Copyright Law of the People’s Republic of China

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of protecting the copyright of authors in their literary, artistic and scientific works and neighboring rights, encouraging the creation and dissemination of works beneficial to the construction of socialist spiritual and material civilization, and promoting the development and flourishing of socialist culture and sciences.

Article 2 — Works of Chinese citizens, legal persons, or unincorporated organizations, whether published or not, shall enjoy copyright in accordance with this Law.

Works of foreigners and stateless persons shall enjoy copyright protection under this Law based on the agreement concluded between the country to which the author belongs or in which the author habitually

resides and China, or the international treaty to which both countries are parties.

Works of foreigners and stateless persons first published in China shall enjoy copyright in accordance with this Law.

Works of authors from countries that have not concluded agreements with China or that are not parties to international treaties together with China, and works of stateless persons first published in a member country of an international treaty to which China is a party, or published simultaneously in a member country and a non-member country, shall be protected in accordance with this Law.

Article 3 — For the purposes of this Law, the term “works” means intellectual creations with originality in the literary, artistic or scientific domain that can be expressed in a certain form, including:

(1) written works; (2) oral works; (3) musical, dramatic, quyi, choreographic and acrobatic works; (4) works of fine art and architecture; (5) photographic works; (6) audiovisual works; (7) graphic works such as drawings of engineering designs and product designs, maps and sketches, and model works; (8) computer software; and (9) other intellectual creations that meet the characteristics of works.

Article 4 — Copyright holders and holders of neighboring rights shall not violate the Constitution and laws or harm the public interest when exercising their rights. The state shall supervise and administer the publication and dissemination of works in accordance with the law.

Article 5 — This Law shall not apply to:

(1) laws, regulations, resolutions, decisions and orders of state organs, other documents of a legislative, administrative or judicial nature, and their official translations; (2) mere information about facts or happenings; and (3) calendars, numerical tables, forms of general use and formulas.

Article 6 — The protection of copyright in works of folk literature and art shall be separately provided for by the State Council.

Article 7 — The copyright administration department under the State Council shall be responsible for the administration of copyright throughout the country. The copyright administration departments of local people’s governments at or above the county level shall be responsible for the administration of copyright within their respective administrative regions.

Article 8 — Copyright holders and holders of neighboring rights may authorize collective copyright management organizations to exercise their copyright or neighboring rights. Collective copyright management organizations established in accordance with the law shall be non-profit organizations, and after authorization, may exercise copyright or neighboring rights in their own name for the copyright holders and holders of neighboring rights, and may act as parties in litigation, arbitration, and mediation activities involving the copyright or neighboring rights.

Chapter II — Copyright

Section 1 — Copyright Holders and Their Rights

Article 9 — Copyright holders include:

(1) authors; and (2) other natural persons, legal persons or unincorporated organizations that enjoy copyright in accordance with this Law.

Article 10 — Copyright includes the following personal rights and property rights:

(1) the right of publication, that is, the right to decide whether to make a work public; (2) the right of authorship, that is, the right to claim authorship and to be named in connection with the work; (3) the right of revision, that is, the right to revise or authorize others to revise the work; (4) the right of integrity, that is, the right to protect the work against distortion and mutilation; (5) the right of reproduction, that is, the right to

produce one or more copies of the work by printing, photocopying, lithographing, making a sound recording or video recording, duplicating a recording, duplicating a photographic work, digitizing, or by other means; (6) the right of distribution, that is, the right to provide the original or reproductions of a work to the public by selling or donating; (7) the right of rental, that is, the right to non-gratuitously permit others to temporarily use audiovisual works or the original or reproductions of computer software, except where the computer software itself is not the primary subject matter of the rental; (8) the right of exhibition, that is, the right to publicly display the original or reproductions of a work of fine art or a photographic work; (9) the right of performance, that is, the right to publicly perform a work and publicly broadcast the performance of a work by various means; (10) the right of projection, that is, the right to publicly reproduce a work of fine art, a photographic work, an audiovisual work, or other works by technical equipment such as a projector or slide projector; (11) the right of broadcasting, that is, the right to publicly broadcast or retransmit a work by wire or wireless means, and to broadcast a work to the public through a loudspeaker or other similar means transmitting signs, sounds or images, but excluding the right specified in item (12) of this paragraph; (12) the right of communication through information network, that is, the right to make a work available to the public by wire or wireless means, so that members of the public may access the work at a time and place individually chosen by them; (13) the right of cinematography, that is, the right to fix a work on a medium by producing an audiovisual work; (14) the right of adaptation, that is, the right to modify a work to create a new work of original creation; (15) the right of translation, that is, the right to convert a work from one language to another; (16) the right of compilation, that is, the right to assemble a work or fragments of works into a new work through selection or arrangement; and (17) other rights that shall be enjoyed by the copyright holder.

A copyright holder may license others to exploit the economic rights specified in items (5) through (17) of the preceding paragraph and receive remuneration in accordance with the agreement or the provisions of this Law.

A copyright holder may wholly or partially transfer the economic rights specified in items (5) through (17) of the preceding paragraph and receive remuneration in accordance with the agreement or the provisions of this Law.

Section 2 — Ownership of Copyright

Article 11 — The natural person, legal person or unincorporated organization whose name is indicated as the author on a work shall be the author, and the work shall enjoy copyright, unless there is proof to the contrary.

The author of a work shall be the natural person who creates the work.

A legal person or unincorporated organization that hosts the creation, reflects its will, and assumes responsibility for the work shall be deemed the author of the work.

Article 12 — A natural person, legal person or unincorporated organization that affixes its name to a work as the author may register the work with the copyright administration department recognized by the state.

Article 13 — The copyright in a work of adaptation, translation, annotation, arrangement or compilation of a pre-existing work shall be enjoyed by the adapter, translator, annotator, arranger or compiler. However, the exercise of such copyright shall not prejudice the copyright in the pre-existing work.

Where a work of adaptation, translation, annotation or arrangement of a pre-existing work is exploited, permission shall be obtained from the copyright holder of the pre-existing work and the copyright holder of the work of adaptation, translation, annotation or arrangement, and remuneration shall be paid.

Article 14 — The copyright in a work created by two or more co-authors shall be jointly enjoyed by the co-authors. A person who has not participated in the creation shall not be a co-author.

Where a work of joint authorship can be separated and exploited independently, the co-authors may each independently enjoy the copyright in the parts that they have respectively created. However, in exercising the

copyright, the copyright in the work of joint authorship as a whole shall not be prejudiced.

Article 15 — The copyright in a compilation of several works, fragments of works, or data or other materials that do not constitute works, where the selection or arrangement of the contents reflects originality, shall be enjoyed by the compiler. However, in exercising the copyright, the copyright in the pre-existing works shall not be prejudiced.

Article 16 — When exploiting a work created in the course of adaptation, translation, annotation, arrangement, or compilation of a pre-existing work, permission shall be obtained from the copyright holder of the pre-existing work and the copyright holder of the derivative work, unless otherwise provided in this Law.

Article 17 — The copyright in a cinematographic work or television drama work among audiovisual works shall be enjoyed by the producer, but the scriptwriter, director, cinematographer, lyricist, composer and other authors shall enjoy the right of authorship and shall have the right to obtain remuneration in accordance with the contract concluded with the producer.

The ownership of copyright in other audiovisual works shall be determined by agreement between the parties. Where there is no agreement or the agreement is unclear, the copyright shall be enjoyed by the producer, but the authors shall enjoy the right of authorship and the right to obtain remuneration.

Article 18 — The copyright in a work created by a natural person in the course of fulfilling the tasks of a legal person or unincorporated organization shall be enjoyed by the author, but the legal person or unincorporated organization shall have the right of priority to exploit the work within its business scope. Within two years of the completion of the work, the author shall not, without the consent of the entity, authorize a third party to exploit the work in the same manner as the entity does.

Under any of the following circumstances, the author of a work created in the course of employment shall enjoy the right of authorship, and the legal person or unincorporated organization shall enjoy other copyright rights, and may reward the author:

(1) drawings of engineering designs and product designs, maps, schematic diagrams, computer software, and other works created mainly by using the material and technical resources of the legal person or unincorporated organization and for which the legal person or unincorporated organization bears responsibility; (2) works created by the staff of newspapers, periodicals, news agencies, radio stations and television stations; and (3) works of which the copyright is otherwise provided by laws, administrative regulations or contracts to be enjoyed by the legal person or unincorporated organization.

Article 19 — The term of protection of the rights of authorship, revision and integrity of an author shall be unlimited.

Article 20 — The term of protection of the right of publication and the economic rights in a work of a natural person shall be the lifetime of the author and 50 years after the death of the author, expiring on December 31 of the 50th year after the death of the author. In the case of a work of joint authorship, the term shall expire on December 31 of the 50th year after the death of the last surviving author.

In the case of a work of which the copyright (except the right of authorship) is enjoyed by a legal person or unincorporated organization, the term of protection of the right of publication shall be 50 years, expiring on December 31 of the 50th year after the completion of the work. The term of protection of the economic rights shall be 50 years, expiring on December 31 of the 50th year after the first publication of the work. Where the work has not been published within 50 years after its completion, it shall no longer be protected by this Law.

In the case of an audiovisual work, the term of protection of the right of publication shall be 50 years, expiring on December 31 of the 50th year after the completion of the work. The term of protection of the economic rights shall be 50 years, expiring on December 31 of the 50th year after the first publication of the work. Where the work has not been published within 50 years after its completion, it shall no longer be protected by this Law.

Section 3 — Limitations on Rights

Article 21 — In the following circumstances, a work may be exploited without the permission of, and without payment of remuneration to, the copyright holder, provided that the name or designation of the author and the title of the work are indicated, the normal exploitation of the work is not affected, and the legitimate rights and interests of the copyright holder are not unreasonably prejudiced:

(1) use of a published work of another for the purposes of the user's own personal study, research or appreciation; (2) appropriate quotation from a published work of another in one's own work for the purposes of introducing or commenting on a work, or explaining a point; (3) unavoidable reproduction or quotation of a published work by newspapers, periodicals, radio stations, television stations or other media for the purpose of reporting news; (4) publication or broadcasting by newspapers, periodicals, radio stations, television stations or other media of editorials or commentator's articles on current political, economic or religious topics that have been published by other newspapers, periodicals, radio stations, television stations or other media, unless the author declares that publication or broadcasting is not permitted; (5) publication or broadcasting by newspapers, periodicals, radio stations, television stations or other media of a speech delivered at a public meeting, unless the author declares that publication or broadcasting is not permitted; (6) translation, adaptation, compilation, broadcasting, or reproduction in a small quantity of published works by teachers or scientific researchers for classroom teaching or scientific research, but not for publication and distribution; (7) use of a published work by a state organ within the reasonable scope for the purpose of performing official duties; (8) reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery, cultural center or similar institution for the purposes of display or preservation of a copy; (9) free performance of a published work without collecting any fees from the public or paying any remuneration to the performers; (10) copying, drawing, photographing or video recording of an artistic work located or on display in a public place; (11) translation of a work published by a Chinese citizen, legal person or unincorporated organization from the standard spoken and written Chinese language into a minority nationality language for publication and distribution within the country; (12) provision of a published work to dyslexic persons in an accessible manner that they can perceive, without seeking profit; and (13) other circumstances provided by laws and administrative regulations.

Chapter III — Copyright Licensing and Transfer

Article 22 — A copyright license contract shall include the following main contents:

(1) the types of rights to be licensed; (2) whether the license is exclusive or non-exclusive; (3) the geographic area and the period of the license; (4) the standard and method of payment of remuneration; (5) liability for breach of contract; and (6) other matters deemed necessary by both parties.

Article 23 — A copyright transfer contract shall include the following main contents:

(1) the title of the work; (2) the types of rights to be transferred and the geographic area; (3) the transfer price; (4) the date and method of payment of the transfer price; (5) liability for breach of contract; and (6) other matters deemed necessary by both parties.

Article 24 — Where a copyright is pledged, both the pledgor and the pledgee shall complete the registration of the pledge.

Article 25 — A contract for licensing or transferring the economic rights in a work that is not concluded in writing shall be invalid, unless otherwise provided by this Law.

Chapter IV — Neighboring Rights

Section 1 — Publication by Book, Newspaper and Periodical Publishers

Article 26 — A book publisher who publishes a book shall conclude a publishing contract with and pay remuneration to the copyright holder.

Article 27 — The exclusive right enjoyed by a book publisher in accordance with the contract to publish the work delivered to it by the copyright holder shall be protected by law. No other person shall publish the same work.

Article 28 — A copyright holder shall deliver the work within the time limit specified in the contract. A book publisher shall publish the work in accordance with the publishing quality and time limit specified in the contract.

Section 2 — Performers

Article 29 — Performers shall enjoy the following rights in their performances:

(1) to be identified as the performer; (2) to protect the image of the performer in the performance against distortion; (3) to permit others to broadcast and communicate their live performance to the public, and to receive remuneration; (4) to permit others to make sound recordings and video recordings, and to receive remuneration; (5) to permit others to reproduce, distribute, or rent sound or video recordings of their performances, and to receive remuneration; and (6) to permit others to make their performances available to the public through information networks, and to receive remuneration.

Section 3 — Producers of Sound and Video Recordings

Article 30 — Producers of sound and video recordings shall enjoy the right to permit others to reproduce, distribute, rent, or make available to the public through information networks the sound or video recordings they have produced, and to receive remuneration. The term of protection of such rights shall be 50 years, expiring on December 31 of the 50th year after the first production of the recording is completed.

Section 4 — Rights of Radio and Television Stations

Article 31 — Radio and television stations shall have the right to prohibit the following acts without their permission:

(1) rebroadcasting the radio and television programs they have broadcast by wire or wireless means; (2) recording and reproducing the radio and television programs they have broadcast; and (3) making the radio and television programs they have broadcast available to the public through information networks.

Chapter V — Protection of Copyright and Neighboring Rights

Article 32 — Copyright holders, holders of neighboring rights and other right holders may take technical measures to protect their copyright and neighboring rights. No organization or individual shall intentionally circumvent or destroy technical measures, or manufacture, import or provide relevant devices or components to the public for the purpose of circumventing or destroying technical measures, unless otherwise provided by laws or administrative regulations.

Article 33 — In any of the following circumstances, technical measures may be circumvented:

(1) providing a small quantity of published works to teachers or scientific researchers for classroom teaching or scientific research, where the works cannot be obtained through normal channels; (2) providing published works to dyslexic persons in an accessible manner that they can perceive, where the works cannot be obtained through normal channels; (3) performing official duties by state organs in accordance with administrative, supervisory or judicial procedures; (4) testing the security performance of computers and their systems or networks; and (5) conducting encryption research or reverse engineering research on computer software.

Article 34 — Where a copyright or neighboring right is infringed, the infringer shall compensate the right holder based on the actual losses suffered by the right holder or the illegal gains of the infringer. Where the actual losses of the right holder or the illegal gains of the infringer are difficult to calculate, compensation may be made by reference to the amount of royalties for exploitation of the right. In the case of willful infringement where the circumstances are serious, the amount of compensation may be determined at not less than one and not more than five times the amount determined in accordance with the aforementioned method.

Where the actual losses of the right holder, the illegal gains of the infringer, and the royalties for exploitation of the right are all difficult to calculate, the people's court may, based on the circumstances of the infringement, render a judgment awarding compensation of not less than 500 RMB and not more than 5,000,000 RMB.

Article 35 — Where a copyright holder or holder of a neighboring right has evidence proving that another person is committing or is about to commit an act infringing upon its rights, and that failure to stop the act in time will cause irreparable harm to its legitimate rights and interests, it may apply to a people's court for measures such as an order to stop the relevant act and for property preservation, in accordance with the law.

Chapter VI — Supplementary Provisions

Article 36 — For the purposes of this Law, the term "publication" means the reproduction and distribution of a work to the public.

Article 37 — The provisions of this Law concerning the protection of copyright in works of authors shall apply by analogy to the protection of copyright in works of performers, producers of sound and video recordings, and radio and television stations, unless otherwise provided in this Law.

Article 38 — This Law shall take effect as of June 1, 1991.

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