
Investments in Real Estate in Russia

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Preface

The “Investments in Real Estate in Russia” brochure has been published by BEITEN BURKHARDT for those who see business prospects in the booming Russian real estate market and was, to a large extent, prompted by investors’ significantly increasing interest in this sector of the economy.

BEITEN BURKHARDT has more than ten years of experience providing legal consulting in the field of the Russian real economy sector, which includes, of course, the real estate sector. While preparing this brochure for publication, the main goal was to provide interested readers with a review of the current legislation governing real estate turnover in the Russian Federation, as well as to make certain evaluations concerning practical issues connected with real estate project implementations.

This brochure is devoted to the most important issues related to transactions with real estate that most often represent objects of investment activities, such as land plots, buildings and constructions.

In this brochure BEITEN BURKHARDT specifically focuses on the legislations of Moscow and St. Petersburg, as they are the absolute leaders among the Russian Federation subjects in terms of the numbers and sizes of real estate projects.

We hope that all those who become interested in our knowledge and experience in such an interesting field of business as investments in real estate in Russia will contact one of our offices. We will be happy to share information we have and provide useful, practical advice based on the particularities of each specific investment project.

BEITEN BURKHARDT – Moscow – St. Petersburg

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1. Main Provisions

1.1 Legal Basis

Relationships between foreign investors and Russian legal entities, citizens, state authorities and institutions, with respect to issues related to real estate transactions, the registration of real estate, and the state registration of rights to real estate, are governed by the Russian Federation Constitution, as well as codes, federal laws and other regulatory legal acts, in particular, such as:

- The Russian Federation Civil Code
- The Russian Federation Land Code
- The Russian Federation Tax Code
- The Russian Federation City-Planning Code
- The Federal Law “On the State Registration of Rights to Real Estate and Transactions Therewith”
- The Federal Law “On the State Land Cadastre”
- The Federal Law “On Transfer of Land or Land Plots from One Category to Another”
- The Russian Federation Government Regulation “On Approval of the Rules for Maintaining the Single State Register of Titles to Real Estate and Transactions Therewith”
- The Decree of the President of the Russian Federation “On Privatization in the Russian Federation of Immovable Historical and Cultural Landmarks of Local Significance”
- And others

The Russian Federation Constitution, codes, federal laws and other regulatory legal acts adopted by Russian Federation authorities are effective throughout the Russian Federation and establish the main principles and provisions for regulating legal relationships in the field of investment activities.

At the same time, state authorities of individual subjects of the Russian Federation may adopt laws and other legal acts related to issues connected with investment activities in the real estate field, for instance:

- St. Petersburg Law No. 282-43 dated June 17, 2004 “On the Procedure for Granting Real Estate Objects Owned by St. Petersburg for Construction and Reconstruction”
- Regulation of the St. Petersburg Administration No. 216 dated March 1, 2006 “On Strategic Investment Projects in St. Petersburg”
- And others

Such laws and other legal acts are effective only in the territories of the respective subjects of the Russian Federation.

Laws and other legal acts issued by Russian Federation subjects may contain special provisions and rules applicable only in the territories of the respective Russian Federation subjects. At the same time, the legislations of the Russian Federation subjects may not contradict the codes and laws of the Russian Federation.

At the local level, on the basis of and in order to implement codes, laws and other legal acts of the Russian Federation and Russian Federation subjects, local authorities may, within the limits of their competence, adopt legal acts establishing procedures and rules which are also to be taken into account and observed while concluding transactions with real estate objects.

1.2 Concept and Types of Real Estate

1.2.1 The Concept and Main Types of Real Estate

Pursuant to Russian Federation legislation, real estate includes land plots, subsoil plots and everything that is securely attached to land, i.e. any objects which may not be relocated without incommensurate damage to their purpose, including buildings, constructions and unfinished construction objects.

According to Russian law, the main characteristic of real estate objects is inseparable attachment to land. However, regardless of existing attachment to land, by virtue of direct stipulation of the law, real estate, also defined as immovable property in the Russian Federation Civil Code, also includes other property subject to state registration, namely: aircraft and sea-going vessels, vessels of internal navigation, and space objects, as well as residential premises (rooms, apartments) and non-residential premises.

A prominent feature of all types of real estate is the requirement for state registration of rights to real estate and transactions therewith in cases and in accordance with the procedure stipulated by Russian Federation legislation (see section 1.4.3 “State Registration of Rights to Real Estate and Transactions Therewith”).

In this brochure particular attention is paid to the following types of real estate: land plots, buildings and constructions, residential and non-residential premises.

1.2.2 Land Plots

1.2.2.1 General Overview

A land plot (as an object of land-legal relationships) is a part of the earth’s surface (inclusive of the soil layer) whose boundaries are described and approved by competent state authorities in accordance with the procedure established by law.

The owner of a land plot has the right to use everything that is situated under and above the land plot’s surface unless otherwise provided by Russian Federation legislation.

It is necessary to note that subsoil is the part of the earth’s crust located under the soil layer. Within the borders of the Russian Federation, subsoil (inclusive of the subsoil area and the minerals, energy and other resources contained therein) is state property. Subsoil plots may not be the subject of any purchases, sales, gifts, inheritances, contributions, or pledges, nor may they be otherwise alienated. However, subsoil plots may be granted under license for use for purposes of extracting minerals, building and exploiting underground constructions, etc.

Pursuant to subsoil legislation the owner of a land plot has the right, without performing blasting works, to extract widely spread minerals, for instance: sand, clay.

Land plots, as individually defined objects, have particular characteristics, inter alia: certain borders, sizes (areas), locations and cadastre numbers. All the main data on land plots, as well as descriptions thereof, are contained in land plot cadastre cards (plans) issued by the state authorities responsible for the cadastral registration of land plots (see section 1.4.2 “Cadastral and Technical Registrations (Inventory)”).

1.2.2.2 Particularities of Land Plots as Objects of Investment Activities

While performing investment activities concerning land plots it is necessary to consider the following most significant particularities of the status of land plots as real estate objects:

1.2.2.2.1 Natural Objects

As land plots are natural objects, land is used in consideration of the requirements of nature protection (ecological) legislation of the Russian Federation. In the interest of land protection, state and local authorities may restrict powers to own, use and manage privately owned land plots.

1.2.2.2.2 Restrictions on the Turnover-Ability of Land Plots

From the point of view of restrictions on turnover-ability, Russian Federation land legislation distinguishes between land plots **barred from turnover** and land plots **with restricted turnover**.

Land plots barred from turnover may not be privately owned or be the subject of civil transactions. A comprehensive list of such land plots is provided in the Russian Federation Land Code. Such land plots include land occupied by state owned objects, for instance: state nature reserve areas, Federal Security Service objects, and atomic power using objects.

Land plots with restricted turnover are not granted to private owners, except in certain cases established by federal laws, but may be the subject of civil transactions. A comprehensive list of such land plots is provided in the Russian Federation Land Code. Such land plots include state and municipally owned land plots, for instance: those located within the forest fund, those occupied by underwater engineering constructions, and those granted for communications purposes and to transport organizations (in particular, for placing airports, railway stations, and other constructions).

The turnover of agricultural land is governed by the special Federal Law "On the Turnover of Agricultural Land," which establishes a specific procedure and specific conditions for transactions with land plots of the agricultural designation.

1.2.2.2.3 Usage in Accordance with Designation

Land in the Russian Federation is used in accordance with its approved designation. According to its designation, land in the Russian Federation is divided into 7 categories:

- 1) Agricultural land
- 2) Settlement land
- 3) Land for industry, the energy industry, transports, communications, radio broadcasting, television broadcasting, informatics, land for maintaining space activities, defense and security land, and land of other special designations

- 4) Land for specially protected territories and objects
- 5) Forest fund land
- 6) Water fund land
- 7) Reserve land

A land category must be indicated in state and municipal authorities' acts on granting rights to land plots, agreements in which land plots are the subject, state land cadastre documents, documents on the state registration of rights to real estate and transactions therewith, as well as others.

The parties to a land plot transaction may not, at their discretion, change the designation (category) of a land plot. The procedure for transferring land from one category to another is established by the Federal Law "On Transfer of Land or Land Plots from One Category to Another." The said Federal Law stipulates, in particular, that until state property has been delimited, land is transferred from one category to another and is assigned to a certain category by the Government of the Russian Federation when the following types of land are being transferred:

- Land necessary for federal needs
- Land for determination or change of boundaries of cities of federal importance – Moscow and St. Petersburg

In other cases, transfers are effected by executive authorities of the subjects of the Russian Federation or by local authorities in cases provided for by laws of the subjects of the Russian federation.

1.2.2.2.4 The Process of Dividing the State Ownership of Land into Russian Federation Ownership, Ownership of Russian Federation Subjects and Municipal Ownership

Land plots may be state owned, privately owned or municipally owned.

Privately owned land plots are land plots owned by Russian citizens and legal entities, foreign citizens, persons without citizenship and foreign legal entities.

Municipally owned land plots are land plots owned by municipalities (town and rural settlements, etc.).

State owned land plots are land plots owned by the Russian Federation (federal ownership) and by the subjects of the Russian Federation.

Pursuant to the Russian Federation Land Code, state ownership encompasses all land not privately or municipally owned.

The process of dividing land into Russian Federation ownership, ownership of Russian Federation subjects and municipal ownership that has been used to date in accordance with the Federal Law "On Dividing the State Ownership of Land" proved to be inefficient and as of July 1, 2006, new principles for dividing the ownership of land have been established.

Current legislation has dropped the method of preparation of lists of land plots to be divided. Currently state ownership of land is divided on the basis of the rules for allocating land to the ownership of the Russian Federation, of the federal subjects and municipal ownership which were included in the Federal Law "On Enactment of the Land Code of the Russian Federation."

Land plots with objects of federal property which were granted to federal authorities, to fiscal and unitary enterprises, as well as other land plots and land as set forth in federal laws, are deemed to be in the ownership of the Russian Federation. The same regulations are established for the respective subjects and municipal entities of the Russian Federation (within their borders). The cities of Moscow and St. Petersburg have ownership of the land plots being in the property of the subjects as well as in the municipal property and situated within the borders of these cities.

The implementation of the abovementioned provisions of the Law means that the division of state ownership of land is carried out as of the moment of the Law's entry into force, i.e. as of July 1, 2006. Therefore, the ownership right to the other land plots (not mentioned above) is not divided in the majority of cases.

The rules for disposing of land plots depend on the fact of whether the state ownership of such land plots was divided or not. The disposal of land plots the ownership right to which has been divided on the basis of the abovementioned regulations can be carried out by the authorized state authorities of the respective level upon due state registration of the ownership right to such land plots.

The disposal of land plots the state ownership of which is not divided shall be carried out by the following bodies:

- Institutions of local government of the respective level as determined by the Law
- Executive bodies of the state authorities of subjects of the Russian Federation (in settlements being administrative centers or capital cities of Russian Federation subjects, if such is provided for by law of the respective subject of the Russian

Federation), unless otherwise provided for by Russian Federation legislation on motorways and road activities

The disposal of such land plots in Moscow and St. Petersburg is carried out by the executive bodies of these subjects of the Russian Federation, if such authority has not been transferred to institutions of local government and unless otherwise provided for by Russian Federation legislation on motorways and road activities.

In accordance with the legislation, in case of division of state ownership of land, the state registration is carried out on the basis of the application of an executive body of state authorities or of an institution of local government. The list of documents necessary for registration of the right of state ownership of a land plot is approved by the government of the Russian Federation.

1.2.2.2.5 Interdependence Between Titles to Land Plots and Titles to Real Estate Objects Located Thereon

The interdependence between titles to land plots and titles to real estate objects located thereon is shown in the following principle provisions of the Russian Federation Land Code on the transfer of titles to land plots:

- Land plots may not be alienated without the constructions located thereon provided that the constructions and the land plots belong to one and the same person. If buildings, constructions, structures and the land plots they are located on belong to one person, they may be alienated only together with such land plots, with the following exceptions:
 - Alienating parts of buildings, constructions and structures that may not be specifically singled out together with parts of land plots
 - Alienating buildings, constructions and structures located on land plots barred from turnover
- In case of transferring the title to a building, construction or structure located on another individual's land plot to another person, such person acquires the right to use the respective part of the land plot occupied by the building, construction or structure which is required for its use on the same conditions and to the same extent as the previous owner
- The owner of a building, construction or structure located on another individual's land plot has the right of first refusal on purchases and leases of such land plot.

It is necessary to note that the Russian Federation Land Code establishes the principle of “unity of the fate of a land plot and the real estate securely attached thereto,” according to which all objects securely attached to a land plot shall follow the fate of such land plot, with the exception of certain cases stipulated by federal laws.

In practice, the said principle is not always observed during transactions with land plots and the buildings and constructions located thereon.

1.2.2.2.6 Restrictions on Rights of Foreign Individuals and Legal Entities to Certain Types of Land Plots

Pursuant to current Russian Federation legislation, foreign citizens, foreign legal entities, persons without citizenship, as well as Russian legal entities in which more than 50 percent of the share capital is held by foreign citizens, legal entities or persons without citizenship, may hold only leasehold rights to agricultural land plots.

Furthermore, foreign citizens, persons without citizenship and foreign legal entities may not hold titles to land plots located on border territories, the list of which is approved by the President of the Russian Federation in accordance with the federal legislation on the State Border of the Russian Federation, or titles to land plots located on other special territories.

1.2.3 Buildings and Constructions

1.2.3.1 General Overview

Buildings and constructions are often objects of investment activities. Buildings and constructions are real estate objects due to their characteristic of inseparable attachment to land and the impossibility of relocating them without incommensurate damage to their purpose.

As individually defined objects, buildings and constructions have particular characteristics, inter alia: addresses (locations), names, areas, numbers of stories and designations. All the main data on buildings and constructions, as individually defined real estate objects, are contained in documents issued by the authorities responsible for technical registration, inventory and cadastral registration, in particular for inserting required information into technical passports and plans of respective real estate objects (see section 1.4.2 “Cadastral and Technical Registrations (Inventory)”).

1.2.3.2 Particularities of Buildings and Constructions as Objects of Investment Activities

While performing investment activities concerning buildings and constructions it is necessary to consider the following most significant particularities of the status of buildings and constructions as real estate objects:

1.2.3.2.1 City-Planning Rules Concerning Construction, Reconstruction and Capital Repairs of Buildings and Constructions

The rules established by Russian Federation legal acts for city-planning activities must be taken into account while performing investment activities concerning buildings, constructions and structures, in particular the provisions of the City-Planning Code of the Russian Federation effective since 2004.

Construction, reconstruction and capital repairs of buildings, constructions and structures are performed on the basis of project documents which contain textual materials and maps (schemes) and determine architectural, functional and technological, construction, engineering and technical solutions for the construction and reconstruction.

In accordance with provisions of the new Russian Federation City-Planning Code, prior to preparing project documentation, engineering surveys must be conducted. Preparation and implementation of project documentation without having conducted the respective engineering surveys is not allowed. The types of and procedure for conducting engineering surveys are set forth in Regulation No. 20 dated January 19, 2006, of the Government of the Russian Federation "On Engineering Surveys for Preparation of Project Documentation, Construction, Reconstruction of Capital Construction Objects." In accordance with this Regulation, the requirements as to the content and form of materials of engineering surveys shall be determined by the Ministry of Regional Development of the Russian Federation. However, as of the date of publication of this brochure, the respective legal acts have not been adopted by the Ministry of Regional Development of the Russian Federation.

Project documentation and results of engineering surveys are subject to state inspection.

Pursuant to the Russian Federation City-Planning Code, the state inspection of project documentation is aimed at evaluating the compliance of the project documentation with technical rules of procedure, including sanitary and environmental protection requirements and requirements of state protection of cultural heritage objects, fire protection requirements, industrial, nuclear, radiological and other safety requirements, as well as with the results of engineering surveys and at evaluating the compliance of such results with technical rules of procedure.

The construction and reconstruction of buildings, constructions and structures, as well as their capital repairs if such characteristics as safety and security of the objects are affected during the capital repairs, are carried out based on construction permits – documents which verify the rights of the owners, lessees and users of the respective real estate objects to construct on the land plots, as well as to construct and reconstruct buildings and constructions (see section 1.6 “Legal Regulation of Construction Activities”).

1.2.3.2.2 Buildings and Constructions That Are Historical and Cultural Landmarks

Pursuant to Russian Federation legislation, cultural heritage objects include buildings and constructions, as well as related creations of art, sculptures, applied and decorative art, science and technology objects, and other objects of material culture, which appeared as a result of historical events, are valuable from the point of view of history, architecture, city-planning, art, science and technology, social culture, etc., and are evidence of epochs and civilizations, and are authentic sources of information on the genesis and development of culture. The said real estate objects are subject to state registration for the purposes of their preservation.

The state protects cultural heritage objects (historical and cultural landmarks) by means of imposing liabilities for damaging or destroying respective objects, controlling the development of city-planning and project documents, and granting permits to carry out construction, sanitation and other works in established cases. Until a federal law dividing cultural heritage objects owned by the state into state ownership, federal ownership, ownership of Russian Federation subjects and municipal ownership is adopted, privatization of cultural heritage objects of federal importance and registration of federal ownership rights, ownership rights of Russian Federation subjects and local authorities to cultural heritage objects owned by the state will remain suspended.

Projects for restoring and reconditioning buildings and constructions classified as historical and cultural landmarks are subject to approval by the state authorities responsible for protecting landmarks in accordance with the established procedure. The restoration and reconditioning of such buildings and constructions are performed under the control of the state authorities responsible for protecting such landmarks. One of the main principles for using a cultural heritage object (historical and cultural landmark) is the preservation of its original exterior and interior.

The Single State Register of Cultural Heritage Objects (Historical and Cultural Landmarks) of the Peoples of the Russian Federation, which contains data on cultural heritage objects, is currently being compiled in the Russian Federation. The respective authority responsible for protecting cultural heritage objects will issue cultural heritage object passports, for buildings and constructions inserted in the said Register, to the owners of the respective real estate objects. A cultural heritage object passport is one of the mandatory documents required for registering titles to buildings or constructions in case

of transactions therewith, provided that such buildings or constructions have been inserted in the Single State Register of Cultural Heritage Objects (Historical and Cultural Landmarks) of the Peoples of the Russian Federation. Currently, historical and cultural landmarks are registered on the basis of respective lists maintained by executive authorities of the subjects of the Russian Federation and at the federal level by the federal body ensuring the protection of cultural heritage objects.

1.2.3.2.3 Interdependence Between Titles to Land Plots and Titles to Buildings and Constructions Located Thereon

While planning and implementing investment activities concerning buildings and constructions, particularly while concluding transactions and carrying out new constructions or reconstructions, it is necessary to take into account the provisions of Russian Federation legislation that establish interdependence between titles to buildings and constructions and titles to land plots thereunder (see section 1.2.2.2.5 “Interdependence Between Titles to Land Plots and Titles to Real Estate Objects Located Thereon”).

1.2.4 Residential and Non-Residential Premises

1.2.4.1 General Overview

Residential and non-residential premises are real estate objects by virtue of direct stipulation of the law. The characteristic of the status of residential and non-residential premises as real estate objects is the requirement for state registration of the rights thereto and transactions therewith in cases and in accordance with the procedure established by Russian Federation legislation.

Residential and non-residential premises are real estate objects that are distinct from the buildings in which they are located although inseparably attached to. It is necessary to note that a single building may contain both residential and non-residential premises. Residential premises are distinct premises designated for individuals’ residence that must meet sanitary and technical requirements and rules established in the Russian Federation, while non-residential premises are premises not designated for individuals’ residence. Due to the fact that the law does not provide for a definition of non-residential premises, it is recommended to take into consideration that according to general provisions of the laws of the Russian Federation and existing court procedure, non-residential premises being real estate objects shall meet such a criterion as the possibility of their independent use without changing the designated use of the building as a whole.

As individually defined real estate objects, residential and non-residential premises have particular characteristics, inter alia: addresses (locations), names, areas, numbers of stories, and designations. All the main data on residential and non-residential premises are contained in documents issued by the authorities responsible for technical registration and inventory, in particular for inserting required information into technical passports (excerpts from technical passports), apartment passports and real estate object plans (see section 1.4.2 “Cadastral and Technical Registrations (Inventory)”).

1.2.4.2 Particularities of Residential and Non-Residential Premises as Objects of Investment Activities

While performing investment activities connected with acquiring rights to non-residential premises, it is necessary to take into account the absence of a non-residential premises regime developed in detail, for example the rights of non-residential premises owners to the common property of the buildings in which such premises are located are not clearly defined.

Investment activities that require concluding transactions with residential premises must be performed in conformity with the special provisions of Russian Federation legislation concerning residential premises and, most importantly, the Russian Federation Housing Code. Furthermore, the dependent nature of the said objects with respect to the buildings or constructions in which they are located should be taken into account.

1.2.4.2.1 Designation

According to the general rule, residential premises are designated for individuals’ residence. Residential premises may be used for performing professional activities or individual entrepreneurial activities by individuals that lawfully reside at these premises. Such use may not violate other individuals’ rights and lawful interests as well as requirements for residential premises. In order to use residential premises for other purposes not related to residence, it is necessary to convert such premises into non-residential premises. Residential buildings are prohibited from housing any industrial productions. The conditions and procedure for transferring residential premises to the non-residential premises category, and vice versa, are determined by the Russian Federation Housing Code, subject to the requirements of legislation on city-planning activities.

1.2.4.2.2 Rights of Individuals Residing Together with Owners of Residential Premises

Pursuant to Russian Federation legislation, family members of an owner of residential premises have rights to use the residential premises equal to those of the owner, unless otherwise provided for by an agreement between them.

Family members of an owner include his/her spouse, children and parents residing together with the owner at the premises owned by him/her. Other relatives and disabled individuals, and, on extraordinary occasions, other individuals, may be recognized as family members of the owner if they have lived with the owner at the premises as members of his/her family.

The right of use of residential premises by the owner's family members terminates in case of transfer of the title to the premises to another person, as well as in case of termination of family relations with the owner. In case of termination of family relations with the owner, the right of his/her former family members to use the residential premises can be preserved for a definite period of time on the basis of a court ruling.

1.2.4.2.3 State Authorities' Consent to Alienation of Residential Premises

Residential premises occupied by underage family members of the owner of the residential premises who are in his/her custody or guardianship, or those left without parental custody, may be alienated only upon the consent of the Trustee Board if such alienation affects the rights and protected interests of the said persons.

1.2.4.2.4 Common Property of the Owners of Residential Premises in Buildings

The owners of premises in an apartment building have common share ownership rights to the building's common premises, load bearing constructions, mechanical, electrical, plumbing and other equipment, located outside or inside apartments, which provide services to multiple apartments, as well as to the land plot on which the apartment building is located, along with the greenery and public amenities elements. An apartment purchaser directly acquires common share ownership right to the common property in the apartment building by virtue of acquisition of the ownership right to an apartment in such building.

Apartment owners may not alienate their shares in the ownership rights to the common property of a residential building or perform any other actions which entail transferring such shares independently of ownership rights to apartments.

1.3 Subjects of Rights to Real Estate

All participants in legal relations that may be subjects of rights to real estate in accordance with Russian Federation legislation may be conditionally divided into two groups: private subjects and public subjects.

Private subjects include:

- Individuals (Russian citizens, foreign citizens and persons without citizenship)
- Legal entities (Russian and foreign)

Public subjects include:

- The Russian Federation
- The subjects of the Russian Federation
- Municipalities

Public and private subjects of rights to real estate are vested with various volumes of rights. The rights and obligations of each subject of rights to real estate have their own particularities that are established by Russian Federation legislation.

For instance, **certain types of real estate** may be owned only by the Russian Federation or its subjects (for example, land plots barred from civil turnover).

Certain types of rights to real estate may be held only by certain subjects. For instance, subjects of the right of permanent (perpetual) use of land plots may be state and municipal establishments, federal public enterprises, and governmental and local authorities. Rights of permanent (perpetual) use are not granted to individuals. At the same time, the said rights of individuals and legal entities to land plots in state or municipal ownership which commenced prior to October 30, 2001, are preserved.

The difference in the legal status of participants in legal relations in the real estate field is further expressed by the difference in the **methods of acquisition of rights to real estate**. In addition to the possibility of acquiring rights on the basis of ordinary civil transactions, the Russian Federation, Russian Federation subjects and municipalities, as opposed to citizens and legal entities, are entitled to acquire ownership rights to real estate through other methods, for example by recalling, including by means of buying out, real estate for state and municipal needs. Special legislative rules regulate the particularities of acquisitions of titles to land plots and rights of terminable free use of land plots by religious organizations.

1.3.1 Russian Citizens and Legal Entities

Russian citizens and legal entities may hold titles to real estate and have other rights to real estate in the cases stipulated by current Russian Federation legislation, and, in

particular, have equal access to acquiring rights to land plots in accordance with provisions of the Civil Code and the Land Code of the Russian Federation.

Citizens' and legal entities' ownership rights, including land ownership rights, are recognized and protected by the Russian Federation Constitution.

Cases of restrictions of Russian citizens' and legal entities' rights to real estate objects are established by the Russian Federation Constitution and federal laws. Thus, for instance, citizens and legal entities may not hold ownership rights to forest fund land, water objects connected with other water objects, or minerals that are not widespread.

Restrictions, established by legislation, on the acquisition of ownership rights to agricultural land by legal entities in whose registered capitals foreign citizens, legal entities or persons without citizenship hold a share in excess of 50% are reviewed in section 1.2.2.2.6 "Restrictions on Rights of Foreign Individuals and Legal Entities to Certain Types of Land Plots."

1.3.2 Foreign Citizens, Persons without Citizenship and Foreign Legal Entities

According to the general rule, foreign citizens, persons without citizenship and foreign legal entities may acquire rights to real estate on equal bases with Russian citizens and legal entities, with the exception of specific cases established by law (Part 3, Article 62 of the Russian Federation Constitution). Examples of legally established restrictions are as follows:

- Foreign citizens, persons without citizenship, and foreign legal entities may not hold titles to land plots located on border territories, the list of which is to be determined by the President of the Russian Federation, or located on other specifically determined territories. Until the President of the Russian Federation determines the list of border territories, land plots located on border territories are prohibited from being granted for ownership to foreign citizens, persons without citizenship, and foreign legal entities.
- The Russian Federation Land Code stipulates that titles to state and municipally owned land plots may be granted to foreign citizens, persons without citizenship and foreign legal entities only for payment, whereas in certain cases Russian citizens and legal entities are entitled to obtain state and municipally owned land plots free of charge.
- The Law on turnover of agricultural land bans acquisitions of titles to agricultural land by foreign citizens, persons without citizenship and foreign legal entities. The said parties are only allowed to lease agricultural land plots.

1.3.3 The Russian Federation, Russian Federation Subjects, and Municipalities

Public subjects of legal relations – the Russian Federation, Russian Federation subjects and municipalities – acquire and exercise their rights and obligations through relevant authorities (governmental and local authorities). The powers of governmental and local authorities to manage real estate are established by acts determining the status of such authorities.

Public subjects have special status with respect to the possession and management of real estate objects. Russian Federation legislation determines the particular types of real estate that may be owned exclusively by the state, for example, particular buildings and constructions recognized as historical and cultural landmarks or land plots occupied by state wilderness areas (see section 1.2.2.2.2 “Restrictions on the Turnover-Ability of Land Plots”).

A prominent characteristic of public subjects is the fact that the Russian Federation, Russian Federation subjects and municipalities are not only owners of real estate, but also have state administrative powers enabling them to regulate management, possession and use of real estate objects by other subjects of rights. Furthermore, the jurisdiction of governmental authorities includes issues such as maintaining the state registration of real estate objects and protecting land and other real estate objects of state significance.

1.4 System of Registration of Real Estate Objects and Rights Thereto

1.4.1 Concept and Main Types of Registration

Currently, real estate **objects**, **rights** thereto and **transactions** therewith are registered separately in the Russian Federation.

Registrations of land plots, buildings, structures and other real estate objects are performed in the course of cadastral and/or technical registration.

Subjects’ rights to each real estate object and data concerning restrictions on such rights are registered by means of inserting entries in the Single State Register of Titles to Real Estate and Transactions Therewith during the process of state registration of rights to real estate and transactions therewith. On the basis of the data contained in the Single State Register of Titles to Real Estate and Transactions Therewith information on rights to land plots and restrictions thereon is inserted in the Single State Register of Land.

The Federal Law “On State Real Estate Cadastre” effective from March 2008 established the main principles of maintaining the state real estate cadastre, the procedure for registration in the cadastre and provision of information contained in the state real estate cadastre. Introduction of the said rules of cadastral registration will take place in Russia in stages. Before 2010, an interim period is established, during which the system of cadastral registration of all real estate objects (land plots, buildings, structures, and premises) will start operating under new rules. The body authorized to organize cadastral registrations of real estate objects is the Federal Real Estate Cadastre Agency established in 2004 and its territorial bodies.

Real estate objects are described and individualized upon cadastral and technical registrations. As a result of state registration of rights to real estate or transactions therewith, rights to individually defined real estate objects are acknowledged and confirmed by the state.

Cadastral and technical registrations of real estate objects and the state registration of rights to real estate and transactions therewith are two closely interconnected procedures from the point of view of investment activities that involve concluding transactions aimed at acquiring the rights to various real estate objects. The state registration of rights to real estate, which is required for acknowledgement and confirmation, commencement, termination and restriction of the respective rights, is performed on the basis of data received from state technical registration or inventory authorities.

1.4.2 Cadastral and Technical Registrations (Inventory)

Real estate objects (land plots, buildings, constructions, residential and non-residential premises) are described and individualized as a result of the cadastral and technical registrations (inventory) of such real estate objects.

As a result of cadastral and technical registrations (inventory), the respective real estate objects acquire characteristics that allow for unambiguously distinguishing them from all other real estate objects. In particular, during cadastral and technical registrations (inventory) a real estate object is assigned unique cadastre and inventory numbers which exist as long as such real estate object is a single object of registered rights. Furthermore, during cadastral and technical registrations plans of real estate objects are prepared, land plots and real estate objects attached thereto are described, and the exact locations (addresses) of real estate objects are indicated, etc.

State cadastral registrations of land plots and state technical registrations of objects of city-planning activities are performed by authorized state bodies and establishments at the places of location of such real estate objects on the basis of an application from state authorities, local authorities or other interested holders of rights. An application for

cadastral registration is to be supported with the documents stipulated by current Russian Federation legislation, in particular documents determining the rights to the particular land plot, and documents on the survey of the particular land plot (establishing the land plot's borders and location in an area).

Upon completion of state cadastral registrations of land plots, applicants are provided with land plot cadastre plans certified in accordance with the established procedure. As a result of primary technical inventory of city-planning activities, technical passports for each registered object are issued. A technical passport is the documentary basis for maintaining the Single State Register of Capital Construction Objects.

The system of registration of real estate objects is currently undergoing both structural and qualitative changes aimed at the creation of a unified state real estate cadastre.

1.4.3 State Registration of Rights to Real Estate and Transactions Therewith

Rights to real estate and transactions therewith are registered by means of inserting data in the Single State Register of Titles to Real Estate and Transactions Therewith.

Registration of the rights to real estate objects is crucial as any rights to real estate objects subject to state registration commence, change or terminate only upon insertion of the respective entries in the Single State Register of Titles to Real Estate and Transactions Therewith.

The existing system of state registration of rights to real estate and transactions therewith was created on the basis of the Federal Law "On State Registration of Rights to Real Estate and Transactions Therewith" dated July 21, 1997 (with further amendments and additions thereto).

Rights to real estate that commenced prior to the entry into force of the Federal Law "On State Registration of Rights to Real Estate and Transactions Therewith" (January 31, 1998) are recognized as legally valid even if they have not undergone the state registration introduced by the said Federal Law. The state registration of such rights may be performed upon the request of the holders of such rights, with certain exceptions; in particular, state registration of the rights to a real estate object that commenced prior to the entry into force of the Federal Law "On State Registration of Rights to Real Estate and Transactions Therewith" is required in case of state registration of the rights to such real estate object that commenced after the said Federal Law took effect or in case of state registration of a transaction that was conducted with respect to such real estate after the said Federal Law took effect. State ownership of land is the exception. It is not required to register state ownership of land plots that is not divided.

As a rule, the state registration of rights is performed on the basis of an application filed by the holder of such rights or by the parties to the transaction that serves as the basis for the transfer of rights to real estate.

An application for the state registration of rights must be supported by the documents required for its performance according to Russian Federation legislation, in particular:

- Documents determining the existence, commencement, termination, transfer of, and restrictions (encumbrance) on the right to the respective real estate object (for instance, agreements, acts of state or local authorities, court rulings, etc.).
- The land plot's cadastre plan and (or) the real estate object's layout with an indication of its cadastre number

A land plot's cadastre plan is not required to be submitted, provided that such plan was submitted earlier.

A performed state registration of the commencement and transfer of rights to real estate is confirmed by a Certificate of State Registration of Rights. A performed state registration of agreements and other transactions is confirmed by special registration inscriptions on the documents that convey the content of the transactions.

The state registration of rights to real estate and transactions therewith is performed at the location of the respective real estate by territorial bodies of the Federal Registration Service. Departments of the Federal Registration Service are active in the territories of registration districts, which, as a rule, coincide with the borders of administrative-territorial units. For example, in Moscow state registrations of rights to real estate and transactions therewith are performed by the Head Department of the Federal Registration Service for Moscow (previously – the Institution of Justice for the State Registration of Rights to Real Estate and Transactions Therewith in the City of Moscow), whereas in St. Petersburg – by the Head Department of the Federal Registration Service for St. Petersburg and Leningrad Oblast (previously – the State Institution of Justice “City Bureau for the Registration of Rights to Real Estate”). The powers of the Federal Registration Service and organization of its activities are regulated by the Provision approved by Decree of the President of the Russian Federation No. 1315 “Issues of the Federal Registration Service” dated October 13, 2004, which entered into force on October 19, 2004.

1.5 Procedure for Acquiring Rights to Real Estate

1.5.1 General Conditions for Acquiring Rights to Real Estate

For the purposes of this brochure the procedure for acquiring rights to real estate is understood as the main actions prescribed by Russian Federation legislation that result in acquisition of the rights to a particular real estate object.

The procedure for acquiring rights to real estate objects has certain particularities in each individual case and depends on the conditions for acquiring such rights, which, in particular, include:

- The type of real estate, the rights to which are being acquired (for instance: land plot, building, construction, etc.).
- The right to real estate being acquired (for instance: ownership right, right to lease (short-term and long-term), mortgage, right to restricted use of someone else's land plot (servitude), etc.).
- The basis for acquisition of rights to real estate (for instance: acquiring rights to real estate on the basis of an agreement or other transaction, acts of state or local authorities, a court ruling, etc.)
- The right to real estate held by the party alienating such right to that real estate (for instance: ownership right (private, state, municipal), right to lease, right of economic management, right of day-to-day management, right of permanent perpetual use of the land plot, etc.).
- The purpose of acquiring the right to real estate (for instance: acquiring rights to a land plot for construction purposes, acquiring rights to a building or construction for reconstruction purposes, etc.)

This section considers the most common examples of acquiring rights to real estate within the framework of implementing investment projects, such as, in particular:

- Acquiring the right to lease or the ownership right to a privately owned land plot.
- Acquiring the right to lease or the ownership right to a state or municipally owned land plot.
- Acquiring the right to lease or the ownership rights to privately owned buildings or constructions.

- Acquiring the right to lease or the ownership rights to state or municipally owned buildings or constructions.

In all cases of acquiring rights to real estate objects the individual particularities of the statuses of such real estate objects should be taken into account (see section 1.2.2.2 “Particularities of Land Plots as Objects of Investment Activities,” section 1.2.3.2 “Particularities of Buildings and Constructions as Objects of Investment Activities”), as well as the particularities of the status of the acquirer or the party alienating rights to real estate (see section 1.3 “Subjects of Rights to Real Estate”).

1.5.2 Procedure for Acquiring Ownership Rights to Land Plots

From the point of view of investment activities, most often the most attractive option is acquiring ownership rights to land plots, as it is acquisition of ownership rights that provides for the greatest extent of authority with respect to land plots.

The main distinction between the procedure for acquiring the ownership right to a state or municipally owned land plot and the procedure for acquiring the ownership right to a privately owned land plot is the fact that the management of state or municipally owned land plots is performed on the basis of a resolution of state or local authorities empowered to manage such land plots. Due to the foregoing, acquiring a state or municipally owned land plot, as a rule, requires the fulfillment of a large number of necessary actions that are connected with the undergoing of a number of administrative procedures.

1.5.2.1 Procedure for Acquiring Ownership Rights to Privately Owned Land Plots

For implementing investment projects, one of the most widely used methods for acquiring the ownership right to a privately owned land plot is the conclusion of an agreement for the sale and purchase of such land plot.

The main stages of acquisition of the ownership right to a land plot on the basis of an agreement for the sale and purchase of a land plot owned by an individual or legal entity are as follows:

- 1) State cadastral registration of the land plot
- 2) Conclusion of a land plot sale and purchase agreement
- 3) State registration of the buyer’s ownership right to the land plot

Explanations of each stage of acquisition of the ownership right to a privately owned land plot on the basis of a sale and purchase agreement are provided below.

State cadastral registration of a land plot

Only those land plots that have undergone state cadastral registration may be objects of sales and purchases. Therefore, if a land plot proposed for sale has not undergone state cadastral registration, such procedure must be conducted.

State cadastral registrations are performed in accordance with the established legal procedure (see section 1.4.2 “Cadastral and Technical Registrations (Inventory)”).

Conclusion of a land plot sale and purchase agreement

Land plot sale and purchase agreements are concluded in writing by means of preparing one document to be signed by the parties thereto.

Land plot sale and purchase agreements must contain the essential conditions stipulated by Russian Federation legislation (an agreement not containing such conditions shall be deemed non-concluded), in particular, the price of the land plot and data that allow for unambiguously identifying the land plot. Sale and purchase agreements must also comply with other requirements for the execution and contents of sale and purchase agreements stipulated by current Russian Federation legislation.

It is necessary to note that Russian legislation stipulates certain special requirements for agreements for the sale and purchase of a land plot; namely, the following conditions are invalid when incorporated into land plot sale and purchase agreements:

- Establishment of the seller’s right to buy out the land plot at the seller’s discretion
- Establishment of rights restricting the further management of the land plot, including those restricting mortgage, transfer of the land plot for lease, or the conclusion of other land transactions
- Establishment of rights restricting the seller’s liability in cases when third parties claim rights to the land plot

The interests of a land plot purchaser are further protected by the requirement, established by the Russian Federation Land Code, for the seller to provide the buyer with all available information on the encumbrances on the land plot and the restrictions on its use. Should the seller provide the buyer with patently false information on encumbrances on the land plot and restrictions on its use, on the permit to construct thereon, or on the use of neighboring land plots, that significantly affects the use and price of the land plot

being proposed for sale, or other information that may affect the buyer's decision to purchase such land plot, the buyer is entitled to require that the purchase price be reduced or that the land plot sale and purchase agreement be terminated and damages inflicted on the buyer be paid.

State registration of a buyer's ownership right to a land plot

The transfer of an ownership right under an agreement for the sale and purchase of a land plot is subject to state registration. The ownership right of the buyer of a land plot commences as of such state registration.

The state registration of a buyer's ownership right on the basis of a sale and purchase agreement is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of the transfer of rights to a land plot is confirmed by a Certificate of State Registration of Rights.

1.5.2.2 Procedure for Acquiring Ownership Rights to State or Municipally Owned Land Plots

Given that the majority of land in Russia is state or municipally owned, most often a land plot that suits the purposes of implementing an investment project is not privately owned, but rather owned by the state or a municipality.

Ownership rights to state or municipally owned land plots are granted to individuals and legal entities for payment, with the exception of gratuitous granting of land plots to religious organizations holding titles to buildings, constructions, structures of religious and charitable designations situated thereon. An individual holding a land plot on the basis of right of permanent (perpetual) use is entitled to acquire the ownership right to such land plot free of charge once.

The procedure for acquiring state or municipally owned land plots for construction purposes differs from the procedure for acquiring such land plots for non-construction purposes.

1.5.2.2.1 Procedure for Acquiring Ownership Rights to State or Municipally Owned Land Plots for Construction Purposes

In practice, the granting of ownership rights to state or municipally owned land plots occurs much less frequently than the granting of rights to lease such land plots. This is primarily connected with the state and local authorities' position, which has formed in the context of insufficient legal regulation and the absence of a division of the state ownership of land.

Pursuant to the Russian Federation Land Code, ownership rights to land plots intended for construction purposes are granted on the condition of no preliminary approval of the locations of the objects exclusively by auction.

The main stages of acquisition of the ownership right to a state or municipally owned land plot for construction without prior approval of the place of location of the object are as follows:

- 1) Formation of the land plot
- 2) State cadastral registration of the land plot
- 3) Holding an auction for selling the land plot, and executing a protocol on the auction results
- 4) Conclusion of a land plot sale and purchase agreement
- 5) State registration of the buyer's ownership right to the land plot

Explanations of each stage of acquisition of the ownership right to a state or municipally owned land plot for construction purposes are provided below.

Formation of a land plot

First stage – land plot formation is required, first of all, in order to distinguish the particular land plot from the total range of state and municipal land for the purposes of subsequently selling such land plot at auction. A land plot is formed by state or local authorities. The process includes preparing a draft of the land plot's borders and establishing its borders in an area; determining the land plot's permitted use and the technical conditions for connecting future objects to engineering networks; and deciding to hold an auction and publishing a notice on such auction.

State cadastral registration of a land plot

State cadastral registrations are performed in accordance with the established legal procedure (see section 1.4.2. "Cadastral and Technical Registrations (Inventory)").

Holding an auction for selling a land plot, and executing a protocol on the auction results

The Government of the Russian Federation determines the procedure for organizing and holding auctions for selling land plots or rights to conclude agreements for leasing such land plots. Currently, the procedure for organizing and holding such auctions is regulated

by the Regulation of the Government of the Russian Federation “On Organizing and Holding Auctions for Selling State and Municipally Owned Land Plots or Rights to Conclude Agreements for Leasing Such Land Plots,” N 808 dated November 11, 2002.

The organizer of an auction must be either a local authority or state executive authority empowered to grant the respective land plots (see section 1.3. “Subjects of Rights to Real Estate”) or a specialized organization acting on the basis of an agreement concluded therewith.

The local authority or state executive authority empowered to grant the respective land plots determines, based on an independent appraiser’s conclusion, the particular land plot’s starting price, the incremental bid amount, the amount of the deposit and the publishing media in which a notice on the auction must be published.

The results of an auction are formalized in a protocol to be signed by the auction organizer, the auctioneer (in case of holding an auction open as regards submission of proposals on the price or rent amount) and the auction winner on the day of the auction. The protocol on the results of the auction shall be executed in two counterparts, one of which shall be delivered to the winner and the other shall be kept by the auction organizer. A sale and purchase agreement shall be concluded within five (5) days as of the date of the signing of the protocol.

Information on the results of the auction shall be published in the same mass media that published the notice on holding the auction within one month as of the date of the conclusion of the sale and purchase agreement.

Conclusion of a land plot sale and purchase agreement

Agreements for the sale and purchase of a land plot are concluded by a local or state authority empowered to grant the respective land plots (see section 1.3 “Subjects of Rights to Real Estate”).

The general requirements for the form and content of agreements, described in section 1.5.2.1 “Procedure for Acquiring Ownership Rights to Privately Owned Land Plots” of this brochure, must also be met when concluding agreements for the sale and purchase of a state or municipally owned land plot.

State registration of a buyer’s ownership right to a land plot

The transfer of an ownership right under an agreement for the sale and purchase of a land plot is subject to state registration. The ownership right of the buyer of a land plot commences as of such state registration.

The state registration of a buyer's ownership right is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of the transfer of rights to a land plot is confirmed by a Certificate of State Registration of Rights.

1.5.2.2.2 Procedure for Acquiring Ownership Rights to State or Municipally Owned Land Plots for Non-Construction Purposes

Acquisition of the ownership right to a land plot by the owner of the buildings or constructions situated on such land plot (privatization) may serve as an example of acquiring the ownership right to a land plot for non-construction purposes.

The owner of a building, structure or construction has the exclusive right to acquire the ownership right (privatize) to the land plot on which such building, structure or construction is situated.

Land plots on which constructions being a part of the common property of an apartment building, residential building or other construction are located are granted as common property for common share ownership of the building owners in accordance with the procedure and on the conditions established by housing legislation.

An indivisible land plot on which a building (premises therein) owned by several persons is located may be acquired by the said persons for common share ownership.

Russian Federation land legislation provides for the following procedure for acquisition of the ownership right to a state or municipally owned land plot by the owner of the building or construction situated on such land plot:

- 1) Filing an application for acquisition of the right to the land plot
- 2) Deciding to grant the land plot
- 3) Concluding a land plot sale and purchase agreement (with the exception of cases of gratuitous granting)
- 4) State registration of the buyer's ownership right to the land plot

Explanations of each of the abovementioned stages of acquisition of the ownership right to a state or municipally owned land plot are provided below.

Filing an application for acquisition of the right to a land plot

Russian citizens and legal entities and foreign citizens and legal entities, in consideration of restrictions established by Russian Federation land legislation (see section 1.3 “Subjects of Rights to Real Estate”), that own buildings, structures or constructions situated on state or municipally owned land plots have the exclusive right to privatize the respective land plots.

The said parties file an application for acquisition of the rights to the land plot, with an attachment of the land plot’s cadastre card (plan), to a state or local authority empowered to manage land plots. In addition, the parties are required to submit documents that verify both the size of the area of the building, structure or construction and the state registration of the rights thereto (or premises therein), and, in cases stipulated by Russian Federation legislation, other documents verifying the commencement of the rights to those real estate objects.

The borders and size of the land plot are determined, in consideration of the area of the land plot being factually used, in conformity with the requirements of land and city-planning legislations while taking into account city-planning restrictions, the borders of neighboring land plots (if any), and the land plot’s natural boundaries.

Deciding to grant a land plot

This stage characterizes the main distinction between the procedure for acquiring the ownership right to a state or municipally owned land plot and the procedure for acquiring the ownership right to a privately owned land plot, which is the fact that the right to a state or municipally owned land plot is granted on the basis of a decision of a state or local authority on granting the respective right, which, in turn, serves as the basis for concluding a land plot sale and purchase agreement.

The decision to grant the ownership right to a land plot is made by the state executive or local authority that is empowered to manage the land plot (see section 1.3 “Subjects of Rights to Real Estate”).

Deciding to grant the ownership right to a land plot is accompanied by the preparation of a land plot sale and purchase agreement draft, which is subsequently sent to the applicant.

Concluding a land plot sale and purchase agreement

A land plot sale and purchase agreement is concluded on the basis of the decision of the local authority or state executive authority that is empowered to grant the respective land plot.

The general requirements for the form and content of agreements, described in section 1.5.2.1 “Procedure for Acquiring Ownership Rights to Privately Owned Land Plots” of this brochure, must also be met when concluding agreements for the sale and purchase of a state or municipally owned land plot.

State registration of a buyer’s ownership right to a land plot

The transfer of an ownership right under an agreement for the sale and purchase of a land plot is subject to state registration. The ownership right of the buyer of a land plot commences as of such state registration.

The state registration of a buyer’s ownership right is performed in accordance with the established legal procedure (see section 1.4.3 “State Registration of Rights to Real Estate and Transactions Therewith”). A performed state registration of the transfer of rights to a land plot is confirmed by a Certificate of State Registration of Rights.

1.5.3 Procedure for Acquiring Rights to Lease Land Plots

The most frequently used option for acquiring rights to a land plot for the purposes of implementing an investment project is acquiring the right to lease such land plot.

Analogous to the case of acquiring ownership rights, the procedure for acquiring the right to lease state or municipally owned land plots, as opposed to the procedure for acquiring the right to lease privately owned land plots, provides for the making, by a competent state or local authority empowered to manage land plots, of the respective decision to grant the right to lease a particular land plot.

1.5.3.1 Procedure for Acquiring Rights to Lease Privately Owned Land Plots

The process of acquiring the right to lease a privately owned land plot may be conditionally divided into the following main stages:

- 1) Conclusion of a land plot lease agreement
- 2) State registration of the land plot lease agreement

Explanations of each of the abovementioned stages of acquisition of the right to lease a privately owned land plot are provided below.

Conclusion of a land plot lease agreement

Land plot lease agreements are concluded in writing by means of preparing one document to be signed by the parties thereto.

Land plot lease agreements must contain the essential conditions stipulated by Russian Federation legislation (an agreement not containing such conditions shall be deemed non-concluded), in particular the rent amount and a description of the land plot. Lease agreements must also comply with other requirements for the execution and contents of lease agreements stipulated by current Russian Federation legislation.

The Russian Federation Land Code establishes the following additional guarantees of lessees' rights: should the lessor provide the lessee with patently false information on encumbrances on the land plot and restrictions on its use, on the permit to construct thereon, or on the use of neighboring land plots, that significantly affects the use and rent amount of the land plot being proposed for lease, or other information that may affect the lessee's decision to lease such land plot, the lessee is entitled to require that the rent amount be reduced or that the land plot lease agreement be terminated and damages inflicted on the lessee be paid.

State registration of a land plot lease agreement

The state registration of a land plot lease is performed by means of state registration of the agreement for leasing such land plot.

Land plot lease agreements concluded for terms exceeding one (1) year are subject to state registration.

The state registration of a land plot lease agreement is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of lease agreements is confirmed by special registration inscriptions on the land plot lease agreements.

1.5.3.2 Procedure for Acquiring Rights to Lease State or Municipally Owned Land Plots

The procedure for acquiring the right to lease a state or municipally owned land plot differs from the procedure for acquiring the right to lease a privately owned land plot in the necessity to undertake a number of administrative procedures connected with the competent state or local authorities' decision to grant the right to lease a particular land plot.

The procedure for acquiring rights to lease state or municipally owned land plots for construction purposes differs from the procedure for acquiring rights to lease such land plots for any other purposes. Furthermore, the procedure for granting land plots for lease for residential construction as well as for complex development thereof for purposes of residential construction are specially regulated by legislation.

1.5.3.2.1 Procedure for Acquiring Rights to Lease State or Municipally Owned Land Plots for Construction Purposes

Currently, rights to lease land plots for construction purposes may be granted by two different methods:

- 1) Without preliminary approval of the locations of objects
- 2) With preliminary approval of the locations of objects

From January 1, 2010, in case of absence of land use and development rules, state or municipally owned land plots will not be granted for construction with preliminary approval of the locations of the objects, with several exceptions.

In case of granting land plots without preliminary approval of the locations of the objects, the competent state or local authorities choose a land plot for the proposed construction of an object themselves and subsequently offer it, on certain conditions, to investors for placing the object. In the second case, investors participate in choosing a land plot for placing an object.

In each of the abovementioned cases the procedure for granting land plots for lease is different. Land plots for construction purposes without preliminary approval of the locations of objects are granted at auction.

A land plot for construction purposes without preliminary approval of the location of the object is granted as follows:

- 1) Formation of the land plot
- 2) State cadastral registration of the land plot
- 3) Holding an auction for selling the right to conclude an agreement for leasing the land plot, and executing a protocol on the auction results
- 4) Conclusion of a land plot lease agreement
- 5) State registration of the land plot lease agreement

Explanations of each stage of acquisition of the right to lease a state or municipally owned land plot for construction purposes are provided below.

Formation of a land plot

Land plot formation is required in order to distinguish the particular land plot from the total range of state and municipal land for the purposes of subsequently selling the right to lease such land plot at auction. A land plot is formed by state or local authorities. The process includes preparing a draft of the land plot's borders and establishing its borders in an area; determining the land plot's permitted use and the technical conditions for connecting future objects to engineering networks; and deciding to hold an auction and publishing a notice on such auction.

State cadastral registration of a land plot

State cadastral registrations of land plots are performed in accordance with the established legal procedure (see section 1.4.2 "Cadastral and Technical Registrations (Inventory)").

Holding an auction for selling the right to conclude an agreement for leasing a land plot, and executing a protocol on the auction results

The Government of the Russian Federation determines the procedure for organizing and holding auctions for selling rights to conclude agreements for leasing land plots. Currently, the procedure for organizing and holding such auctions is determined by the Regulation of the Government of the Russian Federation "On Organizing and Holding Auctions for Selling State and Municipally Owned Land Plots or Rights to Conclude Agreements for Leasing Such Land Plots," N 808 dated November 11, 2002.

Until the state ownership of land has been divided (into Russian Federation ownership, ownership of Russian Federation subjects and municipal ownership), the organizer of an auction must be either a local authority or state executive authority empowered to grant the respective land plots (see section 1.3 "Subjects of Rights to Real Estate") or a specialized organization acting on the basis of an agreement concluded therewith.

The local authority or state executive authority empowered to grant the respective land plots determines, based on an independent appraiser's conclusion, the particular land plot's starting rent, the incremental bid amount, the amount of the deposit and the publishing media in which a notice on the auction must be published.

A land plot may be granted for lease without holding an auction, on the basis of an application from an individual or legal entity interested in leasing the particular land plot, if there is only one application for participation in the auction and provided that a notice

on the availability of the land plots proposed for lease has been preliminarily published well in advance.

The Russian Federation Land Code establishes certain particularities of the procedure for organizing and holding auctions for selling rights to conclude agreements on lease of land plots for residential construction and land plots for complex development thereof for purposes of residential construction.

Conclusion of a land plot lease agreement

The general requirements for the form and content of agreements, described in section 1.5.3.1 “Procedure for Acquiring Rights to Lease Privately Owned Land Plots” of this brochure, must also be met when concluding agreements for leasing a state or municipally owned land plot.

The granting of a land plot for construction purposes implies the possibility of concluding a long-term land plot lease agreement for 49 years upon the completion of the construction.

State registration of a land plot lease agreement

The state registration of a land plot lease is performed by means of state registration of the agreement for leasing such land plot.

Land plot lease agreements concluded for terms exceeding one (1) year are subject to state registration.

The state registration of a land plot lease agreement is performed in accordance with the established legal procedure (see section 1.4.3 “State Registration of Rights to Real Estate and Transactions Therewith”). A performed state registration of lease agreements is confirmed by special registration inscriptions on the land plot lease agreements.

A land plot for construction purposes **with preliminary approval** of the location of the object is granted as follows:

- 1) Choosing a land plot
- 2) Deciding on preliminary approval of the location of the object
- 3) Formation of the land plot
- 4) State cadastral registration of the land plot

- 5) Deciding to grant the land plot for construction purposes
- 6) Conclusion of a land plot lease agreement
- 7) State registration of the land plot lease agreement

Explanations of each stage of acquisition of the right to lease a land plot are provided below.

Choosing a land plot

A land plot for construction purposes is chosen by state or local authorities empowered to grant land plots on the basis of an interested party's application for choosing a land plot and the preliminary approval of the location of an object.

A land plot for construction purposes is chosen in consideration of city-planning, ecological and other conditions for its use by means of conducting approvals of the possible options for locating an object with the respective state and local authorities and municipal organizations.

A land plot choice is executed in the form of an act on the choice of a land plot for construction purposes.

Deciding on preliminary approval of the location of an object

A state or local authority empowered to grant state or municipally owned land plots makes a decision on the preliminary approval of the location of an object, which validates the act on the choice of a land plot, in accordance with one of the options for choosing a land plot, or refuses to permit object location.

The location of an object is not subject to approval in case of locating the object in a town or rural settlement in accordance with city-planning documents on area development and rules for land use and development (zoning), or in case of granting a land plot for agricultural production or forestry needs or granting a land plot to an individual for individual housing purposes and individual farming activities.

An applicant is given a copy of the decision on the preliminary approval of the location of an object along with a draft of the land plot's borders, or is given a copy of the decision to refuse to permit object location.

Formation and state cadastral registration of a land plot

The decision on the preliminary approval of the location of an object and draft of the land plot's borders serves as the basis for establishing the borders of such land plot in an area and for its state cadastral registration in accordance with the procedure established by Russian Federation legislation (see section 1.4.2 "Cadastral and Technical Registrations (Inventory)").

Deciding to grant a land plot for construction purposes

A state executive authority or local authority empowered to grant land plots makes a decision on granting a land plot for construction purposes on the basis of an application, with the land plot's cadastre card attached thereto, filed by a party interested in obtaining the particular land plot for construction purposes.

Conclusion of a land plot lease agreement

A land plot lease agreement is concluded by a local authority or state executive authority empowered to grant the respective land plot (see section 1.3 "Subjects of Rights to Real Estate").

The general requirements for the form and content of agreements, described in section 1.5.3.1 "Procedure for Acquiring Ownership Rights to Privately Owned Land Plots" of this brochure, must also be met when concluding agreements for leasing a state or municipally owned land plot.

Analogous to the abovementioned case, the granting of a land plot for construction purposes implies the possibility of concluding a long-term land plot lease agreement for 49 years upon the completion of the construction.

State registration of a land plot lease agreement

The state registration of a land plot lease is performed by means of state registration of the agreement for leasing such land plot.

Land plot lease agreements concluded for terms exceeding one (1) year are subject to state registration.

The state registration of a land plot lease agreement is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of lease agreements is confirmed by special registration inscriptions on the land plot lease agreements.

1.5.3.2.2 Particularities of Granting Land Plots for Complex Development Thereof for Purposes of Residential Construction

Complex development of a land plot for purposes of residential construction includes preparation of documentation for planning of the territory, performance of works concerning development of the territory by building engineering infrastructure objects, and performance of residential and other construction.

Land plots for complex development thereof for purposes of residential construction are granted for lease through auction without preliminary approval of the locations of the objects. The particularities of the procedure for holding such an auction are set forth by the Russian Federation Land Code.

The lessee of a land plot granted for complex development thereof for purposes of residential construction has the exclusive right to acquire the ownership or leasehold right to the said land plot after approval, in accordance with the established procedure, of the documentation on planning the territory, constructing engineering infrastructure objects, and state cadastral registration of the land plot designated for residential and other construction.

1.5.3.2.3 Procedure for Acquiring Rights to Lease State or Municipally Owned Land Plots for Non-Construction Purposes

Acquisition of the right to lease a land plot by the owner of the buildings or constructions situated on such land plot may serve as an example of acquiring the right to lease a land plot for non-construction purposes.

The owner of a building, structure or construction has the exclusive right to acquire the ownership right to the land plot on which such building, structure or construction is situated, or, at its discretion, to acquire the right to lease the respective land plot.

Russian Federation land legislation provides for the following procedure for acquisition of the right to lease a state or municipally owned land plot by the owner of the building or construction situated on such land plot:

- 1) Filing an application for acquisition of the rights to the land plot
- 2) Deciding to grant the land plot
- 3) Concluding a land plot lease agreement
- 4) State registration of the land plot lease agreement

Explanations of each of the abovementioned stages of acquisition of the right to lease a land plot are provided below.

Filing an application for acquisition of the rights to a land plot

Russian citizens and legal entities and foreign citizens and legal entities, in consideration of restrictions established by Russian Federation land legislation (see section 1.3 “Subjects of Rights to Real Estate”), that own buildings, structures or constructions situated on state or municipally owned land plots file an application to a state or local authority empowered to manage the respective land plot for acquisition of the rights to the particular land plot.

Deciding to grant a land plot

The decision to grant the right to lease a land plot is made by the state executive or local authority that is empowered to manage the particular land plot (see section 1.3 “Subjects of Rights to Real Estate”).

Deciding to grant the right to lease a land plot is accompanied by the preparation of a land plot lease agreement draft, which is subsequently sent to the applicant.

Concluding a land plot lease agreement

A land plot lease agreement is concluded on the basis of the decision of the local authority or state executive authority that is empowered to grant the respective land plot.

The general requirements for the form and content of agreements, described in section 1.5.3.1 “Procedure for Acquiring Ownership Rights to Privately Owned Land Plots” of this brochure, must also be met when concluding agreements for leasing a state or municipally owned land plot.

Russian Federation legislation on privatization provides for the possibility of concluding a land plot lease agreement with the owner of the real estate object situated on such land plot for 49 years.

State registration of a land plot lease agreement

The state registration of a land plot lease is performed by means of state registration of the agreement for leasing such land plot.

Land plot lease agreements concluded for terms exceeding one (1) year are subject to state registration.

The state registration of a land plot lease agreement is performed in accordance with the established legal procedure (see section 1.4.3 “State Registration of Rights to Real Estate and Transactions Therewith”). A performed state registration of lease agreements is confirmed by special registration inscriptions on the land plot lease agreements.

1.5.4 Procedure for Acquiring Ownership Rights to Buildings and Constructions Buildings and constructions may be state owned, privately owned or municipally owned

The procedure for acquiring ownership rights to state or municipally owned buildings and constructions differs from the procedure for acquiring ownership rights to privately owned buildings and constructions. Analogous to the case of acquisition of rights to land plots, the main distinction is that the procedure for acquiring rights to state or municipally owned buildings and constructions requires the observance of a number of additional administrative procedures that were established by Russian Federation legislation with regard to state and municipal property.

1.5.4.1 Procedure for Acquiring Ownership Rights to Privately Owned Buildings and Constructions

The procedure for acquiring ownership rights to privately owned buildings and constructions may be conditionally divided into the following main stages:

- 1) Conclusion of an agreement for the sale and purchase of a building or construction
- 2) State registration of the buyer’s ownership right to the building or construction

Explanations of each stage of acquisition of ownership rights to privately owned buildings and constructions are provided below.

Conclusion of an agreement for the sale and purchase of a building or construction

Building and construction sale and purchase agreements are concluded in writing by means of preparing one document to be signed by the parties thereto.

Building and construction sale and purchase agreements must contain the essential conditions stipulated by Russian Federation legislation (an agreement not containing such conditions shall be deemed non-concluded), in particular:

- Data that allow for unambiguously identifying the building or construction to be transferred under the agreement, including data specifying its location on the respective land plot or within another real estate object
- The price of the building or construction

Sale and purchase agreements must also comply with other requirements for the execution and contents of sale and purchase agreements stipulated by current Russian Federation legislation.

State registration of a buyer's ownership right to a building or construction

The transfer of an ownership right under an agreement for the sale and purchase of a building or construction is subject to state registration. The ownership right of the buyer of a building or construction commences as of such state registration.

The state registration of a buyer's ownership right is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of the transfer of rights to a building or construction is confirmed by a Certificate of State Registration of Rights.

1.5.4.2 Procedure for Acquiring Ownership Rights to State or Municipally Owned Buildings or Constructions

Acquisitions of ownership rights to state and municipally owned buildings and constructions are performed within the framework of the privatization of state and municipal property, i.e. payable alienation of ownership rights to property owned by the Russian Federation, Russian Federation subjects and municipalities to individuals and legal entities.

It is necessary to note that the process of dividing state ownership, including with respect to buildings and constructions, into Russian Federation ownership, ownership of Russian Federation subjects and municipal ownership has not yet been completed. The division of state ownership is performed by means of transferring objects and vesting the respective public civil entity with ownership rights. Information on ownership rights to objects that have been transferred to public civil entities is recorded in the respective registers of federal, state and municipal property.

The ownership rights to state or municipally owned buildings or constructions may be acquired during the privatization process at auction.

The procedure for acquiring ownership rights to state and municipally owned buildings and constructions may be conditionally divided into the following main stages:

- 1) Deciding on the conditions for privatizing the building or construction and publishing an informational notice
- 2) Filing an application for acquisition of the building or construction
- 3) Holding an auction for selling the building or construction
- 4) Concluding an agreement for the sale and purchase of the building or construction
- 5) State registration of the buyer's ownership right to the building or construction

Explanations of each stage of acquisition of ownership rights to state and municipally owned buildings and constructions are provided below.

Deciding on the conditions for privatizing a building or construction and publishing an informational notice

Decisions to privatize buildings and constructions are made by authorized bodies of the owners of such buildings and constructions. Such a decision determines the name and other data that allow for individualizing the particular building or construction being privatized, the privatization method, the price of the building or construction, the payment procedure and other information required for performing the privatization.

At least 30 days prior to the sale of a building or construction, an authorized body of the owner of the building or construction ensures the publication of a notice on the sale of the respective building or construction in publishing media in accordance with the established procedure. In addition to the information on the conditions for privatizing the building or construction provided in the respective decision, the informational notice must contain information on the procedure and conditions for holding the auction, such as the deadline for submitting applications for participation in the auction, the date, time and place of the auction, the procedure for determining the winner and other data in accordance with Russian Federation legislation.

Filing an application for the acquisition of a building or construction

Russian and foreign individuals and legal entities, with the exception of legal entities in whose registered capitals the Russian Federation, a Russian Federation subject or a municipality holds a share in excess of 25%, are entitled to file an application for the acquisition of a state or municipally owned building or construction.

In addition to an application, parties who wish to acquire a building or construction must submit a number of other documents, the list of which is determined in accordance with regulatory acts of the owner of the property being privatized and the informational notice on the sale of the respective building or construction.

Holding an auction for selling a building or construction

Pursuant to Russian Federation privatization legislation, acquisitions of state and municipally owned buildings and constructions by private persons are performed at auction. The procedure for organizing and holding auctions is determined by the Regulation "On Organizing the Sale of State or Municipal Property at Auctions," which was approved by Regulation of the Government of the Russian Federation No. 585 dated August 12, 2002.

Decisions determining auction winners are executed in the form of a protocol on auction results.

Upon the results of an auction, the seller and the auction winner (buyer) conclude an agreement for the sale and purchase of the respective property in accordance with Russian Federation legislation.

Concluding an agreement for the sale and purchase of a building or construction

An agreement for the sale and purchase of a building or construction is concluded on the behalf of the owner of the particular building or construction by the respective authorized body or institution.

Agreements for the sale and purchase of a state or municipally owned building or construction must meet the requirements established by Russian Federation privatization legislation. In particular, such an agreement must regulate a number of statutory conditions, such as data on the seller and buyer, the building or construction being acquired, its price, the presence of any encumbrances kept in case of transfer of the ownership right, as well as other conditions established by Russian Federation legislation.

State registration of a buyer's ownership right to a building or construction

The transfer of an ownership right under an agreement for the sale and purchase of a building or construction is subject to state registration. The ownership right of the buyer of a building or construction commences as of such state registration.

The state registration of a buyer's ownership right is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of the transfer of the right to a land plot is confirmed by a Certificate of State Registration of Ownership Right.

1.5.4.3 Procedure for Acquiring Ownership Rights to Buildings and Constructions as a Result of Their Creation (Construction)

A particular feature of the acquisition of rights to buildings and constructions, as opposed to land, is that ownership rights to buildings and constructions may be acquired either from the preceding owner (most frequently on the basis of an agreement) or by means of creating (constructing) a new building or construction.

A new building or construction may be created either by means of constructing such real estate object from scratch or as a result of reconstructing an already existing object.

The main stages of acquisition of the rights to a newly created building or construction are as follows:

- 1) Constructing (reconstructing) the building or construction
- 2) State registration of the ownership right to the newly created building or construction

Explanations of each stage of acquisition of the ownership right to a building or construction created as a result of construction (reconstruction) are provided below.

Constructing (reconstructing) a building or construction

This stage includes all actions stipulated by law and connected with obtaining required construction permits for and approvals of a building project from authorized state bodies and organizations; constructing a real estate object; executing all documents necessary for verifying the fact of creation of a new real estate object (see section 1.6.2 “Obtaining Permits and Approvals for Conducting Construction Works and Legalization of the Results of Construction Activities”). All mentioned actions are critical for subsequently acquiring the ownership right to a building or construction.

Constructing a building, structure or construction on a land plot without having obtained the required permits, or constructing in significant violation of city-planning and construction rules is recognized as unauthorized construction. Parties that create such unauthorized constructions do not acquire ownership rights thereto. Such a party is not entitled to manage the construction, namely to sell, present as a gift, or lease the construction, or perform other transactions therewith. An unauthorized construction must be demolished by the party that created such construction.

The completion of construction (reconstruction) of a real estate object is followed by the execution of an act of the state acceptance commission or an act of the interdepartmental commission on acceptance of the particular object into operation.

State registration of the ownership right to a newly created building or construction

Ownership rights to newly created buildings and constructions are subject to state registration and commence as of such registration.

Rights to newly created buildings and constructions are registered on the basis of documents that verify the fact of their creation, as well as verify the rights to use the respective land plots for creating such real estate objects.

The state registration of the ownership right to a newly created building or construction is performed in accordance with the established legal procedure (see section 1.4.3 “State Registration of Rights to Real Estate and Transactions Therewith”). A performed state registration of an ownership right is confirmed by a Certificate of State Registration of Right.

1.5.5 Procedure for Acquiring Rights to Lease Buildings and Constructions

1.5.5.1 Procedure for Acquiring Rights to Lease Privately Owned Buildings and Constructions

The procedure for acquiring rights to lease privately owned buildings and constructions may be conditionally divided into the following main stages:

- 1) Conclusion of an agreement for leasing a building or construction
- 2) State registration of the agreement for leasing a building or construction

Explanations of each of the abovementioned stages of acquisition of rights to lease privately owned buildings and constructions are provided below.

Conclusion of an agreement for leasing a building or construction

Building and construction lease agreements are concluded in writing by means of preparing one document to be signed by the parties thereto.

Building and construction lease agreements must stipulate rent amounts. As this condition is essential, if no condition on a rent amount agreed upon by the parties in writing is incorporated into a building or construction lease agreement, such agreement is deemed non-concluded. Building and construction lease agreements must also comply with other requirements for the execution and contents of lease agreements stipulated by current Russian Federation legislation.

State registration of an agreement for leasing a building or construction

The state registration of a building or construction lease is performed by means of state registration of the agreement for leasing such building or construction.

Building and construction lease agreements concluded for terms of at least one (1) year are subject to state registration. Such building and construction lease agreements are deemed concluded only as of their state registration.

The state registration of a building or construction lease agreement is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of lease agreements is confirmed by special registration inscriptions on the land plot lease agreements.

1.5.5.2 Procedure for Acquiring Rights to Lease State or Municipally Owned Buildings and Constructions

The procedure for acquiring rights to lease state or municipally owned buildings and constructions differs from the procedure for acquiring rights to lease privately owned buildings and constructions in the necessity to undertake a number of administrative procedures connected with the competent state or local authorities' decision to grant the right to lease a particular building or construction.

The procedure for granting the right to lease a state or municipally owned building or construction is governed by regulatory acts issued by the state or local authorities empowered to manage the respective real estate object. Such regulatory acts may stipulate any additional stages for acquiring rights to lease buildings or constructions. For instance, non-residential premises may be granted for lease on the basis of the results of an auction.

If no special conditions for acquiring rights to lease state or municipally owned buildings or constructions are established, the procedure for acquiring rights to lease state or municipally owned buildings or constructions may be conditionally divided into the following main stages:

- 1) Filing an application for acquisition of the right to lease a building or construction
- 2) Conclusion of a building or construction lease agreement
- 3) State registration of the building or construction lease agreement

Explanations of each of the abovementioned stages of acquisition of rights to lease state or municipally owned buildings or constructions are provided below.

Filing an application for acquisition of the right to lease a building or construction

In order to acquire the right to lease a building or construction, an interested party applies to a state or local authority empowered to manage the respective real estate object.

In case of a positive decision, a building or construction is granted for lease by means of an authorized state or local authority's issuance of the respective decision.

Conclusion of a building or construction lease agreement

Building and construction lease agreements are concluded in writing by means of preparing one document to be signed by the parties thereto.

The main requirements of current Russian Federation legislation for agreements for leasing state or municipally owned buildings or constructions are analogous to the requirements for agreements for leasing privately owned buildings or constructions. In particular, building and construction lease agreements must stipulate rent amounts. As this condition is essential, if no condition on a rent amount agreed upon by the parties in writing is incorporated into a building or construction lease agreement, such agreement is deemed non-concluded.

An agreement for leasing a state or municipally owned building or construction may stipulate the conditions for the particular use of the leased building or construction.

State registration of a building or construction lease agreement

The state registration of building and construction leases is performed by means of state registration of the agreements for leasing such buildings and constructions.

Building and construction lease agreements concluded for terms of at least one (1) year are subject to state registration. Such building and construction lease agreements are deemed concluded only as of their state registration.

The state registration of building and construction lease agreements is performed in accordance with the established legal procedure (see section 1.4.3 "State Registration of Rights to Real Estate and Transactions Therewith"). A performed state registration of lease agreements is confirmed by special registration inscriptions on the building and construction lease agreements.

1.5.6 Procedure for Acquiring the Right to a Land Plot in Case of Acquiring the Right to a Building, Construction, or Structure Located Thereon

Buildings, constructions, and structures are inseparably attached to land plots. Therefore, acquiring a building, construction, or structure is not possible without acquiring the right to the land plot.

The legislative body distinguishes cases where:

- The owner of the building, construction, or structure is simultaneously the owner of the land plot
- The owner of the land plot and the owner of the building, construction, or structure are different parties.

Let us consider each of these situations in more detail.

1.5.6.1 Acquiring the Right to a Land Plot Owned by the Owner of a Building, Construction, or Structure Located Thereon

Pursuant to land legislation, if the building, construction, or structure and the land plot thereunder are owned by the same party, such building, construction, or structure shall be alienated along with the land plot.

There are two exceptions to this rule:

- 1) Alienation of a part of the building, construction, or structure that cannot be separated as such along with a part of the land plot
- 2) Alienation of a building, construction, or structure located on a land plot that is barred from turnover

If a building, construction, or structure is located on a land plot whose circulation is restricted and which is owned by the party that owns the building, construction, or structure, then such building shall be alienated along with the land plot, provided that federal law permits granting such land plot for ownership to individuals and legal entities.

1.5.6.2 Acquiring the Right to a Land Plot Owned by a Third Party

For cases of acquiring a building, construction, or structure from a party who is not the owner of the land plot situated thereunder, land legislation establishes a general rule: the acquirer of the building, construction, or structure shall acquire the right to use the

respective part of the land plot occupied by the building, construction, or structure and necessary for the use thereof on the same conditions and to the same extent as that of the previous owner of the building, construction, or structure.

1.6 Legal Regulation of Construction Activities

1.6.1 Licensing Construction Activities

1.6.1.1 Licensable Types of Activities

As investment activities in the real estate field are frequently connected with the design and construction of buildings and constructions, it is advisable to take into account that design and construction activities in the following spheres are only possible given receipt of the following special permits-licenses:

- Designing buildings and constructions of certain categories
- Constructing buildings and constructions of certain categories
- Conducting engineering surveys for constructing buildings and constructions of certain categories

If a company places an order for the performance of the said licensable activities, then such company's functions are also subject to licensing.

Starting July 1, 2008, licensing of the abovementioned activities is not required.

1.6.1.2 Procedure for Obtaining Licenses

Licensing the said types of construction activities is performed by the Federal Agency for Construction and the Housing-Utilities Complex (hereinafter, the "**Rosstroy**"). The Federal Licensing Center, which issues licenses to applicants subject to their statutory observance of the licensing requirements and the conditions stipulated by Government Regulation No. 174 dated March 21, 2002, functions under the Rosstroy's jurisdiction.

Foreign legal entities and Russian legal entities with foreign capital are entitled to obtain licenses for performing construction activities on the same conditions and bases as Russian legal entities without foreign capital participation.

In order to obtain a license it is necessary to file an application with the Federal Licensing Center of the Rosstroy and submit documents verifying the applicant's compliance with the licensing requirements and conditions. The Federal Licensing Center considers

submitted documents within a period of time that may not exceed sixty (60) days and decides either to issue a license or refuse to do so. A license is issued for a five-year term unless a shorter term is requested in an applicant's application.

1.6.2 Obtaining Permits and Approvals for Conducting Construction Works and Legalization of the Results of Construction Activities

1.6.2.1 Project Documents

Project documents are developed in accordance with city-planning documents, construction regulations and rules, and are subject to the approval of the respective architecture and city-planning bodies, state control and supervision bodies. The composition of project documents depends on the type of planned construction works. Project documents for performing various types of construction works are prepared by specialized (project) organizations holding respective licenses.

Project documents are prepared on the basis of the results of engineering surveys. The provision on performance of engineering surveys for preparation of project documents for construction, reconstruction, and capital repair of capital construction objects is approved by Decree of the Government of the Russian Federation dated January 19, 2006.

A state expert examination of the project documentation on capital construction objects is conducted in cases established by the City-Planning Code of the Russian Federation. The procedure for a state expert examination of project documents is determined by the Provision on Organizing and Conducting a State Expert Examination of Project Documents and the Results of Engineering Surveys, approved by Decree of the Government of the Russian Federation No. 145 dated March 5, 2007.

1.6.2.2 Construction Permit

In order to perform the construction of capital construction objects or the reconstruction of a building or structure, if it concerns structural or other characteristics of reliability and safety of such objects, a construction permit is required.

A construction permit confirms the compliance of the project documentation with city-planning requirements for using the land plot and entitles performance of construction, reconstruction or capital repair of objects.

The Russian Federation City-Planning Code, which entered into force on December 30, 2004, regulates the procedure for issuing construction permits as follows. No construction

permit is required in case of construction of non-capital construction objects (a kiosk, for example) or auxiliary objects.

A construction permit is issued on the basis of the documents determined by the City-Planning Code of the Russian Federation.

Local authorities and bodies of state architecture and construction control of the Russian Federation monitor the compliance of ongoing construction works with issued permits and city-planning requirements.

1.6.2.3 Transfer of Completed Construction Objects into Operation

Putting an object into operation confirms completion of construction in accordance with construction permits, city-planning and project documentation.

Upon the results of the examination of a completed construction object, the acceptance commission grants permission for putting the object into operation, which serves as the basis for the state registration of the object as well as for the registration of the investor's ownership right to the constructed object.

1.7 Land Payments

1.7.1 Value of Land Plots in Case of Their Acquisition

The procedure for determining a land plot's value in case of acquisition of the ownership right to it varies depending on the type of ownership right thereto (state, municipal or private ownership).

When acquiring a land plot from a private owner, the land plot's value is determined by the parties' agreement and is fixed in the land plot sale and purchase agreement.

When acquiring a state owned or municipally owned land plot, the procedure for determining the land plot's value has particularities that have been established by Russian Federation legal acts. The value of such land plots being sold to owners of buildings, constructions or structures located thereon is determined by the respective subject of the Russian Federation by means of establishment of a certain index, in an amount ranging from 5 to 30, which is applied to the land tax rate with respect to land plots occupied by private buildings and structures (see section 1.7.2.1 "Land Tax"). Until the subject of the Russian Federation establishes prices of land for the respective region, the minimum land tax rate is applied for a unit of area of a land plot. Concerning land plots occupied by buildings and structures acquired earlier from the state or a municipality, the value of land in case of buy-out of the land plots by the owners of the buildings and structures is

established by the subjects of the Russian Federation within 20% of the cadastral value of the land plot (in cities with a population up to 3 million people) and up to 1.5% of the cadastral value in other regions. Until a subject of the Russian Federation establishes a price, the highest price of a land plot in the respective region is applied. These rules are effective until January 1, 2010.

1.7.2 Payment for Land Plot Use

One of the main principles of Russian Federation land legislation is that use of land is subject to payment. According to this principle, any use of land is subject to a fee, with the exception of certain cases established by Russian Federation legislation.

Land payments are in the form of the land tax and lease payments. The land tax is payable by owners of land plots and persons having rights of permanent (perpetual) use or lifetime ownership with hereditary succession of the land plots. Persons using land plots on the basis of rights of free terminable use and those leasing land plots are exempt from the land tax.

1.7.2.1 Land Tax

Currently, in Russia tax legislation is being codified within the framework of tax reform. Previously, the land tax was collected in accordance with the Law of the Russian Federation "On Payment for Land," No. 1738-1 dated October 11, 1991. On January 1, 2005, Chapter 31 of the second part of the Russian Federation Tax Code came into force, which establishes a new procedure for calculation and collection of the land tax in the territory of Russia.

In accordance with the Russian Federation Tax Code, the land tax, as before, is considered a local tax. This means that the land tax is generally regulated by the Russian Federation Tax Code and regulatory acts of representative bodies of municipalities, and in the cities of federal importance, Moscow and St. Petersburg – by laws of the respective Russian Federation subjects.

The land tax becomes effective in the territory of certain municipalities on the basis of regulatory legal acts of representative bodies of the municipalities, and in the cities of federal importance, Moscow and St. Petersburg – on the basis of laws of the respective Russian Federation subjects.

The Russian Federation Tax Code determines the general provisions on the land tax, which cannot be changed at the local level, in particular:

- Taxpayers
- Taxation object
- Tax base
- Maximum tax rate
- Tax concessions
- Procedure for tax calculation

The tax base is determined as the cadastre value of a land plot determined in accordance with Russian Federation land legislation. Tax rates may not exceed:

- 0.3 % – for agricultural land, land occupied by housing and engineering infrastructure objects of the housing and utility complex, as well as land provided for personal households
- 1.5 % – for other categories of land

It should be taken into consideration that, according to Russian Federation land legislation, if the cadastre value of land is not determined, its normative price should be applied as determined in accordance with the Decree of the Russian Federation Government “On the Procedure for Determination of the Normative Price of Land,” No. 319 dated March 15, 1997.

Inter alia, religious organizations are exempt from the land tax on land plots on which buildings of religious and charitable designations are located, as well as all-Russia public organizations of the disabled – on land plots used for their authorized activities.

1.7.2.2 Rent

When acquiring the right to lease a land plot, the procedure for determining the rent amount varies depending on the lessor’s type of ownership right (state, municipal or private ownership).

When leasing a land plot from a private owner, the rent amount is determined by the agreement between the lessor and the lessee.

When leasing a state or municipally owned land plot, the rent amount is also determined by the agreement between the lessor and the lessee. However, in this case the lessor is the respective state authority acting in conformity with its powers, and the procedure

for determining the rent amount may be governed by special legal acts. Pursuant to Russian Federation legislation, the Russian Federation Government may establish common bases for determining rent payment amounts for state or municipally owned land plots. The procedure for determining rent payment amounts for land plots owned by the Russian Federation, a Russian Federation subject or a municipality is established by the owner's competent authority: the Russian Federation Government, a Russian Federation subject's state authorities or local authorities respectively.

In respect of land plots the state ownership of which is not divided into Russian Federation ownership, ownership of Russian Federation subjects and municipal ownership, the procedure for determining the amount of the rent payment, the conditions and terms for its payment are determined by state bodies of the respective subject of the Russian Federation.

2. Particularities of Regional Legislation

2.1 Particularities of Investments in Real Estate in Moscow

In this section the main particularities of investment activities concerning state owned real estate objects located in Moscow are reviewed.

2.1.1 Legal Basis

The main provisions related to investing in real estate in Moscow are established by the following laws and other regulatory legal documents:

- Moscow Law No. 48 dated December 19, 2007 “On Land Use in the City of Moscow”
- Moscow Law No. 13 dated March 3, 2004 “On Basics of City-Planning in the City of Moscow” (as amended)
- Moscow Government Regulation No. 431-PP dated June 27, 2006 “On Transfer of Land Plots in the Territory of the City of Moscow to Private Ownership” (as amended)
- Moscow Government Regulation No. 255-PP dated April 27, 2004 “On the Procedure for Conducting Tenders and Auctions for Selecting Investors for Implementing Investment Projects” (as amended)
- Moscow Government Regulation No. 426 dated May 18, 1999 “On Amendments to Legal Acts Concerning Investment Activities” (as amended)

2.1.2 Objects and Forms of Investment Activities

In accordance with Moscow legislation, the main real estate objects are as follows:

- 1) Land plots for new construction purposes
- 2) Unfinished construction objects provided for construction completion
- 3) Buildings and constructions to be reconstructed (restored), or capitally rebuilt

Most real estate objects in Moscow are state-owned. State bodies of Moscow dispose of the said real estate objects (land plots, buildings, structures) within their authority. Therefore, the following forms of investment activities may exist:

- Carrying out new construction
- Completion of unfinished construction
- Carrying out reconstruction (renovation) or capital repairs of buildings and constructions

2.1.3 Procedure for Acquiring Rights to Land Plots

The granting of rights to land plots in Moscow is regulated by Moscow Law No. 48 dated December 19, 2007 "On Land Use in the City of Moscow", Moscow Government Regulation No. 431-PP dated June 27, 2006 "On Transfer of Land Plots in the Territory of the City of Moscow to Private Ownership" and Moscow Government Regulation No. 532-PP dated July 19, 2005 "On Establishment of the Price of Land in the City of Moscow for Land Plots Sold to Owners of Capital Buildings, Constructions and Structures Located Thereon".

In accordance with existing practice, land plots in Moscow are granted on the basis of leasehold rights.

2.1.3.1 Granting of Leasehold Rights to Land Plots

The right to conclude an agreement on lease of a land plot is obtained in two ways:

- 1) In the course of a tender organized in the form of a competitive tender or an auction (in accordance with the general rules)
- 2) Without conducting a tender for sale of the right to enter into a lease agreement in the following cases provided for by the law:
 - a. By owners of objects of capital construction located on the land plot
 - b. By lessees of objects of capital construction which are state-owned by the city of Moscow
 - c. For the purposes of ensuring activities of state authorities of the Russian Federation, the city of Moscow and Moscow Oblast, as well as execution by Moscow of its functions as the capital of the Russian Federation

d. Upon agreement with a lessee in return for a land plot seized for state or municipal needs

e. In other cases provided for by the law

2.1.3.2 Term of a Lease Agreement for Land Plots

The term of a lease agreement concluded by executive authorities of the city of Moscow is determined upon agreement of the parties with dependence upon the actual use, encumbrances and restrictions on use of the land plot, as well as in accordance with the General City Plan of Moscow. Term limits for lease agreements are as follows:

- Not more than five years if the subject of the lease agreement is a land plot allocated for non-capital structures and constructions
- Not more than one year if the subject of the lease agreement is a land plot within the boundaries of common-use land
- Not less than 25 and not more than 49 years if the subject of the lease agreement is a land plot occupied by objects of capital construction; whereas a shorter term can be agreed upon by the parties
- A term not exceeding the term of reservation if the subject of the lease agreement is a land plot within the boundaries of land reserved for state needs of the city of Moscow
- The term required for repair and construction works, but not exceeding five years, if the subject of the lease agreement is a land plot within the boundaries of common-use land occupied by transport arteries, streets, squares, driveways, roads, embankments, coastlines, pedestrian routes, granted for lease exclusively for the purposes of the repair and construction works without the right to construct real estate objects on the said plot

2.1.3.3 Payment for Obtaining the Leasehold of a Land Plot

In accordance with the said law, a person obtaining the leasehold right to a land plot shall effect the following payments:

- Payment for the right to enter into the lease agreement for the land plot
- Rent payment

Payment for the right to conclude a lease agreement

Payment for the right to enter into a lease agreement shall be the responsibility of the person who won the tender for the right to enter into the lease agreement for the land plot. The lessee obtains the right to conduct transactions with the leasehold right to the land plot upon the condition of full payment for the right to enter into the lease agreement.

Payment for the right to enter into a lease agreement for a land plot is not due in the following cases set forth by the law:

- In case of granting to owners of capital buildings, constructions, or structures the leasehold rights to the land plots on which such buildings, constructions, or structures are located and which are necessary for their use
- In case of granting the leasehold rights to land plots for the purposes of ensuring activities of state authorities of the Russian Federation, the city of Moscow and Moscow Oblast, as well as execution by Moscow of its functions as the capital of the Russian Federation, and for ensuring activities of local authorities
- In case of granting leasehold rights to land plots allocated for industrial objects which are owned by organizations rendering services at state regulated tariffs and for industrial objects of city engineering infrastructure of the housing and utilities complex
- In case of prolongation of the term of a lease agreement for a land plot (signing of a lease agreement for a new term), if upon the lapse of the term of the lease agreement no tenders for sale of the right to enter into a lease agreement for the respective plot are / were conducted
- In case of prolongation of the term of a lease agreement with a good faith lessee for a land plot which is (fully or partially) located within building lines and thus when the lease agreement was concluded for such land plot (or part thereof), a shorter lease term was established as compared to neighboring land plots
- In case of granting leasehold rights to a land plot to a lessee of buildings, constructions and structures located on the land plot and state-owned by the city of Moscow
- In case of granting leasehold rights to a land plot on the basis of a concession agreement

Rent payment

The Moscow Government establishes the procedure for determining the amount of rent payments for land plots owned by the city of Moscow and for land plots whose state

ownership is not differentiated, as well as the procedure, terms and conditions for effecting rent payments (Moscow Government Regulation No. 162-PP dated March 29, 2005 "On Coefficients to Land Rent Rates Applicable for Lessees Carrying Out Activities that are Priority for the City", Moscow Government Regulation No. 273-PP dated April 25, 2006 (version of September 11, 2007) "On Improving the Procedure for Establishing Land Rent Rates in the City of Moscow"). They take into account the permitted use of the land plots, the type of business or other activities conducted thereon, as well as additional conditions of use of the land plots established for the purposes of social needs and needs of city development. The amount of the annual rent payment is established as a percentage of the cadastral value.

The initial amount of the rent payment shall be determined on the basis of the market value of the respective land plots at the moment of the signing of the lease agreement for the land plots in accordance with the results of the tender.

Rent payments are due as of the day following the day of state registration of the lease agreement for a land plot and, as a rule, shall be paid on a quarterly basis.

2.1.3.4 Acquisition of the Ownership Right to Land

An owner of buildings, constructions and structures is entitled to file an application for acquisition of the ownership right to the land plot on which the buildings, constructions and structures are located. Foreign citizens and legal entities are entitled to acquire the ownership rights to land plots exclusively for payment. A decision on granting a land plot for joint shared ownership of applicants is taken on the basis of an application from the owners of all parts of the buildings, constructions and structures located on the land plot.

A decision on granting the ownership of a land plot required for use of buildings, constructions or structures is taken by the Moscow Government or by prefects of administrative districts of Moscow. Upon an application of a legal entity, prefects of administrative districts of Moscow take a decision with regard to land plots located in the territory of the administrative districts if the territory does not apply to the natural complex of Moscow and the total area of the building, construction or structure does not exceed 3 thousand square meters.

Based on the filed application, the Department of Land Resources of Moscow collects the information necessary for taking a decision on granting a land plot or on forming a land plot (information on the total area and number of floors in the building, on the functional purpose of the building and plan of its location, on restriction of the land plot in turnover, on encumbrances of the land plot and restrictions on its use, on the type of actual use of the land plot, on existence of unauthorized constructions, etc.).

Based on the collected information, the Department of Land Resources of Moscow prepares a proposal on granting or refusing to grant a land plot to the applicant for ownership.

Refusal to grant a land plot to an applicant for ownership

Refusal to grant a land plot to an applicant for ownership is possible if the following circumstances are revealed:

- The land plot was restricted in turnover or barred from turnover
- The land plot is reserved for state needs or there is a decision to seize the land plot for state needs
- The ownership right, right to permanent (perpetual) use, life-long heritable ownership of other persons is registered with regard to the land plot
- The ownership right of third parties is registered with regard to part of a building, construction or structure located on the land plot or premises therein, and such third parties have not filed an application for granting the land plot for their ownership
- Part of a building, construction or structure is state- or municipally-owned
- There are buildings, constructions or structures on the land plot which are owned by third parties and a project for dividing the respective territory has not been executed

A decision to refuse to grant a land plot to an applicant for ownership may be appealed in court.

If the circumstances that served as the grounds for refusal to grant a land plot to an applicant for ownership are eliminated, the applicant is entitled to file a second application on granting a land plot for ownership.

In case a decision on compensated granting of a land plot is taken, a draft sale and purchase agreement for the land plot is sent to the applicant in accordance with the model forms approved by the Moscow Government.

In accordance with clause 1 of Moscow Government Regulation No. 532-PP dated July 19, 2005 "On Establishment of the Price of Land in the City of Moscow for Land Plots Sold to Owners of Capital Buildings, Constructions and Structures Located Thereon", the price of land in case of sale of state-owned land plots to owners of capital buildings, constructions and structures located thereon equals thirty fold the rate of land tax for one area unit of the respective land plot.

If within the term set forth by a decision on compensated granting of a land plot to an applicant the applicant does not sign the sale and purchase agreement for the land plot or does not notify the Department of Land Resources of Moscow of any discovered technical mistakes committed during the preparation of the decision or draft sale and purchase agreement for the land plot, the decision on compensated granting of the land plot is subject to cancellation.

2.1.4 Procedure for Acquiring Rights to Objects of Investment Activities

Moscow Government policy is aimed at regulating and controlling the various forms of investment activities (construction, reconstruction, financing, etc.) performed in the real estate field. For this purpose, development programs in various spheres (residential, garage construction, development of non-residential premises and hotel complexes, etc.) are prepared, and within the framework of which the main investment projects in the territory of Moscow are implemented.

Rights to construct, reconstruct, and capitally rebuild buildings and constructions are granted mainly by tenders (auctions). Prior to conducting competitive tenders and auctions, a list of the objects in such tenders, the project documentation and the tender documentation shall be prepared.

Lists of the addresses of the objects to be put to tender or auction are prepared on the basis of the results of the implementation of the General Plan of Development of Moscow until the year 2020, the schemes of placement of the objects in the territory of the city, city-planning maps of the city administrative districts, and other city-planning documentation.

The competent state bodies prepare project documentation, in particular: district development plans, including engineering support schemes, acts on permitted use of land plots, including the technical conditions for connecting to engineering networks, etc. (comprehensive initial permitting documentation).

At the stage of preparation of tender (lot) documentation, the starting conditions for holding the tenders and auctions, including removal of encumbrances from the land plots and objects to be reconstructed, are developed, the amount of compensation for social, engineering, and transport infrastructure of the city is calculated, the procedure for selecting the investors for implementation of an investment project is determined (tender or auction), and regulatory documents and investment agreements are prepared. Moreover, special qualification conditions for selecting tender or auction participants are developed (if necessary).

Based on the results of a tender (auction), an agreement for the right to implement an investment project is entered into (investment contract (agreement)), which, in particular, provides for an investor's and the Moscow Government's property rights to an investment object.

The fulfillment of the conditions of such an investment contract is confirmed by an act on the results of investment project implementation. The state registration of an investor's and the Moscow Government's rights to an investment object is performed on the basis of such an act.

In Moscow, granting land plots for lease is the main form of granting land plots for investment activity purposes.

2.1.5 Procedure for Holding Tenders and Auctions for Selecting Investors for Implementing Investment Projects and for Selling Rights to Conclude Land Plot Lease Agreements

Moscow Government Regulation No. 255-PP dated April 27, 2004 "On Conducting Tenders and Auctions for Selecting Investors for Implementing Investment Projects" establishes provisions on holding tenders and auctions and the procedure for cooperation between structural divisions of the Moscow Government in holding tenders and auctions for selecting investors. For the purposes of implementing the abovementioned Moscow Government Regulation, the City Tender Commission has been established. The City Tender Commission's main duties include determining the conditions for holding tenders and auctions, holding tenders and auctions, and determining winners based on the results of such tenders and auctions. The said provisions also regulate the procedure for holding tenders and auctions for selling rights to conclude land plot lease agreements.

2.1.5.1 Preparing and Holding Tenders and Auctions

Notifications of tenders and auctions are published in mass media (the "Moscow Tenders" journal) no later than 45 days prior to the date of holding the tender. The said information must also be published on the Moscow City Council Website (www.mos.ru). Tender and lot information can be obtained at the addresses specified in information letters.

The necessary conditions for participating in a tender or auction include filing an application with the documents specified in tender or lot documents attached thereto, and paying a deposit, the amount of which is determined by tender or auction conditions.

A tender is considered valid if at least two applicants have participated in it.

Tender and auction winners are those participants whose proposals contain more preferable conditions in accordance with the criteria established by tender or lot documents.

A tender differs from an auction in:

- 1) The procedure for conducting it
- 2) The criteria for determining the winner

Tender participants file to the tender commission their applications in sealed envelopes, which are kept in a special safe box until the day of the tender.

The main criteria for determining a tender winner are:

- The amount of compensation to the city for social, engineering and transport infrastructures
- The size of the useful area subject to transfer to the city of Moscow for city needs as a result of implementation of the particular investment project
- The terms of implementation of the particular investment project
- The amount of the fee for concluding an agreement for the long-term lease of a land plot

In the case of holding an auction, the participants can change their bids during the auction, offering a better price in accordance with the established auction increment.

The main criteria for determining an auction winner are as follows:

- The amount of compensation to the city for social, engineering and transport infrastructures
- The amount of the fee for concluding an agreement for the long-term lease of a land plot

2.1.5.2 Executing the Results of Tenders and Auctions

Tender and auction winners, as well as participants placed second, are sent notifications. Information on tender winners is published in mass media (the "Moscow Tenders" journal).

The Moscow Government establishes regulatory documents (a Moscow Government Regulation) on the basis of the results of a tender or auction, and based on which an investment agreement or a long-term land plot lease agreement is entered into between

the Moscow Government and the tender winner. The tender winner must sign the said agreement within 20 business days as of receiving the protocol on having been recognized as the tender winner.

If a tender or auction winner chooses not to sign an investment contract, the right to implement the particular investment project is granted to the tender or auction participant whose proposal was second best in accordance with tender criteria or auction results.

All construction and reconstruction investment agreements, as well as additional agreements thereto and acts on the results of implementation of investment projects with respect to residential objects, are subject to registration with the Department of Municipal Housing and Housing Policy of the Moscow Government.

Investment agreements and additional agreements concluded in accordance with the established procedure are registered by the respective organizations, the heads of which are entitled to conclude such agreements. After which, their details (dates and numbers) are forwarded to the Department of Municipal Housing and Housing Policy of the Moscow Government, the Department of State and Municipal Property of Moscow, and to the State City Inspectorate for Control over Use of Objects of the Non-residential Fund in Moscow.

2.1.6 Main Conditions of Long-Term Land Plot Lease Agreements

A standard long-term land plot lease agreement was approved by Decree of the Moscow Government "On the Procedure for Holding Tenders and Auctions for Selecting Investors for Implementing Investment Projects," No. 255-PP dated April 27, 2004.

A long-term land plot lease agreement is concluded between the Department of Land Resources of Moscow and the party who won the tender for the right to conclude a long-term land plot lease agreement.

Subject of a Lease Agreement

The subject of a lease agreement is a land plot granted for use on lease terms. The plan of the land plot is an integral part of the agreement. The agreement also determines the designation of the land plot (e.g. the land plot may be granted for construction of a building), which may be altered or supplemented on the basis of an order of the competent authority of Moscow.

Conducting Transactions with Leasehold Rights

Transactions with leasehold rights are subject to the lessor's written consent. Such consent may be granted to the lessee in accordance with the following procedure: the lessee shall submit to the lessor a reasoned application specifying the type, parties to and conditions of the transaction with the leasehold right to the land plot, then the lessee provides the lessor with documents concerning the transaction for legal examination, confirms the due fulfillment of the obligations under the agreement and the conditions stipulated by the lessor while granting the consent to the transaction. The lessor's consent is certified by the respective stamp on the transaction title documents.

Unilateral Termination of the Agreement

The lessor is entitled to early terminate the agreement unilaterally by notifying the lessee in case of breach of conditions of the agreement, in particular:

- Non-payment of the rent for two consecutive quarters
- Use of the land plot not in accordance with its designation
- Non-development or non-use of the land plot for three years, or for another period established by city-planning documentation
- Use of the land plot in ways prohibited by land and other legislation of the Russian Federation and/or Moscow
- Conducting transactions with the leasehold right to the land plot without the lessor's consent or registration
- Placement of other parties' real estate on the land plot without the lessor's consent
- In case of cancellation of the order that served as the basis for concluding the agreement
- Other cases provided for by legislation

In the above cases, the agreement is considered terminated as of the date of the lessee's receipt of the notification.

Liability under the Agreement

In a number of cases, the agreement establishes a penalty for breach of agreement conditions, in particular a penalty equal to the annual rent amount is payable:

- In case the lessee conducts transactions with the leasehold right without the lessor's consent
- In case of use of the land plot not in accordance with its designation
- In case of breach of special conditions established in the agreement (on the basis of the respective regulatory document of the Moscow Government) with respect to use of the land plot

2.1.7 Basic Terms and Conditions of an Investment Contract

The standard forms of investment contracts are established by Moscow Government Regulation No. 255-PP "On Conducting Tenders and Auctions for Selecting Investors for Implementing Investment Projects."

An investment contract is concluded between the Moscow Government and the individual who, based on the results of a tender or auction, won the right to invest in construction and reconstruction.

Subject of an investment contract

The subject of an investment contract is the construction, reconstruction or renovation of real estate objects. Real estate objects, in relation with which investment projects are implemented, include: residential buildings, non-residential premises built-in or attached to residential buildings, parking garages, engineering and utilities buildings, transport and engineering networks and constructions, objects of city improvement (playgrounds, utility sites, guest parking areas).

Distribution of real estate property among the parties to an investment contract

When concluding an investment contract, the parties provide for the conditions for distributing the shares in the real estate property among themselves. The sizes of such shares are determined in an investment contract according to the general procedure and are preliminarily agreed upon by the parties by way of execution of a protocol on the preliminary distribution of the premises after the conclusion of the investment contract. The particular property to be transferred to each party's ownership is determined on the basis of an act on the results of implementation of the investment project, which is executed on the basis of the results of implementing the investment project and after the investment object has been put into operation.

Payments under an investment contract

Along with financing an investment project, an investor is obligated to transfer to the Moscow city budget payments for the creation of (construction, reconstruction) engineering, transport and social infrastructure objects. The amounts of the abovementioned payments are determined by the conditions of the investment contract, and the date of their transfer to the city budget is established in the payment schedule, which is an integral part of the investment contract.

Should an investor breach the obligation for making payments for the creation of engineering, transport and social infrastructure objects, the Moscow Government is entitled to impose penalties on such investor, and if payments are delayed for more than three (3) months – to terminate the investment contract.

Security of obligations under an investment contract

In the course of implementing investment projects, an investment contract may provide for the investor's obligation to present a bank guarantee or confirmation of the presence of its own funds sufficient for securing the repayment of its debts connected with financing the creation of engineering, transport and social infrastructure objects, given that such debts arose during investment project implementation. An investment contract may also provide for the investor's obligation to conclude an insurance agreement for civil-liability and an insurance agreement that insures the investment object against damage it may incur in case of fire or collapse.

Terms under an investment contract

An investment contract provides for a strict schedule for investment project implementation: both the aggregate term for implementing the particular investment project and the terms for completing particular stages of works are specified therein. In accordance with an investment contract, the period of investment project implementation is divided into three (3) stages. At the first, preparatory, stage the relations concerning the use of the land plot on which the particular investment object is situated are executed (a lease agreement for the period of investment project implementation is concluded), project documents are prepared, a permit to perform construction works is obtained, and the investor enters into the necessary insurance agreements and obtains a bank guarantee (if necessary).

At the second, main, stage the investor performs the construction and other works necessary for creating, reconstructing or restoring the investment object. At the third, closing, stage final payments are effected between the parties, an act on the results of implementing the investment contract is executed, the parties' property rights to the real estate object are executed and registered, and further land and legal relations between

the investor and the Moscow Government are executed. An investor's breach of the terms of investment project implementation serves as the basis for the imposition of penalties, in the amount specified in the investment contract, as well as serves as the basis for termination of the investment contract upon the Moscow Government's initiative.

Assignment of rights under an investment contract

An investor is entitled to assign, in part or in full, its rights under an investment contract to a third party, provided that the terms of investment project implementation remain unchanged. An assignment of rights is performed upon the Moscow Government's approval and is executed as an additional agreement, to the investment contract, between the investor that is assigning its rights, a third party and the Moscow Government.

Confidentiality

In accordance with the conditions of an investment contract, any information on the financial situations of the parties, on the conditions of the investment contract, and on agreements with third parties participating in the implementation of the investment project is confidential and is not to be disclosed. This confidentiality clause may be expanded upon the agreement of the parties.

Applicable law and dispute resolution

Investment contracts may only be regulated by Russian Federation legislation as in accordance with the Russian Federation Civil Code, Russian law is applicable to all agreements concerning real estate located in the territory of the Russian Federation.

Disputes concerning real estate or rights to real estate located in the territory of Russia may be resolved only by Russian Federation courts. If real estate is not the subject of a dispute (i.e. the dispute arose in connection with other provisions of the investment agreement, such as, for example, failure to transfer payment for infrastructure), such dispute may be referred to another court.

2.2 Particularities of Investments in Real Estate in St. Petersburg

2.2.1 Legal Basis

While considering issues concerning investments in real estate in St. Petersburg it is important to take into consideration the investment process particularities established by St. Petersburg legislation.

In St. Petersburg a new legislative basis was formed which regulates the procedure for making investments in real estate owned by the state and located in the territory of St. Petersburg.

Currently, legal regulation of investments in real estate is carried out, first of all, on the basis of the St. Petersburg Law “On the Procedure for Granting Real Estate Objects Owned by St. Petersburg for Construction and Reconstruction,” No. 282-42 dated June 17, 2004, (hereinafter the “Law”).

The previously effective St. Petersburg Law “On Investments in Real Estate in St. Petersburg,” No. 191-35 dated July 30, 1998, and a number of legislative acts issued by the St. Petersburg Administration have been abolished.

2.2.2 Objects and Forms of Investment Activities

Pursuant to the Law, objects of investment activities may include:

- 1) Land plots granted for new construction
- 2) Unfinished construction objects
- 3) Buildings and constructions subject to reconstruction

Depending on whether the investment object is a land plot or a building (or an unfinished construction object), the following forms of investment activities are possible:

- Granting a land plot for long-term lease or transferring the title thereto to the investor for the purpose of constructing a new object with future commencement of the investor’s ownership right to the result of the investments (building, construction built, etc.).
- Granting buildings, constructions and parts thereof subject to reconstruction or construction completion for the purpose of creating a new real estate object.

2.2.3 General Procedure for Granting Investors Rights to Real Estate Objects in St. Petersburg

2.2.3.1 Main Provisions

In accordance with the general procedure established by the Law, real estate objects in St. Petersburg are granted to investors as follows:

(1) **Through tenders**, which can be held in the form of:

- **An auction** – in this case, the largest amount of payments transferred by an investor is the criterion for determining the winner
- **A competition** – in order to hold which, in addition to the conditions for transfer of funds the conditions for creation and use of the result of investments must be determined. For the purpose of determining the results of a competition, a competition commission is formed, which is to prepare a conclusion with respect to the party that has offered the best conditions

Tenders are open as to the composition of participants and are held by a special organization authorized by the St. Petersburg Government (tenders are currently organized by OAO “Property Fund of St. Petersburg” (hereinafter the “**Property Fund**”)).

Depending on whether the object of investment to be put up for tender is a land plot or a building, the subject of a tender can be:

- A land plot or the right to conclude a land plot lease agreement
- The right to conclude an investment agreement

(2) **for designated use**, particularly in the following cases:

- Granting land plots for lease for purposes of construction, provided that preliminary approval of the location of the real estate object is obtained, as stipulated by land and city-planning legislation
- Granting land plots for purposes of reconstruction of production facilities, of objects of engineering and transport infrastructure (with preservation of their designated use) located on such land plots as a part of such production areas, engineering and transport infrastructure areas
- Granting dormitories for reconstruction
- Granting buildings recognized as being in a dilapidated condition, in accordance with the established procedure, for reconstruction
- Granting buildings for reconstruction for purposes of making investments in the spheres of culture, academic research, public health services, environmental sciences, education, physical training and sports, and development of the hotel and tourist infrastructures

- To the sole participants of failed tenders that offered investment conditions that meet tender requirements
- In other exceptional cases

The procedure for granting real estate objects to investors is established by the Law and the Provision on the Procedure for Adopting Resolutions on Granting Real Estate Objects for Construction and Reconstruction, approved by Decree of the Government of St. Petersburg No. 1592 dated September 21, 2004.

2.2.3.2 Investment Agreements

2.2.3.2.1 Types of Agreements Concluded with Investors

A resolution on granting a real estate object is adopted by the St. Petersburg Government. Either with the winner of the tender or with the party to which the real estate object was granted for designated use an agreement is concluded which determines the basic conditions for granting of the real estate object and performance of construction or reconstruction works.

St. Petersburg, as represented by the Committee for City Property Management (hereinafter "KUGI"), and investors can conclude the following types of agreements:

- 1) Agreement on sale and purchase of a land plot – a transaction concluded as a result of a tender for paid alienation of a state owned land plot designated for construction
- 2) Agreement on lease of a land plot on investment conditions – a combined agreement aimed at performance of investment activities relating to a land plot and containing all obligations of the parties related to lease of a land plot, construction development thereof, and fulfillment of other investment conditions
- 3) Investment agreement – a combined agreement containing the parties' obligations for fulfillment of the conditions of construction development of a land plot, performance of reconstruction, finalization of construction of a real estate object (to be concluded if the object of investment is a building or an unfinished construction object)

Agreements with investors are concluded in a simple written form and are subject to state registration.

2.2.3.2.2 Content of an Agreement

The Law provides for a number of obligatory investment conditions that must be included into agreements with investors:

- 1) The legal form of granting the real estate object and further rights to be acquired by the investor to the result of investments
- 2) The payment amount for granting of the real estate object. The payment can be determined, in particular, in the following forms:
 - Initial price – in case of sale of a land plot
 - Rent – in case of conclusion of a land plot lease agreement
 - Value of the right to conclude an investment agreement – if the object of investments is a building

The initial payment amount for granting of a real estate object is determined on the basis of an independent appraiser's valuation

The actual amount of payment (payments) is determined on the basis of the results of a tender, or – in case of granting for designated use – on the basis of the initial amount, taking into account further change of the parameters of the real estate object being created (total area, functional designation, etc.) in comparison with the parameters used for determining the initial amount of payments

- 3) Deadline for completion of construction (reconstruction) works
- 4) An investment agreement must additionally include conditions concerning the possibility and procedure for assignment and pledge by the investor of its rights and obligations under the investment agreement, as well as conditions concerning the possibility of registration of the right to an unfinished construction object

Along with the obligatory investment conditions, an agreement may also include provisions establishing additional obligations of the investor:

- To reimburse losses and other costs connected with demolition of real estate objects, relocation of constructions, transport communications, and communications lines and engineering equipment, as well as
- To transfer to St. Petersburg either apartments for housing the people residing in the buildings to be reconstructed or non-residential premises to house state institutions and enterprises

The forms of the agreements specified in point 2.2.3.2.1 above have been approved by Regulation of the Committee for City Property Management of the St. Petersburg

Administration No. 235-p dated July 5, 2005 (all agreements with an investor are hereinafter called the “**Agreement**”).

The standard forms of the following documents were approved by the aforesaid Regulation:

- Investment agreement to be concluded with respect to buildings and constructions under reconstruction as well as unfinished construction objects
- Lease agreement for a land plot granted for purposes of completion of construction/reconstruction of a real estate object. The said agreement is concluded for implementation of the Investment Agreement and execution of the investor’s leasehold right to the land plot on which the object under reconstruction/construction is located
- Lease agreement for a land plot under investment conditions. Such agreement is concluded in case of granting of land plots for purposes of new construction. In such case, two versions of these agreements are provided for: one version contains a provision on transfer of funds by the investor for purposes of city infrastructure development while the other version does not contain such a provision

Comments on the main provisions of the Agreements concluded with investors are provided below:

2.2.3.2.2.1 Designated Use of a Real Estate Object

An Investment Agreement contains a description of the designated use of the real estate object to be granted to the investor, whereby the term “designated use” is used for defining the particular result of the investment activities, such as the construction of a hotel, business center, shop.

Changing the designated use of the real estate object stated in the Agreement is possible only upon St. Petersburg’s consent. If such object is used for purposes other than those stipulated in the Agreement, St. Petersburg is entitled to unilaterally terminate the Agreement with the investor.

2.2.3.2.2.2 Payments under an Agreement

Each of the abovementioned Agreements contains different provisions on the types of and procedure for making payments.

In accordance with the Investment Agreement, the investor shall effect payment for the right to enter into the Investment Agreement, the amount of which has to be determined on the basis of the tender results or on the basis of a Regulation of the Government

of St. Petersburg (in case of designated granting). The mentioned payment can be effected in a lump sum within one month as of the moment of entering into the Investment Agreement or in installments by means of transferring quarterly payments. In the second case, interest shall accrue on such quarterly payments as determined in the Investment Agreement.

Additionally, in accordance with the Lease Agreement for a Land Plot granted for purposes of completion of construction/reconstruction of a real estate object, the investor shall make quarterly rent payments in the amount determined by the law. The rent payment amount is determined on the basis of the methodology approved by the Regulation of the St. Petersburg Government "On Methodology for Determining Rent Payments for Land Plots," No. 1561 dated September 14, 2004 (hereinafter the "Methodology for Determining Rent Payments").

A rent payment amount depends on the land plot's location (its belonging to a certain zone of city-planning significance) and functional use. Furthermore, increasing or reducing coefficients may be applied to certain objects and territories (e.g. increasing rent payment rates for land plots located in trade areas near metro and railway stations).

Regardless of the fact that the Lease Agreement for a Land Plot is considered concluded from the moment of its state registration, it incorporates a clause stating that the conditions of the agreement that regulate relations with respect to owning and using the investment object, in particular the investor's obligation to pay rent, come into force from the moment of the signing of the act on transfer and acceptance of the land plot, which is, as a rule, signed simultaneously with the conclusion of the agreement.

As a rule, a concessionary rent payment rate in the amount of 1/10 of the common rate is established in the Investment Agreement for the period of planning and constructing. Once construction is completed, the rent payment amount is changed and depends on the intended function of the constructed object.

In case of entering into a Lease Agreement for a Land Plot under investment conditions, the provision on payments under the agreement can be conceived as follows:

- 1) The investor shall effect rent payment in the amount determined on the basis of the tender results or on the basis of a Regulation of the Government of St. Petersburg (in case of designated granting). In such case, the total amount of the rent payment equals approximately the market value of the right to long-term lease of the land plot. The rent payment can be effected in a lump sum within one month as of the moment of entering into the Investment Agreement or in installments by means of transferring quarterly payments. In the second case, interest shall accrue on such quarterly payments as determined in the Investment Agreement

- 2) In the second case, the Lease Agreement for a Land Plot can provide for payments consisting of two parts: payment for the development of city infrastructure, the amount of which equals, as a rule, the market value of the long-term lease of the land plot (to be effected either in a lump sum or in installments), and the rent payment in the amount determined by the law (in accordance with the Methodology for Determining Rent Payments)

In case of changes in the designated use or increase in the area of the construction object in comparison to the characteristics set forth in the Agreement, the investor is obligated to effect additional payment under the Agreement.

2.2.3.2.2.3 Agreement Terms

Agreements with investors are concluded for the term of construction. A fixed schedule for implementation of the investment project – construction or reconstruction – is agreed upon in the agreements. A delay in implementation of the investment project by the investor serves as the basis for both the imposition of penalties on such investor and the termination of the agreement upon St. Petersburg’s initiative.

If the investor cannot complete the construction (reconstruction) within the terms set forth in the Agreement, the terms of construction (reconstruction) can be prolonged or a decision to terminate the Agreement can be taken. A decision to terminate the Agreement is taken if the volume of construction works already performed on the investment object is less than 10% (which corresponds to the carrying out of ground-works).

If the breach of the construction (reconstruction) terms was caused by the investor, the investor shall pay penalties in accordance with the Agreement, and in certain cases determined by the law shall also pay the difference between the initial and current market value of the object granted to the investor (or the amount of the rent payment for the land plot, respectively).

2.2.3.2.2.4 Transfer and Pledge of Rights Under an Agreement

The standard form of an Investment Agreement provides for the possibility of transferring the investor’s rights under the agreement to a third party (assignment of rights under the agreement) or the possibility of pledging the investor’s rights under the agreement. In case of assignment or pledge of rights under the Investment Agreement, the investor is obligated to submit to KUGI within seven days documents confirming such assignment or pledge. Simultaneously with the assignment of rights under the Investment Agreement the investor shall transfer the rights under the Lease Agreement for the land plot granted for purposes of completion of construction/reconstruction of a real estate object.

Assignment of rights under the Lease Agreement for a land plot under investment conditions can be executed, as a rule, only upon the lessor's (St. Petersburg) consent. The consent to an assignment of rights under the Agreement is executed in accordance with the same procedure employed for concluding the Investment Agreement. Pledge of rights under the Lease Agreement for a land plot under investment conditions is possible provided the investor has no debt in respect of payments under the agreement.

2.2.3.2.2.5 Attraction of Co-Investors

The standard forms of the Agreements do not circumscribe the possibility of attracting co-investors (share participants) for financing the investment project. The main investor (i.e. the investor that concluded the Agreement with St. Petersburg) is responsible for implementing the investment project in full, regardless of whether or not co-investors are attracted for its fulfillment.

2.2.3.2.2.6 Registration of Rights to an Unfinished Construction Object

The Investment Agreement provides that if the investor fulfills its obligations in full regarding transfer of funds and execution of other investment conditions, the investor is entitled to register the ownership right to an unfinished construction object.

In case of conclusion of the Lease Agreement for a land plot under investment conditions, registration of the investor's ownership right to an unfinished construction object is possible only upon the consent of St. Petersburg as represented by KUGI.

2.2.3.2.2.7 Applicable Law and Arbitration

Agreements being concluded with investors may be regulated only by Russian Federation legislation as in accordance with the Russian Federation Civil Code agreements concerning real estate located in the territory of the Russian Federation are governed by Russian law.

Disputes concerning real estate, or rights to real estate, located in the territory of the Russian Federation may be settled only by Russian Federation arbitration tribunals. If real estate is not the subject of the dispute (i.e. the dispute was caused by some other provision of the Investment Agreement, such as for example, payments for infrastructure have not been made), such dispute may be transferred to another court for consideration.

2.2.4 Simplified Procedure for Lease of Land Plots in St. Petersburg

2.2.4.1 General Information

The simplified procedure for lease of land plots was established by the Regulation of the St. Petersburg Government “On Granting for Lease of State Owned Land Plots Located in the Territory of St. Petersburg,” No. 405 dated March 16, 2004.

According to the said procedure, investors may acquire the right to lease “formed” land plots for 6 (six) years, i.e. land plots being included into the cadastre and technical records and which are free from third party rights. Land plots are granted to investors for the purposes of preparing necessary city-planning documents, determining the possibility to build, developing project documents, as well as further construction. Land plots are granted through open tender.

It is necessary to mention that the simplified procedure does not apply to land plots situated within territories designated for residential construction purposes.

2.2.4.2 Procedure for Holding Auctions for Rights to Lease Land Plots

Rights to lease state owned land plots are granted at open auctions organized by the Property Fund of St. Petersburg acting on behalf of KUGI. The criterion for winning an auction is placing the highest bid for rent payments.

Individuals and legal entities, including foreign legal entities, that have duly submitted all necessary documents and effected an advance payment equaling 20% of the total annual rent amount for the land plot, are allowed to participate in an auction.

The advance payment secures the auction winner’s fulfillment of the obligation to conclude a land plot lease agreement and is returned to all losing auction participants after the auction results are announced. The advance payment effected by the auction winner is counted towards the amount of the first payment under the land plot lease agreement.

The initial price under the auction equals the total annual rent amount for the land plot, as determined on the basis of a report of an independent appraiser, and the bid increment is 5% of the initial price.

The participant that has offered the largest annual rent amount for the land plot becomes the auction winner. This participant signs a land plot lease agreement on the conditions specified in section 2.2.4.3 below.

2.2.4.3 Main Provisions of a Land Plot Lease Agreement

The sample form of a land plot lease agreement was approved by Order of KUGI No. 273-p dated May 6, 2004. In particular, the sample agreement contains the following main provisions:

2.2.4.3.1 Designated Use of a Land Plot

Land plots are granted for the purposes of preparing necessary city-planning documents, determining the possibility to build, and developing project documents.

Provided that the said documentation has been prepared and a construction permit obtained, the lessee is entitled to construct real estate objects on the leased land plot.

The designated use of a real estate object to be constructed on the leased land plot is not specified in the sample agreement.

2.2.4.3.2 Rent Payments

During the first three years, the investor pays 90% of the total rent amount for the entire term of the agreement (30% in each year of the lease). Therefore, during the first three years the investor annually pays 180% of the annual rent agreed upon.

For the fourth, fifth and sixth years of the land plot lease agreement, the investor pays 3.33% of the total rent amount respectively, provided that the investor has commenced construction works in accordance with the established procedure. If upon the lapse of 3 years as of the conclusion of the land plot lease agreement the investor has failed to commence construction works, the rent is increased by two times up to 6.66% of the total rent payment per annum for the entire term of the agreement.

The average annual rent payment for the land plot, determined as a result of the auction and used for calculating the above payments under the agreement, remains unchanged for the entire 6 year term of the agreement. Once construction is finished, if the lease agreement with the investor is extended for 49 years the rent amount is changed and established with dependence upon the functional use of the constructed real estate object in accordance with current legislation.

If the investor refuses to fulfill the lease agreement for any reason, the rent payments transferred by the investor are not returned.

2.2.4.3.3 Agreement Terms

Agreements are concluded for terms of 6 years and enter into force as of state registration.

If the investor has completed construction of the real estate object within the established terms, the land plot may be granted for a 49-year lease or may be purchased by the investor in accordance with current legislation.

2.2.4.3.4 Transfer of Rights and Obligations under an Agreement

The standard form of a land plot lease agreement provides for the possibility of transferring the rights and obligations under the agreement to a third party. The lessee is obligated to notify KUGI of an effected assignment. KUGI's preliminary consent to an assignment of rights and obligations under a lease agreement is not required.

2.2.5 Formation of Industrial Zones

Industrial zones are developed in St. Petersburg on the basis of Decree of the Government No. 1961 dated December 14, 2004 "On Development of Territories Designated for Locating Industrial, Transport and Logistics, Public and Commercial and Warehouse Objects". The said Decree specifies a list of territories provided for locating industrial, transport and logistics, public and commercial and warehouse objects, such as Shushary, Metallostroy, Konnaya Lahta, Predportovaya-3 and Noidorf (Strelna). The city government provides financing for the preparation of the necessary city-planning documentation and ensures observance of the terms for its preparation.

Industrial zones will house plants of such automobile producers as Toyota and General Motors.

Apart from manufacturing facilities, it is planned to locate hi-tech factories (mainly software producers) in the industrial zone Noidorf.

3. Structure of an Investment Project and Stages of Its Implementation

3.1 General Information. Choosing an Investment Object

The implementation of any investment project, regardless of its goals, is connected with the necessity to decide on a number of legal and practical issues at each stage of the project. The main stages of implementation of any investment project include:

- Developing the project's concept and determining its goals. For instance, (i) making short-term investments (for a period of 1.5 to 2 years) in order to subsequently sell the real estate object, (ii) acquiring an object for long-term investment, for example, for its subsequent lease or sale, which is, as a rule, connected with the reconstruction stage and changing the real estate object's designation, (iii) acquiring a land plot for constructing a new real estate object
- Marketing in order to determine and assess the most suitable object for implementation of the investment project, and deciding on the project's financial payback (preparation of a business plan)
- Forming contractual relations and the necessary organizational structure for the practical implementation of the investment project, acquiring rights to a real estate object, obtaining state authorities' approvals and permits

This section considers the main legal and practical issues that arise during the implementation of each stage of investment projects.

In the Russian market, the possibilities for choosing real estate objects for investment purposes have significantly expanded in recent years. Apart from international exhibitions held annually in and outside Russia, such as ExpoReal, MIPIM, NEPIX, Barcelona Meeting Point, InterStroy Expo, BATIMAT, etc., at which private and state real estate investment projects are presented, an investment object may be chosen directly in the Russian market. Search options may generally be divided into two main groups:

- 1) Searching for objects with the help of realty agencies that specialize in the market of large investment objects (buildings, land plots), for instance:
 - www.knightfrank.ru – the Russian division of an international consulting company Knight Frank (www.knightfrank.com)

- www.snr-realty.com – the realty firm Stiles & Riabokobylko, an associated member of Cushman & Wakefield Healey & Baker in Russia and the CIS (www.cushmanwakefieldeurope.com)
- www.noblegibbons.ru – NOBLE GIBBONS, an associated member of CB Richard Ellis (www.cbrichardellis.com)
- www.joneslanglasalle.ru – the Russian representative office of the international realty company Jones Lang LaSalle
- www.colliers.ru – the real estate agency COLLIERS INTERNATIONAL

or with the help of a Russian partner – a company specializing in the real estate market or which is itself the owner of any real estate objects

2) Applying directly to the Administration of the region (town) in which implementation of an investment project is planned

As a rule, information on investment projects is provided by state executive or local authority (Administration) subdivisions that are responsible either for working with investors or for managing state property. Lists of objects proposed for investment purposes can be found on the websites of the Administrations of certain regions (as a rule, in such cases industrial objects are implied), for example:

- www.profnd.spb.ru – the St. Petersburg Property Fund
- www.stateinvest.spb.ru – the State Institution “Investment Administration” in St. Petersburg
- www.mfmo.ru/privat/index.html – the Moscow Oblast Ministry of Finance (information on real estate objects proposed for acquisition)
- http://region.adm.nov.ru/econom/invproj/invproj_rus.files/frame.htm – investment project proposals on the website of the Administration of Novgorod Oblast
- <http://admgor.nnov.ru/realty/index.html> – information on investment objects in the real estate field on the website of the Administration of Nizhny Novgorod

3.2 Verifying Rights to Real Estate (Investment Objects) to be Acquired

At the initial stage, one of the main issues an investor encounters is the verification of a seller's (or lessor's) rights to a proposed real estate object.

As a rule, the certificate of title is the document which verifies the title to a particular real estate object. The very fact of existence of a certificate of title allows for considering an individual or legal entity to be the owner of the particular real estate object. Nonetheless, it is necessary to note that the said certificate is not a document that establishes rights, and therefore its existence may not protect an investor against risks associated with violations of the procedure for acquisition of the rights to the particular real estate object committed by the preceding owner. It should be noted that the title may be invalidated by a court upon a claim lodged by a prosecutor or other party considering itself to be the owner of the particular real estate object, in particular, on the basis of absence of duly prepared documents establishing rights which verify lawful acquisition of the rights to the particular real estate object.

A significant portion of the real estate currently being offered on the market has been received by the owners as a result of the privatization of such real estate. In case of acquiring a privatized object, the risks associated with violations of privatization legislation should be examined first of all. The privatization of collective farms currently proposing land plots both for lease and acquisition serves as an example of one of the typical violations. The procedure established by law for the privatization of collective farms included passing a resolution on privatization, dividing the land into shares among all collective farm employees and the employees' subsequent contribution of such shares to the registered capital of the newly created enterprise (as a rule, a joint stock company). Quite frequently that final formal stage at which contributions to the registered capital should have been made was not observed in practice, which now allows any interested party to challenge the results of such privatizations.

Here it is necessary to note that in a number of cases the consideration of disputes concerning invalidation of the results of certain privatizations may be closed due to expiration of the limitation period, 10 years, as most privatization transactions were concluded at the beginning of the 1990s.

In case of acquiring a state or municipally owned land plot, the main goal of verification is to determine which authority is entitled to manage the land plot. This particularity is primarily connected with the fact that municipal authorities sometimes pass, in violation of their authorities, resolutions on land management in respect of land plots to which the state ownership rights are not divided.

With respect to newly created property, it is also necessary to verify the documents establishing rights. In particular, in case of acquiring rights to a real estate object being created in accordance with an investment agreement, it is necessary to analyze the agreement provisions related to the procedure for alienating such object or rights there-to, including the necessity of obtaining the consent of the other party under the agreement to the alienation, the possibility of engaging a co-investor and other conditions significant for entering into the investment project.

Therefore, in all cases it is crucial to conduct a legal due diligence on the owner's rights to the real estate object to be sold, and such due diligence must be completed prior to deciding on the real estate acquisition. Such legal due diligence analyzes a complex of issues. For example, a few such issues are listed below with indication of the documents required for conducting a due diligence on the rights of a person alienating a real estate object:

Main Issues	Required Documents
Procedure of title acquisition by the seller	Documents related to the privatization of the real estate and all preceding transactions therewith, including acquisition of the required corporate and antimonopoly approvals for the transactions
Appropriate state registration of the seller's title	Certificate of Title issued by the competent state authority
Existence of encumbrances on the real estate object and restrictions on the seller's rights	Lease agreements concluded with third parties, mortgage agreements, servitudes
Permitted use of the real estate object	<p>For land plots – documents determining their designation and their belonging to a certain functional zone</p> <p>For buildings – city-planning documents and data on their residential or non-residential classification</p>

3.3 Execution of Rights to Investment Objects

The procedure for executing an investor's rights to an investment object includes the following main stages:

- 1) Preparation and approval of documents on the basis of which the investor acquires the rights to the investment object (for example, an investment agreement, sale and purchase or license agreements, etc.). At this stage the parties may also conclude a preliminary agreement to fix their intentions, which will be valid during the period of preparation of the documents required for concluding the transaction and registering the rights to the real estate object. A preliminary agreement must contain information which allows for unambiguously identifying its subject (i.e. the real estate object), as well as essential agreement conditions. Conclusion of the main agreement may be subject to the fulfillment of certain conditions prescribed by the respective preliminary agreement, for instance changing the real estate's designation, singling out a particular part of the real estate as an independent real estate object, lifting existing encumbrances on the seller's rights, etc.
- 2) Preparation of the documents for the cadastral and technical registrations of the real estate object, which are required for a clear determination of the object's characteristics and for the subsequent state registration of the rights thereto, as well as other documents required in accordance with current legislation. At this stage, in particular, the following are required: the investor's preparation of the land plot cadastre plan, the technical plans for the building and its premises, and documents on appraisal of the real estate object (if required); acquisition of approvals required for concluding the transaction (for example, resolutions of the legal entity's competent management body on approval of the transaction (if such transaction is a large-scale transaction according to Russian Federation legislation), and acquisition of the antimonopoly authorities' consent to the acquisition of the assets
- 3) Conclusion of the agreement (execution of another document establishing rights) and state registration of the rights to the real estate object

A detailed description of each stage, as well as a detailed description of the particularities established by regional legislations regarding the execution of rights to real estate objects are provided in sections 1 and 2 above.

3.4 Investment Project Organizational Work (Structuring)

Regardless of the financing method the investor chooses (described below), in order to maximally optimize the structuring operations connected with the investment project, and in order to reduce the participants' risks, as a rule, a separate company is establish-

ed. Such company receives, on one hand, all the rights to the investment project and, on the other hand, all the contractual obligations connected with financing, conducting necessary construction works, and relations concerning the future use of the investment.

The rights to the initial investment object may be transferred to the project company by means of the following main methods:

- On the basis of an agreement (for instance, a sale and purchase agreement or a long-term lease agreement)
- As a contribution to the project company's registered capital

If the rights to the investment object are transferred by a Russian company it is important to consider the necessity of obtaining the approval of the corporate management bodies of that Russian company (if the value of the property to be alienated constitutes more than 25% of the balance sheet value of all company assets), as well as consider the necessity of obtaining the preliminary consent of the Federal Antimonopoly Service. Pursuant to the requirements of the Russian Federation legislation in effect at the moment of preparing the present edition of this brochure, the consent of the Federal Antimonopoly Service is required in case of any alienation (including sale and purchase transactions, contributions to registered capitals, etc.) of fixed production assets whose value exceeds 20% of the balance sheet value of the assets of the party alienating such property, provided that the aggregate amount of the assets of the **party alienating the property** and the **party acquiring the property** and its affiliated parties exceeds 3 billion rubles.

Initially, 100% of the project company's shares may belong to the company that is the owner of the investment object, and subsequently, following the "entry" of other investors into the investment project, the shares in the project company's capital may be distributed proportionally to each investor's participation.

3.5 Developing an Investment Project Financing Scheme

As financing an investment project in the real estate field is, as a rule, associated with significant monetary expenditures, such financing is mainly carried out by means of attracting third parties' investments, which may be provided in various forms. The particular main forms are: (i) so-called "equity financing," i.e. financing through co-investors attracted to participate in the project, and (ii) credit financing (through credit funds from banks and other financial institutions). Furthermore, in practice, a combination of the two mentioned methods is frequently used.

A relatively independent means of financing projects in the construction sphere is conclusion of agreements on participation in share participation construction or an agreement on investments in construction (investment agreement). The subject of such investment agreement is financing by co-investors of the construction of an object resulting in the commencement of rights to claim related to the respective parts of the constructed real estate object after such construction is finished. Until the end of 2004 there was no legal regulation of such agreements. Relations between a real estate developer and a co-investor were regulated by the civil code then in force and were based on the principle of freedom of contract. Therefore, as a rule, construction companies drafted their own standard forms of share construction agreements and imposed on share participants such conditions which sometimes significantly infringed their rights.

The Federal Law “On Participation in Share Participation Construction of Apartment Buildings and Other Real Estate Objects and on Amending Certain Legislative Acts of the Russian Federation,” No. 214-FZ dated December 30, 2004, which entered into force on April 1, 2005, (hereinafter the “Law On Share Participation Construction”) has established the main rules for the attraction of funds from investors for construction purposes as well as such investors’ rights to constructed real estate objects. It should be mentioned that the Law On Share Participation Construction is aimed primarily at regulating the attraction of funds from individuals for the purposes of residential construction. The contractual relations with legal entities and entrepreneurs can be executed in accordance with the Civil Code and laws of the Russian Federation on investment activities, if such contractual relations are not regulated by the Agreement on Share Participation Construction.

3.5.1 Equity Financing

Equity financing may be carried out in various forms:

- Sale of the project company’s package of shares (ownership interests)
- Admission of co-investors to the project company’s shareholder composition by means of their in-kind contributions (for example, rights to an investment object or a part thereof)

The strong points of financing through share issuance are, firstly, the absence of any interest payment obligations (as opposed to when using credit funds), and, secondly, an increase in the project company’s financial stability.

For the main investor, however, this financing method leads to a reduction of its share of distributed profits, as well as to its partial loss of control over the project company.

In case of implementing equity financing through a Russian project company, a joint stock company is the most preferable legal status for creating such project company.

3.5.2 Credit Financing

In addition to investors' in-kind contributions to the project company's capital, due to which they jointly participate in the investment project (equity financing), project financing may also be carried out by means of drawing loans (credits).

Investors providing credit financing gain profits from the investment project in the form of interest payable on the loans.

Due to the instability of financial markets in Russia, while implementing investment projects, long-term and short-term financing is quite often the thorniest issue.

Short-term lending is not a typical method for financing long-term investments (such as investments in real estate) as the deadline for repaying involved loan resources must correspond with the period for paying back such investments by means of profits gained from implementing the investment project. However, under Russian economic circumstances investments are often financed by means of short-term loans. At the same time, refinancing is periodically carried out at the time when a loan agreement expires, i.e. a loan agreement with a bank is extended for another short-term period or the loan is repaid by means of loan resources from another lender. It is necessary to note that short-term loan financing is connected with particular risks for investors. The main risk concerns liquidity, i.e. a lender's refusal to extend a short-term loan or the impossibility to adequately replace a loan with another. In such circumstances the project company's short-term solvency (liquidity) drastically declines, which leads to a reduction in the amount of free capital required for maintaining the project company's day-to-day activities.

3.5.3 Combined Approach to Financing

An investment project may be financed by attracting both ordinary co-investors (the share participation method) and co-investors that simultaneously act as creditors. Such creditors may, for instance, be international financial organizations such as the European Bank for Reconstruction and Development or the International Financial Corporation.

In such case, profits from the investment project are distributed between such investors in two forms: (a) in the form of loan interest and (b) in the form of dividends on investors' share participations in the project company's capital.

3.6 Preparing Drafts of Necessary Documents and Their Signing

In order to implement an investment project in the real estate field it is necessary to thoroughly develop a whole package of documents determining the relations between the investors, the procedure for the project company's activities, investment project financing and the performance of necessary construction works. Depending on an investment project's stages of implementation, such documents may be divided into the following groups:

- Execution of the investment project's organizational structure – the project company's foundation documents, investment agreement (joint activities agreement) and documents required for transferring the rights to the investment object to the project company
- Financing the investment project – for instance, loan agreements, credit agreements, agreements for subscription to the project company's shares
- Performance of design and construction works – agreement for the performance of design and exploratory works, agreements with architects, general contractors, engineers
- Agreements connected with the management and disposal of the real estate object that is the result of the investments (agreements with management companies, building lessees, etc.)

As an example, some of the main documents that support the implementation of an investment project are considered below.

3.6.1 The Project Company's Foundation Documents

Depending on the organizational and legal structure chosen by the investors for performing the investment project, it is necessary to prepare the respective corporate documents required for creating such structure (the project company's documents in the jurisdiction chosen by the investors). In addition, it is necessary to prepare other agreements that regulate the issues of the relations between the investors, which may be an investment agreement or a joint-activities agreement. Such agreement is concluded with the co-investors at the moment of their entry into the project, which may occur both at the initial stage and following establishment of the project company.

In the documents related to executing the investment project's organizational and legal structure special attention must be devoted, in particular, to the following issues:

Managerial control in the project company

Depending on the status and goals of the investment project's participants, the project company's foundation documents may provide for the participation of one or several main investors in the company's management. In case of portfolio financing (in case of acquisition of a significant but not controlling stake in the company), the company's Articles of Association (or another internal document determining the relations of its shareholders) may contain a provision stating that all main resolutions (including the distribution of profits, conclusion of large-scale transactions, formation of the company's management bodies) must be passed by a qualified majority of votes.

Qualification on the possibility to exit from the project

If implementation of the investment project is connected with high risks, a qualification on the possibility to exit from the project and to be compensated for invested funds may be incorporated into the investment agreement on any co-investor's initiative. If the project company is established under the laws of the Russian Federation, the Federal Law "On Limited Liability Companies" provides for the possibility of a participant's exit from the company with payment of the market value of the participant's ownership interest, in cash or in-kind, to such participant. The Federal Law "On Joint Stock Companies" only provides for the possibility of a shareholder's alienation of its own shares.

3.6.2 Investment Agreement

The Investment Agreement (or the agreement on investments in construction) can be concluded if legal entities or individual entrepreneurs act as co-investors and is deemed to be the main framework agreement regulating the agreements between the main investor, the co-investors and the creditors for purposes of structuring the contractual relations under the investment project.

In the agreement concluded between the main investor and one or several co-investors it is recommended to determine the following:

- Each investor's share in the project company (in particular, the investment agreement can provide for incremental increases in the share capital of the project company and, respectively, in the amounts of the shares owned by the investors in the share capital) or the investors' shares in the ownership right to the real estate object that will be created in the course of construction

- The forms for making investments (e.g. transfer of rights to a land plot, property rights to the results of works and services of third parties related to preparation and implementation of documents under the investment project, contribution of funds, payment for the project company's expenses for financial and legal services, etc.)

- The value of each investor's contribution
- The procedure for alienation of an investor's shares in the project company (if investments are made through such company) and the procedure for termination of participation in the investment project. In particular, the investment agreement can provide for the obligation of the co-investors to not sell or alienate otherwise (or encumber) the shares in the project company
- The structure of the management of the project company. In particular, it is necessary to determine the composition of the management bodies and the procedure for their election as well as the structure and content of internal documents defining the procedure for management activities
- The terms of implementation of the various stages of the investment project
- The obligations of the co-investors to provide the required assistance in management and technical aid necessary for the implementation of the investment project (e.g. on the basis of an additionally concluded agreement on rendering services). Such a provision can be included into the investment agreement if, for example, one of the parties thereto is a Russian participant specializing in construction and able to obtain all necessary consents and approvals
- The law governing the investment agreement and the procedure for dispute resolution

Depending on the purposes of the investment project, on the relations between the investors and creditors, as well as on other conditions, the parties can include in the investment agreement other provisions confirming each of the agreed upon matters.

3.6.3 Agreement on Participation in Share Participation Construction

In accordance with the Law On Share Participation Construction, legal entities holding ownership or leasehold right to a land plot and a construction permit may act as developers, i.e. parties attracting funds for construction purposes.

According to an agreement on participation in share participation construction (hereinafter "agreement"), the developer undertakes to construct a real estate object using its own means or with assistance of other parties and, after permission for putting the object into operation has been obtained, to transfer the respective object (granted premises inside the object) to the share participation construction participant (hereinafter "share participant") that has paid the sum stipulated by the agreement. The Law On Share Participation Construction establishes a number of obligatory requirements for

developers attracting funds from co-investors on the basis of agreements on participation in share participation construction: the developer is entitled to attract funds only after (1) a construction permit has been obtained in accordance with the established procedure, (2) publication and (or) placement of a project declaration in cases provided for by the Law On Share Participation Construction, and (3) state registration of the developer's ownership or leasehold right to the land plot granted for construction of the real estate object.

An agreement is concluded in a written form and is subject to state registration. Obligatory conditions of an agreement, in particular, include: (1) information on the part of the object to be transferred to the share participant as specified in the project documentation, (2) the deadline for the developer's transfer of the share participation construction object to the share participant, (3) the price under the agreement, i.e. the price to be paid by the share participant in accordance with the agreement, and the payment procedure as well as (4) the guarantee term with respect to the share construction object.

The fulfillment by the developer of its obligations under an agreement on participation in share participation construction shall be secured by a bank guarantee, providing for joint liability of the bank before the share participant for the developer's obligations under the agreement, or by pledge (mortgage) by operation of law as follows:

- As of the date of state registration of an agreement, the land plot owned by the developer, or the right to lease this land plot, as well as the real estate object being constructed thereon are considered pledged to the share participants
- As of the date of state registration of the developer's ownership right to the unfinished construction object, it is considered pledged to the share participants
- In case of state registration of the developer's ownership right to premises constituting a part of the real estate object that was constructed through attraction of funds from share participants, the said premises are considered pledged to the share participants

Upon completion of construction and putting the building into operation, a share participant is entitled to register its ownership right to the part of the real estate object for which he/she has paid. The basis for state registration of the share participant's right is the permission for putting the object into operation (to be submitted by the developer once) and the transfer act signed by the developer and the share participant.

3.6.4 Loan Agreement

A loan agreement may be concluded both with the investors participating in the investment project and directly with the project company itself. In cases when loans are obtained directly by the project company, the co-investors participating in the project company are often the company's guarantors with respect to its fulfillment of the obligations under the loan agreements.

3.6.4.1 Loan Agreement Conditions

A loan agreement concluded by a project company shall, in particular, contain the following conditions:

- The purposes and conditions for granting the loan (purpose of the loan, amount, currency, terms for granting and repayment, interest rate, conditions for early repayment, penalties for a delay in repayment of the principal amount and accrued interest), as well as the conditions precedent for granting the loan
- The commercial terms for granting the loan (including the amount of the flat initial commission, the fee for the obligation to grant the loan, the commission fee for maintaining the loan, etc.)
- Provisions related to "syndication" of the loan
- The creditor's access to the project company's financial and accounting data (may be provided for in an agreement with one or several main creditors)
- Governing law and the dispute resolution procedure

The loan repayment conditions must be connected with the profits gained from the investment project. In this regard, prior to agreeing on the loan repayment conditions it is extremely important to prepare a detailed and reliable financial plan for the investment project, which includes in particular, a cash flow estimate.

3.6.4.2 Securing the Project Company's Obligations Under Loan Agreements

Security for the project company's fulfillment of its obligations under concluded loan agreements may, in particular, be:

- An agreement for pledge of an investment object belonging to the project company (for instance, a land plot)

- An agreement for pledge of a building being an investment object, the construction of which is yet to be finished
- An agreement for pledge of a building being an investment result upon completion of its construction (for instance, a constructed building)
- Mortgage, by operation of law, of a land plot on which construction is being performed as well as the building being constructed thereon. In accordance with the new version on the Law On Mortgage, a land plot, or the leasehold right to such land plot, on which a building has been or is being constructed through use of credit funds or special-purpose loan funds is considered pledged as of the date of state registration of the borrower's ownership right to the building constructed or being constructed, or as of the date of the registration authority's receipt of a notice from the lender and the borrower on conclusion of the credit agreement (loan agreement) (Clause 1 of Article 64.2 of the Law On Mortgage). Unless otherwise provided for by a mortgage agreement, in case of mortgage of a land plot the charge also applies to the borrower's building or construction located or being constructed thereon (Clause 1 of Article 64 of the new version of the Law On Mortgage)
- Agreements for assignment of the project company's rights under its agreements (for example, under preliminary lease agreements with future lessees of premises in the building constructed by the project company, utilities agreements, and agreements for providing services connected with management of the constructed real estate object)
- Agreements for securing the fulfillment of the project company's obligations to its creditors by certain participants in the project company (for instance, in the form of guarantees, property pledges, providing bank guarantees)

3.6.5 Agreement on Subscription to the Project Company's Shares

A subscription agreement must, in particular, contain the following conditions related to the co-investors' acquisition of project company shares:

- The procedure and terms for paying the shares
- The deadlines for issuing the shares subject to subscription (including the deadlines for the company's authorized bodies to pass the resolutions required for the share issuance) and conditions precedent for implementation of the share subscription
- The categories of the shares to be issued (ordinary or privileged)

- The possibility of subscribing to additional shares of subsequent issuances in order to preserve the size of each shareholder's ownership interest in the project company (or the possibility of changing the ratio of ownership interests subject to agreement between the investment project's participants)
- Governing law

3.6.6 Agreement for General Design

In order to prepare and obtain approval of the architectural design of a future real estate object, the project company concludes an agreement with a project designer (architect).

While concluding such an agreement attention should be focused, first of all, on the following conditions:

- The obligation to conduct the main design works, including preparation and approval of the project documents in full as well as preparation of the working documents necessary for performing the construction works
- The architect's provision of additional services including interior design, preparation of area layout plans and a site development plan
- Rights to the design and construction documents developed by the architect (it is advisable to incorporate into the agreement a qualification on the commencement of the project company's rights to the project documents, and on the necessity of obtaining the project company's preliminary consent to the architect's use of the developed documents for any other projects)
- Inclusion of the project company into the agreement on the architect's professional liability as an additional insurant
- The possibility of assigning the rights under the agreement to a creditor as security

Depending on the extent of the works, the building contract (as described below) may also include the entire range of works connected with the design of a real estate object, and therefore concluding a separate agreement with an architect will not be required.

3.6.7 Building Contract

A building contract is concluded by and between the project company and the general contractor.

Despite the fact that many construction companies have their own standard building contracts, as a rule, their use for the purposes of project financing requires making significant amendments and conducting a thorough legal due diligence in order to protect the rights of both the project company and separate investors. If the general contractor does not insist on using a standard contract, a building contract may be prepared on the basis of samples published by the International Federation of Consulting Engineers ("FIDIC"). The most suitable contract for the implementation of an investment project is a turnkey contract, according to which the general contractor is fully liable for the timely completion of the project in accordance with the guaranteed production rates. In such case, the contractor undertakes full liability for the design, construction, construction material supplies, installation, and putting the object into operation, as well as ensures that the project complies with mandatory construction regulations and rules. A contractor under a turnkey contract, in fact, guarantees that all construction elements are in good repair and that the subcontractors' work is of due quality.

All relations with subcontractors should be established exclusively through the general contractor. Such structure for contractual relations allows for minimizing the risk of occurrence of any reciprocal claims between several contractors, and the risk of occurrence of cases of undistributed liability with respect to the construction works.

The main provisions of a building contract that are to be considered while developing such contract:

- The total cost of the works and acceptable deviations from the project cost in accordance with which the project company will have the right to approve certain deviations and/or suspend the works
- The deadlines for performing the works, including establishment of a fixed date for transfer of the object
- The grounds that allow the contractor to exceed the deadlines for transferring the object as established by the agreement (in the interests of the investors, such grounds should be minimized). In particular, while incorporating the "force-majeure" qualification in the agreement such qualification's wording should be thoroughly analyzed and the events that are subject to the contractor's control must be excluded therefrom. Furthermore, the force-majeure provisions must obligate the contractor to take all possible measures to prevent the actual commencement of any circumstances which may be classified as "force-majeure"
- The contractor's obligation to pay damages for any delay in the construction works in an amount established in advance

- The distribution of unforeseen risks connected with the construction site (i.e. delay or suspension of the construction works due to a reason stemming from the construction site's geological or technical conditions)
- The contractor's obligation to obtain all approvals and permits from state authorities for implementing the investment project and putting the real estate object, being the investment result, into operation in accordance with current legal requirements in the fields of health, safety, engineering, environmental protection, fire safety and construction
- The possibility of assigning the rights under the agreement to a creditor as security

3.6.8 Insurance Agreement

An insurance agreement concluded by and between the project company and an insurance company should cover all risks of losses to the project company in connection with investment project implementation and its liability to third parties. For instance, in case of any force-majeure circumstances (natural disasters or catastrophes), which entail losses or other risks related to implementation of the investment project, the project company's assets may become insufficient for securing its loan agreements. Therefore, it is crucial to thoroughly study the insurance conditions and possibilities at the earliest possible stage of the investment project.

Due to restrictions established by current Russian legislation, an insurer may only be a Russian insurance company holding an appropriate license. Insurance coverage shall, in particular, include:

- Insurance against material damage to the investment object and other objects connected therewith (for example, objects of the living environment)
- Insurance against material damage to other assets of the project company (for instance, equipment and vehicles)
- Insurance for project company employees' liabilities to third parties
- Insurance for liability for environmental damage caused by the project company
- Insurance against risks connected with using the real estate object being the investment result

3.6.9 Agreement with a Management Company

Upon completion of a real estate object's construction the project company may transfer such real estate object for use to a specialized management company working in the Russian market.

Such management company may be a company independent of the project company and investors which, depending on the extent of the rights granted thereto, will conclude lease (or sublease) agreements with the separate lessees of the premises. Depending on the activity scheme chosen by the project company, such agreements may be concluded in various forms:

1. **Long-term agreement for leasing the entire real estate object (or a portion thereof)**, whereas:

- The project company receives a fixed revenue in the amount of the rent under the agreement concluded with the management company and is not a party to the lease agreements concluded with the direct lessees of the premises
- The risks associated with use of the real estate object are fully borne by the management company

2. **Agency agreement for use of the real estate object**

In such case, the management company acts as the project company's agent and functions as an intermediary while concluding agreements with lessees. In this case, the management company's remuneration may be determined on the basis of criteria established by an agency agreement. The owner may preserve the functions of strategic decision-making and the functions of control over management quality, whereas the functions of day-to-day management of the real estate object are delegated to the management company.

The main complex of services rendered by a management company includes:

1) Management services:

- Technical and administrative management, including control over fulfillment of the conditions under concluded sublease agreements, current services to clients
- Marketing and advertising aimed at attracting lessees
- Management of financial proceeds from lessees and management of expenses connected with repairs and maintenance

- Organization of a financial reporting system

2) Use, repair and maintenance services:

- Regular examinations of the real estate object
- Engineering and technical maintenance of all supplying systems (heating, ventilation, water and electricity), including regular preventive maintenance and repair of equipment in case of its failure
- Business logistics – purchases of materials and equipment required for the object's maintenance
- Development of a system of contractual relations between all work producers and the owner with determination of zones and degrees of responsibilities, as well as choosing contract service organizations and concluding agreements with them for the repair, maintenance and provision of utilities services
- Cleaning services within buildings and on the areas adjacent to the buildings
- Ensuring security – installing security alarms, an access control system, development of a restricted entry system and employment of qualified security personnel

3) Insuring and managing risks (for instance, by concluding insurance agreements)

3.6.10 Preliminary Lease Agreements (Between the Project Company and Lessees)

The most widely employed method for executing the relations between a project company and a future user is the conclusion of a preliminary agreement serving as the basis for the subsequent (upon putting the real estate object into operation) conclusion of a lease agreement.

If either party attempts to avoid concluding the main agreement, the other party is entitled to request in court that the main agreement be concluded and that damages be paid.

Pursuant to requirements of the Russian Federation Civil Code, a preliminary agreement must contain conditions which allow for defining the subject and other significant conditions of the main agreement. As a rule, a preliminary agreement must indicate the deadline by which the parties thereto undertake to conclude the main agreement.

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