Arbitration Law of the PRC

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Chapter I — General Provisions

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

Article 2 — Contractual disputes and other disputes over rights and interests in property between citizens, legal persons and other organizations that are equal subjects may be submitted to arbitration.

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

Article 4 — Where the parties have agreed to resolve their dispute by arbitration, the dispute shall not be filed with a people's court. Where the parties have not concluded an arbitration agreement, or the arbitration agreement is invalid, and one party files a lawsuit with a people's court, the people's court may accept the case.

Article 5 — Where the parties have reached an arbitration agreement, if one party files a lawsuit with a people's court, the people's court shall not accept the case, except where the arbitration agreement is invalid.

Article 6 — An arbitration commission shall be selected by the parties through agreement. Arbitration shall not be subject to the jurisdiction by level or the territorial jurisdiction.

Article 7 — Arbitration shall be conducted on the basis of facts, in accordance with the law, and fairly and reasonably resolve disputes.

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 — An arbitral award shall be final and binding. After an arbitral award is rendered, if either party applies to the arbitration commission for arbitration again or files a lawsuit with a people's court for the same dispute, the arbitration commission or the people's court shall not accept the case. Where an arbitral award is set aside or its enforcement is denied by a people's court in accordance with the law, the parties may apply for arbitration again for the dispute in accordance with a new arbitration agreement reached between the parties, or may file a lawsuit with a people's court.

Chapter II — Arbitration Commissions and Arbitration Associations

Article 10 — An arbitration commission may be established in a municipality directly under the Central Government, a city where the people's government of a province or autonomous region is located, or a city divided into districts as needed; or may be established in other cities divided into districts as needed. An arbitration commission shall be established by the relevant departments and chambers of commerce of the relevant city people's governments in a unified manner. The establishment of an arbitration commission shall be subject to registration 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) having its own name, domicile and articles of association; (2) having necessary property; (3) having the members that comprise the commission; and (4) having appointed arbitrators. The articles of association of an arbitration commission shall be formulated in accordance with this Law.

Article 12 — An arbitration commission shall be composed of one chairman, two to four vice chairmen and seven to eleven members. The chairman, vice chairmen and members of an arbitration commission shall be persons of expertise in law, economic and trade matters, and persons with practical experience. Of the members of an arbitration commission, persons of expertise in law, economic and trade matters shall account for not less than two-thirds.

Article 13 — An arbitration commission shall appoint arbitrators from among persons who are fair and upright and meet one of the following conditions: (1) having passed the national uniform legal profession qualification examination and having been engaged in the legal profession for at least eight years; (2) having been engaged in legal research or teaching work for at least eight years and holding a senior professional title; (3) having legal knowledge and having been engaged in professional work in the economic and trade fields for at least eight years and holding a senior professional title or having equivalent professional level; or (4) having legal knowledge and having been engaged in legal affairs for at least eight years in a state organ. An arbitration commission shall establish a roster of arbitrators according to different specialties.

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Article 14 — Arbitration commissions shall be independent of administrative organs and shall not have a subordinate relationship with any administrative organ. There shall not be a subordinate relationship between one arbitration commission and another.

Article 15 — The China Arbitration Association is a self-regulatory organization of arbitration commissions and is a social group legal person. Arbitration commissions shall be members of the China Arbitration Association. The articles of association of the China Arbitration Association shall be formulated by the national congress of members. The China Arbitration Association shall, in accordance with its articles of association, exercise supervision over the conduct of arbitration commissions and their members and arbitrators for any violation of rules.

Chapter III — Arbitration Agreement

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

Article 17 — An arbitration agreement shall be invalid under any of the following circumstances: (1) the matters agreed for arbitration exceed the scope of arbitrable matters prescribed by law; (2) the arbitration agreement is concluded by a person without civil capacity or with limited civil capacity; or (3) one party compels the other party to conclude the arbitration agreement by means of coercion.

Article 18 — Where an arbitration agreement is unclear on the matters to be arbitrated or on the selection of the arbitration commission, and the parties fail to reach a supplementary agreement, the arbitration agreement shall be invalid.

Article 19 — An arbitration agreement shall exist independently. The validity of an arbitration agreement shall not be affected by any modification, rescission, termination or invalidity of a contract. The arbitration tribunal shall have the right to affirm the validity of a contract.

Article 20 — Where a party objects to the validity of an arbitration agreement, the party 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 make the ruling. An objection to the validity of an arbitration agreement shall be raised before the first hearing of the arbitration tribunal.

Chapter IV — Arbitration Procedure

Article 21 — A party applying for arbitration shall meet the following conditions: (1) there is an arbitration agreement; (2) there is a specific arbitration claim and the facts and reasons on which it 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 an application for arbitration to the arbitration commission together with the arbitration agreement and copies thereof.

Article 23 — An application for arbitration shall specify the following matters: (1) the names, sex, age, occupation, work unit and domicile of the parties, or the name and domicile of the legal person or other organization and the name and position of its legal representative or principal responsible person; (2) the arbitration claim and the facts and reasons on which it is based; and (3) evidence and the sources of the evidence, and the name and domicile of the witness(es).

Article 24 — Within five days from the date of receipt of the application for arbitration, the arbitration commission shall accept the application and notify the party if it considers that the conditions for acceptance are met; if it considers that the conditions for acceptance are not met, it shall notify the party in writing of the

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refusal to accept the application and explain the reasons.

Article 25 — After the arbitration commission has accepted the application for arbitration, it shall deliver the arbitration rules and the roster of arbitrators to the claimant within the time limit prescribed by the arbitration rules, and deliver a copy of the application for arbitration, the arbitration rules and the roster of arbitrators to the respondent. After receiving a copy of the application for arbitration, the respondent shall submit a statement of defense to the arbitration commission within the time limit prescribed by the arbitration rules. After receiving the statement of defense, the arbitration commission shall deliver a copy thereof to the claimant within the time limit prescribed by the arbitration rules. The failure of the respondent to submit the statement of defense shall not affect the progress of the arbitration procedure.

Article 26 — Where the parties have reached an arbitration agreement but one party files a lawsuit with a people's court without declaring the existence of the arbitration agreement, and the people's court accepts the case, the other party shall submit the arbitration agreement before the first hearing. Where the other party fails to raise an objection 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 change its arbitration claim. The respondent may admit or counter the arbitration claim and shall have the right to file a counterclaim.

Article 28 — A party may apply for property preservation. 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 contains an error, the applicant shall compensate the respondent for any loss suffered by the respondent as a result of the property preservation.

Article 29 — A party or its legal representative may appoint a lawyer or other agent to carry out arbitration activities. Where a lawyer or other agent is appointed to carry out arbitration activities, a power of attorney shall be submitted to the arbitration commission.

Article 30 — An arbitration tribunal may be composed of three arbitrators or one arbitrator. Where an arbitration tribunal is composed of three arbitrators, a presiding arbitrator shall be appointed.

Article 31 — Where the parties agree that the arbitration tribunal shall be composed of three arbitrators, each party shall designate or entrust the chairman of the arbitration commission to appoint one arbitrator. The third arbitrator shall be jointly selected by the parties or designated by the chairman of the arbitration commission upon the joint entrustment of the parties. The third arbitrator shall be the presiding arbitrator. Where the parties agree that the arbitration tribunal shall be composed of one arbitrator, the parties shall jointly select or jointly entrust the chairman of the arbitration commission to appoint the sole arbitrator.

Article 32 — Where the parties fail to agree on the composition of the arbitration tribunal or fail to select the arbitrators within the time limit prescribed by the arbitration rules, the chairman of the arbitration commission shall make the appointment.

Article 33 — After the arbitration tribunal has been formed, the arbitration commission shall notify the parties in writing of the composition of the arbitration tribunal.

Article 34 — An arbitrator shall withdraw from the arbitration, and the parties shall also 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 a close relative of a party or its agent; (2) the arbitrator has an interest in the case; (3) the arbitrator has other relations with a party to the case or its agent that may affect fair arbitration; (4) the arbitrator has met a party or its agent privately, or accepted a treat or gift from a party or its agent; or (5) the arbitrator accepted a bribe, engaged in malpractice for personal gain, or perverted the law in rendering the arbitral award.

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Article 35 — Where a party applies for the withdrawal of an arbitrator, the party shall state its reasons and submit the application before the first hearing. Where the reason for withdrawal becomes known after the first hearing, the application may be submitted before the conclusion of the last hearing.

Article 36 — The decision on whether an arbitrator should withdraw shall be made by the chairman of the arbitration commission; where the chairman of the arbitration commission serves as an arbitrator, the arbitration commission shall collectively make the decision.

Article 37 — Where an arbitrator is unable to perform his or her duties due to withdrawal or for other reasons, another arbitrator shall be selected or appointed in accordance with the provisions of this Law. After a new arbitrator has been selected or appointed due to withdrawal, the parties may apply to resume the arbitration procedure. Whether the procedure shall be resumed shall be decided by the arbitration tribunal. The arbitration tribunal may also decide on its own whether to resume the arbitration procedure.

Article 38 — Where the circumstances specified in item (4) of Article 34 of this Law are serious, or the circumstances specified in item (5) of Article 34 of this Law exist, the arbitrator concerned shall bear legal liability in accordance with the law and the arbitration commission shall remove the arbitrator from the roster of arbitrators.

Article 39 — An arbitration shall be conducted by way of a hearing. Where the parties agree not to hold a hearing, the arbitration tribunal may render an award based on the application for arbitration, the statement of defense and other documents.

Article 40 — Arbitration shall be conducted in private. Where the parties agree to hold a public hearing, the hearing may be held in public, except where state secrets are involved.

Article 41 — The arbitration commission shall notify the parties of the date of the hearing within the time limit prescribed by the arbitration rules. Where a party has a justified reason for not attending the hearing, the party may request a postponement of the hearing within the time limit prescribed by the arbitration rules. Whether to grant the postponement shall be decided by the arbitration tribunal.

Article 42 — Where the claimant fails to appear before the arbitration tribunal without justified reasons after having been notified in writing, or leaves the hearing without the permission of the arbitration tribunal, the claimant may be deemed to have withdrawn the application for arbitration. Where the respondent fails to appear before the arbitration tribunal without justified reasons after having been notified in writing, or leaves the hearing without the permission of the arbitration tribunal, the arbitration tribunal may render a default award.

Article 43 — The parties shall produce evidence for the facts on which their claims or defenses are based. Where the arbitration tribunal considers it necessary to collect evidence, it may collect evidence on its own.

Article 44 — Where an arbitration tribunal considers a special issue to be appraised, the parties may agree to appoint an appraisal institution for the appraisal; where the parties fail to agree, the arbitration tribunal shall appoint an appraisal institution. At the request of a party or the arbitration tribunal, the appraisal institution shall send an appraiser to attend the hearing. With the permission of the arbitration tribunal, the parties may raise questions to the appraiser.

Article 45 — Evidence shall be presented before the hearing. The parties may cross-examine the evidence.

Article 46 — Where there is a likelihood that evidence may be destroyed or lost or may be difficult to obtain at a later time, a party may apply for the preservation of evidence. Where a party applies for the preservation of evidence, the arbitration 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 argue during the course of the hearing. At the end of the debate, the presiding arbitrator or the sole arbitrator shall solicit the final opinions of the parties.

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Article 48 — The arbitration tribunal shall prepare a written record of the hearing. Where the parties or other participants in the arbitration consider that there are omissions or errors in the record of their statements, they shall have the right to apply for supplementation or correction. Where supplementation or correction is not made, the application for supplementation or correction shall be recorded. The arbitrators, the recorder, the parties and other participants in the arbitration shall sign or affix their seals to the written record of the hearing.

Article 49 — After the application for arbitration is submitted, the parties may reach a settlement on their own. Where the parties have reached a settlement agreement, they may request the arbitration tribunal to render an award in accordance with the settlement agreement, or may withdraw the application for arbitration.

Article 50 — Where the parties reach a settlement agreement and withdraw the application for arbitration, if one party repudiates the settlement agreement, the party may apply for arbitration in accordance with the arbitration agreement.

Article 51 — Before the arbitration tribunal renders an award, it may first conduct mediation. Where the parties voluntarily apply for mediation, the arbitration tribunal shall conduct mediation. Where mediation is unsuccessful, the arbitration tribunal shall promptly render an award. Where an agreement is reached through mediation, the arbitration tribunal shall prepare a written mediation statement or an award based on the result of the settlement agreement. The written mediation statement and the award shall have the same legal effect.

Article 52 — The written mediation statement shall specify the arbitration claim and the result of the agreement reached between the parties. The written mediation statement shall be signed by the arbitrators and affixed with the seal of the arbitration commission, and delivered to the parties. The written mediation statement shall become legally effective upon receipt by both parties with their signatures. Where a party repudiates the agreement before the written mediation statement is signed for receipt, the arbitration tribunal shall promptly render an award.

Article 53 — An award shall be made based on the opinions of a majority of the arbitrators, and the opinions of a minority of the arbitrators may be recorded in the written record. Where a majority cannot be reached, the award shall be made based on the opinion of the presiding arbitrator.

Article 54 — The written award shall specify 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 specify the facts of the dispute and the reasons for the award in the award, such items may be omitted. The written award shall be signed by the arbitrators and affixed with the seal of the arbitration commission. An arbitrator who holds a dissenting opinion may sign or not sign the award.

Article 55 — In arbitrating a dispute, the arbitration tribunal may, if a part of the facts is already clear, first render an award on that part.

Article 56 — Any typographical errors or calculation errors in the written award, or any matters that have been decided by the arbitration tribunal but omitted from the written award, shall be corrected by the arbitration tribunal. Where the parties discover such errors or omissions within 30 days from the date of receipt of the award, they may request the arbitration tribunal to make corrections.

Article 57 — An arbitral award shall be legally effective as of 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 the award if the party produces evidence proving any of the following circumstances: (1) there is no arbitration agreement; (2) the matters decided in the award exceed the scope

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of the arbitration agreement or exceed the jurisdiction of the arbitration commission; (3) the composition of the arbitration tribunal or the arbitration procedure was contrary to the statutory procedure; (4) the evidence on which the award is based was forged; (5) the other party concealed evidence sufficient to affect the impartiality of the award; or (6) the arbitrator demanded or accepted a bribe, engaged in malpractice for personal gain, or perverted the law in rendering the award. The people's court shall form a collegial bench to examine and verify the matter and shall make a ruling to set aside the award if it finds that the award should be set aside on the basis of any of the circumstances specified in the preceding paragraph. Where the people's court finds that the award is contrary to the public interest, it shall make a ruling to set aside the award.

Article 59 — An application for setting aside an award shall be submitted within six months from the date of receipt of the award.

Article 60 — The people's court shall render a ruling to set aside the award or reject the application within two months from the date of acceptance of the application for setting aside the award.

Article 61 — Where the people's court, after accepting an application for setting aside an award, considers that the arbitration tribunal may re-arbitrate the case, it shall notify the arbitration tribunal to re-arbitrate the case within a certain period of time and shall make a ruling to suspend the setting aside procedure. Where the arbitration tribunal refuses to re-arbitrate the case, the people's court shall make a ruling to resume the setting aside procedure.

Chapter VI — Enforcement

Article 62 — The parties shall perform the arbitral award. Where one party fails to perform the award, the other party may apply to the people's court for enforcement in accordance with the relevant provisions of the Civil Procedure Law. The people's court receiving the application shall enforce the award.

Article 63 — Where the respondent produces evidence proving that the arbitration award involves any of the circumstances specified in the second paragraph of Article 213 of the Civil Procedure Law, and the people's court forms a collegial bench to examine and verify the matter, the people's court shall make a ruling not to enforce the award.

Article 64 — Where one party applies for enforcement of the award and the other party applies for setting aside the award, the people's court shall make a ruling to suspend enforcement. Where the people's court makes a ruling to set aside the award, it shall make a ruling to terminate the enforcement procedure. Where the people's court makes a ruling to reject the application for setting aside the award, it shall make a ruling to resume enforcement.

Chapter VII — Special Provisions for Foreign-Related Arbitration

Article 65 — The provisions of this Chapter shall apply to the arbitration of disputes arising from economic and trade transactions, transport and maritime matters with foreign elements. Matters not covered in this Chapter shall be governed by other relevant provisions of this Law.

Article 66 — A foreign-related arbitration commission may be established and organized by the China Chamber of International Commerce. A foreign-related arbitration commission shall be composed of a chairman, several vice chairmen and several 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 foreign nationals with expertise in law, economic and trade matters, and science and technology.

Article 68 — Where a party to a foreign-related arbitration applies for preservation of evidence, the foreign-related arbitration commission shall submit the party's application to the intermediate people's court

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at the place where the evidence is located.

Article 69 — The arbitration tribunal of a foreign-related arbitration commission may record the details of the hearing in a written record, or prepare a summary of the hearing. The summary of the 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 arbitration award involves any of the circumstances specified in the first paragraph of Article 258 of the Civil Procedure Law, the people's court shall form a collegial bench to examine and verify the matter and make a ruling to set aside the award.

Article 71 — Where the respondent produces evidence proving that a foreign-related arbitration award involves any of the circumstances specified in the first paragraph of Article 258 of the Civil Procedure Law, and the people's court forms a collegial bench to examine and verify the matter, the people's court shall make a ruling not to enforce the award.

Article 72 — Where a party to a foreign-related arbitration award applies for enforcement, and the property of the party against whom the award is to be enforced or the domicile of the party is not within the territory of the People's Republic of China, the party shall directly apply to a foreign court with jurisdiction for recognition and enforcement of the award.

Article 73 — The rules of arbitration for foreign-related arbitration 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 prescribes a limitation period for arbitration, such provisions shall apply. Where the law does not prescribe a limitation period for arbitration, the provisions on the limitation of actions shall apply.

Article 75 — The Arbitration Rules of the China Arbitration Association shall be formulated by the China Arbitration Association in accordance with this Law and the Civil Procedure Law before the formulation of the arbitration rules provided in this Law. Where an arbitration commission does not have arbitration rules, the arbitration may be conducted in accordance with the Arbitration Rules of the China Arbitration Association.

Article 76 — The parties shall pay arbitration fees in accordance with the provisions. The measures for charging arbitration fees shall be submitted to the pricing authorities for approval.

Article 77 — The arbitration of labor disputes and the arbitration of contractual disputes over agricultural collective economic organizations' contracted land shall be separately prescribed.

Article 78 — Where the provisions of this Law conflict with the provisions of the Civil Procedure Law on arbitration, the provisions of this Law shall prevail.

Article 79 — Arbitration commissions established before the implementation of this Law in municipalities directly under the Central Government, cities where the people's governments of provinces or autonomous regions are located, and other cities divided into districts established as needed shall be reorganized in accordance with the provisions of this Law; arbitration commissions not reorganized shall terminate one year after the implementation of this Law. Other arbitration commissions established before the implementation of this Law that do not comply with the provisions of this Law shall terminate on the date of implementation of this Law.

Article 80 — This Law shall come into force as of September 1, 1995. The amended text (2017 Amendment) shall come into force as of January 1, 2018.

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