Arbitration Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted to ensure the fair and timely arbitration of economic disputes, protect the lawful rights and interests of the parties, and safeguard the sound development of the socialist market

economy.

Article 2 — Disputes arising from contracts and disputes arising from property rights and interests between citizens, legal persons, and other organizations of equal status 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; (2) administrative disputes that shall be handled by administrative organs in accordance with law.

Article 4 — Where the parties choose to settle a dispute through arbitration, they shall do so on a voluntary basis and shall reach an arbitration agreement. Where one party applies for arbitration in the absence of an arbitration agreement, the arbitration commission shall not accept the application.

Article 5 — Where the parties have reached an arbitration agreement and one party brings a lawsuit in a people's court, the people's court shall not accept the case, unless the arbitration agreement is invalid.

Article 6 — An arbitration commission shall be selected by the parties by agreement. Arbitration shall not be subject to the jurisdiction of administrative regions or administrative levels.

Article 7 — Disputes shall be resolved through arbitration based on facts and in accordance with the provisions of the law, and disputes shall be resolved fairly and reasonably.

Article 8 — Arbitration shall be conducted independently in accordance with law, without interference from administrative organs, social organizations, or individuals.

Article 9 — An arbitration award shall be final and binding. After an arbitral award is made, no party may apply for arbitration again with respect to the same dispute or bring a lawsuit in a people's court. Where an arbitration award is set aside or its enforcement is disallowed by a people's court in accordance with law, the parties may apply for arbitration anew in accordance with a new arbitration agreement reached between them or bring a lawsuit in 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, or in a city that is the seat of the people's government of a province or autonomous region, or may be established in another city divided into districts if necessary. An arbitration commission shall not be established by administrative organs at any level. An arbitration commission to be established in a municipality directly under the Central Government, in a city that is the seat of the people's government of a province or autonomous region, or in another city divided into districts shall be organized by the relevant departments and the chamber of commerce of the relevant people's government. The establishment of an arbitration commission shall be registered with the judicial administrative authority of the 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 the necessary property; (3) having the personnel constituting the commission; (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 specialized in law, economy, and trade, and persons with practical work experience. The number of persons specialized in law, economy, and trade among the members of an arbitration commission shall be not less than two thirds.

Article 13 — An arbitration commission shall appoint arbitrators from among persons who are upright and fair. An arbitrator shall meet one of the following conditions: (1) having been engaged in arbitration work for

at least eight years; (2) having been engaged in the work of a lawyer for at least eight years; (3) having served as a judge for at least eight years; (4) having been engaged in legal research or teaching and having a senior professional title; (5) having legal knowledge and having been engaged in economic or trade work and having a senior professional title or having equivalent professional level. An arbitration commission shall establish a roster of arbitrators according to different areas of specialization.

Article 14 — An arbitration commission shall be independent of administrative organs and shall have no subordinate relationship with any administrative organ. There shall be no subordinate relationship between any two 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 the national general meeting of members. The China Arbitration Association shall supervise arbitration commissions and their members and the conduct of arbitrators in accordance with its articles of association. The China Arbitration Association shall formulate arbitration rules in accordance with this Law and the relevant provisions of the Civil Procedure Law.

Chapter III — Arbitration Agreement

Article 16 — An arbitration agreement shall include an arbitration clause contained in a contract or any other written agreement 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) the matters to be submitted to arbitration; (3) the arbitration commission selected.

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

Article 18 — Where the matters to be arbitrated or the arbitration commission are not agreed upon or clearly agreed upon in the arbitration agreement, the parties may enter into a supplementary agreement. If no supplementary agreement is reached, the arbitration agreement shall be invalid.

Article 19 — An arbitration agreement shall exist independently. The 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 confirm the validity of a contract.

Article 20 — Where a party objects to the validity of an arbitration agreement, it 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 — To apply for arbitration, a party shall meet the following conditions: (1) having an arbitration agreement; (2) having a specific claim and a statement of facts and grounds; (3) falling within the scope of acceptance of the arbitration commission.

Article 22 — To apply for arbitration, a party shall submit to the arbitration commission an arbitration agreement, a written application for arbitration, and copies thereof.

Article 23 — The written application for arbitration shall state the following: (1) the name, sex, age, occupation, work unit, and domicile of the party, or the name and domicile of the legal person or other

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organization and the name and position of its legal representative or principal responsible person; (2) the arbitral claim and the facts and grounds on which the claim is based; (3) evidence and sources of evidence, as well as 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, 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 its decision not to accept the application and explain the reasons.

Article 25 — After an arbitration commission accepts an application for arbitration, it shall serve the arbitration rules and the roster of arbitrators on the claimant within the time limit prescribed by the arbitration rules, and shall serve a copy of the written application for arbitration, the arbitration rules, and the roster of arbitrators on the respondent. After receiving a copy of the written application for arbitration, the respondent shall submit a written defense to the arbitration commission within the time limit prescribed by the arbitration rules. After receiving the written defense, the arbitration commission shall serve a copy of the written defense on the claimant within the time limit prescribed by the arbitration rules. Failure by the respondent to submit a written defense shall not affect the conduct of the arbitration proceedings.

Article 26 — Where the parties have reached an arbitration agreement and one party brings a lawsuit in a people's court without declaring the existence of the arbitration agreement, and the people's court accepts it, the other party shall submit the arbitration agreement before the first hearing. If 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 abandon or modify its arbitral claim. The respondent may accept or rebut the arbitral claim and shall have the right to make 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 a party's application is erroneous, the applicant shall compensate the respondent for the losses caused by the property preservation.

Article 29 — The parties and their legal representatives may appoint lawyers or other agents to conduct arbitration activities. To appoint a lawyer or other agent to conduct 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, one presiding arbitrator shall be appointed.

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

Article 32 — Where the parties fail to agree on the method of forming the arbitration tribunal or fail to select the arbitrators within the time limit prescribed by the arbitration rules, the arbitrators shall be appointed by the chairman of the arbitration commission.

Article 33 — After the arbitration tribunal is formed, the arbitration commission shall notify the parties in writing of the formation of the arbitration tribunal.

Article 34 — An arbitrator shall withdraw from office, and the parties 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 a close relative of a party or an agent in the case; (2) the arbitrator has a personal interest in the case; (3)

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the arbitrator has another relationship with a party or an agent in the case that may affect the impartiality of the arbitration; (4) the arbitrator has privately met with a party or an agent or accepted a treat or gift from a party or an agent.

Article 35 — Where a party applies for withdrawal, it shall state the reasons and submit the application before the first hearing. If the grounds for withdrawal become 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 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 due to withdrawal or any other reason, a new arbitrator shall be selected or appointed in accordance with the provisions of this Law. After a new arbitrator is selected or appointed, the parties may apply to resume the arbitration proceedings. Whether to resume the proceedings shall be decided by the arbitration tribunal; the arbitration tribunal may also decide on its own whether to resume the proceedings.

Article 38 — Where the arbitration tribunal deems it necessary to collect evidence, it may do so on its own initiative.

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

Article 40 — Arbitration hearings shall not be held in public. Where the parties agree to hold a hearing in public, hearings may be held in public, unless 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. A party may apply for a postponement of the hearing within the time limit prescribed by the arbitration rules if it has a justifiable reason. The arbitration tribunal shall decide whether to postpone the hearing.

Article 42 — If the claimant fails to appear at the hearing without justifiable reasons after receiving the written notice, or leaves the hearing room during the hearing without permission of the arbitration tribunal, it may be deemed to have withdrawn the application for arbitration. If the respondent fails to appear at the hearing without justifiable reasons after receiving the written notice, or leaves the hearing room during the hearing without permission of the arbitration tribunal, an award may be rendered by default.

Article 43 — A party shall provide evidence in support of its claim. The arbitration tribunal may, if it deems it necessary, collect evidence on its own initiative.

Article 44 — Where the arbitration tribunal deems it necessary to have an expert evaluation of a specialized issue, it may refer the issue to an evaluation institution agreed upon by the parties or designated by the arbitration tribunal. Upon the request of the parties or the requirement of the arbitration tribunal, the evaluation institution shall send its experts to attend the hearing. With the permission of the arbitration tribunal, the parties may question the experts.

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

Article 46 — Under circumstances where evidence may be destroyed or lost or may be difficult to obtain later, a party may apply for evidence preservation. Where a party applies for evidence preservation, the arbitration commission shall submit the party's application to the basic-level 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.

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Article 48 — The arbitration tribunal shall make a written record of the hearing. The parties and other participants in the arbitration proceedings may apply to supplement or correct the record if they believe that the record of their statements is omitted or erroneous. If the supplementation or correction is not granted, the application shall be recorded. The written record shall be signed or sealed by the arbitrators, the recorder, the parties, and other participants in the arbitration proceedings.

Article 49 — After an application for arbitration is filed, the parties may reach a settlement on their own. If a settlement 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 the parties reach a settlement agreement and withdraw the application for arbitration and later renege on it, they may apply for arbitration based on the original arbitration agreement.

Article 51 — The arbitration tribunal may first mediate before rendering an award. If the parties voluntarily request mediation, the arbitration tribunal shall mediate. Where mediation fails, an award shall be rendered in a timely manner. 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 reached by the parties. The written mediation statement shall have the same legal effect as the award.

Article 52 — The written mediation statement shall state the arbitral claim and the result of the agreement reached by the parties. The written mediation statement shall be signed by the arbitrators, sealed by the arbitration commission, and served on the parties. The written mediation statement shall become legally effective upon receipt by both parties. Where one party reneges before the written mediation statement is received by the parties, the arbitration tribunal shall render an award in a timely manner.

Article 53 — An award shall be rendered based on the opinion of the majority of the arbitrators, and the opinion of the minority of the arbitrators may be recorded in the written record. If the arbitration tribunal is unable to form a majority opinion, the award shall be rendered based on the opinion of the presiding arbitrator.

Article 54 — The written award shall state the arbitral claim, the facts of the dispute, the grounds 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 state the facts of the dispute and the grounds for the award, such matters may be omitted. The award shall be signed by the arbitrators and sealed by the arbitration commission. Any arbitrator holding a dissenting opinion may sign or choose not to sign the award.

Article 55 — Where the arbitration tribunal is able to render an award on part of the facts that are already clear, it may first render an award on such part.

Article 56 — Any clerical or computational errors in the written award, or any matters omitted in the award by the arbitration tribunal, shall be corrected or supplemented by the arbitration tribunal. The parties may, within 30 days from the date of receiving the written award, request the arbitration tribunal to make corrections or supplementation.

Article 57 — The award shall become legally effective on the date it is rendered.

Chapter V — Application for Setting Aside an Arbitration 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 it provides evidence proving that the award involves any of the following circumstances: (1) there is no arbitration agreement; (2) the matters decided in the award are beyond the scope of the arbitration agreement or are not within the jurisdiction of the arbitration commission; (3) the formation of the arbitration tribunal or the arbitration procedure contravenes the statutory procedure; (4) the evidence on which the award is based is forged; (5) the other party has withheld evidence that is sufficient to affect the impartiality of the award; (6) the arbitrator has demanded or accepted bribes, engaged

in malpractices for personal gain, or rendered an award in violation of the law during the arbitration of the case. The people's court shall form a collegial panel to examine and verify the matter and rule to set aside the award if it finds that the award involves any of the circumstances specified in the preceding paragraph. If the people's court finds that the award violates the 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 receiving the award.

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

Article 61 — Where the people's court accepts an application for setting aside an award and considers that the arbitration tribunal can correct the defect through re-arbitration, it shall stay the setting-aside proceedings and notify the arbitration tribunal to conduct re-arbitration within a specified time limit. If the arbitration tribunal refuses to conduct re-arbitration, the people's court shall rule to resume the setting-aside proceedings.

Chapter VI — Enforcement

Article 62 — The parties shall perform the award. Where one party fails to perform the award, the other party may apply to a 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 party against whom enforcement is sought provides evidence proving that the award involves any of the circumstances specified in the second paragraph of Article 213 of the Civil Procedure Law, the people's court shall, upon examination and verification by a collegial panel, 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 stay the enforcement. Where the people's court rules to set aside the award, it shall rule to terminate the enforcement. Where the application for setting aside the award is rejected by a ruling, the people's court shall rule to resume the enforcement.

Chapter VII — Special Provisions for Arbitration Involving Foreign-Related Matters

Article 65 — The provisions of this Chapter shall apply to arbitration of disputes arising from foreign economic, trade, transport, and maritime matters. Where this Chapter contains no provisions, other relevant provisions of this Law shall apply.

Article 66 — A foreign-related arbitration commission may be organized and established by the China Chamber of International Commerce. A foreign-related arbitration commission shall be composed of one 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 foreigners with specialized knowledge in law, economy and trade, science and technology, and other fields.

Article 68 — Where a party to a foreign-related arbitration case applies for evidence preservation, the foreign-related arbitration commission shall submit the party's application to the intermediate people's court at the place where the evidence is located.

Article 69 — A foreign-related arbitration tribunal may record the details of the hearing in a written record or make summary notes. The summary notes may be signed or sealed by the parties and other participants in the arbitration proceedings.

Article 70 — Where a party provides 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, upon examination and verification by a collegial panel, rule to set aside the award.

Article 71 — Where the party against whom enforcement is sought provides 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, upon examination and verification by a collegial panel, rule to disallow enforcement.

Article 72 — Where a party to a foreign-related arbitration case applies for enforcement of a legally effective arbitration award and the party against whom enforcement is sought or its property is not within the territory of the PRC, the party shall directly apply for recognition and enforcement to a competent foreign court.

Article 73 — The arbitration rules 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 provides a limitation period for arbitration, such provisions shall apply. Where the law does not provide a limitation period for arbitration, the provisions on the limitation period for litigation shall apply.

Article 75 — Before the China Arbitration Association formulates arbitration rules, arbitration commissions may formulate interim arbitration rules in accordance with this Law and the Civil Procedure Law.

Article 76 — The parties shall pay arbitration fees in accordance with the relevant provisions. The measures for the collection of arbitration fees shall be submitted to the price administration authority for approval.

Article 77 — Arbitration of labor disputes and disputes arising from agricultural contract within agricultural collective economic organizations shall be prescribed separately.

Article 78 — Where, before this Law is implemented, the relevant provisions on arbitration formulated prior to the implementation of this Law conflict with the provisions of this Law, the provisions of this Law shall prevail.

Article 79 — Arbitration institutions established before the implementation of this Law in municipalities directly under the Central Government, and in cities that are the seats of the people's governments of provinces or autonomous regions, or in other cities divided into districts shall be reorganized in accordance with the relevant provisions of this Law; those that are not reorganized shall be terminated upon expiration of one year from the date this Law is implemented. Other arbitration institutions established before the implementation of this Law that do not comply with the provisions of this Law shall be terminated on the date this Law is implemented.

Article 80 — This Law shall come into force on September 1, 1995.

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