Copyright Law of the PRC

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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 the rights and interests related to copyright, encouraging the creation and dissemination of works conducive to the construction of socialist spiritual and material civilization, and promoting the development and flourishing of socialist culture and science.

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

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Article 3 — “Works” as used in this Law shall refer to original intellectual achievements in the fields of literature, art, and science that can be expressed in a certain form, including:

(1) Written works;

(2) Oral works;

(3) Musical, dramatic, quyi, choreographic, and acrobatic works;

(4) Artistic and architectural works;

(5) Photographic works;

(6) Audiovisual works;

(7) Graphic works and model works such as engineering design drawings, product design drawings, maps, and schematic diagrams;

(8) Computer software;

(9) Other intellectual achievements conforming to the characteristics of works.

Article 4 — Copyright owners and copyright-related right holders shall not violate the Constitution and laws or prejudice 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) Pure factual information such as current news reports on mere facts;

(3) Calendars, numerical tables, forms and formulas of general use.

Article 6 — The copyright administration department under the State Council shall be responsible for the administration of copyright throughout the country. The copyright administration departments of the local people’s governments at or above the county level shall be responsible for the administration of copyright within their respective administrative regions.

Article 7 — The State shall encourage the creation and dissemination of works conducive to the construction of socialist spiritual and material civilization and shall support the creation and dissemination of works that are of an educational nature or serve the public interest.

Chapter II — Copyright

Article 8 — “Copyright owners” as used in this Law shall include authors and other natural persons, legal persons, or unincorporated organizations that enjoy copyright in accordance with this Law.

Article 9 — Copyright shall include the following personal rights and property rights:

(1) The right of publication, that is, the right to decide whether to make a work available to the 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 produce one or more copies of a work by means of printing, photocopying, rubbing, sound recording, video recording, ripping, photographic reproduction, digitization, or otherwise;

(6) The right of distribution, that is, the right to provide the original or copies of a work to the public by means of sale or donation;

(7) The right of rental, that is, the right to non-gratuitously permit others to temporarily use an audiovisual work or computer software, unless the computer software is not the main object of the rental;

(8) The right of exhibition, that is, the right to publicly display the original or copies of an artistic work or photographic work;

(9) The right of performance, that is, the right to publicly perform a work and to publicly broadcast a work by various means;

(10) The right of screening, that is, the right to publicly reproduce an artistic work, photographic work, or audiovisual work by means of a projector, slide projector, or other technical equipment;

(11) The right of broadcasting, that is, the right to publicly broadcast or rebroadcast a work by wire or wireless means, and to communicate a broadcast work to the public by means of a loudspeaker or other similar instrument for transmitting signs, sounds, or images, but does not include 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 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 means of producing an audiovisual work or by a process analogous to cinematography;

(14) The right of adaptation, that is, the right to change a work into a new work with originality;

(15) The right of translation, that is, the right to convert a work from one language into another language;

(16) The right of compilation, that is, the right to compile, by selection or arrangement, works or fragments of works into a new work;

(17) Other rights that shall be enjoyed by copyright owners.

A copyright owner may permit others to exercise the rights specified in items (5) through (17) of the preceding paragraph and receive remuneration in accordance with an agreement or the relevant provisions of this Law. A copyright owner may assign all or part of the rights specified in items (5) through (17) of the preceding paragraph and receive remuneration in accordance with an agreement or the relevant provisions of this Law.

Article 10 — The copyright in a work shall belong to the author, unless otherwise provided for in this Law. The natural person, legal person, or unincorporated organization whose name is affixed to a work shall be the author, and the corresponding rights shall vest in the author, unless there is proof to the contrary. Authors and other copyright owners may register their works with the registration authority designated by the national copyright administration department.

Article 11 — Where a work is created by adaptation, translation, annotation, arrangement, or compilation of a pre-existing work, the copyright in the resulting work shall be enjoyed by the person who adapted, translated, annotated, arranged, or compiled the work, provided that the exercise of such copyright shall not prejudice the copyright in the original work.

Article 12 — Where a work is created by two or more authors jointly, the copyright shall be enjoyed jointly by the co-authors. Any person who did not participate in the creation shall not become a co-author. The copyright in a work of joint authorship shall be exercised by the co-authors upon consensus through negotiation. Where no consensus can be reached and there is no justifiable reason, no party may prevent the other parties from exercising rights other than assignment, licensing to others on an exclusive basis, or

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creating a pledge. However, the proceeds obtained shall be reasonably distributed among all co-authors. Where a work of joint authorship can be used separately, each co-author may independently enjoy the copyright in the part created by that co-author, provided that the exercise of such copyright shall not prejudice the copyright in the joint work as a whole.

Article 13 — The copyright in a work created in the course of employment to fulfill the tasks of a natural person's employer shall be enjoyed by the author, provided that the legal person or unincorporated organization shall have the right of priority to use the work within the scope of its business. Within two years after the completion of the work, the author shall not, without the consent of the entity, permit a third party to use 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, while other copyright rights shall be enjoyed by the legal person or unincorporated organization, which may grant rewards to the author:

(1) Graphic works and model works such as engineering design drawings, product design drawings, maps, schematic diagrams, and computer software that are created primarily by using 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 in the course of employment by employees of newspapers, periodicals, news agencies, radio stations, and television stations;

(3) Other works for which the copyright is provided by laws or administrative regulations or agreed upon in a contract to be enjoyed by the legal person or unincorporated organization.

Article 14 — The copyright in a commissioned work shall vest according to the contract concluded between the commissioning party and the commissioned party. Where no express agreement is made in the contract or no contract is concluded, the copyright in the commissioned work shall belong to the commissioned party.

Article 15 — The copyright in an audiovisual work 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 contract concluded with the producer. The authors of the script, music, and other audiovisual works that can be used separately from the audiovisual work shall be entitled to exercise their copyright independently.

Article 16 — The transfer of ownership of the original copy of a work shall not result in the transfer of the copyright in the work, except that the right of exhibition of the original copy of an artistic work or photographic work shall be enjoyed by the owner of the original copy.

Article 17 — Where the term of protection of a natural person's copyright has expired or a natural person's copyright is otherwise not protected, the right of publication, right of revision, and right of integrity shall be protected by the State and shall not be infringed upon.

Article 18 — The term of protection of a natural person's copyright shall be the life 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 expiration shall be on December 31 of the 50th year after the death of the last surviving co-author. The term of protection of the right of publication and the rights specified in Article 9(5) through (17) of this Law in respect of a work of a legal person or unincorporated organization or a work created in the course of employment where the copyright (excluding the right of authorship) is enjoyed by a legal person or unincorporated organization 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 after its creation, it shall no longer be protected by this Law. The term of protection of the right of publication and the rights specified in Article 9(5) through (17) of this Law in respect of an audiovisual work 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 after its creation, it shall no longer be protected by this Law.

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Chapter III — Copyright Licensing and Assignment Contracts

Article 19 — A copyright license contract shall include the following main contents:

(1) The type of right licensed;

(2) Whether the license is exclusive or non-exclusive;

(3) The geographic scope and period of the license;

(4) The amount and method of payment of remuneration;

(5) Liability for breach of contract;

(6) Other matters that the parties deem necessary to agree upon.

Article 20 — A copyright assignment contract shall include the following main contents:

(1) The title of the work;

(2) The type and geographic scope of the rights assigned;

(3) The assignment price;

(4) The date and method of delivery of the assignment price;

(5) Liability for breach of contract;

(6) Other matters that the parties deem necessary to agree upon.

Article 21 — Unless otherwise agreed in the contract, the licensee who is permitted to exercise the copyright provided for in the contract shall not permit any third party to exercise the same right.

Article 22 — Where a copyright owner creates a pledge over its property rights in a copyright, the pledge shall be registered with the copyright administration department under the State Council.

Article 23 — Remuneration standards for the use of works may be agreed upon by the parties or determined according to the remuneration standards formulated by the national copyright administration department in conjunction with the relevant departments. Where the parties have not expressly agreed or the agreement is unclear, remuneration shall be paid according to the remuneration standards formulated by the national copyright administration department in conjunction with the relevant departments.

Chapter IV — Neighboring Rights

Article 24 — A book publisher who publishes a book shall conclude a publishing contract with and pay remuneration to the copyright owner. During the term specified in the contract, the book publisher shall enjoy the exclusive right to publish the work delivered to it by the copyright owner for publication. The term of the exclusive right to publish a work as specified in the contract shall not exceed 10 years. The contract may be renewed upon expiration.

Article 25 — A copyright owner shall deliver the work within the time limit specified in the contract. A book publisher shall publish the work in accordance with the quality and time limit specified in the publishing contract. A book publisher that fails to publish the work within the time limit specified in the contract shall assume civil liability in accordance with the provisions of this Law.

Article 26 — Where a book is reprinted or republished, the book publisher shall notify the copyright owner and pay remuneration. Where a book publisher refuses to reprint or republish a book after it has been sold out, the copyright owner shall have the right to terminate the contract.

Article 27 — A copyright owner who submits a work to a newspaper or periodical publisher for publication or who submits a manuscript may, within 15 days from the date of publication of the newspaper, or within 30

days from the date of issuance of the notice of acceptance by the periodical publisher, where no notice of acceptance has been received, submit the same work to another newspaper or periodical publisher, unless otherwise agreed between the parties.

Article 28 — A newspaper or periodical publisher may modify or abridge a work without the permission of the author, but shall not modify the content of the work, unless the author has declared that modification or abridgment is not permitted.

Article 29 — A performer shall enjoy the following rights in connection with the performer's performance:

(1) To have the performer's name indicated;

(2) To protect the performer's image from distortion in the performance;

(3) To permit others to broadcast or publicly communicate the performer's live performance and receive remuneration;

(4) To permit others to make sound recordings or video recordings and receive remuneration;

(5) To permit others to reproduce, distribute, or rent sound recordings or video recordings of the performer's performance and receive remuneration;

(6) To permit others to make the performer's performance available to the public through information networks and receive remuneration.

The term of protection of the rights specified in the preceding paragraph shall be 50 years, expiring on December 31 of the 50th year after the performance took place.

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

Article 31 — A radio station or television station shall have the right to prohibit the following acts without its permission:

(1) Rebroadcasting the radio or television programs it broadcasts by wire or wireless means;

(2) Recording the radio or television programs it broadcasts on a sound recording or video recording carrier and reproducing the sound recording or video recording carrier;

(3) Making the radio or television programs it broadcasts available to the public through information networks.

The term of protection of the rights specified in the preceding paragraph shall be 50 years, expiring on December 31 of the 50th year after the broadcast of the radio or television program.

Chapter V — Protection of Copyright and Neighboring Rights

Article 32 — The following uses of a work may be made without the permission of and without payment of remuneration to the copyright owner, provided that the name or title of the author and the title of the work shall be indicated, and the normal use of the work shall not be affected, nor shall the lawful rights and interests of the copyright owner be 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 purpose of introducing or commenting on a certain work, or illustrating a certain point;

(3) Inevitable 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 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 has declared 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 has declared that such publication or broadcasting is not permitted;

(6) Translation, adaptation, compilation, broadcasting, or reproduction in a small quantity of a published work by teachers or scientific researchers for use in classroom teaching or scientific research, 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 a small quantity by a library, archives, memorial hall, museum, art gallery, cultural center, or similar institution for the purpose of display or preservation of a copy of the work;

(9) Free performance of a published work, where no fees are charged to the public or paid to the performers, and the performance is not for profit;

(10) Copying, drawing, photographing, or video recording of an artistic work placed or displayed in an outdoor 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 minority nationality languages for publication and distribution within the country;

(12) Provision of a published work in a barrier-free form to persons with print disabilities;

(13) Other circumstances provided for by laws and administrative regulations.

Article 33 — In preparing and publishing textbooks for the nine-year compulsory education and national education planning, fragments of published works, short written works or musical works, or single copies of artistic works, photographic works, or graphic works may be compiled in the textbooks without the permission of the copyright owner, provided that remuneration shall be paid in accordance with the provisions and the name or title of the author and the title of the work shall be indicated.

Article 34 — Any person who infringes upon the copyright or copyright-related rights shall assume civil liability such as ceasing the infringement, eliminating the effects, making an apology, and compensating for losses, depending on the circumstances. The amount of compensation shall be calculated on the basis of the actual loss suffered by the right holder or the illegal income of the infringer. Where it is difficult to calculate the actual loss of the right holder, compensation may be made by reference to the amount of the royalties for the right. Where it is difficult to calculate the actual loss of the right holder, the illegal income of the infringer, or the amount of royalties for the right, the people's court shall award compensation of not less than RMB 500 and not more than RMB 5 million, depending on the circumstances of the infringement. The amount of compensation shall also include the reasonable expenses paid by the right holder to stop the

infringing act. For intentional infringement of copyright or copyright-related rights with serious circumstances, the amount of compensation may be determined at one to five times the amount determined in accordance with the aforesaid method.

Article 35 — The people's court may, at the request of the right holder, order the destruction of infringing copies, except under special circumstances. It may also order the destruction of materials, tools, equipment and other articles mainly used for manufacturing infringing copies, except under special circumstances. Infringing copies shall not be allowed to enter commercial channels after merely removing the counterfeit representations, except under special circumstances.

Article 36 — Where a copyright owner or a copyright-related right holder has evidence to prove that another person is committing or is about to commit an act that infringes upon its rights, and failure to stop the act in a timely manner will cause irreparable damage to its lawful rights and interests, the right holder may, before filing a lawsuit, apply to the people's court for measures to preserve property, order the performance of or prohibit certain acts, or preserve evidence.

Article 37 — A network service provider shall have the obligation to take necessary measures such as deletion, blocking, or disconnection in a timely manner upon receiving a notice from a right holder that a user of its network services has infringed upon the copyright or copyright-related rights. Failure to take necessary measures in a timely manner shall result in joint and several liability with the network user for the extended damage.

Article 38 — The limitation period for filing a lawsuit for copyright infringement shall be three years, commencing from the date on which the copyright owner or copyright-related right holder knows or should have known of the infringement and the infringer. Where the right holder files a lawsuit more than three years after the date of infringement, if the infringing act is continuing at the time of filing the lawsuit, the people's court shall order the defendant to cease the infringing act. The amount of compensation for infringement shall be calculated from the date three years before the date on which the right holder filed the lawsuit with the people's court.

Chapter VI — Supplementary Provisions

Article 39 — The Regulations for the Implementation of this Law shall be formulated by the copyright administration department under the State Council and shall come into effect after approval by the State Council.

Article 40 — This Law shall come into effect on June 1, 1991.

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