Regulations on Paid Annual Leave for Employees 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: These Regulations are formulated in accordance with the Labor Law of the People's Republic of China and relevant laws for the purpose of safeguarding the right of employees to rest and leave, regulating the implementation of the paid annual leave system, and mobilizing the enthusiasm of employees in their work.

Article 2: These Regulations shall apply to the arrangement of paid annual leave for employees by state organs, enterprises, public institutions, social organizations, individually-owned businesses, private non-enterprise entities, and other organizations with employees.

Chapter II — Entitlement and Arrangement of Annual Leave

Article 3: Where an employee has worked for a cumulative period of at least one year but less than 10 years, he or she shall be entitled to 5 days of annual leave. Where an employee has worked for a cumulative period of at least 10 years but less than 20 years, he or she shall be entitled to 10 days of annual leave. Where an employee has worked for a cumulative period of at least 20 years, he or she shall be entitled to 15 days of annual leave. The calculation of cumulative working years shall include working years with different employers.

Article 4: Where an employee falls under any of the following circumstances, he or she shall not be entitled to the annual leave for the current year: (1) the employee is entitled to summer or winter vacation under the law, and the number of vacation days exceeds the number of annual leave days; (2) the employee has taken more than 20 days of personal leave and the employer has not deducted wages in accordance with

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regulations; (3) where the employee has worked for a cumulative period of at least one year but less than 10 years and has taken sick leave for a cumulative period of more than 2 months; (4) where the employee has worked for a cumulative period of at least 10 years but less than 20 years and has taken sick leave for a cumulative period of more than 3 months; or (5) where the employee has worked for a cumulative period of at least 20 years and has taken sick leave for a cumulative period of more than 4 months.

Article 5: The employer shall, based on the specific circumstances of its production and work and taking into account the wishes of the employee, make overall arrangements for annual leave. Annual leave may be taken in one continuous block or in segments within a single year. Where the employer is unable to arrange annual leave due to work requirements, it may, with the consent of the employee, arrange annual leave across years. Where the employer is unable to arrange annual leave across years, it shall obtain the consent of the employee and pay annual leave compensation.

Article 6: When arranging annual leave, the employer shall consider the employee's wishes but shall have the authority to make overall arrangements based on production and work needs.

Chapter III — Compensation for Unused Annual Leave

Article 7: Where the employer fails to arrange annual leave for an employee due to work requirements, it shall, with the consent of the employee, compensate the employee based on 300% of the employee's daily wage for the unused annual leave days. The daily wage shall be calculated by dividing the employee's average monthly wage over the preceding 12 months by 21.75 working days per month. Where the employer arranges annual leave but the employee chooses not to take it due to personal reasons, the employer shall only pay the employee the normal wage for the period.

Article 8: Where an employer and an employee terminate or rescind the employment contract and the annual leave for the current year has not been taken, the employer shall convert the unused annual leave days into compensation and pay the employee according to Article 7 of these Regulations. The conversion shall be based on the number of calendar days the employee has already worked in the current year divided by 365, multiplied by the employee's annual leave entitlement for the year, with any fractional days of less than one day not included.

Chapter IV — Supervision and Legal Liability

Article 9: The labor security administrative authorities of local people's governments at or above the county level shall, in accordance with their authority, supervise and inspect the implementation of these Regulations. Trade unions shall, in accordance with the law, safeguard the right of employees to annual leave.

Article 10: Where an employer fails to arrange annual leave or pay annual leave compensation in accordance with these Regulations, the labor security administrative authority shall order it to make corrections within a prescribed time limit; where it fails to make corrections within the prescribed time limit, the labor security administrative authority may, in addition to ordering the employer to pay the annual leave compensation, impose an additional compensation payment to the employee.

Chapter V — Supplementary Provisions

Article 11: The human resources and social security administrative authority of the State Council shall be responsible for the interpretation of these Regulations.

Article 12: These Regulations shall enter into force as of January 1, 2008.

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