Invest in Gran Canaria

Cabildo de Gran Canaria

Sociedad de Promoción Económica de Gran Canaria

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Overview

The Gran Canaria Island Government is promoting a policy that favours the development of new businesses on the island. This guide aims to provide all the information that an investor needs to evaluate the possibilities that Gran Canaria offers as a place to initiate new ventures.

Gran Canaria is a special place because its geographical location in the Atlantic is both privileged and strategic. Its closeness to the African continent makes it a natural logistics platform between Europe, Africa and the Americas. In addition, it is a region within the European Union that enjoys an exclusive Economic and Fiscal Regime that is totally compatible with EU regulations. That special regime permits it to offer much greater economic incentives and fiscal advantages than other regions of the European Union.

The island's economy is fully developed and is on a par with that of other European regions. Within that economy, the importance of the services sector, especially tourism, stands out. In that respect, it should be pointed out that more than 3 million national and foreign tourists visit the island every year. The economic and fiscal incentives, together with the island's environmental conditions, make it an ideal place for the development of other sectors, such as logistics, advanced services and technological sectors, as well as the opportunities existing in the tourism and leisure sectors.

The geostrategic and economic conditions are reinforced by the island's excellent infrastructures, particularly those related to transport, telecommunications, and areas for the location of companies and technological centres.

Gran Canaria's 852,225 inhabitants, two-thirds of whom are of working age, make it one of the most populated islands in the Canarian Archipelago. The qualifications of the island's human resources have improved considerably in recent years thanks to the significant development both of vocational training and of the degree courses offered by the University of Las Palmas de Gran Canaria (ULPGC).

Those factors, combined with the excellent environmental conditions and quality of life on Gran Canaria, make it an ideal place to live and start businesses. This Guide is structured so as to provide all the relevant information to make a first approach to the possibilities of investing in Gran Canaria. This information can be complemented by the content of the webpage (http://www.spegc.org/en) and the personalised attention offered by the Organisation for the Economic Promotion of Gran Canaria, an organisation depending on the Gran Canaria Island Government.

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General information

1. General information

1.1 Principal Characteristics

1.1.1 Situation and geographical environment

Gran Canaria is one of the seven islands comprising the Spanish Archipelago of the Canary Islands. It is situated in the extreme south of the European Union in the Atlantic Ocean at 1,250 kilometres from the Spanish Mainland and 210 kilometres off the coast of North-west Africa.

Its position in the Atlantic makes it a natural logistics platform between Europe, Africa and the Americas, with whom it has traditionally maintained economic and cultural links.

The Archipelago is in the Greenwich Mean Time zone and the official language is Spanish.

Gran Canaria covers an area of 1,560 square kilometres and has a 236 kilometre coastline. The diversity of its climate and flora (both of which differ according to zone and altitude) has led to it being described as "a continent in miniature" and recognised for the richness of its natural heritage. In that respect, UNESCO declared it a World Biosphere Reserve in 2005.

Gran Canaria is a premium touristic destination, located in a leadership position as a touristic region within the European Union, with an ample offer of hotels and apartments of the best quality.

Furthermore, as Gran Canaria belongs to an Ultraperipheric Region of the European Union, will constitute in 2020 an excellent platform for business and for the promotion of new technologies dedicated to goals such as the development of humankind, health, and environmental sustainability.

Furthermore, Gran Canaria has the firm intention of becoming the European laboratory for the study and sustainable exploitation of sea, of natural resources and biodiversity, of the study and prevention of climate change and its effects, the sustainability of energetic resources, water and food.

Gran Canaria can presents excellent conditions for the testing and development of new prototypes of renewable energy resources (ERR), and due to its singularity, both in its territory as geographical, it is one of the territories with the greatest biological[1] diversity of the world.

1 Strategy for Smart Specialization on the Canary Islands (RIS3)-ACIISI. The purpose of the RIS3 strategy is to identify, through the combined effort of the Authorities and private companies, the areas of investigation and innovation in which a region can aspire to stand out, on the basis of its existinng and developing competitive advantages

Gran Canaria has the objective of encouraging research and development of areas such as blue energy, marine resources, biotechnology, developing marine technologies, environmental surveillance and maritime safety, and the fight against climate change[2].

1.1.2. Principal demographic data

The island is divided into 21 municipalities, of which Las Palmas de Gran Canaria, Telde, San Bartolomé de Tirajana, Santa Lucía and Arucas are the most important centres of population.

In January 2012, the population of Gran Canaria was 852,225 inhabitants, which represents 40,2% of the population of the Canarian Archipelago. Its high density is reflected in its 546

2 Proposal of Technological Platform Blue Ocean

inhabitants per square kilometre. The population is young with 20% below the age of 19 in 2011.

1.1.3. Political and institutional framework

Gran Canaria is part of the Canarian Autonomous Community, one of the 17 such communities that make up the Kingdom of Spain, all of which enjoy a high level of political autonomy. On Gran Canaria, the State maintains its competences in the management of ports and airports, part of the fiscal system and matters of public safety.

Like the rest of Spain, Gran Canaria is part of the European Union and the Euro Zone. Consequently, its currency is the euro and it participates in the Single European Market, including its customs regulations; however, the Canarian Economic and Fiscal Regime (REF) enables Gran Canaria to offer significant fiscal and economic incentives that represent a real attraction to foreign investors. As a result, the economic instruments allow that a large amount of companies benefit in the operations from incentives such as the Special Canary Zone (ZEC), which gives of the Canary Islands the mots attractive tax incentive in the European Union, establishing a Corporate Income Tax rate of 4%, in comparison to the European average, which is 25%-30%, and the Free Trade Zone of Gran Canaria, which offer customs and tax advantages, offering both instruments the most legal certainty.

Historically, it can be observed a more than outstanding growth in the attraction and issue of net investment in the Canary Islands as compared with other Autonomous Communities in Spain, of which can be highlighted the more than 3,400 million euro of gross foreign investment received during the period 2005-2011[3].

For its condition as an Ultraperipheric Region (RUP), the Canary Islands have access to funds and economic instruments specific in Spain and in the European Union which benefit the economic and social development of the region.

Also, for its belonging to Spain, the Canary Islands are protected by the forces and national structures, by the Treaty of Washington (NATO), and the Treaty of Lisbon (European Union), which makes it one of the safest territories of the world. The safety standards of the most developed societies of the world, as it is the case in the EU, also have the highest standars for human safety, which covers also safety in economic, food, health, environmental, individual, politic and social areas, of great importance for foreign investments. The existence of a highest level of safety favours commerce, stability and the development of activities such as the touristic

3 State Secretary for Foreign Commerce. DataInvex, includes operations of ETVEs

industry[4]. Furthermore, the risk of Spain as a country is minimal, being places as one the 50 countries best suited to make business[5].

As in the case of each of the other Canary Islands, the Island's administration is its Cabildo (Island Government), an institution that is particularly committed to the economic development of the island.

On the island we can find the institutional headquarter "La Casa de Africa" ("The House of Africa"), as a tool for public diplomacy, on duty for the State´s external actions, as well as the representation of the Executive Committee of the Advisory Council for the Trade with Occidental Africa aka CAPCAO, and the presence of 40 consulates.

Finally, Gran Canaria is perceived as a great logistic platform for humanitarian aid, as it counts with a logistic base for the World Food Program of the United Nations, of International Red Cross and the United States Agency for International Development (USAID), and it is working to attract other international organizations such as Unicef.

1.1.4. Education System and Human resources

The education system on Gran Canaria is the same as in the rest of Spain and, with its offer of more than 500 state and private centres, meets all the primary and secondary education needs of the population. Moreover, there are high quality international and bilingual schools that satisfy the demand for education in English, German, French and other languages.

The Vocational Training offer is outstanding and around 14,000 students are currently enrolled in the forty six centres that teach more than a hundred specialities to meet the demand from the different productive sectors[6].

Higher education is provided by the University of Las Palmas of Gran Canaria, which offers 63 different degree courses to the more than 22,500 students that are currently enrolled. Of those degree courses, 25 are technical degrees, with almost 6,000 current students[7]. Also, the Spanish Open University[8] (UNED) also has a Headquarters on the island with 4,120 registered students, in 2012/2013, and there are other private universities and business schools.

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[4] Spanish Institute of Strategic Studies: The Geostrategic Value of the Canary Islands.

[5] World Bank: Doing Business 2013.

[6] Department of Education, Universities and Sustainibility of the Canary Government

[7] University of Las Palmas de Gran Canary: The University in figures

[8] Spanish Open University

1.1.5. Relevant Socio-economic data[9]

GENERAL DATA OF GRAN CANARIA			
CONCEPT	**DATA**	**UNIT**	**DATE**
Territory and demographics			
Area	1560,1	Km^2	
Population	852.225	Inhabitants	2012
Demographic density	546	Pax/km^2	2012
Production estructure			
Economic figures			
GOP Canary Islands	41.860.330	Thousand euros	2011
Share of Canarias in Spanish GOP	3,9	%	2011
VAB. Gran Canaria	14.588.890	Thousand euros	2010
-Agriculture, Farming and Fishing	165.203	Thousand euros	2010
-Industry and energy	1.255.833	Thousand euros	2010
-Builiding	1.360.524	Thousand euros	2010
-Commerce, transportartion, tourism, information and communications	5.346.972	Thousand euros	2010
- Financial, real estate, professionals and administrative	2.842.712	Thousand euros	2010
-Public services, education, health, artistic, entertainment	3.617.647	Thousand euros	2010
Torism (Gran Canaria)			
Foreign Tourists	2.819.605	Tourists	2012
National Tourists	414.240	Tourists	2012
Hotel occupancy	71,41	%	2012
Overnight stays	26.465.663	Number	2012
Average stay in hotels	6,52	Days	2012
Average staty in apartaments	9,18	Days	2012
Average daly expense per person	129,92	Euros	2012
Total tourist expense	3.621,2	Million euros	2012
Hotel offer	63.616	Rooms	2012
Apartament offer	74.384	Rooms	2012
4 Star Hotels	52	Establishments	2012
5 Star Hotels	10	Establishments	2012
Rooms in 4 Star Hotels	27.764	Rooms	2012
Rooms in 5 Star Hotels	7.286	Rooms	2012
Services (Gran Canaria)			
Data of Las Palmas Port			
Cruise passengers	426.032	Passengers	2012
Regular line passengers	903.064	Passengers	2012
Cargo	21.814.543	Tons	2012
Ships (number)	8.315	Ships	2012
Containers	1.193.350	TEUS	2012
Data of the Airport of Gran Canaria:			
Passengers	9.892.288	Passengers	2012
Flight operations	100.390	Nb. Operations	2012
Cargo	20.603	Tons	2012
Labour market in Gran Canaria			
Net salary cost (average in the Canary Islands)	24,578,18	Euros	2011
Gross salary cost (average Canary Islands)	26.065,02	Euros	2011
Active population	451,02	Thousand persons	2012
Employed population	292,94	Thousand persons	2012
Unemployment	158,08	Thousand persons	2012
Unemployment rate	35,05	%	2012
Activity rate	63,17	%	2012
Export/Import (Province of Las Palmas)			
Value of total exports	1.732.174	Thousand euros	2011
Value of total imports	1.940.565	Thousand euros	2011
Education data			
University students	26.861	Students	2012
Number of University degrees	63	Nb. Degrees	2012
Students in Professional Training programs	14.679	Students	2012

[9] Sources: National Institute of Statistics (INE), Ministry of Development, Canary Institute of Statistics (ISTAC), Spanish Airports and Air Navigation (AENA), Las Palmas Port, Department of Universities, Culture and Sports – Canary Islands Government, University of Las Palmas, Spanish Open University (UNED).

1.2 Environment and quality of life

While Gran Canaria is internationally known as a tourist destination for excellence, it is also particularly attractive as a place to live, being relevant facts the more than 51,000 tourists that own a house or the more than 90,000 tourists that rent homes for a period of time in 2012[10].

Las Palmas de Gran Canaria, the island's capital and largest city, has a population of more than 380,000 inhabitants. It is a cosmopolitan city that is open to the sea with two beaches, the main one, Las Canteras beach with over 3 kilometres of sand and all the amenities and services expected of a modern city.

One key competitive advantage of Gran Canaria is the number of sun hours during the year. The average temperature rarely falls below 18ºC in winter or rises above 30ºC in summer. Moreover, since the city is open to the sea, and thus there is almost no air pollution.

The quality of life enjoyed by Gran Canaria's residents is due to many factors, some of which have been stressed already, such as the excellent internal communications that enable anyone living in the South of the island, with its fabulous beaches, to commute to the capital or travel to any other part of the island in under 40 minutes. Less than 15 minutes from Las Palmas de Gran Canaria, the towns of Telde and Arucas offer non-urban areas that offer highly attractive non urban location in which to live.

In general, the cost of housing in the Canaries is below the Spanish average; around 1,355€ per constructed square metre as opposed to 1,588€ in the rest of Spain[11].

Overseas communications by sea and air are also excellent and frequent, with direct daily flights to the Spanish mainland and the main European capitals. The flight times vary from two and a half hours to Madrid or Barcelona to under four hours to London, Brussels and the principal German and Central European cities. Interisland travel in the Archipelago is particularly well developed with hourly flights that take around 30 minutes between the closest islands and 50 minutes between the more distant ones.

In the Canary Islands, as in the rest of Spain, the healthcare system offers free, universal cover to residents and tourists from European Union countries. Gran Canaria has two large public hospitals (Complejo Hospitalario Materno-Insular de Gran Canaria and the Hospital de Gran Canaria Doctor Negrín) offering services of national reference, and a network of Health Centres

[10] Patronato of Tourism of Gran Canaria. Statistic Report for 2012

[11] Ministry of Development. Market prices of unrestricted housing

and retirement homes that covers all the island's municipalities. The public health system is complemented by a significant offer of private doctors and clinics and the presence of the leading national medical insurance companies.

Another incentive to choose Gran Canaria is its variety of shopping centres and hypermarkets where all the well-known national and international brands are represented.

The possibility of practising sport all year round and enjoying the island's splendid cultural offer also represents an added value. In that respect, Gran Canaria is known for its sports facilities and its specialisation in certain disciplines that include sailing, swimming and golf, which have produced many world-class sportsmen and women. The favourable climatic conditions that permit year-round sport attract many sporting professionals who come here from other European countries to continue their training during the winter months.

From the cultural offer point of view, special mention must be made on the concerts featuring world renowned orchestras and conductors in venues such as the Alfredo Kraus Auditorium, which hosts the Canary Islands Music Festival every year (January-February) and is home to the Gran Canaria Philharmonic Orchestra, or the recently renovated Pérez Galdós Theatre, which stages international ballet and opera, among other events. Three other theatres offer varied programmes throughout the year. Other music festivals, such as WOMAD, are also held in Las Palmas of Gran Canaria, as well as a world-famous Film festival and many heavily attended popular fiestas, for example, Carnival, which attracts thousands of participants and many more spectators every year. Also, Gran Canary counts with the Gran Canaria Film Commission and the Gran Canaria Bureau Convention, which are institutions that promote the island as a natural scenery or cinema studio, suitable for the recording of motion pictures and for the celebration of meeting and conferences, respectively, supporting the interested parties with technical and institutional help.

In addition to those factors, which reflect the quality of life on Gran Canaria, there is the island's superb gastronomy, with the modern and the traditional combining to create dishes in which the freshness and quality of local produce are the true stars. Canarian cuisine thrives alongside an international cuisine that can be enjoyed in magnificent restaurants in the capital, in the coastal areas and in the interior of the island.

1.3 Infrastructures

In recent years, constant sustained effort has been devoted to modernising Gran Canaria's infrastructures, the level of which is now above the Spanish average.

Since Gran Canaria is an island, the most important factor to be considered in its infrastructures is its transport networks, which are in conditions to ensure internal and external connectivity.

1.3.1 Land Air and Sea Transport Infrastructures

Air transport

This is a strategic element of the island's communications. Gran Canaria International Airport is located half-way (less than 30 minutes) between the capital city and the principal tourist resorts of the south and is very close to the main industrial areas.

The airport, which is the country's fifth busiest in terms of passengers and aircraft movements, has two big cargo terminals with a very high handling capacity. In 2012, the airport handled 10,538,829 passengers, 111,271 aircraft movements and 23,678 tonnes of goods. The optimum meteorological conditions of the zone enable the airport to be operational 24 hours a day, 365 days of the year. There are scheduled regular flights to 95 destinations, of which 81 are international destinations, as well as numerous airlines operating charter flights.

The airport is currently expanding its capacity to attend travellers and significantly improve the Airport services.

Sea transport

The port of Las Palmas, situated in Palmas de Gran Canaria, is the ideal platform for marine traffic between Europe, Africa and the Americas and constitutes an Atlantic "hub". Proof of that is its consideration as a big logistic platform for humanitarian help.

Also, the port of Las Palmas is considered a base port for cruise ships, due to the competitive advantage deriving from having the Airport at less than 30 minutes distance. In 2012 Gran Canaria received more than 425,000 cruise passengers[12], being one of the four most popular ports in Spain[13].

The port, which connects Gran Canaria to 408 ports worldwide, is known as the great refuelling station of the Atlantic because of the 2,000,000 tonnes of oil products that it supplies every year. It is the leading distributor of goods in the Canary Islands and one of the most important in Spain, as well as world leader in the handling of frozen fish. The port also has important shipyards and Naval Repair Facilities as well as numerous companies specialising in the supply of goods, equipment and services. Also, the port of Las Palmas is very well connected to Occidental Africa thanks to 11 shipping companies that reach 20 countries and 44 ports of that area, which means a connectivity of approximately 30 weekly frequencies.

[12] Statistic of Las Palmas Port

[13] Hosteltur

The Port of Agaete, in the North of the Island and mainly used for ferry connections to the neighbouring island of Tenerife, should be mentioned together with the Port of Arinaga, located in the southeast of the island and providing goods to the firms established in the industrial zone in that part of Gran Canaria.

Land transport

With regard to land communications on the island, Gran Canaria's road network is fully developed and incorporates the latest advances and safety measures required by the European Union. The 1,180 kilometres of roads, 128.98 kilometres of which are dual carriageways, link all the population centres, industrial areas and other places of interest.

A project is currently being developed for a railway to connect the city of Las Palmas de Gran Canaria with the airport and the tourist zone in the south of the island.

1.3.2 Areas for the location of firms and industrial land

Firms wishing to establish their activities on Gran Canaria have a wide range of sites to choose from, especially in the capital and the coastal corridor of the South - East, whether they are seeking offices, industrial premises or other types of site for their activity.

There are various industrial zones and estates distributed throughout the island. The most important are Arinaga, El Goro and Salinetas, near the airport, and El Sebadal in Las Palmas of Gran Canaria.

The most important projects for new areas are being carried out in the municipalities of Telde, Las Palmas of Gran Canaria, Arucas, Ingenio, and Agüimes.

Furthermore, both the Special Canary Zone (ZEC) and the Free Trade Consortium have land available in different locations in the island, with very advantageous conditions as they are economic-tax instruments that support investment and the economic development of the region.

1.3.3 Telecommunications Infrastructures and Development of the Information Society

Gran Canaria is fully integrated in the Information Society. The cables that connect West and South Africa with Europe (SAT 3 and WACS), Europe with South America (Columbus) and the Canaries with continental Europe are laid on the island. Connectivity currently exceeds 22,720

Gbites per second[14] and there are various initiatives to increase that capacity. The broadband telecommunications network, which is offered by Europe's leading telecommunications operators, reaches all the important urban, tourist and business areas of the island. The level of business access to Internet is 97,6%[15].

1.3.4 Research, Development and Technological Innovation (R+D+i)

The island has several centres that develop R+D projects in different activities and combine significant knowledge in emerging technological sectors.

The R+D+i activities are mainly led by the University of Las Palmas de Gran Canaria in its Science and Technology Park, with centres on the Campuses of Tafira and Taliarte. Some 164 research groups work in those centres and employ more than 1,500 researchers and 144 doctorate students and more than 500 students in master and expert programs. The most important research areas are those related to cybernetics, telecommunications, medical technology, oceanography, marine farming, renewable energies and environmental conservation.

Special mention should be made of the following University Institutes and Research Centres whose infrastructures are used to carry out those activities:

- University Institute of Cybernetic Sciences and Technologies
- University Institute of Applied Microelectronics
- University Institute of Animal Health and Food Safety
- Institute of Intelligent Systems and Numerical Applications in Engineering (SIANI)
- University Institute of Oceanography and Global Change (IOCAG)
- University Institute for the Technological Development and Innovation (IdeTIC)
- University Institute for Tourism and Sustainable Economic Development (Tides)
- Centre for Biodiversity and Environmental Management
- Centre for Marine Biotechnology
- Centre for Image Technology

Those centres are mostly located in the University of Las Palmas of Gran Canaria Science and

[14] Canary Observatory for Telecommunications and the Society of the Information. Government of the Canary Islands.

[15] ISTAC. Survey of Information Technologies and Communication in the business in the Canary Islands.

Technology Park on the Tafira Campus (8 km from the capital city). They are specially designed and equipped to house business incubators and firms linked to the environment and university resources.

- **The Canarian Centre for Marine Development.** This centre in Taliarte (Telde) is bound to become a world reference for research and the development of oceanographic and marine activities. The University and the Canarian institutions are firmly committed to this centre for the development of the marine sector in the Archipelago in all its economic, scientific and technological aspects. The complex has spaces to house new technological centres and firms related to this sector. It is home to various marine related research centres, including the Centre for Marine Biotechnology, which forms part of the ULPGC Technology Park, and the Canarian Institute for Marine Sciences. The Spanish Bank of Seaweeds (BEA), is a national R+D+i dependant of the Centre of Marine Biotechnology (CBM) of the University of Las Palmas de Gran Canaria (ULPG), which has as basic objectives the isolation, identification, characterization, conservation and supply of micro-seaweeds and cyanobacteria. The BEA is member of the European Organization of Collection of Culturing and the World Federation of Culturing, and it is included in the World Centre of Data on Microorganisms.
- **The Canary Islands Oceanic Platform (PLOCAN)** is a state-of-the-art facility for marine research at an international level which pursues the international competitiveness socioeconomic on the basis of the access to the oceanic marine space, and offers support to the research, development and innovation in the marine and maritime sector. The PLOCAN has laboratories based on earth and soon sea-based, which will be placed at the border of the continental platform in order to reach the deep ocean to exploit its resources and the installation of services in deep profundities until now only available to oil extraction industry. A relevant number of researchers and technology companies are working therein, and for this reason is an element that invigorates and diversifies the economy of Gran Canaria.

We can find also the following additional centres:

- The Canary Islands Space Centre, which is part of the National Institute of Aerospace Technology, in Maspalomas (the south of the island), is an internationally strategic node in the monitoring and control of satellites.
- The Centres of the Canarian Institute of Technology (ITC), a Canarian Government organisation, develops various R+D+i activities in highly specialised technological sectors that include energy, biotechnology, environment and medical technology, among others. The principal ITC centres on Gran Canaria are in Las Palmas of Gran Canaria and Pozo Izquierdo

(15 km from the airport and 35 km from the capital) and covers an area of 109,000 m2.

- The Canarian Water Centre Foundation (FCCA) is an organisation created to promote the science and technology of water. The FCCA executes and promotes R+D+i work autonomously or in combination with public institutions and private companies.
- The Experimental Agricultural Farm depends on the Gran Canaria Cabildo and its research and advisory services to farmers are performed by its Agricultural Laboratory and Departments of Phytopathology and Technology, among others.

Finally, other specialised spaces for the location of technological activities and advanced services are being developed in the area surrounding the airport:

- Net of Technological Parks of Gran Canaria. Specialized in activities related to marine R+D, wind on-shore or off-shore, clean energy, services ICT, tourism ICT, and media ICT.
- Arinaga Specialist Area. Oriented to specialised business services.
- Gran Canaria Airport Park for Economic Activities. Devoted to logistic activities and advanced services related to its location close to Gran Canaria International Airport.

Furthermore, Gran Canaria has a great potential for solar power, as the Archipelago is the territory of Europe located nearest to the Equator and with more hours of sunlight, which attracts foreign investors for the development of green technologies in the Island.

The archipelago is well known by its know how in the energy and water areas, in which has kept for many years the leadership, and has developed numerous and diverse projects in Africa, advising governments in the sustainable energy and water planning and in clean technologies. Some examples of these successful projects are wind farms or individual wind-power generators associated to desalination plants with the purpose of improving the energetic balance of the installations and the development of desalination systems autonomous powered exclusively by renewable energy.

As an example of transfer of knowledge is the training in the area of renewable energies, water management and cooperation with the tourist sector in countries such as Mauritania, Morocco, and Cabo Verde.

Furthermore, the Archipelago helds the annual international show Africagua, whose fields are water, renewable energy, and energy efficiency.

1.3.5 Offer of tourism, leisure and congresses

Gran Canaria is a tourist destination par excellence with a wide range of high quality hotel and non-hotel accommodation. Its 162 hotels and 440 non-hotel establishments offer 63,616 and

74,384 beds respectively. In 2012, more than 3 million tourists visited Gran Canaria, of which 2,819,605 are of foreign origin.

The importance of tourism as an economic activity on Gran Canaria is due to a set of positive factors: an excellent year-round climate, a hotel infrastructure that is constantly being renewed and improved, the coastline with its 60 kilometres of wonderful beaches and the highly qualified and experienced professionals in the sector.

Recent years have seen the development of a high quality tourism offer, especially in relation to golf. Gran Canaria boasts 8 golf courses, most of them with 18 holes. Moreover, health and wellbeing tourism is on the increase and the islands best hotels have the most advanced facilities for Spa, health and beauty services.

The island's 8 leisure marinas and various amusement and theme parks diversify and increase the leisure offer on Gran Canaria. It must be noted also the International Transoceanic Boat Race (ARC) which each year starts in Gran Canaria to the Caribbean Island of Santa Lucía, since 1986, and it is blessed by the high participation of boats coming from all over the world.

The high quality hotel offer of more than 30,000 beds distributed among 10 5-star and 52 4-star hotels provides the best conditions for business tourism. These hotels offer facilities for meetings, conferences, telematic transmission media, videoconferences and the possibility of combining work with leisure activities.

Finally, Gran Canaria boasts a complete offer of modern, high quality infrastructures and service companies for Trade Fairs and Congresses, both in Las Palmas of Gran Canaria and in Maspalomas (in the tourist zone in the south of the island), which, combined with the exceptional climate, permit such events to be held throughout the year. The principal spaces are INFECAR (70,000 square metres) and the Canarian Congress Centre-Alfredo Kraus Auditorium (13,200 square metres) in the capital, and Expomeloneras (14,000 square metres) in Maspalomas.

All the following factors mean that the island has significant potential as a natural movie set. The spring-like climate, the magnificent panoramas of ocean and mountains and the first class hotel facilities are perfect natural settings for making movies, and filming TV series and advertisements all twelve months of the year. In addition to those natural conditions, there are firms offering specialised and auxiliary services to cinematographic production companies and the support offered by the institutions for the development of those artistic activities.

Chapter 2:

Tax credits and tax benefits for investment

2. Tax credits and tax benefits for investment

2.1 Introduction

In the Canary Islands the general rules of the Spanish tax system are applied, which implies the application of a modern tax system, which is also fully harmonized with the European Union regulations. Therefore, it is possible to make business within the rules of the European Common Market, enjoying the freedom of capital movement, merchandises and people within the European Union.

Nevertheless, in the particular case of the Canary Islands, it is applied also a set of specific rules that constitute the Tax and Economic Regime of the Canaries (REF). The tax regulations of the REF consist in several very advantageous tax benefits, both in direct and in indirect taxation, which purpose is to promote the economic development of the Canary Islands.

These tax benefits are complementary to the Spanish tax system, and as such are fully compatible with the integration of the Canary Islands in the European Common Market, and are also adapted to the Guidelines on State Aids for regional purpose and to the Aid Maps, approved by the European Commission for the period 2007-2013.

Furthermore, it must be noted that the REF tax benefits are considered an State Aid granted by the European Union through an Authorization of the Council, taking into account the situation of the Canary Islands as an Ultraperipheric Region of the European Union. In this sense, the present valid authorization extends its effects to the period 2007-2013, and the renewal for the following period is currently under negotiation.

The main regulations of the Canary Islands REF are contained in Law 19/1994, of the 6th July, for the Amendment of the Economic and Tax Regime of the Canary Islands, and Law 20/1991, of the 7th June, for the Amendment of the tax aspects of the Economic and Tax Regime of the Canary Islands.

One of the main and defining characteristics of the tax benefits of the Canary Islands it is that the most relevant benefits are conditioned to the execution of a productive investment in the Canary Islands. This way, the REF regime establishes a tax and legal environment that favours the investments in the Canary Islands, in such a way that the Archipelago is shown as an especially attractive destination for foreign investors. On the other hand, the remaining tax benefits described in this section also contribute to reduce greatly the tax burden in the Canary Islands.

As a consequence, within the REF it can be distinguished clearly two different types of tax benefits:

- Tax benefits conditioned to the execution of a productive investment, such as the Reserve for Investment in the Canary Islands, the tax credit for investment in fixed assets, the improved tax credits in the Canary Islands, along with certain exemptions in indirect taxation.
- Tax benefits that reduce significantly the tax burden in the Canary Islands, such as the Special Canary Zone aka ZEC (although a minimum investment is required, the ZEC is mainly a low taxation area), the tax benefit for the production of corporal goods, the Special Register for ships and shipping companies, the regulation of the Canary General Indirect Tax (IGIC), and the specific regulation of Special Taxes.

In the following pages the main aspects of the tax benefits mentioned above are explained, which as a whole constitute the tax regime of the Canary Islands REF. The purpose of this section is to summarize the main aspects of the tax benefits mentioned; besides, a thorough explanation of the Spanish tax system and the tax benefits and features of the Canary Islands is given in Annex I.

For a better understanding, it is enclosed below a table summarizing the specific advantages of each tax benefit:

REF INCENTIVE	DESCRIPTION	COMPETITIVE ADVANTAGE
Special Canary Zone (ZEC)	The Special Canary Zone is a low taxation area in the Corporate Income Tax (4%), conditioned to the execution of minimum investments and jobs creation	Perfect tax benefit for foreign investments, which gives high tax benefits requiring small investment and job creation
Reserve for the Investment in the Canaries (RIC)	The Reserve for the Investment in the Canaries is a tax benefit in the Corporate Income Tax that allows a reduction of up to 90% of the taxable base (also in Personal Income Tax, up to 80% of the tax payable), of the non distributed profit which is allocated for the execution of the so called initial investments, or investments qualified as running aids.	Very powerful tax benefit that promotes the capitalization of businesses in the Canary Islands, as its main requirement is the reinvestment of profits in certain assets. This way, an environment attractive for local or foreign investments is procured
Tax credit for Investment in Fixed Assets in the Canary Islands	Tax benefit in the Corporate Income Tax and Personal Income Tax, consisting in a tax credit of 25% of the investment in fixed assets allocated to the development of a business activity performed in the Canaries	Very powerful tax benefit, which is also flexible and with immediate effect, as the tax credit is accrued in the same Fiscal Year in which the investment is executed
Tax Credit for Investments in the Canary Islands	It is an improvement over the tax credits common in Spain related to certain investments and activities (p.e., labour formation, or R+D) The increase is 80% with a minimum of 20 percentage points in the tax credit rate.	It is a substantial improvement over the tax credits applied in the rest of Spain
Tax Benefit for the production of corporal goods in the Canary Islands	Tax benefit in the Corporate Income Tax that allows a reduction of 50% of the gross tax payable deriving from profits obtained in the production of corporal goods in the Canary Islands	Rewards productive and manufacturing activities, reducing in 50% the tax applied to the profits obtained from the development of said activities
Special Ships Register (REB)	Among other tax benefits, this regime allows a reduction of 90% of the gross tax payable in the Corporate Income Tax for the operation by shipping companies of the ships registered in the REB	Tax benefit whose purpose is to improve the competitiveness of shipping companies located in the Canary Island, along with the ports of the Archipelago
Customs-free are of Gran Canaria	The Customs Free Area is a zone allocated within the customs area, where it is possible, without a time limit, to store, transform and distribute merchandise, without levying customs duties, nor other indirect taxes	Very adequate for logistic international operations, transformation processes of raw materials of non-European origin, and other manufacturing processes

Indirect Taxes (ITP-AJD and IGIC)	Certain investments pertaining to business establishments located in the Canaries can benefit from exemptions on Transfer Tax (ITP-AJD) or IGIC (VAT for the Canary Islands)	This tax benefit pursues the reduction of the transaction costs in the acquisition of fixed assets used in a business establishment

2.2 The Canary Islands Special Zone (ZEC)

The Canary Islands Special Zone (ZEC), is a **low taxation area** which was created within the Economic and Tax Regime of the Canary Islands with the purpose of promoting the establishment of new businesses in the Canary Archipelago. One key issue to consider is that there is a clear definition of the geographical areas in which the companies can be allocated, except in the case of service activities, which do not have restrictions regarding its geographical allocation.

In this sense, Law 19/1994, of the 6th July, defines the low taxation area for Gran Canaria, which comprises an area of up to 150 hectares. In this area it will be possible to develop business activities regarding the manufacturing, transformation, handling and marketing of goods, which should be allocated in these areas in order to apply for the benefits of the ZEC regime. On the contrary, the entities whose business purpose is the rendering of services, will be able to establish their business anywhere within the Canaries and will be able to apply for the ZEC regime, provided that they obtain the required authorization, and meet other requirements that will be mentioned in the following pages.

2.2.1 Tax benefits of this special regime

Corporate Income Tax

As a general rule, the tax rate of application in Spain was established, since fiscal year 2009, at 30% (25% for small-sized companies). Whereas for ZEC entities, the tax rate regarding the Corporate Income Tax has been established at 4%, although this reduced rate will be applied to a limited amount of the taxable base, which varies depending on the employment creation and the type of business activity developed by the ZEC company, in a range that goes from 1,125,000€ to 120,000,000€.

Furthermore, ZEC entities will be able to apply the Double Taxation Treaties signed by Spain,

along with the Parent-Subsidiary EU Directive. On the other hand, if the parent company of the ZEC entity is a Spanish company, it will not qualify for the tax credit for double taxation of dividends or capital gains generated within Spain.

General Indirect Canary Tax (IGIC)

ZEC companies are exempt from IGIC for the sale of goods or rendering of services made for or by ZEC entities between them, and for the import of goods made by ZEC entities.

Furthermore, companies that have applied for this special tax regime, will have the right to deduct and request the refund of the IGIC quotes borne in the realization of its business activity.

Transfer tax and stamp duty

ZEC entities will be exempt from taxation in the following cases:

- For the acquisition of goods and rights used for the development of the activity of the ZEC entity within the geographical field of ZEC companies.
- For mercantile operations made by ZEC entities, except its dissolution.
- For the documents subject to stamp duty regarding operations made by ZEC entities within its geographical field, with the exception of bills of exchange.

Double taxation treaties, Parent-subsidiary Directive, and the Non Residents Income Tax

- ZEC entities can apply the Double Taxation treaties signed by Spain,
- ZEC entities will be able to apply the Parent-Subsidiary Directive of the European Union, which means that dividends paid by ZEC entities to its parent companies, provided that they are resident in other countries of the EU, might be exempt from withholding in Spain.
- ZEC regulations grants certain tax exemptions to the income obtained by tax residents of non-EU countries, when such income is paid by ZEC entities as a result of operations performed material and effectively within the geographical area of the ZEC entity.

The tax benefits of the Special Canary Zone will remain in force until the 31st December of 2019, although they can be extended with the authorization of the European Commission. The authorization for the inscription of new entities in the Official ZEC Register can be filed up to the 31st December of 2013.

2.2.2 Requirements that must be met by the companies in order to apply for

the special tax regime applied to ZEC entities

The companies that want to file for the ZEC special tax regime must be newly created corporate entities, authorized and registered before the Official Register of ZEC entities, meeting, among others, the following requirements:

- Being a newly incorporated entity, whose domicile and head office are located within the geographical area of the ZEC, and at least one of the members of the board of directors is resident in the Canary Islands.
- Execute a minimum investment of 100,000€, in the case of Gran Canaria, in fixed assets, corporal or intangible, placed within the ZEC geographical area and assigned to the business activity.
- Creation of at least 5 jobs, in the case of Gran Canaria, within the 6 months following the date of the authorization, and maintain an average workforce of at least 5 jobs during the period in which the company is registered as a ZEC entity.
- Its corporate purpose must comprise any of the activities listed for ZEC purposes.
- Inscription and authorization in the Official Register of ZEC entities, filing beforehand certain documents related to the business project.

2.3 The Reserve for Investments in the Canary Islands (RIC)

The Reserve for Investments in the Canary Islands (hereinafter, RIC), is a tax benefit to promote investments, which can be applied by corporate entities subject to the Corporate Income Tax (hereinafter CIT), which have an establishment in the Canaries, as well as by individuals that determine their net income by the method of direct appreciation, provided that the income derives from economic activities developed through establishments located in the Archipelago, and the accounting rules of the Code of Commerce are observed.

The RIC can also be applied by individuals and entities non resident in Spain that operate in the Canary Islands through a permanent establishment, for the income obtained, through a reduction in the taxable base in the Non Residents income tax.

2.3.1 Contents of the tax regime

With effects in fiscal years starting after the 1st January of 2007, it should be distinguished between:

- Companies, which can apply for a reduction in the taxable base of the CIT for the amount of the RIC allocations made each fiscal year. The allocation has a limit, which is 90% of the profits of the fiscal year that have not been distributed and are related to the establishments

located in the Archipelago.

- Individuals, for which the tax benefit consists in a tax credit against the tax payable of their Personal Income Tax, for the net income deriving from a business exploitation that are assigned to RIC, provided that they proceed from business activities developed in the Archipelago, through establishments located therein.

The tax credit is determined applying the average tax rate to the annual allocation of the reserve, with the limit of 80% of the apportion of the tax payable amount that corresponds proportionally to the income mentioned before.

2.3.2 Main requirements

Investment of the RIC

The amounts allocated to RIC must be materialized (invested), starting from the 1st of January of 2007, on any of the following investments:

Initial investments

- Acquisition of new assets, corporal or intangible as a consequence of the creation or enlargement of an establishment, the diversification of the activity of an establishment for the manufacturing of new products, or a substantial transformation in the manufacturing process of an establishment. There are relevant limitations regarding the purchase of land.
- Job creation, insofar it is related directly to initial investments. It is necessary that the hiring happens in the period that comprehends the six months prior to the date in which the investment entered into work and the following six months.
- Subscription of shares issued by other companies as a consequence of its incorporation or a capital increase, that develop in the Archipelago its activity, provided that certain requirements are met, namely, the execution of some of the investments mentioned in the previous two paragraphs. These investments must be executed in the same period that was left to the company that subscribed the capital in order to invest its RIC.

Investments that are considered working aid

- Acquisition of fixed assets, corporal or intangible, which do not meet the requirements to be considered an initial investment. There are also important limitations regarding the purchase of land.
- Acquisition of assets that contribute to improve and protect the natural environment in the Canary territory, as well as the investments assigned to the exploitation of renewable energy sources for its transformation into electricity.

- Research and Development expenses.
- Subscription of shares issued by entities of the Special Canary Zone (ZEC), as a consequence of their incorporation or capital increase, although some additional requirements must be met.
- Subscription of shares or participation on the capital or the equity issued by risk capital companies or funds, as well as investment funds. The subscription must be made at the moment of the incorporation or capital increase, and the amount invested must be used by the risk capital company in the subscription of capital issued or in an capital increase of other companies that, in their turn, execute the investments qualified as initial investments.
- Subscription of equity or account annotations of public bonds of the Canary Islands Autonomous Community, of the local corporations of the Canary Islands, or their public companies or autonomous bodies, provided that the public debt is assigned to the financing of investments in infrastructures, or the improvement and protection of the natural environment in the Canary territory.
- Subscription of equity issued by public entities pursuant to the building or exploitation of infrastructures or equipment that are of public interest for the Public Administrations in the Canaries, when the financing obtained is assigned solely to the construction or exploitation mentioned.
- Subscription of equity issued by private entities pursuant to the building or exploitation of infrastructures or equipment that are of public interest for the Public Administrations in the Canaries, once the due concession or administrative authorization is obtained, when the financing obtained is assigned solely to the construction or exploitation mentioned.

The last three investments will have a joint limit of 50% of the RIC allocated each year.

Localization and use of the assets

The assets that have been assigned to RIC investment must be located or being received in the Canary Islands, must be used therein, assigned and needed for the development of economic activities of the taxpayers, unless they contribute to the improvement and protection of the natural environment in the Canary territory.

Period to invest the reserve

The investment of the amounts allocated to RIC must be executed within a 3 year period, starting from the due date of the tax corresponding to the fiscal year in which the Reserve has been allocated.

Period of maintenance of the investments

Assets that are considered initial investments must be kept in use in the company during at least 5 years, without being transferred, leased or lent to others. In the case of land, the period of maintenance will last ten years.

Incompatibilities of the regime

Apart from the incompatibility with certain State Aids, the RIC tax benefit is incompatible, for the same assets and expenses, with the deductions to promote the development of certain activities, regulated in the Corporate Income Tax Law, Chapter IV of Title VI, and with the tax credit for investment in new assets regulated in Law 20/1991.

Quantitative limits to the tax benefit for RIC allocations

Following the regulations of European Community Law, State aids of regional purpose cannot exceed certain limits in the percentage of the investment that is financed by the aids; in the case of ultra-peripheral regions, like the Canary Islands, 40%, percentage that increases to 50% for medium sized companies and 60% for small companies. These limits are applied considering not only the savings in the tax payable due to RIC, but any other aid (for example, subsidies).

2.4 Tax benefits for the production of corporal goods in The Canary Islands

Taxpayers subject to the Corporate Income Tax, as well as the taxpayers of the Personal Income Tax that determine their net income deriving from business activities by the method of direct appreciation, will have the right to apply a reduction of 50% of the gross tax payable that proportionally corresponds to the net income obtained from the sale of corporal goods manufactured in the Canaries by the taxpayer, relating to agricultural, livestock, industry and fishing activities.

2.5 Tax Credit for Investment in Fixed Assets in the Canary Islands

The tax credit for investment in fixed assets is applied in the Canary Islands despite the fact that it has been abolished in the rest of Spain. The main characteristics of this tax credits are explained below:

- The tax credit is accrued in the fiscal year in which the investments are put into the disposition of the taxpayer.
- The rate of the deduction is 25% of the investments that qualify.

- The maximum amount of that the deduction that can be used to offset the gross tax payable is 50%, although the deductions generated in previous fiscal years can be also applied with the same limit, but with a combined limit of 70% of the gross tax payable. It is also even possible to combine deductions of several years, absorbing a full 100% of the gross tax payable.
- It is possible to invest in certain used fixed assets, provided that these assets have not been used for this same deduction previously and that a technological advantage is credited.

2.6 Improved Tax Credits for Investments in the Canary Islands

Companies and other entities domiciled in the Canary Islands will be able to benefit from an increase in the general rates of the tax credits granted by the Spanish regulations to incentive the realization of certain activities. Specifically, the rates applied in the Canaries on the investments executed will be 80% higher than the ones of the general regime, with a minimum difference of 20 percentage points. Furthermore, the limit of application of the tax credit also increases 80% over the general regime, with a minimum difference of 35 percentage points.

2.7 Tax benefits in Indirect Taxation Exclusive to the Canary Islands

Entities subject to the Corporate Income Tax which are domiciled in the Canary Islands and the ones that operate in the Canaries through a permanent establishment might be exempt from transfer and stamp duty tax, as long as this tax is considered to be produced in the Canary Islands:

- In the category of transfer of property, for the acquisition of investment properties and intangible rights that qualify as initial investments (in terms similar to the RIC).
- In the category of mercantile operations, for the incorporation of companies and capital increase, for the whole or part of the operation that is bound to the acquisition or import of investment properties, or the acquisition or cession of intangible rights that qualify as initial investments (in terms similar to the RIC). Capital increases through debt compensation can never apply for the exemption.

Likewise, the entities subject to the Corporate Income Tax which are domiciled in the Canary Islands and the ones that operate in the Canaries through a permanent establishment, which do not have the right to deduct the total amount of IGIC borne, might be exempt from the tax:

- In the acquisition and import of investment goods that qualify as initial investment, when the aforesaid entities are the acquirers or importers of the assets.
- In the cession of certain intangible assets, when the aforesaid entities act as cessionary. In

this case the exemption will only cover 50% of the value of the operation, unless the cessionary is a small sized company.

2.8 Special Register for Ships and Shipping Companies (REB)

It is a tax incentive conceived to improve the competitiveness of the shipping activities located in the Canary Islands, as well as the ports in the Canaries, thanks to the tax exemptions and tax benefits granted to the shipping companies and ships that are registered in the REB.

To obtain the inscription in the REB, certain requirements must be met, both by the shipping companies as well as by the ships and their crews.

The tax benefits are related to the following taxes:

Transfer tax and stamp duty

Contracts and other legal acts executed over ships registered in the Special Register, which are subject to the Transfer tax and stamp duty tax will be exempt from taxation.

Personal Income Tax and Non Residents Income Tax.

Crew members of the ships inscribed in the REB, which were taxpayers of the Personal Income Tax, will have a 50% exemption on their taxable income deriving from salaries, which had been generated during the navigation made in ships inscribed in the said Register.

Crew members of the ships inscribed in the REB, which were taxpayers of the Non Residents Income Tax, will have a 50% exemption on their taxable income deriving from salaries, which had been generated during the navigation made in ships inscribed in the said Register.

Nevertheless, when the ships are assigned to regular services of passenger transport between ports of the European Union, the exemptions mentioned previously will be applied only to crew members that are citizens of any of the countries which were members of the European Union or any of the countries that belonged to the Agreement on the European Economic Space.

Corporate Income Tax.

There will be a reduction in 90% of the gross tax payable of the Corporate Income Tax, after applying the deductions for double taxation internal and international, which corresponds to the apportion of the taxable base that proceeds from the business exploitation developed by the shipping companies related to the services rendered between the Canary Islands and between the Islands and the rest of the Spanish territory, by their ships duly inscribed in the Special Register.

Special taxes

The first definitive register of a ship before the Special Register of ships and shipping companies will not be subject to the Special tax on certain ways of transportation.

Social Security contributions

There will be a reduction in 90% in the contributions to the Social Security contributions borne by the shipping companies, regarding the crew members of ships registered in the Special Register.

2.9 The Customs-Free Area of Gran Canaria

The Customs-free area of Gran Canaria is an enclave located within the customs area, fully delimited, where it is possible, without a time limit, to store, transform and market goods, without levying customs duties, nor other indirect taxes.

Furthermore, the companies established within the Customs-free area of Gran Canaria enjoy the following specific tax and customs benefits:

- Exemption of payment of customs duties when the goods are introduced in the area.
- Exemption of payment of indirect taxes in the processes of preparation of the goods, such as labelling, packaging, re-packaging, previous to its departure.
- Possibility of being a ZEC company.
- Possibility of applying the RIC tax benefit in the Corporate Income Tax.
- Exemption in the payment of transfer tax and IGIC-VAT in investment assets.
- Location in a strategic port for international logistic operations.

Any companies that were interested in establishing in the Customs-free area of Gran Canaria will have to file a project applying for its authorization by the Plenary of the Consortium, accompanied of certain documents.

Chapter 3:

Establishing a business

3. Establishing a business

3.1 Introduction

This chapter deals with the main alternatives for a foreign investor to establish a business in Gran Canaria, as well as the main steps, costs and legal requirements in connection with them.

As regards the ways of establishing a business, several alternatives are analyzed, either in the form of sole ownership of a business through the incorporation of a Spanish entity or the formation of a Spanish branch, or through joint ventures to carry on a business jointly with one or more businesses already established in Spain.

Other ways of conducting a business without requiring a physical presence, through the arrangement of distribution, agency, commission and franchising agreements, are also considered.

The steps that have to be taken to make the different types of investments are the following:

- Incorporation of a Spanish Corporation or opening of a Spanish Branch.
- Acquisition of shares of an existing Spanish corporation.
- Acquisition of real estate located in Gran Canaria.

Finally, this Chapter contains a last section on dispute resolution in Spain, either through court proceedings or through arbitration, which is seen to be a very plausible alternative system suitable for the settlement of commercial dispute.

3.2 Different ways of conducting a business in gran canaria

As has been mentioned, the following alternatives exist to operate and invest in Gran Canaria:

- Incorporation of any form of company regulated by Spanish law and opening of a branch or a permanent establishment. The various forms of company available to the investor include the Limited Liability Company, which is the most common form of company now, hence its importance and practical impact.
- Association with other entrepreneurs already established in Gran Canaria.

- Foreign investors may find a joint venture with a Spanish company to be the most appropriate form of presence in Spain, since it allows the parties to share risks and combine resources and experience. There are different vehicles which can be used to set up a joint venture under the Spanish law as is explained below:

- An Economic Interest Grouping or an European Economic Interest Grouping.
- A Temporary Business Association.
- A Silent Partnership Arrangement (*cuenta en participación*).

- The possibility of becoming established in Gran Canaria without having physically to set up a centre of operations in Spain must also be taken into account. This may be done:
  - Operating through an agent.
  - Making a distribution agreement.
  - Operating through commission agents.
  - Franchising.

3.3 Tax identification number and identity number for foreigners

According to Spanish law all foreign people and professionals who have economic interests in Spain will be provided with a Tax Identification Number, for legal persons, and an Identity Number for Foreigners fo natural persons.

These documents are obtained free of charge and are mandatory both for the formation of a company and for the performance of economic activities with the Spanish public authorities.

The directors of Spanish companies not resident in Spain will need to obtain the Identity Number for Foreigners. In the same way, a legal person involved in an economic activity must obtain the corresponding Tax Identification Number.

The same rules have to be followed in the case of foreign shareholders of a company.

3.4 How to incorporate a corporation

This section examines the procedures required for the formation of a company and the costs involved.

For this purpose, the requirements for the incorporation of a Spanish business corporation will be used as an example.

3.4.1 Legal steps

First of all, the requirement that the incorporation of any company must be executed in a Public deed, and that the new agreement of the parties recorded in a private document will not suffice is to be noted.

To form a company is necessary to have an original capital, the necessary amount depending on the type of company. The Spanish business corporation requires a minimum capital of 60,000 euros that must be fully subscribed, but only requires that the initial outlay should be 25%, the remainder of such capital to be called within the statutory time period.

However, in a Limited Liability Company the requirement in terms of minimum capital is 3,000 euros, with the difference that the full amount has to be paid up at the time of its formation.

The requirements for the valid incorporation of a company are set out below:

- The execution of a Public Deed of incorporation:
  - Identity of the founding shareholder. In the event that the shareholder is represented by a third party, a power of attorney must be conferred upon such third party.
  - If the power has been granted abroad, it must be legalized. It may be legalized through two procedures:

    1. Empowerment in the Spanish consulate in the country of the investor. The foreign investor will have to appear before a Spanish consul in his country, prove his identity and confer the necessary powers of attorney upon the person he wishes to act as representative. If the founding shareholder is not a natural person, it must also confirm its identity, its capacity to act for and on behalf of its representative and thus confer the power of attorney upon the designated person.

    2. Empowerment before a notary in the country of origin. The document must be approved for the purposes of Spanish law either through the Apostille of The Hague (if the country is a signatory to the Vienna Convention of 1968) or through the Spanish consulate in the country of origin. The language will be that of the notary public and will require a sworn Spanish translation.

  - Submission of the reservation of the name before the Notary Public, evidenced by the certificate of the Central Commercial Registry.
- Production of the Articles of Association that will govern the company.
- Evidence of disbursement of the capital contribution through the required bank documents.
- Obtaining of the provisional Tax Identification Number of the company.
- Settlement of Transfer Tax and Stamp Duty within one month of the incorporation.
- Registration of the company at the Commercial Registry of Las Palmas.
- Declaration of the foreign investment undertaken before the Directorate-General for Trade and Investments (*Dirección General de Comercio e Inversiones,* hereinafter DGCI) of the

Ministry of Industry, Tourism and Trade. Citizens or companies of the European Union will not require such a statement.

- Obtaining of the definitive Tax Identification Number after the registration of the company at the Commercial Registry.
- Registration for Tax on Commercial and Professional Activities.
- Application for the Opening License where the activity is going to be developed.
- In regard to labor laws, legislation in relation to non-EU workers, who must first obtain a residence permit and work permit with the appropriate visa, must be taken into account. There are various types of permits to work in Spanish territory according to the circumstances of each case. In contrast, European Union citizens do not have to obtain such permit since, under the Community rules governing the free movement of workers, they will be entitled to conduct any activity.
- Registration with Social Security and for insurance for occupational accidents.

Additional information may be obtained at the Chamber of Commerce of Las Palmas and through the web page www.vue.es.

3.4.2 Costs

The incorporation of any company involves the following costs:

- Transfer Tax and Stamp Duty for company operations, 1% on the amount of capital, although this cost has been eliminated nowadays.
- Fees of the notary public for the incorporation of the company.
- Fees for registration of the company at the Commercial Registry of Las Palmas.
- Opening License.
- Other expenses.

3.5 The branch and the representative office

These paragraphs analyze the branch and the representative office as alternatives to operate in Gran Canaria without having to incorporate a company.

At the organization of the branch, the notary public will request the necessary documentation that evidences the existence of the parent company, its Articles of Association, the personal data of its Directors and the resolution to create the branch adopted by its responsible body.

The branch must obtain the corresponding Tax Identification Number and elect a person who

may be either a natural or a legal person resident in Spain, able to represent the parent company before the Spanish Tax Authority. The branch does not have legal personality.

Like companies, branches will have to be entered at the Commercial Registry, after settling Transfer Tax and Stamp Duty, with certain exceptions.

It is also necessary to declare the foreign investment made before the Directorate-General for Trade and Investments (hereinafter DGCI), in the case of a non-EU company.

Finally, the branch must be registered for Tax on Commercial and Professional activities, the fees for the Opening License of the branch must be paid, the branch must be registered with Social Security and the other formalities legally required must be complied with.

On the other hand, as the second alternative, the foreign investor may also operate in Gran Canaria through a Representative Office.

The most remarkable features of the representative office are:

- The office has the legal personality of its parent, so that it is not an independent entity.
- There are no corporate formalities for its opening, although a Public Deed must be executed to record the opening of the office for tax, labor and social security, purposes.
- It is not necessary to register the opening of the office at the Commercial Registry of Las Palmas.
- It does not have formal governing bodies and the representative of the office carries out these actions.
- The office activities are limited and are related only to coordination and collaboration.
- The non-resident company is liable for debts incurred by the office.

3.6 Other alternatives to operate in Gran Canaria

3.6.1 Forms of business cooperation

The different forms of business cooperation will be analyzed in the followings paragraphs.

TEMPORARY JOINT VENTURES (UTEs)

The Temporary Joint Venture (*Unión Temporal de Empresas*, hereinafter UTE) is a system of collaboration between companies for a certain time and for the development or execution of work, service or supply. From this union, a new independent company is born that operates under the same management. It has no legal personality, and the name is formed by the names of the companies that make up the union, adding the words "Unión Temporal de Empresas"

(Temporary Joint Venture).

There is no limit with regard to subjects who may participate, who may be natural or legal persons, Spanish or foreign, from the EU or otherwise.

As mentioned above, UTES are independent entities without legal personality that have a contractual origin. In fact, this is a partnership contract with the aim of developing a temporary business that has been previously determined. The UTE has no legal personality and therefore its members arejointly and severally liable to third parties without limitation.

It is governed by Law 18/1982 of 26 May on the Tax Regime for Groupings and Joint Ventures and Regional Industrial Development Corporations, which distinguishes between the main purpose, namely the implementation or development of a work, service or supply, and that which could be described as an ancillary or secondary purpose, that is limited to the execution of works and services that are supplementary or ancillary to the main purpose.

Its formation need not be executed in a Public Deed, but to access to the tax advantages provided by the tax laws, the formation of the Joint Venture must be executed in a public document. This will formalize the joint venture agreement.

With the granting of a Public Deed, the joint venture is formed, but there is another administrative and voluntary procedure, its registration on the Special Register of the Ministry of Economy and Finance. This requirement is necessary if the joint venture intends to enjoy the tax benefits specific to this class of entities

It is also necessary to provide the joint venture with its corresponding NIF.

ECONOMIC INTEREST GROUPINGS (EIGs)

Economic Interest Groupings may be defined as legal entities having the purpose of facilitating the development and improving the results of the activities of their partners, without making a profit for themselves.

The purpose of EIGs must be limited to economic activities ancillary to the activities carried on by their members. EIGs are used by their partners jointly to conduct a supplementary activity.

Economic Interest Groupins are governed by Law 12/1991 of 29 April, on Economic Interest Groupings, and in the EU context, by Council Regulation (EEC) 2.137/1985 which created the European Economic Interest Grouping (EEIG).

The EIG is intended as an instrument that serves to channel supranational business cooperation within the European Union.

The procedure for the formation of an EIG is very similar to that of any capitalist society, since it

requires a public deed and registration at the Commercial Registry.

The Law defines the governing bodies of the EIG in a manner similar to that applicable to any company. Thus, it contemplates two governing bodies: the Assembly of Members (the sovereign body that adopts the resolutions of the EIG) and the directors, who are appointed by the members.

The EIG is liable for its ownr debts but in the case of insolvency its members will be jointly and unlimitedly liable.

Optionally, another series of corporate covenants may be established among which we point out considering their importance, the rules for determining the participation of members in the profits/losses.

This freedom of allocation of the profit/loss of the EIG is one of the key elements in shaping that institution.

SILENT PARTNERSHIP ARRANGEMENT

In practice, this is a common venture since it offers a very flexible formula to provide capital for a company that requires resources.

A silent partnership arrangement is not a company agreement and is instead voluntary funding contract. One entrepreneur makes capital available to another entrepreneur, which may be a natural person or a legal entity.

The managing partner uses that capital as the company's overall funding or the funding of a specific business, and in return agrees to deliver to the silent partner some of the profits generated and to repay the capital at the agreed times and in the agreed manner.

If instead of profits, losses are sustained, the silent partner will not receive any remuneration, the losses will be charged to the capital contribution and only the remaining funds will be restored.

The legal regime is extraordinarily permissive, as great freedom is allowed when establishing covenants and there is a total absence of formal requirements, without imposing any of the typical formal requirements of the corporate law (Public Deed, Commercial Registry, etc...).

Other features of the silent partnership arrangements are:

- It is an Arrangement of Association, it does not have independent legal personality, it does not have to be registered at the Commercial Registry, and it does not have effects on third parties.
- It is a contract between merchants, not between an individual and a merchant.

- The managing partner is obliged to justify the results every time he needs to pay a dividend and when proceeding to settle the joint arrangement.
- The silent partner does not have any voting rights in the arrangement.
- The silent partner is not a creditor of the managing partner and is instead his partner so that his claims will be subordinate.

3.6.2 Distribution, agency, commission and franchising agreements

DISTRIBUTION AGREEMENT

The distribution agreement is an atypical contract, a contract which is not regulated by law so that its contents must be analyzed based on the interpretation of its clauses.

There is a great degree of freedom in this type of agreement and there are multiple types of distribution.

The dealers are a commercial network of the company but without belonging to it, whose main mission is to increase its sales.

Under Spanish law there are three types of distribution networks:

- Exclusive franchise or distribution. Through this method, the supplier undertakes to deliver its products to a single distributor and in a particular territory.
- Single distribution agreement. In this case the supplier has reserved the right to supply products to users in the territory concerned.
- Contract for authorized distribution. The distributors are selected based on their ability to market products.

AGENCY AGREEMENTS

Through the agency agreement, a natural person or legal entity, namely, the agent, undertakes with another on an ongoing basis or under a stable relationship, in exchange for consideration, to promote acts of trade or operations for hire or to reward or to promote and complete them for and on behalf of others. All this as an independent broker, without assuming, unless otherwise agreed, the risk and responsibility for such operations.

The legal regulation of such contracts is found in Law 12/1992 of 27 May, on the Agency Contract, which transposed the Directive 86/653/EEC into Spanish law.

The main characteristics of agency contracts are set out below:

- The agent is an independent broker.

- The agent's work is to promote or conclude contracts on behalf of the person on whose behalf it acts.
- The agent may act on behalf of one or more principals.
- The agency agreement will be for a fixed time or indefinite.
- It is necessarily a paid contract.

COMMISSION AGREEMENT

The regulation of such contracts is contained in Articles 244 and following of the Commercial Code. Under this contract the commission agent undertakes to carry out a mandate from the principal in one or more commercial transactions.

The commission agent necessarily acts on behalf of the principal but may perform the commission, depending on how the relationship with the principal is defined, engaging in its own name or that of the principal.

Thus another relationship of empowerment which attributes different legal effects to the action of the commission agent is superimposed over the commission agency relationship, according to whether the commission agents acts on his behalf or on behalf of the principal.

In the first case, since there is no direct representation and the commission agent contracts on his own behalf, the commission agent will not have to declare the identity ofthe principal, and will be bound directly towith the persons with whom he contracts, who will not have direct action against the principal, as the principal will not have on them either.

In the second case, the commission agent must state that he acts on behalf of the principal and, if thecontract was made in writing, state this in the agreement or before the signature, stating the name, surname and address of the principal, which will cause that the contract and actions derived from it to have effect between the principal and the person or persons that contract with the agent.

This agreement has the following features:

- The principal and the agent do not have a longlasting relationship, which is extinguished after the service has been provided.
- The principal often delivers the commission agent a provision of funds sufficient to meet the expenses of the commission agent.
- The commission agent is obligated to render accounts to the principal, evidencingthe amounts received for the performance of the commission. Also, the commission agent must send information to the principal on the contracts made and the buyers involved in them.

- The commission agent must carry out the commission himself, with no right to substitution unless this has been expressly and unequivocally agreed. After the substitution has been authorized, the commission agent will in any case be liable for the management of the substitute unless he was chosen by the principal.
- The commission agent is unable to agree payment by installments without obtaining authorization from the principal.
- Failure by the principal of his obligation to pay the for the commission entitles the commission agent to make a withholding on the assets subject matter of the commission.

FRANCHISING

The franchise allows the distribution and marketing of products and services of the franchiser through new distribution channels represented by the franchised company.

The applicable law is Spanish Royal Decree 378/2003 of 28 March, which in turn refers to Regulation (EC) No 2790/1999 of 22 December.

The importance of franchising lies in the facility of expansion of business ideas that have received some recognition and market success.

The franchise agreement has advantages for the parties:

- The franchisor may enhance its own capacity for penetration and business expansion into other markets, it monitors compliance with its guidelines by the franchisee through contractual content and does not assume the business cost of its expansion and its possible outcomes and which is borne entirely by the franchisee.
- The franchisee becomes the owner of the company that is created, is able to access a range of commercial or technical industrial knowledge (namely, Know-how) and has the right to use intangible property transferred and integrating the elements of identification of the business of the franchisor.

By paying a fee, the franchisee is able to take advantage of a recognized business success already established in the market.

The contract is completed with the agreement between the franchisor and the franchisee that is predominantly made in writing, by standard models in which specific conditions with the general conditions are imposed by the franchisor.

In Spain there are a number of formalities to be observed, such as the entry on the Register of Franchisors when the activity is going to be conducted in the territory of more than one Autonomous Community.

3.7 Other alternatives to invest in gran canaria

3.7.1. Acquisition of shares of an existing corporation

LEGAL STEPS

For the acquisition of shares of a Spanish corporation it will be necessary to follow the steps set out below:

- Endorsement of a a notary public to transfer the shares of a Limited Liability Company, however in the case of Business Corporations the presence of a notary public is only required when so established by law or agreed by the parties. The actions must be identified, and the seller must show the title and, where appropriate, the subsequent declaration forms for foreign investment to the DGCI, if this was necessary.
- Settlement of the Transfer Tax and Stamp Duty. In the case of companies whose assets are mostly real estate, there are certain cases in which the transfer of shares will be taxed by the ITP and AJD at 7%; in the Canary Islands the rate for this tax is 6.5%. This regulation has been amended in 2012 in order to avoid the taxation on the transfer of companies whose building are dedicated to a business activity.
- The foreign investment made will also have to be declared to the Directorate-General for Trade and Investment (hereinafter DGCI), in the case of a non-EU company.

3.7.2 Acquisition of real estate located in gran canaria

LEGAL STEPS

The following steps must be taken to acquire real property located in Gran Canaria:

- Execution of the Public Deed of the respective sale. It must be executed before a Spanish Notary or a Spanish consul abroad, identifying the parties, the seller to submit cluding the title deed to the property, the form of a declaration of investment to the DGCI, where and when appropriate, and the payment and procedure used for the purpose.
- If the seller is a developer, we have to distinguish the following cases:

  1. In the case of buildable land and first delivery of buildings, General Indirect Tax of the Canary Islands at 7% plus Stamp Duty Tax at 1% will apply.

2. In the case of rural land and second or subsequent deliveries of buildings Transfer Tax at 6,5% or, in the case of waiver, IGIC at 7% will apply.

- If the seller is not a real estate developer, it will be taxed by the Transfer Tax regardless of the kind of property.
- Entry at the Property Registry, and the declaration to the DGCI will be required in the case of amounts exceeding EUR 3,005,060.
- Change of ownership of the property in the Property Registry.

COSTS.

The expenditure involved in the acquisition of a property located in Gran Canaria is:

- Notary Fees.
- Settlement of Transfer Tax and Stamp Duty.
- Fees of the Property Registry. The scale ranges from 0.4% and 0.02%.
- Municipal tax clearance on the Increase in Value of Urban Land. This tax applies to the seller. The amount will vary depending on the location of the land, in accordance with the cadastral value of the property.
- Municipal Real Property Tax (IBI).

3.8 Dispute resolution

3.8.1 Court proceedings

Law 6 / 1985 of 1 July regulates the operation and governance of Judges and Courts in Spain.

The territorial organization of the State for judicial purposes is differentiated into municipalities, Districts, Provinces and Autonomous Regions, where the Justice Courts, the Courts of First Instance and Examination, the Commercial Courts, Criminal Courts, the Administrative Courts, the Labor Courts, the Provincial Appellate Courts and the High Courts of Justice have jurisdiction.

The Supreme Court and the National Appellate Court have jurisdiction throughout Spanish territory. The Constitutional Court has jurisdiction to safeguard constitutional rights.

The most relevant legislation to be pointed out regulating the various court proceedings are:

- Law 1/2000 of 7 January, Civil Procedure Law.
- Law 16/1882 of 14 September, Criminal Procedure Law.

- Law 2/1995 of 7 December, Labor Procedure Law.
- Law 29/1998 of 13 July, Judicial Review Procedure Law.

3.8.2. Arbitration

In recent years, arbitration has been found to be very effective and fast compared to traditional judicial proceedings and dispute resolution, including commercial disputes. The increased flexibility has made arbitration gain strength not only in the Spanish judicial landscape but also internationally.

In Spain, it is regulated by Law 60/2003 of 23 December, Arbitration Law, which allows both individuals and corporations use such a procedure for settling disputes that have arisen or may arise, provided that such dispute is related to matters of free disposition.

As in judicial proceedings, arbitrators also have the power to impose interim measures, so that parties in a judicial proceeding may request before the Spanish courts that such measures be adopted to ensure the outcome of the arbitration proceedings.

With respect to the arbitration award and its strength as resolution of litigation, it is noteworthy that an arbitration award may be enforced even when the action for annulment has been taken. For the court to suspend the enforcement of an award, a bond will have to be posted in the amount of conviction plus any damages for delay o execution. In this respect our rules follows the UNCITRAL Model Law, UNCITRAL, in turn based on the New York Convention 1958.

The fact that Spain continues to UNCITRAL model has made the international arbitration in Spain much more accessible.

Chapter 4:

Legislation concerning corporations

4. Legislation concerning corporations

4.1 Corporations and their regulation

The corporation is an association of individuals, according to the Spanish legal system. This comes to the legal world as a result of a contract under which, in principle, two or more persons combine their resources and efforts to achieve a common goal, predominantly economic and legal.

In the Spanish Corporate Law there are many types of corporations, such as the Business Corporation (*Sociedad Anónima*), the Limited Liability Company (*Sociedad de Responsabilidad Limitada*), the General Partnership (*Sociedad Colectiva*), the Cooperative (*Sociedad Cooperativa*) and the Partnership (*Sociedad Comanditaria*).

Among them, the most used are:

- The Business Corporation (SA), which is the prototype of a capitalist company, has its capital stock represented by shares and its shareholders are not personally liable for corporate debts and
- Limited Liability Company (SL), it is also a capitalist company, but it is private, has its capital divided into shares and its shareholders are not personally liable for the corporate debts.

The basic rules for these two types of corporations are established by:

- The Consolidated Text of the Capital Corporations Law, approved by Royal Decree 1/2010 of the 2nd of July (*Ley de Sociedades de Capital,* hereinafter, the LSC);
- The Commercial Registry Regulations approved by Royal Decree 1784/1996 of October 2004 (*Reglamento del Registro Marcantil*, hereinafter, the "RRM"). It contains provisions not only relating to the registration of societies and related acts but also to certain aspects of corporate life.
- Law 3/2009, of the 3rd of April, of the restructuring modifications of mercantile companies.

Apart from this legislation, there are other specific rules and standards that will be analyzed throughout this Guide.

4.2 The business corporation (SA)

The Business Corporation (*Sociedad Anónima*, hereinafter, the "SA") is a commercial corporation

the capital stock of which is made up of contributions made by its members (shareholders) who are not personally liable for the corporate debts.

4.2.1. Applicable law

The legal regime of the Business Corporation is provided in the above-mentioned Law of Capital Corporations.

4.2.2 Capital stock

The minimum capital required for the incorporation of an SA is 60,000 euros, which must be fully subscribed for and at least 25% of the nominal value of shares must be paid in.

In those cases where the share capital is fully paid up, the bylaws must indicate the procedure and deadline for the payment of calls on capital, which may not exceed 5 years in the case of non monetary contributions.

The capital is divided into shares that can be represented by tittles or by account notation records.

Shares may be registered or to the bearer, and will always be registered stock in the following cases:

- If the shares are not fully paid up.
- If their transfer is subject to restrictions
- If the shares are subject to ancillary services.
- Or where so required by special regulations (for example, shares of banks and insurance companies).

Shareholders may be, in general, both legal and natural persons of any nationality or place of residence.

Also, applicable legislation does not set a minimum number of shareholders to establish a Corporation, without prejudice to the existence of sole-shareholder companies discussed further below.

Shareholders have the following rights:

- Right to participate in corporate earnings and the assets on liquidation.
- Preferential subscription right to new shares or convertible bonds.
- Right to attend and vote at shareholders meetings and to challenge social arrangements.

- Right to obtain information concerning company issues.

The liability for the actions of shareholders is limited to the amount contributed by each one of them, so that the general rule is that the liability of each shareholder is limited to the capital contributed by that shareholder.

4.2.3 Bylaws

Bylaws are the basic rules governing any company. The Bylaws shall always conform to the Law and contain, at least, the following:

- Name of the company, always accompanied by the words "S.A."
- Purpose, the framework of the activities of the company should be recorded specifically and precisely. Non compliance may result in dissolution and amendment might entail the shareholders' right of separation.
- Registered office, which should be in Spain, stating also the possibility of setting up offices and the competent body for such purpose.
- Capital stock and the number of shares into which the capital is divided, and the par value of each share, and its correlative numbering. Also, it will be detailed the amount of the nominal value which was pending of payment at the time of the incorporation, and the method and the due date for the payment. It must be also explained if the shares are represented by titles or by account notations, and if they are at the bearer or registered, as well as whether it is expected the emission of multiple titles.
- Managing body. The bylaws must determine the way or ways of setting up the management of the company, the number of directors, or at least their maximum and minimum number, as well as the term of duration of the directorship and the retribution system, if it were necessary.
- Method for the discussion and adoption of the agreements reached by the collegiate bodies of the company.

Moreover, the public deed of incorporation, which includes the bylaws, may contain whatever agreements and covenants the founders deem fit, provided that they do not contravene any law or the fundamental principles that govern the Company.

4.2.4 Incorporation formalities

The full body of shareholders', or their representatives, must appear before a notary public in order to execute the relevant Public Deed of Incorporation.

If the shareholders are foreigners, they shall be provided with a Tax Identification Number if

they are legal persons and with a Foreign Identification Number if they are individuals.

Once the incorporation of a Company has been executed in a public deed, the relevant Tax Identification Number must be obtained from the Tax Agency. This number is provisional, until Transfer and Stamp Duty Tax form has been filed. It must be noted that the Tax is no longer being levied, although there remains the obligation to file the proper form.

Finally, the Public Deed of Incorporation has to be registered at the Commercial Registry of Las Palmas de Gran Canaria, after which the Business Corporation acquires its legal personality.

4.2.5. The European Company

The European Company or Societas Europaea (hereafter, SE) is a new form of company that is added to the list of companies recognized in the legal system of various countries making up the European Union.

Also, the European Company is a Community Law company, which has its own legal framework and operates as a sole trader in the entire European Union.

This corporate form allows companies to reduce their administrative costs, while providing a legal structure adapted to the internal market preventing in this way the legal and practical obstacles resulting from each of the legal systems of the Member States of the European Union.

The legal regime is a mixed regime where national legislation and EU rules co-exist and complement each other.

In Spain, the regulation of this type of corporations was established by Law 19/2005 of 14 November on European Companies established in Spain.

The SE shall establish its registered office in Spain, when its head office is in Spanish territory. The SE residing in Spain must be registered, like other forms of company, at the Commercial Registry of its business address.

4.3 The Limited Liability Company (SL)

4.3.1 Applicable law

The regulation of this type of company is contained in Law 1/2010, of Capital Corporations which defines this kind of Company as one in which the capital, divided into participations, comprises the contributions made by shareholders who are not personally liable for the corporate debts.

Its status is essentially flexible, so that the autonomy of its shareholders prevails in order to adapt the company to its specific needs.

4.3.2 Characteristics

The aforementioned flexibility of this type of company and its less stringent demands compared to other companies, such as the Business Corporation has made Limited Liability Companies (*Sociedad Limitada*, hereinafter SL) the corporate form most often chosen for the conduct of business activities.

Additionally, its scope of its action must be determined, because the SL is able to conduct many different economic activities, provided these are well defined in its corporate purpose.

The minimum capital required for Limited Liability Companies is 3,000 euros, which will be fully subscribed for and paid up upon its incorporation, so that in these companies there is no possibility of calls on capital.

The capital is divided in shares, which are cumulative and indivisible, so that one shareholder may hold many shares.

Also, the shares will not have be securities or be represented by share certificates or account notations, or referred to as "acciones" (name given to shares of Spanish Business Corporations).

The content of its Bylaws shall be the same as that of the Business Corporation (SA).

The transfer of the shares must be recorded in a public document. Shareholder status is essentially restricted, unlike the case of Business Corporations.

4.3.3 Incorporation formalities

Regarding the formation of a Limited Liability Company, it will follow the same procedure as in the aforementioned case of a Business Corporation.

4.3.4. The New Enterprise Limited Liability Company

In addition, Law 7/2003 on New Enterprise Limited Liability Companies, which came into force on June 2, 2003, amended Law 2/1995, created a specific type of limited liability Company, which is the New Enterprise Limited Liability Company (*Sociedad Limitada Nueva Empresa*, hereinafter, "S.L.N.E."), which was later included in Royal Legislative Decree 1/2010, of the 1st of July, by which the Capital Corporation Law was promulgated.

The incorporation of a New Enterprise Limited Liability Company has a number of advantages, including agility and speed in relation to the procedure for incorporation, as well as in relation tothe management of the day-to-day affairs of the company.

Thus, the deed of incorporation of the New Enterprise Limited Liability Company may be executed and entered at the Commercial Registry electronically.

In order to simplify the accounting requirements, a single record is also established that enables compliance with accounting and tax obligations and is results practical for small and medium enterprises.

As in the case of the types of company analyzed above, for its valid incorporation, a public deed that may establish the covenants and conditions that the shareholders deem appropriate must be executed and entered at the responsible Commercial Registry.

As regards its name, it will consist of both surnames and the name of one of the founding partners, followed by a single and unambiguous alphanumeric code that identifies the New Enterprise Limited Liability Company. The resulting name must necessarily include the words "Sociedad Limitada Nueva Empresa" (New Enterprise Limited Liability Company) or its acronym (SLNE).

The Law provides a standard corporate purpose but the shareholders are able to reduce or extend its content.

Only natural persons in a maximum number of five may be shareholders at the time of its incorporation.

Furthermore, its capital stock must be at least 3,000 euros and no more than 120,000 euros.

4.4 Sole-Shareholder Company

Both, Business Corporations (SA) and Limited Liability Companies (SL), may be established with a sole shareholder, or acquire sole-shareholder status at a later date.

If sole-shareholder status is acquired at a later date (not at the time of incorporation), this must be stated in a public deed and entered at the Commercial Register. In case that the requirements are not met, the sole shareholder will be responsible with its whole wealth of any liability of the company, until the date in which the formal requirements are met.

The peculiarity of having a sole shareholder implies that such companies are subject to special rules with special requirements, such as in the cases of information and registration.

It is also necessary to record such sole-shareholder status in the correspondence and business records of the corporation, as well as in the registration book, which must be certified, which will record the contracts made between the company and its sole shareholder.

4.5 Governing bodies

Commercial companies need certain governing bodies for their operation.

- The Shareholders' Meeting, which body develops and expresses the corporate will.

- The Managing Body, which is responsible for the management and the representation of the company.

In the Business Corporation, Annual Shareholders' Meetings are differentiated from Special Shareholders' Meetings.

The Annual Shareholders' Meeting must be held within the first six months of the fiscal year in order to review the corporate management and approve the financial statements and allocation of profit/loss of the previous year.

The Special Meeting is not held regularly and may be convened:

- By the directors if it is in the interests of the company.
- By the directors when this is requested by shareholders holding at least 5% of the capital, and the meeting must be announced in a maximum of two months after the directors had been required through a notary public.
- By the courts if the directors fail to fulfill their obligation to call the Meeting when this has been requested by at least 5% of its shareholders.
- By any shareholder in case of death of cessation of the members of the board of directors with the effects that it cannot take any decision.
- By the liquidators of the company.

In contrast, in the Limited Liability Company, no difference is established between annual and special meetings, the Law providing a list of the matters that fall exclusively within the competence ofthe Shareholders' Meeting. The Meeting must be convened by the directors of the company.

It will not be necessary to meet all the requirements needed to call a Meeting, if members representing 100% of the share capital are present and agree unanimously to hold Meeting (Meeting held on consent).

The place of the Meeting will be in the municipality of the registered office of the company. In contrast, Meetings may be held on consent anywhere.

Regarding the Managing Body, it should be emphasized that it is a necessary and permanent body of any company and is responsible for its management and administration.

It may have any of the following structures:

- Sole Director, all management and representation duties are entrusted to a single person.
- Several Directors, two or more acting individually, but internally they may share powers.
- Joint Directors, acting jointly, in the case of the business corporation, if there are only two

directors, will have to act always jointly.

- Board of Directors, a body in which the management of the company is entrusted jointly to a minimum of three persons, who may delegate their powers to a CEO or executive committee.

The appointment of the directors is within the sole competence of the Shareholders' Meeting.

The Shareholders' Meeting has unlimited powers to modify the board as well as to appoint and remove its members at any time.

Directors need not be shareholders other than in the case of the New Enterprise Limited Liability Company, unless the bylaws provide otherwise.

In the event of a Board of Directors, it shall consist of the number of members that is established in the bylaws, or within the minimum and maximum number recorded in the bylaws. In the latter case, the Shareholders' Meeting will establish the exact number.

Also in the S.A. the term of office of a Director may not exceed six years and directors may be reelected to the same office, once or more often for periods of an equal duration.

In contrast, in the S.L. directors must hold office for an indefinite period, unless the bylaws provide a certain period, in which case they may be reappointed once or more often for periods of an equal duration.

The Directors of any company will hold office with the diligence of a good merchant, acting in the legal interest of the company, with the loyalty that is required.

Directors are liable to the shareholders themselves, to the company and to its creditors for damages caused by their illegal actions and / or contravening the bylaws or performed in violation of the duties pertaining to their office.

Finally it should be noted that as a multi-member body, the liability of its directors is always joint, but the director who did not participate in the adoption or implementation of the agreement, was unaware of the action undertaken, or even knowing it, tried to prevent it, may be released from liability.

4.6 Professional companies

Law 2/2007, on Professional Societies, 15 March (*Ley de Sociedades Profesionales*, hereinafter, the LSP) establishes the possibility of establishing professional companies (Sociedad Profesional).

In fact, Professional Companies will be those whose social purposes are common and are based on the conduct of a professional activity, i.e., an activity that to be performed requires formal

university qualification and registration with a Professional Association. In this respect, the regulations provide for the acceptance of professional companies domiciled in the European Union.

The “LSP” also defines the content of the term "joint exercise". It will exist when the work is carried under a common name and the rights and obligations inherent in the exercise of professional activity are attributed to the company, as a holder of the legal relationship established with the client. Therefore, companies that share infrastructure and distribute costs, are excluded from the scope of the “LSP”.

A Professional Corporation may be incorporated through any of the procedures for forms of company contemplated by Spanish legislation.

Therefore, in addition to complying with the requirements of the corporate form chosen, it will have to comply with the requirements of the “LSP”.

Professional Companies and the professionals who operate withinit will conduct their activity in accordance with the rules of professional conduct and discipline of their own work.

Despite the personal liability of its professionals, the Professional Company may also be penalized on the terms established in the disciplinary system applicable to its activity.

The majority of the capital and of the voting rights, or the majority of the company equity and the majority in the number of partners in non-capital companies must belong to professional partners.

4.7 Legal forms of action without incorporation of a company: the branch

We will now analyze the branch as an alternative to operate in Gran Canaria without having to incorporate a company.

To organize a Branch, it will be necessary to execute a public deed of opening before a notary public.

The Notary Public will request the necessary documentation that proves the existence of the parent company, its bylaws, the personal data of its Directors and the resolution to organize the branch, adopted by the responsible body.

The branch must obtain the relevant Tax Identification Number and designate either a legal or a natural person, whose residence is in Spain, and is capable of representing the parent company before the Spanish Tax Authority. It has no legal personality.

Like any other commercial company, the Branch will have to be entered at the Commercial

Registry, but it will previously be necessary to settle Transfer Tax, other than in a few specific exceptional cases.

Finally, we the Branch must be registered for Tax on Economic Activities, fees will have to be paid for the opening license, it will have to be registered with Social Security and the rest of the legally required labor formalities will have to be carried out.

4.8 Representative office

In addition to the above corporate forms, the foreign investor may operate in Gran Canaria through a Representative Office.

The most remarkable features of the Representative Office are the following:

- The office has the legal personality of its parent, so that it is not an independent entity.
- There are no formalities required, although, for its opening, it is necessary to execute a public deed of opening of the office for tax and labor purposes, as well as for social security.
- For its opening, there is no need to register the representative office at the responsible Commercial Registry.
- There are no formal managing bodies; there is a representative of the office, which carries out these actions.
- The office activities are limited and related only to coordination and collaboration.
- The non-resident company is liable for debts incurred by the office.

Chapter 5:

Labour and Social Security regulations

5. Labour and Social Security regulations

5.1 Introduction

It is understood that there exists a labor relationship when the employee, voluntarily, renders its services for a consideration, on behalf and under the management and organization of another person, company or individual, called the employer.

The basic Law that rules these sorts of relationships is the Workers' Statute (contained in Royal Legislative Decree 1/1995), which has been amended profoundly by Law 3/2012, of the 6th of July, of Urgent Measures for the Reform of the Labor Market. . This law regulates the rights and obligations of employee and employer, the general conditions of labor contracts, the employees' representatives, and the collective bargaining.

Nevertheless, the Statute covers also several relationships that, albeit having labor character, have a more specific regulation given their specialty, such as:

- Senior executive officers.
- Domestic employees.
- Convicts working in jail.
- Professional sportsmen.
- Artists in public shows.
- Sales representatives.
- Disabled body workers that render their services in special working centers.
- Longshoremen that work for State owned companies or in ports managed by an Autonomous Community.
- Other jobs declared as special labor relationships by any Law.

The regulation of the Workers' Statute can be improved by a Collective Agreement of application to an specific area of activity; it is a written agreement subscribed between the employer or its representative organizations and the workers' representatives that establishes the working conditions and any other issues that could affect the labor relationship and the collective interests of the contracting parties. Those Collective Agreements duly subscribed under the Workers' Statute are a relevant source of Labor Law with the same force as a Law.

Furthermore, the conditions established by the Statute and a Collective Agreement can also be

improved by an individual covenant included in a work contract.

5.2 General rules

Labor Law is conceived to develop a protecting function in favor of the weakest part in the labor relationship, that is, the employee, trying this way to correct the initial imbalance between the contracting parties.

5.2.1 Governing tenets of the labor regulations

Pro operario principle

This principle implies that, if there is a doubt as to the meaning or scope of a regulation, it must be interpreted in such a way that is more advantageous to the employee.

Most favorable regulation principle

This principle conveys the application of the regulation or the interpretation of the regulations which are more favorable to the employees' interests, regardless of the hierarchical rank of the regulation. In order to choose the most favorable regulation, it must be considered as a whole, it is not possible to pick several dispositions of different regulations.

Principle of the most advantageous condition

This principle conveys that the rights acquired by the employee must be maintained, consolidated by virtue of the work contract, individual agreement, an unilateral declaration of will of the employer, or by usage and custom, even in the case that at a later moment a less favorable regulation is approved.

Principle of the inalienability of rights

As one of the main tenets in Labor Law is that the contracting parties are not equal, the Workers' Statute forbids the disposition of workers rights that had been approved by regulations of mandatory application and the rights recognized as non-disposable by a Collective Agreement.

Principle of employment stability

This principle conveys the expectative of the employee to maintain its job, provided that the employee respects the conditions established in the contract and the Law. This principle justifies that the general rule in labor law contracts are indefinite contracts, and that temporary contracts are strictly occasional.

5.2.2 Minimum work age

The minimum work age is 16 years. Younger people can participate in public shows with a permit granted by the Labor Authorities.

Workers younger than 18 years cannot develop nighttime jobs, or jobs that the Government declares unhealthy, arduous, harmful or dangerous, nor work overtime.

5.2.3 Contract form

Although there is a freedom of form in labor contracting, there are certain contracts that must always be celebrated in written, that is: partial-time contracts, service or per opera contracts, training contracts, fixed-discontinuous contracts, substitution contracts, work at home contracts, insertion contracts, contracts in which the employee is going to work for the employee out of Spain, and temporary contracts whose length exceeds four weeks. Failing to observe this formal requirement, the contract will be understood to be of indefinite length and for the full working day, unless there is proof to the contrary.

5.3 Labor contracts

5.3.1 Types of work contracts

As a general rule, work contracts are of indefinite length although there are temporary contracts which require for a cause for their validity. Work contracts can be classified in indefinite contracts and temporary contracts. There are three different temporary contracts: per opera or service contracts, temporary contract due to manufacturing circumstances, or interim contracts.

Apart from the indefinite contracts and temporary contracts there are other types of contracts, such as relay contracts, fixed-discontinuous contracts, work at home contracts or partial-time contracts.

Indefinite contracts

These type of contracts implies that the contract is not subject to a definite length in time.

There is another modality of indefinite contract, called contract to promote indefinite contracts of unemployed and temporary employees with difficulties to get a new job. This contract must be made in written and in an official form.

Recently it has been approved the new indefinite contract to support the entrepreneur, which allows that the trial period extends to one year, although this rule does not apply when the same employee had developed the same functions previously in the same company, under any form of

contract. In addition, a tax credit in the Corporate Income Tax of 3,000 € (article 43 of the Corporate Income Tax Law) is granted for the first entrepreneur contract made by a company, provided that the employee is aged less than 30 years.

Fixed-discontinuous contract

This contract is made to hire employees that perform certain works that are of a fixed-discontinuous sort, which are not repeated at any given date, within the usual business activity.

Fixed-discontinuous employees will be called in the order and the way that is determined in the Collective Agreements, and if that is not observed, the employee can file a dismiss claim before a Court of Justice, starting from the moment that the worker knows about the lack of notification.

This contract must be made in written and in an official form.

Temporary contracts

Temporary contracts must have a cause, and for that reason it is only possible to hire temporarily in the cases admitted by Law.

	OBJECT	FORMALITY	DURATION
SERVICE OR PER OPERA CONTRACT	Realization of certain works or services, which are autonomous or specific in the activity of the company, and whose period of execution is definite, although unknown.	In written, it is necessary to describe the works or services clearly and precisely.	These contracts cannot have a length that exceeds three years, though a collective agreement of national sector scope or lesser can increase up to 12 months more. After the period has passed, the employees will acquire the condition of indefinite term workers. If after the work is finished the employee carries on working in the company, the contract will be understood to be prorogated tacitly for an indefinite term. If a duration of the job is established, will be orientative
EVENTUAL CONTRACT FOR PRODUCTION CIRCUMSTANCES	Attend circumstantial requirements of the market, build-up of work, or an excess of orders, within the usual business activity	In written if the duration is longer than four weeks, or if it is a part-time contract. If it is made in written, the following items must be included: - Specification of the type of contract - Duration. - Cause or circumstance that justifies this contract, expressed clearly and precisely.	Maximum of 6 months in one year period of reference, after the circumstances happen. Collective agreements of national sector or lesser scope can modify the length and the period during which these contracts happen, in accordance with the seasonal character of the circumstances that give way to these contracts, but with a 18 month limit as a period of reference, and a duration that does not exceed ¾ of the period of reference nor 12 months. It is possible one and only one prorogation if the limit established in the law or the Collective Agreement has not been exceeded The contract will be terminated when its

			duration expires.
INTERINITY CONTRACT	For the covering of transitory vacant posts in the following cases: - Substitution of workers which have a right to the reservation of their post. - Temporary coverage of a vacant job during the time needed to the selection or promotion of an adequate candidate. - Substitution of autonomous workers, working partners or a working partner in a cooperative entity.	It must be formalized in written, including the following information: -Name of the employee that has been substituted. -Cause of the substitution. -Description of the post assigned to the employee, if the work is the same of the substituted worker, or if the substitute is another employee of the same company.	The contract will have a duration that equals the absence of the employee that has been substituted, or during the time needed for the process of selection or promotion, with a limit of 3 months, and it is not possible to make another substitution contract.

There are certain issues common to temporary contracts:

- If the contract has been signed for a term inferior to the maximum established in the Law or in a Collective Agreement, when it expires without being denounced or expressly extended, it will be considered that it has been prorogated until the limit of the maximum term established in the Law or in a Collective Agreement. Once the maximum term is reached, if the employee carries working, the contract will be considered to be prorogated indefinitely, unless there exists proof to the contrary.
- If the contract has been signed for a term longer than one year, the contracting party that denounces the contract is obliged to notify the termination to the other party with at least 15 days, with the exception of the substitution contract in which the parties agreement will be applied.
- Employees that within a 30 month period had been hired under any of the temporary contracts mentioned for more than 24 months, continuously or discontinuously, in the same company, with two or more temporary contracts, directly or through a temporary work agency, will acquire the condition of fixed employees.
- The extinction of the temporary contracts, except in the case of interinity or formation contracts, will accrue an indemnity for the workers equal to 12 days of salary per working

year, or the one, established by it specific regulations

Nevertheless, the indemnity will be applied gradually following a calendar as follows:

- 8 days of salary per working year for temporary contracts signed until he 31st of December of 2011.
- 9 days of salary per working year for temporary contracts signed on or after the 1st of January of 2012.
- 10 days of salary per working year for temporary contracts signed on or after the 1st of January of 2013.
- 11 days of salary per working year for temporary contracts signed on or after the 1st of January of 2014.
- 12 days of salary per working year for temporary contracts signed on or after the 1st of January of 2015.

Training contracts

	WORK PLACEMENT CONTRACTS	TRAINING CONTRACTS
QUALIFICATIONS	The employee must have an university degree or technical school médium or high degree, or officially recognized equivalent degrees. The job developed must allow the obtention of the profesional craftmanship required for the level of formation of the employee. A collective agreement can determine the Jobs, levels, or profesional cathegories of this contract. The company does not acquire training nor supervisory obligations different of the ones related to a regular work contract.	Not required, although can apply for this contract workers studying in a Technical School. Mixed nature of the contract: - Work for a consideration - Acquisition of the a technical and practical training required for the correct development of a qualified job The effective work time cannot exceed 75% during the first year, and 85% in the second and third year, of the maximum work hours established in the Collective Agreement or the Law
FORMALITIES	Written. If not written, will be considered an indefinite contract.	Written.
DURATION	From 6 months to 2 years (unless disposition on the contrary in the Collective Agreement).	Minimum 1 year and maximum three years. A Collective Agreement can establish different

	The contract can be prorogated only twice. If its duration is 1 year can be prorogated.	durations attending the production or organization needs of companies, but the duration cannot be shorter than 6 months nor longer than 3 years
SALARY	Not lower to 60 or 75 % during the first and second years, respectively, of the salary established in a Collective Agreement for an employee that makes similar work.	The salary of the employee under this contract will be fixed in proportion to the time of effective work, in accordance with the Collective Agreement
OTHER REQUIREMENTS	It can be celebrated only in the 5 years subsequent to the acquisition of the qualification, or 7 years for disabled workers. The trial period cannot exceed 1 month for the contracts made with workers with a middle level decree or skill level 1 or 2, nor 2 months for workers with higher decrees or skill level 3	Workers older than 16 years and younger than 25 years. The age limit will not be applied for disabled workers or collectives in situation of social exclusion defined in Law 44/2007, of the 13th of December

There are certain issues common to training contracts:

- Both can be subject to probation period, although with different temporary limits.
- Both are computed for seniority purposes.
- If the contract has been signed for a term inferior to the maximum established in the Law or in a Collective Agreement, when it expires without being denounced or expressly extended, it will be considered that it has been prorogated until the limit of the maximum term established in the Law or in a Collective Agreement. Once the maximum term is reached, if the employee carries working, the contract will be considered to be prorogated indefinitely, unless there exists proof to the contrary.
- At the end of the contract the employer must issue a certificate.
- The contract will be converted into a regular contract if the employer breaches totally its obligations in theoretical training.
- It will be presumed that the contracts have been signed for an indefinite period when,
- Have not been signed in written.
- The workers had not been registered in the Social Security, within a period equal to the maximum probation time.
- Have been signed in fraud of Law.
- It is possible to prove that the contract has a temporary nature, unless they have been

signed in fraud of Law.

Relay contracts

The contract signed with a person that was previously unemployed or with a temporary duration contract with the same company, in order to substitute partially an employee that has applied for a part-time retirement pension, as the retired employee obtains the pension and at the same time a partial time salary.

The duration of this contract will be indefinite, or at least equal to the time remaining for the substituted worker to reach retirement age. If, at the time of reaching that age, the employee remains in the company, the relay contract celebrated with a specific termination date can be prorogated of mutual agreement year by year, being extinguished in any case at the end of the year in which the relayed worked finally and totally retires.

In case that the partial retirement happens after the worker reaches the legal retirement age, the relay contract signed by the company to substitute the part of the work day left vacant can be indefinite or covering one year. In the last case, the contract will be prorogated automatically each year, and will be extinguished in the way mentioned above.

The job performed by the worker hired under a relay contract can be the same one of the worker substituted, or any other one similar, understood as the development of tasks corresponding to the same professional group or of equivalent category. When, given the specific requirements of the job, it was not possible, there must be at least a correspondence between the contribution bases of both.

The contract must be formalized in written in an official form.

When the contract is terminated, the worker hired under a relay contract will have the right to obtain an indemnity equal to 8 days of salary per year of work.

Part time contracts

It is understood that there is a part time contract when it has been agreed that the rendering of services comprises a number of hours in a day, in a week, or in a month, lower than the work day of a full time worker of the same company and work centre, with the same type of contract, and which performs an identical or similar work. If in the same company there was not any comparable worker at full time, it will be considered the full time work day established in the Collective Agreement of application, or otherwise, the maximum work day established by the Law.

Part time contracts can be made for an indefinite or for a certain period in the cases allowed by

the Law, except in the case of formation contracts.

The contract must be formalized in written in the official form, in which information must be given about the number of ordinary working hours each day, week, month or year, and its distribution. Failing to observe these requirements, the contract will be considered to have been celebrated as a full time one, unless there is proof on the contrary that credits the partial time character of the services hired.

Workers subject to part time contracts can make overtime hours. The number of overtime hours authorized by the Law must be proportional to the working journey established.

On the other hand, the supplementary hours are the ones agreed in the contract as a surplus to the ordinary working hours established in the part time contract, in accordance with the Law and the Collective Agrement of application. The numer of supplementary hours cannot exceed 15% of the ordinary hours established in the contract

5.3.2 Probation period

The probation period, or trial period, is the period of time, agreed between the employee and the employer, during which, any of the contracting parties, can unilaterally terminate the labor relationship, without giving neither notice nor indemnity.

The purpose of the probation period is that the employer ascertains if the employee meets the professional characteristic required for the job, and likewise, that the employee decides if it conveys to its interests to maintain the labor relationship just started.

It is required that this clause is included in written in the work contract and that is adjusted to the limits established in a Collective Agreement, or the limits established in article 14 of the Workers Statute, that is:

- 6 months for workers with a university degree.
- 2 months for workers without a university degree.
- In companies with less than 25 employees, the probation period cannot exceed 3 months for employees without a university degree.
- One year for indefinite entrepreneur contracts.

In temporary contracts it is also valid to establish a probation period.

On the other hand, it is not possible to agree on a new probation period if the employee has previously worked in the same company, or when he is hired after a placement contract, or in the case of business succession.

Once the duration period has finished, without desisting any of the contracting parties, the

contract will produce its full effects, computing for seniority purposes.

5.3.3 Working day

The working day is the period which, calculated in days, weeks, months or years, is dedicated by the employee to develop the activity for which has been hired.

The maximum length of the ordinary working day is 40 weekly hours as an effective average in an annual basis, being valid the agreement made in a Collective Agreement or, otherwise, in a agreement between the company and the employee's representatives, to distribute irregularly the ordinary working day.

In this sense, agreements made in individual work contracts will be considered.

Overtime hours are the working hours made in excess of the maximum length of the working day. They are voluntary, unless individual or collective agreement.

Overtime is forbidden during night shifts, except in certain special activities duly identified and authorized. Furthermore, it is forbidden that employees under 18 years make overtime hours.

Overtime hours will be compensated with money or with paid free time, as agreed in the individual contract or Collective Agreement. The amount perceived for each overtime hour cannot be less that the value of an ordinary working hour. In absence of an agreement, it will be understood that overtime hours must be compensated with paid free time within the subsequent four months.

The maximum number of overtime for employees with less annual working hours than the regular working hours in the same company will be reduced proportionally.

The legal limit of 80 overtime hours per year will not be applied to the ones made to prevent or repair extraordinary and urgent damages, although they will be paid as overtime hours, being of obligatory realization to the worker. They will not be taken into account for the calculation of the annual limit.

A minimum week rest is mandatory, which can be accumulated in periods of up to fourteen days, of one day and a half uninterrupted which, as a general rule, will comprise the afternoon of Saturday, or the morning of Monday, and the whole Sunday. In case of employees younger than 18 years, the week rest must be two uninterrupted days.

Furthermore, between the end of a working day and the beginning of the following, it will lapse a minimum of twelve hours.

As for the daily rest, when the length of the continuous working day exceeds six hours, it must be established a minimum rest period of at least fifteen minutes. This period will be considered

effective working time when it is so established or when established by Collective Agreement or by work contract.

In case of employees younger than 18 years, the daily rest must last at least thirty minutes, and will be established always that a continued working day exceeds four hours and a half.

The Organic Law for the effective equality between women and men introduced the right of employees to reduce their working day for family reasons. Furthermore, the Law of Gender Violence also considers this possibility for employees which are victims of gender violence.

Holidays are also paid working days, non recoverable by the company, and cannot exceed 14 days in one year. They are established each year by the central Government, the authorities of the Autonomous Communities, and the Municipalities. The Government can move to Mondays all the national holidays which happen during the mid of the week, and in any case the holidays that happen on Saturday will be moved to the next Monday.

On the hand, it is mandatory a paid holiday period no shorter than 30 days. Holidays can be agreed in a individual or collective way, following the guidelines established in the Collective Agreements on annual planning of holidays.

The holidays calendar will be established in each company. In any case, the employee will know his/her holidays period at least two months beforehand their date of beginning.

Exceptionally, and in order to favor the conciliation of work and family life, when the holidays period established in the calendar coincides with the period of contract suspension due to maternity leave, the employee will have the right to enjoy the holidays period at a different time, even though the natural year to which the holidays period refers to have finished.

Holidays cannot be substituted by a monetary compensation, except in the cases of work contract termination that prevent their enjoyment, or in temporary contract when the legal holidays cannot be enjoyed.

Employees will have a right to certain paid leaves when, with a previous warning and a later justification, the employee is in any of the following situations:

- Wedding, fifteen days.
- Birth of a child or death, accident or serious illness, hospitalization or surgery without hospitalization that requires rest at home of family members up to the second consanguinity or affinity degree, two days or four days if movement of the ill person is required.
- Moving of home, one day.
- Compliance of an inexcusable duty of personal and public character, such as the exercise of

the right to vote, for the minimum time needed. If established in a Law or agreement, duration and compensation regulations will be applied. If the leave implies an absence of more than 20% within a three month period, the company can change the employee to extended absence status.

- The duration and economic compensation can be established in a Law or in an agreement.
- Union representatives participating in committees that are negotiating Collective Agreements, if their company is affected by such negotiation, for the time adequate for this task.
- For the indispensable time needed for the realization of pre-birth checks and birth preparation classes, in case they should be made during the work day.
- Women, during the breastfeeding period of a baby younger than nine months, will have a right to a daily hour of work leave, which can be split in two fractions. This permit will be increased proportionally in case of multiple births, adoption or temporary foster care. Women will be able to opt for the substitution by a reduction of their work day in half an hour with the same purpose, or accumulate this leave in full day leaves as established in a Collective Agreement or in an agreement with the employer which respects the limits of the Collective Agreement.

This permit is an individual right than can be enjoyed by either the mother or the father provided that both are employed.

- In case of birth of premature babies, or which, for any other cause, must remain in hospital after being born, the mother or the father will have the right to abandon their post during one hour. Furthermore, they will have the right to reduce their work day a maximum of two hours, with a proportional reduction in the salary.
- Those people which have the legal custody and care of a child younger than 8 years or of a person with a physic, psychic or sensorial disability, which does not develop a paid activity, will have a right to a reduction in the work day, with a proportional reduction of the salary of at least, one eighth to one half of the work day. The same right will be held by anybody that must keep care of a member of its family, until the second decree of consanguinity or affinity, which for reasons of age, accident, or illness, cannot take care of themselves, and do not developed a paid activity.
- Jury duties will have, for labor regulations purposes, the consideration of inexcusable duties of personal and public character.
- Time used by members of the Personnel Committee and Personnel Delegates, as a credit of monthly hours for the development of its representative functions.

5.3.4 Salaries

It is understood that the salary is the total amount of economic benefits perceived by an employee, without discrimination for gender reason, of money or benefits paid in kind, for the professional rendering of labor services, that are a consideration for effective work, whichever the consideration, monetary or in kind, or the rest periods accountable as work. Salary in kind can never surpass 30% of the total salary received by the employee.

The salary cannot be less than the Interprofessional Minimum Salary as established each year by the Government. This Minimum Salary has been established in 2013, for whatsoever activities in agricultural, industry and services, without distinction by gender or age of the employees, in 21.51 € per day or 645,30 € per month, in case the salary is fixed in days or months.

It will not be considered as salary the amounts received for the following concepts:

- Indemnities or reimbursable expenses incurred as a consequence of the labor activity.
- Indemnities or benefits received from the Social Security.
- Transport and distance aids.
- Indemnities for home moving.
- Indemnities for suspensions or dismissals.

Furthermore, the employee has the following rights:

- Perception of the salary at the due date and the place established.
- To obtain a receipt for the salary.
- That the payment of regular and periodical salaries is not made in terms longer than one month.
- Perception of payments in advance.
- Perception of a late payment interest of 10% in case of delay in the perception of the salary.

The employer can delegate the practice of tax withholdings and Social Security contributions that are legally applicable on the salaries.

Employees have the right to receive each year at least two extraordinary pays, which amount will be established by the Collective Agreement or for an agreement between the employer and the employees' representatives. They will be made effective at Christmas and another one at the month fixed by the Collective Agreement, or by an agreement between the employer and the employees' representatives. If established in a Collective Agreement, it can be prorated monthly.

5.4 Termination of labor contracts

Labor relationships between the company and the employee can be terminated by any of the following causes:

- Mutual agreement between the contracting parties.
- Valid causes included in the contract.
- Expiration of the duration of the contract, or finalization of the work or service established in the contract.
- Renounce of the employee.
- Death, or permanent, total, or absolute disability of the employee.
- Retirement of the employee.
- Death, retirement, disability, or extinction of the employer corporation.
- Force majeure events.
- Collective dismissal based on economic, technical, organizational or production causes.
- At the employee's will for a justified cause.
- Disciplinary dismissal.
- Objective causes established by the Law.
- Decision of an employee (woman) that is obliged to abandon finally her work as a consequence of her being a victim of gender violence.

The employer, at the time of the termination of the contract, or at the time of communicating the employees the denounce of the contract, or the notice prior to the termination, must include a proposal in order to liquidate the amounts owed to the employees. The employee can request that a legal representative of the employees' is present at the time of the signature of the settlement, and the representative presence or its absence will be stated in the document. If the employer prevents the representative presence, the employee will state the fact in the settlement document, for the legal purposes of application.

5.4.1 Dismissals

A dismissal is an unilateral decision of the employer to terminate the labor relationship.

Dismissals can be objective, disciplinary, collective, or for force majeure. Each one of the types of dismissal obeys to a different purpose, and have different procedures.

Disciplinary dismissals

It is the termination of a work contract by the decision of the employer, based in a severe and guilty breach of the employee obligations.

The reasons in which this termination can be founded are the following:

- Unjustified or repeated absence to work or arriving late at work.
- Indiscipline or disobedience.
- Verbal or physical offences to the employer, other people working in the company, or their family members.
- Breach of contractual good will and abuse of confidence in the development of the work.
- Continuous and voluntary reduction in the usual or agreed performance at work.
- Regular intoxication or drug addiction if it affects adversely labor activity.
- Harassment of the employer or the other employees for racial, ethnic, religious, beliefs, disability, age, or sex orientation reasons, sexual harassment or for sex reasons.

Collective Agreements usually regulate the disciplinary regime applied to the employees under their scope, in this sense, they usually contemplate the dismissal as the punishment to impose in case of commission of very severe faults.

Procedure:

The decision to terminate the contract must be communicated in written to the employee, stating the facts that motivate the dismissal and the date in which it is effective, within the sixty days following the date in which it is known the fault of the employee, or otherwise, in the six months following the commission of the breach.

Collective Agreements can establish additional formalities or terms for the dismissal.

If the employee were a legal representative of the workers, or a union delegate, it will be required that a contradictory expedient is opened, in which will be heard, apart from the part concerned, the other representative members, if there were others.

If the employee was affiliated to a union, and it was known by the employee, a previous hearing must be held with the union delegates corresponding to that union.

If the dismissal is executed without observing the above requirements, the employee can execute a new dismissal observing all the requirements, within 20 days. Nevertheless, the employer will have to pay the salaries accrued during that time, and keep the worker in the Social Security for the time being.

Objective dismissal

The labor contract can be terminated by any of the following causes:

A) Incompetence of the employee. This cause, to be valid, must be known or happening after the employee is hired. If it was known before the end of the probation period, it cannot be alleged as a valid termination cause.

B) Lack of adaptation of the employee to technical modifications in the job, if the modifications are reasonable. Previously the employer must offer the worker a formation course in order to allow him the adaptation to the modifications of the job. The time destined to the formation course will be considered in any case effective working time and the employer will pay the average salary obtained regularly by the employee. The termination of the contract cannot be ordained by the employer until at least two months have passed since the modification of the job was introduced or the formation course ended.

C) Elimination of jobs. Termination of labor contracts must be objectively credited in economic, technical, organizational or production causes. It is understood that economic causes concur when from the results of the company it can be deduced a negative situation of the business, in cases such as present or forecasted losses, or a persistent reduction in the ordinary income or sales. In any case, it will be understood that the reduction is persistent if during three consecutive quarters the level of ordinary income or sales is lower to the amounts registered in the same quarter of the previous year. It is understood that technical causes concur when there are changes, among others, in the mediums or instruments for production; organizational causes when there are changes, among others, in the systems or mediums used to develop the work by the employees, or in the way of setting of the production and production causes happen when there are changes, among others, in the demand of the goods or services that the business tries to put in the market.

D) Absence to work, even justified but sporadic, that surpass 20% of the working days within two subsequent months, provided that the total amount of absence to work during the twelve previous months reaches five per cent of working days, or 25% in four discontinuous months within a twelve month period.

E) Budget shortages for the execution of plans and public programs.

General procedure: The dismissal must be notified in written to the employee, expressing the cause, and giving a notice of at least 30 days. In case of dismissal for elimination of jobs, a copy of the notice will be given to the legal representative of the employee, for its information.

In addition, the employee must be offered an indemnity of 20 salary days per year at the moment of the dismissal notify, with a maximum of 12 months of salary, and given a six hour

per week paid leave to look for a new job.

The employer has the option to give a indemnity instead of the notice period, in the amount of the salary accrued during this period.

In the termination for objective causes, if any of the requirements are not meet, with the exception of the notice period, will cause that the dismissal is null and void. Not giving the notice period or the excusable mistake in the calculation of the indemnity will not result in the annulation of the dismissal, although the employer will have to pay the salary for the notice period or pay the properly calculated indemnity, notwithstanding other effects of application.

When the dismissal made by the employer was based on any discriminatory cause forbidden by the Constitution or the Law, or the dismissal has been made in violation of the basic civil rights or liberties of the worker, the dismissal is fully null and void, and the Courts must declare it ex officio.

Collective dismissal

It is understood that a collective dismissal is the termination of work contracts, based on economic, technical, organizational or production causes when,within a 90 day period affect, at least to:

- 10 employees in companies with more than 100 employees.
- 10% of employees in companies whose workforce is between 100 and 300 employees.
- 30 employees in companies whose workforce exceeds 300 employees.

For the calculation of the number of workers affected, it will be also considered any other termination made by the initiative of the employer, but not considering the termination for time expiry, or finalization of work or service contracts, provided that its number is at least of five employees.

- Dismissal of the whole workforce, provided that there are more than five workers, when the collective dismissal happens as a consequence of the total cessation of the business activity, due to any of the causes mentioned before.

On the contrary, the dismissal would be qualified as an objective dismissal for elimination of jobs.

Procedure: these type of dismissals are required to follow an administrative procedure, called labor force adjustment plan. This procedure starts with a notification to the Labor Authorities, requires a previous period of negotiation with the employees' representatives which must not be shorter than 30 calendar days, or 15 calendar days in companies with less than 50

employees. The negotiation with the employees' representative must comprehend at least about the possibility of avoiding or reducing the number of terminations, or to mitigate its consequences recurring to social measures such as the reallocation of the workers, or formation or retraining actions to increase the attractiveness of the dismissed people. The start of the negotiation period must be communicated in writing by the employer to the employees' representatives, and a copy of the communication must be filed before the Labor Authorities. The communication must include also a report detailing the causes of the collective dismissal and other issues as established by the Statute of Workers. The employer and the employees' representative can, at any given moment, reach the agreement to substitute the negotiation period by a procedure of arbitration of application in the company, which must be made within the term established. After the negotiation period has passed, the employer will communicate its results to the Labor Authority. If an agreement has been reached, a full copy will be delivered to the Authorities. On the contrary case, the employer will submit to the employees' representatives and to the Labor Authority the final decision regarding the collective dismissal and its conditions.

Employers that make collective dismissals that affect workers of or older than 50 years, must make a payment to the Treasury as established by the Law.

The indemnity established is 20 salary days per year worked, with a maximum of 12 months, although the amount can be exceeded if an agreement is reached.

5.4.2 Dismissal qualification

The dismissal of an employee can be challenged before a Court of Justice. But there is a specialty in labor judicial procedures, which is that, prior to going to court, it is required that a settlement between the contracting parties is attempted before an administrative office for mediation and arbitration.

If the dismissal is challenged by the employee, the judge can qualify it as fair, unfair, or null and void.

If the dismissal is qualified as fair, the judge will declare that the dismissal has been done in accordance to the Law. Such qualification, in case of disciplinary dismissal, implies the absence of the right to an indemnity, and in case of objective dismissal, that the indemnity established by the Law will be 20 salary days per working year.

When the dismissal is qualified as unfair, the employer can choose within a five days period, between the reinstatement in the job, or an indemnity of 33 salary days per year, considering in a monthlu proportion the periods shorter than one year, with a limit of 24 months of salary. If the employer choses the indemnity, the labor contract will be considered terminated at the date

of the effective cease of the job.

In case that the employer opts by the reinstatement, the employee will have the right to obtain the salary accrued from the date of dismissal to the date of reinstatement. This salary will be equal to the sum of the salary non received after the date of dismissal till the notification of the Sentence that declares the unfairness of the dismissal, or until the date that another job has been got by the employee, if the new post has been obtained prior to the notification of the Sentence, and the employer proves this circumstance, in order to reduce the amount.

In indefinite labor contracts made by companies with less than 25 employees, if the contract is terminated by collective dismissal or objective causes, the Salary Guarantee Fund will pay part of the indemnity, equal to 8 salary days per working year, considering the monthly proportion for periods of less than one year. The Salary Guarantee Fund will not respond for the indemnity accrued in unfair dismissals, in which case the payment in full of the indemnity will be the responsibility of the employer.

If the employee was a employees' representative, will have the right to choose between the indemnity or the reinstatement.

It will be possible to qualify the dismissal as null and void when there is a discriminatory cause and/or a breach of basic rights.

The dismissal will also be null and void in the cases in which in the employee concurs any circumstance related to the labor and family life, such as the dismissal of pregnant employees, of employees during the maternity or paternity leave, risk during the pregnancy, adoption or foster care, reduction of the work day to attend children or disable bodied dependents, or reduction due to breastfeeding, or employees victim of gender violence in certain cases. This will apply also in the nine months following the return to work of the employee after a maternity, adoption, foster care or paternity, counting since the date of birth, adoption, or foster care of the sons.

The previously mentioned rules will be applied unless, in such cases, the fairness of the dismissal is declared by causes non related with pregnancy or the other rights mentioned.

The qualification of a dismissal as null and voids implies the immediate reinstatement of the employee with the payment of the salary accrued during that time.

5.5 Senior executives

The labor relationship of a senior executive has an special character, being governed basically by Royal Decree 1382/1985, and for issues not contemplated in the Royal Decree or in an agreement, civil and mercantile legislation and its general principles will be applied.

It is understood that a senior executive is an employee that has wide administration and management powers concerning the general objectives of the company, and exercises its faculties autonomously and with full responsibility, answering only before the highest management and administration body of the company.

It will be excluded from this definition the people that only exercise their position as members of the board of directors in the businesses that act through a corporation.

This labor relationship is based in the mutual confidence of the contracting parties, which adjust the exercise of their obligations and rights to the exigencies of good will, so that the parties are free to establish the conditions of the contract.

The contract will be formalized in written, in two copies, and a probation period no longer than nine months can be established if its duration is indefinite.

The contract can be terminated by will of any of the parties, without allegation of cause, but with a notice of three months. If the termination is made by the employer, the employee will have a right to the indemnity established in the contract. In its defect, the indemnity will be seven salary days per working year, with a limit of six months of salary.

If the dismissal is qualified as unfair, the indemnity will be the amount established in the contract, in its defect 20 days of salary per year of work with a limit of twelve months of salary.

On the other hand, the senior executive is also free to desist of the contract, with a required notice of three months, which is increased to six months if established in written in indefinite contracts or those with a duration that exceeds five years. This notice period is not needed when there is a severe breach of contract in the part of the employer.

In addition, the Law established certain causes for the termination of the contract, with the indemnities established, and in its defect, the ones established for the termination owing to the will of the employer.

On the other hand, a senior executive can be also dismissed by any of the causes established in the general labor regulations, that is, objective causes or disciplinary measures.

5.6 Temporary work agencies

The activity consisting in hiring employees to be submitted temporarily to another company can only be made through the so called Temporary Work Agencies (Empresas de Trabajo Temporal or ETT), which must be duly authorized under the regulations of Law 14/1994..

When there is this cession of workers we found a triple relationship: employee-ETT, ETT-user company, employee-user company.

The relationship between the ETT and the user company is strictly of a mercantile nature, as it is a contract to put at disposal whose object is the cession of the employee to render its services in the user company.

Between the ETT and the worker a labor contract is duly signed, although the employee will render its services to the user company.

The third relationship is the one that bonds the employee with the user company in which the services will be rendered. This does not give place to a different labor contract, whereas what happens is that, albeit the contract is the same, the user company surrogates in the position of the employer with respect to certain rights and obligations concerning the employee.

ETTs are allowed to sign a work contract to cover several different and subsequent contracts with different user companies, provided that the contracts are fully determined before the work contract is signed, and in every case are related to a temporary hiring for production circumstances, making a mention in the labor contract of each put at disposal.

These put at disposal contract cannot be used for the following cases:

- Substitution of employees on strike.
- For the development of certain activities and jobs that the regulations consider of special danger to security or health.
- When, in the twelve months before the contract, the company has eliminated the positions to be covered through an unfair dismissal or for the causes established for the termination of the contract by initiative of the employee, collective dismissal, or dismissal based on economic reasons.
- Contracts made in order to hand over workers to other ETTs.

Employees who in a 30 month period had been contracted for more than 24 months, continuously or discontinuously, for the same position in the same company, through two or more temporary contracts, directly or through an ETT contract, with the same or different types of definite duration contract, will acquire the condition of fixed employees.

5.7 Representative of the employees

There are two ways for the representation of the workers of a company, individual representatives (personnel delegates and workers' committee), and union representatives (union sections and union delegates).

Individual representatives are the representation bodies through which the employees exercise their right to participate. Their election is obligatory in work centers of more than 10

employees, and it is optional, by agreement between the workforce, in work centers which count with 6 to 10 employees. They represent all the employees in that work center.

The number of delegates and the number of members of the Committee depend on the number of employees in the work center.

Union representatives are bodies of union activity within the company, and represent only the interest of the affiliates to the union. Affiliates to an union have the faculties to create union sections, regardless of the relevance or implantation of their union, and the size of the work center or the company.

There are other ways of specific representation such as in the prevention of labor risks, prevention delegates, which are picked by and between the unitary representative of the employees, and which are attributed faculties of information and counseling in the area of prevention of labor risks; and the security and work health committee, which is a joint peer collegiate body whose purpose is to look up regular and periodically the activity of the company in this are, and which must be created in every company with more than 50 employees.

5.7.1 Duties of the Workers' Committee and the Personnel Delegate

The duties attributed to the unitary representation of the employees are the following:

- Information rights: Information about economic issues, employment and production, accounting and company information, or related with labor contracts, or sub-contracting, labor penalties for severe faults, health and prevention of labor risks, working conditions, equality of treatment and opportunities for sex cause, among others.
- Right to be heard, information and consult: information in the processes of professional qualification, right to be heard in disciplinary procedures against the representatives, information prior to the execution of decisions regarding the restructuring of the workforce, work day reduction, or moving of the premises, training plans, implementing or revision of the organizational system or work controls, time analysis, mergers and acquisitions or changes in the legal status of the company that affects the volume of employment, right to be consulted previous to the execution of decisions regarding the moving and substantial modification of working conditions.
- Right to decide jointly with regard to the collective agreements of salary break away, of substantial modification of working conditions as established in a Collective Agreement, collective agreements in a company in absence of a Collective Agreement, and collective agreements for the collective suspension and termination of work contracts.
- Right to negotiate agreements and collective conflict.

- Vigilance, control and denounce of the observation of labor regulations.
- Faculties regarding security and health.
- Vigilance of the observance and application of the principle of equality in the company, among others.

5.7.2 Collective agreements

As it has already been explained, a Collective Agreement is a written agreement made between the representatives of the employees and the employers, whose purpose is governing the conditions of the contracting process and working conditions.

Its scope must be analyzed from a functional, personal, time or territory point of view. Thus, there can be Collective Agreements whose scope is general or restricted, usually to a company or sector of activity (province, region, or nationwide), which obliges to establish previously the adequate scope in order to negotiate the agreement.

From a functional point of view, the application of a Collective Agreement depends mainly of the principal activity developed by the company, more than the type of services rendered by the employees at a given time.

The personal scope of the Collective Agreement defines the group of people whose labor relationship falls within the regulation established by the Agreement.

The territorial scope defines the geographical space in which the Collective Agreement is going to be applied. In this sense, the Collective Agreement can be national, of an Autonomous Community, of the province, local or county.

Collective Agreements must always define their validity in time. This means that the Collective Agreement must establish the date in which they come into force, and the period of time in which they are effective, and the denounce procedure, in particular, the conditions and the formalities, and the previous notice period. It is often agreed that the regulation will have a definite validity (one, two, or three years), which requires a periodical revision for its adjustment (mainly in economic issues) to the changing environment of the production and work reality.

There is not a closed list of issues to be regulated by the Collective Agreement, although there are some aspects of the working relationships that are typical in the Collective Agreements (salaries, working hours, etc.), in which the Law reduces its scope in favor of the Collective Agreement.

When economic, technical, organizational or production causes concur, by agreement between the employer and the employees' representatives duly empowered to negotiate a collective

agreement, it will be possible, after a period of consultation with the representatives of the Unions, to cease the application of the working conditions established in the current collective agreement, be it of the sector or of that particular company, relating to the following issues:

a) Working day.

b) Timetable and distribution of working hours.

c) Regime of work in turns.

d) Salaries and remuneration system.

e) Method of work and performance.

f) Functions, when exceeding the limits established for functional mobility in the Statute of Workers.

g) Voluntary improvements in the protective action of the Social Security.

The applicability of a collective agreement, after it has been denounced and its duration has expired, will happen in the terms established in the same collective agreement. If one year passes after the denounce and no new collective agreement has been established, nor arbitration award has been passed, the collective agreement will loose its applicability and will be applied the Collective Agreement of higher level.

5.8 Labor implications of the acquisition of a business

When there is a change in the ownership of a business, work center or an autonomous production unit, the new owner must surrogate in the rights and obligations concerning labor and Social Security, of the previous employer.

Furthermore, there exists a joint responsibility between the previous employer and the new one for the obligations or liabilities originated before the transfer of the business, during the three subsequent years, or even of obligations or liabilities born after the transfer, when the acquisition of the business was qualified as a crime.

Both employers must give information to the representatives of the employees affected by the change of ownership about the following:

- Date of the transfer of property.
- Reasons for the transfer.
- Legal, economic and social consequences for the workers.
- Expected measures regarding the employees.

If there was not representatives of the workers, such information will be given directly to each

one of the employees concerned by the transfer.

In both cases, the information must be given beforehand, to the employees of the acquiring business before the acquisition takes place, and in the case of the acquired business, before the transfer of property affects them.

Furthermore, it is established that both businesses must open a consultation period with the representatives of the employees when, as a consequence of the transfer, measures concerning the workforce are going to be taken.

If the change of ownership brings relevant changes in the business activity, its philosophy or management, senior executives can terminate their work contract within the three months subsequent to the change, and receive an indemnity of 7 salary days per year at work with a maximum of 6 months of salary, or the indemnity that was agreed.

5.9 Reallocation of workers

Reallocation means the move of part or the whole of a business, preexistent or newly created, to another national territory different to the present one, the place and the form of the destiny of the activity reallocated has a relevant paper.

Businesses often use this formula of business restructuring in order to save both labor and non-labor costs.

As for labor costs, the move to other countries with less protection in labor issues can imply savings regarding salary, or a productivity increase from the perspective of the working day, among other issues.

As for non labor costs, the destination countries have usually a tax or environment protection laws more relaxed than in the European Union.

In this sense, reallocation can be based on speculative processes, looking for an environment which is political and socially stable, the existence of a business network offering supplies, existence of incentives and subsidies, absence of idiom or cultural barriers, among others.

The effects of the reallocation at the short term are often negative in the place of origin, for the following reasons: destruction of direct employment, reduction of opportunities in the job market, loss of activity and indirect employment in the suppliers and local companies, competitiveness problems in the businesses of the same sector that remain in the country of origin, or the increase in the public spending.

As positive effects that can be pointed out, firstly the increase of opportunities of adaptation of business in an competitive environment more and more internationalized, and with a higher decree of uncertainty, and in the second place, that it favors the development of the countries of

destiny of the reallocation.

Given the negative effects that the reallocation processes causes in the countries of origin, the European Social Fund has been considering in its strategic plan for the period 2007-2013, some measures giving special attention to underdeveloped areas which include particularly some areas specially affected by processes of businesses reallocation.

5.9.1 Visas and work and residency authorizations

It is understood that a foreigner is a person that is not an Spanish citizen.

Foreigners will enjoy in Spain the rights and freedoms granted in Title I of the Constitution, in the terms established in the International Treaties, in the Law on rights and freedoms of foreign citizens living in Spain and their social integration, and in the Laws that govern each one of their rights. As a general rule, it will be understood that foreigner can exercise the rights recognized by the Law in the same terms as if they were Spanish citizens.

On the other hand, we must differentiate between foreigners that are citizens of countries that belong to the European Union or to the European Economic Space or the Swiss Confederation, and other foreigners.

Foreigners under the European Community regime can live and work in Spain without having to apply and obtain a work permit. On the contrary, foreigners from outside the European Community will need an authorization to live and work in Spain. The employer that wants to hire a foreigner from outside the EC must obtain an authorization from the Labor and Social Affairs. Nevertheless, the absence of authorization does not imply that the labor contract is not valid regarding the rights acquired by the employee, nor will be an obstacle to provide the employee with the benefits that correspond to him.

Citizens of the countries that belong to the European Union, and those to which the Community regime is applied, will apply the regulations of the European Union, being in particular of application the Law on rights and freedoms of foreign citizens living in Spain and their social integration, regarding the issues that could be more favorable to them.

European Community foreigners

Citizens of other Countries that belong to the European Union, and of the other countries that belong to the European Economic Space or the Swiss Confederation, and their close relatives,

whichever their citizenry, have the right to enter, abandon, move, and live freely in the Spanish territory, as well as to develop any activity, both by their own means or working for others, or rendering services or study, in the same conditions as if they were Spanish.

Countries that are members of the European Union and European Economic Space are: Germany, Island, Austria, Italy, Belgium, Lithonia, Bulgaria, Liechtenstein, Cyprus, Lithuania, Denmark, Luxembourg, Slovakia, Malt, Slovenia, Norway, Spain, The Netherlands, Estonia, Poland, Finland, Portugal, France, United Kingdom, Greece, Czech Republic, Hungary, Romania, Ireland, and Sweden.

Citizens of any of the countries mentioned above, which are going to stay or establish their residency in Spain for more than three months, are nevertheless required to apply for their inscription in the Census Registry of Foreigners.

The application must be filed in an official form before the Foreigners Office of the province where they intend to stay or reside, or in its default, in the corresponding Police Station, within three months after the date of entry in Spain.

Family members of a citizen of a country that belongs to the European Union or the European Economic Space, which are not citizens of any of the countries mentioned, must apply for a residency card of family member citizen of the European Union. They will be able to reside in Spain for a period longer than 3 months when they accompany the EU citizen or they meet him.

That residency card will have a validity of five years after the date of its issue, or for the period of residency of the citizen of the country that belongs to the European Union or the European Economic Space, if shorter.

Nevertheless, it will be required to the family members, in order to allow their entrance in Spain, a residency visa if they are citizens of any of the countries listed in Annex I of (CE) Regulation 539/2001.

Foreigner with citizenry outside the European Community.

Foreigners, older than 16 years, which pretend to exercise in Spain an economic activity, labor relationship or professional, on their behalf or under a labor contract, will have to obtain previously an administrative authorization.

The **initial authorization to reside and work under a labor relationship** will have a maximum duration of one year, and can be restricted to a geographical area or a sector of activity. The foreigner that obtains the initial authorization, will have also to obtain a residency visa and a work permit, and will be able to start a labor relationship, although will be required to apply for the affiliation in the Social Security within a month and to obtain a Identification Car for Foreigners also within a month, when the validity of the authorization exceeds six months.

The initial residency and work authorization, once the initial period has expired, can be renewed for a two year period, and must be applied for within the sixty days previous to the date of expiry of the authorization.

The concession of work authorizations is conditioned to the meeting of certain requirements, one of which is that the employment situation of the country allows hiring foreign workers. In this respect, the National Public Employment Service will draft quarterly a catalogue of jobs of difficult coverage, for each province; such qualification implies that it will be possible to file applications for the authorization to reside and work directed to foreigners. In case that the job is not included in the catalogue, the employer must file an offer in the employment office.

The employment situation of the country will not be taken into account when the labor contract or the job offer is directed to foreigners with special circumstances, such as the coverage of confidence positions meeting the requirements established by the regulations, the husband or wife of the foreigner residing in Spain with an authorization just renewed, as well as the son of a naturalized Spanish citizen, or naturalized in another country of the European Union, foreigners born and residing in Spain, sons or nephews of Spanish, among others.

The **authorization to reside and work on its own behalf** will be given for an initial period of one year, and once the period expires, it can be renewed in two year periods.

Foreigners that prove that they have resided under the law and continuously in Spain during five years, are entitled to obtain a **permanent residency authorization.**

Foreigners that have been granted a permanent residency authorization must apply for the renewal of the authorization each five years, within the sixty days before the date of expiry of the authorization.

The Government can approve each year, by an agreement of the Cabinet, the contingent of foreign workers, which will allow the programmed hiring of workers not residing in Spain, convoked to develop jobs with a stability purpose, and which will be chosen in their countries of origin, from the offers issued by the employers. The contingent of non-European Community workers for Fiscal Year 2009 has been approved by Decree of 26th of December of 2008 of the State Secretary for Immigration and Emigration.

It must be mentioned the creation of the Big Companies Unit, as a consequence of the Decree of 28th of February of 2007, of the State Secretary for Immigration and Emigration, by which the Cabinet Agreement of the 16th of February of 2007 is published, which approves the Instructions for the procedure of authorization of the entry, residency and work in Spain of foreigners, in which professional activity concurs reasons of economic, social or labor reasons, or concerning the development of research and development activities, or teaching activities, which require a high qualification, or artistic performances of an special cultural interest.

The Big Companies Unit is responsible for managing residency authorizations, temporary authorizations, and work under a labor relationship, temporal residency and work in the framework of an international service rendering, which are often applied in favor of executives and technicians of high qualification, Scientifics, State-Owned University professors, and artists recognized internationally, in which concurs economic, social, labor or cultural reasons.

There are other types of authorizations, being relevant the following ones:

Work authorization on own account or under labor relationship of cross-borders workers

It can be granted to workers that live in the frontier area of a nearby country, to which they go each day to work and return daily, developing an economic activity, employment or professional, on their own account or under a labor relationship, in the border areas of Spain.

Main issues:

Their validity is limited to this area, with a maximum duration of five years, and can be renewed.

The foreigner must apply for and obtain a card that credits its condition of cross-border worker, which will allow its entry and exit of the Spanish territory for the development of the activity.

This work authorization will be renewed at the expiry date if the owner remains active and the circumstances that granted the authorization are the same.

The cross-borders work authorization will be denied, apart from the general causes established in the Decree for the authorization of residency and work, for the loss of the character of cross-border worker.

Temporal residency and work developed in a framework of international services

It is considered that a foreign worker is in a situation of temporal residency and works in the framework of an international service rendering, that depends, in a labor relationship, of a company established in a country that does not belong to the European Union nor the European Economic Space, in the following cases:

- When the temporary movement is made on behalf and under the management of the foreign company, in the execution of a contract celebrated between her and the person or entity that receives the services, which is established that develops its activity in Spain in the framework of a international rendering of services.
- When it is a temporary movement of employees from work centers of companies established outside Spain to work centers in Spain of the same company, or another related company of the same group.
- When it is a temporary movement of employees highly qualified for the supervision or

advisory related to works or services that companies established in Spain were to develop outside Spain.

This residency and work authorization will be restricted to a certain activity and geographical area. Its duration will coincide with the time of movement of the worker, with the limit of one year, which can be prorogated another year if it is proved that the same conditions persist.

Authorization of temporary works

This authorization allows the development of the following activities: season and campaign, works and services, senior executives, professional sportsmen, artists, and training and placement contracts.

They will be valid with the same duration of the contract, although with a maximum of one year (except the season contract), and the renewal is not possible.

5. 10. The Social Security system

As a general rule, any individual that develops an activity or renders a service, be it under a labor relationship or on its own behalf, must be affiliated and must contribute to the Spanish Social Security System.

There are certain Bilateral Treaties on Social Security between Spain and other countries that regulate the effects in the benefits granted by the Spanish Social Security due to the periods in which a worker contributes to the Social Security of another country. Furthermore, it is established in which country the contribution must be paid in case of movement or service rendering, temporary or permanently.

Following the European regulation of Social Security, the following rules must be observed:

- Workers can only be subject at once to the Social Security of one of its members As a general rule, the Social Security regulation applied will be the one of the country in which the worker develops its activity. There are certain exceptions to this rule.
- If an employee of the European Union is temporarily moved to another country of the EU, to develop a work for the same employer in the second country, the employee will remain under the scope of the Social Security of the first country, provided that the foreseeable duration of the work does not exceeds 12 months and that he has not been sent to substitute other worker whose displacement period has been fulfilled. This 12 month period can be prorogated by a new period of the same duration, and can be prorogated subsequently if it is agreed between the competent authorities of both countries.
- If certain requirements are met, the time that an employee of the EU contributes to the Social Security of another country of the EU, will be computed as contribution period for the

Security Social of its own country, in order to fulfill the waiting period required for future benefits in its own Social Security system.

There are different regimes of contribution to the Social Security, that is, the General Regime of the Social Security, and several special regimes:

- Special Regime for Autonomous Workers.
- Special Regime for Domestic Employees.
- Special Regime for Agricultural Employees.
- Special Regime for Sailors.
- Special Regime for Coal Mining.
- Special Regime for Students.
- Special Regime for Government Employees and the military.

The assignment into each one of the regimes depends on the nature, conditions and characteristics of the activities developed in Spain.

In the General Regime, the subjects obliged to contribute are both the employee and the employer, although the responsibility of the payment falls in the employer. The employees are classified in several labor and professional categories in order to determinate the payable debt to the Social Security. Each category has a minimum and maximum base, which are revised each year. Employees whose contribution exceeds the maximum base, or the ones that do not reach the minimum base, will adjust their contribution to the bases corresponding to their professional category.

For Fiscal Year 2013, the maximum base of contribution is 3,425,70 € per month for every group and professional category. On the other hand, the minimum bases have been increased, depending on the professional category and contribution group.

The bases and contribution rates for 2013 are the following:

CONTRIBUTION BASES:

Professional categories	Minimum Base	Maximum Base
Engineers, Graduates and Senior Executives	1,051.50 euro/month	3,425.70 euro/month
Technical engineers, technicians, and qualified assistants.	872.10 euro/month	3,425.70 euro/month
Chiefs of Administration and of Workshops	758.70 euro/month	3,425.70 euro/month
Unqualified Assistants	753.00 euro/month	3,425.70 euro/month
Administrative Officers	753.00 euro/month	3,425.70 euro/month
Juniors	753.00 euro/month	3,425.70 euro/month
Administrative assistants	753.00 euro/month	3,425.70 euro/month
First and Second Officers	25.10 euro/day	114.19 euro/day
Third Officers and specialists	25.10 euro/day	114.19 euro/day
Unskilled laborers	25.10 euro/day	114.19 euro/day
Workers younger than 18 years.	25.10 euro/day	114.19 euro/day

CONTRIBUTION RATES

	Employeer (%)	Employee	Total
Common contingencies	23.6	4.7	28.3
Unemployment: - General rate - Finite duration at full time - Finite duration at part time	 5.5 6.7 7.7	 1.55 1.6 1.6	 7.05 8.3 9.3
Salary Guarantee Fund	0.2	—	0.2
Professional Training	0.6	0.1	0.7

The total contribution of the employers is increased by additional rates concerning accidents at work and professional illnesses established in the General National Budget Law.

On the other hand, workers developing their activity on their own behalf, or autonomous workers, will have a maximum and minimum contribution base of 3,425.70 and 858.60 Euro/month, respectively.

The Law for Infractions and Penalties in the Social Area defines certain infractions with regard to Social Security matters, which are classified as minor, severe, and very severe, punished with fines which go from 60 euros to 187,515 euros depending on the seriousness of the infraction, the negligence and purpose of the offender, fraud or connivance, failure to obey previous warnings and Inspectors requirements, business volume of the company, number of employees or affected beneficiaries, damage made and amount evaded, as well as circumstances that might aggravate or reduce the graduation of the infraction.

Failing to pay in time and with the required formalities Social Security contributions is a very severe infraction.

5.11 Health and safety at work

Employers must guarantee the health and security of their employees, not limited to a mere observance of the Law and to remedy situations of risk. They must also design a preventive plan starting at the beginning of the business activity, as well as develop a permanent activity in order to improve the existing levels of protection. This means, among others, the obligation of making risk appraisals, adopt measures in case of emergency, establish protection teams and guarantee the health of the employee and pregnant employees or breastfeeding employees (so that they do not execute tasks that can imply a risk to them or the foetus).

Every employer must have a prevention service in order to give advise and support in these tasks, for which the employer will assign one or several employees which will make that activity. In companies with less than six employees, the service can be given directly by the employer, provided that he develops its regular activity in the work center and has the capacity needed for it. Nevertheless, it is possible to contract an independent prevention service in some cases.

Failing to comply with these obligations can give way to an administrative, labor, civil and criminal responsibility. The Ministry of Work and Social Affairs can impose significant penalties in case of very severe infractions.

Chapter 6:

Industrial and intellectual property

6. Industrial and intellectual property

At international forums *intellectual property* has a broader meaning than in the Spanish legal system. It embraces *Copyright Law* but also what is known in Spain as *Industrial Property.*

That said, Spanish industrial property legislation is in line with the rest of the countries of the European Union and the major international treaties on the matter and includes the regulation of trademarks, patents, utility models, industrial designs, plant varieties and topographies of semiconductor products.

Patents are governed by Patents and Utility Models Law 11/1986, of March 20, 1986 and by Royal Decree 2.245/1986 of October 10, 1986. The owner of a patent, registered at the Spanish Patent and Trademark Office (OEPM), is entitled to enjoy the industrial results of the invention for a limited period of twenty years. Third parties may however exploit the patent upon a license or assignment by the holder.

An invention has to meet three requirements in order to become a patent: (i) novelty, (ii) industrial application, (iii) and inventive step. It will also be subject to patent the inventions whose object is a product that contains biological materials, or any procedure through which biological materials are produced, transformed or used.

From an international perspective, Spain is party to the European Patent Convention of 1973, which establishes a single procedure for the grant of patents at the European Patent Office for parties to the Treaty (most of them also members of the European Union).

Spain is also party to the Patent Cooperation Treaty (WIPO PCT) which establishes among the one hundred and forty one members a common procedure for submitting patent applications and searching for reports that determine the novelty and inventiveness of a patent.

Utility models are governed by Patents and Utility Models Law 11/1986 of March 20, 1986 and by Royal Decree 2.245/1986, of October 10 1986. Utility models are inventions which give objects, instruments, apparatus, devices or tools a new configuration or structure, resulting in an improvement in their use or manufacture. A lesser degree of invention and novelty is required and protection is therefore limited to ten years, without prorogation.

Industrial Designs are regulated by Law 20/2003 of July 7, 2003 on the Legal Protection of Industrial Designs and by Royal Decree 1.037/2004 of September 27, 2004. This form of industrial property protects the aesthetic appearance and visual design of a product, which is the direct result of new outlines, profiles, colors, shapes, textures or materials. Any design which meets these requirements may be registered on the Register of Designs of the OEPM for a limited term of five years, which may be extended for up to a maximum of twenty years.

For an industrial design to take effect across the European Union it needs to be registered under European Council Regulation (EC) No. 6/2002 of December 12, on Community Designs. Finally, the Hague Agreement Concerning the International Deposit of Industrial Designs, a World Intellectual Property Organization (WIPO) administered treaty, incorporates a procedure for international registration.

Trademarks are regulated by Trademarks Law 17/2001 of December 7, 2001 and by Royal Decree 687/2002 of July 12, 2002. A trademark, is a distinctive sign used by an individual or company to identify products or services in the market. Any sign that can be represented graphically can become a trademark. Typical examples are words, names, signatures, numbers, slogans, designs, colors and three-dimensional shapes., including wrapping and packaging, and sound signals. There are three systems that allow a trademark to operate in the Spanish market: the Spanish, European and international systems.

Spanish trademarks are granted by the OEPM for an initial period of ten years which can be renewed for identical periods, indefinitely. Trademark rights must be maintained through actual lawful use. However, the trademark will be revoked if it is not actively used for a period of five years, if it is not renewed or if it becomes generic or misleading.

As to the European Community Trademark (CTM), it is regulated by European Council Regulation 40/1994, of December 20, on the Community Trademark and the guidelines published by the Office for Harmonization for the Internal Market (OHIM). Its main feature is that it gives unitary and exclusive protection which is valid throughout the European Union.

The treaties that deal with the registration of international trademarks are the Madrid Agreement Concerning the International Registration of Marks of 1891 and the Protocol Relating to the Madrid Agreement of 1989. They are both administered by WIPO and permit the protection of trademarks via one, single application filed directly at the national trademark office of the member country. This application is then forwarded to the International Bureau in Geneva which registers the mark on the International Register and publishes the grant of the mark in the International Trademarks Gazette.

Copyrights are regulated by Copyright Law 1/1996 of April 12 1996. This law has been significantly revised following recent EU directives in an ongoing process that will eventually lead to a common European copyright.

In Spain, copyright generally last for seventy years after the death of the author. An important difference between these rights and industrial property rights is the existence of a set of perpetual “moral rights” that belong to the author. Apart form the author, Spanish law also affords rights to artistic performers, phonogram producers, producers of audiovisual recordings

and broadcasting organizations.

Internationally speaking, copyright is protected by multilateral agreements of which we highlight the 1886 Berne Convention for the Protection of Literary and Artistic Works, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), of the World Trade Organization.