unless otherwise provided for in the master agreement tender documents, the public contracting entities shall not be obligated to execute contracts under their terms.

Article 172
(Contracts under the Terms of Master Agreement Executed with a Sole Entity)

1. In order to create a contract under the terms of a master agreement executed with a sole entity, the public contracting entity shall adopt the procedure for simplified contracting, following, with the necessary adaptations, the provisions of Article 143 and following Articles of this Law, except for the provisions of the preceding Paragraphs.
2. The contents of the contracts executed under the master agreement shall correspond to the contractual conditions established in the master agreement, and the generation of tender documents shall not be required.
3. Should such be expressly provided for in the master agreement tender documents, the public contracting entity may proceed with the requisition of the goods, services or works, without the need to present in writing the contract executed under the master agreement.
4. Should it be necessary, the public contracting entity may request, in writing, to the co-contracting party of the master agreement to also detail in writing aspects contained in the bid.

Article 173
(Contracts under the Terms of Master Agreement Executed with Various Entities)

1. In order to create a contract under the terms of a master agreement executed with various entities, the public contracting entity shall adopt the procedure for bid tender limited by invitation, following, with the necessary adaptations, the provisions of Article 136 and following Articles of this Law, except for the provisions of the preceding Paragraphs.

2. The invitation to be addressed to the co-contracting parties in the master agreement requires the presentation of bids that abide by:

- a) The terms of the master agreement to be carried out, developed or supplemented in light of the particulars of the need whose fulfillment is aimed at the execution of the contract;
- b) The aspects of the contract to be executed submitted for competition by the master agreement tender documents.

3. The invitation shall indicate the timeframe and method for presentation of the bids, as well as the terms or aspects referred to in the preceding Paragraph and also, as appropriate, the grid to evaluate the procedures the factors and sub-factors that densified the awarding criterion anticipated in the procedural program for creating the master agreement.

TITLE IV
Purchasing Hubs

CHAPTER I
General Provisions

Article 174
(Purchasing Hubs)

1. The public contracting entities may create purchasing hubs to centralize the contracting of public contract works, leasing and acquisition of movable goods and acquisition of services.
2. The entities referred to in the preceding Paragraph may also create purchasing hubs exclusively earmarked for a particular sector of activity.

Article 175
(Main Activities of Purchasing Hubs)

1. The purchasing hubs shall be earmarked namely for:

e) Fostering of competition.

a) Awarding the bids for execution of public contract works, supply of movable goods and acquisition of services, at the request and representation of the public contracting entities;

b) Leasing or acquiring goods or acquiring services earmarked for the public contracting entities, namely in order to foster the grouping of orders;

c) Executing master agreements, named procurement public contracts, whose object is the further execution of public contract works, leasing or acquisition of movable goods or acquisition of services.

2. For the purposes of performance of the activities provided for in the preceding Paragraph, the purchasing hubs shall be subject to the provisions of this Law.

3. In the cases provided for in Subparagraph a) and b) of Paragraph 1 of this Article, the expenditures associated with the procedure for creating each contract to be executed shall really fall under the responsibility of the beneficiary public contracting entity, unless otherwise expressly provided for.

Article 176 (Guiding Principles)

During the performance of their activities, in addition to the respect for the norms to create and execute public contracts, the purchasing hubs shall also be guided by the following principles:

a) Itemization of the contracting, purchasing and payment tasks;

b) Usage of electronic purchasing tools with features of electronic catalogs and automated order;

c) Adoption of electronic acquisition practices based upon the actions by highly qualified negotiators and specialists with high technical qualifications, aimed at cost reduction;

d) Preference for acquisition of goods and services that foster the national industry and environment;

CHAPTER II Constitution and Management of Purchasing Hubs

Article 177 (Constituent Acts)

1. The constituent acts of the public purchasing hubs shall govern namely the following matters:

a) Objective scope, namely the activities to be developed, type or types of contracts covered and, if applicable, the business sector for which it is earmarked;

b) Subjective scope, namely the entities covered;

c) Compulsory or optional nature of the option for the purchasing hub by the entities covered.

2. The constituent acts of the purchasing hubs may also provide for remuneration criteria for the service provided, namely in the contractual relations with third parties that are not entities covered, taking into account the appropriate performance indicators, such as the purchase volume and savings generated.

3. The State may create general purchasing hubs or earmarked only for a specific business sector and inclined to meet the special and differentiated needs.

Article 178 (Economic and Financial Feasibility and Rationality)

The creation of purchasing hubs shall also be preceded by a study that focus on the need, economic and financial feasibility and advantages, namely in the perspective of quality gains and efficiency, creation of the purchasing hubs, as well as their conformity with the applicable legal regime.

Article 179 (Management by Third Parties)

1. The management entities of the purchasing hubs may allocate some of their business activities to third parties, regardless of the public or private nature, as long as it is expressly provided for in the respective constituent acts.

2. The third parties referred to in the preceding Paragraph shall offer reputation guaranties, technical quality an financial ability appropriate to the management of the purchasing hubs business activities in question.

3. The creation and execution of the management contracts provided for in Paragraph 1 of this Article shall be subject to this Law.

Article 180

(Management Contracts by Third Parties)

The management contract executed for the purposes provided for in the preceding Article shall be in writing and governs, namely the following matters:

- a) Contractual services encompassed by the object of the management contract;
- b) Continuity guarantee and quality in the execution of the contractual services by the third parties;
- c) Definition of the accessory activities that the third parties may proceed with and respective terms;
- d) Remuneration criteria of the third parties and methods of payment;
- e) Duration of the contract.

TITLE V

Execution of Public Works Contract

CHAPTER I

General Provisions

Article 181

(Definitions)

1. Public works contract shall be the onerous contract whose object is the execution or the design and performance of a public work.
2. For the purposes of the preceding Paragraph, public work shall be any construction work, design and construction, reconstruction, expansion, alteration, repair, conservation, cleaning, restoration, adaptation, refurbishment and demolition of properties, performed on behalf of a public work owner.

3. For the purposes of the current legal regime, a public works owner shall be:

- a) Any of the public contracting entities indicated in Article 6 of this Law;
- b) Any of the corporate bodies that, regardless of their public or private nature, execute these contracts in the performance of tasks materially administrative.

Article 182

(Parties to the Contract)

1. The Developer and Contractor shall be parties to the public works contract.
2. The Developer shall be the corporate body that instruct the performance of same or, in the event that they are more than one, the owner of the goods or with the responsibility to administer them, under the terms provided for in Article 3 of the preceding Article.
3. Whenever, in this Law, reference is made to the decisions or deliberations of the Developer, it is deemed that said decisions or deliberations are made by the body that, pursuant to the law or their respective by-laws, is competent for that purpose or, in case of omission of the law and by-laws, by the highest management body.

Article 183

(Representation of Parties)

1. During the execution of the contract, the Developer shall be represented by the works inspection manager and the Contractor represented by the works technical director, except for the works in which, by law or contractual provisions, another representation is established.
2. Notwithstanding other constraints provided for in the contract, the works inspection manager shall not have powers of representation in matters related to amendment, termination or revocation of the contract.
3. Contractor shall, subject to the acceptance of the Developer, bestow upon a technician the public works technical management. Said technician shall have the minimum qualifications and experience mentioned in the respective tender documents.
4. The contract work technical manager shall punc-

usually accompany the works and shall be present in the venue of the works whenever they are summoned.

Article 184 (Impediments)

1. It shall not be permitted to the workers, agents or other public office holders the intervention, at any title, directly or indirectly, in the inspection of the public works, should they have any personal interest, directly or intermediately by any other person or corporate body, before the respective Contractor or company in which they have participating interests, they are a business partner or supplier.

2. The rules for impediment, refusal, suspicion and ethical, provided for in Articles 8, 9 and 10 of this Law shall be applicable to the inspection of the public works performance.

CHAPTER II Types of Contract Works

SECTION I General Provisions

Article 185 (Types of Contract Works Methods to Pay Contractor)

1. Pursuant to the established payment method, the public works contracts may be:

- a) Per total price;
- b) Per price by series;
- c) Per percentage.

2. It is legal to adopt, in the same contract work, miscellaneous methods of payment for different parts of the works or different types of works.

3. The contract works may be related to said works, in part or in whole, unless otherwise provided for, and shall imply the supply by Contractor of the materials to be employed.

SECTION II Contract Work per Total Price

Article 186 (Concept and Scope)

1. The total price shall be the contract work whose remuneration amount, corresponding to the performance of all the works required for the execution of the works or part of the work object of this contract, and it shall be previously established.

2. The works whose projects allow to determine, with the minimum probability of error, the nature and quantities of the works to be executed, as well as the costs of the materials and manpower to be employed.

Article 187 (Object of Contract Work)

The Developer shall define, as accurate as possible, in the parts written and designed in the project and tender documents, the characteristics of the works and the technical conditions for their performance, as well as the quality of the materials to be applied, and present works measurement charts, as close as possible to the quantities of the works to be executed, on which the review and the ordering per total costs of the bids to the contract works shall be based.

Article 188 (Presentation of Base Project by Bidders)

1. When we deal with works whose technical complexity does not allow the definition of a technical solution most suitable to meet the needs underlying the contract to be executed, the owner of the public works that is placed in a bid tender may request the bidders to present a base project, and they shall define, for that purpose and with sufficient accuracy, in a document at least with the degree equivalent to the base program, the goals aimed attaining, specifying the aspects deemed binding.

2. Once a base project has been selected in the bid tender, this shall serve to produce the execution project.

3. In the hypothesis provided for in this Article, the Developer may award premiums to the authors of the projects with better classification, in which case, they shall establish the respective awarding criteria in the bid tender program.

4. For the purposes of the preceding paragraph, the classification order established by the respective Assessment Committee shall be strictly complied with; however, it is possible not to grant the premium, totally or partially, in the event that the works are considered not satisfactory.

Article 189
(Variants to Project)

1. The owner of the public works placed at bid tender shall authorize that, through express declaration contained in the respective program, the bidders present variants to the project or part of it and with the same degree of development, together with the bid for execution of the contract work as placed at the bid tender.
2. Once it has been approved, the variant shall, for all due purposes, replace the owner's project in the respective part.

Article 190
(Elements and Methods for Calculation of Base Projects and Variants)

1. The base projects and variants of the authorship of Contractor shall contain all the elements necessary for the perfect review and for justification of the calculation method used, and the owner of the works may always require any clarification, explanatory details, plans and designs.
2. In the cases in which the Angolan legal framework does not have any legal norms provided for in the preceding Paragraph, the Developer may accept and approve other methods as presented and duly justified by Contractor.

Article 191
(Errors and Omissions of Project)

1. The incorrect representation of the species or quantity of the works required for the execution of the contract works, arising out of a difference between the existing local conditions and those provided for or between the data in which said project is based on and the reality.
2. The absence of forecast, in species or quantity, of the works necessary for the works execution shall be deemed a project error. This is arising out of a difference between the existing local conditions and those predicted or between the data in which said project is based on and the reality.
3. The incorrect representation or absence of forecast of a particular work in the project may only be qualified as error or omission, under the terms of the preceding Paragraphs, if, in light of the diligence objectively required and

due to the actual circumstances, could have been detected by the author of said project at the moment of its generation.

Article 192
(Responsibility for Works to Remedy Errors and Omissions of Project)

1. In the event that the execution project is of the authorship of Contractor or designer the latter contracted with, they shall be responsible for bearing the costs for the works to remedy the project errors and omissions.
2. In the event that the execution project is of the authorship of the designer working for the Developer, they shall assume the costs for the works to remedy the project errors and omissions.
3. In the event that the execution project is of the authorship of the Developer, they shall be responsible for bearing the costs for the works to remedy the project errors and omissions, except for:
 - a) If the errors and omissions, whose detection was required to Contractor in the contract creating stage, under the terms of Article 51 of this Law, are at stake, in which case the responsibility of Contractor shall correspond to half the price of the works to remedy the errors and omissions carried out;
 - b) If the errors and omissions, whose detection was not required to Contractor in the contract creating stage, under the terms of Article 51 of this Law, are at stake, but they have also not identified them within thirty days as of the date on which, during the performance of the works the detection was required, in which case the responsibility of Contractor shall correspond to the provisions of the preceding Paragraph.

Article 193
(Value of Alterations to Project)

1. The value of the works, for more or less work, resulting from alterations to the project shall be, respectively, added to or reduced from the awarding value.
2. Alterations to the project that are translated into more work, when their value does not exceed 15% of the original contract value, shall only be admitted, under the

terms established in the legislation on the rules for budget execution.

Article 194 (Payments)

1. The payment for the contract work price may be carried out in fixed periodic instalments or in variable instalments, in any of the cases, always according to the quantity of work periodically performed.
2. When the payment has to be made in fixed instalments, the contract shall establish their values, the date they are due and its compatibility with the approved work plan.
3. In the cases provided for in the preceding Paragraph, the correction that the price may be subject to, by virtue of the rectifications or alterations to the project, shall be divided by the instalments that are due subsequent to their respective assessment, unless otherwise provided for.
4. If the payment should be made according to the quantities of the work periodically executed, it shall be carried out per measurements and based upon the unit contractual prices, but only up to the competition of the contract work price.
5. If, after all the works have been performed, a balance on behalf of Contractor still exists, this shall be paid to Contractor with the last instalment.

Article 195 (Execution of Works in Excess)

1. Works in excess shall be those whose species or quantities are not provided for in the contract, are earmarked for performance of the same contract work and have become necessary following the unforeseen circumstances, provided that any of the following conditions are verified:
 - a) When said works cannot be technically or economically separated from the contract, without serious inconvenience to the Developer;
 - b) When said works, although separable from the contract execution, are strictly necessary for their finishing.
2. For the purposes of the preceding Paragraph, un-

foreseen events shall be, namely the circumstances that, already existed at the time of producing the project, were not contemplated in the definition of types and quantities of the works to be executed, and could not have been contemplated in light of the diligence objectively required due to the particulars of the real case.

3. The work in excess may only be ordered when the value of said works, added to the values of previous works in excess and deducted from the value of any lesser works, does not exceed 15% of the awarding value, under the terms established in the legislation on the annual rules for budget execution.
4. The Contractor shall perform the works in excess provided for in Paragraph 1 of this Article, in the event that they are ordered in writing by the Developer and the works inspector provide him with the respective plans, designs, profiles, chart on the nature and volume of the works and other technical elements indispensable for the perfect execution and performance of the measurements.
5. The obligation shall terminate when Contractor opts for exercising the right to terminate or when, the works in excess are different from those provided for in the contract, Contractor alleges, within ten days of the receipt of the order and the works inspection verifies that it does not have the equipment or the human resources indispensable for the works execution.
6. The project for alteration shall be delivered to Contractor with the execution order in writing.
7. The project for alteration shall not contain, unless otherwise provided for, prices different from those in the contracts or previously agreed upon for works of the same kind under the same conditions.
8. When, by virtue of the reduced value of the alteration or other justified reason, the project does not exist or is not carried out, the execution order shall contain the type and quantity of the works to be executed and the unit prices of those for which the contractual prices do not exist yet or are not agreed upon in writing.
9. Should there be agreement between the parties, the works may be performed in percentage regime.
10. The works in excess shall be formalized through execution of an addendum to the contract work.

SECTION III **Contract Works by Series of Prices**

Article 196 **(Concept)**

The contract work shall be stipulated by series of prices when the Contractor's remuneration results from the application of the unit prices, provided for in the contract, for each type of work to be performed, considering the quantity of said works effectively executed.

Article 197 **(Object of Contract Work)**

1. In the contract works per series of prices, the contract shall always be based on the forecast of the types and quantities of the works necessary for the execution of the works related to the patented project, and Contractor shall execute, for the respective unit price of the contract, all of the works of each type.

2. If, in the elements of the project or in the tender documents there are omissions regarding the quality of the materials, Contractor shall not use materials that do not correspond to the characteristics of the works or with a quality lower than those usually employed in the works earmarked for the same usage and the same category.

Article 198 **(Project or Variant of Contractor)**

1. When the awarding of a contract work result from a base project presented by Contractor, it shall be responsible for producing the execution project, under the provisions of the contract work per total price.

2. The project for execution of a contract work may be altered according to the variants as proposed by Contractor, under the same terms established for the contract work per total price.

3. With the variant, Contractor shall present the forecast of types and quantities of the works required for execution of the works and respective list of unit prices.

4. The works corresponding to the variants shall be executed under the regime of total price, if Contractor so proposes and the Developer accepts it, and Contractor shall present a payment plan for the total price and this

shall be calculated by applying the unit prices to the quantities foreseen.

Article 199 **(Unpredicted Works)**

1. The works necessary for the performance of the contract work, whose type and quantity have not been included in the contract, shall be executed by Contractor as works in excess, under the provisions of Article 195 of this Law.

2. The works in excess, provided for in the preceding Paragraph, may only be performed upon issuance of an order for that purpose by the Developer, and the execution of an addendum to the contract shall also take place.

3. The Developer may not authorize the performance of works in excess when their cumulative value, added to the values of previous works in excess and deducted from the value of any lesser works, exceeds 15% of the original contract value, and this shall be calculated based on the estimate of the works required for the performance of the contract work referred to in Paragraph 1 of Article 197 of this Law.

Article 200 **(Calculation on Payments)**

1. The measurement of the works performed of each type shall periodically be proceeded with for the purposes of payment for the quantities assessed, to which the unit prices shall be applied.

2. The periodicity related to the measurement of the works and payments shall be compulsorily indicated in the contract.

SECTION IV **Provisions Common to Contract Works per Total Price and per Series of Prices**

Article 201 **(List of Unit Prices)**

Together with their bids, the bidders shall present the lists of unit prices that served as the base for them.

Article 202 **(Charges of Contractor)**

Unless otherwise provided for, the charge of Contractor shall be the supply of devices, instruments, tools, utensils and scaffolds indispensable for the good execution of the works.

Article 203

(Preparatory or Accessory Works)

1. Unless otherwise provided for, Contractor shall have the obligation to perform, at its own expenses, all the preparatory and accessory works that, by nature or according to the current use, the execution of the works implies.

2. Unless otherwise provided for, Contractor shall especially have the obligation to perform the following works:

a) Assembly, construction, disassembly, demolition and maintenance of the construction yard;

b) The works necessary to guarantee the safety of all the people working there, including the personnel of sub-contractors and the general public, in order to avoid damage in the neighboring buildings and meet the work safety, hygiene and health regulations and those of the police in the public roads;

c) The restoration, through provisional works, of all the services that are indispensable to alter or destroy for the execution of the works and to avoid stagnation of the waters said works may originate;

d) The construction of accesses to the construction yard and internal functionalities of same;

e) The placement of signs containing the indications provided for in Article 229 of this Law;

f) Other works provided for in the specific regulations.

Article 204

(Services and Occupancy of Particular Buildings)

Unless otherwise provided for, Contractor shall pay for indemnities due for services or temporary occupancy of particular buildings, required for the execution of the works awarded and performed under the law.

Article 205

(Remedy of Works)

Except for the cases provided for in Article 195 of this Law, Contractor shall cease to execute any works included in the contracts, provided that, for that purpose, the works inspector instructs them in writing and the written document specifically contains the remedied works.

Article 206

(Destruction of Already Executed Works)

If, out of the alterations imposed, arise the works already performed in conformity with the contract or with orders received, its value shall not be deducted from the contract work amount and Contractor shall also have the right to the amount spent with the demolitions that originated them.

Article 207

(Establishment of New Prices)

1. Contractor shall claim against new prices contained in the alteration project or those indicated in the execution order, simultaneously presenting its list of prices within twenty days as from, respectively, the date of receipt of the project or date of the order.

2. When the complexity of the alteration project so justifies, Contractor may request the extension of the timeframe provided for in the preceding Paragraph for a period no longer than twenty days, except for exceptional cases, duly justified.

3. The claim shall be decided by the works inspection director within thirty days.

4. The lack of decision, within the timeframe provided for in the preceding Paragraph, shall imply the acceptance of the prices indicated in the list of Contractor, unless if, within the referred to timeframe, the works inspection director communicates the Contractor that they need a period of time longer than that legally established to decide.

5. As long as there is no agreement on all or some of the prices or they are not established by arbitration or judicially, the respective works shall be liquidated, as soon as they are measured, based upon the unit prices contained in the alteration project or execution order.

6. As soon as, per agreement, arbitration or judicially, the final prices are determined, the differences that may exist on their behalf regarding the works already per-

formed shall be paid to Contractor.

7. If, in the project or execution order, unit prices are not included, Contractor shall present their list within the timeframe provided in Paragraph 1 of this Article, and the measured works shall be liquidated, until establishment of the final prices.

8. The provisions of Paragraph 3 of this Article shall be applicable to the Developer on the price list of Contractor, and the differences that may be assessed regarding the works already measured and paid for, between the prices on the list and those that may be finally established, shall be compensated, and Contractor shall pay or receive, as appropriate.

9. In the cases referred to in this Article, should there be no agreement on any prices, any of the parties may opt for arbitration by three experts, one of which shall be appointed by the Developer, the other one by Contractor and the third one through agreement between the two.

Article 208

(Alterations Proposed by Contractor)

1. At any moment of the works, Contractor may propose to the Developer variants or alterations to the project regarding part or parts of it still not executed.

2. The variants and alterations provided for in the preceding Paragraph shall abide by the provisions on the projects or variants presented by Contractor, but the Developer may order their execution, provided that they accept the total price or the units prices as proposed by Contractor or an agreement is reached with the latter on same.

3. If out of the approved variant or alteration arise economy, without decrease of usefulness, duration or effectiveness of the works, Contractor shall be entitled to half the respective value.

Article 209

(Right to Terminate by Contractor)

1. When, the works in excess or lesser works have been verified resulting from orders given by the Developer, of partial suppression of some works, remedy of errors and omissions of the project or alterations introduced therein, it is found out that there is a reduction higher than 1/5 of the

original awarding value, Contractor shall have to right to terminate the contract.

2. Contractor shall also have the right to terminate the contract whenever, out of the variant or alteration of the project originating from the Developer, arise replacement of the works included in the contract by others of a different type, although earmarked for the same goal, provided that the value of the replaced works represent $\frac{1}{4}$ of the total value of the contract work.

3. The fact that Contractor does not exercise the right to terminate based on any alteration, order or rectification, it shall not prevent them from exercising such right regarding subsequent alterations, orders or rectifications.

4. For the purposes provided in Paragraph 1 of this Article, the lesser works shall be deemed offset by works in excess, unless the latter is not the same type of the contract work object of this contract.

Article 210

(Timeframe to Exercise the Right to terminate)

The right to terminate shall be exercised within the non-extendable timeframe of thirty days as from:

a) The date Contractor is notified of the decision of the Developer on the claim regarding the project errors and omissions identified during the execution of the contract work or the 60th date as from the presentation of said claim, in the event that the Developer is not provided with an opinion on it;

b) The date of receipt of the written order for the execution or suppression of the works, provided that said order is accompanied by the project, if applicable, or itemization of the works to be executed or suppressed;

c) The date of receipt of the project or itemization of the works to be performed or suppressed, when such date does not coincide with that of the order;

d) The date of receipt of the communication in writing in which the Developer provides their opinion on the price list presented by Contractor;

Article 211

(Calculation of Values of Work for Termination)

1. For calculation of the values of the works in excess or lesser works, the prices established in the contracts, the prices further reached by agreement or arbitration and the ones resulting from the legal or judicial prohibitions, provided for in Articles 209 and 214 of this Law, shall be considered.

2. In the absence of an agreement related to the prices not established, the following shall be applicable:

a) In the cases provided for in Paragraphs 5 and 6 of Article 207 of this Law, the prices indicated by Contractor, if the Developer does not give an opinion within sixty days, or those indicated by the Developer if, in the hypothesis to the contrary, the latter establishes them;

b) In the cases provided for in Paragraphs 5 and 6 of Article 207 of this Law, the prices indicated by Contractor, if the Developer does not give an opinion within sixty days, or does not oppose to them, those indicated by the Developer if, in the hypothesis to the contrary, the latter establishes them;

In the case provided for in Paragraph 1 of Article 207 of this Law, should there be no claim of Contractor, those indicated by the Developer;

c) The ones of the alteration project, if those exist and are included therein;

d) In the case provided for in Paragraph 1 of Article 203 of this Law, those indicated in the order, if they are contained therein.

3. Contractor may also, for calculation of the value of the works, base on the prices they propose, when there is no agreement on them.

Article 212 (Exercise of the Right to Terminate)

1. Since there are all the conditions upon which depend the existence of the right to terminate, this shall be exercised through a written petition of Contractor, accompanied by the estimate of the values of the works in question, with accurate itemization of the unit prices that have served them as the basis.

2. Once the petition is received, the Developer shall proceed with the measurement of the works performed and take possession of the works.

Article 213 (Price Corrections)

1. When signing of the contract has occurred after more than one hundred and eighty days of the date of presentation of the bids have elapsed, for reasons not imputable to Contractor, they may, prior to signing the contract, request to proceed with the correction of the price or respective prices, based on the formulas that the parties agree on for that purpose or, in the absence of an agreement, by applying the master formula, as provided for in the special legislation on price revision, considering susceptible to revision the totality of each one of the prices to be updated.

2. In the event that the correction is not admitted, Contractor may stop the contract work.

Article 214 (Indemnity for Reduction of Total Values of Works)

1. Whenever, as a result of the project alteration or rectification of forecast errors or, also, suppression of works, under the terms of Article 205 of this Law, Contractor executes a total volume of works of value lower than 20% than those that were object of the contract, Contractor shall have the right to indemnity corresponding to 10% of the value of the difference ascertained, if another one higher is not established in the tender documents or in the contract.

2. The indemnity shall be settled on the final account.

Article 215 (Sewage Systems and Demolitions)

Any sewers or demolitions of works that should be deemed required and that are not stipulated in the contract shall always be executed by Contractor under the percentage regime.

Article 216 (Liability for Execution Errors)

1. Contractor shall be responsible for all the deficiencies and errors associated with the execution of the works or quality, form and dimensions of the materials applied, either in the cases in which the contract does not stipulate the norms to be complied with or in the cases they are different from those approved.

2. Contractor's responsibility shall cease when the execution errors and vices have resulted from the written orders or instructions transmitted by the works inspector or that have been carried out with the express consent of the latter, through registration in the works book.

Article 217 (Liability Effects)

Whoever incur the responsibility established in the preceding Paragraph shall bear the costs of the works, the alterations and repairs necessary to the appropriate suppression of the consequences of the deficiency or errors ascertained, as well as indemnify the other Party or third parties for the damage sustained.

SECTION V Contract Work per Percentage

Article 218 (Concept)

1. Contract work per percentage shall mean the contract in which Contractor assumes the obligation to execute the works per price corresponding to its cost, added by a percentage aimed at covering the administration charges and normal remuneration of the company.

2. The option for the method provided for in the preceding Paragraph shall depend upon prior dispatch of authorization, duly reasoned by the competent body for authorization of expenditure.

Article 219 (Cost of Works)

1. The cost of works shall be the ones resulting from the sum of the expenditures corresponding to the materials, staff, technical management, construction yards, transports, insurance, charges associated with the staff, depreciation and repair of facilities, utensils and machines and everything required for the execution of the works, provided that said expenditures are carried out according to the Developer, under the terms established in the tender documents.

2. Any administrative charge shall not be included in the cost,

Article 220

(Administrative Charges and Profits)

The percentage to cover the administrative costs and remuneration of Contractor shall be that, for each case, established in the tender documents.

Article 221

(Works in Excess or Lesser Works)

1. Contractor shall not be compelled to execute works in excess that exceed $\frac{1}{4}$ of the values of the works object of this contract.

2. The provisions of Articles 195 and 205 of this Law shall be applicable to the contract.

Article 222 (Payments)

1. Unless otherwise provided for, the payments shall be made on a monthly basis, based on the invoice presented by Contractor, duly certified by the works inspector, corresponding to the costs of works during the previous month.

2. The invoice shall itemize all the parts that are included in the costs of the works, and it shall be accompanied by the supporting documentation, as required.

Article 223 (Subsidiary Regime)

The provisions associated with other methods of contract work that are not compatible with their specific nature shall also be applicable to this contract and in particular to the responsibility for the design and execution of the works.

CHAPTER III Execution of Contract Work

SECTION I General Provisions

Article 224 (Notices on Contract Work Execution)

1. The notices on the decisions of the Developer or their inspector shall compulsorily be given to Contractor or their representative in writing and signed by the works inspector.

2. The notice shall be carried out through delivery of the text on the notified decision in duplicate, and Contractor or representative shall return one of the counterparts with receipt.

3. In the event that the notified party refuses to receive the notice or issue a receipt, the works inspector shall produce a record on the occurrence, before two witnesses, who should sign the notice with him and the notice shall be deemed carried out.

Article 225

(Absence from the Works Site by Contractor and Their Representative)

1. Contractor or their representative shall not be absent from the works site without notifying the works inspector, and a substitute shall be left there and accepted by the Developer.

2. Contractor, who is unable to reside in the works site, shall appoint a representative with a permanent residence in said site and who shall be provided with the powers necessary to represent them, in all the acts that require their presence and, also, respond before the inspection for the progress of the works.

Article 226

(Safety and Order at Workplace)

1. Contractor shall be compelled to guarantee the safety and good order at the workplace.

2. For the purposes of abiding by the good order at the workplace, provided for in the preceding Paragraph, Contractor shall remove from said site, by their own initiative or immediately after the Developer gives instructions to do so, the personnel that has had a disturbing behavior for the works, namely for less probity in the performance of the respective duties, for indiscipline or disrespect for the representatives, agents of Developer, or representatives or agents of Contractor, subcontractors or third parties.

3. The order provided for in the preceding Paragraph shall be reasoned in writing, when Contractor requires to doing so, notwithstanding the immediate suspension of the employee or staff in question.

Article 227

(Acts in which the Presence of Contractor shall be Required)

1. Contractor or their representatives shall accompany the representatives of the Developer during the inspection visits to the works, when summoned for that purpose, as well as in all the acts in which their presence shall be required.

2. Whenever, under the terms of this Law or the contract, the record on the diligence carried out shall be produced, it shall be signed by the works inspector and by Contractor or their representative, and one duplicate shall be in possession of the latter.

3. If Contractor or their representative refuses to sign the record, it should be mentioned in it and the reason for the fact, which shall be confirmed by two witnesses, who should also sign it.

4. The violation to the provisions of this Article, as well as of the preceding Article, shall be punished with a fine in the amount corresponding to 1/50 of the level 1 of the Table on Value Limits included in Annex II of this Law, whose amount shall double the applicable fine in case of recurrence.

5. The contractual fine referred to in the preceding Paragraph shall be charged by the works inspector and the amounts shall be deposited in the National Treasury Account, through the Revenues Collection Document ('DAR'), issued in the name of the Developer.

Article 228

(Advertising)

The display of advertising at the workplace by Contractor shall be contingent upon the Developer.

Article 229

(Mandatory Mentions at the Workplace)

Notwithstanding the provisions of special law, Contractor shall, for the purposes of the provisions of Subparagraph e) of Article 203 of this Law, display at the workplace in a visible fashion, the identification of the works, Developer and Contractor, indicating the relevant business license or other qualifying documentation.

Article 230 (Salaries)

1. Contractor shall pay the staff employed in the works salaries not lower than the minimum salary table currently in force in the relevant sector.
2. The minimum salary table that Contractor is subject to, upon authentication by the works inspection, shall be displayed in a visible manner at the workplace.
3. The table referred to in the preceding Paragraph shall also be mandatory for temporary workmen and sub-contractors.
4. Whenever it is ascertained that Contractor pays salaries in the amount lower than that included in the relevant table, such fact shall be immediately communicated by the works inspection to the competent authorities.

Article 231 (Payment of Salaries)

1. Contractor shall pay the salaries to their employees under the terms of the provisions of the General Labor Law; however, Contractor may proceed with said payment in different intervals when the local circumstances so impose, and the employees and works inspector shall be previously informed.
2. During the execution of the works, should Contractor indicate the intent for obtaining payments in advance in order to guarantee the payment of salaries, they may exceptionally request to the Developer a revised contract payment plan, presenting for that purpose a proposed invoicing in advance, exclusively related to the salary component, duly itemized in terms of hours and unit costs incurred or to be incurred.

Article 232 (Insurance)

1. Contractor shall carry out, with insurance companies established in the Republic of Angola, the following insurance:
 - a) Against accidents at work and occupational diseases, for all the employees working for Contractor or providing the service in the works;
 - b) For own damage of the construction works, for the

value of the contract work mentioned in the respective contract;

- c) Civil liability against third parties;
 - d) Professional liability of Contractor.
2. The Developer may, whenever deemed convenient, include in the tender documents clauses related to insurance for execution of the works.

Article 233 (Protection, Hygiene, health and Safety)

Contractor shall comply with and enforce to their staff the provisions of the legislation regarding protection, hygiene, health and safety.

Article 234 (Death, Interdiction or Bankruptcy of Contractor)

1. If, after signing the contract, Contractor dies or, per judicial ruling, is interdicted, disabled or declared in state of bankruptcy, the contract shall expire.
2. The Developer may, at their own convenience, accept that the heirs of the deceased Contractor take themselves the responsibility for compliance with the contract, provided that they are qualified for that purpose under the legal terms.
3. The Developer may also, according to their convenience, when Contractor appears before the court to declare bankruptcy and has the agreement of the creditors, accept that the execution of the contract proceed with the company incorporated with the creditors, at the request of the latter and provided that the works have not sustained interruptions.
4. Once the expiry of the contract is verified, the works performed shall be measured and its liquidation for the respective unit prices, if they exist or not, in the contrary, for the ones established by agreement, arbitration or judicially, abiding by, in the applicable part, the provisions related to the receipt and liquidation of the works, proceeding with administrative inquiry.
5. By virtue of expiry of the contract, the heirs or creditors shall be entitled to the following indemnity:
 - a) 5% of the values of the works not performed, if the

death or bankruptcy occur during the contract execution;

b) The value corresponding to the expenditures demonstrably carried out for the contract execution, that the future performers may take advantage and that are not covered by the acquisition of the construction yards, equipment and materials referred to in Paragraph 7 of this Article, in the event that the casualty or bankruptcy occur prior to the commencement of the works.

6. However; there is no indemnity if:

a) The indemnity is classified as wrongful or fraudulent;

b) It is proven that the impossibility to dissolve the commitments already existed on the date of presentation of the bids;

c) The heirs or creditors of Contractors are not qualified to take over the compliance with the contract.

7. The destination of the construction yards, equipment and materials existing in the works or earmarked for it shall be governed by the norms applicable in case of termination of contract by Contractor.

8. The amounts that, under the terms of the preceding Paragraphs, are considered as due, shall be deposited in credit institutions to be paid to persons who are able to demonstrate they are entitled to them.

Article 235

(Assignment of Contractual Position)

1. Contractor may not assign their contractual position in the contract work, in whole or in part, without prior consent of the Developer.

2. Except for special cases, the assignment of the contractual position of contract works may only be authorized in whole.

3. The Developer may not, without agreement of Contractor, remove from the contract work any works or part of the works so that they can be performed by third parties.

4. In the event that Contractor assigns their contractual position in the contract work without complying with

the provisions of Paragraph 1 of this Article, the Developer may terminate the contract.

5. In the event that the Developer ceases to comply with the provisions of Paragraph 3 of this Article, Contractor may terminate the contract.

SECTION II

Consignment of Works

Article 236

(Concept and Effects of Consignment of Works)

Consignment of the works shall mean the act for which the representative of the Developer provides Contractor with the site where the works shall be executed and written or designed parts supplemental to project that are necessary so that said execution can be proceeded with.

Article 237

(Timeframe for Work Execution and Extension)

1. The timeframe established in the contract for execution of the works shall begin as from the date of consignment, when another date is not especially indicated in the contract.

2. Whenever that, at the request of the Developer or by virtue of the approval of Contractor's claim, the works in excess have been excluded, the contractual timeframe for the completion of the works shall be extended at the petition of Contractor.

3. The calculation for the timeframe extension provided for in the preceding Paragraph shall be carried out:

a) Whenever they are works in excess of the same type as those established in the contract, pro-rata to those included in the partial timeframes of the execution contained in the approved work plan and taking into account their general framework in the contract work;

b) When the works are of miscellaneous types included in the contract, by agreement between the Developer and Contractor, considering the technical particulars of the execution.

Article 238
(Consignment Timeframe)

1. Within the maximum timeframe of thirty days as from the date of signature of the contract, the consignment of the works shall be carried out, communicating the Contractor, by registered letter with acknowledgement of receipt, the day, time and venue they shall be presented.
2. When Contractor does not appear on the day established and does not justify the absence, the entity responsible for the consignment shall stipulate a new non-extendable timeframe, and if during same Contractor does not appear, the contract shall expire and Contractor shall civilly respond for the difference between the contract work value in the expired contract and that for which the work may be awarded again, with final loss of the security deposit.
3. If, within the applicable timeframe referred to in Paragraph 1 of this Article, the Developer is not yet in possession of all the land plots required for the execution of the works, the consignment shall be carried out as soon as said possession is materialized.

Article 239
(Partial Consignments)

1. In the cases that, for the extension and importance of the works, the consignment operations are delayed or cannot be carried out as soon as possible in whole for any other circumstances, the Developer may proceed with partial consignments, initiating with the land plots that, based upon the written or designed parts, allow the beginning of the works, provided that the possession of the remaining elements are guaranteed timely so that the contract work and the normal progress of the work plan are not interrupted.
2. If partial consignments occur, the date of the beginning of the works execution shall be that of the first partial consignment, provided that the lack of timely delivery of the land plots or written and designed parts does not determine any interruption of the works and does not impair the normal development of the work plan.
3. If, in the case of the preceding Paragraph, the lack of timely delivery of the land plots or the written project and designed parts, determines any interruption of the works and impairs the normal development of the work

plan, the works shall be deemed initiated on the date of the last partial consignment; in the interim, the timeframe may be altered, by agreement between the Developer and Contractor, in correspondence with the volumes of the work to be performed from said date.

Article 240
(Delay of Consignment)

1. Contractor may terminate the contract:
 - a) If consignment is not carried out within six months of the date on which it should occur;
 - b) If, one or more partial consignments has been carried out, the delay of the consignment or subsequent consignments imply the interruption of the works for another six months, followed or interpolated.
2. All delay in the consignments that, not imputable to Contractor, serves as an obstacle to the commencement of the contract works execution or resulting in the interruption of the works or disturbing the normal work plan development shall grant Contractor the right to be indemnified for the damage sustained, as a necessary consequence of this fact.
3. If, in the cases provided for in the preceding Paragraphs, the consignment delay is due to a fortuitous case or force majeure, the indemnity to be paid to Contractor shall be limited to the emerging damages

Article 241
(Consignment Agreement)

1. Out of consignment a record shall be produced, in which reference shall be made to the contract and the following must be contained therein:
 - a) The modifications that, in relation to the project, are carried out or if they have occurred at the site the works are to be executed and may impact on their cost;
 - b) The operations executed or to be executed, such as restoration of layouts, implantation of works and placement of references;
 - c) The land plots and constructions that shall be provided to Contractor;

d) Any written or designed parts, supplemental to the project that at that particular moment are handed over to Contractor;

e) The claims and reservations presented by Contractor, related to the consignment act and the clarification that are provided by the representative of the Developer.

2. The consignment agreement shall be produced in duplicate and signed by the representative of the Developer that proceeds with the consignment or by Contractor or their representative.

3. In the event of partial consignment, both the records and the consignments shall be produced.

Article 242

(Modification to Local Conditions and suspension of Consignment Act)

1. Between the existing local conditions and those anticipated in the project or in data that served as the basis for their production, when there are differences that may determine the need for an alteration project, the consignment act shall be suspended in the part related to such differences; however, it may be proceeded regarding the areas of the works that are not affected by the project for alterations, provided that there are the conditions established for the performance of partial consignments.

2. The suspended consignment may only proceed after the introduced alterations to the project are notified to Contractor, and, for that purpose, the relevant record shall be produced.

Article 243

(Claim of Contractor)

1. Contractor shall include their claims in the consignment record itself, and Contractor may limit themselves to enunciate their object and reserve the right to present in writing the reasoned explanatory memorandum within ten days.

2. In the event that Contractor does not proceed according to the provisions of the preceding paragraph, the results of the records shall be deemed final; however, notwithstanding the possibility to claim against the project errors or omissions, if applicable.

3. The claim indicated or enunciated in the record shall be decided by the Developer within twenty days of the record or delivery of the explanatory memorandum, as appropriate, and, with this decision, Contractor shall only comply with it for the purposes of proceeding with the works.

4. Once the claim has been met by the Developer, the consignment, in the part in relation to which it should have been suspended, shall be deemed not carried out.

5. The undecided claim shall be presumed met within the timeframe provided for in Paragraph 3 of this Article.

Article 244 **(Indemnity)**

1. If, in case Contractor intends to terminate for delayed consignment act, said right is refused by the Developer and then it is ascertained by the competent bodies that such refusal was not legitimate, the Developer should indemnify Contractor for the damage arising out of the fact they could not timely exercise their right.

2. The indemnity shall be limited to the damage emerging from compliance with the contract that do not derive from the insufficiency of the bid unit prices or errors therein, and shall only be due when Contractor, in the claim formulated in the consignment record, they have expressly indicated their willingness to terminate the contract, specifying the legal reasoning.

SECTION III **Work Plan**

Article 245

(Object and Approval of Work Plan)

1. The work plan shall be earmarked for establishing the order, sequence, timeframe and pace of execution of each of the types of works that constitute the contract work and the specification of the means that Contractor proposes to execute them, and they shall, mandatorily, include the respective payment plan, with the forecasted scheduling and periodicity of same during the contractual term.

2. In the timeframe established in the tender documents or in contract and that should not exceed ninety days of the consignment date, Contractor shall present to the representative of the Developer, for approval, their final work plan.

3. The Developer shall provide an opinion on the work plan within the maximum timeframe of thirty days, and Developer may incorporate any modifications deemed convenient; however, they shall not be permitted to, unless there is a prior agreement with Contractor, amend them in the items that have constituted critical condition to validate Contractor's bid.

4. In the event that the Developer gives their opinion on the work plan as proposed in the preceding Paragraph, the plan shall be deemed finally approved.

5. Once the work plan has been approved, the works shall be carried out in accordance with it.

Article 246 (Amendment to Work Plan)

1. The Developer may change, at any moment, the work plan in force, and Contractor shall be entitled to be indemnified for the damage sustained as a result of said amendments.

2. Contractor may, at any moment, propose amendments to the work plan or present another one to replace the one in force, reasoning its proposal, and the amendment or new plan shall be accepted, provided that out of them no loss to the works or extension of the execution timeframes arises.

Article 247 (Delay in Compliance with Work Plan)

1. If Contractor, unjustifiably, delays the execution of the works anticipated in the plan in force, in order to endanger the conclusion of the works within the timeframe resulting from the contract, the works inspector may notify them to present, within the following fifteen days, the plan for miscellaneous works that, in each of the following months, should be executed, indicating the resources to be utilized.

2. If Contractor does not abide by the notice provided for in the preceding Paragraph or if the response is given in terms less accurate or not satisfactory, the works inspector, when authorized by the Developer, shall generate a new work plan, accompanied by a memory justifying its feasibility and shall notify Contractor.

3. In the cases established in the preceding Paragraph, the work plan shall establish the sufficient timeframe for Contractor to proceed with the readjustment or organization of the construction yard required for the execution of the notified plan.

4. Should Contractor not comply with the work plan, which they have presented or notified to them, under the preceding Paragraphs, the Developer may request the administrative possession of the works, as well as the materials, constructions, construction yards, tools machines and vehicles existing therein, instructing a reputable person for the management and administration of the contract work on behalf of Contractor and proceeding with the necessary inventories, measurements and assessments.

5. Once complied with the provisions of the preceding Paragraph, the contract work shall continue to be administered up to the conclusions of the works or said works are placed again under bid tender, at any time of their execution, as it may be more convenient for the interests of the Developer.

6. In both cases addressed in the preceding Paragraph, any expenditure in excess or increase of prices that is verified shall be paid on account of the amounts that are due to Contractor and by the security bonds provided, notwithstanding the right the Developer shall have to be paid through all the goods of Contractor, if the referred to amounts are insufficient.

7. If out of the administration by third parties or procedure adopted arise any economy, this shall belong to the Developer and never to Contractor, which, in this case, the guarantee deposit and the amounts withheld shall be returned as soon as the guarantee timeframes have elapsed, the works are in a position to be finally received.

8. In the case provided for in the preceding Paragraph, Contractor shall also have the right to be paid of the amounts corresponding to the amortization of their equipment during the period it was used after the administrative possession or the leasing value established for the use of said equipment by the new Contractor, inasmuch as the obtained economy so allows.

9. In the case provided for in Paragraph 4 of this Article, the Developer may also, when deemed preferable, opt for termination of the contract, pure and simple, and Contractor shall lose the bond or guarantee provided and

the amounts withheld.

SECTION IV Execution of Works

Article 248

(Commencement Date of Works)

1. The works shall begin on the date established in the relevant plan.
2. The Developer may consent that the works be initiated on a later date, when Contractor alleges and proves the reasons for the delay.
3. Should Contractor not begin the works according to the plan, nor obtain postponement, the Developer may terminate the contract or opt for application of contractual fine, for each day of delay, corresponding to one per thousand of the awarding value, if another amount is not established in the tender documents.
4. In the event of termination of contract, the norms provided for failure to appear to the consignment act by Contractor shall be applicable.

Article 249

(Elements required for Execution and Measurement of Works)

1. No element of the works shall be initiated without Contractor being provided with, as duly authenticated, the plans, profiles, vertical projections, cuts, reference allotments and the remaining necessary indications for the perfect identification and execution of the works, according to the project or its alterations and for the accurate measurement of the works, when these should be paid per measurements.
2. Whenever it is instructed in writing, all the works that have been performed in violation of the provisions of Paragraph 1 of this Article or executed not in accordance with the elements contained therein shall be demolished and reconstructed by Contractor, at their own expenses.

Article 250

(Delay in Delivery of Elements Required for Execution and Measurement of Works)

If the delay in the delivery of the technical elements mentioned in Paragraph 1 of the preceding Article implies the

suspension or interruption of the works or slowdown of the pace of their execution, it shall proceed according to the provisions for the cases of suspension of the works by the Developer.

Article 251

(Works of Art and Antiques)

1. All the works of art, antiques, coins and any mineral substances of another nature, with historical, archeological or scientific value, found in the excavations or demolitions, shall be delivered by Contractor to the works inspector, by record, in which the nature of the delivery shall specifically be included.
2. When the extraction or disassembly of the objects shall involve works, knowledge or special processes, Contractor shall communicate the finding to the works inspector and suspend the execution of the works until receiving the necessary instructions.
3. The improper clearance and destruction of the objects mentioned in this Article shall be communicated by the Developer to the District Attorney Office for the relevant criminal proceeding.
4. Regarding all the findings, the Developer shall notify the competent entity of the Government.

SECTION V Materials

Article 252

(Preference for National Products)

1. In case of equivalence of price and quality, unless otherwise provided for, and for the application of the works, Contractor shall give preference to the materials produced by the national industry.
2. The quality of the national or imported materials shall be duly proven by the 'Laboratório Nacional de Engenharia de Angola' (National Engineering Laboratory of Angola) or another entity appointed for that purpose.
3. For the purposes of the provisions of the preceding Paragraph, the Developer shall always require Contractor the prior presentation of the supporting documentation on the quality of the national and imported materials.

Article 253 (Specifications)

1. All the materials employed in the works shall have the quality, dimensions, forms and other characteristics mentioned in the respective project, with the regulatory tolerances or admitted in the tender documents.
2. Whenever Contractor considers that the characteristics of the materials established in the project or tender documents are not technically recommendable or the most convenient, Contractor shall communicate that fact to the works inspector and generate a reasoned proposal for alteration.
3. In the case provided for in the preceding Paragraph, the proposal shall be accompanied by all the technical elements necessary for application of new materials and execution of the corresponding works, as well as the price for alteration that the application of said materials may cause and the timeframe in which the Developer should give opinion.
4. If the Developer does not give an opinion on the proposal within the timeframe contained therein and does not instruct, in writing, the suspension of the respective works, Contractor shall utilize the materials provided for in the project or in the tender documents.
5. Whenever the project, tender documents or bid tender do not establish the characteristics of the materials, the selection of same shall fall under the responsibility of Contractor, and, in any case, Contractor shall abide by the respective official norms and the usual characteristics in similar works.

6. The increase or decrease of charges resulting from the change of the technical characteristics of the materials shall be, respectively, added to or deducted from the contract work price.

Article 254 (Exploitation of Stone, Pebble and Sand Extraction Sites and Similar Sites)

1. The materials to be applied in the works, arising out of the exploitation of stone, pebble and sand extraction sites or similar sites, shall be usually carried out according to the sites established in the project, tender documents or contract and, when said exploration is not specifically

imposed, it shall be carried out in other sites that require preference of Contractor, and, in this case, the application of the materials shall require prior approval of the works inspector.

2. If the execution of the works makes it necessary for Contractor to extract all or some of the materials in sites different from those established in the project, tender documents or contract, the costs of the works shall be rectified where said materials are applied, by increasing or decreasing the charges arising out of the transfer of extraction sites.

3. When the extraction of materials is carried out in sites as selected by Contractor, their transfer does not determine any alteration to the cost of the works, except for the cases provided for in the following Articles or if the Developer or the works inspector imposes the application of materials with characteristics different from those established in the project or tender documents.

4. In order to amend the cost of the works, the provisions related to the project alterations shall be followed.

Article 255 (Contracting of Supplies)

1. When in the project, tender documents or contract, stone, pebble and sand extraction sites are not established, where Contractor can extract the materials necessary for the construction, Contractor shall obtain, using the legal resources at their disposal, the materials required for the performance of the contract work, being liable or the extraction, transportation and deposit of the materials.

2. In the case provided for in the preceding Paragraph, Contractor shall present, when required by the Developer or their representative, the contracts or adjustments that, for that purpose, have executed with the owners.

3. As long as the works associated with the contract work last, the land plots used for accessing the stone, pebble and sand extraction sites shall be subject to the legal regime for temporary services.

Article 256 (New Exploration Sites)

If, during the execution of the works, the Developer, for reasons beyond their control, needs or deems convenient to apply materials from sites different from those estab-

lished in the project, tender documents or contract, or sites selected by Contractor, the Developer may instruct Contractor, provided that they proceed with the rectification of the cost of the works where said materials are applied.

Article 257

(Materials Belonging to Developer or from Other Works or Demolitions)

1. If the Developer deems it convenient to use in the works the materials that belong to them, from other works or demolitions, Contractor shall be compelled do so, and they shall deduct, as appropriate, from the contract work price the relevant cost or rectify the price for the works said materials should be used.

2. The provisions of the preceding Paragraph shall not be applicable if Contractor demonstrates that they have already acquired the materials required for the execution of the works or inasmuch as they have done so.

Article 258

(Approval of Materials)

1. Whenever there should be a verification of the conformity of the characteristics of the materials to be applied with those established in the project, tender documents or contract, Contractor shall submit the materials for approval of the works inspector, who, in turn, shall submit them for examination in the 'Laboratório Nacional de Engenharia de Angola' (National Engineering Laboratory of Angola) or another entity appointed for that purpose.

2. At any moment, Contractor may request the approval mentioned in the preceding Paragraph, which shall be considered as granted if the works inspector does not give any opinion in the following ten days, unless the testing requires a longer period, in which case and in the referred to timeframe, Contractor shall be notified.

3. Contractor shall supply the samples of the materials that are requested by the works inspector to be submitted for examination in the 'Laboratório Nacional de Engenharia de Angola' (National Engineering Laboratory of Angola) or another entity appointed for that purpose.

4. The collection and submission of samples shall be carried out according to the official norms in force or with others that may, possibly, be imposed by the contract.

5. The contract work tender documents shall specify the testing, whose cost for its performance shall be borne by Contractor, and it shall be understood, in the event of omission, that the charges with the performance of the testing shall fall under the responsibility of the Developer.

Article 259

(Claim Against Non-approval of Materials)

1. In the event that the approval is denied and Contractor understands that this should have been granted for the fact that the materials meet the contract conditions, Contractor may request the immediate collection of samples and present to the works inspector their reasoned claim within five days.

2. The claim shall be deemed approved, if the works inspector does not give his opinion in the following five days, unless a longer period is demanded, any new testing to be performed, fact that, within that timeframe, shall notify Contractor.

3. In the event of disapproval by the works inspector, a hierarchical appeal shall occur, for the instruction of which new testing may be carried out.

4. Contractor may be entitled to be indemnified for the damage sustained or for the increase of charges arising out of the acquisition and application of other materials when, by the competent means, the origin of their claim is eventually recognized.

5. The charges with the new testing originated by Contractor's claim shall fall under the responsibility of the party that is not right.

Article 260

(Effects of Approval of Materials)

1. Once the materials placed at the works are approved, they shall not then be refused, unless circumstances occur that modify their quality.

2. On the approval of the materials, Contractor may demand that samples of any of them be collected.

3. If alteration of the quality of the materials is due to circumstances imputable to Contractor, Contractor shall replace them, at their own expenses, but if it is due to an event of force majeure, the expense shall be split between

Contractor and the Developer.

Article 261

(Application of Materials)

1. The materials shall be applied by Contractor in absolute conformity with the technical specifications of the contract.

2. In the absence of specifications, the official norms in force shall be observed or, in the event that they do not exist, the processes as proposed by Contractor and approved by the Developer, under the proposal of the works inspector.

Article 262

(Replacement of Materials)

1. The following materials shall be refused, removed from works area and replaced by others, with the necessary requirements:

- a) That are different from those approved;
- b) They are not applied in accordance with the technical specifications of the contract or, in the absence of those, with the norms or processes to be observed and that cannot be used again.

2. If Contractor understands that there are not the hypotheses provided for in Subparagraph a) and b) of Paragraph 1 of this Article, Contractor may request the collection of samples and claim.

Article 263

(Deposit of Materials Not Earmarked for Works)

Contractor may not deposit in the construction yards, without authorization of the works inspector, the materials or equipment that are not earmarked for the execution of the works associated with the contract work.

Article 264

(Removal of Materials)

1. If Contractor does not remove from the construction yards, within the timeframe that the works inspector establishes, in accordance with the circumstances, the materials finally disapproved or rejected and the materials or equipment that do not abide by the works, the inspector may have them transported where he deems convenient,

paying whatever necessary, everything at the expense of Contractor.

2. After the works have finished, Contractor shall remove from the site, within the timeframe established in the tender documents, the material remains, rubble, equipment, scaffolds, and everything that has served to execute the works and, failure to do so, the Developer shall have everything removed, at the expense of Contractor.

SECTION VI

Inspection

Article 265

(Inspection and Agents)

1. The execution of the works shall be inspected by the representatives of the Developer, and that the latter shall appoint for that purpose.

2. When the inspection is comprised of one or more representatives, the Developer shall appoint one of them to lead, as works inspector, and, being only one, this shall perform the tasks as such.

3. The works and Contractor shall also be subject to inspection that, under the legislation in force, falls under the responsibility of other entities.

4. The inspection referred to in the preceding Paragraph shall be carried out in a manner that:

- a) The works inspector is well aware in advance of any diligence at the workplace;
- b) The works inspector shall immediately be communicated in writing of all the orders given and notified to Contractor that may impact the normal progress of the works.

5. The inspector appointed for the works may not, under any circumstance, be the engineering designer of the works.

Article 266

(Inspection Tasks)

The inspection shall be responsible for monitoring and verifying the accurate compliance with the design and its alterations, contract, tender documents and work plan in force, namely:

- a) Verifying the implementation of the works in accordance with the required references, as supplied by Contractor;
- b) Verifying the accuracy or possible error of the project predictions, especially, and with the cooperation of Contractor, regarding the land plot conditions;
- c) Approving the materials to be applied, subjecting to examination those that have to be by the 'Laboratório Nacional de Engenharia de Angola' (National Engineering Laboratory of Angola) or another authorized entity;
- d) Monitoring the execution processes;
- e) Verifying the dimensional characteristics of the works;
- f) In general, verifying the manner the works are being executed;
- g) Verifying the compliance with the established timeframes;
- h) Proceeding with the required measurements and verifying the progress of the works;
- i) Checking whether any provisions of the contract and the applicable laws and regulations have been violated;
- j) Verifying whether the works are executed by the order and with the resources as established in the relevant plan;
- k) Communicating to Contractor the alterations introduced in the work plan by the Developer and approval of the bids by Contractor;
- l) Advising of the need or convenience for establishing new services or modifications to the ones anticipated and performance of any acquisitions or expropriations, giving opinion on any circumstances that, not having been predicted in the project, shall grant to the third parties the right to indemnity and informing of the contractual and legal consequences of these facts;
- m) Resolving, when they fall under their competency or submit, with its information, in the contrary, to the decision of the Developer all the matters that may arise or that

are put forward by Contractor and provide, as required, for the good progress of the works, for the perfect execution, safety and quality of the work and easiness of the measurements;

- n) Conveying to Contractor the Developer's orders and verifying its full compliance;

- o) Practicing all the remaining acts provided for in other premises of this Law.

Article 267

(Inspection Tasks in Contract Works per Percentage)

When necessary for verification of the works performed per percentage, the inspection, in addition to the fostering the required aspects so that the works are carried out perfectly and within the best economy possible, they shall:

- a) Accompany all the acquisition processes of materials and proceed with the required arrangements deemed advisable or that become necessary, namely by suggesting or ordering the consultation and acquisition from the companies that can offer the best supply conditions, either in terms of quality or price;
- b) Monitor all the execution processes, by suggesting or ordering, in this case of the necessary justification, the option for those conducting greater perfection or economy;
- c) Certify all expense documents, both related to materials and salaries;
- d) Take care of the proper conditioning of the materials for its storing and application;
- e) Verify all the accounting of the works, by imposing effective records deemed necessary.

Article 268

(Acting Method of Inspection)

1. In order to perform their tasks, the inspection shall give orders to Contractor, give them warnings and notices, proceed with the verifications and measurements and practice all remaining necessary acts.
2. The acts referred to in the preceding Paragraph shall only be proven, against or in favor of Contractor,

through a document in writing;

3. The inspection shall always be carried in a manner to not disturb the normal progress of the works and without diminishing the initiative and correlative responsibility of Contractor.

Article 269

(Claim Against Orders Received)

1. Should Contractor considers illegal, contrary to the contract or disturbing to the works any order received, they shall present to the works inspector, within five days, their claim, in whose duplicate a receipt shall be issued.

2. If the order is not by the works inspector, it should be immediately forwarded to the competent entity, requesting the necessary instructions.

3. The works inspector shall notify Contractor, within thirty days, of the decision made, and their silence shall imply approval of the claim.

4. In cases of urgency or imminent danger, the works inspector may confirm in writing the order to which the claim is related, by demanding its immediate compliance.

5. In the cases provided for in the preceding Paragraph, as well as when the claim is denied, Contractor shall be compelled to promptly comply with the order, and they shall have the right to be indemnified for the loss and increased charges that they bear.

6. Out of the decisions made by the works inspector on Contractor's or their representative's claims a hierarchical appeal may be put forward to the body they depend upon, whose effect is merely devolutive.

Article 270

(Failure to Comply with Order)

1. In the event that Contractor fails to comply with a legal order from the works inspector in writing and related to the execution of the contract work, under the contractual terms and they have not absolutely been prevented from so doing, as a result of an event of force majeure, the Developer shall be entitled to, if they so wish, terminate the contract by Contractor's fault.

2. Should the Developer not terminate the contract, Contractor shall be responsible for damage emerging from

disobedience.

SECTION VII

Suspension of Works

Article 271

(Suspension of Works by Contractor)

The Developer shall be entitled to terminate the contract if Contractor suspends the execution of the works for a period longer than ten days, when this is not anticipated in the plan in force and it does not result from the following:

- a) Order or authorization of the Developer or their agents or for the fact imputable to them;
- b) Event of force majeure;
- c) Lack of payment for the instalments due as a result of the contract or works executed, when three months have elapsed of the date they are due;
- d) Lack of supply of the technical elements that the Developer was obligated to carry out;
- e) Legal provisions in force.

Article 272

(Suspension of Works by Developer)

1. Whenever special circumstances prevent from the works to be performed or progress under satisfactory conditions, as well as when the study of the alterations to be introduced in the project shall be imposed, the works inspector may, once the required authorization is obtained, temporarily suspend them, in whole or in part.

2. In the event that any delay in the suspension involves imminent danger or gross losses for the public interest, the inspection may order, under their responsibility, the immediate suspension of the works, advising as soon as possible of the fact to the Developer.

Article 273

(Records of Suspension)

1. Both in the cases provided for in the preceding Paragraph and in any other in which the Developer orders the suspension, the inspection, with the assistance of Contractor or their representative, shall produce the records in

which the causes originating them are included, the superior decision that granted the authorization or the reason for imminent danger or serious damage that led to act without authorization, the works encompassed and the timeframe anticipated.

2. Contractor or their representative shall include in the records any fact deemed convenient to the defense of their interests.

3. The records of suspension shall be produced in duplicate and signed by the works inspection and by Contractor or their representative.

4. If Contractor or their representative refuses to sign the records, it shall be proceeded pursuant to the provisions of Article 270 of this Law.

Article 274 **(Suspension for Indeterminate Time)**

Whenever, for a fact not imputable to Contractor, the latter is notified of the suspension or shutdown of the works, without the notice or records of suspension having included any timeframe, it shall be presumed that the contract has been terminated per convenience of the Developer.

Article 275 **(Termination by Contractor in Case of Suspension)**

1. Contractor shall have the right to terminate the contract if the suspension has been determined or if it is maintained;

a) For a period longer than 1/5 of the timeframe established for execution of the contract work, when resulting from an event of force majeure;

b) For a period longer than 1/4 of said timeframe, when resulting from a fact not imputable to Contractor and that is not an event of force majeure,

2. When the hypothesis provided for in Subparagraph a) of the preceding Paragraph occurs, the indemnity to be paid to Contractor shall be limited to the emerging damages and the loss of profit.

3. When termination of the contract does not occur, either for not completing the timeframes established in Paragraph 1 of this Article or Contractor does not request it

or when it does not result from an event of force majeure, Contractor shall be indemnified for emerging damages.

Article 276 **(Partial Suspension)**

If, as a result of a fact not imputable to Contractor, any partial suspension is ordered, from which results disturbing of normal progress of execution of the works, in accordance with the work plan in force, Contractor shall be indemnified for emerging damages.

Article 277 **(Suspension for Fact Imputable to Contractor)**

1. When the suspension ordered by the Developer arises out of the fact imputable to Contractor, it shall be mentioned in the records, and Contractor may claim, in writing, within ten days, against this imputation.

2. The Developer shall give an opinion within the following thirty days.

3. Once it is ascertained that the fact imputed to Contractor shall not be justifiable cause for suspension, it shall be proceeded according to the provisions of the suspension, for the fact not imputable to Contractor.

4. Once it is verified that the suspension results from the fact imputable to Contractor, Contractor shall continue to be required to comply with the contractual timeframes, regardless of the suspension period necessarily derived from the respective fact, but, if the Developer maintains the suspension for a period of time longer than it would necessary result from said fact, the exceeding suspension time shall be treated as if it was caused for the fact not imputable to Contractor.

5. In the case provided for in the first part of the preceding Paragraph, the Developer may also, should it be deemed preferable, opt for the termination of contract, with Contractor losing the guarantee deposit and the amounts withheld.

Article 278 **(Restart of Works)**

In the cases of temporary suspension, the works shall be restarted as soon as the causes that determine it cease,

and, for that purpose, Contractor shall be notified in writing.

Article 279
(Nature of Works)

The provisions contained in the preceding Articles shall not be applicable when the suspension derives necessarily from the nature itself of the works provided for, under normal execution conditions.

Article 280
(Extension of Contractual Term)

Whenever a suspension not imputable to Contractor occurs, nor arising out of the nature itself of the works provided for, it shall be deemed that the contract is extended for a period equal to that of the suspension, contractual terms and work plan.

SECTION VIII
Failure to Comply and Amendment to Contract

Article 281
(Force Majeure and Other Facts Not Imputable to Parties)

1. The responsibility of any of the Parties shall temporarily cease for lack, deficiency or delay in the execution of the contract, when the failure to comply results from an event of force majeure.

2. The possible damages caused to the works associated with a contract work due to an event of force majeure or any fact not imputable to any of the Parties, under this Law, shall be equally borne by the Parties.

3. For the purposes of this Law, an event of force majeure shall be a fact by third parties, natural fact or an unpredictable and inevitable situation, whose effects are produced regardless of the personal willingness or circumstances of any of said Parties, such as acts of war or subversion, epidemics, cyclones, earthquakes, fire, thunderstorm, floods or any other events of the same nature that hinder the compliance with the contract.

Article 282
(Greater Onerosity)

1. If it is exclusively imputable to the Developer the fact that result in greater difficulty and onerosity in the execution of the contract work by Contractor, with a significant

escalation of the respective charges, Contractor shall be entitled to be compensated for damages effectively and demonstrably sustained under the general legal terms.

2. In the event that the proven damages exceed 1/6 of the value of the contract work, in addition, Contractor shall be entitled to terminate the contract.

Article 283
(Verification of Event of Force Majeure)

1. Once a fact that is considered as an event of force majeure has occurred, the Party shall, within eight days following the day on which it learns of the event of force majeure, notify the other party and proceed with the verification of the fact and determination of its effects. Upon said notice, the obligations arising out of the contract shall temporarily be suspended.

2. As soon as the Party presents its notice, the inspection shall proceed, with the assistance of Contractor or their representative, with the verification of the event, and records shall be produced containing the following:

- a) The causes of the fact or accident;
- b) The state of things after the fact or accident and in which it is different from the previous state;
- c) If the rules of art and the inspection prescriptions have been complied with;
- d) If any measure has been omitted that, according to the normal rules of prudence and experience, Contractor should have taken to avoid or reduce the effects of the event of force majeure;
- e) If the works have to be suspended, in whole or in part, finally or temporarily, by specifying, in case of partial or temporary shutdown, the part of the works and the probable time impacted by the shutdown, and
- f) Any other mention deemed of interest that Contractor or their representative requests to be consigned.

3. If the inspection does not proceed with the verification of the occurrence according to this Article, Contractor or their representative may so proceed, producing the records in duplicate, with the presence of two witnesses and the original shall be submitted to the Developer as

soon as possible.

4. Sixty days upon suspension of the obligations or should it be attested in the records or any of the Parties learn that the reason for the event of force majeure is indeterminate in time, any of the Parties may terminate the contract, and there is no right to any indemnity or compensation, except solely for the right to the payment for the contract work or services actually provided up to said date or the moment learnt about the indeterminate time.

5. The same procedure, adapted to the circumstances, shall be followed when Contractor intends to be indemnified, with the reasoning in the practice of acts that make difficult or onerous the execution of the contract work.

Article 284 (Alteration of Circumstances)

1. When the circumstances under which the Parties have based the decision to contract suffer from abnormal and unpredictable alteration, resulting in a serious escalation of charges in the execution of the works for one of the Parties, which do not fit in the normal risks, the affected Party with greater onerosity in its performance shall have the right of termination of or amendment to the contract, in the latter case per considerations of equity and to be compensated for increased charges actually sustained or to proceed with the modifications of the contractual prices and charges.

2. Once the termination of contract is notified, the other Party may oppose to the request, by declaring to accept the modification of the contract under the terms of the preceding Paragraph.

Article 285 (Revision of Prices)

1. The contract shall, mandatorily, provide for the revised prices in the event that, the first year of the execution of the works has elapsed, there is an increase in the manpower remuneration and cost of the materials, but, in the latter case, only if the advance of part of the price of the materials acquired or to be acquired for the inventory is carried out.

2. The tender documents may establish the formulas for revision of prices.

Article 286 (Defects in the Execution of Works)

1. When the inspection recognizes that in the works there are execution defects or in the referred to works the contractual conditions were not complied with, acts verifying the fact shall be produced and Contractor shall be notified so that, within the reasonable timeframe provided to them, they shall remedy the defects of the works.

2. If the existence of the referred to defects should be presumed and they shall not be proven by mere observation, the Developer may, either during the execution of the works or after conclusion of same, but within the guarantee term, order the required demolitions, in order to ascertain whether such deficiencies occurred or not, and the records shall then be produced, under the terms of the preceding Paragraph.

3. Contractor shall be responsible for the charges for the demolition and reconstruction if it is found out that there are deficiencies; otherwise, the Developer shall be responsible for said charges.

4. Out of the records and modifications referred to in Paragraphs 1 and 2 of this Article, Contractor may claim and, if the demolition and reconstruction works are of sizable value or may delay the execution of the plan, Contractor may request that the presumed existence of defects is confirmed by an inspection carried out by three experts, one of which shall be appointed by Contractor, the other one by the Developer and the third one appointed by the 'Laboratório Nacional de Engenharia de Angola' (National Engineering Laboratory of Angola) or another entity appointed for that purpose.

Article 287 (Fine for Breach of Contractual Terms)

1. In the event that Contractor does not complete the works within the timeframe contractually established, added to the gracious or legal extensions, up to the end of the works or until termination of contract, the following daily contractual fine may be applied to them, if other fine is not established in the tender documents:

a) One per thousand of the awarding value, in the first period corresponding to one tenth of the referred to term;

b) In each subsequent period of equal duration, the fine shall have an increase of 0.5 per barrel, until it reaches the maximum of five per thousand without, however, in its total value, having to exceed 20% of the awarding value.

2. Should Contractor fail to comply with the partial binding timeframes, if any, it is applied the contractual fine of the percentage equal to the half of that established in the preceding Paragraph and calculated in the same manner over the value of the delayed works.

3. At the request of Contractor or by initiative of the Developer, the contractual fines may be reduced to appropriate amounts, whenever they are inadequate in relation to the damages actually sustained by the Developer and they shall be cancelled when it is found out that the works were appropriately executed and the delays in the compliance of the partial timeframes have been recovered, and the works have been completed within the total contractual term.

4. In the cases of provisional receipt of part of the contract work, the contractual fines referred to in Paragraph 1 of his Article shall be applied based upon the values of the works not yet received.

5. The application of contractual fines, under the terms of the preceding Paragraphs, shall be preceded by records produced by the inspection, of which the Developer shall submit a copy to Contractor, notifying them so that, within ten days, they can arrange for their defense or impugnation.

CHAPTER IV Payments

SECTION I Payments per Measurement

Article 288 (Periodicity and Formalities of Measurement)

1. Unless otherwise provided for, the measurement of the works performed shall be conducted on a monthly basis.

2. The measurements shall be carried out in the site of the works with the assistance of Contractor or their representative, and out of which the records shall be produced, signed by the intervening parties, in which these shall inclu-

de everything deemed convenient, as well as the collection of samples of any excavation materials or products.

3. The methods and criteria to be adopted to perform the measurements shall be established in the tender documents and, in case of alterations, the new measurement criteria that eventually become necessary shall be immediately defined.

Article 289 (Object of Measurement)

The measurement of the works performed shall be carried out, even if they are not considered anticipated in the project, nor duly ordered, regardless of knowing whether they should be paid to Contractor.

Article 290 (Measurement Errors)

1. If, at any time of the contract work, it is recognized that there were errors or faults in some of the measurement records previously recorded, the appropriate correction in the measurement record shall be carried out following this recognition, in the event that both Parties are in agreement regarding the object and quantities to be corrected.

2. When errors and faults have been alleged in writing by Contractor, but they are not recognized by the inspection, Contractor may put forward a claim.

3. When errors and faults have been alleged by the inspection, but they are not recognized by Contractor, the correction in the following measurement record shall be conducted, and Contractor may present a claim.

Article 291 (Status Report on Works)

1. Once the measurement is carried out, the respective current account shall be generated, with the specifications of the quantities of work verified, unit prices, out of the total credited, discounts to be made, advances granted to Contractor and the balances to be paid to the latter.

2. The current account and other documents that constitute the status report on the works shall be verified and signed by Contractor or their representative, and one original shall be in possession of the latter.

3. Whenever it is verified that, in any of the documents, there is any vice or error, Contractor shall formulate the corresponding reservation when signing them.

Article 292 (Claim by Contractor)

1. Whenever Contractor has formulated reservation in the measurement record or they are denied the recognition of errors and faults that they have invoked, related to the record previously generated or others are considered that they do not recognize or, also, they have formulated reservation in the documents that instruct the work situations, they shall present, within the following ten days, claim that specify the nature of the vices, errors or faults and the corresponding amounts they believe they are entitled to.

2. If, within the timeframe established in the preceding Paragraph, Contractor does not put forward claim, it shall be understood that they conform to the measurements in the records and the results of the documents that instruct the status report on the works.

3. Once the claim is put forward, it shall be considered as approved if the Developer does not send the notice on the decision within third days of the date of its presentation, unless laboratory testing, examination or verifications, which require a longer timeframe, shall have to be conducted, in which case, Contractor shall be notified in the referred to timeframe of thirty days.

4. The expenses in the performance of the special measurements to judge Contractor's claims shall be borne by Contractor, in case it is recognized that the disputed measurements were right.

Article 293 (Settlement and Payment)

1. Upon signature by Contractor of the documents that constitute the status report of the works, the settlement of the value corresponding to the quantity of the measured works on which there is no divergence shall be encouraged, after deducting the discounts provided for under the contractual terms, and Contractor shall be notified of said settlement for the purposes of payment.

2. When the measured works are not settled, this fact shall be mentioned through an explanatory note inserted in the respective current account.

3. If the judgement of the claims leads to the acknowledgement that there has been payment of undue amounts, from the first payment to be made or the guarantee deposit if the claim is pertaining to the last payment, the amount that is recognized to be paid in excess shall be deducted.

Article 294 (Provisional Situations)

1. When under the terms of this Law, in the event of force majeure, the performance of the monthly measurement is not possible, on the part of the works inspector, this shall communicate the Developer such impossibility and order Contractor to present, until the end of the following month, a chart on the quantity of the works performed in the previous month, with the respective documents.

2. Once the chart is presented and certified by the inspection only for the purposes of proving the verification of any of the conditions that, under the provisions of the preceding Paragraph, justify the procedure, shall be considered as a provisional situation of the works and it shall be proceeded as if a situation of works is treated.

3. The accuracy of the quantities written in the charts shall be verified in the first measurement record to be carried out, based upon which the possible rectifications are carried out.

4. If Contractor, culpably, writes in their charts works that were not performed, the Developer may terminate the contract and advise of such fact to the body responsible for regulating the civil engineering and public works, for the purposes of annotation and reduction to the category immediately inferior of the respective business license class, and to the body responsible for regulating and supervising the public contracting to be included in the list of defaulting companies, under the provisions of Paragraph 1 of Article 57 of this Law.

SECTION II Payments in Instalments

Article 295 (Payments in Fixed Instalments)

When the payment is made in fixed instalments, Contractor shall present, to obtain it, a chart that defines the status report on the works actually performed, which shall be ve-

rified by the inspection within the maximum timeframe of ten days, producing the record of the respective diligence.

Article 296

(Payments in Variable Instalments)

When the payment is made in variable instalments in accordance with the quantities of the works performed, the regime for measurement of the works carried out in the contract work per series of prices shall be applicable.

SECTION III

Common Provisions

Article 297

(Terms of Payments)

1. The contracts shall establish the terms under which the Developer should proceed with the payment of the works and respective revisions and possible adjustments, which shall not exceed sixty days, according to the cases:

a) As of the dates of the measurement records referred to in Article 288 of this Law;

b) As of the dates for presentation of the charts on the quantities of the works provided for in Article 294 of this Law.

2. In the cases which the contracts do not establish the timeframes referred to in the preceding Paragraphs, they shall be deemed terms of sixty days.

Article 298

(Delayed Payments)

1. Contractor shall only be entitled to default interests in the payment of the accounts cleared and approved if said delay exceeds ninety days of the notification on the relevant settlement or the date contractually established, in which case, they shall have the right to 2% per year, as from the date of notification or the date on which the fixed instalment shall be contractually due.

2. If the delay in the performance of any payment is prolonged for over six months, Contractor shall be entitled to terminate the contract.

Article 299

(Payments in Advance to Contractor)

1. The Developer may proceed with payments in advance to Contractor for the materials placed at the works and approved.

2. Unless otherwise provided for in the contract, the payments in advance shall not exceed 1/3 of the value of the materials, under the condition they are, a value to be determined by the series of simple prices of the project, whether they exist or not, in the contrary, proven by the inspection.

3. Under the same terms, the Developer may provide Contractor with the advances based upon the equipment placed in the works and whose use and application is stipulated in the work plan.

4. In the cases provided for in Paragraphs 3 and 5 of this Article, the equipment value shall be that as approved by the inspection and the payment in advance shall not exceed 50% of said value.

5. Through a reasoned request and provision of a bank guarantee or guarantee insurance, Contractor may also be provided with a payment in advance of part of the cost of the works, required for the acquisition of materials subject to fluctuation of prices, as well as equipment, whose use or application has been anticipated in the approved work plan.

6. The total value of the payments in advance made based on Paragraphs 3 and 5 of this Article shall not exceed 50% of the part of the works to be received.

7. The payment in advance to Contractor shall not exceed 15% of the total contract value and the exceptional cases shall be governed by the annual rules for budget execution.

8. The Developer may not proceed with payment in advance outside the cases provided for in this Article.

Article 300

(Reimbursement of Payments in Advance)

1. The reimbursement of the payments in advance, provided for in Paragraph 1 of the preceding Article, shall be made inasmuch as the materials are being employed and per deduction of the respective contractual payments.

2. The reimbursement of the payments in advance,

provided for in Paragraph 3 and 5 of the preceding Article, shall be made by deducting from the value of each of the subsequent contractual payments, a percentage equal to that such payments represent regarding the part of the works that, on the date of its concession, is yet to be settled.

Article 301

(Guarantee of Payments in Advance)

1. The Developer shall enjoy special furniture privilege, graduated in the first place, over the materials and equipment pertaining to the advances granted, and Contractor shall not transfer, charge or remove them from the site of the works without prior consent in writing of the Developer.

2. In the cases provided for in Paragraph 5 of Article 299 of this Law, the guarantee provided shall be extinct in the part in which the payment in advance shall be considered as sufficiently ensured by the privilege, as soon as the materials and equipment are in the possession of Contractor.

3. Notwithstanding the provisions of the preceding Paragraph and inasmuch as the payments in advance are reimbursed, the Developer shall release the part corresponding to the guarantee provided.

CHAPTER V

Receipt and Settlement of Works

SECTION I

Provisional Receipt

Article 302

(Inspection)

1. As soon as the works are complete, at the request of Contract or by initiative of the Developer, its inspection for the purposes of provisional receipt shall be carried out

2. The provisions of the preceding Paragraph shall also be applicable to the part or parts of the works that, under the contract, may or shall be received separately.

3. The inspection shall be conducted by the representative of the Developer, with the assistance of Contractor or their representatives, and the records shall be produced and signed by all the Parties.

4. The works inspector shall summon, in writing, Contractor for the inspection, at least five days in advance and, and if Contractor fails to appear nor justifies the absence, the diligence shall be carried out with the intervention of two witnesses who also sign the records, immediately notifying Contractor of its contents, for the purposes of the provisions of Paragraphs 3, 4 and 5 of the following Article.'

5. If the Developer does not proceed with the inspection within forty-five days following the request of Contractor and is not prevented from so doing due to an event of force majeure or by virtue of the nature and extension themselves of the works, said works shall be deemed received for all due purposes, after said timeframe has elapsed.

Article 303

(Deficiencies of Execution)

1. If, by virtue of the deficiencies found and that have resulted in breach of contractual and legal obligations of Contractor, the works are not, in whole or in part, in a position to be received, the representative of the Developer shall specify said deficiencies in the records, also including in the records the declaration of failure to receive, as well as the respective reasons, notifying Contractor and establishing the timeframe so that the latter proceeds with the required modifications or repairs.

2. The Developer may proceed with the provisional receipt of part of the works that is in a position to be received.

3. Against the contents of the records and notice given, Contractor may claim in the record itself or in the following ten days, and the Developer shall give an opinion on the claims within thirty days.

4. In the event that the Developer does not give an opinion on the claim within the timeframe referred to in the preceding Paragraph, it shall be deemed that the claim has been approved.

5. When Contractor does not claim or their claim is overruled and does not proceed with, within the timeframes established, the modifications or repairs as ordered, the Developer shall have the right to have them carried out on behalf of Contractor, by triggering the guarantees stipulated in the contract.

6. Once the notice provided for in Paragraph 1 of this

Article is complied with, the inspection shall be proceeded with for the purposes of the provisional receipt.

Article 304 (Provisional Receipt)

1. When, by the inspection performed, it is found out that the works are in a position to be received, so it shall be declared in the records, and the guarantee terms stipulated in the contract shall be counted from this date.

2. Contractor may put forward claims regarding any fact or circumstance contained in the record, by including them therein or presenting them in writing within the following ten days.

3. The Developer shall give an opinion on the claim within thirty days, unless if, becoming indispensable the performance of any testing, requires a longer timeframe to decide, in which case, Contractor shall be notified, establishing, as soon as possible, the required additional period, and this shall not be longer than the one requested for the performance and review of such testing.

4. In the event that the Developer does not issue the notice on the decision within the timeframes provided for in the preceding Paragraphs, the claim shall be considered as approved.

SECTION II Settlement of Contract Work

Article 305 (Generation of Account)

1. Following the provisional receipt, the generation of the account for the contract work shall be carried out within sixty days.

2. The works and values regarding which there are pending claims shall be settled inasmuch as said claims are finally decided.

Article 306 (Elements of Account)

The account associated with the contract work shall be comprised of the following elements:

1. One current account to which are taken, per total

amounts, the values of all the measurements and revisions or possible adjustments or claims already decided on, premiums due and contractual fines applied.

2. A chart on all the works performed in excess or less works than those stipulated in the contract, with the indication of the unit prices for which their settlement has been carried out.

3. A chart of all the works and values on which there are claims, yet to be decided, of Contractor, with express reference to the chart of the preceding Paragraph, whenever said claims are contained therein.

Article 307 (Notice on Final Account to Contractor)

1. Once the account is generated, a copy shall be sent to Contractor, by registered letter with acknowledgement of receipt, so that Contractor may sign or present their reasoned claim, within thirty days.

2. Contractor shall be provided with the examination of the documents necessary to review the account.

3. If Contractor signs the account and does not present, within the timeframe provided for in the preceding Paragraph, any claim, it shall be deemed that they accept the account, notwithstanding, however, the pending claims that they expressly declared their intent to maintain.

4. In the event that Contractor, within the timeframe provided for in Paragraph 1 of this Article, does not sign the account, nor present against it any claim, and they have not been prevented to do so due to an event of force majeure, it shall be deemed that they accept the account, with the effects established in the preceding Paragraph.

5. In their claim, Contractor may not:

a) Present new claims on the measurements;

b) Present new claims on the amounts that constitute a mere and faithful reproduction of the accounts for measurements or claims already decided on;

c) Focus on pending claims and not yet decided on.

6. On the claim of Contractor, the Developer shall give an opinion within sixty days.

SECTION III Administrative Inquiry

Article 308 (Communications to Local Authorities)

Within sixty days of the date of provisional receipt, the Developer shall communicate to the competent administrative authority of the area, in which the works have been executed, their completion, indicating the service and respective address responsible for the settlement.

Article 309 (Publication of Notices)

1. Once said communication has been received, the entity referred to in the preceding Paragraph shall have notices posted during the timeframe of twenty days, calling upon all the interested parties in order to present, up to ten days after the end of the timeframe of the notices, in the respective secretary, in writing and duly reasoned and documented, any claims they believe they are entitled to, namely for the lack of payment of salaries, associated with materials or possible indemnifications, as well as prices of any works that Contractor has ordered to be executed by third parties.

2. The posting may be replaced by two publications carried out, with one week of interval, in a newspaper with the expansion in the municipality, and the timeframe of ten days to present claims shall be considered, as from the date of the second publication.

3. With the required adaptations, the rules provided for in Article 17 of this Law shall be applicable to the claims, and any claims presented out of the timeframe established in the notices shall not be taken into account.

Article 310 (Processes for Claims)

1. Once the timeframe for the respective presentation has ended, the entity referred to in Paragraphs 308 and 309 of this Law shall submit, within ten days, to the body that is responsible for the settlement, the claims received, with their comments.

2. The liquidating service shall notify, by registered letter with acknowledgement of receipt, or against receipt, Contractor and the credit institutions that may have guar-

ranteed the obligations in question in order to, within twenty days, dispute the claims received, with the penalty of, failing to do so, being considered as accepted and approved.

3. Should there be dispute, the claimants of the credits disputed shall be notified, warning them that only the amounts claimed shall be withheld if, within thirty days, action in the competent court is proposed to demand them and the liquidating service is provided, within fifteen days following the proposition of the action, with a certificate proving the fact.

SECTION IV Warranty Term

Article 311 (Warranty Term)

1. The warranty term shall be established in the tender documents, taking into account the nature of the works.

2. In the event that it is not stipulated in the preceding Paragraph, the warranty term shall be three years.

SECTION V Final Receipt

Article 312 (Inspection)

1. Once the warranty term has ended, by initiative of the Developer or at the request of Contractor, the new inspection of all the works associated with the contract work shall be conducted.

2. If, arising out of the inspection, it is found that the works have no deficiencies, deteriorations, signs of ruins or flimsiness, for which Contractor shall be held liable, the final receipt shall be proceeded with.

3. The premises corresponding to the provisional receipt shall be applicable to the inspection and record for the final receipt.

Article 313 (Execution Deficiencies)

1. If, as a result of the inspection, it is found that there are deficiencies, deteriorations, signs of ruins or flimsiness,

for which Contractor shall be held liable, only the works that are in good condition and susceptible to partial receipt shall be received, and the Developer shall proceed, in relation to the remainder, under the terms stipulated for the case similar to the provisional receipt.

2. The responsibility of Contractor shall only exist provided that the deficiencies or vices found out are imputable to them and that, if they result from the use for which the works have been earmarked, shall not constitute normal depreciation arising out of said use.

SECTION VI

Restitution of Guaranties and Amounts Withheld, Extinction of Bond and Possible Liquidations

Article 314

(Restitution of Deposits and Amounts Withheld and Extinction of Bond)

1. Once the works have been received in whole, the amounts withheld as guarantee, or any other reason, they should be entitled to, shall be returned to Contractor and, by its own form, the extinction of the bond provided shall be strongly encouraged.

2. The delay longer than ninety days in returning the amounts withheld and extinction of the bond, when imputable to the Developer, shall grant Contractor the right to demand default interests on the respective amounts, at the rate of 2% per year as from the date of the request.

Article 315

(Deduction of Amounts Claimed in the Administrative Inquiry)

1. When, in the administrative inquiry, there are inquiries, the amount to be returned to Contractor of the guarantee deposits, the amounts possibly still in debt and the bond shall be deducted from the amounts claimed and that, in the interim, Contractor is unable to prove they have met them.

2. The value deducted under the provisions of the preceding Paragraph shall have the following applications:

a) The amounts corresponding to the claims confessed by Contractor and by guarantors shall be directly paid to the claimants;

b) The amounts corresponding to the claims disputed by Contractor and by guarantors shall be deposited, in credit institution, by order of the court where the respective process has been handled, when the claimants prove that this has been proposed within thirty days of the receipt of the communication on the existence of a dispute.

3. In the case of Subparagraph a) of Paragraph 2 of this Article, the interested parties shall be summoned, by registered letter with acknowledgement of receipt so that, within thirty days, they receive the amounts they are entitled to.

4. Contractor or the institution that has replaced Contractor shall have the right to immediately be reimbursed for the amounts that have not been received on a timely basis, under the provisions of Paragraph 3 of this Article, as well as to request the withdrawal of part of the deposit corresponding to the amounts claimed, but not judicially required, within thirty days of the date of communication carried out to the claimants that there is dispute to their claims, unless they prove they have not done so for legal impossibility.

Article 316

(Payments for Works Subsequent to Provisional Receipt)

If, subsequent to the provisional receipt, Contractor executes works for which they should be paid, for partial payments, the provisions regarding payments per measurement and for final settlement shall be applied, to be made immediately following the final receipt, the provisions for settlement of the contract work.

Article 317

(Deductions to be Made)

If, for any reason, legally or contractually provided for, some deduction from guarantee deposits shall be made or liability shall be demanded, to be met by the deposits or by the goods of Contractor, the settlement of the amounts to be deducted or of the liability amount shall be proceeded with.

SECTION VII

Settlement, Payment of Fines and Premiums

Article 318

(Settlement of Fines and Premiums)

1. The contractual fines applicable to Contractor and

the premiums they are entitled to during the execution of the works up to the provisional receipt shall be discounted from or added to in the first contractual payment that follow them.

2. The contractual fines applicable and the premiums granted subsequent to the provisional receipt shall be settled and paid under the terms stipulated for deductions or payments in said period.

3. No penalty shall be considered as finally applied without Contractor being notified of the reasons for its enforcement and the opportunity to put forward their defense.

4. Once the provisional receipt has been carried out, there should not be the enforcement of contractual fines corresponding to previous facts or situations.

5. The premium associated with the preliminary completion of the works shall only be paid upon the date of provisional receipt.

CHAPTER VI **Conventional Termination of Work**

Article 319 **(Termination by Developer)**

Since the Developer has the right to terminate the contract, Contractor shall be notified of the intent of the Developer to exercise it, granting Contractor a timeframe no lower than eight days to dispute the reasons presented, unless they have abandoned the works or they have proceeded with the shutdown of them.

Article 320 **(Effects of Termination)**

1. Notwithstanding the provisions of the following Paragraphs, the Party that caused the termination incurs the obligation to indemnify the other Party for the damages arising out of said termination.

2. In the event of termination, for convenience of the Developer, Contractor shall have the right to be indemnified for the emerging damages and loss of profits that they may sustain, resulting from the works.

3. If Contractor chooses to do so, when they request the termination and according to the cases provided for in

this Law, instead of awaiting settlement of the losses and damages suffered, Contractor shall immediately receive, as a sole indemnity, the amount corresponding to 10% of the difference between the values for the works performed and the value of the works awarded.

4. In the event that the termination is decided by the Developer as a penalty applicable by law to Contractor, Contractor shall fully bear the respective consequences.

5. Once the contract has been terminated, the Developer shall, with the assistance of Contractor, immediately take administrative possession of the works.

6. Generally, the termination shall not have retroactive effect.

Article 321 **(Administrative Possession)**

1. Whenever that, under the terms of the law, the Developer is authorized to take administrative possession of the works underway, the Developer shall officiate the competent administrative magistrates requesting that, within eight days of the receipt of the petition, is in possession of the works and indicating as soon as possible the entity, representing them, shall be notified of the date of possession.

2. Since there are works underway of the same contract work in various sites, the Developer shall make the necessary arrangements so that the possession be granted in successive days, keeping immediately the sites in order that any goods of Contractor cannot be inappropriately diverted away from said sites.

3. Once the petition has been received, the administrative magistrate shall schedule the date and have immediately notify the representatives of the Developer and Contractor to appear in the site where the construction yards are located or where the Contractor's material is located.

4. On the established day, the representatives of the administrative authorities and the representatives of the Developer shall appear in the site and, whether Contractor is present or not, the first parties shall immediately give possession of the works, including consigned or occupied land plots, materials, own or leased constructions, construction yards, tools, machines and vehicles associated with

the works, inventorying them in records, which shall be produced by the official that escorts the granting authority and signed by the latter, by the representative of the Developer and by Contractor, if present.

5. If any of the attendees present a recent and fully believable inventory, this shall be verified and included in the records, with the convenient additions and corrections, and no new inventory shall be required.

6. When the inventory cannot be completed in a single day, the possession shall immediately be granted to the representative of the Developer, and the inventory shall continue in the following days.

7. In the records, Contractor or their representative may formulate claims, but only when they consider that something is inappropriately inventoried.

8. In the thirty days following the close-out of the records, the Developer shall decide on the claims, and shall have or not return the inventoried materials. The lack of decision shall be presumed approval of the claims.

Article 322

(Further Implementation of Works by Developer)

1. During the execution of the works, the Developer may utilize the machines, materials, tools, utensils, constructions, construction yards and the vehicles they took possession of, through lease or purchase, by an agreed upon or established price, in arbitration or judicially, which is deposited as additional guarantee of Contractor's liabilities.

2. Contractor may request to be handed over the machines, materials, tools, utensils, constructions, construction yards and vehicles that the Developer does not wish to utilize under the preceding Paragraph, providing bond in the value equivalent to that of the inventory, through deposit of cash or securities, bank guarantee, mortgage or pledge.

3. The materials existing in the works and subject to deterioration shall be utilized as follows:

a) If they are approved or they are in a position to deserve approval, they shall be acquired by the Developer for the respective unit price, if any, or invoice, otherwise, their value shall be withheld as additional guarantee of Contractor's liability;

b) If they are not in the conditions referred to in preceding Paragraph, they may be withdrawn by Contractor who shall remove them from the work site, within the time-frame they are determined, under the penalty that said removal may be conducted by the Developer and the transportation cost should be debited on Contractor.

Article 323

(Termination Process by Contractor)

1. In the cases that, in this Law, Contractor is recognized the right to terminate the contract, the exercise of said right shall occur through a petition addressed to the Developer, within thirty days following the verification of the fact justifying said right and in which the reasoned petition shall be accompanied by the documents that may prove the reasons invoked.

2. In no circumstance Contractor shall proceed with the shutdown of the works or change the compliance with the contract work plan underway, and they shall await, for the delivery of the works performed, the decision on the petition.

3. If the petition is denied or twenty days without a decision have been elapsed, Contractor may request the competent court that the Developer is notified in order to take possession of the works and accept termination of the contract.

4. Once the petition has been received, together with the petition for termination of the works and the documents that were attached thereto, the judge shall immediately provide the Developer with a citation to, within ten days, respond to whatever shall be relevant.

5. If the response is not provided on a timely fashion or opposition to the request is presented, the judge may, taking into account the nature of the losses that may result from proceeding with the works to Contractor, as well as those arising out of the suspension for the public interest, authorize the suspension of the works by Contractor.

6. Once the suspension of the works has been authorized by the judge, Contractor shall be entitled to remove from the works the machines, vehicles, utensils and materials not associated with any guarantee, Contractor shall propose the relevant termination action against the Developer within three months.

Article 324
(Possession of Works Resulting from Termination by Contractor)

1. When the termination of contract results from Contractor exercising the relevant right, the Developer takes possession of the works and the materials, tools, utensils and the constructions that belong to them, through records on inventory of the goods, in which the measurements of the works performed shall be included.

2. In the cases provided for in the preceding Paragraph, the Developer shall:

a) Purchase, for the stipulated prices or those that result from arbitration or judicial decision, the machines, tools, utensils, constructions and constructions yards acquired and approved for the execution of the works and which Contractor does not intend to keep.

b) Purchase, for the invoice price, the materials approved existing in the works, as well as those, although they are not near the works, that it is proven they were acquired for the works by Contractor, provided that they meet the conditions required so that they can be accepted and do not exceed the accurate quantities.

Article 325
(Conventional Termination of Contract)

1. The Developer and Contractor may, by agreement and at any time, terminate the contract.

2. The effects related to the conventional termination of contract shall be established in the agreement.

Article 326
(Final Settlement)

1. In all cases of cancellation, conventional termination or expiry of the contract, the final settlement shall be proceeded with, and it shall be reported on the date they occur.

2. Should there be damages to be indemnified that cannot be immediately determined safely, the respective settlement in separate shall occur, as soon as the amount is ascertained by agreement or by judicial or arbitration decision.

3. The settlement balance shall be withheld by the

Developer as a guarantee, until the Contractor's responsibility is determined.

Article 327
(Payment of Indemnity Due to Developer)

1. In the event that the termination of contract is imposed by the Developer, as soon as Contractor's responsibility is established, the respective amount shall be deducted from the deposits, guaranties and amounts due, paying them the balance, if any.

2. If the deposits, guaranties and amounts due shall not be enough for full coverage of Contractor's responsibility, this shall be carried out in the goods and rights that constitute their assets.

CHAPTER VII
Litigation of Contracts

Article 328
(Judicial Review)

The matters that may arise out of the interpretation, validity or enforcement of the contract associated with public contract works may be settled by the competent courts.

Article 329
(Expiry Term)

When another one is not established by the law, the actions shall be proposed within one hundred and eighty days of the notice to Contractor on the decision or deliberation of the competent body to practice final acts, by which any right or intent of Contractor is denied or the Developer claims the right the other Party does not consider as reasoned.

Article 330
(Acceptance of the Act)

1. The compliance with or acceptance by Contractor of any decision made by the Developer or their representatives shall not be deemed tacit acceptance of the decision obeyed.

2. However, if within ten days of the date of learning of the decision, Contractor does not claim or does not formulate reservation of their right, the decision shall be considered as accepted.

Article 331
(Debatable Matter)

The denial of the claims formulated on a timely manner by Contractor to the Developer does not prevent Contractor from discussing the matter of said claims, in action proposed for that purpose.

Article 332
(Attempt to Conciliate)

1. The actions referred to in Paragraphs 319 and 323 of this Law shall be preceded by the attempt to conciliate, before a committee whose composition and operation shall be defined by a specific normative act of the President of the Republic.

2. The representatives of the Parties shall have technical qualification or professional experience appropriate to the matters related to the public work contracts.

Article 333
(Procedure for Conciliation)

1. The petition for attempt to conciliate shall be presented in duplicate and addressed to the committee referred to in the preceding Paragraph and it shall contain, in addition to the identity of the petition, the explanation on the facts related to the petition and its reasoning.

2. The requested party shall be notified in order to, within eight days, present a response in writing and they shall be provided with a copy of the petition for that purpose.

3. The attempt to conciliate shall occur within the maximum timeframe of thirty days as from the end of the timeframe for the requested party to respond, except for postponement for reasons deemed enough justification, and the parties shall be notified to appear and indicate, within five days, their representatives for the committee.

4. The Parties' representatives who shall integrate the committee shall be summoned well in advance no lower than five days of the date designated for the attempt to conciliate.

5. The attendance of the Parties' representatives shall occur in person or through whom introducing themselves, with a power of attorney or credential that contain express

and sufficient powers to bind them in the attempt to conciliate.

6. In the attempt to conciliate, the committee shall proceed with a careful examination of the matter, in the aspects in fact and those legal that characterize them, and, based upon that, said committee shall then try and obtain a fair agreement between the Parties.

7. All the notices and calls for the purposes of attempt to conciliate or following them shall be carried out by registered letter with acknowledgement of receipt or other means of demonstrably sending the notices and calls to the interested parties.

Article 334
(Agreement)

1. Once there is conciliation, the records shall be produced, in which all the terms and conditions of the agreement shall be included and the committee appointed for that purpose shall submit, within five days, the homologation of the body responsible for regulating the civil engineering and public works, with information also being addressed to the body responsible for regulating and supervising the public contracting.

2. The conciliation records, as duly homologated, shall constitute enforceable final judgement and opposition can only occur based upon the same reasoning that serve as opposition to the enforcement of a sentence.

3. Out of the conciliation records already homologated, an authenticated copy shall be sent to each of the parties.

Article 335
(Non-conciliation)

Should the conciliation not occur, or for a fact imputable to any of the parties, and it is impossible to perform the diligence or also the homologation of the agreement reached is denied, or said homologation does not take place within forty-five days as from the date it is requested, the requesting party shall be provided with, for the purposes of the provisions of the preceding Articles, a copy of the respective records, together with, if applicable, the supporting documentation on the situation that occurred.

(Interruption of Limitation and Expiry Periods)

The request for attempt to conciliate shall interrupt the limitation period of the right and expiration of the relevant action, and they shall resume twenty-two days of the date on which the requested party receives the document that shall prove the impossibility of the performance or unfeasibility of the diligence.

(Arbitration Court)

1. In the event that the Parties opt for submitting the dispute to the arbitration court, the respective commitment shall be signed prior to the end of the timeframe for expiration of the right.

2. The arbitration court shall be comprised of and operates under the terms of the Law on Voluntary Arbitration.

3. When the value of the litigation is not higher than the level 3 of the Table on Value Limits included in Annex II of this Law, a single arbitrator may be appointed.

(Arbitration Proceeding)

1. The arbitration proceeding shall be simplified under the following terms:

- a) There are only two pleadings: the petition and the objection;
- b) Only two witnesses may be appointed per each fact contained in the questionnaire;
- c) The discussion shall be in writing.

2. Once the decision has been rendered and the Parties have been notified, the proceeding shall be handed over to the body responsible for regulating the civil engineering and public works, with information also being addressed to the body responsible for regulating and supervising the public contracting, where it shall be filed, and this service shall be responsible for deciding everything pertaining the terms of the respective execution on the part of the administrative entities, notwithstanding the competency of the courts for the execution of Contractor's obligations,

and the competent judge shall be provided with a copy of the decision from the arbitration court, for the purposes of the executive process.

Subcontracting**(General Principles)**

1. The entities referred to in Article 55 of this Law may not perform works associated with public works, as subcontractors.

2. The provisions of the preceding Paragraph shall be applied either to the subcontracted works or works that result from a contract between the awarded Contractor for the public works and their subcontractor, or to that executed between a subcontractor and a third party.

3. The public works contractor of particular public works may not subcontract over 75% of the value of the works that they were awarded.

4. The regime provided for in the preceding Paragraph shall also be applicable to the subsequent subcontractors.

5. Contractor shall not proceed with the replacement of the subcontractors included in the contract without obtaining previous consent of the Developer.

6. The Developer may not oppose to the selection of subcontractor by public works Contractor, to whom the works are awarded, unless they do not have the legal conditions for execution of the works they were subcontracted for.

(Contract for Subcontracted Works)

1. For the purposes of the provisions of this Law, subcontracting shall mean the contract for emerging subcontracted works, immediately or not, of an administrative contract for public works.

2. The contract referred to in the preceding Paragraph shall contain a particular document awarded by the contracting Parties.

3. The following documents shall necessarily be contained in the contract:

a) The identification of the contracting Parties, indicating their name or corporate name, taxpayer number of a person or corporate body, marital status and domicile or, in the event that it is a corporate body, the respective head office and, if applicable, the affiliates that are required for the execution of the works, the names of managers or other persons with powers to bind them in the act;

b) The identification of the titles that are contained in the authorizations for the performance of the activity of public works contractors;

c) The technical specifications of the works that are object of the contract;

d) The total value of the contract;

e) The methods and timeframes for payments, which shall be established under the conditions identical to those provided in the contract between the Developer and Contractor.

4. Failure to fully comply with the provisions of Paragraphs 2 and 3 of this Article shall determine the nullity of the contract.

5. Contractor shall not, however, oppose to subcontractor the nullity stipulated in the preceding Paragraph.

Article 341 (Right to Withholding)

1. The subcontractors may claim, with the Developer, for the payments in arrears due to Contractor, and the Developer may exercise the right to withhold the amounts, in the same value due to Contractor and arising out of the public contract works.

2. The amounts withheld under the terms of the preceding Paragraph shall be paid directly to the subcontractor, in the event that Contractor, notified for that purpose by the Developer, does not prove, within the fifteen days immediately after the receipt of such notice:

a) Contractor has proceeded with the settlement of same;

b) Should there be any legal fact for failing to do so.

Article 342 (Obligations of Contractor)

The following shall be obligations of Contractor, notwithstanding their responsibilities before the Developer:

a) Ensure that the subcontractor has the authorizations of public works contractor, which are necessary for execution of the works to be subcontracted;

b) Look after the strict compliance with the provisions of the applicable legislation and regulations;

c) Deposit copies of the contract for subcontracted works that they execute, with the Developer, prior to executing the emerging contract, when relating to authorizations necessary to place at bid tender;

d) Deposit copies of the contract for subcontracted works that they execute, with the Developer, prior to beginning the works, when relating to other authorizations;

e) Make the payments due to subcontractors and vendors within the timeframes and under the conditions that are not more unfavorable than those established in the relations with the Developer.

Article 343 (Obligations of Developer)

In line with the provisions of this title, the public works Developer shall be responsible for:

a) Enforcing the laws on the part of the entities that execute works associated with public works under their responsibility;

b) Communicating the failure to comply with the provisions of this Chapter to the committee referred to in Article 332 of this Law and to the body responsible for regulating the civil engineering and public works;

c) Communicating to the competent authorities of health, protection and hygiene at the workplace the irregularities found out in matters regarding their competency;

d) Notifying the body responsible for regulating the civil engineering and public works in which they ascertain the illegal performance of the activity on the part of subcontractor or authorization by the latter of personnel in

breach of the provisions of the following Article.

Article 344 (Service Rendering)

1. In addition to the subcontracted works, all the service rendering for the execution of public works.
2. The provisions of the preceding Paragraph neither shall be applicable to the technicians responsible for the works nor to the cases in which the services to be provided are too technically or artistically specialized and shall not be included in any of the subcategories provided for the performance of the activity of public works contractor, under the terms of the applicable legislation.
3. The breach of the provisions of this Article shall grant the Developer the right to terminate the contract, under the provisions of Article 209 of this Law.

Article 345 (Liability of Contractor)

Notwithstanding the execution of one or more contracts associated with subcontracted works, even without the intervention of Contractor, the latter shall always be liable before the Developer for the obligations arising out of the contract related to the public subcontracted works, as well as the acts or omissions carried out by any subcontractor, in breach of said contract.

Article 346 (Derogation and Prevalence)

1. For the purposes of this Chapter, the general regime for public contract works shall be applicable to subcontracting.
2. In any case, the regime contained in this Chapter shall prevail over the general regime for public contract works, in the part in which are not in accordance with same.

TITLE VI Execution of Contracts for Leasing and Acquisition of Movable Goods and Acquisition of Services

CHAPTER I Common Provisions

SECTION I General Principles

Article 347 (Parties)

The public contracting entity and its co-contracting party shall be Parties of the contract, which shall assume the designation of lessor, supplier or provider, as appropriate, regarding the lease of movable goods, acquisition of movable goods or acquisition of services.

Article 348 (Personal Execution)

Notwithstanding the provisions regarding the assignment of the contractual position and subcontracting, the co-contracting party shall be responsible for the accurate and punctual performance of the contractual services, in compliance with the established aspects, and the co-contracting party may not assign to third parties the responsibilities taken over before the public contracting entity.

Article 349 (Reciprocal Cooperation)

1. The Parties shall be bound by the duty to mutually cooperate in the execution of the contract.
2. The co-contracting party shall provide the public contracting entity with all the information the latter requests and that is necessary to the inspection of execution of the works.

Article 350 (Protection of Co-contracting Party by Public Contracting Entity)

The public contracting entity shall exercise the respective competencies of authority in order to suppress and prevent the breach by third parties of legal and administrative relations in which result the impossibility or serious difficulty to achieve the aimed goal with the execution of the contract.

Article 351 (Confidentiality and Right to Information)

1. The public contracting entity and the co-contracting party shall keep confidentiality on any matters subject to confidentiality under the law to which they have access

in line with the execution of the contract.

2. The public contracting entity shall be responsible for the fulfillment of the right to information by individuals on the contents of the contract and on any aspects of the respective execution.

Article 352

(Principles of Good-faith, Fulfillment of Public Interest and Proportionality)

1. The contract shall constitute, for the Parties rights and obligations that shall be exercised and complied with in good-faith and in accordance with the fulfillment of the public interest, under the law.

2. The public contracting entity may not take over rights or obligations clearly disproportionate or that do not have a direct material connection with the goal of the contract.

Article 353

(Applicable Law)

In all matters that are not governed by this Law or in special law, the remaining administrative law norms and, in the absence of these, the civil law shall be subsidiarily applicable to the execution of the contract governed by this Title.

SECTION II

Effectiveness and Execution of Contract

Article 354

(Effectiveness of Contract)

1. The full effectiveness of the contract shall be contingent upon the issuance of the acts of approval or other integration acts required by law.

2. The Parties may attribute retroactive effectiveness contrary to when imperative requirements of public right so justify, provided that the early production of effects:

- a) Is not prohibited by law;
- b) Does not adversely affect rights and legally protected of third parties;
- c) Does not hinder, restrict or render false the competition guaranteed by the provisions of this Law regarding the procedure for creating a contract.

3. The contract that constitute obligations for third parties or from which results effects that shall modify, hinder or extinguish the rights of third parties shall only become effective in this part through consent of the concerned parties.

Article 355

(Suspension and Restart of Execution of Contract)

1. The execution of contractual services that constitute the object of the contract may be, in whole or in part, suspended through the following reasoning:

a) Temporary impossibility of compliance with contractual obligations, namely by virtue of the delay of the public contracting entity in delivery or making available the resources or goods required to the execution of the contractual services;

b) Exception for failure to comply, under the provisions of Article 374 of this Law.

2. The suspension in the execution of the contractual services shall determine the extension of the execution timeframe for a period equal to the duration of the suspension, added to the timeframe strictly necessary to the organization of resources and execution of preparatory or auxiliary works aimed at restarting the execution.

3. The extension referred to in the preceding Paragraph may not be invoked by the party to which the facts generating the suspension are imputable.

4. The execution of the contractual services that constitute the object of the contract shall restart as soon as the causes that determine the suspension cease, and the public contracting entity shall notify, in writing, the co-contracting party for that purpose.

Article 356

(Payment Term)

1. Whenever the contract does not include payment date or timeframe, the pecuniary obligation shall be due, without the need for new warning, 30 (thirty) days of the date on which the public contracting entity has received the invoice or equivalent document or, in the event that the invoice is issued prior to the supply or leasing of goods or provision of the services, thirty days of the date of effective

receipt or the end of leasing of the goods or the end of the service rendering.

2. Once the contract contains payment date or timeframe, the payments due by the public contracting entity shall be made within thirty days of the delivery of said invoices, which may only be issued upon the referred to obligation is due.

3. The contract may establish a timeframe different from that established in the preceding Paragraph, and this shall not exceed, in any case, sixty days.

4. The contractual clauses that, without any sufficient and justifiable reason in light of the actual circumstances, establish timeframes longer than sixty days for the pecuniary obligations to be due, shall be null and void.

5. In the case provided for in the preceding Paragraph, the clause shall be deemed not in writing and the obligation shall be considered as due pursuant to the rules of this Article.

Article 357 (Revision of Price)

The revision of price shall only occur if the contract so determines and establishes the respective terms, namely the calculation method and the periodicity.

Article 358 (Premiums for Early Compliance)

1. Unless the nature of the contract or the law does not allow it, the public contracting entity may award premiums to the co-contracting party for early compliance with the contractual services object of the contract.

2. The possibility to award premiums referred to in the preceding Paragraph, the awarding conditions and the respective contract value shall be included in the contract.

SECTION III Conformity of Contractual Relation Article 359 (Powers of Public Contracting Entity)

1. Unless when the contrary results from the nature of the contract or the law, the public contracting entity may, under the provisions of the contract and this Law:

- a) Direct the method for execution of the contractual services;
- b) Inspect the method for execution of the contract;
- c) Unilaterally modify the clauses pertaining to the contents and the method for execution of the contractual services provided for in the contract for reasons of public interest;
- d) Apply the penalties stipulated for violation of the contractual obligations;
- e) Unilaterally terminate the contract.

2. The administrative acts that interpret the contractual clauses or that provide an opinion on the respective validity shall not be final and enforceable, accordingly, in the absence of agreement by the co-contracting party, the public contracting entity may only obtain the intended effects through a judicial decision.

3. The provisions of the preceding Paragraph shall not hinder the civil law general provisions relating to bilateral contracts, unless such premises have been discarded by the Parties.

4. Unless otherwise provided for by special law, the forced execution of the missing contractual services may only be obtained through a judicial decision.

5. When, following the judicial decision referred to in the preceding Paragraph, the Court convicts the co-contracting party to the provision of a fact or delivery of a certain thing, the public contracting entity may foster the coercive execution of the sentence through administrative act.

Article 360 (Powers of Management and Inspection)

1. The public contracting entity shall ensure, through the exercise of the powers of management and inspection, that the contract is executed in order to fulfill the public interest aimed by the decision to contract.

2. The exercise of the powers of management and inspection shall safeguard the autonomy of the co-contracting party, and it shall be limited to the strictly necessary to ensure the fulfillment of the public interest and shall be

processed in a manner to not disturb the execution of the contract, abiding by the applicable legal or contractual rules of and without diminishing the initiative and correlative liability of the co-contracting party.

Article 361

(Instruction Regarding the Method to Execute Contractual Services)

1. In addition to the actions typified in the contract, the instruction by the public contracting entity consist of the issuance of orders, directives or instructions on the direction of the necessary choices in the areas of the technical, financial or legal execution of the contractual services, per the contract in question.

2. The orders, directives or instructions shall be issued in writing or, when the circumstances impose the oral form, written and notified to the co-contracting party within five days, unless there is fair impediment.

Article 362

(Inspection on Method of Execution of Contract)

1. The public contracting entity shall have powers for technical, financial and legal inspection of the method the contract is executed, aimed at determining the required corrections to the contractual services of the co-contracting party and the enforcement of the appropriate penalties.

2. Notwithstanding the guarantee of the professional or business confidentiality and the regime applicable to other information protected by law, the inspection shall be limited to aspects immediately related to the method of execution of the contract, and it may be carried out, namely, through the inspection of sites, equipment, documentation, computer registrations and accounting, through measurements of the advanced status of the works or requests for information.

3. The exercise of the inspection power shall be documented in records, reports or appropriate books.

4. The inspection tasks may be partially or totally delegated in monitoring joint committees or in specialized public or private entities.

SECTION IV

Objective Amendment to Contract

Article 363

(Reasoning and Method of Modification)

1. The amendment to the contract may have the following reasoning:

a) Abnormal and unpredictable modification of the circumstances on which the Parties based their decision to contract, provided that it is not covered by the contract own risks and that the requirement for maintenance of the obligations assumed is contrary to the good-faith;

b) Public interest reasons arising out of the new needs or a new consideration of the existing circumstances.

2. The contract may be amended:

a) By agreement between the Parties, which shall not be less solemn than the contract;

b) By operation of law or by arbitration decision.

3. When the reason for amending the contract is that provided for in Subparagraph a) of Paragraph 1 of this Article, the contract may also be amended through administrative act of the public contracting entity.

Article 364

(Limits)

1. The amendment to the contract may not lead to alteration of the main contractual services covered by its object or may not be a way of hindering, restricting or rendering false the competition ensured by the provisions of this Law regarding the procedure for creating a contract.

2. For the purposes of the preceding Paragraph, unless when the lasting nature of the contractual relation and the course of time so justify, the amendment may only be permitted when it is objectively demonstrable that the ordering of the bids evaluated in the procedure to create the contract would not be modified if the tender documents have included said modification.

Article 365

(Consequences)

1. The co-contracting party shall be entitled to the restoration of the financial equilibrium, whenever the reasoning for the modification of the contract is:

a) imputable to the decision of the public contracting entity, even so it is adopted outside of the exercise of their powers of conformation of the contractual relation, provided that said alteration specifically have impact on the contractual situation of the co-contracting party;

b) Reasons of public interest.

2. In the absence of contractual provisions, the value for the restoration of the financial equilibrium shall correspond to the necessary to restore the financial proportion upon which the contract is originally based.

3. In the absence of contractual provisions, the restoration of the financial equilibrium shall be carried out, alternatively or cumulatively, through extension of the timeframe for the execution of the contractual services or effectiveness of the contract, revised prices or the assumption, by the public contracting entity, of the duty to provide the counterpart with the value corresponding to decrease of the expected expenditures or increase of the anticipated charges with the execution of the contract.

4. The restoration of the financial equilibrium shall not place any of the Parties in a situation more favorable than that it would result in the financial equilibrium originally established, and it shall not cover possible losses that already resulted from said equilibrium or was associated with the contract own risk.

5. The restoration of the financial equilibrium shall yield its effects as from the date of the occurrence of the event that originated it.

6. The cases not covered by Paragraph 1 of this Article shall grant the right to amend the contract or a financial compensation, according to equity criteria.

Article 366

(Release of Contractual Amendments)

1. The administrative acts of the public contracting entity or the agreements between the Parties that imply objective amendments to the contract and represent a cumulative value higher than 15% of the contractual price shall immediately be communicated to the body responsible for regulating and supervising the public contracting, for the purposes of announcing in the Public Contracting Portal, and the announcement shall be maintained up to six months of extinction of the contract.

2. The notice referred to in the preceding Paragraph shall be an effectiveness condition of the administrative acts or modifying agreements, namely for the purposes of making any payments.

SECTION V

Assignment of Contractual Position and Subcontracting

Article 367 **(Scope)**

Should there be no contractual provisions or other thing does not result from the nature of the contract, the assignment of contractual position and subcontracting are permitted, under the terms of provisions of the following Articles.

Article 368

(Limits to Assignment and Subcontracting by Co-contracting Party)

1. The contract may prohibit the subcontracting of certain contractual services or contractual services whose cumulative value exceeds a percentage of the contractual price.

2. The assignment of the contractual position shall always be prohibited:

a) When the selection of the contracting party has been determined in a procedure for simplified contracting, in the event that only one entity may be invited;

b) The entities covered by the causes of impediment provided for in Article 55 of this Law;

c) When there are strong indications that the assignment of contractual position or subcontracting result from acts, agreements, practices or information susceptible to render false the rules of competition.

3. Whenever it is related to subcontracting, the limit contained in Subparagraph a) of the preceding Paragraph shall be restricted to the contractual services object of the contract that have been determining factors for the selection of the procedure for simplified contracting.

4. In the cases provided for in Subparagraph c) of Paragraph 2 of this Article, the public contracting entity shall immediately communicate the body responsible for regulating and supervising the public contracting the signs of acts,

agreements, practices or information susceptible to render false the rules of competition.

Article 369

(Authorization for Assignment and Subcontracting by Co-contracting Party)

1. The assignment of the contractual position and subcontracting by the co-contracting entity require authorization of the public contracting entity.

2. For the purposes of the authorization provided for in the preceding Paragraph, the co-contracting party shall present a reasoned proposal and containing all the supporting documentation for the verification of the applicable requirements under the terms of the following Paragraphs.

3. The authorization to assign the contractual position or subcontracting by the subcontractor is contingent upon the presentation of the qualification documents related to the potential assignee or subcontractor that may have been required to the assignor or subcontracting party in the procedure to create the contract in question.

4. In the event of assignment of the contractual position, the authorization shall also depend on the fulfillment, on the part of the potential assignee, of the minimum requirements for the technical and financial abilities required to the assignors for the purposes of qualification, when this has occurred in the procedure for the creation of the contract in question.

5. The public contracting entity shall give their opinion on the co-contracting party's bid within thirty days of the date of respective presentation, provided that it regularly include the necessary documents,

6. Once the limits provided for in the preceding Paragraphs are complied with and since the requirements stipulated in this Article, the public contracting entity may only refuse to assign the contractual position or subcontracting when there is reasoned fear that these increase the risk for failure to comply with the emerging obligations of the contract.

Article 370

(Liability of Co-contracting Party)

In the event of subcontracting, the co-contracting party shall fully be liable before the public contracting entity or

the accurate and punctual compliance with all the contractual obligations.

Article 371

(Assignment of Contractual Position by the Public Contracting Entity)

The assignment of the contractual position by the public contracting entity may only be denied by the co-contracting party when there is reasoned fear regarding the increase of failure to comply with the emerging obligations of the potential assignee or regarding the decrease of the guarantees of the co-contracting party.

SECTION VI

Failure to Comply with the Contract

Article 372

(Failure to Comply for Fact Imputable to Co-contracting Party)

1. If the co-contracting party fails to comply in the accurate and punctual manner with all or any contractual obligations for fact imputable to them, the public contracting entity shall notify them for the compliance, within a reasonable timeframe, unless when the compliance becomes impossible or the public contracting entity has lost the interest in the provision.

2. Once the failure to comply situation has maintained after the timeframe established in the preceding Paragraph has elapsed, the public contracting entity may opt for the execution of the missing contractual services fungible in nature, directly or by third parties, or to terminate the contract with the reasoning based on the final failure to comply, under the provisions of Article 394 of this Law.

3. If the public contracting entity opts for the execution of the fungible contractual services by a third party, the creation of a contract with this entity shall be subject to the applicable procedures under the terms of the provisions of Title III of this Law.

4. The provisions of the preceding Paragraphs shall not impair the enforcement by the public contracting entity of penalties stipulated in the contract for the case of failure to comply by the co-contracting entity, nor the enforcement of the provisions related to the obligation of indemnity for delay and final failure to comply stipulated in the Civil Code.

Article 373 (Delayed Payments)

1. In the event of delay by the public contracting entity in the compliance of the pecuniary obligations, the co-contracting shall be entitled to interest in arrears over the amount due at the rate of 2% per year.
2. The obligation to pay the interest in arrears shall be automatically due, without the need for a new warning.
3. The contractual clauses that, without sufficient and justified reason in light of the actual circumstances limit or exclude the liability for interest in arrears, shall be null and void.
4. In case of disagreement over the amount due, the public contracting entity shall make the payment of the amount the co-contracting party agrees with.
5. When the amounts paid, under the terms provided for in the preceding Paragraph, are lower than those that are actually due to the co-contracting party, according to the review of the claims as presented, shall have this right to the interest in arrears over said difference, under the provisions of Paragraph 1 of this Article.
6. Should there be no contractual provisions, the delay in one or more payments shall not determine that the remaining payments obligations are due.

Article 374 (Exception for Failure to Comply Invoked by Co-contracting Party)

1. When the failure to comply is imputable to the public contracting entity, the co-contracting entity, regardless of the right to terminate the contract that they have under the terms of the provisions of Article 378 of this Law, may invoke the exception for failure to comply provided that their refusal to comply does not imply serious damage to the fulfillment of the public interest underlying the legal contractual relation.
2. If the refusal to comply by the co-contracting party implies serious damage to the fulfillment of the public interest, the exception for failure to comply may only be invoked when the performance of the contractual services clearly places at stake the economic and financial feasibility of the co-contracting party or is excessively onerous, in the latter

case, the public and private interests shall be duly considered.

3. The invocation for the exception for failure to comply by the co-contracting party shall be contingent upon prior notice, to the public contracting entity, of the intent to exercise said right and the respective reasoning, at least in advance of fifteen days, if another one is not stipulated in the contract.
4. It shall be considered that the invocation for the exception for failure to comply does not imply serious damage to the fulfillment of the public interest when the public contracting entity, within fifteen days of the notice the referred to in the preceding Paragraph does not recognize, through reasoned termination, that the refusal for failure to comply would seriously be detrimental to the public interest.
5. The provisions of the preceding Paragraphs shall be applicable, with the necessary adaptations, to the invocation of the right to withhold by the co-contracting party.

Article 375 (Application of Contractual Penalties)

1. Under the terms provided for in this Law, the public contracting entity may, as a punishment, terminate the contract and enforce the penalties provided for by the contract or by law in the event of failure to comply by the co-contracting entity.
2. When the penalties referred to in the preceding Paragraph are of the pecuniary nature, the respective cumulative value shall not exceed 20% of the contract value, notwithstanding the powers to terminate the contract provided for in the following Section.
3. In the cases that the limit, provided for in the preceding Paragraph, is reached, and the public contracting entity decides to not terminate the contract, since it results from serious damage to the public interest, said limit shall be elevated to 30%.

SECTION VII Extinction of Contract

Article 376 (Causes for Extinction)

1. The following shall be causes for extinction of the contract:

a) The compliance, final impossibility and remaining causes for extinction of the obligations recognized by the civil law;

b) The recall agreement;

c) The termination,

2. The resolution of the contract may occur;

a) By declaration of the co-contracting party, in the cases provided for in Paragraph 1 of Article 378 of this Law;

b) By decision of the public contracting entity, in the cases provided for in Paragraph 1 of Article 379 of this Law;

c) By judicial or arbitration decision, in the remaining cases.

Article 377 (Recall Agreement)

1. The Parties may, by an agreement, revoke the contract at any time.

2. The effects of revocation shall be the one validly stipulated in the agreement.

3. The call agreement may not have a form less solemn than that of the contract.

b) Final failure to comply with the contract for a fact imputable to the public contracting entity;

c) Failure to comply with pecuniary obligations by the public contracting entity for a period longer than six months, as well as delay in the payment of amounts higher than 25% of the contract value, excluding interest;

d) Exercise of the powers of conformation of the contractual relations, attributed to the public contracting entity by this Law, which makes it contrary to the good-faith of the maintenance of the contract;

e) Failure to comply by the public contracting entity with judicial or arbitration decisions pertaining to the contract.

2. In the case provided for in Subparagraph a) of Paragraph 1 of this Article, there is only the right to terminate when this does not imply serious damage to the fulfillment of the public interest underlying the legal contractual relation or, in the event that it implies such damage, when the maintenance of the contract clearly puts at stake the economic and financial feasibility of the co-contracting entity or is excessively onerous, in the latter case, the public and private interests shall be duly considered.

3. The right to terminate shall be exercised in court or through appeal to arbitration.

4. In the cases provided for in Subparagraph c) of Paragraph 1 of this Article, the right to terminate may be exercised through a declaration to the public contracting entity or petition together with an estimate of the value of the works in question, with the accurate itemization of the unit prices on which they based, yielding effects within thirty days of receipt of said declaration or petition, unless the public contracting entity complies with the obligations in arrears within the referred to timeframe, plus the default interest that may be applicable.

Article 379 (Termination as Penalty)

1. Notwithstanding the other serious violation cases of the obligations assumed by the public contracting entity especially provided for in the contract, and regardless of the right to indemnity, the co-contracting party shall have the right to terminate the contract in the following cases:

a) The abnormal and unpredictable alteration of the circumstances, provided that they are not covered by the contract own risks and the subsistence of the contractual obligations is not contrary to the good faith;

1. Notwithstanding other cases of serious violation of the obligations assumed by the co-contracting entity especially provided for in the contract, the public contracting entity may terminate the contract, as a penalty, in the following cases:

- a) Final failure to comply with the contract for a fact imputable to the co-contracting entity;
- b) Serious or reiterated failure to comply by the co-contracting entity of orders, directives or instructions communicated in the performance of the power to direct regarding matters related to the execution of the contractual services;
- c) Serious or reiterated opposition of the co-contracting entity to the exercise of the powers to inspect of the public contracting entity;
- d) Assignment of the contractual position or subcontracting performed with failure to abide by the terms and limits of the provisions of this Law or contract;
- e) Enforcement of contractual penalties with pecuniary nature whose cumulative value exceeds the limit stipulated in Paragraph 2 of Article 375 of this Law;
- f) Failure to comply by the co-contracting entity with the judicial or arbitration decisions pertaining to the contract;
- g) Non-renewal of the of the guarantee value by the co-contracting entity, under the terms provided for in Paragraph 2 of Article 105 of this Law;
- h) Bankruptcy or insolvency of the co-contracting entity.

2. The provisions of the preceding Paragraph shall not impair the right to indemnity under the general terms, namely for damages arising out of the adoption of a new procedure for the creation of contract and execution of new contract or destruction of contractual services performed under the contract object of termination.

3. In the cases of termination as punishment, should there be liability of the co-contracting entity, the respective amount shall be deducted from the amounts due, notwithstanding the public contracting entity may execute the guarantees provided by the co-contracting entity.

Article 380

(Termination for Reasons of Public Interest)

1. The public contracting entity may terminate the contract:

a) For reasons of public interest, duly reasoned, through the payment to the co-contracting entity of fair indemnity;

b) Due to abnormal and unpredictable alteration of the circumstances, under the terms of provisions of Subparagraph a) of Paragraph 1 of Article 363 of this Law.

2. In the case provided for in Subparagraph a) of the preceding Paragraph, the indemnity the co-contracting party shall be entitled to correspond to the emerging damages and loss of profit and, regarding these, they shall be deducted from the benefit that result from the anticipation of foreseen gains.

3. The lack of payment for indemnity provided for in the preceding Paragraph within ninety days of the date on which the amount due is finally assessed shall grant the co-contracting entity the right to payment of the interest in arrears over the relevant amount.

4. In the case provided for in Subparagraph b) of Paragraph 1 of this Article, the co-contracting entity shall also be entitled to the payment of fair compensation, established in the provisions of Paragraphs 2 and 3 of this Article, when the abnormal and unpredicted alteration of the circumstances is imputable to the public contracting entity, even when it results from the decision adopted out of the exercise of their powers of conformity of the contractual relation.

SECTION VIII

Invalidity of Contract

Article 381

(Consequent Invalidity of Invalid Procedural Acts)

1. The contracts shall be null and void if the nullity of the procedural act, on which their execution was based, has been judicially declared or still it may be.

2. The contracts shall be cancellable if they are cancelled or if the procedural acts, on which their execution was based, are cancellable.

3. For the purpose of the provisions of the preceding Paragraph, the contracts shall be cancellable, namely when they have executed following a procedure for creating a contract without prior release of an announcement of the

respective procedure when this is required under the terms of this Law.

4. The provisions of Paragraph 2 of this Article shall not be applicable when the cancellable procedural act, on which the contract execution was based, is consolidated in the legal order, it is validated or renewed, without reoccurrence in the same causes of invalidity.

5. The nullity proceedings provided for in Paragraph 2 of this Article may be discarded by judicial or arbitration decision, when the public and private interests and the seriousness of the offences generating the vice of the procedural act in question have been considered, the cancellation of the contract is disproportionate or contrary to the good-faith or when it is unequivocally proven that the vice would not imply a subjective modification to the contract executed nor an alteration of their essential contents.

6. When the retroactive effects of a contract with reasoning in the vices provided for in the preceding Paragraphs are revealed disproportionate or contrary to the good-faith, or when said retroactive effects impair the existence of a situation of absolute impossibility or imperative reasons of public interest, the court may circumscribe the respective reach to the future.

Article 382 (Invalidity of Own Contract)

1. The contracts executed with offence to the imperative norms shall be cancellable.

2. The contracts shall be, however, null and void when there is any reason for nullity stipulated in the Procedural Norms and Administrative Activity or when the respective vice determines the nullity under the terms of the special law.

3. The provisions of the Civil Code related to the lack and vices of will shall be applicable.

Article 383 (Invalidity Regime)

1. The invalidity regime provided for in the Civil Code shall be applicable to the contracts stipulated in this Title.

2. All the contracts shall be susceptible to reduction and conversion, under the terms of the provisions of Articles 292 and 293 of the Civil Code, regardless of the respec-

tive legal detriment.

CHAPTER II Specific Provisions Related to Contracts for Acquisition of Movable Goods

Article 384 (Object)

The contract for the acquisition of movable goods may have the object the acquisition of already existing movable goods or goods to be manufactured or to be adapted after the execution of the contract. According to the characteristics, specifications and technical or functional requirements or other requirements established by the public contracting entity in the tender documents.

Article 385 (Term)

1. The effective term of the contract shall not be longer than forty-eight months, including any extensions express or tacit within the execution term of the contractual services that constitute its object, unless if it is necessary or convenient in accordance with the nature of the contractual services object of the contract or conditions for its execution.

2. The provisions of the preceding Paragraph shall not be applicable to the accessory obligations that have been unequivocally established in favor of the public contracting entity, namely obligation of confidentiality, of conformity of the goods acquired and of guarantee of same.

Article 386 (Monitoring of Fabrication)

1. In the absence of contractual provisions, in the contracts for acquisition of movable goods to be manufactured, the public contracting entity may keep in the facilities of the manufacturer of the goods, object of the contract, monitoring teams, whose composition, competencies and operation method shall be established by agreement between the Parties.

2. In the event that, within a reasonable timeframe, the Parties do not reach an agreement regarding the aspects referred to in the preceding Paragraph, the same shall be stipulated by the public contracting entity, abiding by the criteria of proportionality and reasonability.

3. In any case, the access to the members of the monitoring teams to the manufacturer facilities shall be carried out in a way to avoid any negative interference in the management and operation of the facilities and in the process of fabrication of the goods, and the referred to members shall comply with the safety norms applicable to the premises to which they have access, as well as the instructions for that purpose imposed by the manufacturer.

4. When the vendor is not the manufacturer of the goods, the vendor shall have the obligation to ensure the access and development of the works of the monitoring teams in the manufacturer's premises.

5. The performance of the monitoring teams' tasks shall not exempt the manufacturer from the liability for any defects of the goods, object of the contract, or failure to conform the goods with the characteristics, specifications and requirements established in the contract.

6. The provisions of this Article shall be applicable to, with the required adaptations, the contracts whose object is to adapt or modify the goods.

Article 387 (Delivery of Goods)

1. In the absence of contractual provisions, the vendor shall deliver the goods, object of the contract, in the head office of the public contracting entity.

2. Together with the goods, object of the contract, the vendor shall deliver all the documents that are required for the good and full usage, operation or consumption of the goods.

3. Until delivery of the goods, object of the contract, the public contracting entity shall cooperate with the vendor so that the conditions are in place related to the safety of the goods deemed as required by the vendor, and the latter shall bear the costs resulting therefrom.

Article 388 (Conformity of Goods to be Delivered)

1. The vendor shall deliver all the goods, object of this contract, pursuant to the terms established therein, taking into account the respective nature and the objective thereof.

2. In the lack of contractual provisions, all the goods,

object of the contract, as well as the respective parts, components or equipment, shall be new and equal among them.

Article 389 (Obligations of Vendor Related to Goods to be Delivered)

1. The provisions of the regime related to the sale and purchase provided for in the Civil Code, the guarantees that abide by the liability and obligations of the vendor and the producer and rights of the consumer, with the necessary adaptations, shall be applicable to the contracts governed by this Chapter.

2. The term for the obligations to restore the conformity of the goods supplied shall be as from each delivery individually considered or the date on which the delivery of the last goods occur, as a contract stipulating phased deliveries of the goods with or without functional autonomy between them, respectively, may be in question.

3. The obligations of the vendor shall cover all the charges with the tests to be conducted by the vendor, which the public contracting entity considers, justifiably, necessary to be carried out for the functional verification of the goods, object of the contract.

4. In addition to the obligations that may result for the vendor from the provisions of the preceding Paragraphs, the contract may stipulate additional guarantee obligations for the goods, object of the contract, and on this matter, the provisions of the law referred to in Paragraph 1 of this Article shall be applicable.

Article 390 (General Charges)

In the absence of contractual provisions, the obligations of the vendor shall be as follows:

a) The payment of any charges, rates or rights of any nature or other charges required by the competent authorities and associated with the execution of the contract in the territories of the country or countries of the vendor, its subcontractors or for transportation crossing;

b) The acquisition of any authorizations and the payment of any fees required by the competent authorities regarding the compliance with the obligations of the vendor

in the framework of the contract;

c) The performance of all the required or convenient diligences to the acquisition of any export and import licenses required by the countries involved in the execution of the contracts and pertaining to them, as well as the payment of the fees or other fees, if any.

Article 391 **(Continued Fabrication)**

In the absence of contractual provisions and unless when another thing result from the nature of the goods to be supplied, the vendor shall ensure continuity of the fabrication and supply of all the parts, components and equipment that integrate the goods, object of the contract, for the term estimated for the respective lifetime.

Article 392 **(Intellectual Property Rights)**

1. In the lack of contractual provisions, the vendor shall be responsible for all the charges or there shall be full civil liability arising out of the incorporation of any goods, object of the contract, or the use in the referred to goods of construction, hardware and software elements or other that observe any patents, licenses, trademarks, registered designs and other industrial property rights or copyrights or related rights.

2. If the public contracting entity is required to respond for having violated, in the execution of the contract or further use of the goods object thereof, any of the rights referred to in the preceding Paragraphs, the public contracting party shall have the right to recourse against the vendor for any amounts paid, whatever they are.

3. The charges and civil liability before third parties arising out of the facts mentioned in the preceding Paragraphs shall not fall under the responsibility of the vendor in the event that the latter is able to prove that they are imputable to the public contracting entity or third parties that are not its subcontractors.

Article 393 **(Termination by Public Contracting Entity)**

1. Without prejudice to the general reasoning for the termination of the contract and the others provided for therein, as well as the right to compensation under the gene-

ral terms, the public contracting entity may terminate the contract in the event that the vendor breaches, in a serious or reiterated manner, any of the obligations that they have, namely when the delivery of any goods, object of the supply, is delayed for over three months or the vendor declares in writing that the delayed delivery exceeds said timeframe.

2. The termination of the contract under this Article covers the repetition of the contractual services already carried out by the vendor if so determined by the public contracting entity.

Article 394 **(Termination by Vendor)**

In the lack of contractual provisions, the termination of the contract by the vendor shall not determine the repetition of the contractual services already performed, however, all the obligations of the vendor provided for in the contract shall cease, except for the obligations referred to in Article 389 of this Law.

CHAPTER III **Specific Provisions Related to Contracts for Leasing of Movable Goods**

Article 395 **(Remission)**

Without prejudice to the provisions of the following Articles, the provisions of this Law on the contracts for the acquisition of movable goods, with the required adaptations, shall be applicable to the contracts for leasing of movable goods.

Article 396 **(Obligations of Repair and Maintenance)**

1. In the absence of contractual provisions, the lessor has the obligation to maintain the leased goods in perfect usage conditions, by conducting the required repair and maintenance works within a reasonable timeframe.

2. When the repair and maintenance works become necessary, due to a fact imputable to the public contracting entity, the contracting entity shall bear the associated expenses inasmuch as they have contributed to the deterioration of the goods.

(Termination by Public Contracting Entity)

Without prejudice to the general reasoning for the termination of the contract and the others provided for therein, as well as the right to compensation under the general terms, the public contracting entity may terminate the contract when the compliance with any obligation of repair and maintenance of the goods is delayed for over three months or the lessor declares in writing that the delay exceeds said timeframe.

CHAPTER IV

Specific Provisions Related to Contracts for Acquisition of Services

(Remission)

Without prejudice to the provisions of the following Articles, the provisions of this Law on the contracts for the acquisition of movable goods, with the required adaptations, shall be applicable to the contracts for acquisition of services.

(Facilities and Equipment)

In the absence of contractual provisions, the facilities, equipment and any other resources required for the accurate and punctual compliance with the contractual obligations shall fall under the responsibility of the service provider.

(Extra Services)

1. Those services whose type or quantity are not provided for in the contract shall be deemed extra services and that:

- a) Have become necessary to the service rendering, object of this contract, following an unpredicted circumstance;
- b) May not be technically or economically separated from the object of the contract without serious inconvenient for the public contracting entity or, although they are separable, they are strictly required for the completion of the object of the contract.

2. The performance of extra services may not be or-

dered when:

a) The contract has been executed following the procedure for simplified contracting, the sum of the contractual price and the price attributed to the extra services, including the price for previous extra services, is equal to or higher than the referred to value, under the provisions of Paragraph 3 of Article 24 of this Law;

b) The price attributed to the extra services, including the price for previous extra services, exceeds 15% of the contractual price.

3. In the event that any of the conditions provided for in the preceding Paragraph do not occur, the extra service shall be object of contract executed following the procedure adopted under the terms of the provisions of Title III of this Law.

4. The provisions of Article 200, Articles 201 to 203, and Articles 205 to 210 of this Law shall be applicable to the extra services and less services, with the required adaptations.

TITLE VII

Final and Transitional Provisions

(Supply of Works)

This Law shall be applicable to, with the necessary adaptations, the contracts for the supply of works, and it is understood as such, the contracts in which one of the Parties shall be compelled before the other Party to the supply of the movable goods that are earmarked to incorporate or supplement works through a price and a particular timeframe.

(Audit and Inspection)

1. The public contracting activities shall be subject to the audit and inspection mechanisms stipulated in the law.

2. All the public contracting entities and their workers and agents, as well as other participants in the contracting procedures shall, pursuant to the law, foster the full cooperation with the audit and inspection bodies in the public sector

Article 403
(Regulation and Supervision)

The operation regulation, observation, audit and supervision of the public contracting market, including the conformity of the respective acting mechanisms with the law, shall fall under the responsibility of the body responsible for regulating and supervising the public contracting, under the terms of Article 11 of this Law and respective organic law.

Article 404
(Generation and Publication of Annual Contracting Plans)

1. The public contracting entities shall produce the annual contracting plans relating to the types of contracts, object of this Law.
2. The annual contracting plans shall be communicated to the body responsible for regulating and supervising the public contracting for the purposes of publication in the public contracting portal.

Article 405
(Equivalence to Use of Physical or Electronic Resources)

The State shall ensure the effective equivalence between the procedural transition of the electronic documents and the ones in hard copy or paper.

Article 406
(Notices and Communications)

1. All the notices and communications between the public contracting entity or the procedure Assessment Committee and the interested parties, the candidates, the bidders and Contractor shall be in writing and in the Portuguese language and carried out by electronic mail or other means of written or electronic transmission of data, in the event that the public contracting entity opts for the method of presentation of applications and bids electronically.
2. Should the public contracting entity opts for the method of presentation of bids in hard copy, the notices and communications referred to in the preceding Paragraph may be carried out via postal service, through registration with acknowledgement of receipt, by telecopy or any other means to demonstrably reach the interested parties with

the notices and communications.

3. For the purposes mentioned in the preceding Paragraph, the communications to applicants or bidders may also be delivered directly to the department indicated by the public contracting entity, against a receipt.

Article 407
(Date of Notices and Communications)

1. The notices and communications shall be deemed as carried out as follows:
 - a) On the date of the respective delivery, when carried out by electronic mail or other means of written and electronic data transmission;
 - b) On the date contained in the successful transmission report, when carried out by telecopy;
 - c) On the date of signature of the warning, when conducted by registered letter with acknowledgement of receipt;
 - d) On the date of delivery, when handed over in the services of the public contracting entity, in the case provided for in Paragraph 3 of the preceding Article.

Article 408
(Counting of Timeframes)

1. The timeframes established in this Law shall be counted as business days, and Saturdays, Sundays and National Holidays shall be suspended.
2. The timeframes stipulated for presentation of applications and bids shall be continuous, and Saturdays, Sundays and National Holidays shall not be suspended.

Article 409
(Presentation of Bids and Applications in Hard Copy)

As long as the legal instrument referred to in Article 12, Paragraph 6 of Article 66 and Paragraph 5 of Article 126 of this Law does not come into force, the presentation of bids and applications shall be carried out in hard copy or, in the cases this Law allows to do, by electronic mail.

Article 410
(Administrative Infringements)

The prediction for illicit facts and the respective punishability, as administrative infringement, for breach of the provisions of this legal instrument, shall be governed by the general legislation applicable.

Article 411
(Subsidiary Law)

For all matters not governed by this Law, the remaining administrative law norms shall be applicable and, in absence of said norms, those of the civil law.

Article 412
(Updating of Amounts)

The President of the Republic shall have the competency to modify the amounts and provisions contained in the Annexes of this Law.

Article 413
(Application in Time)

This Law shall be applicable to the public contracting procedures initiated upon the date it comes into force, as well as the execution of contracts subsequent thereto.

Article 414
(Revocation of Legislation)

1. The following shall be revoked;
 - a) Law N^o 20/10, of September 7, Law on Public Contracting;
 - b) Article 30 of Law N^o 18/10, of August 6, Law on Public Patrimony;
 - c) Chapter VIII of Decree-Law N^o 16-A/95, of December 15, which approves the Procedural Norms on Administrative Activity.
2. The remissions of the revoked legislation under the terms of the preceding Paragraph shall be deemed as carried out to the corresponding provisions of this Law.

Article 415
(Doubts and Omissions)

The doubts and omissions arising out of the interpretation and application of this Law shall be settled by the National Assembly.

Article 416
(Effectiveness)

This Law shall come into force ninety days of its publication.

Reviewed and approved by the National Assembly in Luanda on April 21, 2016.

The President of the National Assembly, Fernando da Piedade Dias dos santos.

Enacted on June 1, 2016.

So Ordered.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS.



ANNEX

ANNEX I

Limits of Value for the Purposes of the Provisions of Paragraph 2 of Article 7 of this Law

1. This Law shall not be applicable to contracts made and entered into by the Public Companies and Companies with Public Domain whose value is lower than:
- a) Kz 500,000,000.00, in case of public works contracts, concession of public works or concession of public services;
 - b) Kz 182,000,000.00, in case of contracts for leasing or acquisition of movable goods or acquisition of services.

ANNEX II

Table referred to in Article 24, Paragraph 1 of Article 109, Article 145, Paragraph 4 of Article 227 and Paragraph 3 of 337 of this Law

Level	Limit Value (Kz)
1	5,000,000.00
2	18,000,000.00
3	36,000,000.00
4	73,000,000.00
5	91,000,000.00
6	182,000,000.00
7	320,000,000.00
8	500,000,000.00
9	1,000,000,000.00
10	1,500,000,000.00

ANNEX III

Template for Communicating the Procedure Opening referred to in Paragraph 3 of Article 31 of this Law

To

[Name of the body responsible for regulating and supervising the public contracting]

Luanda

Letter Nº / /20_____

Subject: Communication on Procedure Opening Under the terms of Paragraph 2 of Article 31 and Annex III, of Law Nº ____/____ of ____ of the Law on Public Contracts, we hereby communicate the decision on procedure opening _____ whose details we make reference below:

1. Data of the Public Contracting Entity ('EPC')

- 1.1. Designation (UO/OD): _____
- 1.2. Competent body to authorize the expense: _____

2. General Information – Public Contracting Procedure

- 2.1. Procedure Number: _____
- 2.2. Criterion for selection of procedure:
 - ☐ Material
 - ☐ Value
- 2.3. Type of contracting procedure:
 - ☐ Bid Tender
 - ☐ Bid Tender limited by prior qualification
 - ☐ Bid Tender limited by invitation
 - ☐ Procedure for simplified contracting
 - ☐ Other, Which: _____
- 2.4. Details on procedural object: _____
- 2.5. Type of contract:
 - ☐ Public works contract
 - ☐ Acquisition of movable goods
 - ☐ Consulting services
 - ☐ Leasing of movable goods
 - ☐ Concession of public works

- ☐ Concession of public services
- ☐ Other, Which:

2.6. Base price/estimated value:

2.7. Commencement Date for submission of bids:

2.8. Deadline/Limit Date for submission of bids:

3. Public Contracting Entity ('EPC') Focal Point

Name: _____ Telephone: _____

E-mail: _____

4. Annexes

- ☐ Dispatch on decision to contract/constitution of Assessment Committee
- ☐ Announcement/procedural invitation
- ☐ Tender Documents
- ☐ Others, Which: _____

_____, in _____ on _____ of _____ 20_____

(Designation of Competent Entity)

(Name)

ANNEX IV

Competence to Authorize the Expense referred to in Articles 35, 37 and Subparagraph b) of Paragraph 1 of Article 40 of this Law

1. The following bodies shall be competent to authorize the expense associated with the creation and execution of contracts covered by the scope of this Law:
 - a) Without limitation, the Executive Power;
 - b) Up to Kz 1,500,000,000.00, by delegation from the Executive Power and the Vice-president of the Republic;
 - c) Up to Kz 1,000,000,000.00, by delegation from the Executive Power, the State Ministers, the Ministers and Provincial Governors;
 - d) Up to Kz 500,000,000.00, by delegation from the Executive Power, the heads of the Public Institutes, Public Companies and Companies with Public Domain, Public Services, Autonomous Funds and other managers of the Budget Units of the State Local Administration Bodies;
 - e) Up to Kz 320,000,000.00, by delegation from the Executive Power, the managers of the Budget Units of the State Local Administration Bodies.
2. The following bodies shall be competent to authorize the expense associated with the creation and execution of contracts made and entered into following the simplified contracting procedure, adopted pursuant to the substantive criteria, under the provisions of Article 37 of this Law:
 - a) Without limitation, the Executive Power;
 - b) Up to Kz 182,000,000.00, the Vice-president of the Republic;
 - c) Up to Kz 91,000,000.00, the State Ministers;
 - d) Up to Kz 36,000,000.00, the Ministers, Provincial Governors and heads of the Public Institutes, Public Companies and Companies with Public Domain, Public Services, Autonomous Funds and the managers of the Budget Units of the State Local Administration Bodies;
 - e) Up to Kz 18,000,000.00, the managers of the Budget Units of the State Local Administration Bodies.
3. The expenses provided for in Subparagraph b) of Paragraph 1 of Article 40 of this Law do not require prior authorization of the heads of the ministerial departments responsible for the public finance and supervising body when their charges do not exceed the limit of Kz 320,000,000.00 in each of the economic years following that of their contracting.

ANNEX V

Open Procedures to the Participation of Foreign Individuals or Corporate Bodies, under the Provisions of Paragraph 1 of Article 53 of this Law

The foreign individuals or corporate bodies may apply or present bids in procedures to create contracts whose estimated value is equal to or higher than Kz 500,000,000.00, when we deal with public works contracts, and Kz 182,000,000.00, when it comes to leasing contracts or contracts for the acquisition of movable goods or services.

ANNEX VI

Template for Announcing the Procedure Opening of Bid Tender referred to in Paragraph 1 of Article 69 of this Law

Bid Tender N°

To _____ (Name of the Public Contracting Entity - 'EPC'), would hereby like to publicize, under the provisions of Paragraph 1 of Article 69 and Annex VI, of Law N° ____/____, of _____ - Law on Public Contracts, that the Bid Tender for _____ (please identify the object of the contract) is open.

1. Data of the Public Contracting Entity ('EPC')

- 1.1. Designation (UO/OD): _____
- 1.2. Address: _____
- 1.3. Location: _____
- 1.4. Province: _____
- 1.5. Telephone/Fax: _____
- 1.6. Electronic Mail/Internet Address (URL): _____
- 1.7. Type of contracting entity and its main activities: _____
- 1.8. The Public Contracting Entity is contracting on behalf of other entities: ☐ Yes ☐ No

2. Information related to contract

- 2.1. Designation given to the contract by the Public Contracting Entity: _____
- 2.2. Type of contract:
 - ☐ Public works contract
 - ☐ Acquisition of movable goods
 - ☐ Acquisition of services
 - ☐ Consulting services
 - ☐ Leasing of movable goods
 - ☐ Concession of public works
 - ☐ Concession of public services
 - ☐ Other, Which: _____
- 2.3. Location to perform the works, delivery of goods or service rendering: _____
- 2.4. The bid tender implies the execution of a public contract: ☐ Yes ☐ No
- 2.5. The bid tender is open to the participation of foreign entities: ☐ Yes ☐ No
- 2.6. Brief description of the contractual services object of the contract: _____
- 2.7. Estimated value of the contract (if applicable): _____

2.8. Timeframe for execution of the contract: _____

3. Information related to bidders and bids

3.1. Qualification documents: _____

3.2. Admission of varying bids:

☐ Yes

☐ No

3.3. Requirement for provisional guarantee:

☐ Yes Value: _____

☐ No

4. Awarding Criterion

☐ Lowest price.

☐ Economically most advantageous bid, considering the factors indicated in the procedural parts.

5. Process

5.1. Conditions to obtain the procedural parts:

5.1.1. Timeframe to receive the requests for procedural parts or to access the Documents:

Date: _____ Time: _____

5.1.2. Price and conditions to obtain the procedural parts (if applicable):

Price: _____ Conditions _____

5.2. Timeframe for presentation of bid:

Date: _____ Time: _____

5.3. Value of final guarantee _____ % of the total price of the bid

6. Supplemental information

6.1. Address and point of contact where additional information can be obtained, procedural parts and bids submitted:

6.1.1. Official designation: _____

6.1.2. Address: _____

6.1.3. Location: _____

6.1.4. Province: _____

6.1.5. Telephone/Fax: _____

6.1.6. Electronic Mail/Internet Address (URL): _____

_____, in _____ on _____ of _____ 20____

(Designation of Competent Entity)

(Name)

ANNEX VII

Template for Communicating the Awarding referred to in Paragraph 2 of Article 99 of this Law

To

[Name of the body responsible for regulating and supervising the public contracting]

Luanda

Letter N° / /20_____

Subject: Communication on Awarding of Bid

Under the terms of Paragraph 2 of Article 102 and Annex VII, of Law N° ____/____ of ____ of the Law on Public Contracts, we hereby communicate the decision on awarding in line with a procedure for public contracting, whose details we make reference below:

1. Data of the Public Contracting Entity ('EPC')

- 1.1. Designation (UO/OD): _____
- 1.2. Address: _____
- 1.3. Location: _____
- 1.4. Province: _____
- 1.5. Telephone/Fax: _____
- 1.6. Electronic Mail/Internet Address (URL): _____
- 1.7. The Public Contracting Entity is contracting on behalf of other entities: ☐ Yes ☐ No

2. Object of the contract

- 2.1. Designation given to the contract by the Public Contracting Entity:

- 2.2. Description (brief description of the contractual services object of this contract):

2.3. Type of contract:

- ☐ Public works contract
- ☐ Acquisition of movable goods
- ☐ Acquisition of services
- ☐ Consulting services
- ☐ Leasing of movable goods
- ☐ Concession of public works
- ☐ Concession of public services
- ☐ Other, Which: _____

- 2.4. Total price of the bid awarded (including the batches and options):
 2.5. Currency: _____

3. Public Contracting Procedure

- 3.1. Criterion for selection of procedure:
☐ Value
☐ Material
- 3.2. Type of contracting procedure:
☐ a) Bid tender
☐ b) Bid tender limited by prior qualification
☐ c) Bid tender limited by invitation
☐ d) Procedure for simplified contracting
☐ e) Other,
☐ Which: _____
- 3.3. Announcement (In the cases a) and b) of Paragraph 3.2):
 Date of announcement publication: _____
 Place of announcement publication: _____
☐ Official Gazette
☐ Public Contracting Portal
☐ Big circulation newspaper
☐ Other, Which: _____
- 3.4. Invitation (In the cases c) and d) of Paragraph 3.2):
 Please mention the date the invitation was sent: _____
 Number of entities invited _____
- 3.5. Were there divisions in batches in procedure for public contracting selected?
☐ Yes
☐ No
- 3.6. Awarding criterion:
☐ Lowest price
☐ Economically most advantageous bid, taking into account:

Factors	Consideration
1st	
2nd	
3rd	
4th	

- 3.7. Number of bids received: _____
 3.8. Was a bid negotiating stage adopted? ☐ Yes ☐ No
 3.9. Was there an electronic auction? ☐ Yes ☐ No

4. Awarding of the Contractual Bid

- 4.1. Awarding date: _____
 4.2. Information on Contractor: _____
 4.2.1 Name/Corporate Name: _____
 4.2.2 Postal address: _____
 4.2.3 Location: _____
 4.2.4 Province: _____

- 4.2.5 Country: _____
4.2.6 Telephone: _____
4.2.7 E-mail: _____
4.2.8 Internet Address (URL): _____
4.2.9 Fiscal Identification Number ('NIF'): _____
4.3 Is Contractor registered in the State supplier registration? ☐ Yes ☐ No
4.4 Registration Number/Protocol: _____

5. Supplemental Information

- 5.1. Is Contractor bid related to a 'PIP' (Public Investment Program) project?
☐ Yes ☐ No
5.2. If so, please reference the project(s) and/or program(s): _____
5.3. Additional information (if applicable): _____

{Courtesy formula}

_____, in _____ on _____ of _____ 20 _____

(Designation of Competent Entity)

(Name)

ANNEX VIII

Template Announcing the Procedure for Bid Tender Limited by Prior Qualification referred to in Paragraph 1 of Article 119 of this Law

Bid Tender Limited by Prior Qualification N° _____

To _____ (Name of the Public Contracting Entity), would hereby like to publicize that, under the provisions of Paragraph 1 of Article 199 and Annex VIII, of Law N° ____/____ of _____, Law on Public Contracts, the bid tender limited by prior qualification is open. Said bid tender is for _____
_____. (Please identify the object of the contract).

1. Data of the Public Contracting Entity ('EPC')

- 1.1 Designation (UO/OD): _____
- 1.2 Address: _____
- 1.3 Location: _____
- 1.4 Province: _____
- 1.5 Telephone/Fax: _____
- 1.6 Electronic Mail/Internet Address (URL): _____
- 1.7 Type of contracting entity and its main activities: _____
- 1.8 The Public Contracting Entity is contracting on behalf of other entities: ☐ Yes ☐ No

2. Information related to contract

- 2.1 Designation given to the contract by the Public Contracting Entity: _____
- 2.2 Type of contract:
 - ☐ Public works contract
 - ☐ Acquisition of movable goods
 - ☐ Acquisition of services
 - ☐ Consulting services
 - ☐ Leasing of movable goods
 - ☐ Concession of public works
 - ☐ Concession of public services
 - ☐ Other, Which: _____
- 2.3 Location to perform the works, delivery of goods or service rendering: ☐ Yes ☐ No
- 2.4 The bid tender implies the execution of a public contract: ☐ Yes ☐ No
- 2.5 The bid tender is open to the participation of foreign entities: _____
- 2.6 Brief description of the contractual services object of the contract: _____
- 2.7 Estimated value of the contract (if applicable): _____
- 2.8 Timeframe for execution of the contract: _____

3. Information related to bidders and bids

- 3.1 Minimum requirements for technical ability: _____
- 3.2 Minimum requirements for financial ability: _____
- 3.3 Documents earmarked to demonstrate the applicant technical ability: _____
- 3.4 Documents earmarked to demonstrate the applicant financial ability: _____

3.5 Requirement for provisional guarantee:

☐ Yes Value: _____

☐ No

4. Awarding Criterion

☐ Lowest price

☐ Economically most advantageous bid, considering the factors indicated in the procedural parts

5. Process

5.1. Timeframe to receive the requests for procedural parts or to access the Documents:

Date: _____ Time: _____

5.2. Price and conditions to obtain the procedural parts (if applicable):

Price: _____ Conditions: _____

5.3. Timeframe for presentation of bid:

Date: _____ Time: _____

5.4. Value of final guarantee _____ % of the total price of the bid

6. Supplemental information

6.1. Address and point of contact where additional information can be obtained, procedural parts and bids submitted:

6.1.1. Official designation: _____

6.1.2. Address: _____

6.1.3. Location: _____

6.1.4. Province: _____

6.1.5. Telephone/Fax: _____

6.1.6. Electronic Mail/Internet Address (URL): _____

_____, in _____ on _____ of _____ 20_____

(Designation of Competent Entity)

(Name)



