Arbitration Law of the People's Republic of China – Full English Translation (1994, Amended 2017)

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Chapter I — General Provisions

Article 1. This Law is enacted for the purposes of ensuring the impartial and timely arbitration of economic disputes, protecting the lawful rights and interests of the parties concerned, and safeguarding the sound development of the socialist market economy.

Article 2. Disputes over contracts and disputes over property rights and interests between citizens, legal persons and other organizations as equal subjects may be submitted to arbitration.

Article 3. The following disputes shall not be submitted to arbitration: (1) disputes involving marriage, adoption, guardianship, maintenance and succession; (2) administrative disputes that shall, in accordance with the law, be handled by administrative organs.

Article 4. Where the parties resort to arbitration, the dispute shall be submitted to arbitration on the basis of an arbitration agreement voluntarily reached between the parties. Where there is no arbitration agreement and one party applies for arbitration, the arbitration commission shall not accept the case.

Article 5. Where the parties have reached an arbitration agreement and one party files a suit with a people's court, the people's court shall not accept the case, unless the arbitration agreement is null and void.

Article 6. An arbitration commission shall be chosen by the parties by agreement. There shall be no jurisdiction by level and no territorial jurisdiction in arbitration.

Article 7. Disputes shall be arbitrated on the basis of facts, in compliance with the law, and in an impartial and reasonable manner.

Article 8. Arbitration shall be conducted independently in accordance with the law and shall be free from interference by administrative organs, public organizations or individuals.

Article 9. A system of a single and final award shall apply to arbitration. Where an arbitration commission has rendered an award, no party may apply again to an arbitration commission for arbitration of the same dispute or bring a suit before a people's court in respect of the same dispute. Where an arbitral award is set aside or its enforcement is disallowed by a people's court in accordance with the law, the parties may, in accordance with a new arbitration agreement reached between them, apply for arbitration of the dispute, or file a suit with the people's court.

Chapter II — Arbitration Commissions and the Arbitration Association

Article 10. Arbitration commissions may be established in the municipalities directly under the Central Government, in the municipalities where the people's governments of provinces and autonomous regions are located, and, where necessary, in other cities divided into districts. Arbitration commissions shall not be established at each level of administrative divisions. Arbitration commissions shall be established by the relevant departments and chambers of commerce under the auspices of the people's governments of the cities specified in the preceding paragraph. The establishment of an arbitration commission shall be registered with the judicial administrative department of the relevant province, autonomous region or municipality directly under the Central Government.

Article 11. An arbitration commission shall meet the following conditions: (1) have a name, domicile and articles of association; (2) have necessary property; (3) have members; (4) have arbitrators for appointment.

Article 12. An arbitration commission shall be composed of one chairman, two to four vice-chairmen and seven to eleven members. In the composition of an arbitration commission, the number of members who are experts in law, economy and trade shall not be less than two-thirds.

Article 13. An arbitration commission shall appoint arbitrators from among persons who are upright and competent. An arbitrator shall meet one of the following requirements: (1) have been engaged in arbitration work for at least eight years; (2) have worked as a lawyer for at least eight years; (3) have served as a judge for at least eight years; (4) have been engaged in legal research or legal education and hold a senior professional title; (5) have legal knowledge and have been engaged in professional work in the field of economy and trade, etc., and hold a senior professional title or have an equivalent professional level.

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Article 14. Arbitration commissions are independent of administrative organs and have no subordinate relationships with administrative organs. There are no subordinate relationships between different arbitration commissions.

Article 15. The China Arbitration Association is a self-regulatory organization of arbitration commissions. Arbitration commissions are members of the China Arbitration Association. The articles of association of the China Arbitration Association shall be formulated by its national congress of members. The China Arbitration Association shall exercise supervision over arbitration commissions and their members and arbitrators in accordance with its articles of association.

Chapter III — Arbitration Agreement

Article 16. An arbitration agreement shall include an arbitration clause contained in a contract and any other written form of agreement providing for arbitration reached before or after a dispute arises. An arbitration agreement shall contain the following: (1) a declaration of intention to apply for arbitration; (2) the matters to be arbitrated; and (3) the arbitration commission chosen.

Article 17. An arbitration agreement shall be null and void under any of the following circumstances: (1) the matters agreed upon for arbitration exceed the scope of arbitration prescribed by law; (2) the arbitration agreement is concluded by persons who have no capacity for civil acts or whose capacity for civil acts is restricted; or (3) one party compels the other party to conclude the arbitration agreement by means of duress.

Article 18. Where an arbitration agreement does not specify or clearly specify the matters to be arbitrated or the arbitration commission, the parties may reach a supplementary agreement. If no supplementary agreement is reached, the arbitration agreement shall be null and void.

Article 19. An arbitration agreement shall exist independently. Any modification, rescission, termination or invalidity of a contract shall not affect the validity of the arbitration agreement. An arbitration tribunal shall have the power to determine the validity of a contract.

Article 20. Where the parties object to the validity of the arbitration agreement, they may apply to the arbitration commission for a decision or to a people’s court for a ruling. Where one party applies to the arbitration commission for a decision and the other party applies to a people’s court for a ruling, the people’s court shall give the ruling. Any objection to the validity of the arbitration agreement shall be raised before the first hearing in the arbitration tribunal.

Chapter IV — Arbitration Procedure

Section 1 —Application and Acceptance

Article 21. A party applying for arbitration shall satisfy the following conditions: (1) there is an arbitration agreement; (2) there is a specific claim, and facts and reasons on which the claim is based; and (3) the matter falls within the scope of the arbitration commission’s acceptance.

Article 22. A party applying for arbitration shall submit to the arbitration commission the arbitration agreement, a written application for arbitration and copies thereof.

Article 23. A written application for arbitration shall specify the following: (1) the names, genders, ages, occupations, work units and domiciles of the parties, or the names and domiciles of legal persons or other organizations and the names and positions of their legal representatives or principal responsible persons; (2) the arbitration claim and the facts and reasons on which it is based; and (3) the evidence and sources thereof, and the names and domiciles of witnesses.

Article 24. An arbitration commission shall, within five days from the date of receiving a written application for arbitration, accept the case if it considers that the conditions for acceptance are satisfied, and shall notify the

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party. If the conditions are not satisfied, it shall notify the party in writing of its refusal to accept the case and state the reasons.

Article 25. After accepting an application for arbitration, the arbitration commission shall, within the time limit prescribed by the arbitration rules, deliver the arbitration rules and the list of arbitrators to the claimant, and deliver copies of the written application for arbitration together with the arbitration rules and the list of arbitrators to the respondent. After receiving a copy of the written application for arbitration, the respondent shall, within the time limit prescribed by the arbitration rules, submit a statement of defense to the arbitration commission. After receiving the statement of defense, the arbitration commission shall, within the time limit prescribed by the arbitration rules, deliver a copy of the statement of defense to the claimant. The failure of the respondent to submit a statement of defense shall not affect the conduct of the arbitration proceedings.

Article 26. Where the parties have concluded an arbitration agreement and one party files a suit with a people's court without declaring the existence of the arbitration agreement, the people's court shall, after accepting the case, dismiss the suit if the other party submits the arbitration agreement before the first hearing, unless the arbitration agreement is null and void. If the other party fails to raise an objection to the people's court's acceptance of the case before the first hearing, it shall be deemed to have waived the arbitration agreement, and the people's court shall continue to hear the case.

Article 27. The claimant may waive or modify its arbitration claim. The respondent may admit or refute the arbitration claim and shall have the right to file a counterclaim.

Article 28. A party may apply for property preservation if, as a result of the acts of the other party or for other reasons, the arbitral award may become impossible to enforce or difficult to enforce. Where a party applies for property preservation, the arbitration commission shall submit the party's application to the people's court in accordance with the relevant provisions of the Civil Procedure Law. Where an application for property preservation is erroneous, the applicant shall compensate the respondent for the losses incurred as a result of the property preservation.

Article 29. A party or its statutory representative may entrust a lawyer or other agent to participate in the arbitration proceedings. Where a lawyer or other agent is entrusted to participate in the arbitration proceedings, a power of attorney shall be submitted to the arbitration commission.

Section 2 —Composition of the Arbitration Tribunal

Article 30. An arbitration tribunal may be composed of either three arbitrators or one arbitrator. An arbitration tribunal composed of three arbitrators shall have a presiding arbitrator.

Article 31. Where the parties agree that the arbitration tribunal shall be composed of three arbitrators, each of the parties shall choose or entrust the chairman of the arbitration commission to appoint one arbitrator. The third arbitrator shall be chosen jointly by the parties or chosen by the chairman of the arbitration commission acting under their joint entrustment. The third arbitrator shall be the presiding arbitrator. Where the parties agree that the arbitration tribunal shall be composed of one arbitrator, they shall choose the arbitrator jointly or entrust the chairman of the arbitration commission to appoint the arbitrator.

Article 32. Where the parties fail to agree on the method of composition of the arbitration tribunal or fail to choose the arbitrators within the time limit specified in the arbitration rules, the arbitrators shall be appointed by the chairman of the arbitration commission.

Article 33. After the arbitration tribunal is constituted, the arbitration commission shall notify the parties in writing of the composition of the arbitration tribunal.

Article 34. An arbitrator shall withdraw, and a party shall have the right to apply for the withdrawal of an arbitrator, under any of the following circumstances: (1) the arbitrator is a party to the case, or is a close relative of a party or of a party's agent; (2) the arbitrator has a personal interest in the case; (3) the arbitrator has some other relationship with a party to the case or with a party's agent that may affect the impartiality of

the arbitration; or (4) the arbitrator has privately met with a party or its agent, or accepted an invitation to dinner or a gift from a party or its agent.

Article 35. A party applying for the withdrawal of an arbitrator shall set forth its reasons and shall submit the application before the first hearing. Where the grounds for withdrawal become known after the first hearing, the application may be submitted before the conclusion of the final hearing.

Article 36. The decision on whether an arbitrator shall withdraw shall be made by the chairman of the arbitration commission. Where the chairman of the arbitration commission serves as an arbitrator, the decision shall be made collectively by the arbitration commission.

Article 37. Where an arbitrator is unable to perform his or her duties as a result of withdrawal or for other reasons, a new arbitrator shall be chosen or appointed in accordance with the provisions of this Law. After a new arbitrator has been chosen or appointed as a result of withdrawal, a party may request that the arbitration proceedings already conducted be recommenced. The decision on whether to grant such a request shall be made by the arbitration tribunal. The arbitration tribunal may also, on its own initiative, decide whether the arbitration proceedings already conducted shall be recommenced.

Article 38. Where an arbitrator is involved in any of the circumstances specified in item (4) of Article 34 of this Law and the case is serious, or is involved in any of the circumstances specified in item (6) of Article 58 of this Law, the arbitrator shall bear legal liability in accordance with the law, and the arbitration commission shall remove the arbitrator from its list of arbitrators.

Section 3 —Hearing and Award

Article 39. An arbitration tribunal shall hold a hearing to hear an arbitration case. Where the parties agree not to hold a hearing, the arbitration tribunal may render an award on the basis of the written application for arbitration, the written defense and other documents.

Article 40. Arbitration shall be conducted in camera. Where the parties agree to hold arbitration in open session, the arbitration may be held in open session, except for cases involving state secrets.

Article 41. The arbitration commission shall, within the time limit prescribed by the arbitration rules, notify the parties of the date of the hearing. Where a party has a legitimate reason, it may, within the time limit prescribed by the arbitration rules, request a postponement of the hearing. The decision on whether to grant the postponement shall be made by the arbitration tribunal.

Article 42. Where the claimant, having been notified in writing, fails to appear at the hearing without a legitimate reason or withdraws from the hearing without the permission of the arbitration tribunal, the claimant may be deemed to have withdrawn the application for arbitration. Where the respondent, having been notified in writing, fails to appear at the hearing without a legitimate reason or withdraws from the hearing without the permission of the arbitration tribunal, an award may be rendered by default.

Article 43. The parties shall produce evidence in support of their respective claims. The arbitration tribunal may, on its own initiative, collect evidence that it considers necessary.

Article 44. Where the arbitration tribunal considers that an expert evaluation is necessary for a specialized issue, it may refer the issue to an evaluation institution agreed upon by the parties or to an evaluation institution designated by the arbitration tribunal. Upon the request of a party or at the request of the arbitration tribunal, the evaluation institution shall send an expert to attend the hearing. With the permission of the arbitration tribunal, the parties may question the expert.

Article 45. Evidence shall be presented at the hearing, and the parties may examine and challenge the evidence.

Article 46. Where evidence may be destroyed or lost, or may become difficult to obtain at a later time, a party may apply for evidence preservation. Where a party applies for evidence preservation, the arbitration

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commission shall submit the party's application to the basic people's court at the place where the evidence is located.

Article 47. The parties shall have the right to debate during the arbitration proceedings. At the conclusion of the debate, the presiding arbitrator or the sole arbitrator shall solicit the final opinions of the parties.

Article 48. The arbitration tribunal shall record the hearing in the record of hearing. Where a party or any other participant in the arbitration considers that there are omissions or errors in the record concerning its own statements, it shall have the right to apply for supplementation or correction. If the application is not granted, the application shall be recorded. The record of hearing shall be signed or sealed by the arbitrators, the recording clerk, the parties and other participants in the arbitration.

Article 49. After applying for arbitration, the parties may reach a settlement on their own. Where a settlement agreement is reached, the parties may request the arbitration tribunal to render an award based on the settlement agreement, or may withdraw the application for arbitration.

Article 50. Where a party, after reaching a settlement agreement and withdrawing the application for arbitration, reneges on the settlement, the party may apply for arbitration in accordance with the arbitration agreement.

Article 51. The arbitration tribunal may first attempt conciliation before rendering an award. Where the parties voluntarily seek conciliation, the arbitration tribunal shall conduct conciliation. Where conciliation is unsuccessful, the arbitration tribunal shall promptly render an award. Where the parties reach a settlement agreement through conciliation, the arbitration tribunal shall prepare a conciliation statement or render an award based on the settlement agreement. A conciliation statement shall have the same legal effect as an award.

Article 52. A conciliation statement shall set forth the arbitration claim and the result of the parties' agreement. The conciliation statement shall be signed by the arbitrators, affixed with the seal of the arbitration commission, and delivered to the parties. A conciliation statement shall become legally effective immediately after both parties have signed and accepted it. Where a party reneges before signing and accepting the conciliation statement, the arbitration tribunal shall promptly render an award.

Article 53. An award shall be rendered on the basis of the opinion of the majority of arbitrators, but the opinion of the minority shall be recorded in the record. Where the arbitration tribunal cannot form a majority opinion, the award shall be rendered on the basis of the opinion of the presiding arbitrator.

Article 54. An award shall set forth the arbitration claim, the facts of the dispute, the reasons for the award, the result of the award, the allocation of arbitration costs and the date of the award. Where the parties agree not to set forth the facts of the dispute and the reasons for the award in the award, such content may be omitted. The award shall be signed by the arbitrators and affixed with the seal of the arbitration commission. Any arbitrator who holds a differing opinion may choose to sign or not sign the award.

Article 55. Where, during the arbitration of a dispute, part of the facts are already clear, the arbitration tribunal may render an interim award on that part.

Article 56. The arbitration tribunal shall correct any typographical or computational errors in the award, or any matters that have been decided by the arbitration tribunal but omitted from the award. A party may, within 30 days from the date of receiving the award, request the arbitration tribunal to make such corrections.

Article 57. An award shall take legal effect on the date it is rendered.

Chapter V — Application for Setting Aside an Arbitral Award

Article 58. A party may apply to the intermediate people's court at the place where the arbitration commission is located for setting aside an award if the party produces evidence proving that the award

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involves any of the following circumstances: (1) there is no arbitration agreement; (2) the matters decided in the award fall outside the scope of the arbitration agreement or are matters which the arbitration commission has no power to arbitrate; (3) the composition of the arbitration tribunal or the arbitration procedure was contrary to statutory procedure; (4) the evidence on which the award is based is forged; (5) the other party has withheld evidence sufficient to affect the impartiality of the award; or (6) the arbitrators have taken bribes, engaged in malpractices for personal gain or perverted the law in rendering the award. The people's court shall form a collegial bench to examine the matter and shall rule to set aside the award if it verifies that the award involves any of the circumstances set forth in the preceding paragraph. Where the people's court determines that the award contravenes the social and public interest, it shall rule to set aside the award.

Article 59. A party applying for setting aside an award shall submit the application within six months from the date of receipt of the award.

Article 60. The people's court shall, within two months from the date of accepting the application for setting aside an award, render a ruling to set aside the award or to dismiss the application.

Article 61. Where, after accepting an application for setting aside an award, the people's court considers that the matter may be re-arbitrated by the arbitration tribunal, it shall notify the arbitration tribunal to re-arbitrate the case within a specified time limit and shall rule to suspend the setting-aside proceedings. If the arbitration tribunal refuses to re-arbitrate, the people's court shall rule to resume the setting-aside proceedings.

Chapter VI — Enforcement

Article 62. The parties shall perform the arbitral award. Where one party fails to perform the arbitral award, the other party may apply to the intermediate people's court at the place where the person against whom enforcement is sought has his domicile or where the property of such person is located for enforcement in accordance with the relevant provisions of the Civil Procedure Law. The people's court to which the application is made shall enforce the award.

Article 63. Where the respondent produces evidence proving that the award involves any of the circumstances specified in the second paragraph of Article 217 of the Civil Procedure Law, the people's court shall, upon examination and verification by a collegial bench, rule to disallow enforcement.

Article 64. Where one party applies for enforcement of an award while the other party applies for setting aside the award, the people's court shall rule to suspend enforcement. Where the people's court rules to set aside the award, it shall rule to terminate the enforcement procedure. Where the application for setting aside the award is dismissed, the people's court shall rule to resume enforcement.

Chapter VII — Special Provisions on Foreign-Related Arbitration

Article 65. The provisions of this Chapter shall apply to the arbitration of disputes arising from international economic, trade, transport and maritime matters. In the absence of provisions in this Chapter, the other relevant provisions of this Law shall apply.

Article 66. Foreign-related arbitration commissions may be established by the China Chamber of International Commerce. Foreign-related arbitration commissions shall be composed of one chairman and several vice-chairmen and members. The chairman, vice-chairmen and members of a foreign-related arbitration commission may be appointed by the China Chamber of International Commerce.

Article 67. A foreign-related arbitration commission may appoint arbitrators from among foreigners who have specialized knowledge in law, economy and trade, science and technology, etc.

Article 68. If a party to a foreign-related arbitration case applies for property preservation, the foreign-related arbitration commission shall submit the application to the intermediate people's court at the place where the respondent has his domicile or where the property is located.

Article 69. The arbitration tribunal in foreign-related arbitration may record the hearing in the record of hearing, or prepare a summary of the record of hearing. The summary of the record of hearing may be signed or sealed by the parties and other participants in the arbitration.

Article 70. Where a party produces evidence proving that a foreign-related arbitral award involves any of the circumstances specified in the first paragraph of Article 58 of this Law, the people's court shall, upon examination and verification by a collegial bench, rule to set aside the award.

Article 71. Where the respondent produces evidence proving that a foreign-related arbitral award involves any of the circumstances specified in the first paragraph of Article 58 of this Law, the people's court shall, upon examination and verification by a collegial bench, rule to disallow enforcement.

Article 72. Where the party subject to enforcement or its property is not within the territory of the People's Republic of China, the party seeking enforcement may directly apply to a competent foreign court for recognition and enforcement of the award.

Article 73. Foreign-related arbitration rules may be formulated by the China Chamber of International Commerce in accordance with this Law and the relevant provisions of the Civil Procedure Law.

Chapter VIII — Supplementary Provisions

Article 74. Where the law has prescribed a limitation period for arbitration, such provisions shall apply. Where no limitation period has been prescribed, the provisions on the limitation of actions in the Civil Procedure Law shall apply.

Article 75. The arbitration rules of an arbitration commission shall be formulated in accordance with this Law and the relevant provisions of the Civil Procedure Law.

Article 76. The parties shall pay arbitration fees in accordance with the relevant provisions. The measures for collecting arbitration fees shall be submitted to the price control authorities for approval.

Article 77. Arbitration of labor disputes and disputes over agricultural contracts within agricultural collective economic organizations shall be separately prescribed.

Article 78. Where the relevant provisions of this Law is inconsistent with the arbitration provisions in other laws, the provisions of this Law shall prevail before the arbitration provisions in other laws are amended.

Article 79. Arbitration institutions established before the entry into force of this Law in the municipalities directly under the Central Government, in the municipalities where the people's governments of provinces and autonomous regions are located, and in other cities divided into districts shall be reorganized in accordance with the relevant provisions of this Law. Those that are not reorganized shall terminate upon the expiry of one year from the date of entry into force of this Law. Other arbitration institutions established before the entry into force of this Law that do not comply with the provisions of this Law shall terminate on the date of entry into force of this Law.

Article 80. This Law shall enter into force as of September 1, 1995.

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