Regulations on Labor Dispatch of the People's Republic of China

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Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Labor Contract Law of the People's Republic of China (hereinafter referred to as the "Labor Contract Law"), the Administrative Licensing Law of the People's Republic of China, and other relevant laws and administrative regulations to regulate labor dispatch operations and safeguard the lawful rights and interests of dispatched workers.

Article 2 — Labor dispatch service providers engaging in the labor dispatch business shall apply for an administrative license and handle the corresponding company registration. No entity or individual shall engage in the labor dispatch business without a license.

Article 3 — The administrative departments for human resources and social security under the State Council shall be responsible for supervising and administering the labor dispatch business nationwide. The

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administrative departments for human resources and social security under the local people's governments at or above the county level shall be responsible for supervising and administering the labor dispatch business within their respective administrative areas.

Chapter II — Scope and Proportion of Employment

Article 4 — An entity accepting dispatch of workers (hereinafter referred to as "accepting entity") shall only use dispatched workers for temporary, auxiliary, or substitute positions. "Temporary positions" means positions existing for a period not exceeding six months. "Auxiliary positions" means non-core business positions providing services for the main business positions. "Substitute positions" means positions that can be performed by dispatched workers on a substitute basis during the period when the employees holding the positions are unable to work due to full-time study, vacation, or other reasons.

Article 5 — An accepting entity shall strictly control the number of dispatched workers, which shall not exceed 10% of its total workforce. For purposes of the preceding paragraph, "total workforce" means the sum of the number of employees directly concluded with labor contracts by the accepting entity and the number of dispatched workers used by the accepting entity. An accepting entity that determines auxiliary positions shall, after discussion by the employees' representative congress or all employees, put forward proposals and opinions, and determine the positions through equal negotiation with the trade union or employee representatives, and publicize the auxiliary positions within the entity.

Article 6 — Where an accepting entity decides to use dispatched workers for auxiliary positions, it shall properly handle the matter in accordance with the provisions of Article 4 of the Labor Contract Law. An accepting entity that fails to publicize auxiliary positions in accordance with the provisions of Article 4, paragraph 3 of the Labor Contract Law, or fails to perform the procedures prescribed in the preceding article, shall be deemed to use dispatched workers for non-auxiliary positions.

Chapter III — Conclusion and Performance of Labor Dispatch Agreements

Article 7 — A labor dispatch agreement shall specify the following matters: (1) the number of dispatched positions and personnel; (2) the term of dispatch; (3) the amount and method of payment of remuneration and social insurance premiums; (4) liability for breach of agreement; and (5) other matters that shall be included in a labor dispatch agreement as prescribed by laws, regulations, and rules. The accepting entity shall, based on the actual needs of the position, determine the term of dispatch with the labor dispatch service provider, and shall not divide a continuous employment period into multiple short-term labor dispatch agreements.

Article 8 — A labor dispatch service provider shall fulfill the obligation to truthfully inform the dispatched worker of the contents specified in Article 8 of the Labor Contract Law, the requirements of the accepting entity, and the contents of the labor dispatch agreement. The labor dispatch service provider shall not retain any portion of the remuneration that the accepting entity pays to the dispatched worker in accordance with the labor dispatch agreement. The labor dispatch service provider and the accepting entity shall not collect any fees from the dispatched worker.

Article 9 — The accepting entity shall perform the obligations of an employer in accordance with the provisions of Article 62 of the Labor Contract Law: (1) implement national labor standards and provide corresponding working conditions and occupational protection; (2) inform the dispatched workers of the work requirements and remuneration; (3) pay overtime remuneration and performance bonuses, and provide job-related welfare benefits; (4) provide the dispatched workers with necessary on-the-job training for the positions; and (5) apply a normal wage adjustment mechanism for consecutive employment. The accepting entity shall not further dispatch dispatched workers to other employers.

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Article 10 — Where a dispatched worker suffers an occupational injury at the accepting entity, the labor dispatch service provider shall apply for recognition of the occupational injury in accordance with the law. The accepting entity shall assist in the investigation and verification of the occupational injury recognition. The labor dispatch service provider shall bear the liability for work-related injury insurance, but may agree with the accepting entity on compensation measures.

Chapter IV — Termination and Return of Dispatched Workers

Article 11 — Dispatched workers may terminate their labor contracts with the labor dispatch service provider in accordance with the provisions of Articles 36 and 38 of the Labor Contract Law.

Article 12 — Under any of the following circumstances, an accepting entity may return a dispatched worker to the labor dispatch service provider: (1) the accepting entity has any of the circumstances specified in Article 40, paragraph 3 or Article 41 of the Labor Contract Law; (2) the accepting entity is declared bankrupt, its business license is revoked, it is ordered to close down or is dissolved, or the accepting entity decides to dissolve prematurely; (3) the labor dispatch agreement expires. The dispatched worker shall be returned if he or she falls under any of the circumstances set out in Article 39 of the Labor Contract Law or Article 40, paragraph 1 or 2. Where a dispatched worker is returned, the labor dispatch service provider shall pay remuneration on a monthly basis at the minimum wage standard prescribed by the local people's government during the period when no work is re-dispatch.

Article 13 — Where a dispatched worker is returned under Article 12 of these Provisions and falls under any of the circumstances set out in Article 42 of the Labor Contract Law, the labor dispatch service provider shall not terminate the labor contract during the period of the relevant circumstances. Where the dispatched worker continues to exist after the expiration of the period, the labor dispatch service provider shall handle the matter in accordance with the relevant provisions of the Labor Contract Law.

Article 14 — Where a dispatched worker is returned due to expiration of the labor dispatch agreement and is re-dispatched, the labor dispatch service provider shall maintain or improve the working conditions stipulated in the labor contract. Where the dispatched worker does not agree to be re-dispatched, the labor dispatch service provider may terminate the labor contract and pay economic compensation in accordance with the relevant provisions of the Labor Contract Law. Where a dispatched worker is returned and the labor dispatch service provider re-concludes a labor contract, it shall not agree on a probation period with the worker in accordance with the provisions of Article 17 of the Labor Contract Law.

Chapter V — Cross-Regional Labor Dispatch

Article 15 — Where a labor dispatch service provider dispatches workers across regions, the social insurance of the dispatched workers shall be paid at the place where the accepting entity is located. Where a labor dispatch service provider registered in the place where the accepting entity is located establishes a branch in the place where the accepting entity is located, the branch shall pay social insurance for the dispatched workers. Where no branch is established, the accepting entity shall pay social insurance for the dispatched workers on behalf of the labor dispatch service provider.

Article 16 — The labor dispatch service provider and the accepting entity shall stipulate in the labor dispatch agreement the specific method of social insurance payment for cross-regional dispatched workers.

Chapter VI — Legal Liability

Article 17 — Where a labor dispatch service provider engages in the labor dispatch business without a license, the administrative department for human resources and social security shall ban the illegal business activities and confiscate illegal gains in accordance with the law. Where the illegal gains exceed RMB 10,000, a fine of not less than one time and not more than five times the illegal gains shall be imposed; where there are no illegal gains or the illegal gains are less than RMB 10,000, a fine of not less than RMB

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10,000 and not more than RMB 50,000 shall be imposed; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 18 — Where an accepting entity uses dispatched workers in violation of the provisions on temporary, auxiliary, or substitute positions or the proportion prescribed in Articles 4, 5, or 6 of these Provisions, the administrative department for human resources and social security shall order the accepting entity to make rectification within a prescribed time limit. Where the accepting entity fails to make rectification within the prescribed time limit, a fine of not less than RMB 5,000 and not more than RMB 10,000 per person shall be imposed. The administrative department for human resources and social security shall make a public announcement if the circumstances are serious.

Article 19 — Where an accepting entity further dispatches dispatched workers to other employers in violation of the provisions of Article 9, paragraph 2 of these Provisions, the administrative department for human resources and social security shall order the accepting entity to make rectification within a prescribed time limit and impose a fine of not less than RMB 5,000 and not more than RMB 10,000 per dispatched worker. The administrative department for human resources and social security shall make a public announcement if the circumstances are serious.

Article 20 — Where a labor dispatch service provider or an accepting entity violates the provisions on labor dispatch by failing to pay social insurance premiums for dispatched workers, the matter shall be handled in accordance with the provisions of the Social Insurance Law of the People's Republic of China and other relevant laws and regulations.

Article 21 — Where an accepting entity violates the provisions of these Provisions by using dispatched workers for non-temporary, non-auxiliary, or non-substitute positions, and has not rectified the matter within the time limit prescribed by the administrative department for human resources and social security, causing damage to the dispatched workers, the accepting entity and the labor dispatch service provider shall be held jointly and severally liable for compensation.

Chapter VII — Supplementary Provisions

Article 22 — An accepting entity that has used dispatched workers exceeding the prescribed proportion prior to the implementation of these Provisions shall reduce the proportion to the prescribed level within two years from the implementation date of these Provisions. During the period before the prescribed proportion is met, the accepting entity shall not newly use dispatched workers.

Article 23 — Where foreign enterprises, representative offices of foreign enterprises, or international organizations in China, as well as overseas institutions of Chinese enterprises, use Chinese workers, the matter shall be governed by the relevant provisions on the administration of foreign-related employment.

Article 24 — These Provisions shall apply to labor dispatch service providers dispatching workers to enterprises from Hong Kong Special Administrative Region, Macao Special Administrative Region, and Taiwan within the mainland.

Article 25 — Where the dispatched workers of public institutions are involved, the matter shall be handled with reference to these Provisions.

Article 26 — These Provisions shall be interpreted by the Ministry of Human Resources and Social Security.

Article 27 — These Provisions shall enter into force on March 1, 2014.

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