

Copyright Law of the PRC

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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 of literary, artistic, and scientific works and neighboring rights, encouraging the creation and dissemination of works conducive to the construction of socialist spiritual and material civilization, and promoting the development and prosperity of socialist culture and science.

Article 2 — Chinese citizens, legal persons, or unincorporated organizations shall enjoy copyright in their works, whether published or not, in accordance with this Law. Works of foreigners and stateless persons shall be protected by this Law on the basis of the agreement concluded between the country to which the author belongs or in which the author has habitual residence and China, or the international treaty to which both countries are parties. Works of foreigners and stateless persons first published in the territory of China shall enjoy copyright in accordance with this Law. Works of authors of countries that have not concluded an agreement with China or are not parties to an international treaty with China together, and works of stateless persons, that are first published in a country that is a party to an international treaty of which China is a member, or published simultaneously in a member country and a non-member country, shall be protected by this Law.

Article 3 — For the purposes of this Law, "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) fine art and architectural works; (5) photographic works; (6) audiovisual works; (7) graphic works such as engineering design plans, product design drawings, maps, and schematic drawings, and model works; (8) computer software; (9) other intellectual creations that conform to the characteristics of works.

Article 4 — Copyright holders and copyright-related right holders shall not violate the Constitution and laws or endanger public interests 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, orders of state organs, other documents of a legislative, administrative, or judicial nature, and the official translations thereof; (2) mere information about facts and events; (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 national copyright administrative department shall be responsible for the administration of copyright throughout the country. The local copyright administrative departments of the people's governments at the county level and above shall be responsible for the administration of copyright within their respective administrative areas.

Article 8 — Copyright holders and copyright-related right holders may authorize a copyright collective management organization to exercise their copyright or copyright-related rights. A copyright collective management organization established in accordance with the law is a non-profit organization. After being authorized, it may, in its own name, claim rights on behalf of the copyright holders and copyright-related right holders, and may participate as a party in litigation, arbitration, or mediation activities relating to copyright or copyright-related rights. The establishment and method of operation of copyright collective management organizations, the collection and distribution of royalties, and the supervision and administration thereof shall be separately provided for by the State Council.

Chapter II — Copyright

Section 1 — Copyright Holders and Their Rights

Article 9 — Copyright holders include: (1) authors; (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 have the author's name mentioned in connection with the work; (3) the right of revision, that is, the right to revise or authorize others to revise a work; (4) the right of integrity, that is, the right to protect a work against distortion and mutilation; (5) the right of reproduction, that is, the right to reproduce a work by printing, photocopying, lithographing, making a sound recording or video recording, duplicating a recording, or 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 sale or donation; (7) the right of rental, that is, the right to non-gratuitously permit others to temporarily use audiovisual works, computer software, or the originals or reproductions of works contained in phonograms, except where the computer software itself is not the main object of the rental; (8) the right of exhibition, that is, the right to publicly display the originals or reproductions of fine art works or photographic works; (9) the right of performance, that is, the right to publicly perform a work and to publicly broadcast a performance of a work by any means; (10) the right of projection, that is, the right to publicly reproduce fine art works, photographic works, audiovisual works, and 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 rebroadcast a work by wire or wireless means, to broadcast a work to the public by loudspeaker or other similar instruments 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 provide a work to the public by wire or wireless means, so that members of the public may access the work from a place and at a time 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 or by analogous means; (14) the right of adaptation, that is, the right to change a work to create a new work of original creativity; (15) the right of translation, that is, the right to transform a work from one language into another language; (16) the right of compilation, that is, the right to assemble works or fragments of works into a new work through selection or arrangement; (17) other rights that shall be enjoyed by the copyright holder. A copyright holder may authorize others to exercise the rights specified in Items (5) through (17) of the preceding paragraph and may receive remuneration in accordance with the agreement or the relevant provisions of this Law. A copyright holder may assign, in whole or in part, the rights specified in Items (5) through (17) of the first paragraph of this Article and may receive remuneration in accordance with the agreement or the relevant provisions of this Law.

Section 2 — Ownership of Copyright

Article 11 — Except where otherwise provided for in this Law, the copyright in a work shall belong to its author. The natural person, legal person, or unincorporated organization whose name is affixed to a work in the usual manner shall be the author of the work and shall enjoy the corresponding rights in the work, unless it is proved to the contrary. The authors of works created under the commission and works of special employment shall be determined in accordance with the agreements between the parties; where there is no agreement or the agreement is not clear, the copyright in the work shall belong to the author.

Article 12 — The natural person, legal person, or unincorporated organization whose name is affixed to a work in the usual manner shall be the author of the work and shall enjoy the corresponding rights in the work, unless it is proved to the contrary. Authors and other copyright holders may register their works with a registration authority recognized by the national copyright administrative department. The registration certificate shall be prima facie evidence of the registered matters.

Article 13 — Where a work is created by adaptation, translation, annotation, arrangement, or compilation of a preexisting work, the copyright in such work shall be enjoyed by the adaptor, translator, annotator, arranger, or compiler, provided that the exercise of such copyright shall not infringe upon the copyright in the original

work.

Article 14 — Where a work is created jointly by two or more authors, the copyright in the work shall be jointly enjoyed by the co-authors. A person who does not participate in the creation of the work shall not be a co-author. Where a work of joint authorship is divisible, each co-author may separately enjoy copyright in the part he created, provided that the exercise of such copyright shall not infringe upon the copyright in the work as a whole. Where a work of joint authorship is indivisible, the copyright shall be exercised by the co-authors through consensus; where consensus cannot be reached and there is no justifiable reason, no party shall prevent the other parties from exercising the rights other than assignment, licensing to others, or pledging, provided that the proceeds shall be reasonably distributed among all co-authors.

Article 15 — A work formed by assembling a number of works, fragments of works, or data or other materials that do not constitute a work, where the selection or arrangement of the content reflects originality, is a compilation work. The copyright in the compilation work shall be enjoyed by the compiler, provided that the exercise of such copyright shall not infringe upon the copyright in the preexisting works.

Article 16 — Where a work is created by adaptation, translation, annotation, arrangement, or compilation of a preexisting work for publication, performance, or sound recording production, the permission of the copyright holder of the work from which it is adapted, translated, annotated, arranged, or compiled, and the permission of the copyright holder of the original work shall be obtained, and remuneration shall be paid.

Article 17 — The copyright in a cinematographic work or a television play work among audiovisual works shall be enjoyed by the producer, but the screenwriter, director, photographer, lyricist, composer, and other authors shall enjoy the right of authorship and shall be entitled to receive remuneration in accordance with the contracts concluded with the producer. The ownership of copyright in other audiovisual works shall be agreed upon by the parties; where there is no agreement or the agreement is not clear, the copyright shall be enjoyed by the producer, but the authors shall enjoy the right of authorship and the right to receive remuneration. For the scripts, music, and other works that can be exploited independently among the works included in the audiovisual work, the authors shall have the right to exercise their copyright independently.

Article 18 — A work created by a natural person in the fulfillment of tasks assigned by a legal person or unincorporated organization is a work made for hire. Unless otherwise specified in paragraph 2 of this Article, the copyright in such a work shall be enjoyed by the author, but the legal person or unincorporated organization shall have the right of priority to exploit the work within the scope of its business activities. Within two years after 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. In any of the following circumstances, the author of a work made for hire shall enjoy the right of authorship, and other rights of copyright shall be enjoyed by the legal person or unincorporated organization, which may reward the author: (1) graphic works such as engineering design plans, product design drawings, maps, schematic drawings, computer software, and other works that are created mainly by utilizing the material and technical resources of the legal person or unincorporated organization and for which the legal person or unincorporated organization assumes responsibility; (2) works created by employees of newspapers, periodicals, news agencies, radio stations, and television stations; (3) works for which laws or administrative regulations provide, or the parties agree, that the copyright shall be enjoyed by the legal person or unincorporated organization.

Article 19 — The term of protection of the right of authorship, the right of revision, and the right of integrity shall be unlimited. The term of protection of the right of publication and the property rights specified in Items (5) through (17) of paragraph 1 of Article 10 of this Law in respect of a work of a natural person shall be the lifetime of the author and 50 years after his death, 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. For a work of a legal person or unincorporated organization, or a work made for hire (except the right of authorship) where the copyright (except the right of authorship) is

enjoyed by the 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 rights specified in Items (5) through (17) of paragraph 1 of Article 10 of this Law shall be 50 years, expiring on December 31 of the 50th year after the first publication of the work. However, if the work has not been published within 50 years of its completion, it shall no longer be protected by this Law. For 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 rights specified in Items (5) through (17) of paragraph 1 of Article 10 of this Law shall be 50 years, expiring on December 31 of the 50th year after the first publication of the work. However, if the work has not been published within 50 years of its completion, it shall no longer be protected by this Law.

Section 3 — Term of Protection of Rights

Article 20 — The term of protection of the rights of a performer shall be 50 years, expiring on December 31 of the 50th year after the performance takes place. The term of protection of the rights of a sound recording or video recording producer shall be 50 years, expiring on December 31 of the 50th year after the production of the recording is completed for the first time. The term of protection of the rights of a radio station or television station shall be 50 years, expiring on December 31 of the 50th year after the broadcast is made for the first time.

Article 21 — In the case of a citizen's work, where the term of protection of the right of publication and the rights specified in Items (5) through (17) of paragraph 1 of Article 10 of this Law is as provided in paragraph 1 of Article 19 of this Law, if the work is not published during the author's lifetime, the right of publication and the said rights may be exercised by the successor or the legatee of the work within 50 years after the death of the author. Where there is no successor or legatee, the said rights shall be enjoyed by the owner of the original work.

Section 4 — Limitations on Rights

Article 22 — The author's right of authorship, right of revision, and right of integrity shall be protected without limitation as to time. Where a citizen's work whose right of publication and the rights provided in Items (5) through (17) of paragraph 1 of Article 10 of this Law are protected within the term stipulated in paragraph 1 of Article 21 of this Law, and the author is deceased, the signature, modification, and integrity of the work shall be protected by the author's successor or legatee. Where there is no successor or legatee, the copyright administrative department shall protect the same.

Article 23 — The copyright in a work of an unknown author shall be exercised by the owner of the original work, except for the right of authorship. Where the author is identified and the term of protection for the right is determined, the copyright shall be exercised by the author or his successor.

Article 24 — In the following cases, a work may be exploited without 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 mentioned, the normal exploitation of the work is not affected, and the lawful rights and interests of the copyright holder are not unreasonably prejudiced: (1) use of another person's published work for the purposes of personal study, research, or appreciation; (2) appropriate quotation from another person's published work in one's own work for the purpose of introducing or commenting on a certain work or explaining a certain point; (3) unavoidable reproduction or quotation of a published work in 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 current event articles on 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 such 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 gathering, unless the

author declares that such publication or broadcasting is not permitted; (6) translation, adaptation, compilation, broadcasting, or reproduction in a small quantity of a published work for use in classroom teaching or scientific research by teaching or scientific research personnel, provided that the work is not published or distributed; (7) use of a published work by a state organ within the reasonable scope for the purpose of performing its official duties; (8) reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery, cultural center, or other similar institution for the purpose of display or preservation of a version; (9) free performance of a published work, where no fees are charged to the public for the performance, no remuneration is paid to the performers, and the performance is not for profit; (10) copying, drawing, photographing, or video recording of a work of art set up or displayed in a public place; (11) translation of a work published by a Chinese citizen, legal person, or unincorporated organization that is created in the standard spoken and written Chinese language into a minority nationality language and its publication and distribution within the country; (12) provision of a published work to dyslexic persons in an accessible manner that they can perceive, provided that the work is not published or distributed for profit; (13) other circumstances provided for by laws or administrative regulations. The provisions of the preceding paragraph shall apply to limitations on copyright-related rights.

Article 25 — Textbooks compiled and published for the purpose of implementing the compulsory education and national education plans may, without the permission of the copyright holder, compile fragments of published works, short written works, musical works, or single copies of fine art works, photographic works, or graphic works in the textbooks, provided that remuneration is paid to the copyright holder in accordance with the provisions, the name or designation of the author and the title of the work are mentioned, and the other rights enjoyed by the copyright holder in accordance with this Law are not infringed upon. The provisions of the preceding paragraph shall apply to limitations on copyright-related rights.

Chapter III — Copyright Licensing and Assignment

Article 26 — A copyright licensing contract shall include the following main contents: (1) the types of rights to be licensed; (2) whether the licensing right is exclusive or non-exclusive; (3) the geographic scope and term of the license; (4) the standard and method of payment of remuneration; (5) liability for breach of contract; (6) other matters that both parties consider necessary to agree upon. Where a license contract is concluded without the written permission of the copyright holder, the licensee shall not exercise any right not expressly licensed by the copyright holder.

Article 27 — A copyright assignment contract shall include the following main contents: (1) the title of the work; (2) the types of rights to be assigned and the geographic scope; (3) the assignment price; (4) the date and method of payment of the assignment price; (5) liability for breach of contract; (6) other matters that both parties consider necessary to agree upon.

Article 28 — For the assignment of the rights specified in Items (5) through (17) of paragraph 1 of Article 10 of this Law, the parties shall conclude a written contract. The copyright assignment contract shall be filed with the copyright administrative department. Where the assignment contract is not in writing or is not filed, it shall not be used against a third party acting in good faith.

Article 29 — Where a work on which the property rights of copyright have been licensed or assigned may be lawfully exploited as a pledge, the pledge shall be handled in accordance with the relevant provisions of the state.

Article 30 — Unless otherwise agreed by the parties, where the property rights of copyright are licensed or assigned, for a work the original of which is in the possession of the copyright holder, the copyright holder shall not be obligated to deliver the original to the licensee or assignee. The right to exhibit the original of a fine art work or photographic work shall be enjoyed by the owner of the original.

Article 31 — A publisher who publishes a book shall conclude a publishing contract with and pay remuneration to the copyright holder. During the term of the contract, the book publisher shall enjoy the exclusive right to publish the work delivered to it by the copyright holder for publication. The term of the exclusive publishing right enjoyed by the book publisher as stipulated in the contract shall not exceed 10 years, but the contract may be renewed upon its expiration. The exclusive publishing right enjoyed by the book publisher as stipulated in the contract shall be protected by law, and others shall not publish the work.

Chapter IV — Neighboring Rights

Section 1 — Publication by Book Publishers

Article 32 — A copyright holder who has delivered a manuscript to a book publisher for publication shall, within 30 days from the date of delivery of the manuscript in the case of a newspaper, and within 15 days from the date of delivery of the manuscript in the case of a periodical, notify the copyright holder whether the manuscript will be published; the copyright holder shall have the right to deliver the same manuscript to another newspaper or periodical for publication if no notification is received within the above time limit. Unless otherwise agreed by the parties, after a work is published, other newspapers or periodicals may reprint the work or publish it as an abstract or summary, provided that remuneration is paid to the copyright holder in accordance with the provisions. Unless the copyright holder declares that reprinting or excerpting is not permitted, a newspaper or periodical that reprints or excerpts a work shall pay remuneration to the copyright holder in accordance with the provisions.

Article 33 — A book publisher may, with the permission of the author, revise or abridge the work. A publisher of a newspaper or periodical may make editorial revisions and abridgments to a work, but modifications to the content shall be subject to the permission of the author.

Article 34 — A publisher shall have the right to permit or prohibit others from using the format design of the books or periodicals it has published. The term of protection of the right specified in the preceding paragraph shall be 10 years, expiring on December 31 of the 10th year after the first publication of the book or periodical using the format design.

Section 2 — Performance

Article 35 — A performer (an actor or performing entity) who uses another person's work for performance shall obtain permission from the copyright holder and pay remuneration. Where a performance is organized by a performance organizer, the organizer shall obtain permission from the copyright holder and pay remuneration. A performer who uses a work created by adaptation, translation, annotation, or arrangement of a preexisting work for performance shall obtain permission from both the copyright holder of the adaptation, translation, annotation, or arrangement and the copyright holder of the original work, and pay remuneration.

Article 36 — A performance organizer that organizes a performance shall obtain permission from the copyright holder and pay remuneration.

Article 37 — A performer shall enjoy the following rights in his performance: (1) to claim performership; (2) to protect the image of his performance from distortion; (3) to permit others to broadcast or publicly transmit his live performance, and to receive remuneration therefor; (4) to permit others to make sound recordings or video recordings, and to receive remuneration therefor; (5) to permit others to reproduce, distribute, or rent sound recordings or video recordings of his performance, and to receive remuneration therefor; (6) to permit others to provide his performance to the public through information networks, and to receive remuneration therefor. Where a performance is by a performing entity, the entity shall enjoy the rights specified in Items (1) and (2) of the preceding paragraph. The licensee who is permitted to exploit a work in the manner specified in Items (3) through (6) of the first paragraph of this Article shall also obtain permission from the copyright holder and pay remuneration.

Section 3 — Sound Recordings and Video Recordings

Article 38 — A producer of sound recordings who uses another person's work to produce a sound recording shall obtain permission from the copyright holder and pay remuneration. A producer of sound recordings who uses a work created by adaptation, translation, annotation, or arrangement of a preexisting work shall obtain permission from both the copyright holder of the adaptation, translation, annotation, or arrangement and the copyright holder of the original work, and pay remuneration. Where a musical work has been lawfully recorded as a sound recording by another person, a subsequent producer of a sound recording of the musical work may produce the recording without the permission of the copyright holder, provided that remuneration is paid to the copyright holder in accordance with the provisions; this shall not apply where the copyright holder declares that such use is not permitted.

Article 39 — When producing a sound recording or video recording of another person's work, the producer shall conclude a contract with the performer and pay remuneration. The producer of a sound recording or video recording shall have the right to permit others to reproduce, distribute, or rent the sound recording or video recording and to receive remuneration therefor; the term of protection of such right shall be 50 years, expiring on December 31 of the 50th year after the production of the recording is completed for the first time. A licensee who reproduces, distributes, or provides a sound recording to the public through information networks shall also obtain permission from the copyright holder and the performer and pay remuneration.

Section 4 — Broadcasting by Radio Stations and Television Stations

Article 40 — A radio station or television station that broadcasts an unpublished work of another person shall obtain permission from the copyright holder and pay remuneration. A radio station or television station that broadcasts a published work of another person may do so without permission of the copyright holder, but shall pay remuneration in accordance with the provisions. This shall not apply to audiovisual works and video recordings.

Article 41 — A radio station or television station shall have the right to prohibit the following acts without its permission: (1) rebroadcasting the radio or television program it has broadcast by wire or wireless means; (2) recording its radio or television program and reproducing the recording; (3) providing its radio or television program to the public through information networks. The term of protection of the right specified in the preceding paragraph shall be 50 years, expiring on December 31 of the 50th year after the broadcast is made for the first time. A radio station or television station that exercises its rights shall not affect, restrict, or prejudice the lawful exercise of copyright or copyright-related rights by others.

Chapter V — Protection of Copyright and Neighboring Rights

Article 42 — Where a copyright holder or a copyright-related right holder has evidence to prove that another person is committing or will commit an act infringing upon its rights or hindering the realization thereof, and failure to promptly stop the act will cause irreparable harm to its lawful rights and interests, it may, before bringing a lawsuit, apply to the people's court for an order to stop the relevant act and for property preservation in accordance with the law.

Article 43 — To stop an infringing act, a copyright holder or copyright-related right holder may, before bringing a lawsuit, apply to the people's court for preservation of evidence where the evidence may be destroyed or lost or become difficult to obtain later. Upon granting the application, the people's court shall make a ruling within 48 hours. Where property preservation is granted, enforcement shall begin immediately. The people's court may order the applicant to provide security; where the applicant fails to provide security, the application shall be rejected. Where the applicant fails to bring a lawsuit within 15 days after the people's court has adopted the preservation measures, the people's court shall lift the preservation measures.

Article 44 — The people's court hearing a case involving infringement of copyright or copyright-related rights shall, at the request of the right holder, order the destruction of the infringing reproductions, except under

special circumstances; order the destruction of the materials, tools, equipment, and other items mainly used for making the infringing reproductions, without compensation; or, under special circumstances, order the prohibition of the entry of the foregoing materials, tools, equipment, and other items into commercial channels without compensation. Counterfeit reproductions shall not enter commercial channels after simply removing the counterfeit trademark.

Article 45 — Where a copyright holder or copyright-related right holder claims infringement and the infringer denies it, the infringer shall provide evidence proving that it has obtained the permission of the right holder or that it falls under any of the circumstances provided for in this Law where permission is not required.

Article 46 — A publisher or performer shall, in accordance with the relevant provisions, clearly state the right holder's name and the source of the work, and shall accurately indicate the author and title of the work.

Article 47 — A person who commits any of the following infringing acts shall, according to the circumstances, bear civil liability such as ceasing the infringing act, eliminating the effects of the act, making an apology, or paying compensation for losses: (1) publishing a work without the permission of the copyright holder; (2) publishing a work of joint authorship as a work created solely by oneself without the permission of the other co-authors; (3) affixing one's name to another person's work without participating in the creation of the work, for the purpose of seeking personal fame or gain; (4) distorting or mutilating another person's work; (5) plagiarizing another person's work; (6) exploiting a work by exhibition, making audiovisual works, or by means of adaptation, translation, annotation, or other means without the permission of the copyright holder, unless otherwise provided for in this Law; (7) exploiting another person's work without paying remuneration as required; (8) renting an audiovisual work, computer software, or the original or reproduction of a work contained in a phonogram without the permission of the copyright holder or copyright-related right holder, unless otherwise provided for in this Law; (9) using the format design of a published book or periodical without the permission of the publisher; (10) broadcasting or publicly transmitting a live performance, or making a sound recording or video recording of a performance without the permission of the performer; (11) infringing upon other copyrights or copyright-related rights.

Article 48 — A person who commits any of the following infringing acts shall, according to the circumstances, bear civil liability as specified in Article 47 of this Law; where the infringing act simultaneously prejudices public interests, the copyright administrative department shall order the infringer to cease the infringing act, issue a warning, confiscate the unlawful gains, confiscate and harmlessly destroy the infringing reproductions and the materials, tools, equipment, and other items mainly used for making the infringing reproductions; where the illegal turnover exceeds RMB 50,000, a fine of not less than one time but not more than five times the illegal turnover may be imposed concurrently; where the illegal turnover is difficult to calculate, or is less than RMB 50,000, or there is no illegal turnover, a fine of not more than RMB 250,000 may be imposed concurrently; where a crime is constituted, criminal liability shall be pursued in accordance with the law: (1) reproducing, distributing, performing, projecting, broadcasting, compiling, or disseminating a work to the public through information networks without the permission of the copyright holder, unless otherwise provided for in this Law; (2) publishing a book for which another person has the exclusive publishing right; (3) reproducing or distributing a sound recording or video recording of a performance, or disseminating a performance to the public through information networks without the permission of the performer, unless otherwise provided for in this Law; (4) reproducing, distributing, or disseminating a sound recording or video recording to the public through information networks without the permission of the producer, unless otherwise provided for in this Law; (5) broadcasting, reproducing, or disseminating a radio or television program to the public through information networks without permission, unless otherwise provided for in this Law; (6) intentionally circumventing or destroying the technological measures taken by a right holder for protecting the copyright or copyright-related rights in a work, sound recording or video recording, or other similar subject matter without the permission of the right holder, or intentionally manufacturing, importing, or providing to others devices or components mainly used for circumventing or

destroying such technological measures, or intentionally providing technical services to others for circumventing or destroying such technological measures, unless otherwise provided for by laws or administrative regulations; (7) intentionally deleting or altering the electronic rights management information of a work, format design, performance, sound recording or video recording, or radio or television program without the permission of the right holder, or providing such a work, format design, performance, sound recording or video recording, or radio or television program knowing or should have known that the electronic rights management information has been deleted or altered without permission, unless otherwise provided for by laws or administrative regulations; (8) producing or selling a work counterfeiting the signature of another person.

Article 49 — Where infringement of copyright or copyright-related rights occurs, the infringer shall make compensation on the basis of the actual losses suffered by the right holder or the illegal gains of the infringer; where it is difficult to calculate the actual losses of the right holder or the illegal gains of the infringer, compensation may be made by reference to the royalties for the relevant rights. Where the infringement of copyright or copyright-related rights is willful and the circumstances are serious, the amount of compensation may be determined at not less than one time and not more than five times the amount determined in accordance with the preceding paragraph. Where it is difficult to calculate the actual losses of the right holder, the illegal gains of the infringer, or the royalties, the people's court shall, according to the circumstances of the infringement, award compensation of not less than RMB 500,000 and not more than RMB 5,000,000. The amount of compensation shall also include the reasonable expenses incurred by the right holder in stopping the infringing act. The people's court may, for the purpose of determining the amount of compensation, order the infringer to provide the account books, materials, and other evidence relating to the infringing act where the right holder has fulfilled its burden of proof and the relevant account books, materials, and other evidence are mainly in the possession of the infringer; where the infringer refuses to provide or provides false account books, materials, or other evidence, the people's court may determine the amount of compensation by reference to the right holder's claims and the evidence provided. When hearing copyright dispute cases, the people's court shall, at the request of the right holder, order the destruction of the infringing reproductions, except under special circumstances; order the destruction of the materials, tools, equipment, and other items mainly used for making the infringing reproductions without compensation; or, under special circumstances, order the prohibition of the entry of the foregoing materials, tools, equipment, and other items into commercial channels without compensation.

Article 50 — Where a copyright holder or copyright-related right holder claims compensation for infringement, the alleged infringer shall prove that it has obtained the permission of the right holder, or that it otherwise falls under any of the circumstances provided for in this Law where permission is not required.

Article 51 — Where a copyright dispute arises, the parties may mediate or apply to an arbitration institution for arbitration in accordance with the written arbitration agreement reached between the parties or the arbitration clause in the copyright contract. Where the parties fail to reach a written arbitration agreement or the copyright contract does not contain an arbitration clause, they may bring a lawsuit directly with the people's court.

Article 52 — In the case of a dispute over copyright infringement, the people's court may confiscate the unlawful gains, the infringing reproductions, and the property used for illegal activities.

Article 53 — Where a publisher or producer of reproductions fails to prove that its publication or production is lawfully authorized, or a distributor of reproductions or a lessor of reproductions of an audiovisual work, computer software, or a work contained in a phonogram fails to prove that the reproductions it distributes or rents have a lawful source, it shall bear legal liability. In the course of litigation, where the alleged infringer claims a defense of lawful authorization or lawful source, it shall bear the burden of proof.

Article 54 — Where a party fails to perform its contractual obligations or its performance does not conform to the agreed terms, it shall bear civil liability in accordance with the General Provisions of the Civil Law of the

PRC, the Contract Law of the PRC, and other relevant laws. Where a dispute arises over a copyright contract, the parties may apply to an arbitration institution for arbitration in accordance with the arbitration clause in the contract or a written arbitration agreement reached subsequently. Where the parties fail to include an arbitration clause in the contract or fail to reach a written arbitration agreement subsequently, or the arbitration clause or arbitration agreement is invalid, they may bring a lawsuit directly with the people's court. Where a party fails to perform within the time limit a ruling on arbitration or a mediation agreement that has come into legal effect, the other party may apply to the people's court for enforcement. Where the people's court accepting the application finds the ruling on arbitration or the mediation agreement unlawful, it shall have the right not to enforce the same. Where the people's court does not enforce a ruling on arbitration or a mediation agreement, the parties may renegotiate and reach a new written arbitration agreement, or bring a lawsuit with the people's court.

Article 55 — Where a copyright holder or copyright-related right holder has evidence to prove that another person is committing or will commit an act infringing upon its rights or hindering the realization thereof, and its lawful rights and interests will suffer irreparable harm if such act is not stopped in a timely manner, the copyright holder or copyright-related right holder may, before bringing a lawsuit, apply to the people's court for an order to stop the relevant act and for property preservation in accordance with the law.

Chapter VI — Supplementary Provisions

Article 56 — For the purposes of this Law, the term "copyright" and "authorship" are synonymous.

Article 57 — For the purposes of Article 2 of this Law, "publication" means reproduction and distribution of a work to the public.

Article 58 — Regulations for the protection of computer software and the right of communication through information networks shall be separately formulated by the State Council.

Article 59 — In the case of any of the circumstances specified in this Law, where both this Law and the relevant laws, administrative regulations, or international treaties provide for a right, the provisions of this Law shall prevail unless the international treaty provides otherwise. The rights of copyright holders, publishers, performers, producers of sound recordings and video recordings, radio stations, and television stations that have not yet expired on the date of implementation of this Law under the Copyright Law in force prior to the implementation of this Law shall continue to be protected in accordance with this Law. Infringements of copyright and copyright-related rights that occurred prior to the implementation of this Law shall be dealt with in accordance with the relevant provisions in force at the time of the infringement.

Article 60 — This Law shall come into force on June 1, 1991.

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