

# FEDERAL LAW NO.(18) OF 1993 COMMERCIAL TRANSACTIONS LAW

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**FEDERAL LAW NO.(18) OF 1993**  
**COMMERCIAL TRANSACTIONS LAW**

**FEDERAL LAW NO.(18) OF 1993**  
**ISSUING THE COMMERCIAL TRANSACTIONS LAW**

We Zayed Bin Sultan Al Nahyan, President of the United Arab Emirates;  
After perusal of the Provisional Constitution; and  
Federal Law No. (1) of 1972 concerning the jurisdictions of the ministries and the powers of the ministers as amended; and  
Federal Law No. (5) of 1975 concerning the Commercial Register; and  
Federal Law No. (8) of 1980 concerning the Organization of Labour Relations as amended; and  
Federal Law No. (10) of 1980 concerning the Central Bank, the Monetary System and the Organization of the Banking Profession as amended; and  
Federal Law No. (18) of 1981 concerning the Organization of Trade Agencies as amended; and  
Federal Law No. (26) of 1981 concerning the Commercial Maritime Law as amended; and  
Federal Law No.(8) of 1984 concerning the Commercial Companies Law as amended; and  
Federal Law No. (9) of 1984 concerning the Insurance Companies and Agents as amended; and  
Federal Law No. (5) of 1985 issuing the Civil Transactions Low as amended; and  
Federal Law No. (22) of 1991 concerning the Notary Public; and  
Federal Law No. (10) of 1992 issuing the Law of Evidence in Civil and Commercial Transactions; and  
Federal Law No. (11) of 1992 issuing the Civil Procedures Law; and  
Federal Law No. (37) of 1992 concerning the Trademarks; and  
Federal Law No. (44) of 1992 concerning the Organization and Protection of Industrial Property of Industrial Patents and of Industrial Drawings and Models; and  
Pursuant to the proposal of the Minister of Economy and Commerce, and the approval of the Cabinet and the ratification of the Supreme Federal Council;

Hereby Enact The Following Law:

**ARTICLE (1)**

The attached Commercial Transactions Code shall take force and effect.

**ARTICLE (2)**

Any provision contrary to the provisions hereof shall be repealed.

**ARTICLE (3)**

The Ministers and specialized Authorities in the Emirates shall, each within the scope of his jurisdiction, enforce the provisions hereof, and the Minister of Economy and Commerce shall after obtaining such Authorities' opinion, issue the resolutions necessary for its implementation.

**ARTICLE (4)**

This Law shall be published in the official Gazette and shall operate three months after the date of its publication.

Zayed Bin Sultan Al Nahyan  
President of the United Arab Emirates

Enacted at the Presidential Palace in Abu Dhabi  
On 21 Rabie Al Awal 1414 A.H. corresponding to 7 September 1993 A.D.

**COMMERCIAL TRANSACTIONS LAW**  
**PRELIMINARY PART**

**ARTICLE (1)**

The provisions of this Law shall apply to traders, as well as to all commercial activities carried out by any person even though he be not a trader.

**ARTICLE (2)**

1. Traders and commercial activities shall be governed by the agreement entered into by the two contracting parties unless such agreement contradicts an imperative commercial text.
2. Where there is no specific agreement, the rules of commercial customs and practices shall apply to any matter, regarding which, there is no provision herein or in another law related to trading matters. A specific or local custom shall have precedence over the general custom. In the absence of a commercial custom, the provisions pertaining to civil matters shall apply as long as they do not contradict the general principles of the commercial activity.
3. Specific agreements or commercial customs rules may not be applied if they contradict the Public Order or Morals.

**ARTICLE (3)**

Commercial matters regarding which Specific Federal Laws are enacted shall be subject to the provisions of such laws, and to the provisions hereof which do not contradict with said laws.

**BOOK ONE**  
**COMMERCE IN GENERAL**

**BOOK ONE**  
**COMMERCE IN GENERAL**  
**PART ONE**  
**CHAPTER ONE**  
**COMMERCIAL ACTIVITIES**

**ARTICLE (4)**

Commercial activities are :

1. Such activities which are carried out by a trader in relation to his trade affairs, provided that each activity carried out by a trader is considered to be related to his trade unless proved otherwise.
2. Speculative activities carried out by a person, though not a trader, with the intent of realizing profit.
3. The activities which are specified by the Law to be commercial activities.
4. The activities which are related to or facilitating a commercial activity.

**ARTICLE (5)**

The following activities shall, by virtue of their nature, be considered as commercial activities:

1. The purchase of commodities and other material and non-material movables with the intention of selling them at a profit, best to sell them in the same condition or after processing or manufacturing them.
2. The purchase or the hiring of commodities and other material and non-material movables with the intent of hiring them out.
3. The sale or hiring out of commodities and movables purchased or hired as provided for herein.
4. The banking, exchange, stock markets and investment companies operations, trust funds, financial establishments and all kinds of other financial brokerage operations.
5. All kinds of transactions related to commercial papers, irrespective of the capacity of the concerned persons therein or the nature of the transactions for which such operations are carried out.
6. All kinds of sea and air navigation activities, including:-

- a. The construction, sale, purchase, chartering or taking on charter , repair or maintenance of vessels and aircrafts, as well as sea and air shipment and carriage.
  - b. The sale and purchase of vessel and aircraft supplies, tools and materials and supplies thereof.
  - c. Loading and unloading activities.
  - d. Maritime and air loans.
  - e. Employment contracts for commercial vessel and aircraft captains and pilots.
7. Formation of companies.
  8. Current accounts.
  9. All kinds of insurances with the exception of the cooperative insurance.
  10. Public auction sale premises.
  11. Hotels, restaurants, movie halls, theaters, play grounds and amusement centers activities.
  12. Water, electricity and gas distribution activities.
  13. Publication of newspapers and magazines with the intent of making profit through the publishing of advertisements, news and articles.
  14. Post, telegraph and telephone activities.
  15. Broadcasting, television, recording and photography studios activities.
  16. The activities of public warehouses and mortgages on property deposited therein.

#### **ARTICLE (6)**

The following activities shall be considered as commercial activities if practiced as a profession:-

1. Brokerage.
2. Commercial agency.
3. Commission agency.
4. Commercial representation.



5. Supply contracts.
6. Purchase and sale of lands or real estates with the intent of making profit by selling there in their original condition or after transforming or dividing them.
7. Land transport.
8. Real estate activities at times when the Contractor undertakes to supply the materials or the workers.
9. The income from extraction industries of natural resources.
10. Tourism, travel, export, import and customs clearing activities, as well as the activities of services and recruitment offices.
11. Printing, publishing, photography, recording and advertising activities.
12. Industry.
13. Animal resources and fisheries activities.
14. Third party's work hiring and taking on lease with the intent of giving it on lease.
15. Letting or renting of houses, apartments and rooms, furnished or unfurnished, with the intent of sub-letting them.

**ARTICLE (7)**

Activities which may be deemed to be analogous to the activities herein mentioned in the above two articles, due to the similarity of their qualities and objectives shall be considered as commercial activities.

**ARTICLE (8)**

An artwork made and sold by the artist himself, or by using the services of workers, shall not be deemed to be a commercial activity the same applying to an another printing and selling his work.

**ARTICLE (9)**

1. The sale by a farmer of the produce obtained from land owned or cultivated by him, even when the said produce has been transformed means normally available to hire, shall not be deemed to be a commercial act activity.

2. Where a farmer establishes a permanent trading shop or factory for the sale of his produce in its original condition or after manufacturing, the sale in such a case shall be deemed to be a commercial activity.

#### **ARTICLE (10)**

Where a contract is commercial with regard to one party and civil to the other party, the provisions hereof shall apply to the obligations of both parties unless the laws states otherwise or there is an agreement between the parties to the contrary.

### **CHAPTER TWO** **THE TRADER**

#### **ARTICLE (11)**

Shall be deemed a trader:-

1. Every person who works in his own name and for his own account in commercial activities and has the proper qualification when taking on such activities as his occupation.
2. Every company which undertakes a commercial activity or has adopted one of the legal forms stipulated by the Commercial Companies Law, even if such an activity whereof civil nature.

#### **ARTICLE (12)**

Any person who announces to the public, by any means, about business premises established by him for commerce, shall be deemed a trader even if he does not take on trade as his normal profession.

#### **ARTICLE (13)**

The capacity of trader shall be established in respect of any person who practices commerce under a pseudonym or under the cover of another person's name. The person whose name is apparent shall also be established to have the capacity of trader.

#### **ARTICLE (14)**

Any person who carries out a commercial activity although prohibited under specific laws or regulations from practicing trade, shall be deemed a trader and shall be governed by the provisions hereof.

#### **ARTICLE (15)**

The capacity of trader shall not be established to the State Ministries, Departments, Public Authorities and Corporations, as well as Public Benefit

Authorities and Establishments, Associations and Clubs, and those persons who practice free professions excluding commercial activities. However, commercial activities carried out by such entities shall be governed by this Law except if excluded by virtue of a specific text.

**ARTICLE (16)**

The capacity of trader is established in respect of trade companies formed, owned or portions owned by the State or public entities and corporations and they shall be governed by the provisions hereof except where otherwise excluded by a specific provision.

**ARTICLE (17)**

Individuals who practice a simple business or small trade where they rely on their work to derive some form of profit to secure their living more than their reliance on cash capital, shall not be governed by the duties of commerce such as keeping commercial books or registering in the Commercial Register nor shall they be governed by the provisions of bankruptcy and composition. The Ministry of Economy and Commerce shall, in consultation with the specialized authorities in the Emirates, determine the maximum number of individuals working with them and the capital to be invested in this small trade.

**ARTICLE (18)**

1. Any person who has attained 21 calendar years of age and is free of any legal impediment shall be competent to carry on commerce.
2. Nevertheless, a minor may - whether under guardianship or custody - practice commerce whenever he attains 18 calendar years of age and is granted a Court order giving him an absolute or restricted permission to practice trading activities.

**ARTICLE (19)**

1. Where a minor or a legally incompetent person has funds in commerce, the Court is empowered to order the withdrawal of his funds from said commerce or to carry on with the business, as may best serve his interests.
2. If the Court gives orders for the business to continue, it shall be required to grant the person acting for him an absolute or restricted authority to undertake all activities required therefor.
3. The Court has the power to withdraw or limit the authority where there be causes to justify it, without undo prejudice to any rights acquired by a bona fide third party.

**ARTICLE (20)**

Any order issued by the Court to continue with the business of the minor or the legally incompetent person, or to withdraw or limit the authority, must be entered in the Commercial Register and published in two arabic dailies issued in the State.

Where the Court orders the continuance of the business of the minor or the legally incompetent person, he shall be liable only to the extent of the funds invested in such commerce. He may be declared bankrupt but the bankruptcy shall not include funds which are not invested in the business nor shall it have any effect with regard to the minor or the legally incompetent person.

**ARTICLE (21)**

1. The capacity of a married woman to practice trade shall be regulated by the law of the country of which she is a national, subject to the provision of Article (II) of the Civil Transactions Law.
2. A foreign wife who practices trade is assumed to have obtained her husband's approval to do so; and where the applicable law authorizes a husband to object to his wife practicing the trade or to withdraw his previous permission, such objection or withdrawal of permission should be entered in the Commercial Register and published in two arabic dailies issued in the State.
3. The objection or withdrawal of permission shall have no effect except from the date of its entry in the Commercial Register and newspaper publication, nor shall it be prejudicial to the rights acquired by a bona fide third party.

**ARTICLE (22)**

1. It shall be assumed that a foreign trader wife has concluded a marriage settlement based on separate ownership of property, unless the financial stipulation between the spouses provides otherwise. Moreover such stipulation may not be opposed to third parties unless it is entered in the Commercial Register and a summary thereof has been published in two Arabic dailies issued in the State.
2. In case of negligence to enter the stipulation in the Commercial Register and publish its summary, a third party may prove that the marriage settlement was based on a financial system more convenient to his interest than the separate ownership of property.

3. A foreign judgement ordering the separation of property ownership may not be opposed to third parties except from the date of its entry in the Commercial Register and publication of its summary in two Arabic dailies issued in the State.

#### **ARTICLE (23)**

1. No persons other than a U.A.E. citizen may practice trade in the State., unless he has one or more U.A.E. partners according to the conditions and within the limits stipulated by the Commercial Companies Law.
2. Professionals may not practice import and export activities.
3. Non-U.A.E. citizens practicing on trade in the State at the time when this Law becomes effective and having no national partners, must regulate their status according to the provisions hereof.

#### **ARTICLE (24)**

1. The following persons may not engage in trade:-

- a. Every trader whose bankruptcy was declared during the first year of his practicing trade unless he has been rehabilitated.
  - b. Any person who has been convicted of a crime of bankruptcy either by fraud, commercial swindle, theft, deception, or by breach of trust, forgery, use of falsified papers, unless he was rehabilitated.
2. Any person who violates the foregoing prohibition in the above subsection shall be sentenced to imprisonment for no more than one year and charged with a fine of at least Dhs 5,000/- and not exceeding Dhs 100,000/-, or with either of these penalties, with an order to have the trading premises closed in all cases.

#### **ARTICLE (25)**

Any dealings formalities undertaken by the trader in connection with his trade may not be accepted by the specialized authorities, unless such trader is entered in the Commercial Register.

### **CHAPTER THREE** **COMMERCIAL BOOKS**

#### **ARTICLE (26)**

1. The trader shall keep such commercial books as may be required by the nature and importance of his trade, in such manner as to show his financial position with accuracy as well as any rights and liabilities related to his trade.

2. In all cases, the trader is to keep the following two books:-
  - a. Daybook;
  - b. General ledger.

**ARTICLE (27)**

1. All the financial operations carried out by the trader as well as his personal drawings shall be entered into the Daybook day by day.
2. The trader has to use auxiliary daybooks to prove the details of his commercial operations, in which case it shall be sufficient to enter the total of such operations in the Daybook at regular intervals, otherwise each auxiliary book shall be deemed a Daybook.

**ARTICLE (28)**

The following shall be entered in the General Ledger:-

1. All accounting operations carried forward from the Daybook on the basis of supporting documents thereof; in particular the accounts related to the cash money bank, partners, creditors, debtors, revenues, withdrawals and expenditures.
2. Inventory of the stocks available to the trader at the end of the financial year or an overall statement thereof if the particulars are shown in separate books or lists, in which case such books and lists shall be considered as a complementary section to the General Ledger.
3. A copy of the annual balance sheet and the profit and loss account.

**ARTICLE (29)**

1. The commercial books shall not contain any blank, crossing out, erasure, writing in the margins, scraping or insertion.
2. Before using the Daybook and the General Ledger, the pages thereof shall be numbered and signed by the Commercial Registrar used by the trader, and stamped with the official seal of the said Authority, showing the date of such procedure. Where the pages of the said two books are filled up, the trader is to produce them to the same Authority to have them marked up to that effect after the last entry made therein and before using the new book.
3. In case of discontinuation of the commercial activities in the business premises, the trader or his heirs is to produce the said two books to the Commercial Register to have them marked up to that effect.

4. No fees shall be charged for affixing the official seal and the marking up stipulated in the foregoing cases.

**ARTICLE (30)**

The trader must keep exact copies of the originals of all correspondence, telegrams and invoices sent or issued by him for the purpose of his commercial activities; and further he must keep all incoming correspondence, telegrams, invoices and other documents related to his trade. All such papers shall be kept in an orderly fashion that facilitates reference thereto and for a minimum period of five years from the date of issue or receipt.

**ARTICLE (31)**

The trader or his heirs should keep the commercial books and the documents supporting the entries made therein for a minimum period of five years to run from the date of marking up the book when all its pages are filled up.

**ARTICLE (32)**

The banks, companies or establishments in respect of which a decision is taken by the Minister of Economy and Commerce may keep, for the period mentioned in the two preceding Articles the micro films (or any other modern technological device) instead of keeping the originals of the books documents, correspondence, telegrams and other papers related to their financial and commercial activities. Such micro films shall constitute the same evidence as the original provided that the rules organizing use thereof for the purpose of this Article shall be set by the Minister of Economy and Commerce, and said banks, companies and establishments shall be bound to comply with such rules.

**ARTICLE (33)**

Entries made in the commercial books by employees authorized by the trader shall be deemed as entries made by the trader himself, and it shall be assumed that such entries were made with his knowledge and consent until he proves otherwise.

**ARTICLE (34)**

The Court may, of its own record or at the request of either litigant, order the trader to produce his commercial books to extract therefrom what is of relevance to the conflict referred to such Court; and the latter should get peruse directly peruse such books, or through an expert appointed by it to that effect.

**ARTICLE (35)**

1. The Court may not order the trader to produce his commercial books for the perusal of his adversary unless the conflict in question is related to an estate, a partnership or the division of joint property to both of them.

2. In case of bankruptcy or composition the commercial books shall be delivered to the specialized Court, the bankruptcy trustee or to the composition controller.

#### **ARTICLE (36)**

The commercial books kept by the traders may be used as evidence in the cases lodged by or against them if such cases are related to their commercial activities and according to following rules:-

1. The data entered in the commercial books - even if not duly organized according to the law provisions - shall constitute a proof against the trader who keeps such commercial books. Nevertheless, a person wishing to derive therefrom any evidence in his favour, may not divide the data entered therein.
2. The data duly entered in the commercial books according to the law provisions shall constitute a proof for the trader who keeps such books against his opponent trader, unless such opponent nullifies them by virtue of data duly entered in his books according to the law provisions or by any other means proving that them not be true.
3. In the event where both litigants' commercial books are regularly kept according to the law provisions and the comparison mode between them shows a contradiction in the data entered therein, the Court shall require another evidence.
4. In case of discrepancy in the data entered in both litigants' books, while one trader's books are regularly and duly kept according to the law provisions and the other trader's books are not, the data entered in the regular books shall prevail, unless the adversary proves the contrary of the data entered therein. The same provision shall apply if either litigant produces regular books and the other one does not produce any books.

#### **ARTICLE (37)**

If either litigant trader relies for the validity of his case on his opponent's commercial books, and he admits in advance the correctness of the data entered therein, then the opponent refrains without excuse from producing such books to the Court for perusal; this shall be deemed a presumption that the facts required to be proved is the books are correct. The Court may further administer suppletory oath to the Plaintiff on the validity of his case.

#### **ARTICLE (38)**

Traders using computers or other modern technological equipment in the



organization of their trading activities, shall be excluded from the provisions of Articles (26,27,28,29) of this Law. The data obtained from such computer or other high tech methods shall be considered as commercial books and general rules shall be set by a resolution of the Minister of Economy and Commerce to regulate the use of such data.

**PART TWO**  
**BUSINESS PREMISES, TRADE NAME, UNFAIR**  
**COMPETITION, TRADE MARKS AND DESCRIPTIONS**

**CHAPTER ONE**  
**BUSINESS PREMISES, TRADE NAME AND UNFAIR COMPETITION**

**SECTION (ONE)**  
**BUSINESS PREMISES**

**ARTICLE (39)**

A business premise constitutes a group of tangible and intangible assets allocated for the practice of commercial activities.

**ARTICLE (40)**

1. The business premises cover the necessary elements for the commercial activity. Such elements are divided into tangible elements such as the goods, equipment, machines and tools, and intangible elements such as the clientele (customer contacts), goodwill, trade name, right to let, industrial, literary and artistic patents and licenses.
2. The tangible elements are not considered essential to the business premises, contrary to the intangible elements as the business premises have no existence unless one or more elements thereof are available.

**ARTICLE (41)**

In the event where the trader is the owner of the real estate in which he practices his trade, such estate shall not be considered as an element of the business premises and any provision to the contrary shall not be valid.

**ARTICLE (42)**

Any action dealing with the transfer of the ownership of the business premises or the creation a real right thereon, shall not be valid unless it is attested and authenticated by the Notary Public and entered in the Commercial Register.

Such action should include the following data:

1. Names of the contracting parties with their nationalities and place of

residence.

2. Date and type of the action.
3. Type and address of the business premises and those elements agreed to be included in the action.
4. Price of the tangible and intangible elements, each of them being separate, if the action is a sale and part of the price paid upon conclusion of the contract and mode of payment of the balance.
5. Specific agreements concerning the contracts and undertakings (if any), pertaining to the business premises.
6. Agreements concerning the seller maintaining the right of rescission, termination or franchise -if any-.

#### **ARTICLE (43)**

Out of any sum paid on account of the price, the price of the goods shall be deducted first, then the price of the equipment, then that of the intangible elements, even if there is an agreement to the contrary.

#### **ARTICLE (44)**

1. The title to the business premises shall only be transferred as between the contracting parties and with regards to third parties, from the date on which the action is entered in the Commercial Register and a summary thereof is published in two Arabic dailies issued in the State with an interval of one week between the two issues, and after expiry of the period prescribed for acceptance of the objection to the said action.
2. In case the business premises include elements that are subject to specific regulations for advertisement and registration, the advertisement made for the disposal of the business premises shall not replace the special advertisement or registration procedure, unless the law provides otherwise.

#### **ARTICLE (45)**

The disposal of the business premises shall only be entered after finalization of the following formalities:

1. The officer in charge at the Commercial Register shall, at the request and expense of the purchaser, publish a summary of the sale contract in two Arabic dailies issued in the State with an interval of one week between

the two issues.

2. The summary published shall include the names of the contracting parties, their nationalities and place of residence, designation of the business premises, total price and an authorization to the creditors to submit their objections within ten days from the date of the last publication.
3. Objections shall be lodged with the specialized Civil Court to which jurisdiction the business premises pertain and they shall include the amount of the debt and its cause.
4. The purchaser shall be forbidden from paying the price until the Court makes a ruling on the objections. However, the seller may make a request for the summary judge to authorize him to cash the price even before the objections are looked into, if he provides sufficient guarantees for the settlement of the creditors' rights.
5. Any objecting creditor or mortgagor may offer to purchase the business premises for himself or for a third party for a price exceeding by at least one fifth the price agreed upon.
6. Any person objecting to the price shall deposit at the Court treasury a sum equal to at least one third of the original price in addition to the increase offered by him.
7. The specialized Court shall notify the offers of increase to the two contracting parties for the sole of the business premises and twenty days after such notification the Court shall decide the sole of the that the business premises be sold to the persons having offered the highest price.

#### **ARTICLE (46)**

1. Any person upon whom the ownership of the business premises devolves, shall, under the law, subrogate the person who disposed thereof in all the rights and obligations arising from the contracts related to the business premises, it was agreed upon to the contrary or unless the contract is entered into on basis of personal considerations.
2. Nevertheless, any person second party to the contracts referred to in the previous paragraph, may request the cancellation of the disposal within ninety days from the date of notification thereof, provided he has serious reasons to justify such cancellation and provided that he notifies the new owner within a convenient period of his wish to cancel the disposal.

**ARTICLE (47)**

1. The person upon whom the title to the business premises has devolved, shall fix a date for the creditors holding debts prior to the notification of the disposal, in order to submit a statement of their debts for settlement. Such date shall be published in two dailies issued in the State one of which is in Arabic and with an interval of one week between the two issues. The date fixed to the creditors may not be less than ninety days from the date of publication. The person upon whom the title to the business premises has devolved shall remain liable for the debts, if the creditors of such debts submit a statement thereof within the said prescribed period and if such debts are not settled within such period.
2. However, the person upon whom the title to the business premises has devolved, shall be released of any debts regarding which the creditors do not produce a statement within the prescribed time as shown in the previous paragraph.
3. Furthermore, the disposing party shall remain liable for the debts related to the business premises and which have arisen prior to the notification of the disposal unless he is discharged therefrom by the creditors.

**ARTICLE (48)**

As an exception to the bankruptcy provisions, the seller of a business premise who did not receive the full price, may protest to the group of creditors in the purchaser's bankruptcy and exercise his right to rescind the sale contract of the business premises, to redeem this latter or his right of lien if he reserved for himself such right in the sale contract, and if such right of lien was published in the newspapers. Nevertheless, such rescission or termination or lien shall only affect the elements included thereby.

**ARTICLE (49)**

1. Business premises may only be mortgaged to banks and financing institutions.
2. Where the mortgage deed does not specify the elements covered by the mortgage, it shall then only cover the trade name, the right to let, the clientele (customers' contacts) and the goodwill.

**ARTICLE (50)**

1. A mortgage is not put into effect except by an authenticated deed, attested by the Notary Public and entered in the Commercial Register.
2. The mortgage deed shall contain a declaration by the debtor as to whether or not the seller has a privilege over the mortgaged business

premises, as well as the name of the company which insured the business premises (if any).

**ARTICLE (51)**

1. The mortgage entry in the Commercial Register shall secure a privilege right for five years from the date thereof, and where the entry is not renewed within the said time limit it shall be deemed to have been cancelled.
2. The said entry may be crossed off by mutual agreement of the concerned parties or pursuant to a final Court order.

**ARTICLE (52)**

The mortgagee shall be held responsible to keep the mortgaged business premises in good condition.

**ARTICLE (53)**

1. Where the owner of the business premises fails to pay the price or the balance of the price to the seller, or if he fails to pay the debt on the maturity date to the mortgagor, the seller or mortgagor may, after eight days from the date of service of a notice on his debtor who has possession of the business premises, submit a petition to the summary judge, requesting permission to sell, by public auction all or some of the constituent elements of the business premises which are covered by the seller's or mortgagor's privilege.
2. The sale shall be effected at the venue, date and hour and according to the manner designated by the judge; and the sale shall be advertised for at least ten days before the set date.

**ARTICLE (54)**

Any provision in the mortgage contract granting the creditor the right to acquire the property of the mortgaged business premises or to dispose thereof without the procedures prescribed above shall be considered null and void.

**ARTICLE (55)**

The seller, as well as the mortgagors, shall have the same rights and privileges over the sums resulting from the insurance as those which they had over the insured items, provided it has been established that such sums have matured.

**ARTICLE (56)**

The lessor of the place wherein lies the mortgaged furniture and equipment being used for exploiting the business premises, may not exercise his privileges for more than two years.

**SECTION TWO**  
**TRADE NAME**  
**ARTICLE (57)**

The trade name of an individual trader consists of his first name and surname; it may also contain particulars pertaining to the persons therein mentioned, relevant to the kind of trade for which it is designated. However, it may consist of an innovated nomenclature. In all cases, the trade name must conform to the truth, or else it would be misleading or prejudicial to the public order or morals.

**ARTICLE (58)**

Trade names of commercial companies shall be in compliance with the specific and relevant provisions.

**ARTICLE (59)**

A trade name shall be entered in the Commercial Register in accordance with the provisions stipulated to that effect. Once registered, no other trader may use such name for his trade which is of a similar kind. Where the name and surname of a trader are similar to a trade name previously entered in the Register, he must add to his name such particulars as would distinguish him from the trade name already registered.

**ARTICLE (60)**

1. The trader shall write his trade name on the facade of his business premises, and he must carry out his commercial transactions under his trade name.
2. A trader may not use the trade name of another trader after abatement or removal of such name, except after the lapse of one year from the date of such abatement or removal.

**ARTICLE (61)**

1. A trade name may not be disposed of independently of the business premises allocated therefor.
2. However, in case the owner of the business premises disposes thereof, such disposal shall not include the trade name, unless it is explicitly or implicitly provided as such.
3. The person upon whom the title to the business premises devolves, excluding its trade name, shall not be liable for the obligations of his predecessor unless there is an agreement to the contrary entered in the Commercial Register.

**ARTICLE (62)**

1. A person to whom the ownership of a business premise is transferred, may not use his predecessor's trade name, unless such name devolves unto him or the predecessor authorizes him to use it; provided that he adds to the name such particulars purporting to the transfer of ownership.
2. Any violation of the provisions of the previous paragraph shall be punished by being sentenced to imprisonment or by a fine of at least (Dhs 10,000) Ten Thousand Dirhams or by either of these two punishments.

**ARTICLE (63)**

1. Any person to whom the ownership of a trade name is transferred, following the transfer of the title to a business premise, shall subrogate his predecessor in the rights and obligations accrued under the said trade name. Any agreement to the contrary does not be apply to third parties except from the date of its entry in the Commercial Register and the notice served to the concerned parties to that effect.
2. In case of denial and lack of legitimate excuse, the action in liability for the predecessor's obligations, may not be heard after the lapse of five years from the date on which the ownership of the business premises is transferred.

**SECTION THREE**  
**UNFAIR COMPETITION**

**ARTICLE (64)**

A trader may not induce the employees or workers of another competitor trader, so that they aid him in usurping the customers of that other trader, or so that they leave their employer's service and enter into his service or disclose to him the secrets of his competitor; and the foregoing acts are considered unfair competition necessitating damages.

**ARTICLE (65)**

A trader may not disclose such matters as are inconsistent with the reality regarding the origin or description of his goods, or any other matters pertaining to their nature or importance. He may not either declare falsely that he holds a status or degree or award, nor may he resort to any other misleading means, with the intent thereby to usurp the customers of a competitor trader; or else, he shall be liable for compensation.

**ARTICLE (66)**

A trader may not resort to fraud and cheating when marketing his goods, nor

may he spread or publish false particulars tending to be prejudicial to the interests of another competitor trader; in default he shall be liable for damages.

**ARTICLE (67)**

A trader may not issue to an ex-employee or ex-worker a certificate that is inconsistent with the reality, otherwise he shall be liable to compensate the damages caused to any other trader who was misled by such certificate.

**ARTICLE (68)**

1. Where a trade name is used by other than its owner without any agreement authorizing it or where the owner uses it in a manner violating the law, the concerned parties may apply to the specialized Court to order the prohibition of its use and to strike it off if it is entered in the Commercial Register; they may further claim damages, if relevant.
2. Any violation of the foregoing provisions shall be punishable by imprisonment or a fine of at least (Dhs 10,000) Ten Thousand Dirhams or by either of these two punishments.

**ARTICLE (69)**

Any person engaged in the business of supplying information to commercial houses about the conditions of trade, who knowingly or through gross negligence supplies untrue statements about the behavior or financial standing of a trader, shall be liable to compensate such damages which may result therefrom.

**ARTICLE (70)**

The foregoing provisions shall be without prejudice to any other punishments stipulated by other laws concerning the commitment of the acts mentioned in such provisions.

**CHAPTER TWO**  
**TRADE MARKS AND DESCRIPTIONS**

**ARTICLE (71)**

Trade marks and descriptions shall be regulated by the specific laws issued to that effect.



**BOOK TWO**  
**COMMERCIAL OBLIGATIONS AND CONTRACTS**

**BOOK TWO**  
**COMMERCIAL OBLIGATIONS AND CONTRACTS**  
**PART ONE**  
**COMMERCIAL OBLIGATIONS**

**ARTICLE (72)**

1. Where two individuals or more assume a commercial debt, they shall be jointly liable for the settlement of such debt, unless otherwise provided for by law or agreement.
2. The foregoing provision shall also apply in cases where there are several guarantors in a commercial debt.

**ARTICLE (73)**

A guarantee shall be commercial if the guarantor has guaranteed a debt which is deemed in regard to the debtor to be commercial unless otherwise provided for by law or agreement, or if the guarantor is a trader and has an interest in guaranteeing the debt.

**ARTICLE (74)**

In a commercial guarantee, the guarantors shall be jointly liable with each other and with the debtor.

**ARTICLE (75)**

Where a trader carries on, for a third party, such business or services as are related to his commercial activities, he shall be deemed to have done so in return of a consideration, save where it is established otherwise; such consideration shall be determined according to the custom and in the absence of such custom, it shall be determined by the Court.

**ARTICLE (76)**

A creditor is entitled to receive interest on a commercial loan as per the rate of interest stipulated in the contract. If such rate is not stated in the contract, it shall be calculated according to the rate of interest current in the market at the time of dealing, provided that it shall not exceed 12% until full settlement.

**ARTICLE (77)**

Where the contract stipulates the rate of interest and the debtor delays payment, the delay interest shall be calculated on basis of the agreed rate until full settlement.

**ARTICLE (78)**

The interest shall be paid at the end of the year if the loan is for one or more years, or on the maturity date of the debt if the loan period is less than one year, unless the commercial or banking practice requires otherwise.

**ARTICLE (79)**

Where the loan is for a specified term, the creditor shall not be bound to accept payment prematurely, unless the debtor pays the interest which accrues for the remaining period of the loan term, save where both parties agree otherwise.

**ARTICLE (80)**

Demands and authorizations issued by a trader for matters related to his commercial activities shall not lapse upon his death. Nevertheless, his heirs may cancel same if they decide to discontinue the trade, and in such a case they shall not be deserving of any compensation if they notify in due time that who has contracted with the intestate (or legator) of notify their wish to cancel such demands and authorizations.

**ARTICLE (81)**

1. Where the commercial obligation is the delivery of a certain thing within a specific season or a time of the year, it shall be referred to the agreement between the two parties, in order to fix the time for delivery, and in case is no such agreement then to the custom prevailing in the country where the delivery is to take place.
2. As to the method of measuring, weighing or counting the goods, it is the custom prevailing in the country, where the contract was concluded, that shall be applied.

**ARTICLE (82)**

A creditor may not be compelled to accept performance of a contract for the performance of which a term has been fixed, after the expiry of such term and if the debtor fails to perform within the specified term, unless there is an agreement to the contrary.

**ARTICLE (83)**

Where the debt is deferred and the debtor offers to settle it before its maturity, he may not upon payment deduct a part of it therefrom except with the creditor's consent, unless it is otherwise provided for by law or agreement.

**ARTICLE (84)**

Where either contracting party reserves the right to rescind the contract before execution has commenced, such party shall forfeit his right of rescission if he

performs his obligations under the contract or if he consents to the other party's performance of his obligations.

**ARTICLE (85)**

Excuses and notices in commercial matters shall be through the notary public, by registered letter with acknowledgement of receipt or by cable.

**ARTICLE (86)**

Courts may not grant a debtor, who is under a commercial obligation a respite for payment nor may they make same payable by installments except with the creditor's consent or under general exceptional circumstances.

**ARTICLE (87)**

Where the debtor settles a commercial debt to the person holding the instrument of such debt marked with acquittal or to the person holding an acquittal from the creditor, he shall be discharged from the debt.

**ARTICLE (88)**

Where the commercial obligation is a sum of money which was known when the obligation arose and the debtor delays payment thereof, he shall be bound to pay to the creditors as compensation for the delay, the interest fixed in Articles (76) and (77), unless otherwise agreed.

**ARTICLE (89)**

For the accrual of delay interest, it is not a condition that the creditor proves that he sustained damages as a result of such delay.

**ARTICLE (90)**

Interests for delay of payment of commercial debts shall accrue on mere maturity of such debts, unless it is otherwise provided for by law or agreement.

**ARTICLE (91)**

1. A creditor may claim complementary damages, to be added to the delay interest, and shall not be required to prove that the damages in excess of said interest were caused by the debtor's cheating or gross fault.
2. Where the creditor, when claiming his right, causes, in bad faith, the prolongation of the dispute, the Court may reduce the interest or it may not award any interest at all for the period of the unjustified prolongation.

**ARTICLE (92)**

1. Any check for the payment of a sum of money or the delivery of goods, may be circulated by way of indorsement if payable to the order of the creditor or by handing in directly if payable to bearer.
2. Indorsement or handing in directly shall result in the transfer of all rights arising from the check to the indorsee or new bearer.
3. In case of indorsement, the indorser shall guarantee payment of the right established in the check on maturity date, unless it is agreed in the indorsement phrase to restrict the guarantee to the existence of the right at the time of indorsement.
4. Where the check is drawn as a result of a commercial transaction, the signatories thereto shall be jointly liable, unless the indorsement phrase provides otherwise.
5. In all cases, the debtor may not have an objection on the bearer of the check when the payment is based on a personal relationship existing between him and the drawer or the previous bearers, unless the bearer's intent upon receiving the check was to cause harm to the debtor, or unless the payment was related to the debtor's lack of capacity.
6. The debtor may also refrain from paying the value of the check if such check is not delivered to him marked up with acquittance.

**ARTICLE (93)**

The possession by the debtor of the instrument of the debt constitutes a presumption that he has been discharged of the debt, until otherwise established.

**ARTICLE (94)**

Commercial obligation, whatever their amount, should be proved by all means of evidence, unless otherwise provided for by law or otherwise stipulated in the agreement.

**ARTICLE (95)**

The obligations of traders towards each other and concerning their commercial activities, shall not be hard when there is ..... or each of legitimate ..... on the lapse of ten years from the date on which the performance of the obligation falls due, unless the law stipulates a shorter period.

**PART TWO**  
**COMMERCIAL SALE**  
**CHAPTER ONE**  
**GENERAL PROVISIONS**

**ARTICLE (96)**

The general provisions stipulated in this chapter shall not apply to sales, concluded between traders concerning their trading affairs, unless it is otherwise stipulated.

**ARTICLE (97)**

Where the two contracting parties fail to fix the price, the sale shall be concluded at the price reckoned in their dealings, and if there were no previous dealing between them, then at the prevailing price in the market; all this unless it has been revealed from the ..... circumstances the necessity of adopting a different price.

**ARTICLE (98)**

Where both contracting parties agree that the sale price shall be at the market rate, then the ..... shall be ..... at that note on the date and at the venue where the contract is concluded, otherwise stipulated in the agreement, and in case of several market prices then the average price shall prevail.

**ARTICLE (99)**

The two contracting parties may agree to delegate a third party to fix the price of the item being sold. However, if such party fails to fix the price within the prescribed term or within a convenient period and if no prescribed term was stipulated, then the then current market price shall be applied on the date and at the venue where the contract was concluded.

**ARTICLE (100)**

Where the price is estimated on the basis of the weight, it shall mean the net weight, unless there is an agreement or custom to the contrary.

**ARTICLE (101)**

1. Where it is agreed by both contracting parties that the purchaser may prescribe the form, volume or any other distinguishing features of the item being sold, the purchaser shall do so within the agreed period or within a convenient term if no fixed period is agreed upon.
2. If the aforementioned time limit has lapsed and the purchaser did not prescribe the features of the item sold, the vendor shall have an option to claim for rescission of the contract and damages , or to prescribe himself

the said features and notify the purchaser thereof. This determination shall be deemed final if the purchaser does not object thereto within ten days from his notification.

**ARTICLE (102)**

1. Where a date is not fixed for delivery, it must be effected immediately upon conclusion of the contract, unless the nature of the item sold requires that it be delivered on another date.
2. Where it is agreed that the purchaser may fix the date of delivery of the item sold, the vendor is bound to deliver it on such date, with consideration taken as to the period required for the preparation of the sold item being ..... for delivery and to its nature.

**ARTICLE (103)**

1. The vendor shall bear the liability for the perishing of the sold item until effective or definite delivery thereof to the purchaser.
2. Where the vendor, at the request of the purchaser, sends the item being sold to other than the designated venue for delivery, the liability for the perishing of the item shall be borne by the purchaser from the date of handing is the item sold to the carrier, unless otherwise agreed upon.
3. Where the vendor fails to comply with the instructions of the purchaser regarding the method of despatch without a justifiable necessity, he shall be liable for such damages as are sustained by the item sold as a result of such breach.
4. The purchaser shall, unless otherwise agreed, bear the expenses incurred in delivering the sold item in other than the venue designated for delivery.

**ARTICLE (104)**

Any shortage occurring to the sold item upon its delivery shall not be taken into consideration if custom allows such shortage.

**ARTICLE (105)**

Where the vendor fails to deliver the specific item sold, the purchaser may serve notice on the vendor insisting on performance within a suitable term. Where the vendor fails to perform that obligation, the purchaser shall have an option either to apply to the Court for order to compel the vendor to an execution in kind by delivering to him the sold item - if possible - with payment of damages if necessitated, or to consider the contract rescinded and claim for damages if necessitated, or to buy at vendor's expense an object similar to the item sold and

claim from him the difference between the price agreed upon and the price paid by him in good faith to obtain such object. Where the sale relates to an item having a known price in the market, the purchaser may claim from the vendor the difference between the price agreed and the market price on the date fixed for delivery, even though he did not buy an object similar to the item sold.

**ARTICLE (106)**

Where the two contracting parties agree that the sold item be delivered in batches, the purchaser may ask for the rescission of the contract if the vendor fails to deliver any of the batches on the fixed date. However, such rescission shall not apply to the batches already delivered, except where the purchaser sustains heavy damages due to the division of the item sold.

**ARTICLE (107)**

Where the purchaser does not pay the price on the date agreed upon, the vendor may, after serving notice to the purchaser, re-sell the goods. If the goods are sold in good faith at a price less than the price agreed upon, the vendor shall be entitled to claim from the purchaser the price difference. Furthermore, if the goods have a known price in the market, the vendor may claim from the purchaser the difference between the price agreed upon and the market price on the date fixed for payment of the price, even though the sale did not effectively take place.

**ARTICLE (108)**

1. The purchaser, who has paid the full price, may ask the vendor to give him a list of the goods, where it is mentioned that the price has been paid.
2. Any person, having expressly or implicitly accepted a list of the sold goods, shall be deemed as having agreed to its contents. Where the person receiving the list, does not object to its contents within eight days from the date of receipt, this shall be considered as an implicit acceptance, unless a longer period has been agreed upon.

**ARTICLE (109)**

1. Where the purchaser refuses to take delivery of the item sold, the vendor may apply to the Court to establish this and grant him permission to sell same under the Court supervision after the lapse of a period fixed by it and notified to the purchaser. However, the Court may order that highly perishable items to be sold without delay and without notice.
2. The total value of the sale shall be deposited in the treasury of the Court, after deducting therefrom all the expenses incurred by the vendor until the dispute between him and the purchaser is settled.



**ARTICLE (110)**

Save where an agreement or custom stipulates the rescission, if the quantity or type of the goods delivered is different from that agreed, or if the goods are defective, the purchaser may not apply for rescission of the contract unless the difference is so great as to render the goods delivered unsuitable for the purpose for which they were to be used, or difficult to be marketed. The Court may further, upon rejecting the application for rescission of the contract, decide to reduce or complement the price, depending on the deficiency or excess in quantity, the discrepancy in type or the degree of defect.

**ARTICLE (111)**

1. The purchaser shall, in the cases mentioned in the previous Article, notify the vendor that there is a difference or a defect, within fifteen days of the date on which the item sold is effectively delivered to him, and he must file the action for rescission or reduction of the price within sixty days of such delivery date. However, if the defect is hidden and cannot be detected with the routine examination, the purchaser must then notify the vendor immediately when he discovers it, and lodge the action in warranty of the defect within six months of the date of actual delivery, unless there is an agreement to the contrary.
2. Where the purchaser does not notify the vendor of the difference or defect, or if he does not file the action for rescission, price reduction or defect warranty within the period hereinabove referred to as the case may be, his action shall not be heard in case of denial or lack of legitimate excuse, unless the purchaser proves cheating on the vendor's part, in which case the action shall not be heard if lodged after the lapse of one year of the delivery date.
3. The action instituted by the vendor to complement the price due to increase in quantity or in the item standard, shall not be heard after the lapse of sixty days of the date of actual delivery of the item sold.
4. It is permissible to exempt the purchaser from the periods prescribed in the previous paragraphs or to amend such periods.

**ARTICLE (112)**

1. Where the item sold is a commodity protected by a registered trade mark, it is permissible to agree that the purchaser may not sell it under a certain specific price.
2. The Court may decide the non-compliance with this condition if it considers that the item sold to be necessary commodity.

3. The purchaser's successors shall not be bound to observe the above condition, except if they came to know or they could have known about it.

**ARTICLE (113)**

It is not permissible to agree in supply contracts where the supplier grants certain advantages to the purchaser, to present the latter from buying similar goods to the item sold from another supplier during a period of five years from the date of agreement. Any agreement on a longer period shall be reduced to five years.

**CHAPTER TWO**  
**CERTAIN TYPES OF COMMERCIAL SALES**  
**SECTION ONE**  
**SALE BY INSTALLMENT**

**ARTICLE (114)**

The contract of a sale by installment shall be executed in two copies and shall state the particulars which identify and determine the item sold, as well as the price, the period and conditions of the installment. The seller should handing the buyer one copy of said contract.

**ARTICLE (115)**

The installments shall be paid at the place of residence of the seller, as stated in the contract, unless otherwise agreed upon. Where the installments are collected from the purchaser's place of residence, the purchaser may not charge additional expenses, and acquittance of any installments shall be deemed a quitclaim of all the previous installments unless thee is an evidence to the contrary.

**ARTICLE (116)**

1. Where the purchaser fails to pay any installment of the price agreed, the seller may, after notice served to the buyer, ask for rescission with damages if justified. However, if it is revealed to the Court that the buyer has executed the biggest part of his obligation, it may grant him a respite for payment and dismiss the claim of rescission if he performs within the prescribed period.
2. Where a judgement of rescission is rendered, the buyer shall return the item sold to the seller and this latter return to the buyer the installments received after deducting therefrom charges equivalent to the benefit derived therefrom, in addition to an indemnity against the damage sustained by the item sold due to ordinary use thereof; all this unless

there is a provision to the contrary in the sale contract and provided that the total amount received by the seller does not exceed the original price amount with its interests.

**ARTICLE (117)**

An agreement that the full price shall fall due, in case one of the installments is not paid on the maturity date, shall only be valid if the buyer fails to pay even though notice is served and seven days have lapsed from the date of notification.

**ARTICLE (118)**

1. Where the ownership of the movable item sold is retained by the seller pending the payment of all installments, the buyer shall acquire such ownership on payment of the last instalment, and the purchaser shall bear the consequences of the perishing of the item sold from the time of its delivery to him.
2. Without prejudice to the provisions stipulated in the Bankruptcy Part hereof, the condition related to the retention of ownership may not apply to a third party unless it is put in writing in the form of an agreement and prior to such third party's right.

**ARTICLE (119)**

Where the third party's right is subsequent to the sale by installment contract, the provision related to the retention of ownership may apply to such third party, if the said provision is made in writing in an agreement having a fixed date and prior to the execution proceedings undertaken by the creditors on the item sold.

**ARTICLE (120)**

A purchaser may not dispose of the item sold before he has paid all installments, save where the seller agrees to this in writing. Any disposal by the buyer in violation of this provision, shall not apply to the seller, unless the third party proves his good will, in which case the remaining installments shall fall due.

**ARTICLE (121)**

The provisions of the preceding Articles regarding sales by installment, shall apply even if the contracting parties have termed the sale as a lease.

**SECTION TWO**

**OPTIONAL PUBLIC AUCTION SALE OF SECOND-HAND MOVABLES**

**ARTICLE (122)**

1. The provisions of this Section shall apply to optional sales by public auction of second-hand movables.

2. Public auction sale shall mean any sale which any person may attend even if bidding is restricted to a specific group of persons.
3. Second-hand movables shall mean all movable properties the possession of which was transferred to the consumer for any of the causes of property acquisition.

**ARTICLE (123)**

1. Without prejudice to the provisions of the Civil Procedures Law and the laws organizing certain kinds of sales, the movables referred to in the preceding Article may not be sold by auction except through evaluation by an expert appraiser in a hall specially allocated for this purpose, or at the venue where the movables are originally located, or at such other venue where a licence therefor may be issued by the specialized authorities in the concerned Emirate.
2. A bona fide buyer may request nullification of the sale effected contrary to the provisions of the preceding Article and the action in nullification may not be heard in case of denial and lack of legitimate excuse after the lapse of thirty days of the date of sale.
3. The provisions of the two preceding paragraphs shall not apply to second-hand items, when the value of the part thereof offered for sale by public auction does not exceed (10,000) Ten Thousand Dirhams.

**ARTICLE (124)**

1. The expert appraiser undertaking the sale by public auction shall keep a specific book in Arabic, where he shall enter all the items intended for sale, the initial estimation of their value and the names of those requesting sale. The appraiser shall further affix on the goods offered for sale labels whose numbers shall be entered in the said book and shall further register therein the outcome of each sale.
2. Any person who violates the provisions of the preceding paragraph shall be penalized by a fine which may not exceed (10,000) Ten Thousand Dirhams. In case of repetition of the violation, the fine shall not exceed (20,000) Twenty Thousand Dirhams, in case of non-compliance to any other penalty or disciplinary sanction provided in the resolutions organizing the practice of the profession of appraiser.

**ARTICLE (125)**

Where the initial estimation of the second-hand goods offered for sale at a public auction exceeds the amount of Dhs 2000,000 (Two Hundred Thousand Dirhams), the appraiser shall publish the same in one daily or more - one of

which in Arabic - issued in the State, seven days at least prior to the sale, and he shall fix one day before the sale date for inspection of the goods offered.

**ARTICLE (126)**

1. The buyer who wins the auction shall pay half the price at the auction session and the balance when he takes delivery of the object for which he was the successful bidder, and the delivery must take place within one week of the date on which the auction was knocked down.
2. Where the successful bidder does not pay the balance or he fails to appear on the date fixed in the preceding paragraph in order to take delivery of the item knocked down to him, the sale shall be repeated by public auction as well, within fifteen days of the delivery date, and the successful bidder of the first sale may not bid again in the second sale.
3. Where the second auction is awarded at a price less than that awarded at the first auction, the buyer who failed to pay the balance price or to appear in order to take delivery of the item knocked down to him, shall be bound to pay the difference. However, where the second auction is awarded at a higher price, the increase shall be for the eventual seller.
4. The price shall be paid to the appraiser who carried on the auction, and the appraiser shall be directly responsible for payment of such price to the person in favour of whom the auction was effected.
5. The person requesting the sale may not, either personally or through others, bid on the goods offered by him for sale.

**ARTICLE (127)**

The hall owner or the appraiser, as the case may be, shall for the fee or commission to which he is entitled, have a right of lien over the price of the item he is selling at the public auction.

**ARTICLE (128)**

A decision of the Minister of Economy and Commerce, in consultation with the local specialized authorities shall be issued for the organization of the practice of the profession of appraisers.

Without compliance with any severer punishment stipulated in another law, any person violating the provisions of such decision, shall be inflicted to pay a fine not exceeding (5,000) Five Thousand Dirhams. In all cases, the judge shall order that the office or hall be closed, and the billboards and panels which the violator had used be removed. Such Court order shall be published at the sentenced party's expense, in two Arabic dailies issued in the State.

**SECTION THREE**  
**PUBLIC AUCTION SALE AT REDUCED PRICES**  
**AT COMMERCIAL STORES**  
**FIRST: SALE BY PUBLIC AUCTION**

**ARTICLE (129)**

Commercial stores shall be prohibited from selling their goods at public auction, except in one of the following cases and after obtaining the necessary authorization from the local authorities:

- 1.- Final liquidation of the commercial store.
- 2.- Discontinuation of trading once and for all with one or more of the items, which the commercial store deals with in its trade.
- 3.- Liquidation of one of the commercial store's branches, unless such branch is located in the same city as the head office of the commercial store.
- 4.- Moving the main store and branches thereof, from one Emirate to the other. In such case, the liquidation must be effected within four months at the most, and it shall result in a prohibition to carry on the activity discontinued due to the liquidation in such Emirate, before the lapse of one year at least from the date on which the auction was completed.
- 5.- Clearance of the goods which have become defective due to fire, water leakage, humidity, insects raging or the like.

**SECOND: SALE AT REDUCED PRICES (SALES)**

**ARTICLE (130)**

1. A commercial store and its branches located in the same city, may only sell at reduced prices the same goods, twice at the most during the same year in case of seasonal goods, and once for all other goods.
2. Sales may not continue for more than thirty days, and seasonal sales may not start except after the lapse of five months at least after the end of the preceding seasonal sales.
3. Any action with the purpose of announcing a sale at reduced price shall be considered as "Sales".
4. Sales may only be effected or announced by any media means, after obtaining a permit therefor from the specialized authorities in the

concerned Emirate, which shall state the starting and ending date of the sales and the selling prices prior to and during such period. Such permit may only be granted to those persons holding a valid trading license and registered in the concerned Chamber of Commerce.

5. The trader shall also observe any rules and principles organizing sales and issued by the specialized Authority in the concerned Emirate.

#### **ARTICLE (131)**

The employees of the specialized Authority in the concerned Emirate shall have the right to control the implementation of the provisions of Articles (129) and (130) of this law. They are entitled to that effect to enter the commercial store which holds a permit to carry out the clearance or sales, and to ask for the papers and documents pertaining to the operation, subject of the permit, and to record any breaches of its provisions.

### **THIRD: THE PENALTIES**

#### **ARTICLE (132)**

Any person who violating the provisions of Articles (129), (130) and (131) shall be penalized by a fine not exceeding (20,000) Twenty Thousand Dirhams. In case of repetition of the violation, a fine of (30,000) Thirty Thousand Dirhams at the most shall be inflicted upon him, and the violator may be prohibited from obtaining permits for sales for the period of three years from the date on which he committed the violation.

### **SECTION FOUR**

#### **CERTAIN KINDS OF INTERNATIONAL SALES**

##### **1- F.O.B. SALES**

#### **ARTICLE (133)**

1. An F.O.B sale is one by which the item sold is delivered at the port of shipping on board of the vessel designated by the buyer for its transport.
2. The buyer shall in this kind of sale execute the sea transport contract, pay freightage and notify the seller within reasonable time of the name of the vessel designated for the transport, as well as the venue and date or time limit set for shipping.
3. The buyer may entrust the seller with the execution of both transport and insurance contracts for the goods on behalf of the buyer, and the relationship between the seller and the buyer in this respect shall be governed by the provisions of the agency contract.

**ARTICLE (134)**

1. The seller shall pack and transport the item sold to the port of shipping, and ship it on board of the vessel designated by the buyer, on the specified date and within the time limit set for shipping.
2. The seller shall bear the expenses of packing and the costs of checking, measuring, counting or weighing the item sold before shipping it.
3. The seller shall without delay notify the buyer that the item sold has been shipped and shall dispatch to him the papers evidencing this, but the buyer shall bear the costs of such notice and dispatch.

**ARTICLE (135)**

1. Where the item sold needs an export permit for it to be exported outside the State, or any other governmental licence, the seller shall be bound to obtain same at his own expense.
2. The buyer shall undertake to obtain at his own expense the import permit and other documents required for this purpose.
3. The seller shall duly obtain a certificate of origin for the item sold and shall present it to the buyer, who shall bear the expenses related thereto, unless otherwise agreed upon.

**ARTICLE (136)**

The seller shall provide such assistance as will be needed to enable the purchaser to obtain the bill of lading and such other documents as should be issued in the country of shipping of the item sold, in order to enable the buyer to import it or make its passage in transit through another state easur; the buyer shall bear the expenses incurred for the obtaining of such papers.

**ARTICLE (137)**

The seller shall pay all the sums due in connection with the item sold, including the export charges and the shipping expenses upto the moment when the item sold crosses, during its shipping, the barrier of the vessel, as well as the liability for damages which may be suffered by the item sold until that stage. However, any sums due or damages sustained thereafter shall be borne by the buyer.

**ARTICLE (138)**

Where the arrival of the vessel, designated by the buyer for transporting the goods, is delayed beyond the expiry of the time limit set for shipping, or where the vessel departs the said port before expiry of the said time limit, or if the vessel is unable to ship the goods for a reason that cannot be attributed to the seller, the buyer shall be liable for the resulting additional costs and the damages suffered by the item sold from the expiry date of the time limit set for the



shipping, provided that the item sold has been, on that date, designated per se.

**ARTICLE (139)**

Where the buyer fails to notify the name of the vessel at the appropriate time or if he reserves the right to fix the date of delivery during a set a time limit and he fails to do so or to designate the port of shipping but fails to issue specific instructions during such time limit, he shall be liable for the resulting additional costs and such damage as may be suffered by the item sold from the expiry of the date of notification or the time limit agreed upon to designate the date for delivery, provided that the item sold has been, on that date, designated per se.

**ARTICLE (140)**

Where it is agreed that the item sold shall be delivered on the dock of the port of shipping where the vessel designated by the buyer is anchored, the sale shall be termed F.A.S., and such sale shall be governed by the provisions of the F.O.B. sales, except the shipping of the goods on board of the vessel.

**2 - C.I.F SALES**

**ARTICLE (141)**

1. A C.I.F. sale is one concluded against a lump sum price covering the price of the item sold, the maritime insurance charges and freight by vessel to the port of destination.
2. The goods shall be considered as having been delivered to the buyer upon completion of shipment by the vessel, and the liability for the perishing shall from that moment be borne by the buyer.
3. Where the seller fails to provide insurance cover, the sale shall be deemed a (C.&F.) sale.

**ARTICLE (142)**

The seller shall execute a transport contract for the goods with a reputable carrier, according to the usual (customary) conditions, and shall choose a suitable vessel to carry goods of the same type of the item sold. The seller shall further pay the freight and any other sums which the carrier might stipulate to be paid at the port of shipping.

**ARTICLE (143)**

1. The seller shall buy an insurance policy for the item sold from a reputable insurer covering the risks of transport and he shall assume all the costs and expenses required therefor.
2. The insurance policy shall be by a negotiable instrument and in

accordance with the conditions of prevailing practice, provided that the insurance sum shall not be less than the price mentioned in the sale contract.

3. The seller shall only be bound only to insure against the normal risks of transport, and he shall not be required to insure against additional risks and the risks of war, except where an agreement to that effect is made with the buyer in the sales contract.
4. The seller shall not bear any responsibility towards the buyer for the inability of the insurer to pay the insurance amount, if he has bought the insurance policy for the item sold from a reputable insurance company.

#### **ARTICLE (144)**

1. The seller is bound to pack the item sold and ship it on board of the vessel within the time limit set for shipping, or within the period dictated by the practice. The seller shall further bear the expense of packing, the costs of checking, measuring, weighing or counting the item sold as is required for its shipping.
2. The seller shall, without delay, notify the buyer of the name of the vessel and completion of shipping.

#### **ARTICLE (145)**

1. Shipping of the item sold by the seller shall be proved by means of the bill of lading, where the word "shipment" is mentioned. However, if the bill of lading states "under shipment", the buyer should prove the shipping did not actually take place on the date mentioned in the bill.
2. Where the bill of lading contains a statement, handwritten and signed by the captain of the vessel, certifying that the goods were actually shipped on the specified date, the buyer in such a case does not have to prove the contrary when dealing with the seller.

#### **ARTICLE (146)**

1. The seller is bound to duly obtain a certificate of origin for the item sold and shall present it to the buyer, who shall bear the expenses related thereto, unless otherwise agreed upon.
2. The seller shall further provide such assistance as will be needed to enable the purchaser to obtain the necessary documents issued in the country of shipping of the item sold, in order to facilitate its import or passage in transit through another country.

**ARTICLE (147)**

1. The seller shall pay all the sums due in connection with the item sold, until its shipment on the vessel, including the export fees.
2. However, the buyer shall bear the import fees, and the charges and expenses to clear the item sold at the port of discharge.

**ARTICLE (148)**

The seller shall bear the consequences of the damage which may be sustained by the item sold, up to the moment when it crosses the barrier of the vessel; such liability shall thereafter devolve on to the buyer.

**ARTICLE (149)**

1. The seller shall send without delay to the buyer, a clean negotiable bill of lading which is subject to circulation, addressed to the port designated for discharge, and there shall be attached to the bill of lading a list of the goods sold, their value, the insurance policy or a certificate in lieu thereof, in addition to any other documents required by the buyer. Where the bill of lading refers, certain matters, to the condition of the charter of the vessel, a copy of the latter shall also be attached to the bill of lading.
2. A bill of lading is deemed to be clean if it does not contain any express additional conditions confirming the existence of defects in the item sold or in the method of its packing. But such additional conditions do not include a reference in the bill of lading to the prior use of the containers or the wrappings or the non-liability for any damage that may be sustained because of the nature of the item sold or of the carrier's ignorance of the contents or weight of the packages.
3. The certificate substituting the original insurance policy, shall be issued by the insurer and shall include the basic conditions provided for in the original policy vesting unto the bearer the rights stated therein.

**ARTICLE (150)**

1. The buyer shall not be bound to accept the documents sent to him by the seller, if they do not conform to the stipulations of the sale contract. The buyer shall be deemed to have accepted such documents if he does not raise any objection via the seller's accountant within seven days of the date of receipt. The objection shall be made by notice served in writing to the seller requiring him to send documents conforming to the conditions agreed upon within a reasonable time limit, and the buyer may after the expiry of said time limit, apply for rescission of the sale and payment of damages, if relevant.

2. Where the buyer returns the documents for certain specified reasons or accepts them subject to reservations, he may not thereafter make any objection for other than the causes and reservations already made.
3. Where the buyer returns the documents without any legitimate reason, he shall be liable to compensate the seller for whatever damage that may result therefrom.

**ARTICLE (151)**

Where the vessel carrying the item sold arrives before the arrival of the documents or where the documents are received incomplete, the seller shall immediately, upon being informed of the same, carry out whatever action necessary to enable the purchaser to obtain a copy of the documents which had not arrived or to replace the missing documents; the seller shall bear the required expenses and any damages, if relevant.

**ARTICLE (152)**

With consideration given prejudice to the provisions of Article (111), the buyer shall be bound to receive the item sold upon its arrival at the port of discharge agreed upon: and the buyer shall bear such sums as will be due on the item sold during its transport, and the expenses of discharge upon its arrival, save where the carrier has obtained such sums and expenses at the port of shipping or where it is agreed in the sale contract that they shall be borne by the seller (the sale being C.I.F. until the discharge).

**ARTICLE (153)**

Where the buyer reserves the right to fix a date for the shipping or to designate the port of discharge within a set time limit but fails to issue specific instructions during such time limit, he shall be liable any additional expenditure resulting therefrom and such damage as may be suffered by the item sold until the expiry of the time limit for shipping, provided that the item sold has been, on that date, designated per se.

**ARTICLE (154)**

Where it is revealed that the goods do not tally with the specifications stated in the documents and if the discrepancy does not exceed the limit allowed by custom, the buyer shall be bound to accept same with a reduction of the price amount to a sum to be assessed by the experts according to the practices prevailing at the port of arrival.

**3 - ARRIVAL SALE**

**ARTICLE (155)**

A contract which contains such conditions as will render the seller liable for the

perishing of the goods after shipment, or makes the performance of the contract conditional on the safe arrival of the vessel, or which vests the buyer with an option to accept the goods according to the contract or according to the pro-forma delivered to him at the time of contracting, shall neither be a C.I.F nor a F.O.B. sale, but shall be deemed to be a sale conditional upon delivery at the place of arrival.

#### **4- SALE AT THE AIRPORT OF DEPARTURE**

##### **ARTICLE (156)**

A sale at the airport of departure is one by which the goods sold are delivered at the airport of departure, by way of placing them at the disposal of the air carrier designated by the buyer or chosen by the seller.

##### **ARTICLE (157)**

The seller shall, after entering into the contract, undertake to deliver the goods at the airport of departure to the air carrier or to his representative at the place and on the date agreed upon or at the place designated by the buyer, according to the rules and practices applicable at the airport of departure.

The seller shall without delay notify the buyer that the delivery of the goods was effected, by any means of wire or wireless communications.

##### **ARTICLE (158)**

1. The seller shall conclude a transport contract for the goods, at the expense and responsibility of the buyer if it were requested by this latter; or the seller shall perform this in case the buyer has issued no instructions, within a reasonable time concerning the transport of the goods, and such act shall be according to the applicable commercial customs. The seller may refrain from concluding a transport contract, in which case the buyer shall be promptly notified thereof.
2. Where the seller takes it upon himself to conclude a transport contract, he shall abide by the instructions issued to him by the buyer and choose an airplane suitable to carry goods of the same nature of the item sold, on the ordinary flight from the airport of departure to the airport of arrival designated by the buyer, or to the closest airport to the buyer's establishment.

##### **ARTICLE (159)**

1. The seller is bound to pay all the costs and insurance on the goods as a result of their export.
2. The seller is also bound to supply the buyer with all the documents needed for the receipt of the goods, that would be at the disposal of the buyer

**ARTICLE (160)**

Where the air carrier or the other person designated by the buyer refrains from taking delivery of the goods at the airport of departure, or otherwise if the buyer does not provide the seller within a reasonable time with the instructions required for the transport of the goods, the seller shall as promptly as possible notify the buyer thereof.

**ARTICLE (161)**

In the event where the seller is not bound to conclude the transport contract for the goods, the buyer shall at his own expense be bound to organize the transport operation of the goods from the airport of departure to the airport of arrival. The buyer shall further designate the air carrier or his representative or any other person to whom the goods are to be delivered, and he shall notify the seller within a reasonable time thereof.

Where the buyer does not notify the seller, within a reasonable time, of the instructions required for the transport of the goods, the buyer shall bear all the additional costs arising therefrom, as well as any damage that may be sustained by the goods, from the date fixed for delivery, provided that the goods were allotted or designated per se.

**ARTICLE (162)**

Where the air carrier, or any other person designated by the buyer, refrains from taking delivery of the goods, the buyer shall bear all the additional costs arising therefrom, as well as any damage that may be sustained by the goods, from the date on which the goods had become ready for delivery, provided that the goods were allotted and designated per se.

**ARTICLE (163)**

The sale contract in the above international sales shall be separate and shall not affect the relations between the seller, the buyer and the carrier in the transport contract, or between the buyer and the bank in the documentary credit contract.

**PART THREE**  
**COMMERCIAL MORTGAGE**

**ARTICLE (164)**

1. A commercial mortgage is the one contracted on a movable property in security of a commercial debt.
2. With the exception of the restrictions stipulated herein or in any other law, a commercial mortgage may be proved by all means of evidence in regard to the contracting parties and against third parties.

**ARTICLE (165)**

1. A commercial mortgage shall not be effective against the debtor or a third party, unless possession of the mortgaged article passes to the mortgagor or to such other person as is appointed by both contracting parties and remains in the possession of either such party receiving it until the lapse of the mortgage; or unless it is placed under joint possession in such manner as to prevent the mortgagee to dispose thereof without the knowledge of the mortgagor.
2. The mortgagor or the person appointed by the contracting parties shall be deemed as having possession of the mortgaged article if it is placed at his disposal in such manner as will lead others to believe that the article has come into his custody; or if he receives a deed representing the mortgaged article vesting unto its holder the sole right to take delivery of such article.
3. Possession of rights passes by the delivery of the cheques establishing them; and where a cheque has been deposited with a third party, the delivery of the deposit receipt shall be deemed as the delivery of the cheque itself, provided the cheque is adequately described in the receipt and provided that the depositary accepts possession thereof for the account of the mortgagor. In such case, the depositary shall be considered as having waived every right he had, to retain the cheque for his own account for a reason existing prior to the mortgage, unless he had reserved such right when he accepted to hold possession of the cheque for the account of the mortgagor.

**ARTICLE (166)**

1. Where the mortgaged item consists of nominal cheques, mortgage thereof shall be made in writing with a waiver of such cheques stating that it is a security. This shall be marked on the cheque itself and such waiver shall be entered in the registers of the authority having issued the cheque. The rank of the mortgagor shall be determined as of the date of such entry.
2. As for promissory notes, mortgage thereof shall be effected by an endorsement stating that the value is for mortgage, security or any other statement to that effect.

**ARTICLE (167)**

1. A debtor who is indebted with a commercial debt may mortgage in favour of his creditor and by a written instrument a debt owed to him by a third party, in which case he shall have to deliver to the mortgagor the deed establishing the said debt.

2. The mortgage of a debt shall not be valid as against the debtor on whose debt the mortgage was effected, unless such mortgage is notified to him or unless he accepts it. It shall not either be valid as against a third party, unless the mortgagor holds possession of the mortgaged debt deed.
3. The rank of the debt shall be determined as of the date of notification or acceptance.

**ARTICLE (168)**

A mortgagor is bound to take all the necessary measures to safeguard the mortgaged article and undertake maintenance thereof. Where the mortgaged article is an actual commercial paper, the mortgagor shall on the maturity date carry out the proceedings necessary to protect the right established therein and collect it. The mortgagee shall be bound to pay all expenses incurred by the mortgagor in this regard.

**ARTICLE (169)**

A mortgagor shall use on behalf of the mortgagee all the rights and procedures relevant to the article mortgaged, to receive its value, profits, interests and any other sums resulting therefrom, he shall however deduct the sums received from the value of the expenses incurred on behalf of the mortgagor, then, from the interests, then, from the principal amount secured by the mortgage, save where the agreement provides otherwise.

**ARTICLE (170)**

A mortgagor shall, when requested by the mortgagee, deliver to him a receipt showing the nature, type, quantity, weight and other distinguishing features of the mortgaged article.

**ARTICLE (171)**

1. Where a mortgage is effected on a fungible article, it shall remain valid even if the mortgaged article has been replaced by another article of the same kind.
2. Where the mortgaged article is non-fungible, the mortgagee may replace it by another article, provided that it is agreed upon to that effect in the mortgage contract and that the mortgagor accepts the substitute, without prejudice to the rights of a bona fide third party.

**ARTICLE (172)**

1. Where the mortgagee fails to pay on the date of maturity the debt secured by the mortgage, the mortgagor may, after the lapse of seven days from the date of service of notice on the debtor to pay, submit a petition to the Court to the effect of authorizing him to sell the mortgaged



article. The petition shall be looked into promptly and without delay and the Court shall determine the mode of payment.

2. The mortgagor shall have priority right to collect his debt- principal, interests and expenses incurred in his claim of it - from the price resulting from the sale.

#### **ARTICLE (173)**

Where the mortgage is established on several properties, the mortgagor is entitled to designate the property to be sold unless otherwise agreed upon. In all cases, the sale may only cover what is needed to settle the mortgagor's right, except where the item sold is indivisible.

#### **ARTICLE (174)**

Where the market price of the mortgaged article decreases and becomes insufficient to secure the debt, the creditor may fix a suitable time limit for the debtor to complement the security; if the mortgagee refuses to do so or where the time limit expires and the mortgagee fails to complement the security, the creditor may cause the article mortgaged to be sold even before the maturity date by adopting the proceedings stipulated in Article (172).

#### **ARTICLE (175)**

Where the mortgaged article is subject to perishing, deterioration or decrease in value, or where its possession necessitates the incurring of exorbitant expenses and the mortgagee is unwilling to replace it by another article, either the creditor or the mortgagee may petition the Court requesting an authorization to sell it forthwith and determine the method of sale, in which case the mortgage transfers to the price resulting from the sale.

#### **ARTICLE (176)**

1. An agreement concluded at the time or after the establishment of a mortgage which vests the mortgagor, in case the debtor does not settle the debt on the maturity date, with the right to acquire or sell the mortgaged article, without observing the provisions and proceedings provided for in Article (172).
2. Nevertheless, after the maturity of the whole debt or an installment thereof, it may be agreed that the debtor shall assign to the creditor the whole or part of the mortgaged article in settlement of the whole debt or part thereof.

#### **ARTICLE (177)**

Where the mortgaged article is a cheque, the nominal value of which has not

been paid in full, the mortgagee shall, when called upon to pay the unpaid portion, present to the mortgagor the sums of money needed to pay such portion at least two days before the maturity date; otherwise the mortgagor may sell the cheque according to the proceedings provided for in Article (172).

#### **PART FOUR** **DEPOSIT IN PUBLIC WAREHOUSES**

##### **ARTICLE (178)**

1. Deposit in public warehouses is a contract pursuant to which the warehouseman - whether an individual, a company or a public entity - undertakes to receive and store goods for the account of the depositor or any other person to whom ownership or possession thereof devolves pursuant to the cheques which represent them.
2. No public warehouse vested with the right to issue negotiable instruments representing the goods deposited therein, may be constructed or exploited except by virtue of a licence issued by the competent authority in the concerned Emirate, and according to such terms and conditions as are laid down by the Minister of Economy and Commerce in consultation with the local competent authority.
3. Any warehouse where goods are received for deposit and no storage and mortgage deed are issued against such goods, shall not be subject to the provisions of public warehouses.
4. Any person exploiting a public warehouse shall cover it with an insurance against the risks of fire, perishing and theft.

##### **ARTICLE (179)**

1. The warehouseman may not practice, on in any capacity, either for himself or for others any commercial activity having for object goods of the same kind as the goods which he is licensed to keep in his warehouse and issue documents representing such goods.
2. The foregoing provision shall apply if the person in charge of exploiting the warehouse is a company where one of its partners who owns at least ten percent of its capital practices on a commercial activity included in the restriction provided in the preceding paragraph.

##### **ARTICLE (180)**

1. The depositor shall provide the public warehouse with correct data about the nature, type, value and quality of the goods deposited.

2. The depositor is entitled to examine the goods delivered in the public warehouse for his account and to take samples thereof.

**ARTICLE (181)**

1. The warehouseman shall be responsible for the goods handed over to him upto an amount not exceeding that estimated by the depositor.
2. The warehouseman shall not be liable for any loss or deficit sustained by the goods if resulting from a force majeure or from the nature of the goods or packing thereof.

**ARTICLE (182)**

The warehouseman may, after notifying the depositor, apply to the Court to which jurisdiction the public warehouse pertains to grant him permission to sell the goods deposited if they are subject to immediate damage, in which case the Court shall designate the method of sale.

**ARTICLE (183)**

1. The depositor shall receive from the warehouseman a storage receipt showing the depositor's name, occupation and domicile, as well as the type, nature and quantity of the goods deposited, the name and location of the warehouse, name of the insurer of the goods -if any- and such other particulars as are required to identify the goods and indicate their value.
2. A mortgage deed stating all the data mentioned in the storage receipt shall be attached to each storage receipt.
3. The warehouseman shall keep one true copy of the original of the storage receipt and the mortgage deed.

**ARTICLE (184)**

Where the goods deposited in respect of which a storage receipt and a mortgage deed have been issued are fungible, they may be replaced by goods of the same nature and quality provided that a stipulation to that effect has been included in both the storage receipt and the mortgage deed, in which case all the rights and privileges of the receipt or deed holder shall devolve upon the new goods.

**ARTICLE (185)**

1. The storage receipt and the mortgage deed may be issued in the name or to the order of the depositor.

2. Where the storage receipt and the mortgage deed are made to the order of the depositor, he may assign them together or separately by endorsement.
3. The endorsee of a storage receipt and a mortgage deed or of either may request that the endorsement be registered along with his domicile and occupation on the copy kept by the warehouseman.

**ARTICLE (186)**

1. The endorsement of the storage receipt and the mortgage deed must bear a date.
2. Where the mortgage is found to be separate from the storage receipt, the endorsement shall comprise, besides the provision of authority, the sum of the debt secured by the mortgage, the maturity date, the creditor's name, occupation, domicile and the signature of the endorser.
3. The endorsee shall request that the mortgage deed endorsement as well as any relevant particulars be registered in the books of the warehouse and that the mortgage deed be marked up with such endorsement and particulars.

**ARTICLE (187)**

1. The holder of both the storage receipt and the mortgage deed is entitled to take delivery of the goods deposited.. However, he may request that the goods be divided into several batches and the receipt of a storage receipt and mortgage deed for each batch.
2. The holder of the mortgage deed alone without the storage receipt shall have a right of mortgage on the goods deposited.
3. The holder of the storage receipt alone without the mortgage deed has the right to recover the goods deposited provided that he pays the debt guaranteed by the mortgage deed if such debt is due, and if not, he may recover the goods before the maturity date of the debt, as long as he deposits with the warehouseman a sufficient sum to pay off the debt with its interest and expenses until it falls due. This provision shall apply if the debt is due and the holder of the mortgage deed does not appear to cash it. The recovery of the goods deposited may be restricted to one part thereof of after paying a sum that is proportionate to the value of such part.

**ARTICLE (188)**

Where the debt secured by the mortgage deed is not paid on the maturity date, the holder of the mortgage deed separate from the storage receipt may request for the goods mortgaged to be sold, by adopting the proceedings stipulated in Article (172).

**ARTICLE (189)**

1. The mortgagor shall have a priority right over all the creditors for collecting his right from the cost of the goods after deduction of the following amounts:
  - a. taxes and duties due on the goods;
  - b. judicial expenses incurred for the joint interest of the creditors;
  - c. expenses incurred for the safekeeping, storage and sale of the goods.
2. Any amount exceeding the sum due to the holder of the mortgage deed shall be paid to the holder of the storage receipt if he is present at the time of the sale of the goods. However, if he is not present, the same shall be deposited in the Treasury of the Court which has ordered the sale.

**ARTICLE (190)**

1. The holder of a mortgage deed may not have recourse against the debtor or the endorsers until execution over the mortgaged goods has been effected and it has been established in that it is insufficient to pay off the debt.
2. The holder of a mortgage deed must have recourse against the endorser within fifteen days from the date on which goods are sold, otherwise action shall be rejected in case of denial.
3. In all cases, the holder of a mortgage deed shall forfeit his right of recourse against the endorsers if he fails to commence the execution proceedings over the mortgaged goods within thirty days from the maturity date of the debt.

**ARTICLE (191)**

Where the goods suffer an accident, the holder of the storage receipt or the mortgage deed shall have all the rights over the value of the insurance which accrues upon the occurrence of such accidents as those he had over the goods.

**ARTICLE (192)**

1. In case of loss or perishing of the storage receipt, the ex-holder thereof may apply to the Civil Court to which jurisdiction the public warehouse pertains, for an order to be issued to deliver a copy to him of the said

receipt, provided that he establishes his ownership thereof and provides a sufficient guarantor or security.

2. In case of loss or perishing of the mortgage deed, the ex-holder may obtain an order from the Court against the debtor for payment of the secured debt upon maturity; provided that he produces a sufficient guarantor or security. If the debtor fails to execute the order, the person in whose favour the order was issued may request that the goods mortgaged be sold by adopting the proceedings stipulated in Article (172), provided that the endorsement has been registered on the copy kept by the warehouseman, and that the notice requiring payment contains the particulars of such endorsement.

#### **ARTICLE (193)**

1. A guarantor who has been presented in case of loss of the storage receipt shall be discharged of liability upon recovery of the goods or with the lapse of three years if no claim for the recovery of the goods is submitted to the warehouse.
2. A guarantor who has been presented in case of loss of the mortgage deed shall be discharged of liability with the lapse of three years from the date of entering the endorsement in the books of the public warehouse.

#### **ARTICLE (194)**

1. Where the depositor fails to recover the goods on the expiry of the deposit contract, the warehouseman may request the sale thereof by adopting the proceedings provided for in Article (172); he shall collect the sums due to him from the proceeds of the sale and hand over the balance to the depositor or deposit such balance in the Court Treasury for the depositor's account.
2. The provision of the preceding paragraph shall also apply if the deposit term is not fixed and one year after the depositor failing to apply for the recovery of the goods or expressing his wish to carry on with the deposit contract.

#### **ARTICLE (195)**

1. Without compliance with to any severer punishment, any person who establishes or exploits a public warehouse without obtaining the licence stipulated in paragraph (2) of Article (178) shall be sentenced to imprisonment and a fine ranging between (5,000) Five Thousand Dirhams minimum and (20,000) Twenty Thousand Dirhams maximum or with either penalty.

2. The Court may, in case of conviction, order the closure of the warehouse until the violator obtains the required licence, or it may also decree the liquidation of the warehouse.

**PART FIVE**  
**STOCK EXCHANGE MARKET**

**ARTICLE (196)**

A market for stock exchange may not be opened in the State except pursuant to the approval of the Council of Ministers and a Federal Law shall be enacted to regulate the stock exchange market.

**PART SIX**  
**COMMERCIAL AGENCY**

**CHAPTER ONE**  
**GENERAL PROVISIONS**

**ARTICLE (197)**

An agency shall be commercial when it relates to commercial activities.

**ARTICLE (198)**

1. A commercial agency shall be deemed subject to remuneration, save where otherwise agreed upon.
2. Where the agent's fee has not been fixed in the agreement or has not been stated in the law, it shall be determined according to customs, and in the absence of custom the Court shall estimate it.

**ARTICLE (199)**

The fee shall accrue to the agent by the mere execution of the transaction assigned to him, or if he proves that it was not executed due to reasons attributed to the principal. In all other cases, the agent shall only be entitled to a remuneration for his efforts and expenses in accordance with customs -if any- or pursuant to the Court's estimation.

**ARTICLE (200)**

The commercial agency, even though it has a general power of attorney, shall apply only to commercial business, save where otherwise agreed upon.

**ARTICLE (201)**

Where the commercial agency is granted for a specific commercial transaction, the agent may carry out all the actions required to execute such transaction without the need to obtain an authorization from the principal.

**ARTICLE (202)**

1. The agent shall abide by the compulsory and express instructions of the principal , and if he violates them without an acceptable excuse, the agent may refuse the transaction. However, in case of advisory instructions issued by the principal, the agent shall have the exclusive authority to act within the scope of the general objective set by the principal for the agent.
2. Where no express instructions are issued by the principal concerning the transaction, the agent shall delay its execution and request instructions from the principal, unless the delay in implementing the transaction may cause damage to the principal or unless the agent is authorized to act without instructions from the principal.

**ARTICLE (203)**

Where the agent implements the tasks assigned to him under conditions that are more beneficial than those stipulated in the agency, he may not acquire the difference which in such a case belongs to the principal, save where otherwise agreed upon.

**ARTICLE (204)**

Where the goods or items held by the agent for the account of the principal are highly perishable or are subject to a drop in value and no instructions were received from the principal in this respect within a reasonable time, the agent may petition the Court requesting a prompt authorization to sell them and determine the method of sale.

**ARTICLE (205)**

The agent may refrain from performing the work entrusted to him where performance requires exorbitant expenses which have not been paid by the principal, unless otherwise agreed upon between the two parties or unless there previous dealing between them which is to the contrary, and provided that the agent such expenses.

**ARTICLE (206)**

Where the agent refuses to execute the transaction entrusted to him, he has to forthwith notify the principal thereof. In such a case, the agent shall safekeep the goods and other things which he keeps for the principal until he receives instructions in this respect. If the instructions are not received within a reasonable time, the agent may request the Court to authorize him to deposit the goods and other things with a trustee to be appointed by the Court.



**ARTICLE (207)**

The agent is liable for such damages and losses as are suffered by the goods and other items which he keeps for the principal, save where such damages or losses result from a foreign cause beyond the agent's control or from a defect that is inherent to the goods or items.

**ARTICLE (208)**

The agent shall not be bound to insure the articles which he keeps for the principal unless the latter so requires, or where insurance is obligatory according to the law or the custom, or if the nature of the article so dictates.

**ARTICLE (209)**

1. The agent may not constitute himself as a second party to the transaction assigned to him for execution except in the following cases:
  - a. If the principal authorizes him to do so.
  - b. If the principal's instructions concerning the transaction are express and specific, provided the agent has implemented them accurately.
  - c. If the transaction is related to a commodity which has a fixed price in the market and the agent has bought it for himself or has sold it to the principal from his own money at such price.
  - d. The agent shall not be entitled to any fee against the agency in the foregoing cases.

**ARTICLE (210)**

A third party dealing with the agent may request the right to peruse the agency contract, the correspondence and other documents establishing the agent's authority. Any restrictions to the agent's authority may not be opposed to a third party, except if it were established that such party had knowledge of such restrictions at the time of contracting.

**ARTICLE (211)**

The agent shall inform the principal of the transactions he concludes for the principal's account.

**ARTICLE (212)**

The agent shall submit to the principal on the agreed date or on the date fixed by the custom or by their previous dealing an account of the business carried out for his account. Said account shall be in conformity with the facts; if false particulars have been premeditatedly included therein, the principal may reject the relevant transactions, and shall further be entitled to claim damages. The agent shall not receive any fee for the said transactions.

**ARTICLE (213)**

The agent may retain possession of the goods and other articles dispatched to,

deposited with or delivered to him, as a security for the fees and expenses due to him from the principal.

**ARTICLE (214)**

Either party to the commercial agency contract may terminate it at any time, and no compensation is due except if the termination occurs without prior notice or at an inconvenient time. Where the contract has a fixed term, it may only be terminated for a serious and acceptable reason, otherwise compensation will be required.

**ARTICLE (215)**

Where the principal does not have a known domicile in the State, the domicile of his agent shall be deemed to be his domicile; he may be litigated and official papers served on him, in regard to the business conducted by the agent on his behalf.

**ARTICLE (216)**

Anything related to the organization of the commercial agency business shall be governed by the ad hoc laws.

**CHAPTER TWO**

**CERTAIN TYPES OF COMMERCIAL PROXY (POWER OF ATTORNEY)**

**I - CONTRACTS PROXY**

**ARTICLE (217)**

A contracts proxy is a contract pursuant to which a person undertakes to carry on continuously against remuneration, in a specific area of activity, instigation and negotiation in order to enter into transactions for the benefit of the principal and in return of a fee. The agent's task may include the execution and implementation of transactions in the name of the principal and for his account.

**ARTICLE (218)**

The contracts agent shall carry out the business of his proxy and manage his commercial agency in an independent manner, and shall bear alone the expenses necessary to conduct such business.

**ARTICLE (219)**

Where the contract stipulates that the contracts agent is to set up showrooms or warehouses for the goods or maintenance and repair installations, the contract term may not be less than five years, except if otherwise agreed upon.

**ARTICLE (220)**

1. The contracts agent may not receive the principal's rights, unless the

principal grants him this right, in which case the agent may not make any reduction or grant a respite without obtaining a special authorization therefor.

2. The contracts agent may receive such applications as are related to the implementation of the contracts entered in through him, as well as any complaints concerning the non-implementation of such contracts. He shall further be deemed as the representative of his principal in the cases relevant to said contracts, whether lodged by or against him in the area of activity of the agent.

**ARTICLE (221)**

1. The principal must pay the agreed remuneration to the agent.
2. Such remuneration may be a percentage of the transaction value, to be calculated on basis of the sale price to the customers, unless otherwise agreed upon.

**ARTICLE (222)**

The contracts agent shall be entitled to a remuneration for the transactions concluded or for those whose non-conclusion is due to the principal's act, unless the contract stipulates otherwise.

**ARTICLE(223)**

The principal shall provide the agent with all the information necessary for the implementation of the agency.

**ARTICLE (224)**

1. The contracts agent shall be bound to safeguard the principal's rights and he may take all the precautionary measures to that effect. He must as well provide the principal with the information pertaining to the market conditions in the area of his activity.
2. The contracts agent may not, even after termination of the contractual relationship, divulge the principal's secrets which may come to his knowledge as a result of the execution of the proxy.

**ARTICLE (225)**

In the event where the principal replaces the contracts agent by a new agent, this latter shall be jointly responsible with the principal for the payment of the indemnities decided by the court to the previous agent whenever it is established that the dismissal of the previous agent was a result of collusion between the principal and the new agent.

**ARTICLE (226)**

As an exception to the rules of jurisdiction provided for in the Civil Procedure Code, the Court within which jurisdiction lies the place of implementation of the contract, shall be competent to look into any conflicts arising from the contracts proxy contract.

**ARTICLE (227)**

A distribution contract whereby a trader undertakes to promote and distribute the products of an industrial or commercial establishment in a specific area on an exclusive distributorship basis, shall be considered as a contracts proxy and be governed by the provisions of Articles (220), (225) and (226) hereof.

**ARTICLE (228)**

In case of denial and lack of legitimate excuse, all cases arising from a contracts proxy contract may not be heard after the lapse of three years from the termination of the proxy.

**II - PROXY BY COMMISSION**

**ARTICLE (229)**

1. A proxy by commission is a contract pursuant to which the agent undertakes to carry out in his own name a legal act for the account of the principal against a commission to be received from the principal.
2. Where the commission agent carries out the legal act in the name of the principal, he shall be subject to other general provisions of the commercial agency.

**ARTICLE (230)**

1. Where the commission agent sells at a lower price or buys at a higher price than that fixed by the principal, and this latter wishes to refuse the transaction, the principal must notify the agent thereof within one week from the date on which he was informed that said transaction was concluded, otherwise he shall be considered as having accepted the price.
2. The principal may not reject the transaction if the agent accepts to bear the price difference.

**ARTICLE (231)**

1. Where the commission agent buys for the account of the principal, goods of a type or category that is different from that requested by the principal, this latter shall not be bound to accept them.
2. Where the commission agent buys goods which are in conformity to the

goods requested but in a bigger quantity, the principal shall be bound to accept only the quantity which he had requested.

**ARTICLE (233)**

1. Where a commission agent who is assigned to sell, grants the buyer without the permission of the principal, a respite for payment of the price or makes the price payable by installments, the principal may require the agent to pay the whole price immediately, in which case the commission agent may retain for himself the price difference and its interests -if any.
2. Nevertheless, the commission agent may grant a respite for payment of the price or makes the price payable by installments without the principal's permission, if it is the custom to do so in the area where the sale was effected, save where the principal's instructions bind the agent to sell on immediate payment basis.

**ARTICLE (234)**

Where the instructions of the principal bind the commission agent to sell against payment on term and this latter sells for immediate payment at a lesser price, the principal may not require him to pay the price until maturity of the term fixed by him, in which case the commission agent shall be bound to pay the price on the basis of sale on term.

**ARTICLE (235)**

- 1.A commission agent may not change the trade marks affixed on the goods received by him from the principal or for the principal's account.
2. Where the commission agent has possession of a whole bunch of goods of the same kind which were dispatched to him by different principals, he must put a label on each batch of goods that is distinctive of it.

**ARTICLE (236)**

1. A commission agent may disclose the name of the principal for whose account he enters into contract unless the principal requires him not to do so. The disclosure of the principal's name shall not result in a change in the nature of the proxy as long as the commission agent enters in contract in his name.
2. The commission agent must disclose to the principal the name of the third party with whom he contracts if the principal requires him to do so, and if he refrains from doing so without an acceptable excuse he may be considered as having guaranteed the implementation of the transaction.

3. In all cases, the commission agent shall be bound to establish the existence of the third party with whom he contracted if the principal requires him to do so.

**ARTICLE (237)**

1. A commission agent shall be directly bound to the third party with whom he entered into contract; such third party shall also be directly bound to the commission agent.
2. A third party with whom the commission agent has entered into contract may not have direct recourse against the principal, neither may this latter have direct recourse against such third party unless there is a legal provision to the contrary.

**ARTICLE (238)**

1. The agent shall have - in addition to his right of seizure - a right of lien over such goods and other articles which are dispatched to, deposited with or delivered to him by the principal.
2. The right of lien shall secure the agent's remuneration and any expenses and sums he pays on behalf of the principal or he lends them to him, along with their interests and other sums that may accrue to the agent on account of the proxy, irrespective whether such amounts have been paid before delivery of the goods and articles or while they were in the possession of the agent.
3. The said lien is established without regard to whether the debt has arisen from business related to the goods or articles which are still in the agent's possession or to other goods or articles which had previously been deposited with, delivered to or dispatched to the agent.

**ARTICLE (239)**

1. The agent shall not have any right of lien as is mentioned in the foregoing Article, unless he is in possession of goods or articles for the principal's account; and such possession shall be realized in the following cases:
  - a. Where the agent has effectively received the goods or articles.
  - b. Where the goods or articles were placed at his disposal in a public warehouse or customs.
  - c. Where he legally had possession of the goods before their arrival pursuant to the bill of lading or any other bill of carriage.
  - d. Where he has exported the goods and has retained possession thereof pursuant to a bill of lading or any other bill of carriage.

2. In case the goods or articles subject of the right of lien have been sold and delivered to the buyer, the agent's lien shall pass on to the price.

**ARTICLE (240)**

The agent's lien shall have priority over all other liens, except judicial expenses and sums due to the Government.

**ARTICLE (241)**

1. The execution proceedings adopted for a commercially mortgaged item shall apply to the execution on goods and articles held in possession of the agent.
2. However, where the agent is assigned to sell the goods or articles held in his possession, he may obtain execution thereon by selling them without having to comply with the proceedings referred to in the preceding paragraph, unless he fails to abide by the principal's express instructions issued in respect of the sale.

**ARTICLE (242)**

1. Where the commission agent who is assigned to sell is declared bankrupt before cashing in the price, the principal may claim payment of the price directly from the buyer.
2. Where the commission agent who is assigned to buy is declared bankrupt before he received the item bought, the principal may claim delivery of the item bought directly from the seller.

**ARTICLE (243)**

1. A commission agent shall not guarantee the fulfillment of his obligations by the third party with whom he contracted, unless he assumed expressly this guarantee, or if such guarantee is stipulated by law, or if it is customary in the area where he carries on his activity to do so.
2. A commission agent who is guarantor of the fulfillment by the contractee of his obligations, shall be entitled to an additional remuneration to be determined by the Court where there is no agreement or custom in this respect.

**ARTICLE (244)**

A commission agent may not delegate to a third party the business entrusted to him, unless he obtains the permission of the principal to do so, and if he fails to comply with this provision the person delegated shall have no right of seizure or

lien except to the limit of the debt due to the original commission agent.

### **III - COMMERCIAL REPRESENTATION**

#### **ARTICLE (245)**

The commercial representation is a contract pursuant to which the commercial representative undertakes to enter into transactions in the name and for the account of his principal, on a permanent basis and within a specific area.

#### **ARTICLE (246)**

The commercial representative shall not warrant the implementation of the transactions concluded through him, unless he had expressly agreed to such guarantee or in case the custom in the area where he carries on his activity dictates such a guarantee.

#### **ARTICLE (247)**

1. The trader shall be liable for any transactions and contracts entered into by his representative within the limits of the authority conferred to him by the trader.
2. Where the representative is delegated by several traders, they shall be jointly responsible.
3. If the representative is delegated by a company, the company shall be responsible for his action and the partners' responsibility shall depend on the type of company.

#### **ARTICLE (248)**

1. Where the limits of the authority vested in the commercial representative have not been determined, the authority shall be deemed general and comprehensive for all the transactions related to the kind of trade which the representative has been authorized to carry out.
2. The trader may not plead against a third party that the authority is limited unless he establishes that such third party was aware of such limitation.

#### **ARTICLE (249)**

The commercial representative shall carry on in the name of the trader who delegated him the commercial activities which he has been authorized to undertake; when signing he shall place next to his name in full, the full name of the trader and shall indicate his capacity as commercial representative; otherwise he shall be personally liable for his own action. Nevertheless, third



parties may have direct recourse against the trader in regard to the transactions concluded by the representative in connection with the trade which he has been authorized to carry on.

**ARTICLE (250)**

A commercial representative may represent the trader in the lawsuits arising from the commercial transactions carried on by him.

**ARTICLE (251)**

The commercial representative shall be jointly liable with the trader for observing the law provisions related to unfair competition.

**ARTICLE (252)**

A commercial representative may not effect any commercial transaction of the kind for which he is authorized, for his own account or for the account of a third party without obtaining an express approval to do so from the trader who had appointed him.

**ARTICLE (253)**

Where it is agreed that the commercial representative shall be the exclusive general representative for the trader in the agreed area, the representative shall be entitled to a commission for each transaction entered into for the account of the trader in such area, even if the trader has concluded it by himself or if it were concluded through a person other than the commercial representative.

**PART SEVEN**

**BROKERAGE**

**ARTICLE (254)**

Brokerage is a contract pursuant to which a broker undertakes to another person to look for and mediate in the negotiations with a second party in order to execute a specific contract in consideration of a remuneration.

**ARTICLE (255)**

1. Where the broker's remuneration is not fixed in the law or the agreement, it shall be determined according to the customs; in the absence of a custom the judge shall estimate it commensurately with the effort exerted by the broker and the time spent by him in carrying out the work assigned to him.
2. The judge may reduce the remuneration agreed if it is not commensurate with the nature of the transaction and the effort exerted by the broker. No reduction may be decided if the remuneration was agreed upon or if it were willingly paid by the customer after execution of the contract which

has resulted from the broker's mediation.

**ARTICLE (256)**

1. A broker shall not be entitled to a remuneration unless his mediation results in the execution of the contract between the two parties; the contract shall be deemed to be executed once both parties have agreed on all the substantial matters therein.
2. The broker shall be entitled to receive his remuneration by the mere execution of the contract even it were not implemented, unless otherwise stipulated by the law or the custom.
3. Where the contract is made conditional upon a suspended condition, the broker shall receive his remuneration only when the condition is realized.
4. Where the contract cannot be executed for a reason attributable to the customer, the broker shall be entitled to a compensation commensurate with the effort exerted.

**ARTICLE (257)**

Where the contract which has resulted from the broker's mediation is rescinded, the broker may claim payment of his remuneration or keep it in case he had already received it, unless fraud or gross error is established on his part.

**ARTICLE (258)**

Where the broker mediates for the execution of a legally prohibited transaction, he shall not receive any remuneration in consideration of such transaction.

**ARTICLE (259)**

1. The broker shall be entitled to receive a remuneration only from the party to the transaction who has delegated him.
2. Where the broker has been delegated by both parties, each of them shall be severally liable to the broker for payment of the remuneration due from him, even if they had agreed that either party will bear the broker's remuneration in full.

**ARTICLE (260)**

A broker, even when he is delegated by one of the transaction parties, shall submit a faithful offer to them and inform them of all circumstances known to him; he shall be liable to them for any fraud or fault committed by him.

**ARTICLE (261)**

A broker may not recover the expenses incurred by him in the execution of the task assigned to him unless otherwise agreed, in which case said expenses shall be payable even if the contract has not been concluded.

**ARTICLE (262)**

A broker may not claim his remuneration or recover his expenses if he has caused damage to either contracting party in favour of the other contracting party who did not assign him to mediate on his behalf or where he has obtained a promise from such other party contrary to the dictates of good faith in order to obtain a benefit for himself.

**ARTICLE (263)**

A broker may not constitute himself as second party to the contract for which he is mediating unless the contracting party authorizes him to do so, and in such case he shall not receive any remuneration.

**ARTICLE (264)**

1. A broker shall enter into his books all the transactions entered into through his endeavors and must keep the relevant documents; he shall further deliver a true copy of the original of all the foregoing to any contracting party requiring them; said books shall be governed by the same provisions as those governing commercial books.
2. In case of sale according to samples, the broker is required to keep the sample until the goods are accepted by the buyer without any reservation or until all conflicts are settled between the two parties in this respect.

**ARTICLE (265)**

A broker shall be liable to compensate any damages resulting from the perishing or loss of documents, papers or items delivered to him and related to the transaction for which he is mediating, unless he proves that such perishing or loss was due to a force majeure.

**ARTICLE (266)**

A broker may not mediate for persons who are reputed for their insolvency or if he knew them to be unqualified.

**ARTICLE (267)**

1. A broker shall not be required to guarantee the affluence of the two parties to the transaction in which he mediates, and he shall bear no liability for its implementation or for the value and quality of the goods related thereto, unless an act of fraud or fault is established on his part and he is held for guarantee under the agreement or the law.

2. Notwithstanding the foregoing, the broker shall be jointly liable for the implementation of the transaction with the contracting party if he has an interest therein in addition to his remuneration.

**ARTICLE (268)**

1. Where a broker delegates another person to perform the task assigned to him without being authorized to do so, he shall be liable for the proxy's action as if such action had emanated from him; and both the broker and his proxy shall bear joint liability.
2. Where the broker is authorized to appoint a proxy without any designation of the person of such proxy, the broker shall only be liable for his fault in choosing his proxy or his fault in the instructions issued by him to the proxy.
3. In all cases, the person who has assigned the broker may have direct recourse against the proxy.

**ARTICLE (269)**

Where several brokers have been assigned for one contract, they shall be jointly liable for the task entrusted to them, unless they have been authorized to act severally.

**ARTICLE (270)**

Where several persons assign one broker for a joint task, they shall be jointly liable for the performance of such task, unless otherwise agreed upon.

**ARTICLE (271)**

Brokerage in the stock exchange and goods markets shall be governed by the ad hoc laws and regulations.

**PART EIGHT**  
**CARRIAGE**

**CHAPTER ONE**  
**GENERAL PROVISIONS**

**ARTICLE (272)**

A carriage contract is one by which the carrier undertakes to carry by his own means a person or a thing from one place to another in consideration of a remuneration.

**ARTICLE (273)**

With the exception of sea shipment, the provisions stipulated in this Part shall apply to all kinds of carriage regardless of the carrier's capacity, without prejudice to those provisions stipulated in the special laws concerning certain kinds of carriage and in the international carriage conventions applicable in the State.

**ARTICLE (274)**

The provisions of this Part shall apply to carriage even if it is associated with operations of another nature, as long as such operations do not constitute the main objective of the contract.

**ARTICLE (275)**

1. A carriage contract and a proxy by commission for carriage contract is concluded by the mere association of an offer and an acceptance, unless both parties agree to defer such conclusion until the time of delivery. The contract may be proved by all means of evidence.
2. The receipt by the carrier of the thing subject of carriage shall be deemed as an acceptance from him of the offer made by the consignor.
3. Also, boarding the means of transport by the passenger shall be considered as an acceptance of the offer made by the carrier, unless it is established that the passenger's intention was not to conclude a carriage contract.

**ARTICLE (276)**

1. Where the carrier uses different forms of contracts and the two parties have not agreed to adopt a specific form, the contract shall be deemed to have been concluded according to the form which includes the general conditions.
2. Where the two parties agree to adopt a specific form, the conditions stated therein shall be indivisible.

**ARTICLE (277)**

1. Where the carrier holds a monopoly over one kind of carriage or over the exploitation of specific lines of transport, he shall be bound to accept all the applications submitted to him, save where an application is contrary to the prescribed carriage conditions or where it is impossible for the carrier to execute it for reasons beyond his control.
2. Where the carriage applications exceed the capacity of the means of

carriage which the carrier is licenced to use, he shall accept such applications according to their dates of submission, so that the application first submitted shall have precedence over subsequent applications, unless some of such applications have priority pursuant to the carriage conditions.

#### **ARTICLE (278)**

The carrier's liability shall cover his acts and those of his subordinates when such acts are committed by them in the course of rendering their services. All persons employed by the carrier for the performance of his obligations under the carriage contract shall be considered as his subordinates.

#### **ARTICLE (279)**

1. Explosion of the carriage means, their burning, derailing, collision or any other accidents attributed to the tools and machines used by the carrier in the performance of the carriage, shall not be considered a force majeure in the performance of the carriage contract, even if the carrier establishes that he has adopted precautionary measures to guarantee the suitability of said carriage means for work and to prevent the occurrence of damage.
2. Neither shall be considered a force majeure the accidents attributed to sudden death, or physical or mental weakness which befall the carrier's subordinates at work, even if the carrier proves that he had taken precautionary measures to guarantee their physical and mental fitness.

#### **ARTICLE (280)**

A carrier shall not be liable to compensate any damage arising from the disruption of carriage, deviation from the route set due to necessity to provide assistance to any sick, injured or endangered persons.

#### **ARTICLE (281)**

1. Fraud in the performance of the carriage contract shall mean every act or omission committed by the carrier or his subordinates with the intent to cause damage.
2. Gross fault shall mean every act or omission committed by the carrier or his subordinates with imprudence coupled with awareness of the damage which may be caused.

**CHAPTER TWO**  
**CONTRACT OF CARRIAGE OF THINGS**

**ARTICLE (282)**

1. The consignor shall be required to provide the carrier with the particulars concerning the consignee's name and address, destination of the carriage, kind of things intended for carriage, as well as their value, weight, volume, quantity, mode of packing and wrapping, number of parcels included, and any other particulars as are sufficient to identify the thing required to be transported, in addition to the delivery term and the route to be followed.
2. The consignor shall be answerable for any damages arising from the false or insufficient particulars provided by him.

**ARTICLE (283)**

1. The bill of lading shall contain, in particular, the following data:-
  - a. Date of the bill and the venue where it was edited.
  - b. Names and places of residence of the consignor, consignee, carrier and the carriage commission agent - if any.
  - c. Place of departure and destination.
  - d. The particulars related to the identification of the things carried and their value.
  - e. Date fixed for the performance of the task.
  - f. The freight and other expenses with an indication of whether they are payable by the consignor or the consignee.
  - g. The conditions pertaining to the loading and unloading, type of transport means required to be used for carriage, the route to be followed, a determination of the responsibility and any other special conditions which may be included in a carriage contract.
2. The bill of lading may be made out in the name or to the order of a specified person or to bearer.
3. The carriage deed shall be negotiated according to the rules of the bill of exchange where it is nominative, by endorsement if made out "to order" and by delivery where it is made out "to bearer", this not being concerned with the carriage of the goods or possession thereof.

**ARTICLE (284)**

1. The consignor may require the carrier to hand him a copy of the bill of lading.
2. Where no bill of lading is made out, the consignor may require the carrier to deliver to him a receipt signed by this latter purporting to the receipt of the thing carried. Such receipt shall be dated and must include the sufficient particulars to identify the thing carried and the freight.

**ARTICLE (285)**

The bill of lading and the receipt issued and signed by the carrier purporting to the receipt of the thing carried shall constitute a means of evidence of the particulars stated therein; any person claiming the contrary to such particulars shall have to establish same.

**ARTICLE (286)**

1. The rights and obligations arising from the carriage contract shall not bind the consignee unless he accepts such rights and obligations either expressly or implicitly.
2. The receipt by the consignee of the bill of lading or of the thing intended for carriage, as well as his requiring to deliver the same to him or to issue instructions in this respect, shall be deemed as an implicit acceptance of the rights and obligations arising from the carriage contract.

**ARTICLE (287)**

1. The consignor shall deliver to the carrier the thing to be carried and the documents necessary for the performance of the carriage. The consignor shall be answerable where such documents are insufficient or not corresponding to the truth, and he shall as well be liable for the loss of such documents or, in case of negligence, in using them or any abuse thereof.
2. Where the carriage requires special preparations, the consignor shall notify the carrier accordingly within sufficient time prior to the delivery of the thing to be carried.
3. Delivery shall take place at the place of business of the carrier, unless otherwise agreed upon.

**ARTICLE (288)**

1. Where, owing to the nature of the thing, special preparations should be made for its carriage, be it its packing or wrapping the consignor shall have to take such precautions as would protect it from perishing or being damaged and would not expose the other persons or things carried with it to injury or damage respectively. Where the carriage conditions impose a specific mode of packing or wrapping, the consignor shall be required to abide by them.
2. The consignor shall be further liable for the damages arising from the defect in packing or wrapping, and the carrier shall be jointly responsible with the consignor for such damages if he has accepted to perform the



carriage with his knowledge of the defect. The carrier shall be deemed to be aware of the defect where it is apparent or where it is of the type which cannot be concealed to an ordinary carrier.

3. A carrier may not exonerate himself from the liability for the perishing or loss of one of the things carried, by proving that the damage has arisen from a defect in the packing or wrapping of another thing, and any agreement to the contrary shall be null and void.

#### **ARTICLE (289)**

1. A carrier has the right to examine the things to be carried, in order to verify their condition and the authenticity of the particulars provided by the consignor in this respect.
2. Where such an examination requires the opening of the wrappings or containers, the consignor shall be notified to attend the examination. Where the consignor fails to show up on the date fixed, the carrier may undertake the examination in his absence and have recourse against the consignor for the examination costs, unless otherwise agreed upon.
3. Where the examination shows that the condition of the thing does not allow its carriage without damage, the carrier may refuse to transport it or may carry it after taking from the consignor a declaration that he is aware of the condition of the thing to be carried and that he agrees to its being transported. In such case, it is required to establish in the bill of lading the condition of the thing and the consignor's declaration.

#### **ARTICLE (290)**

The receipt by the carrier of the things to be carried without any reservations, shall constitute an evidence that he received them in good condition and in conformity with the particulars stated in the bill of lading. Where the carrier claims the contrary, he shall be required to prove it.

#### **ARTICLE (291)**

1. The carrier is bound to ship the thing to be carried and stack it on board of the ordinary means of carriage, unless otherwise agreed upon.
2. Where the consignor requires the shipping to be made on board a specific type of means of carriage, the carrier shall not be liable for the damage resulting from the use of such type of means of carriage.

#### **ARTICLE (292)**

1. The carrier must follow the route agreed upon, and in the absence of an

agreement for a specified route, the carrier shall take the shortest route.

2. However, a carrier may change the route agreed upon or take a longer one where a necessity arises compelling him to do so. In such case, the carrier shall bear no responsibility for the delay and other damages which may result from the change of route, unless fraud or gross fault is established on his part or on the part of his subordinates.

**ARTICLE (293)**

1. The carrier shall be responsible for the safety of the thing during the performance of the carriage contract.
2. Where the safekeeping of the thing during carriage necessitates re-packing, repair of the wrappings, increase or decrease thereof or any other necessary measures, the carrier shall undertake this and pay any costs required therefor, unless otherwise agreed upon. Notwithstanding the foregoing, the carrier shall not be committed to take any extraordinary measures in the transport such as supply food and water to animals, provide medical services or other services or irrigate the plants, unless otherwise agreed upon.

**ARTICLE (294)**

1. The carrier shall unload the thing on arrival, unless unloading is carried out by the consignee or another person, pursuant to an agreement, a law, regulation or instructions. In such case, the carrier shall not be liable for any damages resulting from the unloading.
2. In all cases, the carrier shall bear the unloading costs unless otherwise agreed upon.

**ARTICLE (295)**

1. Where the delivery is not required at the place of the consignee, the carrier shall notify him of the arrival of the thing carried and of the time on which he may take delivery thereof.
2. The consignee shall receive the thing on the date fixed by the carrier, otherwise he shall bear the storage fees. On the expiry of the time limit set for delivery, the carrier may carry the thing to the consignee's place in consideration of an additional freightage.
3. The consignee may require to examine the thing before receiving it, and if the carrier fails to enable him to do so, the consignee may refuse to receive the thing.

**ARTICLE (296)**

1. Where the thing to be carried is in possession of the carrier, the consignor may order him to refrain from executing the carriage, to stop it or to return the thing to him, or to direct it to a person other than the original consignee or to any other place or issue any other instructions, provided that the consignor shall pay the freight and costs of that part performance of the carriage and compensate the carrier for any damage he may have sustained as a result of the new instructions. Where the consignor had received a copy of the bill of lading, he should return it to the carrier so that he enters therein the new instructions which shall be signed by the consignor, failing which the carrier may refrain from implementing such instructions.
2. The right to issue instructions concerning the thing carried, shall pass on to the consignee by the mere fact that he receives the bill of lading or when he accepts expressly or implicitly the carriage contract, in which case, also, the bill of lading should be returned to the carrier to enter therein the new instructions which shall be signed by the consignee, failing which the carrier may refrain from implementing same.
3. No new instructions related to the thing to be carried may be issued, after arrival of the thing and notification of the consignee to receive it or to appear in order to receive it.

**ARTICLE (297)**

The carrier is bound to execute the instructions issued to him by whomever is entitled to do so pursuant to the provisions of the foregoing Article, unless the carriage conditions prohibit same, or unless it is impossible for the carrier to execute such instructions, or if execution thereof would cause a disturbance in the traffic, or if the value of the thing carried is not sufficient to cover the expenses incurred by the carrier due to execution of the instructions. In all such cases, the carrier shall notify the person who issued the new instructions of his abstention from execution, the reason for such abstention, and the carrier shall not be liable for said abstention, unless it is unreasonably withheld.

**ARTICLE (298)**

1. Where an obstacle prevents the commencement of carriage, or if the transport is disrupted during its execution, or if the consignee does not appear to take delivery of the thing carried, or if he reports but refuses to receive it or pay the freightage or expenses due, the carrier shall notify the consignor accordingly and seek further instructions; and as an exception to the provisions of Article (296), the carrier must in this case implement the instructions received by him from the consignor, even if he

fails to return the copy of the bill of lading given to him by the carrier.

2. Where the consignor fails to issue instructions in due time, the carrier may apply to the Court to certify the condition of the thing and to authorize him to deposit it with a trustee for the account of the consignor and at the consignor's responsibility.
3. Where the thing is subject to perishing, deterioration of value, or when its maintenance costs are exorbitant, the Court may order that it be sold in the manner specified by it and the price deposited in the Court Treasury for the account of the persons concerned.

#### **ARTICLE (299)**

The consignor shall pay to the carrier the freight and other costs which may accrue, save where it is agreed that they be borne by the consignee, in which case, both the consignor and consignee shall be jointly liable to pay them to the carrier.

#### **ARTICLE (300)**

No freight shall accrue to the carrier in respect of such things carried which may perish by a force majeure.

#### **ARTICLE (301)**

1. Where a force majeure prevents the execution of carriage no freight shall accrue to the carrier. However if said force majeure hinders the carriage from being completed, the carrier shall be entitled to receive the freight for the part performance of the carriage.
2. In all cases, a carrier may claim payment of the loading and unloading costs and other necessary expenses.

#### **ARTICLE (302)**

The right to claim for the recovery of the sum paid in surplus to the freightage agreed or prescribed in the carriage conditions shall be vested in the person who paid the freight.

#### **ARTICLE (303)**

1. The carrier may withhold the thing carried until payment of the freight, expenses and other sums as are due to him because of the carriage.
2. The carrier shall have a right of lien over the price resulting from the sale of the things carried to collect the freightage and other sums as are due to him because of the carriage; the provisions relative to the procedures

of execution on commercially mortgaged things shall apply in this regard.

**ARTICLE (304)**

1. From the moment the carrier receives the thing to be carried, he shall be liable for its perishing in whole or in part, its damage and the delay in delivering same.
2. The thing shall be deemed totally perished if the carrier fails to deliver it or to notify the consignee to appear in order to receive it within thirty days of the expiry of the time limit set for delivery, or if no date for delivery has been fixed, within thirty days of the expiry of the time limit usually required by an ordinary carrier for the carriage had he been in the same circumstances.

**ARTICLE (305)**

The carrier shall not be liable for the perishing or impairment of the thing after delivery thereof to the consignee, to the customs agreed upon or to the trustee appointed by the Court as depositary of the thing, save where fraud or gross fault is established on the part of the carrier or his subordinates.

**ARTICLE (306)**

1. The carrier shall not be answerable for any decrease in weight or volume that occurs to the thing during carriage owing usually to its nature, unless it is proved that such decrease has resulted from another cause.
2. Where the bill of lading covers several things divided into groups or parcels, the decrease allowed shall be determined on basis of the weight of each group or parcel, in case such weight has been specified separately in the bill of lading or if it could have been specified.

**ARTICLE (307)**

Where the thing is carried in the custody of the consignor or consignee, the carrier shall not be liable for its perishing or deterioration, unless fraud or gross fault is proved on his part or on the part of his subordinates.

**ARTICLE (308)**

The carrier may not exonerate himself from liability regarding the perishing or deterioration of the thing, or the delay in delivering it, save where he proves a force majeure, a defect inherent to the thing carried, a fault committed by the consignor or consignee, or an act of the government.

**ARTICLE (309)**

1. Any provision exonerating the carrier from liability for total or partial

perishing or deterioration of the thing, shall be null and void; also, any provision exonerating the carrier from said liability if arising from the acts of his subordinates shall be null and void. Any condition which tends to bind the consignor or consignee, in any capacity whatsoever, to pay all or part of the insurance expenses against the carrier's liability, shall be deemed as an exoneration from liability.

2. However, the carrier may stipulate his total or partial exoneration from liability for the delay.

#### **ARTICLE (310)**

1. The carrier may determine his liability for the total or partial perishing or deterioration of the thing, provided that the indemnity agreed shall not be fictitious and remains subject to the Court's estimation in case of conflict.
2. The consensual indemnity shall not be payable, if the carrier proves that the consignee did not sustain any damage.
3. Where the damage value is less than the amount of the consensual indemnity, the judge may reduce such amount to make it equivalent to the damage value. Nevertheless, where the damage exceeds the consensual indemnity amount, it is not permissible to claim for more than such amount, unless it is established that the carrier or his subordinates have committed fraud or a gross fault, in which case the carrier shall be bound to compensate for the damage in full.

#### **ARTICLE (311)**

The condition for determination of or exoneration from liability for delay shall be in writing, otherwise it shall be considered as null and void. Where the carriage contract is made out on printed forms, the said condition must be clear and written in a manner which draws the attention, failing which the Court may consider it null and void.

#### **ARTICLE (312)**

The carrier may not cling to the condition of determination of, or exoneration from, liability for delay where fraud or gross fault is proved on his part or on the part of his subordinates.

#### **ARTICLE (313)**

1. Where the thing to be carried perishes or deteriorates and its value is not indicated in the bill of lading, the indemnity shall be assessed on basis of its real value at the venue time of arrival, unless otherwise stipulated by law or agreement. Save where the perishing is total, the indemnity shall

be estimated while taking into account the decrease permitted in pursuance to the provision of Article (298).

2. Where the value of the thing carried is indicated in the bill of lading, the carrier may contest such value and prove by all means of evidence the real value of the thing.
3. With the exception of the two cases of fraud and gross fault committed by the carrier or his subordinates, the carrier shall not be liable for the loss of the thing entrusted to him for carriage, where such thing consists of money, bonds and securities, jewelries or any other valuable thing, except to the extent of the express written particulars provided by the consignor at the time he delivered the thing for carriage.

**ARTICLE (314)**

1. Indemnity for total perishing and indemnity for delivery may not be cumulated.
2. Indemnity for delay may not be adjudged in case of partial perishing except for the part which did not perish.
3. In all cases, the indemnity adjudged may not exceed the amount which would accrue in the event of total perishing of the thing.

**ARTICLE (315)**

Where the thing deteriorates, perishes in part or its delivery is delayed, such as it may not serve anymore the purpose for which it was carried, and if the carrier's liability for such deterioration, perishing or delay is established, the claimant for compensation may waive the thing to the carrier against an indemnity to be estimated on basis of the total perishing of the thing.

**ARTICLE (316)**

1. Where the compensation is paid due to perishing of the thing, then within one year of such payment the thing is found, the carrier shall notify forthwith the person who received the compensation, inform him of the thing's condition and invite him to inspect it, at his own discretion, at the place where it was found, the place of departure or the place of destination.
2. Where the person who received the compensation fails to send his instructions within fifteen days of his notification, or if he sends the instructions but fails to report on the date fixed by the carrier for

inspection, or if he reports but refuses to recover the thing, the carrier may then dispose of the thing thereof.

3. Where the person who received the compensation requests that it be returned to him, he is bound to reimburse the compensation received after deduction therefrom of the expenses of the claim and a sum equivalent to the damage sustained due to the delay in delivering the thing.

#### **ARTICLE (317)**

1. Receipt of the things carried and payment by the consignee of the freightage shall invalidate any lawsuit against the carrier if the defect that had occurred therein is apparent. However, where such defect is not apparent, it may be proved, but the case lodged for said defect shall be admitted only if notice is served regarding the defect within seventy hours of the time of receipt, and if the claim is submitted to the Court within thirty days, adding to such two time limits the time required for the distance.
2. The condition of the goods shall be established either by the specialized authorities or by an expert appointed by the Court without delay.
3. The provisions of this Article shall not apply where it is established that the defect was a result of fraud or gross fault committed by the carrier or his subordinates, or where it is established that the carrier and his subordinates have intentionally concealed the defect.

#### **ARTICLE (318)**

1. Where several carriers undertake successively the performance of one carriage contract, the first carrier shall be liable towards the consignor and consignee for the whole operation, and any provision to the contrary shall be null and void.
2. Each of the carriers subsequent to the first one shall not be liable towards this latter or towards the consignor or consignee, except for the damage that has occurred in that part of carriage performed by him. Where it is impossible to determine the part during which the damage occurred, the compensation shall be divided between all the carriers in proportion to each carrier's share in the freight, and in case one of such carriers is insolvent, his share shall be divided between the others in accordance with the same proportion.
3. The carrier who proves that the damage did not occur during the part of carriage executed by him, shall be exempted from liability therefor.



**ARTICLE (319)**

Each of the consecutive carriers may require that the thing be examined and its condition established on delivery thereof to him by the previous carrier. Where he receives it without making reservations, it shall be assumed that he received it in good condition and in conformity to the particulars stated in the bill of lading, until the contrary is proved.

**ARTICLE (320)**

The last carrier is responsible towards the preceding ones for claiming payment from the consignee of the sums due because of the carriage. He has the right to collect such sums on their behalf and take all the legal proceedings for collection thereof, including the use of the right of withholding the thing and the right of lien over the thing that is subject of carriage.

**ARTICLE (321)**

Where there is denial and lack of legitimate excuse the following cases may not be heard:-

1. The cases lodged against the carrier on ground of delay, perishing or damage arising from a contract of carriage of things after the lapse of six months in respect of carriage inside the State, and after the lapse of one year in respect of overseas carriage, as of the date of delivery of the thing to the consignee, or the customs or to the trustee appointed by the Court as depository of the thing. In case of total perishing of the thing carried, the period shall run from the expiry of the date stipulated in paragraph (2) of Article (304).
2. The case lodged by one carrier as a recourse against the consecutive carriers pursuant to paragraph (2) of Article (318) after the lapse of sixty days of the date of payment of the compensation or of the date on which official claim for compensation was filed.

**ARTICLE (322)**

Any person or subordinate of a person having committed fraud or gross fault may not cling to the plea of "non hearing" stipulated in the foregoing paragraph.

**CHAPTER THREE**  
**CONTRACT OF CARRIAGE OF PERSONS**

**ARTICLE (323)**

1. The passenger shall pay the fare on the date agreed, or the date stated on the carriage schedules or as is customary; he shall further abide by the carrier's instructions in regard to the carriage.

2. The carrier shall transport the effects carried by the passenger during the trip, and the passenger shall not be bound to pay any fare for the transport of his effects, except where they exceed the limit set in the carriage tariff or the limit recognized by customary usage.

**ARTICLE (324)**

1. Where a force majeure prevents the commencement of carriage or where before execution of carriage, circumstances occur rendering such carriage a danger to people's lives, the carrier shall not be liable for indemnity due to non-execution, neither shall he be entitled to receive the fare.
2. Where the force majeure or the danger to people's lives arise after commencement of execution of carriage, the carrier shall receive only the fare due for that part of carriage which was executed.

**ARTICLE (325)**

Where carriage is impossible because of the death or illness of the passenger or due to other compelling impediments, the carriage contract is rescinded and the fare shall not be payable.

**ARTICLE (326)**

1. Where the passenger gives up the idea of travelling before commencement, he shall notify the carrier of his renunciation before the date set for execution of the carriage and in case of extreme necessity, such notice can be served on the same day.
2. Where the notification is effected according to the preceding paragraph, the carrier's fare shall not be payable. However, he may claim for compensation of the damage sustained by him due to the fact that the passenger has given up the idea of travelling.

**ARTICLE (327)**

Where the passenger gives up the idea of pursuing the trip after commencement thereof, the full fare shall be payable, unless his renunciation is attributed to extreme necessity, in which case he shall only pay the fare corresponding to the executed part of carriage.

**ARTICLE (328)**

Without prejudice to the provisions of the two foregoing Articles, where the passenger fails to report on the time fixed for carriage, he shall pay the full fare and he may, whether he paid the full fare before or after the date fixed, require that the carriage be executed on a later date; all this unless otherwise agreed upon.

**ARTICLE (329)**

1. Where carriage is cancelled prior to commencement or completion thereof due to a reason which is attributable to the carrier, his subordinates or the means of carriage used by him, the passenger shall not be bound to pay the fare, without prejudice to his right for compensation - if justified.
2. Where carriage is disrupted after commencement for a reason attributed to the carrier, his subordinates or the means of carriage used by him, the passenger may renounce to pursue the trip and the carrier shall in this case bear the costs of carrying the passenger to the place agreed. However, the passenger may choose to wait until the carriage traffic resumes and he shall not be required in such case to pay any additional fare.

**ARTICLE (330)**

The passenger may, before commencement of execution, relinquish the carriage ticket, unless it is made out in the passenger's name or it is issued to him or based on special considerations.

**ARTICLE (331)**

1. The carrier shall prepare for the passenger a seat in the class agreed upon, and this latter may recover from the carrier the difference in case he is compelled to travel in a lower class than the one indicated on his ticket.
2. Where the passenger pays an additional fare against special advantages, he may claim that such additional fare be reimbursed to him if the carrier fails to provide the corresponding advantages.

**ARTICLE (332)**

1. The carrier may withhold the passenger's effects to secure payment of the fare and the price of food or other things served on him during the performance of the carriage contract.
2. The carrier shall have a priority right over the price of the passenger's effects which accrue to him by reason of the carriage; the proceedings of execution on things which are commercially mortgaged shall apply in this respect.

**ARTICLE (333)**

1. The carrier is bound to carry the passenger and his effects up to the destination of arrival on the date agreed upon, and if no date is specified then within the time limit required by an ordinary carrier had he been in the same circumstances.

2. The carrier may, prior to carriage commencement or during the trip, examine the passenger's effects in his presence to ensure their conformity to the carriage conditions.

**ARTICLE (334)**

1. The carrier shall secure the safety of the passenger for the duration of the performance of the carriage contract, and any agreement exonerating the carrier from such liability shall be null and void.
2. Performance of the carriage contract covers the period between the moment the passenger starts to board the means of transport at the place of departure, until he disembarks at the place of arrival. Where there are quays or platforms for the means of transport to lay by, the performance of the contract shall cover the period lying between the moment the passenger embarks the quay or platform at the place of departure and his exit therefrom at the place of arrival.
3. Where necessity arises during the trip to change the means of transport, the liability shall not cover the period of transfer of the passenger from one means of transport to the other without the custody of the carrier or his subordinates.

**ARTICLE (335)**

1. The carrier shall be liable for the delay in arrival and for such bodily or non-bodily injuries sustained by the passenger during the performance of the carriage contract.
2. The responsibility stipulated in the preceding paragraph shall not be exonerated paragraph, except by the carrier proving that the delay or injury is due to force majeure or the passenger's or third party's fault.

**ARTICLE (336)**

1. Any provision which exonerates fully or partially the carrier from liability in regard to bodily injuries sustained by the passenger, shall be null and void.
2. Any condition which aims to make the passenger, in any way, pay all or some of the insurance expenses against the carrier's liability shall be deemed as being an exoneration from liability.

**ARTICLE (337)**

1. The carrier may place & condition for being exonerated completely or partly from liability for the delay of the passenger or other than bodily injuries which may be suffered by him during carriage.

2. The condition exonerating from liability shall be in writing, otherwise it shall be considered null and void. Where the carriage contract is executed on printed forms, the condition must be clear and written in such manner as to draw the attention, failing which the Court may consider it null and void.
3. The carrier may not cling to the condition exonerating from liability in full or in part where fraud or gross fault is proved on the part of the carrier or his subordinates.

**ARTICLE (338)**

1. The passenger shall be bound to watch over the effects and animals which he is permitted to carry with him, and the carrier shall not be liable for any loss or damage which may be sustained thereby, save where the passenger proves that such loss or damage is due to fault by the carrier or his subordinates.
2. The passenger shall be liable for the damage caused to the carrier or to third parties as a result of the effects or the animals which he carries with him.
3. As for the effects which are delivered to the carrier, carriage thereof shall be governed by the provision stipulated in relation to the carriage of things.

**ARTICLE (339)**

1. Where a passenger dies or falls ill in the course of performance of the carriage contract, the carrier shall take such measures as are deemed necessary to safekeep his effects until they are delivered to the persons concerned.
2. Where any of the persons concerned is present at the place of occurrence of death or illness, he may intervene to supervise the measures adopted by the carrier to safekeep the effects and request from the carrier to deliver to him a declaration that the passenger's effects are in his custody.

**ARTICLE (340)**

The heirs and dependents of the passenger may, in execution of alimony, lodge an action for liability arising from the carriage contract, in case of death of the passenger, regardless of whether the death occurred directly after the incident or after the lapse of a period of time.

**CHAPTER FOUR**  
**PROXY OF COMMISSION FOR CARRIAGE**

**ARTICLE (341)**

1. Proxy by commission for carriage is a contract by which the agent undertakes to enter into a carriage contract in his own name and for the account of his principal, and where necessary, to carry out such operations as to relate to the carriage, in consideration of a commission received from the principal. A commission agent for carriage shall be in regard to the consignor in the same stature as a carrier.
2. Where the commission agent undertakes carriage by his own means, he shall be governed by the provisions of the carriage contract, unless otherwise agreed upon.

**ARTICLE (342)**

With the exception of the provisions stipulated in this Chapter, the provisions of proxy by commission shall apply to proxy by commission for carriage.

**ARTICLE (343)**

The principal may at any time cancel the order for carriage before the commission agent enters into the carriage contract, in which case he shall be bound to reimburse to the commission agent, the expenses incurred by him and compensate him for any work performed.

**ARTICLE (344)**

1. The commission agent shall execute his principal's instructions, and in particular those instructions as related to the date of carriage, the selection of the carrier, the carriage means and the route to be followed.
2. The commission agent may not charge his principal any fare/freightage exceeding the one agreed upon with the carrier, and any advantages obtained from the carrier by the commission agent shall benefit to the principal, unless otherwise agreed upon in the proxy contract or dictated by the custom.

**ARTICLE (345)**

The commission agent for carriage shall guarantee the safety of the passenger or the article carried, and any agreement to the contrary shall be null and void.

**ARTICLE (346)**

1. Where the carriage relates to goods, the commission agent shall as of the time of receiving the goods be wholly or partly liable for the perishing thereof, damages suffered thereby or the delay in the delivery of such

goods. He may not deny his liability, unless he proves a force majeure, an inherent defect of the goods, or a fault of the principal or the consignee.

2. Where the carriage relates to persons, the commission agent shall be liable for the delay of arrival, and for such bodily or non-bodily injuries as are suffered by the passenger in the course of performing the carriage contract. The commission agent may not deny his liability, except by proving a force majeure or a fault committed by the passenger.
3. In all cases, the commission agent may have recourse against the carrier where relevant.

**ARTICLE (347)**

1. Any provision exonerating wholly or partially the commission agent for carriage, from the bodily injuries suffered by the passenger, shall be null and void.
2. A provision which tends to impose on the passenger in any manner whatsoever, the payment of all or some of the insurance costs against the liability of the commission agent, shall be deemed to have the status of the exoneration stipulated in the preceding paragraph.

**ARTICLE (348)**

1. The commission agent for carriage may place & condition that he be exonerated wholly or partially from the liability which arises from the perishing, damaging or delay in the delivery of the goods carried, as well as from the liability arising from the delay of the passenger's arrival or bodily injuries sustained by him during carriage.
2. The condition of exoneration from liability shall be in writing, otherwise it shall be considered null and void. Where the proxy by commission contract is executed on printed forms, such condition must be clear and written in such manner as to draw attention, otherwise the Court may consider it null and void.
3. The commission agent for carriage may not cling to the condition of total or partial exoneration from liability in cases of fraud or gross fault committed by him or his subordinates, or by the carrier or his subordinates.

**ARTICLE (349)**

1. The principal and passenger shall each have direct recourse against the carrier to claim the rights arising from the carriage contract. The carrier

shall also have direct recourse against each of the principal and passenger to claim such rights. In all cases, the commission agent must be intromitted in the case.

2. The passenger in the carriage contracts of persons and the consignee in the carriage contract of things shall have direct recourse against each of the principal, carrier and commission agent for carriage for the rights arising from the carriage contract.

**ARTICLE (350)**

Where the commission agent pays the fare/freightage to the carrier, he shall subrogate him in his rights.

**ARTICLE (351)**

The original commission agent is a guarantor of the commission agent for carriage appointed by him, except where the consignor has appointed the commission agent in the agreement concluded by him with the original principal.

**ARTICLE (352)**

The provisions of Articles (321) and (322) hereof, shall apply to the non-hearing of the cases arising from proxy by commission contract for carriage.

**CHAPTER FIVE**  
**PROVISIONS PERTAINING TO AIR CARRIAGE**

**ARTICLE (353)**

1. Air carriage herein means the carriage of persons, luggage and goods by airplanes in consideration of a freight/freightage.
2. Luggage referred to in the foregoing paragraph, means articles which the passenger is allowed to carry with him in the airplane or which are delivered to the carrier for safe custody during the carriage.

**ARTICLE (354)**

Without prejudice to the international conventions to which the State is a party, the provisions of this Part shall apply to air carriage, with due consideration to the specific provisions stipulated in the following Articles.

**ARTICLE (355)**

An air carrier shall be held liable for such damage as is sustained as a result of a passenger's death, wound or bodily injury occurring during air carriage or during any of the operations of the passenger's boarding or disembarkation of the airplane.



**ARTICLE (356)**

1. An air carrier shall be held liable for such damage as is sustained due to the perishing, loss or damaging of the registered luggage and goods, if the accident which caused the damage occurred during the air carriage.
2. Air carriage includes the period when the luggage and goods are in the custody of the carrier during the flight or during the presence of the airplane at the airport or in any place where the airplane has landed.
3. Air carriage shall not cover the period when the luggage or goods are being carried by land, sea or river outside the airport. However, where such carriage is necessary to ship the luggage or goods, to deliver them or to transfer them from one airplane to another, in implementation of an air carriage contract, it shall be presumed that the damage resulted from an accident which occurred during the air carriage period until the contrary is proved.

**ARTICLE (357)**

An air carrier shall be held liable for such damage as may result from the delay in the arrival of the passengers or the registered luggage or the goods.

**ARTICLE (358)**

An air carrier shall not be liable for such small personal articles which are retained in the custody of the passenger during the travel, and the carrier shall not be questioned about some unless the passenger proves that the carrier or his subordinates failed to take the necessary measures to prevent the occurrence of the damage.

**ARTICLE (359)**

1. In case of carriage of persons, the compensation adjudged for payment by the carrier where the passenger dies or is injured, shall not be less than the amount of the prescribed Sharia blood money, but it may be agreed to exceed this amount.
2. In case of carriage of luggage and goods, the compensation amount may not exceed Dhs 150 (One Hundred Fifty Dirhams) for each kilogram, unless it agreed to exceed this sum. Nevertheless, where the consignor on delivering the luggage or goods submits a specific statement indicating that he attaches special importance to the delivery of the same in safe condition at the place of arrival, due to its value, and if he pays such additional freightage as is required by the carrier for the same, the carrier shall be bound to pay compensation according to the value indicated by the consignor, save where the carrier proves that such value exceeds the real value of the luggage and goods.

3. Where one parcel is lost, damaged or delayed and this has an effect on the value of the other parcels covered by the same carriage application form, the total weight of such parcels shall be taken into consideration upon determination of the liability extent.
4. As regards such personal or small articles as would remain in the custody of the passenger during the flight, the compensation adjudged to each passenger for the perishing or damaging of such articles, may not exceed the sum of Dhs 3000 (Three Thousand Dirhams).
5. An air carrier may not plead the limitation of liability as is stipulated in this Article where it is proved that the damage was the result of an act or omission by the carrier or his subordinates, either with intent to cause damage or due to imprudence coupled with awareness that a damage might result therefrom. Where the act or omission is committed by the subordinates, it must be also established that it was committed in the course of performance of their duties.

#### **ARTICLE (360)**

An air carrier shall be held liable within the limits set in the preceding Article, irrespective of the capacity of the litigants in the action of liability.

#### **ARTICLE (361)**

1. Where an action for compensation is brought against one of the carrier's subordinates, he may plead the limitation of liability stipulated in Article (359), where it is proved that the act which has caused the damage was perpetrated by him during the performance of his services.
2. However, no subordinate of the carrier may plead the limitation of liability, where it is proved that the damage was the result of an act or omission by him, either with intent to cause damage or with imprudence coupled with awareness that a damage is likely to result therefrom.

#### **ARTICLE (362)**

1. The airway bill shall contain a statement that the carriage is being made in accordance with the limited liability provision stipulated in Article (359), otherwise the carrier or his subordinates shall not have the right to cling to such provision.
2. Any condition exonerating the air carrier from liability or determining it at less than what is specified in Article (359), shall be null and void, except where the article carried has perished or has sustained damage due to its nature or to an inherent defect.

**ARTICLE (363)**

Where the consignee receives the luggage or goods at the place of arrival without having any reservation, it shall constitute a presumption that he has received them in good condition and in conformity to the conditions of the airway bill, unless otherwise proved.

**ARTICLE (364)**

1. Where the luggage or goods arrive damaged, the consignee must serve a notice on the carrier immediately upon discovery of the damage within no more than seven days in regard to luggage and twenty four days in regard to goods, from the date of their receipt. In case of delay, the notice must be sent within twenty one days at the most from the day on which the luggage or goods are placed at the disposal of the consignee.
2. The notice may be addressed in the form of an objection as a protest written in the airway bill upon taking delivery of the luggage or goods.
3. The action for liability against the carrier may not be admitted where the notice is not served within the time limits specified in this Article, unless the plaintiff proves that the carrier or his subordinates have exercised cheating or fraud in order to evade such time limits or to conceal the damage sustained by the luggage or goods.

**ARTICLE (365)**

1. Where the carriage is free of charge, the air carrier shall not be held liable, unless it is proved that he or his subordinates have committed a fault, in which case the carrier shall be liable with the limits stipulated in Article (359).
2. Carriage shall be deemed to be free of charge where it is performed without consideration and the carrier is not a professional carrier. However, where the carrier is a professional one, the carriage shall not be considered free of charge.

**ARTICLE (366)**

The aircraft pilot may impose compulsory measures upon all the persons on board, and he may decide to take out any person or article whose presence on board the aircraft might constitute a threat to its safety or a breach to the regulations.

**ARTICLE (367)**

An air carrier shall be exonerated from liability if he proves that all the damage was due to the fault of the injured person. The carrier's liability may be reduced

by the Court, where it is proved that the fault of the injured person has contributed to cause the damage.

**ARTICLE (368)**

The plaintiff shall have an option to file his case before one of the following courts:

1. The court within whose jurisdiction the carrier's domicile is located.
2. The court within whose jurisdiction the head office of the carrier's activity is located.
3. The court within whose jurisdiction the carrier has a corporation or an establishment which has entered into the carriage contract on his behalf.
4. The court of the place of destination.

Any stipulation bringing an amendment to the rules of jurisdiction hereinabove referred to, shall be null and void, unless provided for before occurrence of the damage.

**ARTICLE (369)**

In case of consecutive carriage performed by several successive carriers, each carrier shall be deemed a party to the carriage contract in regard to the period performed by him. However, the carrier having entered into the consecutive carriage contract shall assume the liability for all the period agreed in the contract, even if he has not personally performed it in whole or in part.

**ARTICLE (370)**

The right to bring the action in liability against the air carrier or any of his subordinates may not be heard after the lapse of two years from the day on which the airplane arrives or was supposed to have arrived, or from the day on which the carriage was stopped.