

FAIR TRANSACTIONS IN SUBCONTRACTING ACT

Act No. 3779, Dec. 31, 1984

Amended by Act No. 4198, Jan. 13, 1990

Act No. 4419, Dec. 14, 1991

Act No. 4514, Dec. 8, 1992

Act No. 4898, Jan. 5, 1995

Act No. 4860, Jan. 5, 1995

Act No. 5234, Dec. 30, 1996

Act No. 5386, Aug. 28, 1997

Act No. 5454, Dec. 13, 1997

Act No. 5507, Jan. 13, 1998

Act No. 5816, Feb. 5, 1999

Act No. 5756, Feb. 5, 1999

Act No. 6198, Jan. 21, 2000

Act No. 6893, May 29, 2003

Act No. 7107, Jan. 20, 2004

Act No. 7315, Dec. 31, 2004

Act No. 7488, Mar. 31, 2005

Act No. 7864, Mar. 3, 2006

Act No. 8539, Jul. 19, 2007

Act No. 9085, Mar. 28, 2008

Act No. 9616, Apr. 1, 2009

Act No. 9971, Jan. 25, 2010

Act No. 10250, Apr. 12, 2010

Act No. 10303, May 17, 2010

Act No. 10475, Mar. 29, 2011

Act No. 10719, May 24, 2011

Act No. 11461, jun. 1, 2012

Act No. 11842, May 28, 2013

Act No. 11938, Jul. 16, 2013

Act No. 12097, Aug. 13, 2013

Act No. 12709, May 28, 2014

Act No. 13451, Jul. 24, 2015

Act No. 14143, Mar. 29, 2016

Act No. 14456, Dec. 20, 2016

Act No. 14814, Apr. 18, 2017

Article 1 (Purpose)

The purpose of this Act is to contribute to the sound development of the national economy by establishing a fair order in subcontract transactions so that the principal contractor and subcontractor may complement each other and develop balance on equal terms.

Article 2 (Definitions)

(1) Where a principal contractor entrusts a subcontractor with such tasks as manufacturing (including processing; hereinafter the same shall apply), repair, construction, or services or where a principal contractor, who is entrusted with such tasks (hereinafter referred to as "manufacturing, etc.") by another business entity, re-entrusts a subcontractor with what he/she has been entrusted, such acts of a subcontractor as manufacturing, repairing, constructing, or providing services of what has been entrusted (hereinafter referred to as "subject matter, etc.") and delivering, transferring, or providing (hereinafter referred to as "delivery, etc.") the subject matter to a principal contractor and receiving a consideration in return (hereinafter referred to as "subcontract consideration"), shall be called "subcontract transactions."

(2) The term "principal contractor" in this Act means a person falling under any of the following subparagraphs: *<Amended by Act No. 10475, Mar. 29, 2011; Act No. 12709, May. 28, 2014; Act No. 13451, Jul. 24, 2015>*

1. A business entity, other than small and medium business entrepreneurs (referring to those specified in Article 2 (1) or (3) of the Framework Act on Small and Medium Enterprises, including small and medium enterprise cooperatives under the Small and Medium Enterprise Cooperatives Act; hereafter the same shall apply), who entrusts small or medium business entrepreneurs with manufacturing, etc.;

2. A small and medium business entrepreneur whose annual sales in the immediately preceding business year *[referring to the total sum of the assessed amount of construction capability published (referring to the most recently published total sum thereof) as at the time a subcontract is concluded in cases of a transaction in which the assessed amount of construction capacity shall apply as prescribed in related Acts, and referring to the total amount of assets in cases of an absence of the annual sales or the assessed amount of construction capability; hereafter the same shall apply in this subparagraph]* is more than the annual sales of the other small or medium business entrepreneur who is entrusted with manufacturing, etc., by the former small or medium business entrepreneur: *Provided, That the foregoing shall not apply to a small or medium business entrepreneur whose annual sales is equal to the amount prescribed by Presidential Decree.*

(3) The term "subcontractor" in this Act means a small or medium business entrepreneur who is entrusted with manufacturing, etc. by a principal contractor under the subparagraphs of paragraph (2).

(4) Where a business entity entrusts an affiliate company prescribed in subparagraph 3 of Article 2 of the Monopoly Regulation and Fair Trade Act with manufacturing, etc., and the affiliate company re-entrusts a third person with whole or considerable part of manufacturing, repair, construction, or performance of services that have been entrusted, and where the third party falls under paragraph (3) if he/she is deemed to have been entrusted with manufacturing, etc. directly from the business entity who has entrusted an affiliate company, even though the affiliate company does not fall under any of the subparagraphs of paragraph (2), the affiliate company and the third person shall be deemed a principal contractor and a subcontractor under this Act, respectively.

(5) Where a company belonging to an enterprise group subject to the limitations on mutual investment under Article 9 (1) of the Monopoly Regulation and Fair Trade Act entrusts or is entrusted with manufacturing, etc., it shall be governed by the following subparagraphs:

1. Even though the company which entrusts manufacturing, etc. does not fall under any of the subparagraphs of paragraph (2), it shall be deemed a principal contractor under this Act;
2. Even though the company entrusted with manufacturing, etc., falls under paragraph (3), it shall not be deemed a subcontractor under this Act.

(6) The term "entrustment with manufacturing" in this Act means entrustment, by a business entity engaged in a business falling under any of the following subparagraphs, of manufacturing of goods from such business to another business entity. In such cases, the scope of goods resulting from such business shall be determined and publicly notified by the Fair Trade Commission:

1. Manufacturing of goods;
2. Sale of goods;
3. Repair of goods;
4. Construction.

(7) Paragraph (6) shall apply to the goods prescribed by Presidential Decree, limited to areas prescribed by Presidential Decree, including a Special Metropolitan City and Metropolitan City, notwithstanding paragraph (6).

(8) The term "entrustment with repair" in this Act means entrustment, by a business entity engaged in the business of repairing goods upon receipt of an order or the business of repairing goods that he/she is using, of all or part of his/her repair activities to another business entity.

(9) The term "entrustment with construction" in this Act means entrustment, by a business entity falling under any of the following subparagraphs (hereinafter referred to as "constructor"), of all or part of construction work from his/her business to another business entity, or entrustment, by a constructor, of the construction work prescribed by Presidential Decree to another business entity: *<Amended by Act No. 10719, May 24, 2011>*

1. A constructor under subparagraph 7 of Article 2 of the Framework Act on the Construction Industry;
2. A constructor under subparagraph 3 of Article 2 of the Electrical Construction Business Act;

3. An information and communications construction business entity under subparagraph 4 of Article 2 of the Information and Communications Construction Business Act;
4. A person who has obtained a registration of fire-fighting system installation business pursuant to Article 4 (1) of the Fire-Fighting System Installation Business Act;
5. Other business entities prescribed by Presidential Decree.

(10) The term "person placing an order" in this Act means a person who gives a contract for manufacturing, repair, construction, or services to a principal contractor: Provided, That in cases of re-subcontract, it means a principal contractor.

(11) The term "entrustment with service" in this Act means that a business entity (hereinafter referred to as "service provider") who engages in the business of preparing knowledge and information-related products or of supplying services (hereinafter referred to as "services") entrusts all or part of performance of the services to another service provider.

(12) The term "knowledge and information-related products" in this Act means those falling under any of the following subparagraphs: *<Amended by Act No. 10250, Apr. 12, 2010>*

1. Information programs (referring to software under subparagraph 1 of Article 2 of the Software Industry Promotion Act, and those which are a combination of a series of instructions and commands embedded in a device having information processing capability, such as computer and electronic calculator, in order to obtain specific results);
2. Results comprised of movies, broadcasting programs and other images, voices or sounds;
3. Results comprised of a combination of characters, diagrams, and signs or of a combination of the foregoing and colors (including drawings under subparagraph 3 of Article 2 of the Certified Architects Act and drawings from among the engineering works under subparagraph 1 of Article 2 of the Engineering Industry Promotion Act);
4. Others corresponding to subparagraphs 1 through 3, determined and announced by the Fair Trade Commission.

(13) The term "service duties" in this Act means an activity corresponding to any of the following subparagraphs: *<Amended by Act No. 10250, Apr. 12, 2010>*

1. Engineering works (excluding design) under subparagraph 1 of Article 2 of the Engineering Industry Promotion Act;
2. Transporting cargo by making use of trucks or intermediating cargo, as prescribed by the Trucking Transport Business Act;
3. Maintaining and managing buildings, as prescribed by the Building Act;
4. Preventing danger, etc. to facilities, places, goods, etc. or preventing harm to the life and body of people and protecting them from danger, as prescribed by the Security Services Industry Act;
5. Other activities of providing labor to carry through the business entrusted by a principal contractor, which have been determined and announced by the Fair Trade Commission.

(14) The term "means of payment in place of a bill" in this Act refers to the means of payment that is used in substitution for a bill when a principal contractor pays subcontract consideration, which falls under any of the following subparagraphs:

1. Exclusive-use card for business purchases: Credit card or debit card that a credit card company under the Specialized Credit Financial Business Act issues to a principal contractor for the payment of subcontract consideration, which is not usable at general credit card member stores, but is issued for the sole purpose of payment of subcontract consideration to the relevant subcontractor according to a contract among the principal contractor, subcontractor, and credit card company;
2. Loan against security of credit sales claims: Where a subcontractor lends money from a financial institution by offering the claims on credit sales to the principal contractor as security in order to receive subcontract consideration, and the principal contractor redeems the loan of the subcontractor from the financial institution with the subcontract consideration, in which case money is lent according to the terms and conditions determined by the Governor of the Bank of Korea;
3. Purchase loan: Where a principal contractor makes a contract of credit line with a financial institution and lends money therefrom, pays subcontract consideration to the subcontractor by means of information processing system, and redeems the loan to the financial institution on the due date;
4. Other means of payment used in place of a bill in the payment of subcontract consideration, which are determined and announced by the Fair Trade Commission.

(15) The term "technical data" in this Act means data on the methods of manufacture, repair, construction, or delivery of services, that are kept confidential with due efforts, and other data prescribed by Presidential Decree which are useful for business activities and have independent economic value. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*

Article 3 (Issuance and Retention of Documents)

(1) Where a principal contractor entrusts any manufacturing, etc., to a subcontractor and where a principal contractor, after having entrusted any manufacturing, etc., either entrusts other manufacturing, etc. which is not included in the content of a relevant contract, or makes an entrustment to change the content of the relevant agreement (hereafter the above-mentioned both types of entrustment shall be referred to as "the additional/changed entrustment" in this paragraph), the principal contractor shall issue the subcontractor a document specifying the matters referred to in paragraph (2) (including an electronic document under subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions: hereafter the same shall apply in this Article) within the time-limit classified in the following subparagraphs: *<Amended by Act No. 14143, Mar. 29, 2016>*

1. Where the manufacturing is entrusted: Before the subcontractor commences any work for delivery of goods on the basis of the entrustment with manufacturing, etc. and the additional/changed entrustment;
2. Where the repair is entrusted: Before the subcontractor commences the act of the repair on the basis of the entrustment with manufacturing, etc. and the additional/ changed entrustment;

3. Where the construction is entrusted: Before the subcontractor commences the contracted construction work on the basis of the entrustment with manufacturing, etc. and the additional/changed entrustment;
 4. Where the service is entrusted: Before the subcontractor commences the act of performing the service on the basis of the entrustment with manufacturing, etc. and the additional/changed entrustment.
- (2) The document in paragraph (1) shall include the details of subcontract, such as subcontract consideration and method of payment thereof, and the matters prescribed by Presidential Decree, such as the conditions, method, procedures, etc. of adjusting the subcontract consideration following changes in price of raw materials according to Article 16-2 (1), and the principal contractor and subcontractor shall affix signature (including certified digital signature under subparagraph 3 of Article 2 of the Digital Signature Act; hereafter the same shall apply in this Article) or put name and seal thereon. *<Amended by Act No. 9971, Jan. 25, 2010>*
- (3) Notwithstanding paragraph (2), the principal contractor may issue a document without stating relevant details on the matters that are difficult to determine as at the time of entrustment, if justifiable causes exist, such as conducting emergency repair work due to a disaster or accident. In such cases, he/she shall state in the document the reason the relevant details have not been determined and the expected date on which such details are to be determined. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*
- (4) Where a principal contractor issues a document without stating some details pursuant to paragraph (3), he/she shall issue, without delay, a new document stating the relevant details as soon as such details are determined. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*
- (5) Where a principal contractor fails to issue a document stating matters referred to in paragraph (2) (including a document that does not contain some details pursuant to paragraph (3)) in entrusting manufacturing, etc., a subcontractor may request the principal contractor to verify the details of subcontract by notifying, in writing, him/her of the matters prescribed by Presidential Decree such as the details of subcontract, subcontract consideration and other relevant matters. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*
- (6) A principal contractor shall send a written reply expressing whether he/she accepts or denies the details to a subcontractor within 15 days from the date he/she is notified thereof pursuant to paragraph (5), and if the principal contractor fails to send his/her reply within the said period, it is presumed that entrustment is made as notified by the subcontractor: Provided, That this shall not apply if it is impossible to send such a reply due to a natural disaster or other accidents. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*
- (7) The notification under paragraph (5) and a reply thereto under paragraph (6) shall be signed and sealed respectively by the subcontractor and the principal contractor. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*
- (8) Necessary matters concerning the notification under paragraph (5) and a reply thereto under paragraph (6) shall be prescribed by Presidential Decree. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*
- (9) A principal contractor and a subcontractor shall keep documents concerning subcontract transactions, as prescribed by Presidential Decree. *<Amended by Act No. 9971, Jan. 25, 2010>*

Article 3-2 (Preparation and Use of Standard Form Subcontract)

The Fair Trade Commission may recommend the preparation and use of standard form subcontract to business entities or business associations to which this Act applies.

Article 3-3 (Entering into Agreements by Principal Contractor and Subcontractor)

(1) The Fair Trade Commission may recommend that a principal contractor and a subcontractor enter into an agreement stipulating that they comply with subcontract-related statutes and provide each other with mutual support and cooperation.

(2) To encourage a principal contractor and a subcontractor to fulfill an agreement when they enter into such an agreement pursuant to paragraph (1), the Fair Trade Commission shall establish and implement supporting measures, such as monetary rewards.

(3) The Fair Trade Commission shall stipulate necessary matters for the details of agreements under paragraph (1), procedures for entering into such agreements, evaluation of performance, supporting measures, etc.

Article 3-4 (Prohibition against Unfair Special Agreements)

(1) No principal contractor shall attach terms and conditions that unfairly violate or restrict a subcontractor's interests to a contract (hereinafter referred to as "unfair special agreement").

(2) Any of the following agreements shall be deemed an unfair special agreement:

1. An agreement under which a principal contractor requires a subcontractor to bear expenses incurred when a principal contractor requires the subcontractor to do works not stated in a document prescribed in Article 3 (1);
2. An agreement under which a principal contractor requires a subcontractor to bear expenses incurred in relation to the settlement of civil complaints, industrial accidents, etc.;
3. An agreement under which a principal contractor requires a subcontractor to bear expenses incurred when a principal contractor requires the subcontractor to perform works not specified in the relevant tender documents;
4. Agreements specified by Presidential Decree, such as an agreement that restricts a subcontractor's interests, which shall be protected by this Act, or that shifts an obligation imposed upon a principal contractor to a subcontractor.

Article 4 (Prohibition against Fixing Unreasonable Subcontract Consideration)

(1) When a principal contractor entrusts a subcontractor with manufacturing, etc., he/she shall not fix an unreasonable consideration for a subcontract at a price lower than the consideration ordinarily paid for a subject matter identical with or similar to the subject matter of the subcontract (hereinafter referred to as "fixing unreasonable subcontract consideration") or compel the subcontractor to accept such subcontract.

<Amended by Act No. 11842, May 28, 2013>

(2) Any of the following acts conducted by a principal contractor shall be deemed fixing unreasonable subcontract consideration: *<Amended by Act No. 11842, May 28, 2013>*

1. Fixing subcontract consideration by indiscriminately reducing the unit price without any justifiable reasons;
2. Fixing subcontract consideration by deducting an amount after allotting unilaterally such amount under some pretext, such as a request for cooperation, etc.;
3. Fixing subcontract consideration by discriminating against a specific subcontractor without any justifiable reasons;
4. Fixing subcontract consideration by causing a subcontractor to make an error regarding the terms and conditions of a transaction, such as order quantity, etc., or by deceiving a subcontractor in such a way as to show him/her the quotations of another business entity or false quotations to take advantage of it;
5. Fixing subcontract consideration unilaterally by a principal contractor at a low price;
6. Fixing subcontract consideration at a price lower than the total amount of direct construction expenses prescribed by Presidential Decree without any justifiable reasons when a private subcontract is concluded;
7. Fixing subcontract consideration at a price lower than the lowest tender price without any justifiable reasons in concluding a subcontract by competitive bidding;
8. Fixing subcontract consideration unfavorable to a subcontractor for a subcontract on continuing transactions on the pretext of an event for which no subcontractor shall be held liable, such as a principal contractor's deficit in business or the fall of sale prices.

Article 5 (Prohibition of Compelling Purchase of Goods, etc.)

In entrusting a subcontractor with manufacturing, etc., a principal contractor shall not compel the subcontractor, except with justifiable reasons, such as the maintenance, improvement, etc. of the quality of the subject matter, etc., to purchase or use (including utilization; hereinafter the same shall apply) any goods, equipment, supply of service duties, etc. designated by him/her.

Article 6 (Payment in Advance)

(1) Where a principal contractor who has entrusted a subcontractor with manufacturing, etc., receives advance payment from the person placing an order, he/she shall pay an advance to the subcontractor within 15 days after he/she received it (the day on which the principal contractor entrusted manufacturing, etc., if he/she had received it before he/she entrusted manufacturing, etc.) so that he/she may undertake manufacturing, repair, or construction, or service performance in accordance with the contents and ratio of the advance.

(2) Where a principal contractor pays an advance received from the person placing an order after the deadline under paragraph (1), he/she shall pay interest calculated by the interest rate determined and notified by the Fair Trade Commission in consideration of economic circumstances, such as late-payment interest rates, etc. applied by banks under the Banking Act, which is within 40/100 per annum for the period that has passed. <Amended by Act No. 10303, May 17, 2010>

(3) Article 13 (6), (7), (9) and (10) shall apply mutatis mutandis to bill discount charge, payment of fees, bill discount rate, and rate of fees where advance payment is made by bill or means of payment in place of

a bill. In such cases, "60 days from the date such subject matter, etc. have been received" shall be deemed "15 days from the date the principal contractor received advance payment from the person placing an order".

Article 7 (Opening Local Letters of Credit)

Where a principal contractor entrusts a subcontractor with manufacturing or services of the goods for export, he/she shall open a local letter of credit in favor of the subcontractor, within 15 days from the date of the entrustment, unless any justifiable reason exists to the contrary: Provided, That where a principal contractor entrusts manufacturing or services before he/she receives an original letter of credit in cases of export by letter of credit, he/she shall open a local letter of credit within 15 days after he/she received an original letter of credit.

Article 8 (Prohibition of Unreasonable Cancellation of Entrustment)

(1) No principal contractor shall perform an act falling under any of the following subparagraphs, unless any reason attributable to the subcontractor exists after entrusting the subcontractor with manufacturing, etc.: Provided, That where the supply of service duties from among the entrustment of service is entrusted, subparagraph 2 shall not apply:

1. Arbitrarily cancelling or altering the entrustment with manufacturing, etc.;

2. Refusing or delaying the receipt or takeover of the delivered, etc. subject matter, etc.

(2) Where the subject matter, etc. are delivered, etc, the principal contractor shall immediately issue a certificate of receipt to the subcontractor (immediately after the completion of inspection in cases of opening a local letter of credit pursuant to Article 7) even before an inspection except for cases of entrustment of supply of service duties: Provided, That for entrustment with construction, he/she shall take over the object immediately after the inspection is completed.

(3) "Receipt" in paragraph (1) 2 means that the principal contractor places the subject matter, etc. under actual control, which have been delivered by the subcontractor: Provided, That where it is difficult to move the subject matter, etc., the time when the inspection commences shall be deemed the time of receipt.

Article 9 (Criteria, Method and Time of Inspection)

(1) The criteria and method of inspection of the subject matter, etc. delivered by the subcontractor shall be determined objectively, impartially, and reasonably by mutual agreement between the principal contractor and the subcontractor.

(2) Unless any justifiable reason exists to the contrary, the principal contractor shall notify the subcontractor of the result of inspection into the subject matter, etc. in writing within ten days from the date he/she received such subject matter, etc. (in cases of entrustment with manufacturing, it includes the date when the portion of manufacturing works performed was notified, and in cases of entrustment with construction, it refers to the date when the subcontractor notified the completion of construction works, or the portion of construction works completed). In the absence of such notification within the prescribed period, the subject matter, etc. shall be deemed to have passed the inspection: Provided, That where the

supply of service duties from among entrustment with service is entrusted, the same shall not apply.

Article 10 (Prohibition of Unreasonable Return of Goods)

(1) When a principal contractor has been supplied, etc. with the subject matter, etc. from a subcontractor, he/she shall not return them to the subcontractor, unless any reason attributable to the subcontractor exists (hereinafter referred to as "unreasonable return"): Provided, That where the supply of service duties from among entrustment with service is entrusted, the same shall not apply.

(2) Any act of the principal contractor which falls under any of the following subparagraphs shall be deemed unreasonable return:

1. Returning the subject matter, etc. by reason of cancellation of order from the other party to the transaction, or any change in economic circumstances, etc.;
2. Returning the subject matter, etc. by vaguely determining the criteria and method of inspection, and thereby judging unjustly that the subject matter, etc. failed to pass inspection;
3. Returning the subject matter, etc. although they have been judged to have failed to pass inspection due to the inferior quality of the raw materials supplied by the principal contractor;
4. Returning the subject matter, etc. by reason of delay in the supply, although it is caused by delay in the supply of raw materials by the principal contractor.

Article 11 (Prohibition against Reduction)

(1) No principal contractor shall reduce the subcontract consideration fixed at the time of the entrustment of manufacturing, etc.: Provided, That a principal contract may reduce the subcontract consideration if he/she proves any justifiable cause to do so. *<Amended by Act No. 10475, Mar. 29, 2011>*

(2) Any of the following acts conducted by a principal contractor shall not be deemed an act with a justifiable ground: *<Amended by Act No. 10475, Mar. 29, 2011; Act No. 11842, May 28, 2013>*

1. Reducing subcontract consideration by citing unreasonable grounds, such as requests for cooperation, cancellation of an order by the other party to the transaction, change in economic circumstances, etc., after giving entrustment, in which the conditions, etc. for reduction in the subcontract consideration have not been specified at the time of giving entrustment;
2. Reducing subcontract consideration by applying the terms and conditions of a new agreement retroactively even to a portion already entrusted before the agreement, where the agreement is concluded with a subcontractor with regard to reduction of a unit price;
3. Reducing subcontract consideration excessively on the pretext that subcontract consideration is paid in cash or earlier than the due date for payment;
4. Reducing subcontract consideration by reason of a fault on the part of a subcontractor, which does not cause any substantial loss to a principal contractor;
5. Deducting an amount not less than the proper purchase price or proper rent from the subcontract consideration, where a principal contractor has had a subcontractor purchase from him/her the goods, etc. necessary for the manufacturing, repair, construction or service performance of the subject matter, etc. or use his/her equipment, etc.;

6. Reducing subcontract consideration on the grounds that the price of commodities or the price of materials, etc. at the time of payment of subcontract consideration has fallen compared with the price at the time of supply, etc.;

7. Reducing subcontract consideration unfairly for unreasonable reasons, such as loss from operations or reduced sale price, etc.;

8. Imposing on a subcontractor employment insurance premium, industrial safety and health management expenses, other expenses, etc., which should be borne by a principal contractor under the Act on the Collection of Insurance Premiums, etc. for Employment Insurance and Industrial Accident Compensation Insurance, the Occupational Safety and Health Act;

9. Other acts prescribed by Presidential Decree as equivalent to those referred to in subparagraphs 1 through 8.

(3) Where a principal contractor reduces the subcontract consideration pursuant to the proviso to paragraph (1), he/she shall, in advance, provide the relevant subcontractor with a document stating matters prescribed by Presidential Decree such as the reasons and standards for reduction and other details. *<Newly Inserted by Act No. 10475, Mar. 29, 2011>*

(4) Where a principal contractor pays a reduced price without any justifiable cause after the elapse of at least 60 days from the receipt of subject matter, etc., a principal contractor shall pay interest accrued for the period beyond 60 days in accordance with the interest rate fixed and announced by the Fair Trade Commission by taking into account economic circumstances, such as late-payment interest rates, etc. applied by banks under the Banking Act within the limit of 40/100 per annum. *<Amended by Act No. 10303, May 17, 2010; Act No. 10475, Mar. 29, 2011>*

Article 12 (Prohibition of Unfair Requests for Settlement of Purchase Price, etc.)

Where a principal contractor has had a subcontractor purchase goods, etc. necessary for the manufacturing, repair, construction, or service performance of subject matter, etc. from himself/herself, or use his/her equipment, etc., he/she shall not conduct an act falling under any of the following subparagraphs without justifiable grounds:

1. Having the subcontractor pay all or part of the purchase price or rent prior to the date of payment of subcontract consideration of the relevant subject matter, etc.;

2. Having the subcontractor pay the purchase price or rent on condition that is remarkably unfavorable compared with that on which the principal contractor purchases or uses the goods, etc., or supplies the goods, etc. to a third party.

Article 12-2 (Prohibition of Unfair Requests for Economic Profits)

No principal contractor shall compel a subcontractor to provide money, goods, services, or other economic profits to himself/herself or third parties without justifiable grounds.

Article 12-3 (Prohibition, etc. of Request to Provide Technical Data)

(1) No principal contractor shall request a subcontractor to provide him/her or any third person with the subcontractor's technical data: Provided, That a principal contractor may make such a request, if he/she

proves any justifiable cause to do so. *<Amended by Act No. 10475, Mar. 29, 2011>*

(2) Where a principal contractor requests any technical data to a subcontractor pursuant to the proviso to paragraph (1), he/she shall consult, in advance, with the relevant subcontractor about matters prescribed by Presidential Decree, such as the purpose of request, confidentiality provisions, reversion of rights, a cost, etc., and provide the relevant subcontractor with a document stating the details thereof. *<Newly Inserted by Act No. 10475, Mar. 29, 2011>*

(3) No principal contractor shall abuse the acquired technical data for himself/herself or any third person. *<Amended by Act No. 10475, Mar. 29, 2011>*

Article 13 (Payment, etc. of Subcontract Consideration)

(1) Where a principal contractor entrusts a subcontractor with manufacturing, etc., he/she shall pay the subcontract consideration by not later than the earliest date for payment fixed within the extent of 60 days from the date of receipt of subject matter, etc. (in cases of entrustment with construction, it refers to the date of taking over the subject matter, etc.; in cases of entrustment with service, the date the subcontractor has completed the performance of the service entrusted; and if the principal contractor and subcontractor agree to issue tax invoices on one or more occasions a month on certain days because of frequent delivery of goods, etc., it refers to such days; hereinafter the same shall apply): Provided, That this shall not apply to any of the following cases:

1. Where it is deemed that the principal contractor and subcontractor have fixed the date for payment on equal terms;
2. Where the date for payment is deemed reasonable in light of the characteristics of the business and economic conditions.

(2) Where the date for payment of subcontract consideration is not fixed, the date of receipt of subject matter, etc. shall be deemed the date for payment of the subcontract consideration, and where the date for payment is fixed past 60 days from the date of receipt of the subject matter, etc. (excluding cases falling under the proviso to paragraph (1)), the sixtieth day from the date of receipt of the subject matter, etc. shall be deemed the date for payment of the subcontract consideration, respectively.

(3) Where a principal contractor has entrusted a subcontractor with manufacturing, etc., he/she shall pay the subcontractor the subcontract consideration within 15 days from the date the work progress payment or amount completed, etc. was received (the date for payment, where the date for payment of the subcontract consideration arrives before then) when the principal contractor has received work progress payment, etc. following the completion of manufacturing, repair, construction or service performance from the person placing an order, and he/she shall pay the subcontractor an amount corresponding to the portion of manufacturing, repair, construction or service performance that has been performed within 15 days from the date the work progress payment or money corresponding to the completed portion of work, etc. was received (the date for payment, where the date for payment of the subcontract consideration arrives before then) when the principal contractor has received the completed portion, etc. according to the progress of manufacturing, repair, construction or service performance from the person placing an order.

(4) When a principal contractor pays the subcontract consideration to a subcontractor, he/she shall not pay less than the proportion of cash which he/she received from the person placing an order in connection with the entrustment of the manufacturing, etc. concerned.

(5) Where a principal contractor pays the subcontract consideration by a bill, he/she shall not draw a bill, the period of payment of which exceeds the period of payment (issuance date to due date) of the bill that the principal contractor has received from the person placing an order in connection with the entrustment of the manufacturing, etc. concerned.

(6) Where a principal contractor pays the subcontract consideration by a bill, the bill shall be one which can be discounted at any financial institution established by law and the discount commission for the period from the date of delivery and to the due date of the bill shall be paid to the subcontractor on the day on which the bill is delivered: Provided, That where the bill is delivered within 60 days after the subject matter, etc. are received (referring to the date for payment where the date for payment is fixed under the proviso to paragraph (1), and to the date referred to in paragraph (3) where work progress payment or money corresponding to the completed portion of work, etc. are received from the person placing an order; hereafter the same shall apply in this Article), the discount commission for the period from the date 60 days pass after the date when the subject matter, etc. are received to the due date of the bill shall be paid to the subcontractor within 60 days from the date the subject matter, etc. are received.

(7) Where a principal contractor pays the subcontract consideration by means of payment in place of a bill, he/she shall pay commission (including interest for loan; hereinafter the same shall apply) on the date for payment for the period from the date for payment (referring to the date of approval of card settlement in cases of exclusive-use card for business purchases, to the date of transmission of details of delivery, etc. of goods in cases of loan against of security of credit card sales claims, and to the date of settlement of purchase funds in cases of purchase loans; hereinafter the same shall apply) to the date of repayment of the subcontract consideration to the subcontractor: Provided, That where it is paid by means of payment in place of a bill within 60 days from the date of receipt of subject matter, etc., commission for the period from the day on which 60 days pass from the date of receipt of subject matter, etc. to the due date of the bill shall be paid to the subcontractor within 60 days from the date of receipt of subject matter, etc.

(8) Where a principal contractor pays the subcontract consideration after 60 days pass from the date of receipt of subject matter, etc., he/she shall pay interest calculated by the interest rate fixed within the limit of 40/100 per annum and announced by the Fair Trade Commission for the days elapsed in consideration of economic circumstances, such as late-payment interest rates, etc. applied by banks under the Banking Act. *<Amended by Act No. 10303, May 17, 2010>*

(9) The discount rate applied in paragraph (6) shall be fixed within the limit of 40/100 per annum and announced by the Fair Trade Commission in consideration of the discount rate for commercial bills applied by financial institutions established by law.

(10) The commission rate applied in accordance with paragraph (7) shall be the commission rate fixed under an arrangement on a settlement means alternative to a bill which a principal contractor concludes

with a financial institution (including a credit card business entity under subparagraph 2-2 of Article 2 of the Specialized Credit Finance Business Act. <Amended by Act No. 13451, Jul. 24, 2015>

(11) The provisions of paragraphs (1) through (10) shall apply to a middle-standing enterprise under subparagraph 1 of Article 2 of the Special Act on the Promotion of Growth and the Strengthening of Competitiveness of Middle-Standing Enterprises, the annual sales of which is less than any of the amounts as prescribed by Presidential Decree (referring to three hundred billion won in cases of transacting with any company under subparagraph 1), where such middle-standing enterprise is entrusted with manufacturing, etc. by any of the following persons. In such cases, the person who entrusts the manufacturing, etc. shall be deemed a principal contractor when applying paragraphs (1) through (10), and Articles 19, 20, 23 (2), 24-4 (1) and (6), 25 (1) and (3), 25-2, 25-3 (1), 25-5 (1), 26 (2), 30 (1), 33 and 35 (1), and the middle-standing enterprise entrusted with manufacturing, etc. shall be deemed a subcontractor when applying paragraphs (1) through (10), and Articles 19, 21, 23 (2), 24-4 (1), 25-2, and 23: <Newly Inserted by Act No. 13451, Jul. 24, 2015; Act No. 14143, Mar. 29, 2016>

1. A company belonging to an enterprise group subject to limitations on mutual investment under Article 9 (1) of the Monopoly Regulation and Fair Trade Act;
2. A business entity which is not a company under subparagraph 1 and the annual sales of which exceeds an amount prescribed by Presidential Decree.

Article 13-2 (Performance of Construction Subcontracts and Guarantees for Payment of Consideration)

(1) In cases of entrustment with construction, a principal contractor shall provide a subcontractor with a guarantee for payment of the construction consideration in accordance with the following classifications within 30 days from the date the subcontract is concluded (the period of guarantee shall be by the due date of the bill in cases of payment with a bill, and shall be by the date of repayment of the subcontract consideration to the subcontractor in cases of payment by the means of payment in place of a bill), while a subcontractor shall provide a guarantee for performance of a relevant contract by paying an amount equivalent to 10/100 of the contract value: Provided, That where it is deemed that no guarantee is necessary or a guarantee is inappropriate in consideration of the financial status of a principal contractor or the scale, etc. of construction, which is prescribed by Presidential Decree, this shall not apply: <Amended by Act No. 12709, May 28, 2014>

1. Where the period of construction is four months or less: Amount calculated by subtracting advance payments from a contract price;
2. Where the period of construction exceeds four months, and the interval of payments for the completed portion of works does not exceed two months: Amount calculated according to the following formula:
3. Where the period of construction exceeds four months, and the interval of payments for the completed portion of work exceeds two months: Amount calculated according to the following formula:

(2) Any of deemed reasons for which no guarantee is necessary or a guarantee is inappropriate referred to in the proviso to paragraph (1), excluding the subparagraphs, ceases to exist, a principal contractor shall provide a guarantee for payment of construction consideration referred to in paragraph (1) within 30 days from the date such reasons cease to exist: Provided, That where it is deemed that no guarantee is necessary, in consideration of the remaining period of a contract, actual completion rate of the entrusted business, amount of remaining payment, and other relevant matters, which is prescribed by Presidential Decree, this shall not apply. <Newly Inserted by Act No. 12709, May 28, 2014>

(3) Where a principal contractor, who has concluded a long-term continuing contract (referring to a long-term continuing contract prescribed in Article 21 of the Act on Contracts to Which the State Is a Party or in Article 24 of the Act on Contracts to Which a Local Government Is a Party, which is concluded annually for part of the total amount of a successful bid within the budget of each fiscal year: hereafter referred to as "long-term continuing contract for construction" in this Article) with any of the following persons for construction, entrusts the relevant construction by means of a long-term continuing contract for subcontracting construction, the principal contractor shall provide a subcontractor with a guarantee for payment of the consideration of construction pursuant to the main sentence of paragraph (1) within 30 days from the date the long-term continuing contract for subcontracting construction is concluded, and the subcontractor shall provide the principal contractor with a guarantee for performance of the relevant contract by paying an amount equivalent to 10/100 of the total construction cost promised at the time of concluding the first long-term continuing contract for subcontracting construction: <Newly Inserted by Act No. 14456, Dec. 20, 2016>

1. The State or a local government;

2. A public institution or quasi-government agency prescribed in the Act on the Management of Public Institutions or a local government-invested public corporation or local government public corporation prescribed in the Local Public Enterprises Act.

(4) Upon completion of the performance of an annual contract of a long-term continuing contract for construction, the principal contractor who is provided with a guarantee for performance of contract by a subcontractor pursuant to paragraph (3) shall return the subcontractor the guarantee money, which corresponds to the annual long-term continuing contract for subcontracting construction, the performance of which is completed by the relevant subcontractor, within 30 days from the date the principal contractor is able to recover the contract deposit corresponding to such annual contract from any of the persons in the subparagraphs of the said paragraph. In such cases, a guarantee for performance of contract corresponding to a portion performance completed shall be considered invalid. <Newly Inserted by Act No. 14456, Dec. 20, 2016>

(5) The guarantee between a principal contractor and a subcontractor under paragraphs (1) through (3) shall be paid in cash (including by any bank check issued by offices of postal services or banks under the Banking Act) or by the delivery of a guarantee certificate issued by any of the following institutions: <Amended by Act No. 10303, May 17, 2010; Act No. 12709, May 28, 2014; Act No. 14456, Dec. 20, 2016>

1. Every mutual-aid association under the Framework Act on the Construction Industry;
2. Insurance companies under the Insurance Business Act;
3. The Korea Credit Guarantee Fund under the Credit Guarantee Fund Act;
4. Financial institutions under the Banking Act;
5. Other guarantee institutions prescribed by Presidential Decree.

(6) If a subcontractor files a claim with an institution referred to in paragraph (5) for the payment guaranteed pursuant to paragraph (1), along with documents required in the terms and conditions of the relevant guarantee, the institution shall pay it to the subcontractor within 30 days: Provided, That if there is a difference in opinions on whether the requirements for the payment guaranteed are satisfied or there is any other event or cause beyond control specified by Presidential Decree, the guarantor shall notify the subcontractor thereof and may defer the payment guaranteed for a period specified by Presidential Decree: *<Newly Inserted by Act No. 12097, Aug. 13, 2013; Act No. 12709, May 28, 2014; Act No. 14456, Dec. 20, 2016>*

1. If a principal contractor is unable to pay the subcontract consideration due to the suspension of transactions of checking accounts or the suspension of banking transactions;
2. If a principal contractor is unable to pay the subcontract consideration due to his/her default on checks, bankruptcy, permanent business closure, a petition filed for the commencement of proceedings for corporate rehabilitation, or any other similar event;
3. If a principal contractor is unable to pay the subcontract consideration because he/she has his/her license, registration, or such for the relevant business revoked and cancelled or has his/her business operations suspended;
4. If a principal contractor has failed to pay the subcontract consideration payable under Article 13 to a subcontractor twice or more;
5. If a principal contractor is unable to pay the subcontract consideration due to a cause or event specified by Presidential Decree as similar to incapability of payment referred to in subparagraph 1 through 4.

(7) Where a principal contractor delivers guarantee certificates in accordance with paragraph (5), the principal contractor may combine the guarantees for payment of all the construction works entrusted during the period of construction or the guarantees for payment for all the construction works entrusted in one fiscal year into one guarantee certificate for delivery. *<Amended by Act No. 12097, Aug. 13, 2013; Act No. 12709, May 28, 2014; Act No. 14456, Dec. 20, 2016>*

(8) In addition to matters prescribed in paragraphs (1) through (7), matters necessary for guarantees for performance of subcontract and guarantees for payment of subcontract consideration shall be prescribed by Presidential Decree. *<Amended by Act No. 12097, Aug. 13, 2013; Act No. 12709, May 28, 2014; Act No. 14456, Dec. 20, 2016>*

(9) Where a principal contractor fails to guarantee payment of the construction consideration referred to in the main sentence of paragraph (1), the main sentence of paragraph (2), or paragraph (3), a subcontractor may choose not to guarantee the performance of the relevant contract. *<Amended by Act No. 12097, Aug. 13,*

2013; Act No. 12709, May 28, 2014; Act No. 14456, Dec. 20, 2016>

(10) A principal contractor may not exercise his/her right to require a subcontractor's guarantee for performance of contract in accordance with paragraph (1) or (3) unless the relevant principal contractor provides a guarantee for payment of the construction consideration referred to in paragraphs (1) through (3): Provided, That this shall not apply where a guarantee for payment of the construction consideration is not provided in accordance with the proviso to paragraph (1), excluding the subparagraphs, or the proviso to paragraph (2). <Newly Inserted by Act No. 12709, May 28, 2014; Act No. 14456, Dec. 20, 2016>

Article 14 (Direct Payment of Subcontract Consideration)

(1) Where a ground falling under any of the following subparagraphs occurs, the person placing an order shall pay the subcontract consideration corresponding to the completed portion of manufacturing, repair, construction, or service performance directly to the subcontractor: <Amended by Act No. 12709, May 28, 2014>

1. When the subcontractor has requested direct payment of the subcontract consideration because the principal contractor's payment has been suspended, the principal contractor is bankrupt, or other similar reasons exist, or because the principal contractor has become unable to pay the subcontract consideration due to revocation of permission, authorization, license, registration, etc. relating to the business;
2. When agreement has been made among the person placing an order, principal contractor, and subcontractor that the person placing an order shall pay the subcontract consideration directly to the subcontractor;
3. When the subcontractor has requested direct payment of the subcontract consideration where the principal contractor has failed to pay to the relevant subcontractor two or more installments of the subcontract consideration to be paid by the principal contractor as prescribed in Article 13 (1) or (3);
4. When the subcontractor has requested direct payment of the subcontract consideration where the principal contractor has failed to perform his/her obligation to guarantee the payment of subcontract consideration as prescribed in Article 13-2 (1) or (2).

(2) Where a ground prescribed in paragraph (1) occurs, the obligation of the person placing an order to pay consideration to the principal contractor and the obligation of the principal contractor to pay the subcontract consideration to the subcontract shall be deemed to have extinguished within such limit.

(3) Where a principal contractor requires suspension of direct payment of the relevant subcontract consideration with documents evidencing the fact that the subcontractor delays paying wages, price of materials, etc. in connection with the relevant subcontract, the person placing an order need not pay the subcontract consideration directly notwithstanding paragraph (1).

(4) When the person placing an order pays the subcontract consideration directly to the relevant subcontractor as prescribed in paragraph (1), he/she shall pay it minus the subcontract consideration that has already been paid by the person placing an order to the principal contractor.

(5) Where confirmation, etc. of a completed portion is necessary for the subcontractor to receive the subcontract consideration directly from the person placing an order as prescribed in paragraph (1), the principal contractor shall take necessary measures without delay.

(6) Matters necessary for the methods, procedures, etc. for payment where the subcontract consideration is paid directly as prescribed in paragraph (1) shall be prescribed by Presidential Decree.

Article 15 (Payment of Refund of Customs Duties, etc.)

(1) Where a principal contractor entrusts a subcontractor with manufacturing or service for goods to be exported and where he/she has customs duties, etc. refunded under the Act on Special Cases concerning the Refund of Customs Duties, etc. Levied on Raw Materials for Export, he/she shall pay the refund to the subcontractor in accordance with terms of the refund received within 15 days after he/she received it.

(2) Notwithstanding paragraph (1), the refundable amount of customs duties, etc. shall be paid to the subcontractor within 60 days from the date of receipt of subject matter, etc., unless any fault attributable to the subcontractor exists.

(3) Where a principal contractor pays the refundable amount of customs duties, etc. after the due date prescribed in paragraphs (1) and (2), he/she shall pay interest for such days overdue, calculated according to the interest rate fixed within the limit of 40/100 per annum in consideration of economic circumstances, such as late-payment interest rates, etc. applied by banks under the Banking Act and announced by the Fair Trade Commission. *<Amended by Act No. 10303, May 17, 2010>*

Article 16 (Adjustment of Subcontract Consideration due to Change in Design, etc.)

(1) Where a principal contractor falls under both of the following cases after entrusting manufacturing, etc., he/she shall increase subcontract consideration in accordance with the contents and rate of the increase in the contract value he/she has received from the person placing an order: Provided, That the principal contractor may decrease the subcontract consideration if the person placing an order has decreased the contract value, in accordance with the contents and rate of the decrease: *<Amended by Act No. 9971, Jan. 25, 2010>*

1. Where the contract value is increased due to any change in design or economic situation or other reasons;

2. Where additional costs are incurred in completing or finishing subject matter, etc. for the reasons referred to in subparagraph 1.

(2) Where subcontract consideration is increased or decreased pursuant to paragraph (2), the principal contractor shall notify the relevant subcontractor of the reasons for and details on such increase or decrease within 15 days from the date he/she receives an increase or decrease of the contract value from the person placing an order: Provided, That this shall not apply where the person placing an order directly notifies the relevant subcontractor of such reasons and details. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*

(3) An increase or decrease in the contract value under paragraph (1) shall be made within 30 days after the person placing an order has increased or decreased such consideration.

(4) If additional subcontract consideration is paid after 15 days from the date the principal contractor receives additional money from the person placing an order in accordance with the increase in the contract value under paragraph (1), Article 13 (8) shall apply mutatis mutandis to the interest, and if additional subcontract consideration is paid with a bill or means of payment in place of a bill, Article 13 (6), (7), (9), and (10) shall apply mutatis mutandis to the bill discount commission, payment of commission, discount rate for bill and commission rate. In such cases, "60 days from the date such subject matter, etc. have been received" shall be deemed "15 days from the date the additional money has been received". <Amended by Act No. 9971, Jan. 25, 2010>

Article 16-2 (Adjustment of Subcontract Consideration due to Fluctuations in Prices of Raw

Materials)

(1) Where adjustment of subcontract consideration is inevitable because the price of raw materials necessary for the manufacturing, etc. of subject matter, etc. has changed after a subcontractor is entrusted with manufacturing, etc., the subcontractor may request the principal contractor to adjust subcontract consideration.

(2) Where it is inevitable for a small and medium enterprise cooperative defined under Article 3 (1) 1 or 2 of the Small and Medium Enterprise Cooperatives Act (hereinafter referred to as "cooperative") to adjust subcontract consideration to be paid to any of its members as a subcontractor due to sharp fluctuations in the price of raw materials, the cooperative may negotiate with a principal contractor specified by Presidential Decree on the adjustment of the subcontract consideration upon receipt of an application therefor from the subcontractor: Provided, That the foregoing shall not apply where both the principal contractor and the subcontractor are members of one and the same cooperative. <Amended by Act No. 11842, May 28, 2013>

(3) Upon receipt of an application under the main sentence of paragraph (2), a cooperative shall request a principal contractor to adjust the subcontract consideration within 20 days from the filing date of the application. <Amended by Act No. 11842, May 28, 2013; Act No. 14143, Mar. 29, 2016>

(4) If a subcontractor who has made a request for the adjustment of subcontract consideration pursuant to paragraph (1) files an application for negotiations under paragraph (2), the request made under paragraph (1) shall be deemed suspended, and if the negotiations for adjustment under paragraph (1) or (3) are completed, neither subcontractor nor cooperative may request negotiations for adjustment under any provision of paragraphs (1) through (3) on the basis of the same cause, unless there is a fundamental change of circumstances. <Amended by Act No. 11842, May 28, 2013>

(5) Upon receipt of an application under paragraph (2), no cooperative shall resolve to discontinue the supply of goods, place any unreasonable restriction on competitions, or unfairly restrict the relevant business entity's scope of business or business activities. <Amended by Act No. 11842, May 28, 2013>

(6) Matters necessary for events beyond control referred to in the main sentence of paragraph (2) and the requirements, procedures, and methods for filing an application by a subcontractor and for exercising a cooperative's power to negotiate shall be prescribed by Presidential Decree. <Newly Inserted by Act No.

11842, May 28, 2013>

(7) A principal contractor shall commence negotiations for the adjustment of subcontract consideration with a subcontractor or cooperative who has made a request for adjustment or the competent cooperative within ten days from the date of a request under paragraph (1) or (3) and shall not reject or neglect consultations without any justifiable ground. <Newly Inserted by Act No. 11842, May 28, 2013>

(8) A principal contractor or subcontractor (including a cooperative in the case of negotiations for adjustment under paragraph (3); hereafter the same shall apply in this Article) may file an application for mediation with a subcontract dispute mediation council established under Article 24 in any of the following cases: Provided, That no cooperative under paragraph (3) shall file an application for adjustment with the subcontract dispute mediation council established in the Korea Federation of Small and Medium Business under the Small and Medium Enterprise Cooperatives Act: <Newly Inserted by Act No. 11842, May 28, 2013>

1. Where a principal contractor fails to commence negotiations for the adjustment of subcontract consideration even after the lapse of ten days from the date a request under paragraph (1) or (3) is made;
2. Where the parties fail to reach an agreement on the adjustment of subcontract considerations within 30 days from the date a request under paragraph (1) or (3) is made;
3. Where the parties are obviously anticipated to fail to reach an agreement due to any of the causes specified by Presidential Decree, such as cases where either the principal contractor or the subcontractor manifests his/her intention to discontinue negotiations after negotiations are commenced in response to a request made pursuant to paragraph (1) or (3).

Article 17 (Prohibition against Unreasonable Payment in Kind)

(1) No principal contractor shall make a payment in kind as the consideration for any subcontract: Provided, That the foregoing shall not apply where he/she has any of the following causes: <Amended by Act No. 12097, Aug. 13, 2013; Act No. 14814, Apr. 18, 2017>

1. Where a bill or a check issued by a principal contractor becomes dishonored or principal contractor's current deposit transaction is suspended or prohibited;
2. Where a petition for bankruptcy, commencement of rehabilitation or commencement of simplified rehabilitation prescribed in the Debtor Rehabilitation and Bankruptcy Act is filed against a principal contractor;
3. Where a cause prescribed by Presidential Decree by which it is deemed that a principal contractor cannot help but make a payment in kind as the consideration for a subcontract occurs and a subcontractor requests such payment in kind.

(2) A principal contractor shall present to a subcontractor documents with which the subcontractor can verify rights and obligations on the goods to be delivered for payment in kind, such as ownership and whether offered as security, before making the payment in kind as referred to in the proviso to paragraph (1). <Newly Inserted by Act No. 12097, Aug. 13, 2013; Act No. 14814, Apr. 18, 2017>

(3) Documents that shall be presented for each type of goods, the method and procedure for the presentation of documents, and other necessary matters shall be prescribed by Presidential Decree. *<Newly Inserted by Act No. 12097, Aug. 13, 2013>*

Article 18 (Prohibition of Unreasonable Intervention in Management)

No principal contractor shall intervene in the management of a subcontractor by means of regulating the volume of subcontract transactions.

Article 19 (Prohibition against Retaliatory Measures)

No principal contractor shall limit a subcontractor's opportunities to receive an order, suspend transactions with a subcontractor, or unfavorably treat a subcontractor on the pretext that the subcontractor or the competent cooperative conducted any of the following acts: *<Amended by Act No. 10475, Mar. 29, 2011; Act No. 11842, May 28, 2013; Act No. 13451, Jul. 24, 2015>*

1. Reporting to the competent authority, etc. that a principal contractor has violated this Act;
2. Requesting a principal contractor under Article 16-2 (1) or (2) for adjustment to subcontract consideration or filing an application for mediation with a subcontract dispute mediation council under paragraph (8) of the same Article;
3. Submitting materials required by the Fair Trade Commission to conduct a documentary fact-finding investigation on the current situation of a relevant subcontract transaction pursuant to Article 22-2 (2).

Article 20 (Prohibition of Evasion of this Act)

No principal contractor shall perform any act to evade the actual application of this Act relating to a subcontract transaction (including transactions to which Article 13 (11) applies). *<Amended by Act No. 13451, Jul. 24, 2015>*

Article 21 (Matters to be Observed by Subcontractors)

- (1) Where a subcontractor has been entrusted with manufacturing, etc. by a principal contractor, the subcontractor shall fulfill the details of the entrustment in good faith.
- (2) No subcontractor shall cooperate with a principal contractor in any offense against this Act.
- (3) A subcontractor shall, upon making a report as prescribed by this Act, present documentary evidence, etc. to the Fair Trade Commission without delay.

Article 22 (Reporting, etc. on Violations)

(1) Where a violation of this Act is deemed to have occurred, anyone may report it to the Fair Trade Commission. In this case, the Fair Trade Commission shall, where the reporter gives consent as prescribed by Presidential Decree, notify the principal contractor of the fact that it has received the relevant report. *<Amended by Act No. 14143, Mar. 29, 2016>*

(2) When a report has been made under the former part of paragraph (1), or a violation of this Act is deemed to have occurred, the Fair Trade Commission may make a necessary investigation. *<Amended by Act No. 14143, Mar. 29, 2016>*

(3) Where the Fair Trade Commission notifies a principal contractor of such fact pursuant to the latter part of paragraph (1), peremptory notice under Article 174 of the Civil Act shall be deemed given: Provided,

That this shall not apply where any reported fact is not subject to this Act or the Fair Trade Commission decides not to proceed with procedures for deliberation on the reported fact due to the elapse of the allowable period of investigation on the relevant transaction which would be subject to the investigation under the main body of Article 23 (1); where the Fair Trade Commission decides that the reported fact is free from suspicion; or where the reporter withdraws the report. *<Amended by Act No. 14143, Mar. 29, 2016>*

(4) Where the corresponding period specified in the following categories has elapsed, the Fair Trade Commission shall not issue a corrective order as required under Article 25 (1) or impose a penalty surcharge as required under Article 25-3: Provided, That the foregoing shall not apply where, as a result of the canceling a corrective order or a disposition for imposing a penalty surcharge on the basis of a court's judgement, the Commission issues takes a new disposition in compliance with the reason for the judgement: *<Newly Inserted by Act No. 13451, Jul. 24, 2015; Act No. 14143, Mar. 29, 2016>*

1. Where the Fair Trade Commission, upon receipt of a report pursuant to the former part of paragraph (1), commences an investigation on a violation of this Act pursuant to paragraph (2): Three years from the date of report;

2. Where the Fair Trade Commission commences an investigation on any violation of this Act pursuant to paragraph (2), except for the cases falling under subparagraph 1: Three years from the commencement date of investigation.

(5) The Fair Trade Commission may, within budgetary limits, pay a monetary reward to a person who makes a report or provides information on any violation of Article 4, 8 (1), 10, 11 (1) or (2), or 12-3 (3) and also presents evidential materials evidencing that violation. *<Newly Inserted by Act No. 13451, Jul. 24, 2015>*

(6) Necessary matters concerning the scope of persons eligible for a monetary reward under paragraph (5), and standards, procedures, etc. for payment of monetary rewards shall be prescribed by Presidential Decree. *<Newly Inserted by Act No. 13451, Jul. 24, 2015>*

(7) The Fair Trade Commission shall, where a fact falling under any of the following cases has been found after paying a monetary reward pursuant to paragraph (5), notify the person paid the monetary reward of the amount to be returned, and he/she shall return it within 30 days from the date of receipt of the notification: *<Newly Inserted by Act No. 13451, Jul. 24, 2015>*

1. Cases of receiving a monetary reward in any unjustifiable manners such as evidence collection by improper means, false reporting, false statement, and evidence forgery;

2. Cases of receiving a monetary reward, etc. pursuant to any other statute on the same ground;

3. Cases of being mistakenly paid a monetary reward due to any other ground, such as error.

(8) Where a person who is obliged to return a monetary reward pursuant to paragraph (7) fails to return it, the Fair Trade Commission may collect it in the same manner as delinquent national taxes are collected.

<Newly Inserted by Act No. 13451, Jul. 24, 2015>

Article 22-2 (Documentary Fact-Finding Investigations on Subcontract Transactions)

(1) The Fair Trade Commission shall conduct a documentary fact-finding investigation on any subcontract transaction and announce the results thereof to establish a fair order in subcontract transactions. *<Amended by Act No. 10475, Mar. 29, 2011>*

(2) Where the Fair Trade Commission intends to conduct the documentary fact-finding investigation pursuant to paragraph (1), it shall prepare a plan covering the scope of persons to be investigated, the period and details of, methods and procedures for investigations, the scope of announcement on investigation results, and other relevant matters, and may request the persons to be investigated to present necessary materials for the investigation, such as a document on the current status of subcontract transactions. *<Amended by Act No. 10475, Mar. 29, 2011>*

(3) Where the Fair Trade Commission requests the presentation of materials pursuant to paragraph (2), it shall notify, in writing, the person to be investigated of the scope of and details on such materials, the reason for request, the deadline for presentation, and other relevant matters.

Article 23 (Limitation on Transactions subject to Investigation)

(1) Subcontract transactions (including transactions to which Article 13 (11) applies; hereafter the same shall apply in this Article) subject to the investigation by the Fair Trade Commission as prescribed in Article 22 (2) shall be limited to those for which three years have not passed from the date the transaction was completed: Provided, That in cases of any subcontract transaction which is reported within three years from the date the transaction was completed or any subcontract transaction concerning which dispute mediation is requested by a party to the dispute who falls under Article 24-4 (1) 1 or 2, an investigation may be made even after three years have passed from the date the transaction was completed. *<Amended by Act No. 9971, Jan. 25, 2010; Act No. 13451, Jul. 24, 2015>*

(2) "Date on which the transaction was completed" in paragraph (1) means; the date on which a subcontractor delivers and hands over the subject matter, etc. to a principal contractor in cases of entrustment with manufacturing, entrustment with repair, or the preparation of knowledge and information-related products from among entrustment with service; the date on which a subcontractor completes the supply of the entrusted service duties to a principal contractor in cases of the supply of service duties from among entrustment with service; and the date on which the construction work, which a principal contractor has entrusted to a subcontractor, is completed in cases of entrustment with construction: Provided, That if a subcontract is revoked before completion or a subcontract transaction is suspended, it means the date of the revocation or suspension. *<Newly Inserted by Act No. 9971, Jan. 25, 2010>*

Article 24 (Establishment, Composition, etc. of Subcontract Dispute Mediation Councils)

(1) The Korea Fair Trade Mediation Agency under Article 48-2 of the Monopoly Regulation and Fair Trade Act (hereinafter referred to as the "Mediation Agency") shall establish a subcontract dispute mediation council (hereinafter referred to as "council"). *<Amended by Act No. 10475, Mar. 29, 2011; Act No. 13451, Jul. 24, 2015>*

(2) A business association may establish a council with the approval of the Fair Trade Commission *<Newly Inserted by Act No. 13451, Jul. 24, 2015>*

(3) The council established by the Mediation Agency shall be comprised of not more than nine members, including one chairperson, with an equal number of members representing the public interest, members representing a principal contractor, and members representing a subcontractor, and the number of members of the council established by a business association shall be determined by the relevant business association with the approval of the Fair Trade Commission. *<Amended by Act No. 13451, Jul. 24, 2015>*

(4) The chairperson of the council established by the Mediation Agency shall be elected by the council from among the members representing the public interest, and the chairperson of the council established by a business association shall be elected by the council from the members thereof. The chairperson elected by any council shall represent the relevant council. *<Amended by Act No. 13451, Jul. 24, 2015>*

(5) The term of office of a member of the council established by the Mediation Agency shall be two years, and the term of office of a member of the council by a business association shall be determined by the business association with the approval of the Fair Trade Commission. *<Amended by Act No. 13451, Jul. 24, 2015>*

(6) The persons commissioned by the Chairperson of the Fair Trade Commission from among the persons recommended by the President of the Mediation Agency and the persons falling under any of the following subparagraphs shall be the members of the council established under the Mediation Agency:

<Newly Inserted by Act No. 10475, Mar. 29, 2011; Act No. 13451, Jul. 24, 2015>

1. A person who majored in jurisprudence, economics, or business administration in college or university and is or was in the position of associate professor or higher or in a position equivalent thereto at either a school under subparagraph 1, 2, or 5 of Article 2 of the Higher Education Act, or an accredited research institute;
2. A person who is or was in the position of judge or prosecutor, or a person who is qualified as an attorney-at-law;
3. A person who has experience in affairs related to antitrust or fair trade and is or was in the position of public official of Grade III or higher (including a public official in general service who belongs to the Senior Civil Service Corps).

(7) The members of a council established under a business association shall be commissioned by the head of the business association which has established the council, but the head thereof shall, prior to such commission, make a report thereon to the Fair Trade Commission: Provided, That where several business associations intend to jointly establish a council, the heads of the relevant business associations shall jointly commission the members thereof. *<Amended by Act No. 10475, Mar. 29, 2011; Act No. 13451, Jul. 24, 2015>*

(8) The members representing the public interest shall be commissioned from among persons who have extensive knowledge and experience in subcontract transactions, but neither a person who conducts any business falling within any of business categories which would be probably subject to the dispute mediation by the relevant council, nor a person who is an executive officer or employee of a business entity falling under any of such business categories, may be a member representing the public interest.

(9) Where a person commissioned as a member representing the public interest becomes either a person who conducts any business falling within any of business categories which would be probably subject to the dispute mediation by the relevant council, or an executive officer or employee of a business entity falling under any of such business categories, the Chairperson of the Fair Trade Commission shall immediately dismiss such person from the position of a member of the council. *<Amended by Act No. 10475, Mar. 29, 2011; Act No. 13451, Jul. 24, 2015>*

(10) The State may fully or partially subsidize expenses to be incurred for the operation of the councils within budgetary limits. *<Newly Inserted by Act No. 12709, May 28, 2014; Act No. 13451, Jul. 24, 2015>*

Article 24-2 (Exclusion of, Challenge to, or Recusal by Member)

(1) Members shall be excluded from mediating a case in any of the following cases:

1. Where a member, or a person who is or was his/her spouse becomes a disputing party or is a joint title holder or co-obligor of the case;
2. Where a member has or had kinship with a disputing party;
3. Where a member or a corporation to which the member belongs acts as a consultant or an advisor to a disputing party for legal affairs, business administration, etc.;
4. Where a member or a corporation to which the member belongs is or was involved in the case as an agent of a party, or has given a testimony or appraisal in connection with the case.

(2) When a member's circumstances make it difficult to be fair in the mediation, a disputing party may file with the council an application to challenge the member.

(3) Where a member falls under any of the cases referred to in paragraph (1) or (2), he/she may voluntarily recuse himself/herself from the mediation of the relevant case.

Article 24-3 (Meetings of Councils)

(1) Meetings of any of the councils shall be classified into a meeting composed of all the members thereof (hereinafter referred to as a "plenary meeting") and a meeting composed of one member representing the public interest, one member representing a principal contractor, and one member representing a subcontractor, respectively (hereinafter referred to as a "submeeting"): Provided, That a council established by a business association may choose not to compose a submeeting.

(2) A submeeting shall deliberate and decide on matters delegated by a plenary meeting and pass a resolution thereon.

(3) A plenary meeting shall be presided over by the chairperson of the council and be commenced with the presence of a majority of the incumbent members, and any resolution of a plenary meeting shall require the concurring votes of a majority of those present.

(4) A submeeting shall be presided over by a member representing the public interest, and shall adopt a resolution with the attendance of all the constituent members thereof and by an affirmative vote of all the members present. In such cases, a resolution of a submeeting shall be deemed a resolution of the council, but the results of such submeeting shall be reported to a plenary meeting.

(5) Where the chairperson of the council is unable to perform his/her duties due to any inevitable reason, the member nominated by the chairperson from among the members representing the public interest shall act on behalf of the chairperson.

Article 24-4 (Mediation, etc. of Disputes)

(1) At the request of the Fair Trade Commission or any of the following parties to a dispute, the council shall examine facts relevant to the dispute between a principal contractor and a subcontractor over a subcontract transaction or shall mediate in the dispute: Provided, That where at least two councils have been requested respectively by parties to a dispute to mediate in the dispute, the council to which the subcontractor or the cooperative under subparagraph 3 requested for mediation in the dispute shall have jurisdiction over the dispute: *<Amended by Act No. 10475, Mar. 29, 2011; Act No. 11842, May 28, 2013>*

1. The principal contractor;
2. The subcontractor;
3. The cooperative under Article 16-2 (8).

(2) Where the council receives a request for mediation of any dispute from any disputing party, it shall report the details of such request to the Fair Trade Commission without delay.

(3) When a dispute is mediated, the council shall prepare a written record of mediation signed or sealed by members who have participated in the mediation and disputing parties, and then report the outcomes of the mediation along with a copy of the written record to the Fair Trade Mediation.

(4) When the council fails to mediate a dispute within 60 days (80 days where the both parties to a dispute agree to extend the period) from the date it is requested to do so, it shall provide details to the Fair Trade Commission along with related documents. *<Amended by Act No. 14143, Mar. 29, 2016>*

(5) If necessary for mediation, the council may conduct an investigation, request disputing parties to submit materials, or summon requesting parties as long as it is necessary for verifying the facts of the relevant dispute, and the disputing parties may state their opinions or submit materials at a meeting of the council.

(6) When the council receives a report pursuant to paragraph (2), it shall neither order a principal contractor who is a party to the dispute to take a corrective measure referred to in Article 25 (1), nor recommend a principal contractor to take a corrective measure referred to in Article 25-5 (1): Provided, That the foregoing shall not apply to cases that the Fair Trade Commission is investigating pursuant to Article 22 (2). *<Amended by Act No. 14143, Mar. 29, 2016>*

Article 24-5 (Preparation of Protocol for Mediation and Validity thereof)

(1) When a case is mediated, the council shall prepare a protocol for the mediation signed or sealed by the members who have participated and the disputing parties. In such cases, it shall be deemed that the disputing parties have agreed as described in the protocol.

(2) Where the disputing parties have voluntarily settled their dispute and request for the preparation of the protocol of medication before the mediation process begins, the council may prepare a protocol for the mediation.

(3) The disputing parties shall comply with the matters agreed through mediation, and submit the results of such compliance to the Fair Trade Commission. *<Newly Inserted by Act No. 14143, Mar. 29, 2016>*

(4) Where there has been reached an agreement pursuant to paragraph (1) or (2) and the parties to the dispute comply with the agreed matters, the Fair Trade Commission shall neither take a corrective measure as required under Article 25 (1) nor make a recommendation of correction as required under Article 25-5 (1). *<Newly Inserted by Act No. 14143, Mar. 29, 2016>*

Article 24-6 (Operational Rules of Councils)

Except as provided for in this Act, matters necessary for the operation and organization of the councils shall be determined by the councils upon obtaining approval from the Fair Trade Commission.

Article 25 (Corrective Measures)

(1) The Fair Trade Commission may order a person placing an order or a principal contractor who violates any provision of Articles 3 (1) through (4) and (9), 3-4, 4 through 12, 12-2, 12-3, 13, 13-2, 14 through 16, 16-2 (7), and 17 through 20 to pay subcontract consideration, to stop unlawful conduct, to delete or modify special terms and conditions, or to take other measures necessary for preventing recurrence of violations or rectifying violations. *<Amended by Act No. 9971, Jan. 25, 2010; Act No. 10475, Mar. 29, 2011; Act No. 11842, May 28, 2013; Act No. 12097, Aug. 13, 2013; Act No. 14143, Mar. 29, 2016>*

(2) Deleted. *<by Act No. 14143, Mar. 29, 2016>*

(3) Where the Fair Trade Commission has ordered a corrective measure pursuant to paragraph (1), it may order a principal contractor who has been ordered to do publish the fact that he/she has been so ordered. *<Amended by Act No. 14143, Mar. 29, 2016>*

Article 25-2 (Deposit)

Where a subcontractor fails to be reimbursed or is unable to be reimbursed, a person placing an order or a principal contractor against whom a corrective order has been issued under Article 25 (1) or accepts a corrective recommendation made under Article 25-5 (1) may, by depositing the object of reimbursement for the subcontractor, be exempted from the obligation to comply with the corrective order or corrective recommendation. The same shall apply where the person placing an order or the principal contractor is unable to know who is the subcontractor without fault on his/her part. *<Amended by Act No. 14143, Mar. 29, 2016>*

Article 25-3 (Penalty Surcharges)

(1) The Fair Trade Commission may impose upon any of the following person placing an order, principal contractor or subcontractor a penalty surcharge not exceeding the subcontract consideration for the manufacturing, etc. entrusted to a subcontractor or a penalty surcharge not exceeding double the subcontract consideration for the manufacturing, etc. entrusted by the person placing an order or principal contractor: *<Amended by Act No. 9971, Jan. 25, 2010; Act No. 10475, Mar. 29, 2011; Act No. 11842, May 28, 2013; Act No. 12097, Aug. 13, 2013>*

1. A principal contractor who violates Article 3 (1) through (4);

2. A person who fails to preserve documents in violation of Article 3 (9), or a principal contractor or subcontractor who prepares and issues false documents concerning subcontract transactions;
 3. A principal contractor who violates any provision of Articles 3-4, 4 through 12, 12-2, 12-3, 13 and 13-2;
 4. A person placing an order, who violates Article 14 (1);
 5. A principal contractor who violates Article 14 (5);
 6. A principal contractor who violates any provision of Articles 15, 16, 16-2 (7), and 17 through 20.
- (2) Articles 55-3 through 55-7 under the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to penalty surcharges under paragraph (1).

Article 25-4 (Publication of Lists of Habitual Violators)

(1) Notwithstanding Article 62 of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis pursuant to Article 27 (3), the Chairperson of the Fair Trade Commission shall publish a list of the business entities (hereinafter referred to as "habitual violator") whose penalty points under Article 26 (2) exceed the criteria prescribed by Presidential Decree, out of those who have violated this Act and received warnings, corrective measures imposed under Article 25 (1), or corrective recommendations made under Article 25-5 (1), three times or more, from the Fair Trade Commission for the past three years from the immediately preceding year: Provided, That any corrective measure shall be excluded from the foregoing if an objection is raised to the measure or any other petition of dissatisfaction is filed. *<Amended by Act No. 14143, Mar. 29, 2016>*

(2) The Chairperson of the Fair Trade Commission shall additionally disclose the list of persons falling under both of the following cases upon the completion of the petition of dissatisfaction referred to in the proviso to paragraph (1):

1. A person in whose case a warning or corrective measure is not revoked;
2. A person who would have been a habitual violator if he/she had not filed the petition of dissatisfaction against the warning or corrective measure.

(3) The Deliberative Committee on Publication of Lists of Habitual Violators (hereafter referred to as "Deliberative Committee" in this Article) shall be established in the Fair Trade Commission to deliberate on whether to publish the lists of habitual violators under paragraphs (1) and (2).

(4) The Fair Trade Commission shall notify any business entity on whom the Deliberative Committee has deliberated that he/she is to be included in the list of habitual violators so that he/she will have the opportunity to vindicate himself/herself, and one month after such notification, the Fair Trade Commission shall order the Deliberative Committee to re-deliberate on whether to publish the list and thereby select those to be included in the list.

(5) Publications under paragraphs (1) and (2) shall be posted in the Official Gazette or on the Internet homepage of the Fair Trade Commission.

(6) Other necessary matters concerning the publication of the lists of habitual violators shall be prescribed by Presidential Decree.

Article 25-5 (Corrective Recommendation)

(1) The Fair Trade Commission may determine corrective methods and recommend a person placing an order or a principal contractor who has violated this Act to comply with them. In this case, the Fair Trade Commission shall also notify the purport that in case where the person placing an order or the principal contractor accepts the relevant recommendation, it shall be deemed that the Fair Trade Commission has taken a corrective measure.

(2) A person placing an order or a principal contractor, in receipt of a recommendation under paragraph (1), shall notify the Fair Trade Commission of whether to accept the recommendation within ten days from the date of receipt of the recommendation.

(3) When a person placing an order or a principal contractor, in receipt of a recommendation under paragraph (1), accepts the recommendation, it shall be deemed to have received a corrective measure issued under Article 25 (1).

Article 26 (Cooperation from Heads of Relevant Administrative Agencies)

(1) Where it is deemed necessary for the enforcement of this Act, the Fair Trade Commission may hear the opinions of, or request provision of human resources for investigation or other necessary cooperation from, the heads of relevant administrative agencies.

(2) The Fair Trade Commission shall impose penalty points prescribed by Presidential Decree on a principal contractor or subcontractor who violates any provision of Articles 3 (1) through (4) and (9), 3-4, 4 through 12, 12-2, 12-3, 13, 13-2, 14 through 16, 16-2 (7), and 17 through 20 in consideration of the severity of the violation and damage and shall request the heads of relevant administrative agencies to place limitations on participation in bidding, suspend business operations under Article 82 (1) 7 of the Framework Act on the Construction Industry, or take other measures necessary to ensure fairness in subcontract transactions, if penalty points exceed criteria prescribed by Presidential Decree. *<Amended by Act No. 9971, Jan. 25, 2010; Act No. 10475, Mar. 29, 2011; Act No. 10719, May 24, 2011; Act No. 11842, May 28, 2013; Act No. 12097, Aug. 13, 2013>*

Article 27 (Monopoly Regulation and Fair Trade Act to be Applied Mutatis Mutandis)

(1) Articles 42, 43, 43-2, 44, 45, and 52 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the deliberation and decision of the Fair Trade Commission under this Act while Articles 53, 53-2, 53-3, 54, 55, and 55-2 of the same Act shall apply mutatis mutandis to the exclusive jurisdiction over raising an objection, filing a lawsuit, or filing an objection to any disposition rendered by the Fair Trade Commission.

(2) Articles 50, 50-2, and 53-3 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the investigation, hearing of opinion, etc., of the Fair Trade Commission necessary to implement this Act. *<Amended by Act No. 14143, Mar. 29, 2016>*

(3) Article 62 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to persons falling under the following subparagraphs:

1. Members or public officials of the Fair Trade Commission who perform or have performed the duties prescribed by this Act;
2. Persons who are or have been in charge of the mediation of disputes arising from subcontract transactions at the councils.

Article 28 (Relation to the Monopoly Regulation and Fair Trade Act)

@Article 23 (1) 4 of the Monopoly Regulation and Fair Trade Act shall not apply to matters concerning subcontract transactions to which this Act applies.

Article 29 (Penalty Provisions)

Any person who violates Article 62 of the Monopoly Regulation and Fair Trade Act, which shall apply mutatis mutandis pursuant to Article 27 (3), shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding ten million won. *<Amended by Act No. 11842, May 28, 2013>*

Article 30 (Penalty Provisions)

(1) Any of the following principal contractors shall be punished by a fine not exceeding the amount equivalent to double the subcontract consideration for the manufacturing, etc. entrusted to a subcontractor by a principal contractor: *<Amended by Act No. 9971, Jan. 25, 2010; Act No. 10475, Mar. 29, 2011; Act No. 11842, May 28, 2013; Act No. 12097, Aug. 13, 2013; Act No. 12709, May 28, 2014; Act No. 14456, Dec. 20, 2016>*

1. A person who violates any provision of Article 3 (1) through (4) and (9) and Articles 3-4, 4 through 12, 12-2, 12-3, and 13;
2. A person who fails to guarantee payment of the construction consideration, in violation of Article 13-2 (1) through (3);
3. A person who violates any provision of Articles 15, 16 (1), (3) and (4), and 17;
4. A person who refuses consultations without any justifiable ground, in violation of Article 16-2 (7).

(2) A person who falls under subparagraph 1 shall be punished by a fine not exceeding 300 million won, and a person who falls under subparagraph 2 or 3 shall be punished by a fine not exceeding 150 million won: *<Amended by Act No. 11842, May 28, 2013>*

1. A person who takes an unfavorable measure against another person, in violation of Article 19;
2. A person who violates Article 18 or 20;
3. A person who fails to comply with an order issued under Article 25.

(3) A person who makes a false appraisal under Article 50 (1) 2 of the Monopoly Regulation and Fair Trade Act applied mutatis mutandis pursuant to Article 27 (2) shall be punished by a fine not exceeding 30 million won.

Article 30-2 (Administrative Fines)

(1) In any of the following cases, a business entity or business association shall be punished by an administrative fine not exceeding 100 million won, and an executive officer or employee of the business entity or business association or any other person interested shall be punished by an administrative fine not exceeding 10 million won: *<Amended by Act No. 9971, Jan. 25, 2010>*

1. If he/she/it fails to appear without justifiable grounds, in violation of Article 50 (1) 1 of the Monopoly Regulation and Fair Trade Act applied mutatis mutandis pursuant to Article 27 (2);
2. If he/she/it fails to report or submit necessary materials or things, or reports or submits false materials or things prescribed in Article 50 (1) 3 or (3) of the Monopoly Regulation and Fair Trade Act applied mutatis mutandis pursuant to Article 27 (2);
3. Deleted. <by Act No. 9971, Jan. 25, 2010>

(2) A business entity or business association shall be punished by an administrative fine not exceeding 200 million and executives, an employee of the business entity or business association, or any other person interested shall be punished by an administrative fine not exceeding 50 million won, if he/she/it refuses, obstructs, or evades investigations under Article 50 (2) of the Monopoly Regulation and Fair Trade Act applied mutatis mutandis pursuant to Article 27 (2). <Newly Inserted by Act No. 9971, Jan. 25, 2010>

(3) A principal contractor who fails to present materials in accordance with Article 22-2 (2) or presents false materials shall be punished by an administrative fine not exceeding five million won. <Newly Inserted by Act No. 9971, Jan. 25, 2010>

(4) A person who fails to comply with the orders to maintain good order prescribed in Article 43-2 of the Monopoly Regulation and Fair Trade Act applied mutatis mutandis pursuant to Article 27 (1) shall be punished by an administrative fine not exceeding one million won.

(5) Administrative fines provided for in paragraphs (1) through (4) shall be imposed and collected by the Fair Trade Commission. <Amended by Act No. 9971, Jan. 25, 2010>

Article 31 (Joint Penalty Provisions)

Where a representative of a juristic person, or an agent, employee, or any other servant of a juristic person or individual commits an offence under Article 30 in connection with the business of the juristic person or individual, in addition to the punishment of such offender, the juristic person or individual shall be punished by a fine under each relevant Article: Provided, That where such juristic person or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such offence, this shall not apply.

Article 32 (Complaints)

(1) Prosecution against a crime prescribed in Article 30 may be initiated only when there is a charge by the Fair Trade Commission.

(2) Where the Fair Trade Commission acknowledges that the severity of any crime referred to in Article 30 is objectively obvious and grave enough to considerably hamper orderly subcontract transactions, it shall file a complaint with the Prosecutor General. <Newly Inserted by Act No. 10475, Mar. 29, 2011>

(3) The Prosecutor General may notify the Fair Trade Commission that there exist facts fulfilling the requirements for filing a complaint under paragraph (2) and request it to file a complaint. <Newly Inserted by Act No. 10475, Mar. 29, 2011>

(4) Irrespective of a ruling made by the Fair Trade Commission that a case does not meet the requirement for filing a complaint under paragraph (2), the Chairperson of the Board of Audit and Inspection or the

Administrator of the Small and Medium Business Administration may request the Fair Trade Commission to file a complaint on any other ground, such as ripple effects to the society or the degree of damage to a subcontractor. *<Newly Inserted by Act No. 11938, Jul. 16, 2013>*

(5) Upon receipt of a request for filing a complaint under paragraph (3) or (4), the Chairperson of the Fair Trade Commission shall file a complaint with the Prosecutor General. *<Newly Inserted by Act No. 11938, Jul. 16, 2013>*

(6) The Fair Trade Commission may not withdraw a complaint once the prosecution is initiated. *<Newly Inserted by Act No. 10475, Mar. 29, 2011; Act No. 11938, Jul. 16, 2013>*

Article 33 (Comparative Negligence)

Where a subcontractor is responsible for any offense against this Act committed by a principal contractor, it may be taken into consideration when taking corrective measures, filing a complaint, or applying penalty provisions under this Act.

Article 34 (Relationship to other Acts)

Where any provision of the Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises, the Electrical Construction Business Act, the Framework Act on the Construction Industry, and the Information and Communication Construction Business Act is contrary to this Act, such provision shall be governed by this Act.

Article 35 (Liability to Compensate for Damages)

(1) A principal contractor shall be liable to compensate a person who sustains an injury or loss as a consequence of a principal contractor's violation of any provision of this Act for the injury or loss inflicted upon the person: Provided, That the foregoing shall not apply where the principal contractor proves that such injury or loss has not been caused by an intentional act or negligence of the principal contractor. *<Amended by Act No. 11842, May 28, 2013>*

(2) If a principal contractor inflicts an injury or loss upon a person by violating Article 4, 8 (1), 10, 11 (1) or (2), or 12-3 (3), the principal contractor shall be liable to compensate the injury or loss to the extent not exceeding three times the injury or loss inflicted upon the person: Provided, That the foregoing shall not apply where the principal contractor proves that such injury or loss has not been caused by an intentional act or negligence of the principal contractor. *<Amended by Act No. 11842, May 28, 2013>*

(3) A court shall take the following matters into consideration when it determines the amount of compensation under paragraph (2): *<Newly Inserted by Act No. 11842, May 28, 2013>*

1. The degree of perception of intention or possibility of causing an injury or loss;
2. The severity of the damage inflicted upon a subcontractor and third parties by the violation;
3. Economic benefit that the principal contractor acquired by the violation;
4. The fine and penalty surcharge imposed for the violation;
5. The duration and frequency of relevant violations;
6. The principal contractor's financial standing;

7. The degree of the principal contractor's efforts to remedy injuries and losses.
- (4) Articles 56-2 and 57 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to a lawsuit filed for claiming compensation pursuant to paragraph (1) or (2). <Amended by Act No. 11842, May 28, 2013>

ADDENDUM

This Act shall enter into force three months after the date of its promulgation.

ADDENDA <Act No. 4198, Jan. 13, 1990>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 1990.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 4419, Dec. 14, 1991>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1992. (Proviso Omitted.)

Articles 2 through 8 Omitted.

ADDENDA <Act No. 4514, Dec. 8, 1992>

- (1) (Enforcement Date) This Act shall enter into force on April 1, 1993.
- (2) (Transitional Measures) The amended provisions of Articles 6, 7, 13, and 15 shall not apply to any subcontract that has already been concluded as at the time this Act enters into force.
- (3) Omitted.

ADDENDA <Act No. 4860, Jan. 5, 1995>

- (1) (Enforcement Date) This Act shall enter into force on April 1, 1995.
- (2) (Transitional Measures) Notwithstanding the amended provisions of Articles 2, 13 (4), and 16 (2), the previous provisions shall govern a subcontract transaction for which a subcontract has already been concluded as at the time this Act enters into force.

ADDENDA <Act No. 4898, Jan. 5, 1995>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1995.

Articles 2 through 11 Omitted.

ADDENDA <Act No. 5234, Dec. 30, 1996>

(1) (Enforcement Date) This Act shall enter into force on April 1, 1997.

(2) (Transitional Measures for Subcontract Transaction for which Subcontract has been Concluded)
Notwithstanding the amended provisions of Articles 13-2 and 25-3, the previous provisions shall govern a subcontract transaction for which a subcontract has already been concluded as at the time this Act enters into force.

ADDENDA <Act No. 5386, Aug. 28, 1997>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

Articles 2 through 8 Omitted.

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDA <Act No. 5507, Jan. 13, 1998>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Article 2 Omitted.

ADDENDA <Act No. 5756, Feb. 5, 1999>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDA <Act No. 5816, Feb. 5, 1999>

(1) (Enforcement Date) This Act shall enter into force on April 1, 1999.

(2) (Transitional Measures concerning Subcontract Transaction for which Subcontract has been Concluded)
Notwithstanding the amended provisions of Article 13, the previous provisions shall govern a subcontract transaction for which a subcontract has already been concluded as at the time this Act enters into force.

ADDENDA <Act No. 6198, Jan. 21, 2000>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 6893, May 29, 2003>

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation.

Articles 2 through 6 Omitted.

ADDENDA <Act No. 7107, Jan. 20, 2004>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

(2) (Applicability to Penalty Provisions) The amended provisions of Article 30 (1) 3-2 shall apply to the first subcontract concluded after this Act enters into force.

ADDENDA <Act No. 7315, Dec. 31, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 2005. (Proviso Omitted.)

Articles 2 through 10 Omitted.

ADDENDA <Act No. 7488, Mar. 31, 2005>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

(2) (Applicability to Subcontract Transactions of Entrustment with Service) The amended provisions of Article 2 (1) and (11) shall apply starting from the first subcontract transaction for which the contract for subcontract of entrustment with service is to be concluded after this Act enters into force.

(3) (Applicability to Additional Payment for Refund of Penalty Surcharges) The amended provisions of Article 25-3 (2) shall apply starting from the first penalty surcharges refunded after this Act enters into force.

(4) (Transitional Measures concerning Subcontract Transaction for which Subcontract has been Concluded) Notwithstanding the amended provisions of Articles 2 (1) and (11), 12-2, and 13-2 (5), the previous provisions shall govern a subcontract transaction for which a subcontract has already been concluded as at the time this Act enters into force.

ADDENDA <Act No. 7864, Mar. 3, 2006>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 11 Omitted.

ADDENDUM <Act No. 8539, Jul. 19, 2007>

This Act shall enter into force three months after the date of its promulgation.

ADDENDUM <Act No. 9085, Mar. 28, 2008>

This Act shall enter into force six months after the date of its promulgation.

ADDENDUM <Act No. 9616, Apr. 1, 2009>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 9971, Jan. 25, 2010>

(1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.

(2) (Applicability to Issuance of Documents and Requests, etc. for Verification of Details of Entrustment)
The amended provisions of Article 3 shall apply starting from the first entrustment with manufacturing, etc. after this Act enters into force.

ADDENDA <Act No. 10250, Apr. 12, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 9 Omitted.

ADDENDA <Act No. 10303, May 17, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 10 Omitted.

ADDENDA <Act No. 10475, Mar. 29, 2011>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

(2) (Applicability to Amendment of Definitions) The amended provisions of Article 2 (2) shall apply starting from the first subcontract concluded after this Act enters into force.

ADDENDA <Act No. 10719, May 24, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 6 Omitted.

ADDENDA <Act No. 11461, Jun. 1, 2012>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 10 Omitted.

ADDENDA <Act No. 11842, May 28, 2013>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Article 2 (Applicability to Liability for Damages)

The amended provisions of Article 35 shall apply starting from the first violation committed after this Act enters into force.

ADDENDUM <Act No. 11938, Jul. 16, 2013>

This Act shall enter into force six months after the date of its promulgation.

ADDENDUM <Act No. 12097, Aug. 13, 2013>

This Act shall enter into force six months after the date of its promulgation.

ADDENDUM <Act No. 12709, May 28, 2014>

This Act shall enter into force six months after the date of its promulgation.

ADDENDA <Act No. 13451, Jul. 24, 2015>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation: Provided, That the amended provisions of Article 19 shall enter into force on the date of its promulgation.

Article 2 (Applicability concerning Transactions between both Company Belonging to Enterprise Group Subject to Limitations on Mutual Investment or Business Entity Prescribed by Presidential Decree and Middle-Standing Enterprise)

The amended provisions of Article 13 (11) shall apply beginning with the entrustment with manufacturing, etc., which is first made after this Act enters into force.

Article 3 (Applicability concerning Limited Period For Disposition Imposed for Violation of This Act)

The amended provisions of Article 22 (4) shall apply beginning with the violation of this Act on which an investigation is first commenced after this Act enters into force.

Article 4 (Applicability concerning Payment of Monetary Rewards)

The amended provisions of Article 22 (5) through (8) shall apply beginning with the first case where a report is made, or information is provided, and evidential materials evidencing the violation are presented pursuant to such amended provisions after this Act enters into force.

Article 5 (Applicability concerning Exemption from Limitation on Transactions Subject to Investigation)

The amended provisions of the proviso to Article 23 (1) shall apply beginning with the first case where a party to a dispute who falls under Article 24-4 (1) 1 or 2 requests the mediation of the dispute after this Act enters into force.

Article 6 (Transitional Measures concerning Principal Contractor)

With respect to subcontract transactions for which a subcontract has been concluded before this Act enters into force, the previous provisions of Article 2 (2) 2 shall apply notwithstanding the amended provisions thereof.

Article 7 (Transitional Measures concerning Commission Rate, etc. of Settlement Means Alternative to Bill)

With respect to subcontract transactions for which a subcontract has been concluded before this Act enters into force, the previous provisions of Article 13 (10) shall apply notwithstanding the amended provisions thereof.

Article 8 (Transitional Measures concerning Councils Established by Business Associations)

(1) A council established by a business association pursuant to the previous Article 24 (1), as at the time this Act enters into force, shall be deemed established by a business association pursuant to the amended provisions of Article 24 (2).

(2) Mediation of disputes and other acts conducted by and requests for mediation of disputes and other acts conducted to a council which a business association has established pursuant to the previous Article 24 (1), as at the time this Act enters into force, shall be deemed conducted by and to a council which a business association has established pursuant to the amended provisions of Article 24 (2).

ADDENDA <Act No. 14143, Mar. 29, 2016>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Article 2 (Applicability concerning Period for Dispute Mediation)

The amended provisions of Article 24-4 (3) and (4) shall apply beginning with the case in which a request for the mediation of a dispute is first made pursuant to Article 24-4 (1) after this Act enters into force.

Article 3 (Applicability concerning Presentation of Results of Compliance with Matters Agreed through Mediation)

The amended provisions of Article 24-5 (3) and (4) shall apply beginning with the case of which the protocol of mediation is prepared pursuant to Article 24-5 (1) and (2) after this Act enters into force.

Article 4 (Transitional Measures concerning Corrective Recommendation)

A corrective recommendation made under the previous Article 25 (1), as at the time this Act enters into force, shall be deemed made by the Fair Trade Commission pursuant to the amended provisions of Article 25-5.

ADDENDA <Act No. 14456, Dec. 20, 2016>

Article 1 (Enforcement Date)

This Act shall enter into force three months after its promulgation.

Article 2 (Applicability to Return of Guarantee Deposits for Performance of Subcontracting)

The amended provisions of Article 13-2 shall apply starting from the first entrustment of construction by a principal contractor who has concluded a long-term continuing contract for construction with any of the persons in the subparagraphs of Article 13-2 (3) to a subcontractor by means of a long-term continuing contract for subcontracting construction concluded after this Act enters into force.

ADDENDA <Act No. 14814, Apr. 18, 2017>

Article 1 (Enforcement Date)

This Act shall enter into force six months after its promulgation.

Article 2 (Applicability to Prohibition of Unreasonable Payment in Kind)

The amended provisions of Article 17 shall apply starting from the first subcontract concluded after this Act enters into force.

