Trial Measures for Collective Wage Consultation of the PRC

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Chapter I — General Provisions

Article 1 — These Measures are formulated in accordance with the Labor Law of the People's Republic of China and the relevant provisions of the State, for the purpose of standardizing collective wage consultation and the conclusion of collective wage agreements (hereinafter referred to as "wage agreements"), safeguarding the lawful rights and interests of both parties to labor relations, and promoting harmonious and stable labor relations.

Article 2 — These Measures apply to enterprises within the territory of the People's Republic of China that conduct collective wage consultation and conclude wage agreements in accordance with the law.

Article 3 — "Collective wage consultation" as used in these Measures refers to the act whereby workers' representatives and enterprise representatives conduct equal consultation in accordance with the law on matters such as the enterprise's internal wage distribution system, wage distribution forms, and wage income levels, and conclude a wage agreement on the basis of consensus reached through consultation.

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"Wage agreement" as used in these Measures refers to a special collective contract concluded specifically on wage matters. Where a collective contract has already been concluded, the wage agreement shall serve as an annex to the collective contract and shall have the same effect as the collective contract.

Article 4 — A wage agreement concluded in accordance with the law is equally binding on both the enterprise and the workers. Both parties shall fully perform the obligations stipulated in the wage agreement, and neither party may alter or terminate the wage agreement without authorization.

Article 5 — The wage remuneration standards stipulated in the labor contract concluded between an individual worker and the enterprise shall not be lower than the minimum standards stipulated in the wage agreement.

Article 6 — Labor and social security administrative departments at or above the county level shall review wage agreements and supervise and inspect the performance thereof in accordance with the law.

Chapter II — Content of Collective Wage Consultation

Article 7 — Collective wage consultation generally includes the following content:

(1) the term of the wage agreement;

(2) the wage distribution system, wage standards, and wage distribution forms;

(3) the annual average wage level of workers and the range of adjustment thereto;

(4) the methods for distributing bonuses, allowances, subsidies, and the like;

(5) the methods of wage payment;

(6) the procedures for altering or terminating the wage agreement;

(7) the conditions for termination of the wage agreement;

(8) liability for breach of the wage agreement;

(9) other matters that the parties deem necessary to consult and agree upon.

Article 8 — The annual wage level of workers determined through consultation shall conform to the State's macro-control policies on wage distribution and shall comprehensively take into account the following factors:

(1) the labor cost levels of the region, industry, and enterprise;

(2) the average wage levels of workers in the region and industry;

(3) the wage guideline lines and labor market wage guide prices issued by the local government;

(4) the urban consumer price index of the region;

(5) the enterprise's labor productivity and economic efficiency;

(6) the preservation and appreciation of state-owned assets;

(7) the total wages of the enterprise's workers and the average wage level of workers in the preceding year;

(8) other circumstances relevant to collective wage consultation.

Chapter III — Representatives for Collective Wage Consultation

Article 9 — Representatives for collective wage consultation shall be produced in accordance with statutory procedures. The workers' side shall be represented by the trade union. In enterprises without a trade union, workers shall democratically recommend representatives, subject to the consent of more than half of the workers. The enterprise representatives shall be the legal representative and other persons designated by

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the legal representative.

Article 10 — Each of the two consulting parties shall designate one chief representative. The chief representative of the workers shall be the trade union chairperson, who may appoint another person in writing as his or her agent; where no trade union has been established, the chief representative shall be recommended by the workers' collective consultation representatives. The chief representative of the enterprise shall be the legal representative, who may appoint other management personnel in writing as his or her agent.

Article 11 — The chief representatives of the two parties shall take turns serving as the executive chairperson of the consultation meetings during the period of collective wage consultation. The principal duties of the executive chairperson are to be responsible for the organization and coordination of collective wage consultation and to put forward suggestions for handling issues arising in the course of consultation.

Article 12 — Either party may appoint, in writing, professionals from outside the enterprise as its consultation representatives. The number of such appointed persons shall not exceed one-third of the party's representatives.

Article 13 — The two consulting parties enjoy equal rights to make proposals, to veto, and to state their views.

Article 14 — Participation by consultation representatives produced from within the enterprise in collective wage consultation shall be deemed as provision of normal labor, and their wages, bonuses, allowances, subsidies, and insurance and welfare benefits shall remain unchanged. The lawful rights and interests of workers' consultation representatives shall be protected by law. The enterprise shall not adopt discriminatory measures against workers' consultation representatives, nor dissolve or alter their labor contracts in violation of the law.

Article 15 — Consultation representatives shall abide by the consultation rules agreed upon by the parties, perform their duties as representatives, and bear the responsibility of keeping the enterprise's trade secrets confidential. Neither party's consultation representatives may adopt extreme, threatening, bribery, or deceptive conduct.

Article 16 — Consultation representatives shall understand and grasp the relevant circumstances of wage distribution, broadly solicit opinions from all sides, and accept inquiries from their own side on matters relating to collective wage consultation.

Chapter IV — Procedures for Collective Wage Consultation

Article 17 — Either the workers or the enterprise may put forward a request for collective wage consultation. The party requesting collective wage consultation shall submit to the other party a written letter of consultation intent, specifying the time, place, content, and other matters of the consultation. The other party shall, within 20 days of receiving the letter of consultation intent, reply in writing and jointly conduct collective wage consultation with the requesting party.

Article 18 — Provided that relevant laws and regulations are not violated, both consulting parties are obliged, upon the other party's request, to provide truthful circumstances and materials relating to collective wage consultation within five days before the commencement of consultation.

Article 19 — The draft wage agreement shall be submitted to the workers' representative assembly or the workers' assembly for deliberation and examination.

Article 20 — After the two parties to collective wage consultation reach consensus, the administrative side of the enterprise shall prepare the text of the wage agreement. The wage agreement shall be established upon being signed and sealed by the chief representatives of both parties.

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Chapter V — Review of Wage Agreements

Article 21 — Within seven days of the conclusion of a wage agreement, the enterprise shall submit three copies of the wage agreement, together with an explanation, to the labor and social security administrative department for review.

Article 22 — The labor and social security administrative department shall, within 15 days of receiving the wage agreement, review the qualifications of the representatives of both parties to the collective wage consultation, the terms and content of the wage agreement, the procedures for its conclusion, and other matters.

Where the labor and social security administrative department has no objection to the wage agreement upon review, it shall promptly serve the Opinions on the Review of the Wage Agreement on both consulting parties, and the wage agreement shall take effect immediately.

Where the labor and social security administrative department has opinions for amendment of the wage agreement, it shall notify both consulting parties of such amendment opinions in the Opinions on the Review of the Wage Agreement. The parties shall promptly consult on the amendment opinions, amend the wage agreement, and re-submit it to the labor and social security administrative department.

Where the parties have not received the Opinions on the Review of the Wage Agreement from the labor and social security administrative department within 15 days of submission of the wage agreement, the wage agreement shall be deemed to have been approved by the labor and social security administrative department and shall take effect immediately.

Article 23 — The consulting parties shall, within five days, publish the effective wage agreement to all personnel of their respective sides in an appropriate form.

Article 24 — Collective wage consultation shall generally be conducted once a year. Both the workers and the enterprise may, within 60 days before the expiry of the original wage agreement, submit to the other party a written letter of consultation intent to conduct the next round of collective wage consultation, so as to properly connect the old and new wage agreements.

Chapter VI — Supplementary Provisions

Article 25 — Matters concerning collective wage consultation and wage agreements not provided for in these Measures shall be handled in accordance with the relevant provisions of the Provisions on Collective Contracts.

Article 26 — These Measures shall come into force as of the date of promulgation.

Disclaimer: This is an unofficial English translation of the Trial Measures for Collective Wage Consultation, promulgated by the Ministry of Labor and Social Security of the People's Republic of China on November 8, 2000 (Order No. 9) and effective from the same date. It is provided for general information and reference purposes only and does not constitute legal advice. Reasonable efforts have been made to ensure accuracy, but the translation may contain errors or omissions. In the event of any discrepancy, the original Chinese text shall prevail. For advice on specific matters, please consult a qualified professional.

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