Measures for the Payment of Litigation Costs of China (the PRC)

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Chapter I — General Provisions

Article 1 — These Measures are formulated in accordance with the relevant provisions of the Civil Procedure Law of the People's Republic of China (hereinafter the Civil Procedure Law) and the Administrative Litigation Law of the People's Republic of China (hereinafter the Administrative Litigation Law).

Article 2 — Parties to civil proceedings and administrative proceedings shall pay litigation costs in accordance with these Measures, except where these Measures provide that such costs need not be paid or are exempt from payment.

Article 3 — No fees may be collected from the parties in the course of proceedings in violation of the scope and standards prescribed by these Measures.

Article 4 — The State shall provide judicial assistance to parties who have genuine difficulty in paying litigation costs, so as to guarantee their exercise of litigation rights in accordance with law and protect their lawful rights and interests.

Article 5 — These Measures shall apply where foreigners, stateless persons, or foreign enterprises or organizations conduct litigation in the people's courts. Where a foreign court adopts differential treatment against citizens, legal persons or other organizations of the People's Republic of China, as compared with its own citizens, legal persons or other organizations, in the payment of litigation costs, the matter shall be handled on the principle of reciprocity.

Chapter II — Scope of Litigation Costs

Article 6 — The litigation costs that the parties shall pay to the people's court include: (1) case acceptance fees; (2) application fees; and (3) transportation, accommodation, subsistence and loss-of-work allowances incurred by witnesses, expert witnesses, interpreters and adjusters in appearing before the court on a date designated by the people's court.

Article 7 — Case acceptance fees include: (1) case acceptance fees for first-instance cases; (2) case acceptance fees for second-instance cases; and (3) case acceptance fees that, in retrial cases, need to be paid in accordance with these Measures.

Article 8 — No case acceptance fees shall be paid in the following cases: (1) cases tried under the special procedures prescribed by the Civil Procedure Law; (2) cases in which a ruling is made not to accept the case, to reject the complaint, or to reject the appeal; and (3) cases in which an appeal is filed against a ruling of non-acceptance, rejection of a complaint, or objection to jurisdiction; and (4) administrative compensation cases.

Article 9 — In cases tried under the trial supervision procedures prescribed by the Civil Procedure Law and the Administrative Litigation Law, the parties shall not pay case acceptance fees, except in the following circumstances: (1) where a party, on the basis of new evidence sufficient to overturn the original judgment or ruling, applies to the people's court for retrial and the people's court, after examination, decides to retry the case; and (2) where a party fails to appeal against the first-instance judgment or ruling of the people's court, and applies for retrial after the first-instance judgment, ruling or mediation agreement has taken legal effect, and the people's court, after examination, decides to retry the case.

Article 10 — Parties shall pay application fees when applying to the people's court in accordance with law for the following matters: (1) applying for enforcement of judgments, rulings and mediation agreements of the people's court that have taken legal effect, awards and mediation agreements made by arbitration institutions in accordance with law, and creditor's rights instruments to which notary institutions have legally conferred compulsory enforcement effect; (2) applying for preservation measures; (3) applying for a payment order; (4) applying for public summons for assertion of claims; (5) applying to set aside an arbitral award or to determine the validity of an arbitration agreement; (6) applying for bankruptcy; (7) applying for a maritime injunction, adjustment of general average, establishment of a limitation fund for maritime liability, registration of maritime claims, or public summons for maritime liens; and (8) applying for recognition and enforcement of judgments and rulings of foreign courts and awards of foreign arbitration institutions.

Article 11 — The transportation, accommodation, subsistence and loss-of-work allowances incurred by witnesses, expert witnesses, interpreters and adjusters in appearing before the court on a date designated by the people's court shall be collected by the people's court on behalf of such persons in accordance with the standards prescribed by the State. Where the parties reproduce case file materials and legal instruments, they shall pay the cost of production to the people's court according to the actual cost.

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Article 12 — With respect to expenses arising in the course of proceedings from expert examination, announcement, inspection, interpretation, assessment, auction, sale, storage, custody, transportation and ship supervision that shall be borne by the parties in accordance with law, the people's court shall, on the principle that the party making the assertion bears the cost, decide that the parties shall pay directly to the relevant organs or units, and the people's court shall not collect or pay such expenses on behalf of the parties. No fees shall be charged where the people's court provides interpretation in the common language and script of the local ethnic group in accordance with paragraph 3 of Article 11 of the Civil Procedure Law.

Chapter III — Standards for Litigation Costs

Article 13 — Case acceptance fees shall be paid according to the following standards: (1) For property cases, fees shall be paid progressively on a sliding scale according to the amount or value of the claims: 1. where the amount does not exceed RMB 10,000, RMB 50 per case; 2. where the amount exceeds RMB 10,000 up to RMB 100,000, 2.5 percent of the excess portion; 3. where the amount exceeds RMB 100,000 up to RMB 200,000, 2 percent of the excess portion; 4. where the amount exceeds RMB 200,000 up to RMB 500,000, 1.5 percent of the excess portion; 5. where the amount exceeds RMB 500,000 up to RMB 1,000,000, 1 percent of the excess portion; 6. where the amount exceeds RMB 1,000,000 up to RMB 2,000,000, 0.9 percent of the excess portion; 7. where the amount exceeds RMB 2,000,000 up to RMB 5,000,000, 0.8 percent of the excess portion; 8. where the amount exceeds RMB 5,000,000 up to RMB 10,000,000, 0.7 percent of the excess portion; 9. where the amount exceeds RMB 10,000,000 up to RMB 20,000,000, 0.6 percent of the excess portion; and 10. where the amount exceeds RMB 20,000,000, 0.5 percent of the excess portion. (2) For non-property cases, fees shall be paid according to the following standards: 1. for divorce cases, RMB 50 to RMB 300 per case; where division of property is involved and the total amount of property does not exceed RMB 200,000, no additional fee shall be paid, and where the amount exceeds RMB 200,000, 0.5 percent of the excess portion shall be paid; 2. for cases of infringement of the right to a name, the right to a trade name, the right to a portrait, the right to reputation, the right to honor, and other personality rights, RMB 100 to RMB 500 per case; where compensation for damages is involved and the amount of compensation does not exceed RMB 50,000, no additional fee shall be paid; where the amount exceeds RMB 50,000 up to RMB 100,000, 1 percent of the excess portion shall be paid; and where the amount exceeds RMB 100,000, 0.5 percent of the excess portion shall be paid; and 3. for other non-property cases, RMB 50 to RMB 100 per case. (3) For civil cases involving intellectual property rights, where there is no disputed amount or value, RMB 500 to RMB 1,000 per case; where there is a disputed amount or value, fees shall be paid according to the standards for property cases. (4) For labor dispute cases, RMB 10 per case. (5) For administrative cases, fees shall be paid according to the following standards: 1. for trademark, patent and maritime administrative cases, RMB 100 per case; and 2. for other administrative cases, RMB 50 per case. (6) Where a party raises an objection to the jurisdiction of the case and the objection is not sustained, RMB 50 to RMB 100 per case. The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may, in light of local circumstances, formulate specific payment standards within the ranges prescribed in items (2), (3) and (6) of this Article.

Article 14 — Application fees shall be paid according to the following standards: (1) Where applying to the people's court in accordance with law for enforcement of judgments, rulings and mediation agreements of the people's court that have taken legal effect, awards and mediation agreements made by arbitration institutions in accordance with law, creditor's rights instruments to which notary organs have legally conferred compulsory enforcement effect, and for recognition and enforcement of judgments and rulings of foreign courts and awards of foreign arbitration institutions, fees shall be paid according to the following standards: 1. where there is no enforcement amount or value, RMB 50 to RMB 500 per case; 2. where the enforcement amount or value does not exceed RMB 10,000, RMB 50 per case; where the amount exceeds RMB 10,000 up to RMB 500,000, 1.5 percent of the excess portion; where the amount exceeds RMB

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500,000 up to RMB 5,000,000, 1 percent of the excess portion; where the amount exceeds RMB 5,000,000 up to RMB 10,000,000, 0.5 percent of the excess portion; and where the amount exceeds RMB 10,000,000, 0.1 percent of the excess portion; and 3. where a right holder who has not participated in registration files an action in the people's court as provided in paragraph 4 of Article 55 of the Civil Procedure Law, application fees shall be paid according to the standards in this item and no case acceptance fee shall be paid. (2) Where applying for preservation measures, fees shall be paid according to the following standards based on the amount of property actually preserved: where the amount of property does not exceed RMB 1,000 or where no amount of property is involved, RMB 30 per case; where the amount exceeds RMB 1,000 up to RMB 100,000, 1 percent of the excess portion; and where the amount exceeds RMB 100,000, 0.5 percent of the excess portion; provided that the total fee paid for preservation measures shall not exceed RMB 5,000. (3) Where applying for a payment order in accordance with law, one-third of the standard of case acceptance fees for property cases shall be paid. (4) Where applying for public summons for assertion of claims in accordance with law, RMB 100 per case shall be paid. (5) Where applying to set aside an arbitral award or to determine the validity of an arbitration agreement, RMB 400 per case shall be paid. (6) For bankruptcy cases, fees shall be calculated on the basis of the total amount of bankruptcy property and paid at half the standard of case acceptance fees for property cases, but shall not exceed RMB 300,000. (7) Application fees for maritime cases shall be paid according to the following standards: 1. for applying to establish a limitation fund for maritime liability, RMB 1,000 to RMB 10,000 per case; 2. for applying for a maritime injunction, RMB 1,000 to RMB 5,000 per case; 3. for applying for public summons for maritime liens, RMB 1,000 to RMB 5,000 per case; 4. for applying for registration of maritime claims, RMB 1,000 per case; and 5. for applying for adjustment of general average, RMB 1,000 per case.

Article 15 — Where a case is concluded by mediation or a party applies to withdraw the action, the case acceptance fee shall be paid at half the amount.

Article 16 — In cases tried under summary procedure, the case acceptance fee shall be paid at half the amount.

Article 17 — Where an appeal is filed in a property case, the case acceptance fee shall be paid according to the amount of the appeal claims for the portion of the first-instance judgment with which the party disagrees.

Article 18 — Where the defendant files a counterclaim, or a third party with an independent claim files claims related to the case, and the people's court decides to conduct a consolidated trial, the case acceptance fees shall be paid separately at half the amount.

Article 19 — In retrial cases in which case acceptance fees need to be paid in accordance with Article 9 of these Measures, the case acceptance fee shall be paid according to the amount of the retrial claims for the portion of the original judgment with which the party disagrees.

Chapter IV — Payment and Refund of Litigation Costs

Article 20 — Case acceptance fees shall be paid in advance by the plaintiff, the third party with an independent claim, and the appellant. Where the defendant files a counterclaim and case acceptance fees need to be paid in accordance with these Measures, the fees shall be paid in advance by the defendant. In cases for recovery of labor remuneration, the case acceptance fee need not be paid in advance. Application fees shall be paid in advance by the applicant; however, the application fees prescribed in items (1) and (6) of Article 10 of these Measures shall not be paid in advance by the applicant, and enforcement application fees shall be paid after enforcement and bankruptcy application fees after liquidation. The expenses prescribed in Article 11 of these Measures shall be paid after they are actually incurred.

Article 21 — Where a party changes the amount of claims in the course of proceedings, the case acceptance fee shall be handled according to the following provisions: (1) where a party increases the amount of claims, the additional fee shall be calculated and paid according to the increased amount; and (2) where a party

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reduces the amount of claims before the conclusion of court investigation, the fee shall be refunded according to the reduced amount.

Article 22 — The plaintiff shall pay the case acceptance fee within seven days from the day after receiving the notice of the people's court to pay litigation costs; in a counterclaim case, the party filing the counterclaim shall pay the case acceptance fee within seven days from the day after filing the counterclaim. The case acceptance fee for an appeal case shall be paid in advance by the appellant when submitting the notice of appeal to the people's court; where both parties appeal, each shall pay the fee in advance separately. Where the appellant fails to pay the litigation costs in advance within the appeal period, the people's court shall notify the appellant to pay in advance within seven days. Application fees shall be paid in advance by the applicant when making the application or within the time limit designated by the people's court. Where a party fails to pay litigation costs within the time limit and has not applied for judicial assistance, or has applied for judicial assistance but has not been approved, and still fails to pay the litigation costs within the time limit designated by the people's court, the people's court shall handle the matter in accordance with the relevant provisions.

Article 23 — In retrial cases in which case acceptance fees need to be paid in accordance with Article 9 of these Measures, the fees shall be paid in advance by the party applying for retrial; where both parties apply for retrial, each shall pay the fee in advance separately.

Article 24 — Where a case is transferred or handed over in accordance with Articles 36, 37, 38 and 39 of the Civil Procedure Law, the people's court that originally accepted the case shall transfer the litigation costs paid in advance by the parties together with the case to the people's court that receives the case.

Article 25 — Where the people's court, in the course of trying a civil case, discovers suspected criminal conduct and transfers the case to the relevant department for handling, the case acceptance fees paid by the parties shall be refunded; where the civil case needs to continue to be tried after the transfer, the case acceptance fees already paid by the parties shall not be refunded.

Article 26 — In cases where the proceedings or enforcement is suspended, the case acceptance fees and application fees already paid shall not be refunded. Where the cause of the suspension of proceedings or enforcement is eliminated and the proceedings or enforcement is resumed, no case acceptance fees or application fees shall be paid again.

Article 27 — Where the people's court of second instance decides to remand the case for retrial, the case acceptance fee for the second instance already paid by the appellant shall be refunded. Where the people's court of first instance rules not to accept the case or to reject the complaint, the case acceptance fees already paid by the parties shall be refunded; where a party appeals against a ruling of non-acceptance or rejection of the complaint made by the people's court of first instance, and the people's court of second instance upholds the ruling of the people's court of first instance, the people's court of first instance shall refund the case acceptance fees already paid by the parties.

Article 28 — In cases where proceedings are terminated in accordance with Article 137 of the Civil Procedure Law, the case acceptance fees already paid in accordance with these Measures shall not be refunded.

Chapter V — Burden of Litigation Costs

Article 29 — Litigation costs shall be borne by the losing party, unless the winning party voluntarily assumes them. Where a party partially wins and partially loses, the people's court shall determine the amounts of litigation costs to be borne by the respective parties according to the specific circumstances of the case. Where the parties to a joint action lose the case, the people's court shall determine the amounts of litigation costs to be borne by the respective parties according to their interests in the object of the action.

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Article 30 — Where the people's court of second instance changes a judgment or ruling made by the people's court of first instance, it shall correspondingly change the decision of the people's court of first instance on the burden of litigation costs.

Article 31 — In cases where an agreement is reached through mediation by the people's court, the burden of litigation costs shall be settled by the two parties through consultation; where consultation fails, it shall be decided by the people's court.

Article 32 — In retrial cases in which case acceptance fees need to be paid in accordance with items (1) and (2) of Article 9 of these Measures, the litigation costs shall be borne by the party applying for retrial; where both parties apply for retrial, the litigation costs shall be borne in accordance with Article 29 of these Measures. The burden of litigation costs in the original trial shall be re-determined by the people's court according to the principles for the burden of litigation costs.

Article 33 — In divorce cases, the burden of litigation costs shall be settled by the two parties through consultation; where consultation fails, it shall be decided by the people's court.

Article 34 — Where the plaintiff or appellant in a civil case applies to withdraw the action and the people's court rules to permit it, the case acceptance fee shall be borne by the plaintiff or appellant. Where the defendant in an administrative case changes or revokes the specific administrative act, and the plaintiff applies to withdraw the action and the people's court rules to permit it, the case acceptance fee shall be borne by the defendant.

Article 35 — Where a party reduces the amount of claims after the conclusion of court investigation, the case acceptance fee for the reduced portion shall be borne by the party that changed the claims.

Article 36 — Where the debtor does not raise an objection to the summary procedure for recovery of debts, the application fee shall be borne by the debtor. Where the debtor raises an objection to the summary procedure, causing the summary procedure to be terminated, the application fee shall be borne by the applicant; where the applicant files a separate action, the application fee may be included in the claims.

Article 37 — The application fee for public summons for assertion of claims shall be borne by the applicant.

Article 38 — The application fees prescribed in items (1) and (8) of Article 10 of these Measures shall be borne by the person subject to enforcement. Where the parties reach a settlement agreement during enforcement, the burden of the application fee shall be settled by the two parties through consultation; where consultation fails, it shall be decided by the people's court. The application fee prescribed in item (2) of Article 10 of these Measures shall be borne by the applicant; where the applicant files an action, the application fee may be included in the claims. The burden of the application fee prescribed in item (5) of Article 10 of these Measures shall be decided by the people's court in accordance with Article 29 of these Measures.

Article 39 — The relevant litigation costs in maritime cases shall be borne according to the following provisions: (1) for pre-action applications for maritime claim preservation and maritime injunctions, the application fee shall be borne by the applicant; where the applicant files an action in respect of the relevant maritime claim, the aforesaid expenses may be included in the claims; (2) for pre-action applications for preservation of maritime evidence, the application fee shall be borne by the applicant; (3) reasonable expenses incurred from auctioning or selling seized ships, cargo on board, marine fuel and marine materials in the course of proceedings shall be paid in advance by the applicant, deducted in advance from the auction or sale proceeds, and refunded to the applicant; (4) application fees for applying to establish a limitation fund for maritime liability, applying for registration and satisfaction of claims, and applying for public summons for maritime liens shall be borne by the applicant; and (5) announcement expenses in the procedures for establishing a limitation fund for maritime liability and for public summons for maritime liens shall be borne by the applicant.

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Article 40 — Where a party, due to its own reasons, fails to present evidence within the time limit for presenting evidence, and presents new evidence during the second-instance or retrial proceedings, thereby increasing the litigation costs, the increased litigation costs shall be borne by that party.

Article 41 — Announcement expenses for cases tried under special procedures shall be borne by the complainant or applicant.

Article 42 — Where an application for bankruptcy is filed with the people's court in accordance with law, the litigation costs shall be allocated from the bankruptcy property in accordance with the relevant legal provisions.

Article 43 — A party shall not file an appeal solely against a decision of the people's court on litigation costs. Where a party has an objection solely to a decision of the people's court on litigation costs, it may apply to the president of the people's court that made the decision for review. The review decision shall be made within 15 days from the date of receipt of the party's application. Where a party has an objection to the calculation of litigation costs decided by the people's court, it may request review by the people's court that made the decision. Where the calculation is indeed erroneous, the people's court that made the decision shall make a correction.

Chapter VI — Judicial Assistance

Article 44 — Where a party has genuine difficulty in paying litigation costs, it may apply to the people's court in accordance with these Measures for judicial assistance in the form of deferred, reduced or exempted payment of litigation costs. Exemption from litigation costs shall apply only to natural persons.

Article 45 — Where a party applies for judicial assistance and falls under any of the following circumstances, the people's court shall grant exemption from litigation costs: (1) a person with disabilities who has no fixed source of livelihood; (2) a person seeking recovery of maintenance, support, child support or pension; (3) a person who is a recipient of minimum living allowances, a recipient of regular relief for extreme rural poverty, a recipient of rural five-guarantee support, or a recipient of unemployment insurance benefits, and has no other income; (4) a person who has suffered damage to his or her lawful rights and interests due to courageous acts or for protecting the public interest, and who, or whose close relatives, claim compensation or indemnification; or (5) other circumstances where exemption is genuinely necessary.

Article 46 — Where a party applies for judicial assistance and falls under any of the following circumstances, the people's court shall grant reduction of litigation costs: (1) a person who is experiencing hardship due to natural disasters or other force majeure, is receiving social relief, or whose family's production and operation cannot be sustained; (2) a person who is a recipient of preferential treatment or placement as prescribed by the State; (3) a social welfare institution or a relief administration station; or (4) other circumstances where reduction is genuinely necessary. Where the people's court grants reduction of litigation costs, the reduction ratio shall not be less than 30 percent.

Article 47 — Where a party applies for judicial assistance and falls under any of the following circumstances, the people's court shall grant deferred payment of litigation costs: (1) a person seeking recovery of social insurance benefits or economic compensation; (2) a victim of a maritime accident, traffic accident, medical accident, work-related injury accident, product quality accident, or other personal injury accident who claims compensation; (3) a person who is receiving legal aid from the relevant department; or (4) other circumstances where deferred payment is genuinely necessary.

Article 48 — A party applying for judicial assistance shall, when filing the action or appeal, submit a written application, evidentiary materials sufficient to prove its genuine financial difficulty, and other relevant evidentiary materials. Where an application for exemption from or reduction of litigation costs is made on the grounds of living difficulty or recovery of basic living expenses, proof shall also be provided that the applicant's and its family's financial situation meets the standards of financial difficulty for citizens prescribed

by the local civil affairs, labor security and other departments. Where the people's court does not approve a party's application for judicial assistance, it shall explain the reasons to the party in writing.

Article 49 — Where a party applies for deferred payment of litigation costs and, upon examination, the application satisfies Article 47 of these Measures, the people's court shall make a decision to grant deferred payment before deciding to place the case on file.

Article 50 — Where the people's court provides judicial assistance to one party and the opposing party loses the case, the litigation costs shall be borne by the opposing party; where the opposing party wins the case, the people's court may decide, in light of the financial situation of the party that applied for judicial assistance, to reduce or exempt its litigation costs.

Article 51 — Where the people's court grants a party reduction or exemption of litigation costs, it shall state this in the legal instrument.

Chapter VII — Administration and Supervision of Litigation Costs

Article 52 — The system for the payment and collection of litigation costs shall be made public. In collecting litigation costs, the people's courts shall, according to their financial affiliation, use fiscal instruments printed by the finance department of the State Council or the finance departments of the provincial-level people's governments. Case acceptance fees and application fees shall be turned over to the treasury in full, incorporated into the budget, and administered under the system of separation of revenue and expenditure. When collecting litigation costs, the people's courts shall issue payment vouchers to the parties, and the parties shall make payment at the designated agent bank on presentation of the payment vouchers. Where fees are to be refunded to the parties in accordance with law, the people's courts shall handle the matter in accordance with the relevant provisions of the State. The specific measures for the payment into the treasury and refund of litigation costs shall be separately formulated by the finance department of the State Council in consultation with the Supreme People's Court. In remote, waterborne or inaccessible areas, where a grassroots circuit court tries cases on the spot and a party states that it has genuine difficulty in paying litigation costs at the designated agent bank, the grassroots circuit court may collect the litigation costs on the spot and issue to the party fiscal instruments printed by the finance department of the provincial-level people's government; where such fiscal instruments are not issued, the party has the right to refuse payment.

Article 53 — After a case is concluded, the people's court shall notify the parties in writing of the detailed list of litigation costs and the amounts to be borne by the parties, and shall state the amounts to be borne by the respective parties in the judgment, ruling or mediation agreement. Where litigation costs need to be refunded to the parties, the people's court shall refund them to the relevant parties within 15 days from the date the legal instrument takes effect.

Article 54 — The price authorities and finance departments shall, according to their division of duties in fee administration, administer and supervise litigation costs; illegal fee collection in violation of these Measures shall be investigated and punished in accordance with the laws, regulations and relevant provisions of the State Council.

Chapter VIII — Supplementary Provisions

Article 55 — Litigation costs shall be calculated in Renminbi. Where costs are calculated in a foreign currency, they shall be converted into Renminbi at the exchange rate published by the State on the date the people's court decides to accept the case; litigation costs for appeal cases and retrial application cases shall be converted at the exchange rate published by the State on the date the people's court of first instance decides to accept the case.

Article 56 — These Measures shall be implemented as of April 1, 2007.

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