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## **RUSSIAN FEDERATION**

### **FEDERAL LAW**

#### **ON CONCESSIVE AGREEMENTS**

(as amended of 4 December 2007)

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The document contains amendments made by:

Federal Act N 261-FZ of 8 November 2007 (Rossiyskaya Gazeta, N 254, 14.11.2007)  
(on enforcement procedure see article 41 of the Federal Act N 261-FZ of 8 November 2007);

Federal Act N 332-FZ of 4 December 2007 (Rossiyskaya Gazeta, N 276, 08.12.2007)  
(on enforcement procedure see article 5 of the Federal Act N 332-FZ of 4 December 2007).

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Adopted  
by the State Duma  
on July 6, 2005

Approved  
by the Federation Council  
on July 13, 2005

## **CHAPTER 1. GENERAL PROVISIONS**

### **ARTICLE 1. PURPOSES AND SUBJECT OF REGULATING THE PRESENT FEDERAL LAW**

1. The purposes of the present Federal law are attracting investments in the RF economy, securing effective use of property, being in state or municipal ownership, on conditions of concessive agreements and increasing quality of goods, work and services, provided to consumers.

2. The present Federal law regulates the relations arising in connection with preparing, concluding, performing and canceling concessive agreements, establishes guarantees of

rights and legal interests of parties of concessive agreement.

## **ARTICLE 2. LEGISLATION OF THE RUSSIAN FEDERATION ON CONCESSIVE AGREEMENTS**

1. The RF legislation on concessive agreements consists of the present Federal law, other federal laws and other standard legal acts of the RF adopted in accordance with them.

2. If other rules are established by the RF international treaty than those that are provided by the present Federal law, the rules of international treaty are applied.

## **ARTICLE 3. CONCESSIVE AGREEMENT**

1. In accordance with concessive agreement one party (concessionaire) is obliged at its own expense to create and (or) reconstruct real property defined by this agreement (later - object of concessive agreement), right of ownership to which belongs or will belong to the other party (concedent), to exercise activity with using (exploiting) the object of concessive agreement, and the concedent is obliged to grant rights of possession and use of the object of concessive agreement for exercising the stated activity for the term, established by this agreement

2. The concessive agreement is a contract in which the elements of different contracts provided by federal laws are contained. The rules of civil legislation on contracts which elements are contained in concessive agreement are applied in corresponding parts to relations of the parties of concessive agreement, if otherwise does not result from the present Federal law or essence of concessive agreement.

3. For the purposes of the present Federal law reconstruction of the object of concessive agreement includes activities for its rearrangement on the basis of applying new technologies, mechanization and automation of industry, modernization and replacement of morally outmoded and physically depreciated equipment with new more efficient equipment, change of technological or functional purpose of the object of concessive agreement or its separate parts, other activities for improving characteristics and operational qualities of the object of concessive agreement.

4. The object of concessive agreement, subject to reconstruction, for the time of concluding concessive agreement must be in concedent's ownership and be exempt from the third parties' rights.

5. The change of end use of reconstructed object of concessive agreement is not permitted.

6. The transfer by the concessionaire in pledge of the object of concessive agreement or its alienation is not permitted.

7. The production and profits, generated by the concessionaire as a result of exercising the activity provided by concessive agreement, are concessionaire's ownership if otherwise is not established by concessive agreement.

8. The concessionaire bears risk of accidental loss or accidental damage of the object

of concessive agreement, if otherwise is not established by concessive agreement. In accordance with concessive agreement the obligation to insure the object of concessive agreement at his/its expense can be imposed on the concessionaire.

9. The concessive agreement can provide granting by the concedent in concessionaire's possession and use property belonging to the concedent on right of ownership, forming a single whole with the object of concessive agreement and (or) intended for use according to general purpose for exercising by the concessionaire the activity, provided by concessive agreement. In this case the concessive agreement establishes structure and description of such property, purposes and term of its use (exploitation) by the concessionaire, order of restitution of such property to the concedent in case of canceling concessive agreement. The concessive agreement can establish concessionaire's obligations with respect to such property for its modernization, replacement of morally outmoded and physically depreciated equipment with new more efficient equipment, other improvement of characteristics and operational qualities of such property.

10. The property created or purchased by the concessionaire in performing concessive agreement and not being the object of concessive agreement is concessionaire's ownership, if otherwise is not established by concessive agreement.

11. The exclusive rights to the results of intellectual activity, obtained by the concessionaire at his/its expense in performing concessive agreement, belong to the concedent, if otherwise is not established by concessive agreement.

12. The concessionaire bears expenses for performing obligations by concessive agreement, if otherwise is not established by concessive agreement.

13. The concedent has a right to assume part of expenses for creation and (or) reconstruction of the object of concessive agreement, use (exploitation) of the object of concessive agreement and grant guarantees to the concessionaire in accordance with federal laws, other standard legal acts of the RF, laws of the RF subject, standard legal acts of the body of local government. The amount of the expenses, assumed by the concessionaire, must be indicated in the terms of competition for the right of concluding concessive agreement or in the decision about concluding concessive agreement without holding competition, as well as in concessive agreement.

14. The concessionaire exercises putting into operation created and (or) reconstructed object of concessive agreement in the order, established by the RF legislation.

15. The concessionaire's rights of possession and use by the object of concessive agreement as well as by real property, granted to the concessionaire in accordance with part 9 of the present article, are subject to state registration as an encumbrance of concedent's right of ownership. The state registration of concessionaire's rights of possession and use by created object of concessive agreement is made simultaneously with state registration of concedent's right of ownership to this object.

16. The concessionaire keeps account of the object of concessive agreement on separate balance and makes amortization charge of this object.

#### **ARTICLE 4. OBJECTS OF CONCESSIVE AGREEMENT**

1. The object of concessive agreement is real property, included into the structure of the following property:

1) car roads and engineering buildings of transport infrastructure, including bridges, overpasses, tunnels, parking places of motor vehicles, points of motor vehicles admission, points of collecting payment from owners of freight vehicles;

2) objects of railway transport;

3) objects of pipeline transport;

4) sea and river ports, including waterside structures of ports intended for creation and (or) reconstruction of hydraulic structures of ports, hydraulic structures of ports, objects of their production and engineering infrastructures (paragraph has been added since 25 November 2007 by the Federal Act N 261-FZ of 8 November 2007);

5) sea and river boats, boats of mixed (river-sea) navigation, as well as boats making ice-breaker route, hydrographic, scientific research activity, ferry passages, floating and dry docks;

6) aerodromes and buildings and (or) structures, intended for taking-off, landing, taxiing and standing of aircrafts;

7) objects of production and engineering infrastructures of airports;

8) clause has been considered as lost its force since 8 December 2007 - the Federal Act N 332-FZ of 4 December 2007;

9) waterside structures;

10) objects for production, transfer and distribution of electric and heat power;

11) systems of municipal infrastructure and other objects of municipal economy, including objects of water, heat, gas and power supply, drainage system, water treatment, processing and utilization (burial) of domestic wastes, objects intended for lightning territories of town and rural settlements, objects intended for land improvement;

12) underground and other public transport;

13) objects used for exercising therapeutical-preventive, medical activity, organizing citizens' rest and for tourism;

14) objects of health care, education, culture and sport and other objects of social cultural and social purpose.

2. If the object of concessive agreement and other property, not being in state or municipal ownership, are intended for their use according to general purpose, securing unified technological process exercising the activity, provided by concessive agreement, the concedent has a right to conclude with the owner of property, not being in state or municipal ownership, civil legal contract that defines terms and order of granting the stated property to the concessionaire (contract in favor of the third party), but he/it is obliged to make initiation of rights and obligations by the stated contract dependent on initiation of relations by concessive agreement.

## **ARTICLE 5. PARTIES OF CONCESSIVE AGREEMENT**

1. The parties of concessive agreement are:

1) concedent - Russian Federation, on which behalf the RF Government or federal executive body, authorized by it, acts or the RF subject, on which behalf the body of state power of the RF subject acts, or municipal agency, on which behalf the body of local government acts;

2) concessionaire - sole trader, Russian or foreign legal entity or two and more stated legal entities, acting without forming legal entity according to contract of ordinary partnership (contract of joint activity).

2. The substitution of persons according to concessive agreement by concession of demand or debt transfer is permitted on concedent's consent from the time of putting the object of concessive agreement into operation. The concessionaire has no right to transfer in pledge his/its rights by concessive agreement.

3. The transfer of concessionaire-legal entity's rights and obligations in case of his/its reorganization to another legal entity must be made on condition of correspondence of legal entity reorganized or arisen as a result of reorganization to the requirements established by the decision on concluding concessive agreement.

## **ARTICLE 6. PERIOD OF VALIDITY OF CONCESSIVE AGREEMENT**

The period of validity of concessive agreement is established by concessive agreement taking into consideration the term of creating and (or) reconstructing the object of concessive agreement, volume of investments in creating and (or) reconstructing the object of concessive agreement and term of recouplement of such investments, other obligations according to concessive agreement.

## **ARTICLE 7. PAYMENT ACCORDING TO CONCESSIVE AGREEMENT**

1. The concessive agreement provides payment, made by the concessionaire to the concedent within the period of use (exploitation) of the object of concessive agreement (later - concessive payment). Making concessive payment can be provided both within the whole term of use (exploitation) of the object of concessive agreement, and within separate periods of such use (exploitation). The amount of concessive payment, form, order and terms of its making are established by concessive agreement in accordance with the decision about concluding concessive agreement.

2. The concessive payment can be established as

1) payments, defined in fixed sum, made periodically or at a time in the budget of corresponding level;

2) fixed share of production or profits generated by the concessionaire as a result of exercising the activity, provided by concessive agreement;

3) transfer in concedent's ownership the property, being in concessionaire's ownership.

3. The parties of concessive agreement can provide in concessive agreement the combination of forms of concessive payment, indicated in part 2 of the present article.

## **ARTICLE 8. CONCESSIONAIRE'S RIGHTS AND OBLIGATIONS**

1. In performing concessive agreement the concessionaire has a right:

1) to dispose of the object of concessive agreement in the order, established by the present Federal law and concessive agreement;

2) to perform concessive agreement by his/its own strengths and (or) with other persons' attraction. At that the concessionaire bears responsibility for other persons' acts as for his/its own ones;

3) to use on gratuitous basis in the order, established by concessive agreement, and in observing conditions of confidentiality, established by this agreement, exclusive rights to results of intellectual activity obtained by concessionaire at his/its expense in performing concessive agreement, for the purposes of performing his/its obligations by concessive agreement.

2. In performing concessive agreement the concessionaire is obliged:

1) to make in the terms, established by concessive agreement, creation and (or) reconstruction of the object of concessive agreement and start its use (exploitation);

2) to use (exploit) the object of concessive agreement for the purposes and in the order that are established by concessive agreement;

3) to exercise the activity, provided by concessive agreement, and not to cease (not to suspend) this activity without concedent's consent;

4) to ensure in exercising the activity, provided by concessive agreement, possibility of obtaining by consumers corresponding goods, work, services;

5) to provide to consumers concessions, established by federal laws, laws of the RF subject, standard legal acts of the body of local government, including concessions for payment of goods, work, services, in cases and in the order that are established by concessive agreement;

6) to maintain the object of concessive agreement in good condition, to make current and thorough repairs at his/its expense, bear expenses for maintenance of this object, if otherwise is not provided by concessive agreement.

## **ARTICLE 9. CONCEDENT'S RIGHTS TO EXERCISING CONTROL FOR PERFORMING CONCESSIVE AGREEMENT**

1. From concedent's side the control for performing concessive agreement is exercised correspondingly by the RF Government or federal executive body, authorized by it, body of state power of the RF subject, body of local government in the person of representatives of

the stated bodies that in accordance with concessive agreement have a right of free access to the object of concessive agreement, as well as to documentation concerning exercising the activity provided by concessive agreement.

2. The concedent exercises control for observing by the concessionaire the terms of concessive agreement, as well as for performing obligations according to observing the terms of creating and (or) reconstructing the object of concessive agreement, making investments in its creation and (or) reconstruction, ensuring correspondence of technical economic indicators of the object of concessive agreement to technical economic indicators, established by concessive agreement, exercising the activity provided by concessive agreement, using (exploiting) the object of concessive agreement in accordance with the purposes, established by concessive agreement.

3. The representatives of the bodies, indicated in part 1 of the present article, have no right:

1) to interfere with exercising concessionaire's economic activity;

2) to disclose information, related by concessive agreement to information of confidential character and being commercial secret.

4. The order of exercising by the concedent control for observing by the concessionaire the terms of concessive agreement is established by concessive agreement.

## **ARTICLE 10. TERMS OF CONCESSIVE AGREEMENT**

1. The concessive agreement must include the following essential terms:

1) concessionaire's obligations for creating and (or) reconstructing the objects of concessive agreement, observing the terms of its creation and (or) reconstruction;

2) concessionaire's obligations for exercising the activity, provided by concessive agreement;

3) period of validity of concessive agreement;

4) structure and description, including technical economic indicators, of the object of concessive agreement;

5) order of granting to the concessionaire land plots, intended for exercising the activity, provided by concessive agreement, and term of concluding with the concessionaire lease contracts (sublease) of these land plots (if concluding lease contracts (sublease) of land plots is necessary for exercising the activity, provided by concessive agreement);

6) purposes and term of use (exploitation) of the object of concessive agreement;

7) other essential terms, provided by federal laws.

2. The concessive agreement besides the essential terms, provided by part 1 of the present article, can contain other terms, not conflicting with the RF legislation and terms of competition, in particular:

- 1) volume of producing goods, executing work, rendering services in exercising the activity, provided by concessive agreement;
- 2) order and terms of establishing and changing prices (tariffs) for produced goods, executed work, rendered services and extra charges to prices (tariffs) in exercising the activity, provided by concessive agreement;
- 3) volume of investments in creating and (or) reconstructing of the object of concessive agreement;
- 4) term of putting into operation created and (or) reconstructed object of concessive agreement with technical economic indicators, established by concessive agreement;
- 5) concessionaire's obligations for selling produced goods, executing work, rendering services at domestic market within the period, established by concessive agreement;
- 6) concessionaire's obligations for selling produced goods, executing work, rendering services at regulated prices (tariffs) and in accordance with fixed extra charges to prices (tariffs);
- 7) concessionaire's obligations for granting concessions to consumers, established by federal laws, laws of the RF subject, standard legal acts of the body of local government, including concessions for payment of goods, work, services;
- 8) methods of securing by the concessionaire performing obligations by concessive agreement, including insurance of risk of loss (destruction) or damage of the object of concessive agreement;
- 9) concedent's obligations for financing part of expenses for creating and (or) reconstructing the object of concessive agreement, expenses for use (exploitation) of the stated object.

3. If the RF legislation provides financing of granting goods, work, services to citizens and other consumers at the expense of budgetary funds of the RF budget system in full volume, payment of such goods, work, services at the expense of citizens' and other consumers' means must not be provided by concessive agreement.

4. The RF Government approves model concessive agreements with respect to certain objects of concessive agreements, indicated in part 1 article 4 of the present Federal law.

## **ARTICLE 11. PECULIARITIES OF GRANTING LAND PLOT TO CONCESSIONAIRE ON LEASE (SUBLEASE)**

1. The land plot on which the object of concessive agreement is located and (or) which is necessary for exercising by the concessionaire the activity, provided by concessive agreement, is granted by the concedent to the concessionaire on lease (sublease) for the period of validity of concessive agreement. The lease contract (sublease) of land plot must be concluded with the concessionaire not later than sixty working days from the day of signing concessive agreement.

1\_1. Contract of lease (sublease) of the land plot indicated in clause 4 of part 1 of article 4 of this Federal Act shall be concluded with concessionaire not later than after sixty



working days after the day of carrying out of state cadastre record of the land plot (paragraph has been additionally included from 25 November 2007 by the Federal Act N 261-FZ of 8 November 2007).

2. The concessionaire has no right to transfer his/its rights according to lease contract (sublease) of land plot to other persons and grant land plot on sublease, if otherwise is not provided by lease contract of land plot.

3. The termination of concessive agreement is a basis for terminating lease contract (sublease) of land plot.

## **ARTICLE 12. CONCESSIONAIRE'S RESPONSIBILITY FOR QUALITY OF THE OBJECT OF CONCESSIVE AGREEMENT**

1. The concessionaire bears responsibility to the concedent for committed violation of the requirements, established by concessive agreement, in creating and (or) reconstructing the object of concessive agreement, and (or) requirements of technical regulations, project documentation, other obligatory requirements to quality of created and (or) reconstructed object of concessive agreement.

2. If the violation of the requirements, indicated in part 1 of the present article, is committed the concedent has a right to require from the concessionaire gratuitous elimination of such violation within the reasonable period, established by the concedent.

3. The concedent has a right to require from the concessionaire compensation for inflicted damages if the violation of the requirements, indicated in part 1 of the present article, has not been eliminated within the reasonable period, established by the concedent, or it is essential.

4. The concessionaire bears responsibility to the concedent for quality of the object of concessive agreement within the period, established by concessive agreement, or if such period is not established, within five years from the day of transferring this object to the concedent. If the period, established by concessive agreement, is less than five years and the violation of the requirements to quality of created and (or) reconstructed object of concessive agreement has been discovered at the expiration of this period, but within five years from the day of transferring this object to the concedent, the concessionaire bears responsibility to the concedent on condition that the concedent will prove that such violation has been committed from the day of transferring this object to the concedent or because of the reasons, arisen before the day of transferring.

## **ARTICLE 13. CONCLUSION, CHANGE AND TERMINATION OF CONCESSIVE AGREEMENT**

1. The concessive agreement is concluded by holding competition for the right of concluding concessive agreement, with exception of the cases, provided by article 37 of the present Federal law.

2. The concessive agreement is concluded in accordance with model concessive agreement, provided by part 4 article 10 of the present Federal law.

3. The concessive agreement can be changed on its parties' consent. At that the terms of concessive agreement, established on the basis of competition proposal, are subject to be changed only in the cases, provided by parts 1 and 3 article 20 of the present Federal law.

4. The concessive agreement on demand of parties of concessive agreement can be changed by court decision on the grounds, provided by the RF Civil Code.

#### **ARTICLE 14. CONSEQUENCES OF TERMINATING CONCESSIVE AGREEMENT**

1. The concessionaire is obliged to transfer to the concedent the object of concessive agreement and other property, provided by concessive agreement and defined in accordance with part 9 article 3 of the present Federal law in the period, established by concessive agreement.

2. The object of concessive agreement, transferred to the concedent, and other property, provided by concessive agreement and defined in accordance with part 9 article 3 of the present Federal law, must be in the condition, established by concessive agreement, suitable for exercising the activity, provided by concessive agreement, and corresponding to the requirements, established by the present Federal law, as well as must not be encumbered with the third parties' rights.

3. The transfer by the concessionaire of the object of concessive agreement and other property, provided by concessive agreement and defined in accordance with part 9 article 3 of the present Federal law and their acceptance by the concedent are made in accordance with the deed of assignment or other transfer document of this object and such property, signed by the parties of concessive agreement.

4. If otherwise is not provided by federal law or concessive agreement, concessionaire's obligation to transfer to the concedent in accordance with concessive agreement the object of concessive agreement and other property, provided by concessive agreement and defined in accordance with part 9 article 3 of the present Federal law, is considered to be carried out after acceptance of this object and such property by the concedent and signing the corresponding transfer document by the parties of concessive agreement. The avoidance of the party of concessive agreement of signing the transfer document is considered rejection of this party of concessive agreement of performing obligations by concessive agreement.

5. The cessation of rights of possession and use of the object of concessive agreement and other real property, provided by concessive agreement and defined in accordance with part 9 article 3 of the present Federal law, is subject to state registration in the order, provided by the RF legislation.

#### **ARTICLE 15. CANCELLATION OF CONCESSIVE AGREEMENT ON THE BASIS OF COURT DECISION**

1. The concessive agreement can be cancelled on the basis of court decision on demand of the party of concessive agreement in case of considerable violation of the terms of concessive agreement by the other party of concessive agreement, essential change of the circumstances, from which the parties of concessive agreement proceeded in its concluding, as well as on other grounds, provided by the present Federal law, other federal laws or concessive agreement.

2. The considerable violations of the terms of concessive agreement are:

1) violation of the terms of creating and (or) reconstructing real property;

2) use (exploitation) of the object of concessive agreement for the purposes, not established by concessive agreement, violation of the order of use (exploitation) of the object of concessive agreement;

3) non-performance by the concessionaire of obligations for exercising the activity, provided by concessive agreement;

4) cessation or suspension by the concessionaire of activity, provided by concessive agreement, without concedent's consent;

5) non-performance or improper performance by the concessionaire of obligations, established by concessive agreement, for providing citizens and other consumers with goods, work, services, including services of water, heat, gas and power supply, services of drainage system, services of public transport.

3. The concessive agreement besides considerable violations of its terms, indicated in part 2 of the present article, can define concedent's or concessionaire's acts (omission), being considerable violations of the terms of concessive agreement.

4. The basis for canceling concessive agreement is non-correspondence of legal entity-concessionaire, reorganized or arisen as a result of reorganization, to the requirements, established by the decision about concluding concessive agreement.

## **ARTICLE 16. RESPONSIBILITY OF THE PARTIES OF CONCESSIVE AGREEMENT**

The parties of concessive agreement bear property responsibility for non-performance or improper performance of their obligations by concessive agreement, provided by the present Federal law, other federal laws and concessive agreement.

## **ARTICLE 17. ORDER OF RESOLVING DISPUTES**

The disputes between the concedent and concessionaire are resolved in accordance with the RF legislation.

## **CHAPTER 2. GUARANTEES OF CONCESSIONAIRES' RIGHTS AND LEGAL INTERESTS**

### **ARTICLE 18. GUARANTEES OF EXERCISING ACTIVITY, PROVIDED BY CONCESSIVE AGREEMENT**

1. In exercising the activity, provided by concessive agreement, protection of rights and obligations are guaranteed to the concessionaire in accordance with the RF Constitution, the RF international treaties, present Federal law, other federal laws, other standard legal acts of the RF.

2. The concessionaire has a right to compensation of damages, inflicted to him as a result of illegal acts (omission) of state bodies, bodies of local government or officials of these bodies, in accordance with the RF Civil Code.

### **ARTICLE 19. GUARANTEES OF CONCESSIONAIRES' EQUAL RIGHTS**

The concessionaires, including concessionaires-foreign legal entities, are guaranteed with equal rights, provided by the RF legislation, legal regime of activity, excluding application of measures of discriminatory character and other measures, preventing concessionaires from free disposal of investments and production and profits, generated as a result of exercising the activity, provided by concessive agreement.

### **ARTICLE 20. GUARANTEES OF CONCESSIONAIRE'S RIGHTS IN CASE OF CHANGING LEGISLATION UNFAVORABLE FOR HIM**

1. If within the period of validity of concessive agreement the RF legislation, legislation of the RF subjects, standard legal acts of bodies of local government establish standards worsening concessionaire's position in such a way that he is deprived to a great extent of that he was entitled to count on in concluding concessive agreement, the parties of concessive agreement change the terms of concessive agreement for the purposes of securing concessionaire's property interests, existed for the day of signing concessive agreement. The order of introducing such changes is defined by concessive agreement.

2. The provision concerning the change of the terms of concessive agreement, indicated in part 1 of the present article, is not applied, if the change is introduced in technical regulation, other standard legal act of the RF, regulating relations of conservation of resources, environment, citizens' health.

3. If within the period of validity of concessive agreement, in accordance with which the concessionaire provides consumers with goods, work, services at fixed prices (tariffs) and (or) taking into consideration regulated extra charges to prices (tariffs), the standards are established and changes are introduced, provided by parts 1 and 2 of the present article, the terms of such concessive agreement must be changed on concessionaire's demand.

## **CHAPTER 3. ORDER OF CONCLUDING CONCESSIVE AGREEMENT**

### **ARTICLE 21. COMPETITION FOR THE RIGHT OF CONCLUDING CONCESSIVE AGREEMENT**

1. The competition for the right of concluding concessive agreement (later - competition) can be open (any persons can file applications to participate in competition) or closed (persons, whom invitations to participate in such competition in accordance with the decision on concluding concessive agreement are sent, can file applications to participate in competition).

2. The closed competition is held if the concessive agreement is concluded with respect

to the object of concessive agreement, which data are state secret, as well as the object of concessive agreement, having strategic importance for securing state defensive capacity and safety. The concedent, competition commission and participants of competition in holding closed competition must observe the requirements of the RF legislation on state secret. The data related to state secret in accordance with the RF legislation are not subject to publication in mass media, placing in the Internet and including in the report about holding competition, sent to persons in accordance with the decision on concluding concessive agreement.

3. In holding open competition the data, provided by articles 24-26 and 35 of the present Federal law, are subject to placing on concedent's official site in the Internet (later - placing on official site in the Internet). If the municipal agency has no official site in the Internet, placing such data on official site of the RF subject, within the borders of which the municipal agency is located, is placing corresponding data on official site in the Internet. Such placing is made free of charge for the municipal agency.

4. The RF Government can define official site in the Internet, on which information about holding all open competitions is placed.

## **ARTICLE 22. DECISION ON CONCLUDING CONCESSIVE AGREEMENT**

1. The decision on concluding concessive agreement is taken by the concedent:

1) with respect to the objects of concessive agreement, ownership rights on which belong to the Russian Federation, with exception of the objects of concessive agreement, provided by point 2 of the present part, - by the RF Government;

2) with respect to the objects of concessive agreement, having strategic importance for securing state defensive capacity and security, - by the RF Government on behalf of the RF President;

3) with respect to the objects of concessive agreement, ownership rights on which belong to the RF subject, - by the body of state power of the RF subject;

4) with respect to the objects of concessive agreement, ownership rights on which belong to the municipal agency, - by the body of local government.

2. The decision on concluding concessive agreement establishes:

1) competition documentation, including terms of concessive agreement;

2) order of concluding concessive agreement;

3) staff of competition commission in holding competition for the right of concluding concessive agreement (later - competition commission).

3. If the federal law provides concluding concessive agreement without holding competition, the decision on concluding concessive agreement establishes terms of concessive agreement, order of concluding concessive agreement and requirements to the concessionaire.

4. The decision on concluding concessive agreement can be appealed in the order,

provided by the RF legislation.

## **ARTICLE 23. COMPETITION DOCUMENTATION**

1. Competition documentation must contain:

1) terms of concessive agreement;

2) structure and description, including technical economic indicators, of the object of concessive agreement;

3) requirements that are made to participants of competition (including requirements to their qualification, professional, business qualities) and in accordance with which preliminary selection of participants takes place;

4) competition criteria and parameters of competition criteria, established in accordance with part 3 article 24 of the present Federal law;

5) exhaustive list of documents and materials, presented by applicants (including documents and materials, confirming their correspondence to the requirements, made to participants of competition), as well as forms of presenting such documents and materials;

6) term of publication, placing report about holding competition or sending this report to persons in accordance with the decision on concluding concessive agreement simultaneously with invitation to participate in competition;

7) order of filing applications for participation in competition and requirements made to them;

8) place and term of filing applications for participation in competition (dates and time of beginning and expiration of this term);

9) order, place and term of presenting competition documentation;

10) order of giving explanations of provisions of competition documentation;

11) indication on methods of securing by the concessionaire performance of obligations by concessive agreement;

12) amount of the advance, granted as securing performance of obligations in concluding concessive agreement (later - advance), order and term of its granting, details of accounts, on which the advance is granted;

13) term of publication, placing the report about holding competition;

14) order, place and term of making competition proposals (dates and time of beginning and expiration of this term);

15) order and term of change and (or) withdrawal of applications for participation in competition and competition proposals;

16) order, place, date and time of opening envelopes with applications for participation

in competition;

17) order and term of making preliminary selection of participants of competition, date of signing protocol of making preliminary selection of participants of competition;

18) order, place, date and time of opening envelopes with competition proposals;

19) order of considering and appraising competition proposals;

20) order of defining the winner of competition;

21) term of signing the protocol about results of holding competition;

22) term of concluding concessive agreement;

23) project of lease contract (sublease) of land plot, intended for exercising the activity, provided by concessive agreement;

24) project of concessive agreement.

2. Competition documentation must not contain the indication on trade marks and service marks, firm names, patents, useful models, industrial samples or names of places of goods' origin.

3. Competition documentation must not contain the requirements to participants of competition, ungroundlessly restricting access of some participant of competition to participation in competition and (or) creating preferred terms of participation in competition for some participant of competition

4. From the day of publishing the report about holding competition in official printing edition, defined by the concedent, placing on official site in the Internet or from the day of sending to persons in accordance with the decision on concluding concessive agreement the report about holding competition simultaneously with invitation to participate in competition the concedent or competition commission are obliged to present applicants competition documentation on the basis of their applications in the order, provided by the report about holding competition, on condition of preliminary making by applicants payment for presenting such documentation, if such payment is fixed. The presentation of competition documentation to applicants earlier than the term, established by the present part, is forbidden.

5. The concedent or competition commission are obliged to give in writing explanations of provisions of competition documentation on applicants' requests, if such requests came to the concedent or competition commission not later than ten working days before the day of expiring the term of filing applications for participation in competition. The explanations of provisions of competition documentation are sent by the concedent or competition commission to each applicant not later than five working days after the day of coming the request, but not later than five working days before the day of expiring the term of filing application for participation in competition with the attachment of content of the request without indication of the applicant, from whom the request came. In case of holding open competition the explanations of provisions of competition documentation with the attachment of content of the request without indication of the applicant, from whom the request came, are also placed on official site in the Internet. The applicants' requests, indicated in the present part, as well as explanations of provisions of competition documentation with the attachment of content of the request without indication of the

applicant, from whom the request came, can also be sent to them in electronic form.

6. The concedent has a right to introduce changes in competition documentation on condition of obligatory prolongation of the term of filing applications for participation in competition or competition proposals not less than thirty working days from the day of introducing such changes. The report about introducing changes in competition documentation within three working days from the day of their introduction is published by competition commission in official printing edition, defined by the concedent, placed on official site in the Internet or sent to persons in accordance with the decision on concluding concessive agreement.

## **ARTICLE 24. COMPETITION CRITERIA**

1. Competition criteria are defined by competition documentation and used for appraisal of competition proposals in the order, established by articles 32 and 33 of the present Federal law.

2. The following can be established as competition criteria:

1) terms of creating and (or) reconstructing the object of concessive agreement;

2) period from the day of signing concessive agreement till the day, when created and (or) reconstructed object of concessive agreement corresponds to technical economic indicators, established by concessive agreement;

3) technical economic indicators of the object of concessive agreement;

4) volume of producing goods, executing work, rendering services in exercising the activity, provided by concessive agreement;

5) period from the day of signing concessive agreement till the day, when producing goods, executing work, rendering services in exercising the activity, provided by concessive agreement, is made in the volume, established by concessive agreement;

6) amount of concessive payment;

7) limited prices (tariffs) for produced goods, executed work, rendered services, extra charges to such prices (tariffs) in exercising the activity, provided by concessive agreement.

3. For each competition criterion the following parameters are established:

1) initial condition as number not equal to zero (later - initial meaning of competition criterion);

2) decreasing or increasing initial meaning of competition criterion in competition proposal;

3) coefficient, taking into account importance of competition criterion.

4. The meanings of coefficients, taking into account importance of competition criterion, can be changed from zero till one, and the sum of meanings of all coefficients must be



equal to one.

## **ARTICLE 25. COMPETITION COMMISSION**

1. For holding competition the concedent sets up competition commission. The number of members of competition commission can not be less than five persons. The competition commission is authorized to take decisions if not less than fifty percent of total number of its members is present at the sitting of competition commission, at that each member of competition commission has one vote. The decisions of competition commission are taken by majority of votes from number of votes of members of competition commission, participated in its sitting. In case of equality of number of votes the vote of the chairman of competition commission is considered decisive. The decisions of competition commission are drawn up with protocols that are signed by the members of competition commission, participated in the sitting of competition commission.

2. The citizens filed applications for participation in competition or included in the staff of the organizations filed applications for participation in competition, or citizens being shareholders (participants) of these organizations, members of their management bodies or affiliated persons of participants of competition, can not be members of competition commission. In case of discovering such persons in the staff of competition commission the concedent replaces them with other persons.

3. The competition commission performs the following functions:

1) publishes and places the report about holding competition (in holding open competition);

2) sends to persons in accordance with the decision on concluding concessive agreement the report about holding competition simultaneously with invitation to participate in competition (in holding closed competition);

3) publishes and places the report about introducing changes in competition documentation, as well as sends the stated report to persons in accordance with the decision on concluding concessive agreement;

4) takes applications for participation in competition;

5) presents to persons who filed applications for participation in competition (later - applicants) competition documentation and explanations of provisions of competition documentation;

6) considers applications for participation in competition;

7) defines applicants, not passing preliminary selection, takes decision on rejection of these persons' access to participate in competition and sends them corresponding notifications;

8) defines participants of competition;

9) sends to participants of competition invitations to present competition proposals in accordance with competition criteria, considers and appraises competition proposals;

- 10) defines the winner of competition and sends him notification about his recognition as a winner;
- 11) signs the protocol about results of holding competition;
- 12) notifies participants of competition about results of holding competition;
- 13) publishes and places the report about results of holding competition.

## **ARTICLE 26. REPORT ABOUT HOLDING COMPETITION**

1. The report about holding competition is published by competition commission in official printing edition, defined by the concedent, and placed on official site in the Internet (in holding open competition) or sent to persons in accordance with the decision on concluding concessive agreement simultaneously with invitation to participate in competition (in holding closed competition) in the period, established by competition documentation, but not less than thirty working days before the day of expiring the term of filing applications for participation in competition.

2. The competition commission has a right to publish the report about holding competition in any mass media, as well as in electronic ones, on condition that such publication can not be made instead of publication in official printing edition and placing on official site in the Internet, provided by part 1 of the present article.

3. The following must be stated in the report about holding competition:

- 1) name, postal address and concedent's telephone number;
- 2) object of concessive agreement;
- 3) period of validity of concessive agreement;
- 4) requirements to participants of competition;
- 5) competition criteria and their parameters;
- 6) order, place and term of filing competition documentation to applicants;
- 7) amount of payment collected by the concedent for presenting competition documentation, order and terms of its making, if such payment is established. The amount of such payment must not exceed expenses on making copies of competition documentation and their sending by post to applicants;
- 8) place of location of competition commission;
- 9) order, place and term of filing applications for participation in competition (dates and time of beginning and expiration of this term);
- 10) order, place and term of making competition proposals (dates and time of beginning and expiration of this term);
- 11) place, date and time of opening envelopes with applications for participation in

competition;

12) place, date and time of opening envelopes with competition proposals;

13) order of defining the winner of competition;

14) term of signing the protocol about results of holding competition by members of competition commission;

15) term of concluding concessive agreement.

## **ARTICLE 27. FILING APPLICATIONS FOR PARTICIPATION IN COMPETITION**

1. The applications for participation in competition must meet the requirements, established to such applications by competition documentation, and contain documents and materials confirming correspondence of applicants to the requirements made to participants of competition.

2. The term of filing applications for participation in competition must be not less than thirty working days from the day of publishing and placing the report about holding competition or from the day of sending such report to persons in accordance with the decision on concluding concessive agreement simultaneously with invitation to participate in competition.

3. The application for participation in competition is drawn up in Russian in written arbitrary form in two copies (original and copy), each of which is certified with applicant's signature, and filed to competition commission in the order, established by competition documentation, in separate sealed envelope. The list of documents and materials, presented by the applicant, certified by his signature, is attached to application for participation in competition, which original is kept by competition commission, copy - by applicant.

4. The application for participation in competition, filed to competition commission, is subject to registration in the register of applications under filing number with indication of date and exact time of its filing (hours and minutes) to avoid coincidence of this time with the time of filing other applications for participation in competition. The note about date and time of filing application for participation in competition with indication of number of this application is made on the copy of the list of documents and materials, presented by the applicant.

5. The envelope with application for participation in competition, filed to competition commission at the expiration of the term of filing applications for participation in competition, is not opened and returned to the applicant who filed it together with the list of documents and materials presented by him, on which the note about rejection of taking application for participation in competition is made.

6. If at the expiration of the term of filing applications for participation in competition less than two applications for participation in competition were filed, the competition on concedent's decision, taken the next day after expiring this term, is declared not to have taken place and the sum of made advance is returned to the applicant within five working days from the day of taken the stated decision.

7. The applicant has a right to change or revoke his application for participation in competition in any time before expiring the term of filing applications for participation in competition to competition commission. The change of application for participation in competition or notification about its revocation is considered valid if such change or such notification came to competition commission before expiring the term of filing applications for participation in competition.

## **ARTICLE 28. OPENING ENVELOPES WITH APPLICATIONS FOR PARTICIPATION IN COMPETITION**

1. The envelopes with applications for participation in competition are opened at the sitting of competition commission in the order, established by competition documentation. At that name (surname, first name, patronymic) and place of location (place of residence) of each applicant, whose envelope with application for participation in competition is opened, are declared and registered in the protocol of opening envelopes with applications for participation in competition.

2. The applicants or their representatives have a right to be present in opening envelopes with applications for participation in competition.

3. All envelopes with applications for participation in competition, filed to competition commission before expiring the term of filing applications for participation in competition, are subject to opening.

## **ARTICLE 29. MAKING PRELIMINARY SELECTION OF PARTICIPANTS OF COMPETITION**

1. The preliminary selection of participants of competition is made in the order, established by competition documentation, by competition commission that considers:

1) correspondence of application for participation in competition to the requirements, contained in competition documentation. At that competition commission has a right to require from the applicant explanations of provisions of application for participation in competition filed by him;

2) correspondence of applicant to the requirements, contained in competition documentation. At that competition commission has a right to require from the applicant explanations of provisions of documents and materials, presented by him, confirming his correspondence to the stated requirements.

2. The competition commission on the basis of results of making preliminary selection of participants of competition takes the decision on applicant's access to participate in competition or on rejection of applicant's access to participate in competition and draws up this decision with the protocol of making preliminary selection of participants of competition, including name (for legal entity) or surname, first name, patronymic (for sole trader) of the applicant, passed preliminary selection of participants of competition and permitted to participation in competition, as well as name (for legal entity) or surname, first name, patronymic (for sole trader) of the applicant, not passed preliminary selection of participants of competition and not permitted to participation in competition, with justification of the decision taken by competition commission.

3. The decision on rejection of applicant's access to participate in competition is taken by competition commission if:

1) the applicant does not correspond to the requirements made to participants of competition;

2) the application for participation in competition does not correspond to the requirements made to applications for participation in competition;

3) documents and materials presented by the applicant are not complete and authentic.

4. The competition commission within three working days from the day of signing by members of competition commission the protocol of making preliminary selection of participants of competition, but not later than sixty working days before the day of expiring the term of making competition proposals to competition commission sends to participants of competition the notification with the proposal to make competition proposals. The applicants, not permitted to participate in competition, are sent the notification about rejection of access to participate in competition with the attachment of copy of the stated protocol and returned sums of advances made by them within five working days from the day of signing the stated protocol by members of competition commission.

5. The decision on rejection of applicant's access to participate in competition can be appealed in the order, established by the RF legislation.

### **ARTICLE 30. MAKING COMPETITION PROPOSALS**

1. The competition proposal is drawn up in Russian in writing in two copies (original and copy), each of which is certified with applicant's signature, and made to competition commission in the order, established by competition documentation, in separate sealed envelope. The list of documents and materials, presented by the applicant, certified by his signature, is attached to application for participation in competition, which original is kept by competition commission, copy - by the applicant.

2. The competition proposal made to competition commission is subject to registration in the register of competition proposals under filing number with indication of date and exact time of its making (hours and minutes) to avoid coincidence of this time with the time of making other competition proposals. The note about date and time of making competition proposal with indication of number of this competition proposal is made on the copy of the list of documents and materials, presented by the applicant.

3. The participant of competition has a right to make competition proposal at the sitting of competition commission at the time of opening envelopes with competition proposals that is time of expiring the term of making competition proposals.

4. The participant of competition has a right to change or revoke his competition proposal in any time before expiring the term of making competition proposals to competition commission. The change of competition proposal or notification about its revocation is considered valid if such change or such notification came to competition commission before expiring the term of making competition proposals.

5. In competition proposal for each competition criterion the meaning of condition

proposed by the participant of competition is indicated as number.

### **ARTICLE 31. OPENING ENVELOPES WITH COMPETITION PROPOSALS**

1. The envelopes with competition proposals are opened at the sitting of competition commission in the order, established by competition documentation. At that name and place of location (for legal entity) or surname, name, patronymic and place of residence (for sole trader) of each applicant of competition and meanings of conditions contained in competition proposals in accordance with competition criteria are declared and registered in the protocol of opening envelopes with competition proposals.

2. The participants of competition, made competition proposals to competition commission or their representatives, have a right to be present in opening envelopes with competition proposals.

3. All envelopes with competition proposals, made by participants of competition to competition commission before expiring the term of making competition proposals, are subject to opening.

4. The envelope with competition proposal, made to competition commission at the expiration of the term of making competition proposals, is not opened and returned to the applicant who made it together with the list of documents and materials presented by him, on which the note about rejection of taking competition proposal is made.

### **ARTICLE 32. ORDER OF CONSIDERING AND APPRAISING COMPETITION PROPOSALS**

1. The consideration and appraisal of competition proposals are made in the order, established by competition documentation, by competition commission that defines correspondence of competition proposal to competition criteria and makes comparison of conditions, contained in competition proposals, for the purposes of defining the winner of competition.

2. The competition commission on the basis of results of considering competition proposals takes the decision about correspondence of competition proposal to competition criteria or about non-correspondence of competition proposal to competition criteria.

3. The decision on non-correspondence of competition proposal to competition criteria is taken by competition commission if the condition contained in competition proposal does not correspond to established parameters of competition criteria.

4. The decision on non-correspondence of competition proposal to competition criteria can be appealed in the order, established by the RF legislation.

5. The appraisal of competition proposals with respect to which the decision on their correspondence to competition criteria is taken is made by competition commission in the following order:

1) if for competition criterion increase of its initial meaning is established, the amount calculated based on the condition contained in competition proposal and such criterion, is fixed by multiplying coefficient of such criterion by ratio of difference of meaning of the

condition contained in competition proposal and initial meaning of such condition to difference of the greatest among the meanings of conditions contained in all competition proposals and initial meaning of such criterion.

2) if for competition criterion decrease of its initial meaning is established, the amount calculated based on the condition contained in competition proposal and such criterion, is fixed by multiplying coefficient of such criterion by ratio of difference of meaning of the condition contained in competition proposal and initial meaning of such condition to difference of the least among the meanings of conditions contained in all competition proposals and initial meaning of such criterion.

3) for each competition proposal amounts, calculated based on all competition criteria in accordance with provisions of points 1 and 2 of the present part, are summed up.

6. The conditions contained in competition proposals are appraised by competition commission by comparing the results of summing up, obtained in the order, provided by point 3 part 5 of the present article.

7. The competition by concedent's decision, taken the next day after expiring the term of making competition proposals, is declared not to have taken place if less than two competition proposals were made to competition commission or less than two competition proposals were considered correspondent to competition criteria by competition commission. If the competition was declared not to have taken place, the concedent returns to the participant of competition the sum of advance made by him within five working days from the day of taking such decision. The concedent has a right to consider competition proposal, made by only one participant of competition, and if it corresponds to competition criteria, to take decision about concluding concessive agreement with this participant of competition in accordance with the conditions contained in competition proposal made by him.

### **ARTICLE 33. ORDER OF DEFINING THE WINNER OF COMPETITION**

1. The winner of competition is a participant of competition proposed the best conditions defined in the order, provided by parts 5 and 6 article 32 of the present Federal law.

2. If two and more competition proposals contain equal best conditions, the winner of competition is a participant of competition made competition proposal to competition commission earlier than other stated participants of competition.

3. The decision on defining the winner of competition is drawn up with the protocol of considering and appraising competition proposals in which the following are indicated:

1) competition criteria;

2) terms contained in competition proposals;

3) results of considering competition proposals with indication of competition proposals with respect to which the decision on their non-correspondence to competition criteria is taken;

4) results of appraising competition proposals in accordance with parts 5 and 6 article 32 of the present Federal law;

5) name and place of location (for legal entity), surname, name, patronymic and place of residence (for sole trader) of the winner of competition, justification of the decision taken by competition commission on considering the participant of competition as the winner of competition.

4. The decision on considering the participant of competition as the winner of competition can be appealed in the order, established by the RF legislation.

### **ARTICLE 34. CONTENT OF PROTOCOL ABOUT RESULTS OF HOLDING COMPETITION AND TERM OF ITS SIGNING**

1. The competition commission not later than five working days from the day of signing the protocol of considering and appraising competition proposals signs the protocol about results of holding competition in which the following are included:

1) decision on concluding concessive agreement with indication of the kind of competition;

2) report about holding competition;

3) list of persons whom in accordance with the decision on concluding concessive agreement the report about holding competition was sent simultaneously with invitation to participate in competition (in holding closed competition);

4) competition documentation and changes introduced into it;

5) requests of participants of competition about explanations of provisions of competition documentation and corresponding explanations of the concedent or competition commission;

6) protocol of opening envelopes with applications for participation in competition;

7) originals of applications for participation in competition filed to competition commission;

8) protocol of making preliminary selection of participants of competition;

9) list of participants of competition whom notifications about the proposal to make competition proposals were sent;

10) protocol of opening envelopes with competition proposals;

11) protocol of considering and appraising competition proposals.

2. The protocol about results of holding competition is kept by the concedent within the period of validity of concessive agreement.

3. The sums of advances made by participants of competition are returned to all participants of competition, with exception of the winner of competition, within five working days from the day of signing the protocol about results of holding competition.



## **ARTICLE 35. PUBLISHING AND PLACING THE REPORT ABOUT RESULTS OF HOLDING COMPETITION, NOTIFICATION OF PARTICIPANTS OF COMPETITION ABOUT RESULTS OF HOLDING COMPETITION**

1. The competition commission within fifteen working days from the day of signing the protocol about results of holding competition or taking by the concedent decision on declaring competition not to have taken place is obliged to publish the report about results of holding competition with indication of name (for legal entity) or surname, name, patronymic (for sole trader) of the winner of competition or decision on declaring competition not to have taken place with justification of this decision in official printing edition, in which the report about holding competition was published, and place such report on official site in the Internet.

2. The competition commission within fifteen working days from the day of signing the protocol about results of holding competition or taking by the concedent decision on declaring competition not to have taken place is obliged to send the notification to participants of competition about results of holding competition. The stated notification can also be sent in electronic form.

3. Any participant of competition has a right to appeal to the concedent to explain the results of holding competition and the concedent is obliged to give him in writing corresponding explanations within thirty days from the day of obtaining such appeal.

## **ARTICLE 36. ORDER OF CONCLUDING CONCESSIVE AGREEMENT**

1. The concedent within five working days from the day of signing by members of competition commission the protocol about results of holding competition sends to the winner of competition the copy of the stated protocol as well as the project of concessive agreement, corresponding to the decision about concluding concessive agreement and competition proposal made by the winner. The concessive agreement must be signed not later than ninety working days from the day of signing the protocol about results of holding competition.

2. In case of rejection or avoidance of the winner of competition of signing concessive agreement in the established term the concedent has a right to propose concluding concessive agreement to the participant of competition, whose competition proposal on results of considering and appraising competition proposals contains best conditions, following after conditions proposed by the winner of competition. The concedent sends to such participant of competition the project of concessive agreement, corresponding to the decision about concluding concessive agreement and competition proposal made by such participant of competition. The concessive agreement must be signed not later than ninety days from the day of sending the stated documents. The advance made by the winner of competition who did not sign concessive agreement in the established term is not returned to him.

3. In case of concluding concessive agreement in accordance with part 7 article 32 of the present Federal law not later than five working days from the day of taking by the concedent decision to declare competition not to have taken place sends to the participant

of competition who is proposed to conclude the stated agreement, the project of concessive agreement, corresponding to the decision about concluding concessive agreement and initial meanings of competition criteria. In this case the concessive agreement must be signed not later than ninety working days from the day of sending the project of concessive agreement to the stated participant of competition.

4. The concessive agreement is concluded in writing and comes into force from the day of its signing.

### **ARTICLE 37. CONCLUDING CONCESSIVE AGREEMENT WITHOUT HOLDING COMPETITION**

The concessive agreement can be concluded without holding competition in the case, provided by part 7 article 32 of the present Federal law, as well as in other cases, provided by federal law.

President  
of the Russian Federation  
V.Putin

Moscow, Kremlin  
July 21, 2005  
N 115-FZ

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