

# **Contract Law of the People's Republic of China**

*(Adopted at the Second Session of the Ninth National People's Congress on March 15, 1999 and promulgated by Order No. 15 of the President of the People's Republic of China on March 15, 1999)*

Contents

General Provisions

Chapter I Common Provisions

Chapter II Making of the Contract

Chapter III Validity of the Contract

Chapter IV Fulfillment of the Contract

Chapter V Modification and Transfer of the Contract

Chapter VI Termination of Rights and Obligations under the Contract

Chapter VII Liability for Breach of Contract

Chapter VIII Miscellaneous Provisions Specific Provisions

Chapter IX Purchase and Sale Contracts

Chapter X Contracts for the Supply and Consumption of Electricity, Water, Gas or Heat

Chapter XI Donation Contracts

Chapter XII Loan Contracts

Chapter XIII Lease Contracts

Chapter XIV Contracts for Financial Lease

Chapter XV Work Contracts

Chapter XVI Construction Project Contracts

Chapter XVII Carriage Contracts

Chapter XVIII Technology Contracts

Chapter XIX Contracts of Deposit

Chapter XX Warehousing Contracts

Chapter XXI Entrustment Contracts

Chapter XXII Brokerage Contracts

Chapter XXIII Intermediation Contracts

## Supplementary Provisions

### General Provisions

#### Chapter I Common Provisions

Article 1 This Law is enacted for the purpose of protecting the legitimate rights and interests of the parties to contracts, maintaining the socio-economic order and promoting the socialist modernization.

Article 2 For the purpose of this Law, a contract means an agreement on the establishment, alteration or termination of a civil right-obligation relationship between natural persons, legal persons or other organizations as subjects with equal status.

Agreements on establishing such personal relationships as marriage, adoption and guardianship shall be governed by the provisions of other laws.

Article 3 The parties to the contract have equal legal status, and neither party may impose its will on the other.

Article 4 The parties shall, pursuant to law, have the right to enter into a contract on their own free will, and no unit or person may unlawfully interfere.

Article 5 The parties shall observe the principle of equity in defining each other's rights and obligations.

Article 6 The parties shall observe the principle of good faith in exercising their rights and fulfilling their obligations.

Article 7 The parties shall, in making and fulfilling the contract, abide by laws and administrative regulations and respect social ethics, and may not disrupt the socio-economic order nor impair social and public interests.

Article 8 A legally executed contract has legal binding force on the parties. The parties shall fulfill their obligations as contracted, and may not arbitrarily modify or terminate the contract.

A legally executed contract is protected by law.

#### Chapter II Making of the Contract

Article 9 The parties shall, when making a contract, have corresponding capacity for civil rights and civil conduct.

A party may, in accordance with the law, entrust an agent to make a contract.

Article 10 The parties may, when making a contract, use written form, verbal form or any other form.

The written form shall be adopted if laws or administrative regulations so require. The written form shall be adopted if the parties so agree.

Article 11 "Written form" as used herein means any form which renders the information contained in a contract capable of being reproduced in tangible form such as a written agreement,

a letter, or electronic text (including telegram, telex, facsimile, electronic data interchange and e-mail).

Article 12 The content of a contract is determined by the parties and generally includes the following clauses:

- (1) designations or names and addresses of the parties;
- (2) the targeted matter;
- (3) quantity;
- (4) quality;
- (5) price or remuneration;
- (6) time, place and mode of fulfillment;
- (7) liability for breach of contract; and
- (8) dispute settlement.

The parties may make contracts with reference to various model contract forms.

Article 13 The parties shall, in making a contract, take the form of offer and acceptance.

Article 14 An "offer" is an intent indication showing the desire to enter into a contract with others, and the intent indication shall conform to the following provisions:

- (1) the content indicated shall be concrete and definite;
- (2) the offeror shall, as is indicated, be bound by the intent indication upon its acceptance by an offeree.

Article 15 An invitation for offer is an intent indication showing the desire to receive offers from others. Mailed or delivered price catalogs, auction announcements, invitations for bid, capital-raising prospectus and commercial advertisements are such invitations for offer.

A commercial advertisement shall, if its content conforms to the provisions regarding offers, be deemed an offer.

Article 16 An offer becomes effective when it reaches the offeree.

If a contract is made in the form of text in electronic data and the receiver has designated a special receiving system to receive such data text, the time at which the text in electronic data enters the designated special system shall be the time of arrival; if no special receiving system is designated, the time at which the text in electronic data first enters any of the receiver's systems shall be the time of arrival.

Article 17 An offer may be withdrawn. The withdrawal notice of an offer shall reach the offeree before or at the same time as the arrival of the offer at the offeree.

Article 18 An offer may be revoked. The revocation notice of an offer shall reach the offeree before the dispatch of an acceptance notice by the offeree.

Article 19 An offer may not be revoked under any of the following conditions:

- (1) the offeror has specified a time limit for the acceptance, or has explicitly indicated in any other manner the irrevocability of the offer;
- (2) there are grounds for the offeree to maintain the irrevocability of the offer and the offeree has made preparations for the fulfillment of the contract.

Article 20 An offer loses its effect under any of the following conditions:

- (1) a rejection notice of the offer has reached the offeror;
- (2) the offeror has revoked the offer pursuant to law;
- (3) when the fixed time limit for acceptance expires, the offeree undertakes no acceptance; or
- (4) the offeree makes a substantial change of the content of the offer.

Article 21 An acceptance is an assent indication of the offeree to an offer.

Article 22 An acceptance shall be made in form of a notice, unless, in light of trade practices or as indicated by the offer, the offeree may indicate the assent by performing an act.

Article 23 An acceptance shall reach the offeror within the time limit fixed by the offer.

If no time limit is fixed by the offer, the acceptance shall reach the offeror in accordance with the following provisions:

- (1) if an offer is made orally, acceptance shall be made promptly unless the parties stipulate otherwise; and
- (2) if an offer is not made orally, the acceptance shall reach the offeror within a reasonable period of time.

Article 24 If an offer is made through a letter or a telegram, the time limit for acceptance commences on the date shown on the letter or on the date the telegram is handed in for dispatch or, if no such date is shown on the letter, from the date shown by the postmark of the letter. If an offer is made by means of instantaneous communications such as telephone or facsimile, the time limit for acceptance commences at the moment that the offer reaches the offeree.

Article 25 A contract is executed at the time when the acceptance becomes effective.

Article 26 The acceptance becomes effective when the acceptance notice reaches the offeror. If an acceptance needs no notice, it becomes effective when an act of acceptance is performed in light of trade practices or as indicated by the offer.

Where a contract is made in the form of text in electronic data, the provisions of Paragraph 2, Article 16 of this Law shall be applicable to the time of arrival of the acceptance.

Article 27 An acceptance may be withdrawn. The withdrawal notice of the acceptance shall reach the offeror before or at the same time as the acceptance notice reaches the offeror.

Article 28 If the offeree makes an acceptance beyond the time limit for acceptance, it shall constitute a new offer unless the offeror notifies the offeree in time that the acceptance is effective.

Article 29 If an offeree makes within the time limit for acceptance an acceptance that could reach the offeror in time under normal conditions but happens to reach the offeror beyond the limit due to other reasons, the acceptance shall be effective notwithstanding unless the offeror notifies the offeree in time that the acceptance is denied due to its delayed arrival.

Article 30 The content of an acceptance shall be consistent with the content of the offer. If the offeree proposes any substantial change to the content of the offer, it shall constitute a new offer. Changes related to the targeted matter, quantity, quality, price or remuneration, duration of fulfillment, place and mode of fulfillment, liability for breach of contract and method of dispute settlement in a contract are substantial changes to the content of an offer.

Article 31 If an acceptance makes non-substantial changes to the content of the offer, the acceptance shall be effective notwithstanding and the content of the contract shall thus be based on the content of the acceptance, unless the offeror indicates in time its objection thereto, or as indicated in the offer, the acceptance may not make any change to the content of the offer.

Article 32 If the parties enter into a contract in the form of a contract instrument, the contract is executed at the time when both parties put their signatures or affix their seals thereto.

Article 33 If the parties enter into a contract in the form of letter or text in electronic data or any other forms, a confirmation instrument may be required prior to the execution of the contract. The contract is executed at the time when the confirmation instrument is signed.

Article 34 The place where the acceptance becomes effective shall be the place where the contract is executed.

Where a contract is made in the form of text in electronic data, the receiver's major place of business is the place of execution of the contract; in the absence of a major place of business, the receiver's habitual residence is the place of execution of the contract. Where the parties stipulate otherwise, such stipulations shall govern.

Article 35 If the parties adopt the form of a contract instrument to make a contract, the place where both parties sign or stamp the contract is the place of execution of the contract.

Article 36 Where the parties fail to make a contract in written form as provided for by laws or administrative regulations or as agreed by the parties, but a party has already performed the major obligations and the other party has accepted the performance, the contract shall be considered as executed.

Article 37 If, in making a contract in the form of a contract instrument, a party has already performed the major obligations pending the signature or seal and the other party has accepted the performance, the contract shall be considered as executed.

Article 38 If the State gives, according to the needs, mandatory assignments or State purchase orders, the legal persons and other organizations concerned shall conclude contracts in accordance with the rights and obligations provided for by the relevant laws and administrative regulations.

Article 39 If standard clauses are used in making a contract, the party that provides the standard clauses shall determine the rights and obligations between the parties in accordance with the principle of fairness, and shall call in a reasonable manner the other party's attention to the exemptible and restrictive clauses regarding its liability, and give explanations of such clauses at the request of the other party.

"Standard clauses" means the clauses that are formulated in anticipation by a party for the purpose of repeated usage and that are not a result of consultation with the other party in the making of the contract.

Article 40 Standard clauses shall become invalid if they fall under any of the circumstances set forth in Articles 52 and 53 of this Law or if the party that provides the standard clauses exempts itself from the liability, imposes heavier liability on the other party, or precludes the other party from its main rights.

Article 41 If a dispute arises over the understanding of a standard clause, the clause shall be interpreted in accordance with its common understanding. If a standard clause has more than one interpretation, the clause shall be interpreted in a manner unfavorable to the party providing the clause. If a standard clause is inconsistent with the non-standard clause, the non-standard clause shall be adopted.

Article 42 In the making of a contract, the party that falls under any of the following circumstances, causing thus loss to the other party, shall hold the liability for the loss.

- (1) engaging in consultation with malicious intention in name of making a contract;
- (2) concealing intentionally key facts related to the making of the contract or providing false information; or
- (3) taking any other act contrary to the principle of good faith.

Article 43 Neither party may disclose or inappropriately exploit business secrets obtained in the making of a contract no matter the contract is executed or not. The party that discloses or inappropriately exploits the said business secrets causing thus loss to the other party shall hold the liability for the loss.

### Chapter III Validity of the Contract

Article 44 A contract legally executed shall become effective upon execution.

Where a contract may become effective only after the completion of approval and registration procedure according to the provisions of laws and administrative regulations, such provisions shall govern.

Article 45 The parties may agree to attach conditions on the validity of the contract. A contract with collateral conditions on its entry into effect shall become effective upon the fulfillment of the conditions. A contract with collateral conditions on its dissolution shall lose its validity upon the fulfillment of the conditions.

Where either party, for the sake of its own interests, unjustifiably prevents the fulfillment of the aforesaid conditions, the conditions shall be deemed as fulfilled; where either party unjustifiably hastens the fulfillment of the conditions, the conditions shall be deemed as not fulfilled.

Article 46 The parties may agree to attach a time limit for the entry into effect of a contract. A contract with an attached time limit for its entry into effect shall become effective upon expiry of the time limit. A contract attached with a time limit for its termination shall lose its effect upon expiry of the time limit.

Article 47 A contract entered into by a person with limited civil capacity may become valid only after ratification by his legal agent. However, a contract of such kind which is purely profit-making or the making of which is compatible to the age, intelligence and mental health of the person concerned needs no ratification by his legal agent.

The counterpart may urge the legal agent to give ratification within one month. Where the legal agent does not respond, the non-response shall be deemed a refusal of ratification. Pending the ratification, the bona fide counterpart has the right to rescind. The rescission shall be made by a notice.

Article 48 A contract that is entered into by an actor without the right of agency, in excess of the right of agency or beyond the expiration of the right of agency, in the name of a principal and without ratification by the principal, shall have no binding force on the principal, and the actor shall bear the responsibility therefor.

The counterpart may urge the principal to give ratification of the contract within one month. Where the principal does not respond, the non-response shall be deemed a refusal of ratification. Pending the ratification, the bona fide counterpart has the right to rescind. The rescission shall be made by a notice.

Article 49 Where an actor enters, without the right of agency, in excess of the right of agency or beyond the expiration of the right of agency, into a contract in the name of a principal, and where the counterpart has grounds to believe that the actor has the right of agency, the act of agency shall be deemed as effective.

Article 50 Where a legal person, or the legal representative or the person in charge of an organization exceeds the limits of power in making a contract, the act of representation shall be effective unless the counterpart is aware or ought to be aware of the excess of the limit of power.

Article 51 Where a person without the right of disposal disposes of another's property, upon ratification by the obligee or if the person without the right of disposal obtains the right of disposal after making the contract, the contract shall be effective.

Article 52 A contract is invalid under any of the following circumstances:

- (1) either party enters into the contract by means of fraud or coercion and impairs the State's interests;
- (2) there is malicious conspiracy causing damage to the interests of the State, of the collective or of a third party;
- (3) there is an attempt to conceal illegal goals under the disguise of legitimate forms;
- (4) harm is done to social and public interests; or
- (5) mandatory provisions of laws and administrative regulations are violated.

Article 53 The following clauses on liability exemption in a contract shall be invalid:

- (1) those causing physical injury to the other party; or
- (2) those causing losses to property to the other party by intention or due to gross negligence.

Article 54 Either party has the right to request a people's court or an arbitration institution to alter or rescind any of the following contracts:

- (1) any contract which is made under substantial misunderstanding; or
- (2) any contract the making of which lacks fairness.

Where a party makes the other party enter into a contract against its true will by means of deceit, coercion or taking advantage of its difficulties, the injured party has the right to request a people's court or an arbitration institution to alter or rescind the contract.

Where the request of the party is an alteration to the contract, the people's court or arbitration institution shall not rescind it.

Article 55 The right to rescind shall vanish where:

- (1) the party with the right to rescind has not exercised it within a year from the date on which it was aware or ought to be aware of the matter for the rescission; or
- (2) the party with the right to rescind waives its right by express indication or by its own act after it was aware of the matter for the rescission.

Article 56 An invalid or rescinded contract does not have legal binding force from the outset. If a part of a contract becomes invalid without affecting the validity of the other parts, the other parts remain valid.

Article 57 If a contract becomes invalid, or is rescinded or terminated, the validity of its independently existing clauses pertaining to the settlement of disputes shall not be affected.

Article 58 After a contract becomes invalid or is rescinded, any property obtained under the contract shall be returned. If it is impossible or unnecessary to return the property, compensation shall be made at an estimated price. The party at fault shall compensate the other party for the loss caused by the fault. If both parties have faults, they shall bear their respective responsibilities.

Article 59 If the parties impair by malicious conspiracy the interests of the State, of the collective or of a third party, the property they have thus obtained shall be returned to the State, the collective or the third party.

#### Chapter IV Fulfillment of the Contract

Article 60 The parties shall fulfill fully their respective obligations as contracted.

The parties shall observe the principle of good faith and fulfill the obligations of notification, assistance and confidentiality in accordance with the nature and aims of the contract and trade practices.

Article 61 For a contract that has become valid, where the parties have not stipulated the contents regarding quality, price or remuneration or the place of performance, or have stipulated them unclearly, the parties may supplement them by agreement; if they are unable to reach a supplementary agreement, the problem shall be determined in accordance with the related clauses of the contract or with trade practices.

Article 62 Where the parties have unclearly stipulated related contents in a contract and fails to determine them in accordance with the provisions of Article 61 of this Law, the following provisions shall apply:

(1) in case of unclear quality requirements, the contract shall be performed in accordance with State standards or trade standards, or in the absence of such standards, in accordance with common standards or special standards conforming to the aim of the contract;

(2) in case of unclear price or remuneration stipulation, the contract shall be performed in accordance with the market price in the place of contract performance at the time of the making of the contract, or according to the government-set price or government-guided price if it is so required by law;

(3) in case of unclear stipulation of place of performance, where the payment is in cash, the contract shall be performed in the place of the cash recipient; where the payment is in real estate, the contract shall be performed in the place where the real estate is located; where other targeted matters are involved, the contract shall be performed in the place of the party fulfilling the obligations;

(4) in case of unclear time limit for the performance, the debtor may fulfill its obligations at any time, and the creditor may demand the fulfillment at any time, while giving the debtor necessary time to make preparations;

(5) in case of unclear mode of performance, the contract shall be performed in a manner conducive to the realization of the aim of the contract; and

(6) in case of unclear charge for the performance, the charge shall be borne by the party fulfilling the obligations.

Article 63 For a contract with the government-set price or government-guided price as the fulfilling price, where the government price is adjusted within the delivery period of the contract, the price at the time of delivery shall be the fulfilling price. Where an overdue delivery occurs and the price goes up at the delivery, the original price shall be the fulfilling price; if the price drops at the delivery, the new price shall be the fulfilling price. Where an overdue delivery-taking or overdue payment occurs, the new price shall be the fulfilling price if the price goes up; and the original price shall be the fulfilling price if the price goes down.

Article 64 Where the parties agree that the debtor shall discharge the debts to a third party and where the debtor fails to do so or fails to meet its liability as contracted, the debtor shall bear the liability for breach of contract to the creditor.

Article 65 Where the parties agree that a third party shall discharge the debts to the creditor and where the third party fails to do so or fails to meet its liability as contracted, the debtor shall bear the liability for breach of contract to the creditor.

Article 66 Where the parties are in debt to each other and there is no time order for discharging the debts, they shall meet their respective liabilities simultaneously. Either party has the right

to reject the other party's demand for the discharge before the latter meets its own liabilities. Either party has the right to reject the other party's demand for the discharge if the latter fails to meet its liabilities as contracted.

Article 67 Where the parties are in debt to each other and there is a time order for them to discharge the debts, the party which is the next to discharge the debts has the right to reject the discharge demanded by the party which is the first to meet its liabilities but fails to meet them. The party which is the next to discharge the debts has also the right to reject a corresponding discharge demanded by the party which is the first to meet its liabilities but fails to meet them as contracted.

Article 68 The party which ought to discharge its debts first may suspend the discharge if it has truthful evidence to prove that the other party falls under any of the following situations:

- (1) business operations seriously deteriorating;
- (2) diverting properties and withdrawing capital to evade debts;
- (3) falling into business discredit; or
- (4) other situations showing inability or possible inability to meet liabilities.

A party that suspends the discharge without truthful evidence shall bear the liability for breach of contract.

Article 69 Where a party suspends the discharge of its debts in accordance with the provisions of Article 68 of this Law, it shall promptly notify the other party of the suspension. The party shall resume the discharge when the other party provides a guarantee. The party that has suspended the discharge may dissolve the contract if the other party has failed to regain its capability of meeting its liabilities and to provide a guarantee within a reasonable period of time.

Article 70 If a creditor splits, merges or changes domicile without notifying the debtor and thus makes it difficult to discharge the debts, the debtor may suspend the discharge or deposit the targeted matter.

Article 71 The creditor may refuse an anticipated discharge of debts by the debtor, except that the anticipated discharge does not impair the creditor's interest.

Any additional expenses caused to the creditor by the debtor's anticipated discharge of debts shall be borne by the debtor.

Article 72 The creditor may refuse a discharge of debts in part by the debtor, except that the partial discharge does not impair the creditor's interest.

Any additional expenses caused to the creditor by the debtor's discharge of debts in part shall be borne by the debtor.

Article 73 If a debtor is indolent in exercising its matured creditor's rights and thus causes losses to the creditor, the creditor may apply to a people's court to subrogate the debtor's creditor's rights and exercise them under the creditor's name, except for the creditor's rights exclusively belonging to the debtor.

The scope for exercising the subrogation is limited to the creditor's rights enjoyed by the creditor. The expenses required by the creditor's subrogation shall be borne by the debtor.

Article 74 If a debtor disclaims its due creditor's rights or transfers gratis its property and thus causes losses to the creditor, the creditor may apply to a people's court to rescind the debtor's action. The creditor may also apply to a people's court to rescind the debtor's action if the debtor causes losses to the creditor by transferring its property at a low price evidently unreasonable and with awareness of the transferee.

The scope for exercising the right of rescission is limited to the creditor's rights enjoyed by the creditor. The expenses required by the creditor in exercising its right of rescission shall be borne by the debtor.

Article 75 The right of rescission shall be exercised within one year from the day on which the creditor is aware or ought to be aware of the matters for the rescission. If a creditor does not exercise its right of rescission within five years from the day on which the action of the debtor occurred, the right of rescission shall vanish.

Article 76 After a contract has become valid, neither party may refuse to perform its obligations under the contract due to any change in name or designation or any change in legal representative, person in charge or sponsor.

#### Chapter V Modification and Transfer of the Contract

Article 77 The parties may modify the contract upon consensus through consultation.

Where provisions of laws and administrative regulations require the modification of a contract to go through approval and registration procedures, such provisions shall govern.

Article 78 A contract shall be assumed as not having been modified if the content of the modification of the contract is not clearly agreed upon by the parties.

Article 79 A creditor may transfer its rights under a contract in whole or part to a third party, except in any of the following circumstances:

- (1) the transfer is not allowed according to the nature of the contract;
- (2) the transfer is not allowed according to the agreement between the parties; or
- (3) the transfer is not allowed according to the provisions of laws.

Article 80 Any transfer of rights by a creditor shall be notified to the debtor. The transfer shall not bind the debtor without such notification.

A creditor may not revoke the notice of its transfer of rights, except with the consent of the transferee.

Article 81 Where a creditor transfers its rights, the transferee shall also obtain the accessory rights related to the creditor's rights, except for cases the accessory rights exclusively belonging to the creditor.

Article 82 After a debtor has received a notice on the transfer of creditor's rights, the debtor may address its plea against the transferor to the transferee.

Article 83 When a debtor receives a notice on the transfer of creditor's rights, and if the debtor has creditor's rights over the transferee and the creditor's rights of the debtor are matured before

or at the same time as the transferred creditor's rights, the debtor may advocate to the transferee an offset.

Article 84 If a debtor intends to transfer its obligations under a contract in whole or in part to a third party, consent shall be obtained from the creditor.

Article 85 If a debtor transfers its obligations, the new debtor may advocate the original debtor's plea against the creditor.

Article 86 If a debtor transfers its obligations, the new debtor shall assume the accessory debts related to the principal debts, except for the accessory debts exclusively assumed by the original debtor.

Article 87 Where provisions of laws and administrative regulations require the transfer of rights or obligations to go through approval and registration procedures, such provisions shall govern.

Article 88 Either party may, with the consent of the other party, transfer its rights together with its obligations under the contract to a third party.

Article 89 When rights together with obligations are transferred, the provisions of Article 79, Articles 81 to 83, and Articles 85 to 87 of this Law shall apply.

Article 90 Where a party merges after the execution of the contract, the legal person or the organization arising from the merger shall exercise the rights under the contract and fulfill the obligations under the contract. Where a party splits after the execution of the contract, unless the creditor and the debtor stipulate otherwise, the legal persons or the organizations arising from the split shall enjoy joint and several creditor's rights under the contract and assume joint and several liabilities under the contract.

## Chapter VI Termination of Rights and Obligations under the Contract

Article 91 The rights and obligations under a contract shall terminate in any of the following situations:

- (1) liabilities have all been met as contracted;
- (2) the contract is dissolved;
- (3) liabilities are offset against each other;
- (4) the debtor has deposited the targeted matter according to law;
- (5) the creditor grants exemption from liabilities;
- (6) both creditor's rights and liabilities are undertaken by one same person; or
- (7) other situations as provided for by law or stipulated by the parties.

Article 92 After the termination of rights and obligations under a contract, the parties shall perform the duties of notification, assistance and confidentiality in light of the principle of good faith and in accordance with trade practices.

Article 93 The parties may dissolve the contract upon consensus through consultation.

The parties may stipulate the conditions for dissolution of the contract by either party. When the conditions for dissolution of the contract mature, the party with the right to dissolve may dissolve the contract.

Article 94 The parties may dissolve the contract under any of the following circumstances:

- (1) the aim of the contract cannot be attained because of force majeure;
- (2) before the period of performance expires, either party clearly indicates by word or by act that it will not discharge the principal debts;
- (3) either party delays the discharge of the principal debts and still fails to discharge them within a reasonable period of time after being urged;
- (4) either party delays the discharge of debts or is engaged in other illegal activities and thus makes realization of the aim of the contract impossible; or
- (5) any other circumstances as provided for by law.

Article 95 If a time limit for exercising the right to dissolve the contract is provided for by laws or by agreement of the parties, and the party concerned does not exercise such right at the expiration of the time limit, such right shall vanish.

If no time limit for exercising the right to dissolve is provided for by laws or by agreement of the parties, but the party concerned does not exercise such right within a reasonable period of time after being urged by the other party, such right shall vanish.

Article 96 When a party advocates the dissolution of the contract in accordance with the provisions of Paragraph 2 of Article 93 and Article 94 of this Law, the party shall notify the other party. The contract shall be dissolved when the notice reaches the other party. If the other party has objection, it may apply to a people's court or an arbitration institution to determine the validity of the dissolution of the contract.

Where provisions of laws and administrative regulations require the dissolution of a contract to go through approval and registration procedures, such provisions shall govern.

Article 97 After the dissolution of a contract, for those clauses not yet performed, the performance shall cease. For those already performed, the party concerned may, in accordance with the situation of performance and the nature of the contract, demand their restoration to the original status or take other remedial measures, and have the right to claim compensation.

Article 98 The termination of rights and obligations under a contract shall not affect the validity of its clauses regarding settlement and liquidation.

Article 99 If the parties mutually owe matured liabilities, and if the varieties and quality of targeted matters of the liabilities are the same, either party may offset its liabilities against those of the other party, except for the liabilities that cannot be offset according to the provisions of laws or according to the nature of the contract.

The party that advocates an offset shall notify the other party. The notice shall become effective when it reaches the other party. No conditions or time limit may be attached to the offset.

Article 100 If the parties mutually owe liabilities and the targeted matters are different in variety and quality, they may also be offset against each other upon consensus through consultation by the parties.

Article 101 The debtor may deposit its targeted matter if it has difficulty to discharge its debts owing to any of the following situations:

- (1) the creditor refuses to accept the discharge without justifiable reason;
- (2) the whereabouts of the creditor is unknown;
- (3) the creditor dies without determining an heir or has lost capacity of civil conduct without determining a guardian; or
- (4) other situations as provided for by law.

If the targeted matter is unsuitable for deposit or the deposit is too expensive, the debtor may auction or sell it and deposit the proceeds according to law.

Article 102 After the targeted matter is deposited, the debtor shall promptly notify the creditor or his heir or guardian thereof, unless the whereabouts of the creditor is unknown.

Article 103 The risk of damage and loss of the targeted matter after deposit shall be borne by the creditor. Accrued interest from the targeted matter during the period of deposit shall belong to the creditor. The expenses for depositing the targeted matter shall be borne by the creditor.

Article 104 The creditor may collect the deposited targeted matter at any time. However, if the creditor owes the debtor matured liabilities, the depositary agency shall, at the debtor's request, disallow the creditor to collect the targeted matter before meeting its own liabilities or providing a guarantee.

The right of a creditor to collect the targeted matter shall vanish if the right is not exercised within five years from the date of deposit and the targeted matter deposited shall belong to the State after deduction of the deposit expenses.

Article 105 If the creditor exempts the debtor from its liabilities in whole or in part, the rights and obligations under the contract shall terminate in whole or in part.

Article 106 If both creditor's rights and obligations are undertaken by one same person, the rights and obligations under the contract shall terminate, except for those involving the interests of a third party.

## Chapter VII Liability for Breach of Contract

Article 107 Either party that fails to perform its obligations under the contract or fails to perform them as contracted shall bear the liability for breach of contract by continuing to perform the obligations, taking remedial measures, or compensating for losses.

Article 108 If either party explicitly expresses or indicates by act its intention not to perform its obligations under the contract, the other party may, before the expiration of the period of fulfillment, demand that the party in question bear the liability for breach of contract.

Article 109 If either party fails to pay charges or remuneration, the other party may demand the payment.

Article 110 If either party fails to discharge non-pecuniary debt or fails to discharge non-pecuniary debt as contracted, the other party may demand the discharge, except in any of the following situations:

- (1) legally or practically the discharge is impossible;
- (2) the targeted matter of the debt is unsuitable for a compulsory discharge or too expensive for the discharge; or
- (3) the creditor does not demand the discharge within a reasonable period of time.

Article 111 If the quality fails to meet the agreed requirements, liability for breach of contract shall be borne in accordance with the agreement between the parties. If the liability for breach of contract is not stipulated or is not clearly stipulated, nor can it be determined pursuant to the provisions of Article 61 of this Law, the party suffering the loss may, with reference to the nature of the targeted matter and the degree of the loss, choose in a reasonable manner to demand that the other party bear the liability for breach of contract in such form as repair, replacement, redoing, return of the targeted matter, discount in payment or remuneration.

Article 112 Where either party fails to perform its obligations under the contract or does not perform its obligations as contracted, and losses are still caused to the other party after the performance of obligations or the adoption of remedial measures, the party in fault shall compensate for the losses.

Article 113 If either party fails to perform its obligations under the contract or does not perform its obligations as contracted and thus causes losses to the other party, the amount of compensation for the loss shall be equivalent to the loss actually caused by the breach of contract and shall include the profit obtainable after the performance of the contract, but shall not exceed the sum of the loss that might be caused by a breach of contract and has been anticipated or ought to be anticipated by the breaching party in the making of the contract.

A business operator who practices fraud in providing commodities or services to consumers shall undertake to compensate for the damage in accordance with the provisions of the Law of the People's Republic of China on the Protection of Consumers' Rights and Interests.

Article 114 The parties may stipulate that in case of breach of contract by either party a certain amount of penalty shall be paid to the other party according to the seriousness of the breach, and may also stipulate the method for calculating the sum of compensation for losses caused by the breach of contract.

If the stipulated penalty for breach of contract is lower than the loss caused by the breach, the party concerned may apply to a people's court or an arbitration institution for an increase. If the stipulated penalty for breach of contract is excessively higher than the loss caused by the breach, the party concerned may apply to a people's court or an arbitration institution for an appropriate reduction.

If the parties agree upon a penalty for the breach of contract by a delayed fulfillment, the breaching party shall, after paying the penalty for breach of contract, discharge the debts notwithstanding.

Article 115 The parties may, in accordance with the Guaranty Law of the People's Republic of China, agree that one party pays a deposit to the other party as a guarantee of the creditor's rights. After the debtor has met its liabilities, the deposit shall be calculated as part of the price

or be refunded. If the party paying the deposit fails to meet its liabilities as contracted, it shall not be entitled to the refund of the deposit. If the party receiving the deposit fails to meet its liabilities as contracted, it shall doubly refund the deposit.

Article 116 In the event that a penalty for breach of contract and a deposit are both stipulated by the parties, when either party breaches the contract, the other party may choose to apply either the clause on penalty for breach of contract or the clause on deposit.

Article 117 If a contract cannot be fulfilled due to force majeure, the obligations may be exempted in whole or in part depending on the impact of the force majeure, unless laws provide otherwise. If the force majeure occurs after a delayed fulfillment, the obligations of the party concerned may not be exempted.

Force majeure as used herein means objective situations which cannot be foreseen, avoided or overcome.

Article 118 Either party that is unable to fulfill the contract due to force majeure shall notify the other party in time in order to reduce losses possibly inflicted to the other party, and shall provide evidence thereof within a reasonable period of time.

Article 119 After either party breaches the contract, the other party shall take appropriate measures to prevent the increase of the loss; the party that fails to take appropriate preventive measures and thus aggravates the loss may not claim compensation for the increased part of the loss.

The reasonable expenses incurred by the other party in preventing the aggravation of the loss shall be borne by the breaching party.

Article 120 If both parties breach the contract, they shall bear their respective liabilities accordingly.

Article 121 Either party that breaches the contract due to a third party shall bear the liability for breach of contract to the other party. The disputes between the breaching party and the third party shall be settled pursuant to law or by agreement.

Article 122 If the breach of contract by either party causes infringement on the personal or property rights and interests to the other party, the injured party has the right to choose whether to demand that the breaching party bear the liability for breach of contract pursuant to this Law or bear the liability for infringement of rights in accordance with other laws.

## Chapter VIII Miscellaneous Provisions

Article 123 Where other laws stipulate otherwise on contracts, such provisions shall govern.

Article 124 For contracts not explicitly regulated by the Specific Provisions of this Law or other laws, the General Provisions of this Law shall apply, and the most similar provisions in the Specific Provisions of this Law or other laws may concurrently be used as reference.

Article 125 In the event that the parties dispute about the understanding of a clause of the contract, the actual meaning of the clause shall be inferred and determined on the basis of the words and sentences used in the contract, related clauses of the contract, aim of the contract, trade practices and the principle of good faith.

If a contract is made in two or more languages which are equally authentic as contracted, the words and sentences used in the different language texts shall be assumed to be identical in denotation. If the words and sentences used in different language texts contain discrepancies, they shall be interpreted according to the aim of the contract.

Article 126 The parties to a foreign-related contract may choose those laws applicable to the settlement of contract disputes, unless stipulated otherwise by law. If the parties to a foreign-related contract fail to make such choice, the State laws most closely related to the contract shall apply.

For the contracts to be fulfilled in the territory of the People's Republic of China on Chinese-foreign equity joint ventures, on Chinese-foreign contractual joint ventures and on Chinese-foreign cooperation in exploring and exploiting natural resources, the laws of the People's Republic of China shall apply.

Article 127 The administrative departments for industry and commerce and other relevant competent administrative departments shall, within the scope of their respective duties and powers and in accordance with the law, be responsible for the supervision and treatment of the illegal activities endangering the State's interests and the social and public interests by making use of contracts; if a crime is constituted, criminal responsibility shall be investigated pursuant to law.

Article 128 The parties may settle contract disputes through consultations or mediation.

If the parties are unwilling to resort to consultation or mediation, or such consultation or mediation fails, the parties may apply to an arbitration institution for arbitration according to the arbitration agreement. The parties to a foreign-related contract may, according to the arbitration agreement, apply to a Chinese arbitration institution or any other arbitration institution for arbitration. If the parties have no arbitration agreement or the arbitration agreement is invalid, they may initiate an action in a people's court. The parties shall implement any legally effective judgment, arbitral award or letter of mediation; in case of a refusal to implement, the other party may apply to a people's court for execution.

Article 129 The time limit for initiating legal proceedings or applying for arbitration regarding contracts of international sale of goods and contracts on technology import and export shall be four years, calculated from the day on which the party concerned is aware or ought to be aware of the infringement of its rights. The time limit for initiating legal proceedings or applying for arbitration regarding other contracts shall be governed by the provisions of relevant laws.

## Specific Provisions

### Chapter IX Purchase and Sale Contracts

Article 130 A "purchase and sale contract" is a contract whereby the seller transfers its ownership over the targeted matter to the buyer and the buyer pays the price therefor.

Article 131 In addition to those clauses prescribed in Article 12 of this Law, a purchase and sale contract may also contain such clauses as method of packaging, inspection standards and method, mode of settlement, language used for the contract and their validity.

Article 132 The seller shall own the targeted matter for sale or have the right of disposal.

For a targeted matter the transfer of which is forbidden or restricted by laws or administrative regulations, the provisions therein shall govern.

Article 133 The ownership over a targeted matter is transferred upon the delivery of the targeted matter, unless the law provides otherwise or the parties stipulate otherwise.

Article 134 The parties may stipulate in a purchase and sale contract that the seller retains the ownership over the targeted matter if the buyer fails to pay the price or to perform other obligations.

Article 135 The seller shall perform its obligations of delivering the targeted matter or providing documents for taking delivery of the targeted matter and transferring the ownership over the targeted matter to the buyer.

Article 136 The seller shall hand over the related certificates and data to the buyer as contracted or according to trade practices in addition to the documents for taking delivery of the targeted matter.

Article 137 Where targeted matters involving intellectual property rights such as computer software are to be sold, unless the laws provide otherwise or the parties stipulate otherwise, the intellectual property rights of these targeted matters shall not belong to the buyer.

Article 138 The seller shall deliver the targeted matter within the stipulated time limit. Where a time limit is stipulated for the delivery, the seller may deliver the targeted matter at any time within the time limit.

Article 139 If the time limit for delivery is not stipulated or is unclearly stipulated, the provisions of Article 61 and sub-paragraph 4, Article 62 of this Law shall apply.

Article 140 If the buyer has already possessed the targeted matter before the contract is entered into, the time at which the contract becomes valid is the time of delivery.

Article 141 The seller shall deliver the targeted matter to the agreed place of delivery.

If the place of delivery is not stipulated or is unclearly stipulated by the parties and cannot be determined according to the provisions of Article 61 of this Law, the following provisions shall apply:

(1) If the targeted matter needs to be transported, the seller shall consign the targeted matter to the first carrier for its delivery to the buyer; and

(2) If the targeted matter does not need to be transported, and if the seller and the buyer know the location of the targeted matter when entering into the contract, the seller shall deliver the targeted matter at the said location of the targeted matter; if the location of the targeted matter is unknown, the seller shall deliver the targeted matter at the seller's place of business at the time when the contract is made.

Article 142 The risks of damage and loss of the targeted matter shall be borne by the seller prior to the delivery and by the buyer after the delivery, unless the laws provide otherwise or the parties stipulate otherwise.

Article 143 If the targeted matter is unable to be delivered within the agreed time limit because of the buyer, the buyer shall bear the risks of damage and loss of the targeted matter from the date of breaching the agreement.

Article 144 When the seller consigns its sold targeted matter to a carrier for transport, unless the parties stipulate otherwise, the risks of damage and loss of the targeted matter en route shall be borne by the buyer from the time when the contract is made.

Article 145 If the place of delivery is not stipulated or is unclearly stipulated by the parties, and if the targeted matter needs to be transported according to sub-paragraph 1, paragraph 2, Article 141 of this Law, the buyer shall bear the risks of damage and loss of the targeted matter when the seller consigns the targeted matter to the first carrier for transport.

Article 146 If the seller puts the targeted matter at the place of delivery as contracted or in accordance with the provisions of sub-paragraph 2, paragraph 2, Article 141 of this Law and if the buyer, in violation of the stipulation, does not take delivery of the targeted matter, the risks of damage and loss shall be borne by the buyer from the day on which the buyer violates the stipulations.

Article 147 The seller's failure to provide documents and data in relation to the targeted matter as contracted shall not affect the shift of the risks of damage and loss of the targeted matter.

Article 148 If the aim of a contract cannot be achieved owing to the fact that the quality of a targeted matter fails to meet the requirements, the buyer may refuse to accept the targeted matter or may dissolve the contract. In case the buyer refuses to accept the targeted matter or dissolves the contract, the risks of damage and loss of the targeted matter shall be borne by the seller.

Article 149 The responsibility of the buyer to bear the risks of damage and loss of a targeted matter shall not affect the buyer's right to demand that the seller bear the liability for breach of contract if the seller's discharge of debts fails to comply with the agreement.

Article 150 The seller has the obligation to guarantee that no third party shall claim rights against the buyer over the targeted matter delivered unless the law provides otherwise.

Article 151 If the buyer is aware or ought to be aware that a third party has rights over the targeted matter while entering into the contract, the seller shall not assume the obligations stipulated in Article 150 of this Law.

Article 152 Where a buyer has clear evidence to prove that a third party may probably claim rights over the targeted matter, the buyer may suspend the payment therefor, except in the case that the seller has provided an appropriate guarantee.

Article 153 The seller shall deliver the targeted matter in accordance with the contracted quality requirements. When the seller provides quality specifications of the targeted matter, the targeted matter delivered shall conform to the specified quality requirements.

Article 154 If the parties have not stipulated or have unclearly stipulated the quality requirements of the targeted matter, nor can they determine them pursuant to the provisions of Article 61 of this Law, the provisions of sub-paragraph 1 of Article 62 of this Law shall apply.

Article 155 If the targeted matter delivered by the seller fails to meet the quality requirements, the buyer may demand that the seller bear the liability for breach of contract pursuant to the provisions of Article 111 of this Law.

Article 156 The seller shall deliver the targeted matter in compliance with the contracted packaging method. If the parties have not stipulated or have unclearly stipulated the packaging method, nor can they determine it pursuant to the provisions of Article 61 of this Law, the targeted matter shall be packed in a general way, and in the absence of a general way, it shall be packed in a manner sufficient to protect the targeted matter.

Article 157 The buyer shall inspect the targeted matter after receiving it within the agreed period for inspection. If no period for inspection is stipulated, the buyer shall inspect the targeted matter in time.

Article 158 If the parties stipulate the period for inspection, the buyer shall, within the period for inspection, notify the seller of any unconformity of the targeted matter with the agreed quantity or quality. If the buyer is indolent to notify the seller thereof, the targeted matter shall be deemed in conformity with the agreed quantity or quality.

If the parties have not stipulated an inspection period, the buyer shall notify the seller of the unconformity of the targeted matter with the agreed quantity or quality within a reasonable period of time after it discovers or ought to discover the unconformity. If the seller fails to notify the seller within a reasonable period of time or within two years after the date of taking delivery of the targeted matter, the targeted matter shall be deemed in conformity with the agreed quantity or quality. However, in the event that there is a quality guarantee period for the targeted matter, the quality guarantee period shall apply instead of the provisions on the two-year limit.

If the seller is aware or ought to be aware of the unconformity of the targeted matter with the stipulation, the buyer shall not be limited by the informing time limit stipulated in the preceding paragraphs.

Article 159 The buyer shall effect the payment in accordance with the contracted price. If the parties have not stipulated or have unclearly stipulated the price, the provisions of Article 61 and sub-paragraph 2, Article 62 of this Law shall apply.

Article 160 The buyer shall effect the payment at the agreed place. If the parties have not stipulated or have unclearly stipulated the place of payment, nor can they determine it pursuant to the provisions of Article 61 of this Law, the buyer shall pay at the place of business of the seller or, if the delivery of the targeted matter or that of the document for taking delivery of the targeted matter is contracted as the precondition for the payment, the payment shall be effected at the place where the targeted matter or the document for taking delivery of the targeted matter is delivered.

Article 161 The buyer shall effect the payment at the agreed time. If the time for payment is not stipulated or not clearly stipulated, nor can it be determined pursuant to the provisions of Article 61 of this Law, the buyer shall pay at the same time as it takes delivery of the targeted matter or receives the document for taking delivery of the targeted matter.

Article 162 If the seller delivers extra targeted matter, the buyer may accept or refuse to accept the extra part. If the buyer accepts the extra, it shall pay for the extra at the price contracted. If the buyer refuses to accept the extra, the buyer shall promptly notify the seller.

Article 163 Any accrued interest generated by the targeted matter shall belong to the seller before delivery and to the buyer after the delivery.

Article 164 If a contract is dissolved due to the unconformity of the principal targeted matter with the contracted requirements, the effect of the dissolution shall extend to the accessory matters. If the contract is dissolved due to the unconformity of the accessory matters with the contracted requirements, the effect of the dissolution shall not extend to the principal targeted matter.

Article 165 If a targeted matter is composed of several objects and one of them fails to meet the contracted requirements, the buyer may dissolve the part of the contract in connection with that object. If the separation of that object from the other objects affects markedly the value of the targeted matter, the party concerned may dissolve the contract in connection with the several objects.

Article 166 For the targeted matter to be delivered by batches, if the seller leaves one batch of the targeted matter not delivered, or delivered in a manner not in conformity with the agreement, so that the aim of the contract in connection with that batch of the targeted matter cannot be attained, the buyer may dissolve what is in connection with that batch of the targeted matter.

If the seller leaves one batch of the targeted matter not delivered, or delivered in a manner not in conformity with the agreement, so that the subsequent delivery of the remaining batches of the targeted matter cannot attain the aim contracted, the buyer may dissolve what is in connection with that batch and the remaining batches of the targeted matter.

If the buyer has dissolved the part of the contract in connection with one of the batches of the targeted matter and if that batch and the remaining batches of the targeted matter are interdependent on each other, the buyer may dissolve the part in connection with all the batches whether already or not yet delivered.

Article 167 If a buyer effects payment by installments and the unpaid installments amount to one-fifth of the total price, the seller may demand that the buyer pay the total sum or may dissolve the contract.

The seller deciding to dissolve the contract may request demand that the buyer pay a fee for the use of the targeted matter.

Article 168 The parties to a sale transaction by sample shall seal up the sample and may make specifications of its quality. The targeted matter delivered by the seller shall be identical in quality with the sample and its specifications.

Article 169 If the buyer to a sale transaction by sample is unaware of the sample's hidden defects, even if the targeted matter delivered is identical with the sample, the quality of the targeted matter delivered by the seller shall still conform to the common standards for the same category of objects.

Article 170 The parties to a sale transaction on trial use may stipulate a period for trial use of the targeted matter. If the period for trial use is not stipulated or not clearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, it shall be determined by the seller.

Article 171 The buyer to a sale transaction on trial use may purchase or refuse to purchase the targeted matter within the period for trial use. If, on the expiry of the period for trial use, the

buyer makes no indication as to whether to purchase or not, the targeted matter shall be deemed as purchased.

Article 172 The rights and obligations of the parties to a sale transaction by bid and tender, as well as the procedures for bid and tender, shall be governed by the provisions of the relevant laws and administrative regulations.

Article 173 The rights and obligations of the parties to an auction, as well as the auction procedures, shall be governed by the provisions of the relevant laws and administrative regulations.

Article 174 Any other non-gratuitous contract shall comply with laws containing relevant provisions and in the absence of such provisions, shall be handled with reference to the provisions governing purchase and sale contracts.

Article 175 The parties that agree to transfer the ownership of the targeted matters by barter trade shall handle the case with reference to the provisions governing purchase and sale contracts.

#### Chapter X Contracts for the Supply and Consumption of Electricity, Water, Gas or Heat

Article 176 A contract for the supply and consumption of electricity is a contract whereby the supplier provides electricity to the consumer and the consumer pays the price therefor.

Article 177 A contract for the supply and consumption of electricity shall contain such clauses as the mode, quality and time of the supply, the volume, address and nature of the consumption, the measuring method, the settlement method of electricity price and charges, and the responsibility for the maintenance of electricity supply and consumption facilities.

Article 178 The place of performance of the contract for the supply and consumption of electricity shall be stipulated by the parties; if such place is not stipulated or is unclearly stipulated by the parties, the place of demarcation for property rights of the electricity supply facilities shall be the place of performance.

Article 179 The supplier shall safely supply electricity pursuant to the quality standards for power supply set by the State and as contracted. If the supplier fails to safely supply electricity pursuant to the quality standards for power supply set by the State and as contracted, and thus causes losses to the consumer, the supplier shall hold the liability for damages.

Article 180 If the supplier needs to cut electricity supply due to scheduled overhauls, unscheduled overhauls, legal limitation of electricity consumption, or consumer's illegal electricity consumption, the supplier shall, pursuant to the relevant regulations of the State, notify the consumer in advance. If the supplier cuts the electricity supply without notifying the consumer in advance and thus causes losses to the consumer, the supplier shall hold the liability for damages.

Article 181 The supplier shall rush to repair without delay according to the State's relevant regulations whenever the electricity supply is cut off due to such reasons as natural disasters. Where the supplier does not rush to repair and thus causes losses to the consumer, the supplier shall hold the liability for damages.

Article 182 The consumer shall pay in time the electricity fee pursuant to the relevant regulations of the State and as contracted by the parties. Where the consumer fails to pay the electricity fee within the scheduled period, it shall pay a penalty in accordance with the contract.

Where the consumer, after being urged, still fails to pay the fee and penalty within a reasonable period of time, the supplier may stop the supply of electricity in accordance with the procedures specified by the State.

Article 183 The consumer shall safely consume the electricity in accordance with the relevant regulations of the State and as contracted by the parties. Where the consumer fails to safely consume the electricity in accordance with the relevant regulations of the State and as contracted by the parties and thus causes losses to the supplier, the consumer shall hold the liability for damages.

Article 184 Contracts for the supply and consumption of water, gas or heat shall be governed with reference to the provisions of the contract for the supply and consumption of electricity.

#### Chapter XI Donation Contracts

Article 185 A "donation contract" is a contract whereby the donor gives its own property to a donee gratis, and the donee indicates its acceptance of the donation.

Article 186 The donor may rescind the donation prior to the transfer of the rights of the donated property.

The provisions of the preceding paragraph shall not apply to donation contracts of a public welfare or moral obligation nature such as contracts on disaster-relief, or poverty-relief nor to the donation contracts already notarized.

Article 187 The donated property shall go through registration and other procedures if the law so requires.

Article 188 For any donation contract of a public welfare or moral obligation nature such as a contract on disaster-relief or poverty-relief, or for any donation contract already notarized, if the donor does not deliver the property to be donated, the donee may demand the delivery.

Article 189 Where damage or loss of the donated property is caused by the donor due to its deliberate intention or major fault, the donor shall hold the liability therefor.

Article 190 A donation may be subject to collateral obligation.

If a donation is subject to collateral obligations, the donee shall perform its obligations as contracted.

Article 191 If the donated property has defects, the donor shall not bear any responsibility. If the donated property under a donation subject to collateral obligation has defects, the donor shall, within the limit of the collateral obligations, bear the same liabilities as a seller.

If the donor does not notify the donee about the defects intentionally or has guaranteed the flawlessness and thus causes losses to the donee, the donor shall hold the liability for damages.

Article 192 The donor may rescind the donation if the donee behaves in any of the following manners:

- (1) severely infringing upon the donor or upon any close relatives of the donor;
- (2) having obligation to support the donor but failing to fulfill that obligation; or

(3) failing to fulfill the obligations as stipulated in the donation contract.

The right of rescission of the donor shall be exercised within one year from the date on which it is aware or ought to be aware of the reasons therefor.

Article 193 If a donee's illegal act leads to the death or loss of capacity for civil conduct of the donor, the heir or legal agent of the donor may rescind the donation.

The right of rescission of the donor's heir or legal agent shall be exercised within six months from the date the heir or the legal agent is aware or ought to be aware of the reasons therefor.

Article 194 If a donation is rescinded, the person having the right to rescind may demand that the donee return the donated property.

Article 195 A donor whose financial conditions deteriorates markedly and whose production, business or family life is thereby severely affected may cease to perform the donation obligations.

## Chapter XII Loan Contracts

Article 196 A "loan contract" is a contract whereby the borrower borrows a loan from the lender and repays the loan with interest when the loan becomes due.

Article 197 Loan contracts shall be made in written form, except for the loans otherwise contracted between natural persons.

A loan contract contains such clauses as the category of the loan, kind of currency, purpose of use, amount, interest rate, term and method of repayment.

Article 198 In making a loan contract, the lender may require the borrower to provide a guaranty. The guaranty shall be governed by the provisions of the Guaranty Law of the People's Republic of China.

Article 199 In making a loan contract, the borrower shall, as required by the lender, provide the lender with truthful information about its business activities and financial conditions related to the borrowing.

Article 200 The interest on a loan may not be deducted from the principal in advance. If the interest is deducted from the principal in advance, the loan shall be repaid and the interest shall be calculated according to the actual amount of the loan provided.

Article 201 A lender who fails to provide the loan at the contracted time and amount and thus causes a loss to the borrower shall hold the liability for the loss.

A borrower who fails to take the loan at the contracted time and amount shall pay an interest based on the contracted time and amount.

Article 202 The lender may, as contracted, inspect and supervise the use of the loan. The borrower shall as contracted regularly provide such materials as financial and accounting statements to the lender.

Article 203 If the borrower fails to use the loan in accordance with the contracted purpose of the use, the lender may stop providing the loan, recall the loan ahead of time or dissolve the contract.

Article 204 The interest rates of the financial institutions offering loan services shall be fixed within the ceiling and floor of loan interest rates set by the People's Bank of China.

Article 205 The borrower shall pay the interest within the contracted time limit. If the time limit for payment of interest is not stipulated or not clearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the interest shall be paid together with the repayment of the loan in case the loan term is less than one year; the interest shall be paid at the end of each full year in case the loan term is more than one year and, the interest shall be paid together with the loan repayment if the remaining loan term is less than one year.

Article 206 The borrower shall repay the loan within the contracted time limit. If the time limit is not stipulated or not clearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the borrower may repay the loan at any time, and the lender may urge the borrower to repay the loan within a reasonable period of time.

Article 207 A borrower who fails to repay the loan within the contracted time limit shall pay an overdue interest pursuant to the contract or to the relevant regulations of the State.

Article 208 If the borrower repays the loan ahead of schedule, unless the parties stipulate otherwise, the interest shall be calculated according to the actual duration of the loan.

Article 209 The borrower may apply to the lender for an extension of the loan term before the loan becomes due. With the consent of the lender, the loan term may be extended.

Article 210 A loan contract between natural persons takes effect from the time when the lender provides the loan.

Article 211 Where a loan contract between natural persons does not stipulate the payment of interest or stipulates it unclearly, the loan shall be deemed as bearing no interest.

If a loan contract between natural persons stipulates the payment of interest, the interest rate may not violate the regulations of the State regarding the restriction on the loan interest rates.

### Chapter XIII Lease Contracts

Article 212 A "lease contract" is a contract whereby the lessor delivers the leased object to the lessee for use or for obtaining proceeds, and the lessee pays the rent therefor.

Article 213 A contract for lease shall contain such clauses as the name of the leased object, quantity, purpose of use, term of the lease, rent and the time limit and method of its payment, and the maintenance of the leased object.

Article 214 The lease term may not exceed twenty years. If it exceeds twenty years, the period in excess shall be invalid.

When the lease term expires, the parties may renew the lease contract, however, the contracted lease term may not exceed twenty years from the date of renewal of the contract.

Article 215 A lease contract with a term exceeding six months shall be made in written form. Where the parties do not use written form, the lease shall be deemed a lease without fixed term.

Article 216 The lessor shall deliver the leased object to the lessee as contracted and keep the leased object fit for the contracted use during the lease term.

Article 217 The lessee shall use the leased object in the contracted manner. If the manner of use is not stipulated or is unclearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the leased object shall be used in a manner consistent with its nature.

Article 218 The lessee shall not hold the liability for the loss caused by the wear and tear in the use of the leased object when the manner of use is consistent with the contract or with the nature of the object.

Article 219 Where the lessee fails to use the leased object in the manner as contracted or consistent with its nature, thus causing damage to the leased object, the lessor may dissolve the contract and claim compensation therefor.

Article 220 The lessor shall perform the duty of maintaining the leased object, unless the parties stipulate otherwise.

Article 221 When a leased object requires maintenance and repair, the lessee may ask the lessor to take care of the maintenance and repair within a reasonable period of time. If the lessor fails to perform the maintenance obligation, the lessee may maintain and repair the leased object on its own and the expenses arising therefrom shall be borne by the lessor. If the maintenance and repair of the leased object affects its use by the lessee, the rent shall be reduced or the lease term shall be extended accordingly.

Article 222 The lessee shall appropriately preserve the leased object, and in case of any damage or loss of the leased object caused by an inappropriate preservation, the lessee shall hold the liability for damages.

Article 223 The lessee may, with the consent of the lessor, improve the leased object or supplement it with other objects.

If the lessee improves the leased object or supplement it with other objects without the consent of the lessor, the lessor may demand that the lessee restore the leased object to its original state or compensate for the losses.

Article 224 The lessee may, with the consent of the lessor, sublease the leased object to a third party. The lease contract between the lessee and the lessor shall continue to be valid despite the sublease by the lessee, and if the third party causes losses to the leased object, the lessee shall hold the liability for the losses.

In case of a sublease by the lessee without the consent of the lessor, the lessor may dissolve the contract.

Article 225 Any proceeds resulted from the possession or use of the leased object during the lease term shall belong to the lessee, unless the parties stipulate otherwise.

Article 226 The lessee shall pay the rent within the contracted time limit. If the time limit is not stipulated or is unclearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the rent shall be paid at the expiration of the lease term if the term is less than one year, at the end of each year where the lease term exceeds one year, and shall be paid at the expiration of the lease term if the remaining term is less than one year.

Article 227 If the lessee fails to pay the rent or delays the payment of rent without justifiable reason, the lessor may demand that the lessee pay the rent within a reasonable time limit. The lessor may dissolve the contract if the lessee fails to pay the rent beyond the time limit.

Article 228 If the lessee is unable to use or to gain proceeds from the leased object because of the claim from a third party, the lessee may demand a reduction of or exemption from the rent.

Where a third party claims rights, the lessee shall promptly notify the lessor.

Article 229 A change in the ownership of the leased object within the lease term shall not affect the validity of the lease contract.

Article 230 The lessor intending to sell a leased house shall notify the lessee within a reasonable period of time prior to the sale, and the lessee has the priority to purchase the house under equal conditions.

Article 231 Where a part or the whole of the leased object is damaged or lost for reasons not attributable to the lessee, the lessee may request a reduction of or exemption from the rent; and the lessee may dissolve the contract if the partial or complete damage or loss of the leased object makes it impossible to achieve the contracted goals.

Article 232 Where the parties have not stipulated or have unclearly stipulated the term of the lease, nor can they determine it pursuant to the provisions of Article 61 of this Law, the lease shall be deemed a lease without a fixed term. Either party may dissolve the contract at any time. However, where the lessor is to dissolve the contract, the lessee shall be notified thereof a reasonable period of time in advance.

Article 233 If the leased object endangers the lessee's safety or health, even if the lessee is clearly aware of the substandard quality of the leased object when making the contract, the lessee may dissolve the contract at any time.

Article 234 If the lessee dies within the lease term of a leased house, the persons who live together with the deceased may lease the house according to the original lease contract.

Article 235 The lessee shall return the leased object at the expiration of the lease term. The leased object returned shall be maintained in its after-use state as contracted or in conformity with its nature.

Article 236 If the lessee continues to use the leased object after the expiration of the lease term and the lessor does not raise any objection, the original lease contract shall continue to be valid, but the lease term shall become unfixd.

#### Chapter XIV Contracts for Financial Lease

Article 237 A "contract for financial lease" is a contract whereby the lessor, in accordance with the seller and the leased object chosen by the lessee, purchases the leased object from the seller and provides it for use by the lessee, and the lessee pays the rent therefor.

Article 238 A contract for financial lease shall contain such clauses as the name of the leased object, quantity, specifications, technical performance, inspection method, lease term, composition of rent, the time limit, method and kind of currency for the payment of the rent, and the ownership over the leased object at the expiration of the lease term.

Contracts for financial lease shall be made in written form.

Article 239 Where a lessor concludes a purchase and sale contract in accordance with the seller and the leased object chosen by a lessee, the seller shall deliver the targeted matter to the lessee as contracted, and the lessee shall enjoy the rights of the buyer relating to the targeted matter received.

Article 240 The lessor, the seller and the lessee may stipulate that, if the seller fails to perform the obligations under the purchase and sale contract, the lessee shall exercise the right to claim. If the lessee exercises the right to claim, the lessor shall render assistance.

Article 241 Where the lessor concludes a purchase and sale contract in accordance with the seller and the leased object chosen by the lessee, the lessor may not, without the consent of the lessee, modify the content of the contract related to the lessee.

Article 242 The lessor enjoys the ownership over the leased object. If the lessee goes bankrupt, the leased object shall not fall into the category of bankrupt property.

Article 243 The rent under a contract for financial lease shall, unless the parties stipulate otherwise, be determined according to the major part or the whole of the cost for the purchase of the leased object plus reasonable profits for the lessor.

Article 244 If the leased object fails to comply with the agreed requirements or with the purpose of its use, the lessor shall not bear any liability, except in the event that the lessee is dependent upon the lessor's expertise in deciding the leased object or the lessor intervenes with the selection of the leased object.

Article 245 The lessor shall guarantee the possession and use of the leased object by the lessee.

Article 246 Within the period of possession over the leased object by the lessee, if the leased object causes any personal injury or property loss to a third party, the lessor shall not bear any liability.

Article 247 The lessee shall properly maintain and use the leased object.

The lessee shall perform the obligations for the maintenance of the leased object within the period of its possession.

Article 248 The lessee shall pay the rent as contracted. If the lessee fails to pay the rent within a reasonable period of time after being urged, the lessor may demand the full payment of the rent, or dissolve the contract and take back the leased object.

Article 249 Where the parties stipulate that the lessee shall have the ownership over the leased object after the expiration of the lease term, where the lessee has paid most of the rent but is unable to pay the remaining part, and where the lessor has therefore dissolved the contract and taken back the leased object, the lessee may demand a partial refund if the value of the leased object taken back exceeds the rent in arrears and other expenses.

Article 250 The lessor and the lessee may stipulate the ownership over the leased object at the expiration of the lease term. If the ownership of the leased object is not stipulated or is unclearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the ownership of the leased object shall belong to the lessor.

## Chapter XV Work Contracts

Article 251 A "work contract" is a contract whereby the contractor, in accordance with the requirements of the client, completes a work and delivers its results and the client pays remuneration.

A contracted work includes such items as processing, manufacturing on order, repair, reproduction, testing and inspection.

Article 252 A work contract contains such clauses as the targeted matter, quantity, quality, remuneration, mode of work, supply of materials, period of performance, and standards and method of inspection.

Article 253 The contractor shall complete the principal part of the work with its own equipment, technology and labor force, unless the parties stipulate otherwise.

If the contractor entrusts the completion of the major part of its contracted work to a third party, the contractor shall be accountable to the client concerning the work results completed by the third party. The client may dissolve the contract if no consent has been obtained from the client in this regard.

Article 254 The contractor may entrust the completion of any auxiliary part of its contracted work to a third party. The contractor shall be accountable to the client concerning the work results completed by the third party, if the contractor entrusts the completion of any auxiliary part of its contracted work to a third party.

Article 255 If the contractor is to provide materials, it shall select and use materials as contracted and accept the inspection of the client.

Article 256 If the client is to provide materials, it shall provide materials as contracted. The contractor shall promptly inspect the materials provided by the client, and, if any unconformity with the agreement is found, the contractor shall promptly tell the client to make replacement, make up the shortage or take other remedial measures.

The contractor may not, without consent, change materials provided by the client nor change accessories and parts requiring no repair.

Article 257 The contractor shall promptly notify the client if it finds that the drawings or technical requirements provided by the client are unreasonable. Where losses are caused to the contractor due to the client's indolence in response or like reasons, the client shall hold the liability for losses.

Article 258 Where the client changes in the course of the contracted work its requirements and thus causes losses to the contractor, the client shall hold liability for losses.

Article 259 If the contracted work requires assistance from the client, the client has the obligation to provide assistance.

Where the client fails to perform its obligation of assistance and makes thus the completion of the contracted work impossible, the contractor may urge the client to perform its obligation within a reasonable period of time, and may also prolong correspondingly the term of performance. If the client still fails to fulfill its obligation beyond the time limit, the contractor may dissolve the contract.

Article 260 The contractor shall accept necessary supervision and inspection of the client in the course of its work. The client may not disturb the normal work of the contractor by its supervision and inspection.

Article 261 Upon completion of its work, the contractor shall deliver to the client the work results and provide it with the necessary technical materials and related quality certificates. The client shall check and accept the work results.

Article 262 Where the work results delivered by the contractor fail to meet the quality requirements, the client may require the contractor to assume the liability for breach of contract in form of repair, reworking, remuneration reduction or compensation for losses.

Article 263 The client shall pay remuneration within the contracted time limit. If the time limit for paying remuneration is not stipulated or is not clearly stipulated, nor can it be determined pursuant to the provisions of Article 61 of this law, the client shall make payment at the time of delivery of the results of the work; and when part of the work results is delivered, the client shall pay remuneration correspondingly.

Article 264 If the client fails to pay remuneration or the prices for materials, the contractor has the right of lien on the work results, unless the parties stipulate otherwise.

Article 265 The contractor shall appropriately preserve the materials provided by the client as well as the completed work results. The contractor shall hold the liability for any damage or loss caused by poor preservation.

Article 266 The contractor shall maintain confidentiality in accordance with the requirements of the client and, without the latter's permission, may not retain copies or technical data.

Article 267 Co-contractors shall bear joint and several liabilities to their client, unless the parties stipulate otherwise.

Article 268 The client may dissolve the work contract at any time, but shall hold the liability for any loss caused thereby to the contractor.

## Chapter XVI Construction Project Contracts

Article 269 A "construction project contract" is a contract whereby the contractor carries out the construction of the project and the contract-offering party pays the price therefor.

Construction project contracts include contracts for project prospecting, designing and construction.

Article 270 Construction project contracts shall be made in written form.

Article 271 Bidding for construction projects shall be carried out in an open, fair and impartial manner in accordance with the provisions of relevant laws.

Article 272 The contract-offering party may enter into a construction project contract with a general contractor, and may also enter into separate contracts for prospecting, designing and construction with the prospecting, designing and construction parties separately. The contract-offering party may not break up one construction project that should be completed by one contractor into several parts and offer them to several contractors.

The general contractor or the prospecting, designing or construction contractor may, subject to consent by the contract-offering party, entrusts the completion of part of its contracted work to a third party. The third party shall assume joint and several liabilities together with the general contractor or the prospecting, engineering or construction contractor to the contract-offering party over the work results of the third party. A contractor may not assign the whole of its contracted construction project to a third party or break up the whole of its contracted construction project into several parts and assign them separately to third parties in the name of subcontracting.

It is forbidden for a contractor to subcontract its projects to a unit without corresponding qualifications. It is forbidden for a subcontractor to re-subcontract its contracted project. The main structure of the construction project must be completed by the contractor itself.

Article 273 Contracts for State key construction projects shall be entered into in accordance with the procedures set forth by the State and such documents as investment plans and feasibility study reports approved by the State.

Article 274 A prospecting or designing contract contains such clauses as the time limit for delivery of relevant basic materials and documents (including budgetary estimates), quality requirements, expenses and other cooperative conditions.

Article 275 A construction contract contains such clauses as the project scope, period for construction, time of commencement and completion of the projects to be delivered in mid course, project quality, costs, delivery time of technical materials, responsibility for the supply of materials and equipment, fund allocation and settlement, project inspection and acceptance upon its completion, range of quality guarantee, quality warranty period, and cooperation between the parties.

Article 276 For any construction projects in which the superintendence system is to be applied, the contract-offering party shall conclude an entrustment contract of superintendence in written form with the entrusted supervisor. The rights and obligations as well as legal responsibilities of the contract-offering party and the supervisor shall be defined pursuant to the provisions on entrustment contracts of this Law as well as the relevant provisions of other laws and administrative regulations.

Article 277 The contract-offering party may, under the condition of not disturbing the normal operation of the contractor, inspect the progress and quality of the work at any time.

Article 278 Prior to the concealment of a concealed project, the contractor shall notify the contract-offering party for the latter's inspection. If the contract-offering party fails to conduct a prompt inspection, the contractor may extend correspondingly the period for the completion of the project, and may demand compensation for losses caused by work stoppage and workers' forced idleness.

Article 279 When a construction project is completed, the contract-offering party shall undertake promptly the inspection for acceptance in accordance with the construction drawings and descriptions, as well as the criteria for construction project inspection and acceptance and the quality inspection standards issued by the State. Where the project passes the inspection for acceptance, the contract-offering party shall pay the contracted prices and take over the construction project.

A construction project may be delivered and put into use only after it has passed the inspection for acceptance upon completion. Without the inspection for acceptance or failing to pass the inspection, the construction project may not be delivered and put into use.

Article 280 Where losses are caused to a contract-offering party due to the fact that the prospecting or designing does not conform to the quality requirements or that the prospecting or designing documents are not submitted as scheduled, thus delaying the period for construction, the prospecting or designing party shall go on perfecting the prospecting or designing, reduce or waive the prospecting or designing fees and make compensation for the losses.

Article 281 If the quality of a construction project fails to meet the contracted requirements due to reasons attributable to the construction party, the contract-offering party has the right to demand the repair, reworking or reconstruction free of charge by the construction party within a reasonable period of time. If delivery is delayed because of the repair or reworking and reconstruction, the construction party shall bear the liability for breach of contract.

Article 282 If a construction project causes personal injury and property losses due to reasons attributable to the contractor within a reasonable period of use of the project, the contractor shall hold the liability for losses.

Article 283 If the contract-offering party fails to provide raw materials, equipment, sites, funds or technical materials at the contracted time and pursuant to the contracted requirements, the contractor may extend correspondingly the period of construction and has the right to demand compensation for the losses caused by work stoppage and workers' forced idleness.

Article 284 If a construction project is stopped or suspended in mid course due to reasons attributable to the contract-offering party, the contract-offering party shall take measures to make up for the loss or reduce the loss, and compensate the contractor for any losses and actual expenses caused by work stoppage, workers' forced idleness, back transportation, transfer of machinery equipment and piling up of materials and structural components.

Article 285 Where the contract-offering party alters its plan, provides inaccurate materials or fails to provide as scheduled necessary working conditions for prospecting or designing, thus leading to the redoing or stoppage of the prospecting or designing work, or the revision of the design, the contract-offering party shall raise its payment of fees according to the amount of work actually undertaken by the prospecting or designing party.

Article 286 Where the contract-offering party fails to pay the prices as contracted, the contractor may urge the contract-offering party to effect the payment within a reasonable period of time. Where the contract-offering party still fails to effect the payment at the expiration of that period, the contractor may negotiate with the contract-offering party for converting the construction project into money or may apply to a people's court for the auction of the project according to law, unless the construction project concerned is by nature unsuitable for conversion into money or auction. The payment for the construction of the project shall be effected, in priority, out of the proceeds from the conversion into money or auction of the said project.

Article 287 For questions not regulated by this Chapter, the relevant provisions on work contracts shall apply.

## Chapter XVII Carriage Contracts

### Section I Common Provisions

Article 288 A "carriage contract" is a contract whereby the carrier transports the passenger or goods to the contracted destination from the place of dispatch, and the passenger, or the consignor or consignee pays the fare or the freight.

Article 289 The carrier engaging in public transport may not reject normal and reasonable transport requests of passengers and consignors.

Article 290 The carrier shall safely transport passengers and goods to the contracted destination within the contracted time limit or within a reasonable period of time.

Article 291 The carrier shall transport passengers and goods to the contracted destination via the contracted or the usual transport route.

Article 292 The passenger, consignor or consignee shall pay the fare or the freight. If the carrier does not transport via the contracted route or the usual route and thus increases the fare or the freight, the passenger, consignor or consignee may refuse to pay the extra part of the fare or the freight.

## Section II Passenger Transport Contracts

Article 293 A passenger transport contract is executed at the time when the carrier delivers the ticket to the passenger, unless the parties agree otherwise or follow other trade practices.

Article 294 The passenger shall hold a valid ticket while getting on board for travel. Any passenger who travels on board without a ticket, beyond the paid distance, in a higher class or with an invalid ticket shall make up for the difference in the ticket price, and the carrier may charge an extra fare according to the provisions. Where the passenger refuses to pay the fare accordingly, the carrier may refuse the carriage.

Article 295 A passenger who is unable to get on board at the time indicated by the ticket due to his own fault shall, within the prescribed period of time, undergo the procedures for returning the ticket and getting the refund or making a change of the ticket. If the passenger fails to undergo the refund or change procedures within the prescribed period of time, the carrier may refuse to refund the ticket, and has no more need to undertake the transport obligation.

Article 296 The passenger shall carry baggage within the prescribed quantity limit in transport. A passenger who carries baggage in excess of the gravity limit shall have the baggage checked.

Article 297 The passenger may not carry with him or secretly carry in his baggage any inflammable, explosive, toxic, corrosive and radioactive articles, nor any other dangerous articles that might endanger the safety of persons and property aboard the means of transport, nor other contraband articles.

If a passenger violates the provisions of the preceding paragraph, the carrier may unload the contraband articles or destroy them or submit them to the related departments. If the passenger insists on carrying with him the contraband articles or carrying them in his baggage, the carrier shall refuse the carriage.

Article 298 The carrier shall notify passengers about important matters rendering the transport out of a normal state and matters of attention for a safe transport.

Article 299 The carrier shall transport passengers at the time and in the number of runs or flights indicated by the ticket. The carrier delaying the transport shall, at passengers' requests, arrange another number of runs or flights to transport the passengers or refund their tickets.

Article 300 Where the carrier unilaterally changes the means of transport, thus downgrading the service standards, the carrier shall, at passengers' requests, refund their tickets or reduce the ticket price; where the service standards are upgraded by the change, the fare charged shall not be raised.

Article 301 The carrier shall, in the course of transportation, spare no efforts to rescue and help passengers who suffer acute diseases, commence childbirth or are in danger.

Article 302 The carrier shall hold the liability for the damages arising from the injury or death of a passenger occurring in the course of transportation, unless the injury or death is a result of the passenger's own health condition, or the carrier can prove that the injury or death is caused by the passenger's deliberate intention and gross fault.

The provisions of the preceding paragraph apply also to any passenger exempted from ticket according to provisions, holding a complimentary ticket or permitted by the carrier to travel without tickets.

Article 303 Where passengers' carry-on articles are damaged or lost in the course of transportation and the carrier is at fault, the carrier shall hold the liability for damages.

In case of damage or loss of passengers' checked luggage, the relevant provisions on the freight transport shall apply.

### Section III Freight Transport Contracts

Article 304 The consignor, when consigning goods for transport, shall clearly declare to the carrier all the information necessary for freight transport such as the designation or name of the consignee or the consignee by order, as well as the name, nature, weight and quantity of the goods and place of delivery.

If a loss is caused to the carrier due to the consignor's untrue declaration or omission of substantial information, the consignor shall hold the liability therefor.

Article 305 Where the freight transport is subject to examination, approval or inspection formalities, the consignor shall submit to the carrier the documents showing the completion of the relevant formalities.

Article 306 The consignor shall package the goods in the contracted manner. If the packaging manner is not stipulated or not clearly stipulated, the provisions of Article 156 of this Law shall apply.

Where the consignor violates the provisions of the preceding paragraph, the carrier may refuse the transport.

Article 307 While consigning for transport such dangerous goods as inflammable, explosive, toxic, corrosive or radioactive articles, the consignor shall, in accordance with the regulations of the State on the transport of dangerous goods, properly package the dangerous goods, affix thereto warning signs and labels, and submit to the carrier written documents concerning the name, nature and precautional measures relevant to the dangerous goods.

Where the consignor violates the provisions of the preceding paragraph, the carrier may refuse the transport, or may also take appropriate measures to prevent losses, and expenses thus incurred shall be borne by the consignor.

Article 308 Before the carrier delivers the goods to the consignee, the consignor may ask the carrier to stop the transportation, return the goods, change the place of destination, or deliver the goods to another consignee. However, the consignor shall compensate for the losses thus caused to the carrier.

Article 309 When the goods are transported to the place of destination and the carrier knows the consignee, the carrier shall promptly notify the consignee, and the consignee shall promptly take delivery of the goods. If the consignee delays in taking delivery of the goods, the consignee shall pay storage and other fees to the carrier.

Article 310 When taking delivery of the goods, the consignee shall inspect the goods within the contracted time limit. If the time limit for inspection of the goods is not stipulated or is not clearly stipulated, nor can it be determined pursuant to the provisions of Article 61 of this Law, the consignee shall inspect the goods within a reasonable period of time. If the consignee does not voice any complaint about the quantity, damage or loss of the goods within the stipulated time limit or within a reasonable period of time, the silence shall be deemed as a preliminary evidence that the carrier has delivered the goods in accordance with the transport documents.

Article 311 The carrier shall hold the liability for any damage or loss of goods occurring in the course of transport. However, if the carrier proves that the damage or the loss of the goods is caused by force majeure, the natural property of the goods or reasonable wear and tear, or is caused by the negligence of the consignor or the consignee, the carrier shall not hold the liability for damages.

Article 312 If the parties have agreed on the amount of compensation for damage or loss of the goods, their agreement shall apply; if the amount of compensation is not stipulated or not clearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the amount shall be calculated at the market price of the place of delivery when the goods are delivered or ought to be delivered. If laws and administrative regulations stipulate otherwise concerning the calculation method of the compensation amount and the limit of the compensation amount, such stipulations shall govern.

Article 313 If two or more carriers engage in a connected transport of the same mode, the carrier which concludes the contract with the consignor shall be responsible for the entire process of transport. If a loss occurs at one transportation section, the carrier which concludes the contract with the consignor and the carrier in the said section shall bear joint and several liabilities.

Article 314 In the event that goods are lost in the course of transport due to force majeure, if the freight has not yet been collected, the carrier may not demand the payment of the freight; if the freight has already been collected, the consignor may ask for a refund.

Article 315 If the consignor or consignee does not pay freight, storage fees and other fees of transportation, the carrier has the right of lien on the goods transported, unless the parties stipulate otherwise.

Article 316 If the consignee is unknown or the consignee refuses to take delivery of the goods without justifiable reasons, the carrier may have the goods deposited in accordance with the provisions of Article 101 of this Law.

## Section IV Multi-modal Transport Contracts

Article 317 The operator of multi-modal transport is responsible for fulfilling or organizing the fulfillment of a multi-modal transport contract, enjoy the rights of a carrier and assume its obligations throughout the entire transport process.

Article 318 The operator of multi-modal transport may stipulate with the carriers of the different sections of the multi-modal transport on their respective responsibility for transport in each section under the multi-modal transport contract. However, such stipulations shall not affect the obligations of the operator for the entire transport process.

Article 319 The operator of multi-modal transport shall, when receiving the goods consigned for transport by the consignor, issue multi-modal transport documents. At the request of the consignor, the multi-modal transport documents may be transferable or non-transferable.

Article 320 If losses are caused to the operator of multi-modal transport due to the fault of the consignor at the time of consigning the goods for transport, even if the consignor has transferred its multi-modal transport documents, the consignor shall still hold the liability for losses.

Article 321 If damage or loss of goods occurs in one section of the multi-modal transport, the provisions of related laws regulating the transport modes of the section shall apply to the liability for damages and its limits to be held by the operator of multi-modal transport. If it is impossible to determine in which section of transport such damage or loss has occurred, the liability for damages shall be governed by the provisions of this Chapter.

## Chapter XVIII Technology Contracts

### Section I Common Provisions

Article 322 A technology contract is a contract made by the parties to define their rights and obligations for technology development, transfer, consultation or service.

Article 323 The making of a technology contract shall be conducive to the advance of science and technology, and shall accelerate the transformation, application and dissemination of the results achieved in science and technology.

Article 324 The contents of a technology contract shall be stipulated by the parties, and generally, shall contain the following clauses:

- (1) name of the project;
- (2) contents, scope and requirements of the targeted matter;
- (3) plan, schedule, period, place, area and manner of performance;
- (4) confidentiality of technical information and materials;
- (5) sharing of risk liabilities;
- (6) ownership over technological results and proceeds distribution method;
- (7) criteria and method of the inspection for acceptance;
- (8) price, remuneration or royalty and methods of payment thereof;

(9) calculation method of penalty for breach of contract or compensation for losses;

(10) method for dispute settlement; and

(11) definition of technical terms and expressions.

Materials such as technical background, feasibility studies and technical evaluation reports, project task paper and plans, technical standards, technical norms, original design and technique documents, as well as other technical documents which are relevant to the performance of the contract may, as agreed upon by the parties, constitute component parts of the contract,

If a technology contract involves any patent, it shall indicate the designation of the invention or creation, the applicant and the patentee, the date of application, application number, patent number and duration of the patent rights.

Article 325 The methods of payment for prices, remuneration and royalty in a technology contract shall be stipulated by the parties, and they may adopt the methods of overall computation and lump payment or overall computation and installment payment, and may also adopt the method of percentage-deduction payment or such payment plus an anticipated initial payment.

When the percentage-deduction payment is agreed upon, such payment may be calculated at a specific percentage of the price of the product, of the newly-increased output value and profits attained from the application of patents and exploitation of technological know-how, or of the sales revenue of the product, and may also be computed according to the other methods agreed upon. The percentage of such payment may be a fixed percentage, or an annual progressively increased or decreased percentage.

When payment by deducting a percentage is agreed upon, the parties shall specify in the contract the method for checking and consulting the relevant accounting books.

Article 326 If the right to use or transfer of a service-related technological result belongs to a legal person or any other organization, the legal person or that organization may conclude a technology contract on the said service-related technological result. The legal person and or that organization shall deduct a certain percentage of the proceeds from using and transferring the service-related technological result so as to give rewards or remuneration to the person(s) achieving the service-related technological result. When the legal person or that organization concludes a technology contract to transfer the service-related technological result, the person(s) achieving the service-related technological result shall have the priority to acquire the transfer on equal conditions.

"Service-related technological result" refers to a technological result achieved in the performance of a task assigned by the legal person or any other organization, or achieved primarily by making use of the materials and technical conditions of the legal person or any other organization.

Article 327 The right of use or transfer of a non-service-related technological result belongs to the person(s) achieving the result, and the person(s) achieving the non-service-related technological result may conclude a technology contract on that result.

Article 328 The person achieving a technological result has the right to indicate on the documents relevant to the technological result that he is the person achieving the result, as well as the right to obtain certificates of honor and rewards.

Article 329 Any technology contract that illegally monopolies technologies, impedes technological progress or infringe upon technological results of others is null and void.

## Section II Technological Development Contracts

Article 330 A technological development contract is a contract made by the parties concerning the research and development of any new technology, new product, new technique or new material, as well as the system thereof.

Technological development contracts include commissioned development contracts and cooperative development contracts.

Technological development contracts shall be in written form.

Contracts concluded by the parties on the application and transformation of any technological result with a value for industrial use shall be made with reference to the provisions for the technological development contracts.

Article 331 The client of a commissioned development contract shall pay funds for research and development and remuneration as contracted, provide technical materials and firsthand data, complete all cooperative work and accept the results of the research and development.

Article 332 The researcher-developer of a commissioned development contract shall work out and implement research and development plan in accordance with the contract, rationally use the research and development funds, complete the research and development work as scheduled, deliver the results of research and development, and provide related technical materials and necessary technical instructions so as to help the client to master the research and development results.

Article 333 Where the client violates the contract and causes thus the standstill, delay or failure of the research and development work, the client shall bear the liability for breach of contract.

Article 334 Where the researcher-developer violates the contract and causes thus the standstill, delay or failure of the research and development work, the researcher-developer shall bear the liability for breach of contract.

Article 335 The parties to a cooperative development contract shall make investments as contracted, including investment in the form of technology, participate in the research and development work divided into them respectively, and cooperate and coordinate in the research and development.

Article 336 Where either party to a cooperative development contract violates the contract and causes thus the standstill, delay or failure of the research and development work, the party in question shall bear the liability for breach of contract.

Article 337 Where the technology stipulated as the targeted matter of a technology development contract is revealed to the public by others, rendering thus the performance of the contract meaningless, the parties may dissolve the contract.

Article 338 Where insurmountable technical difficulties arising in the performance of a technology development contract lead to the total or partial failure of the research and development, the risk liability shall be stipulated by the parties. If the risk liability is not stipulated or not

clearly stipulated, nor can it be determined pursuant to the provisions of Article 61 of this Law, the parties shall reasonably share the liability.

Where either party finds, as specified in the preceding paragraph, that a situation may cause the total or partial failure of the research and development, the party shall promptly notify the other party and take appropriate measures to minimize the loss. Where the party fails to promptly inform and take appropriate measures and causes thus the aggravation of the loss, the party in question shall be liable for the aggravated part of the loss.

Article 339 For any invention or creation achieved through the commissioned development, the right to apply for patents belongs to the researcher-developer, unless the parties stipulate otherwise. If the researcher-developer obtains the patent right, the client may exploit the patent free of charge.

If the researcher-developer transfers its right of application for patent, the client enjoys the priority to acquire the transfer on equal conditions.

Article 340 For any invention and creation achieved through the cooperative development, the right of application for patent belongs jointly to all parties to the cooperative development, unless the parties stipulate otherwise. If one of the parties transfers its joint right of application for patent, any other party enjoys the priority to acquire the transfer on equal conditions.

If a party to a cooperative development waives its joint right of application for patent, any or all of the other parties to the cooperative development may make exclusive or joint application. If the patent right is obtained by the applicant(s), the party that has waived its right of application may exploit the patent free of charge.

If one party to a cooperative development does not agree to apply for patent, the other party or parties may not apply therefor.

Article 341 The right to use, the right to transfer and the method of proceeds distribution of the secret technological results achieved through the commissioned development or cooperative development shall be stipulated by the parties. If they are not stipulated or are not clearly stipulated, nor can they be determined pursuant to the provisions of Article 61 of this Law, all the parties concerned shall enjoy the rights to use and to transfer. However, the researcher-developer of a commissioned development may not transfer the research and development results to a third party before their delivery to the client.

### Section III Technological Transfer Contracts

Article 342 Technological transfer contracts include contracts for the transfer of patent right, transfer of the right to apply for patent, transfer of technological know-how and license for exploitation of patents.

Technological transfer contracts shall be in written form.

Article 343 A technological transfer contract may stipulate the scope for the transferor and transferee to exploit the patent or to use the technological know-how, but may not restrict technological competition and technological development.

Article 344 A patent exploitation license contract shall be valid only within the period of continued existence of the patent. If the valid duration of the patent right expires or the patent right

is declared invalid, the patentee may not conclude a patent exploitation license contract relating to that patent with others.

Article 345 The transferor in a patent exploitation license contract shall, as contracted, permit the license transferee to exploit the patent, deliver technical materials related to patent exploitation and provide necessary technical guidance.

Article 346 The license transferee in a patent exploitation license contract shall exploit the patent as contracted and may not allow a third party outside the contract to exploit the patent; and shall pay royalties as contracted.

Article 347 The transferor in a technical know-how transfer contract shall, as contracted, provide technical materials, give technical guidance, guarantee the practical applicability and reliability of the technology, and maintain confidentiality.

Article 348 The transferee in a technical know-how transfer contract shall, as contracted, utilize the technology, pay royalties, and maintain confidentiality.

Article 349 The transferor in a technological transfer contract shall guarantee its legitimate ownership over the technology provided and guarantee the technology provided to be complete, errorless, effective, and capable of attaining the contracted goal.

Article 350 The transferee in a technological transfer contract shall, in accordance with the contracted scope and period of time, maintain confidentiality regarding the parts of the technology provided by the transferor and not yet been disclosed to the public.

Article 351 The transferor that fails to transfer the technology as contracted shall refund the royalties in part or in full and bear the liability for breach of contract. The party that exploits a patent or utilizes technical know-how beyond the contracted scope, or allows an unauthorized third party to exploit the patent or utilize the technical know-how in violation of the contract shall stop its contract-breaching acts and bear the liability for breach of contract. The party that violates the contracted obligation of maintaining confidentiality shall bear the liability for breach of contract.

Article 352 The transferee that fails to pay royalties as contracted shall make up the payment of royalties and pay a penalty for breach of contract as contracted, and, if failing to make up the payment of royalties and pay the penalty, shall stop its exploitation of the patent or utilization of the technical know-how, return the technical materials and bear the liability for breach of contract. The transferee that exploits the patent or utilizes the technical know-how in excess of the contracted scope or allows a third party, without the consent of the transferor, to exploit the patent or to utilize the technical know-how shall stop its contract-breaching acts and bear liability for breach of contract. The transferee that violates its contracted obligation of maintaining confidentiality shall bear the liability for breach of contract.

Article 353 Where the exploitation of the patent or utilization of the technical know-how by the transferee as contracted infringes upon the legitimate rights and interests of others, the liability therefor shall be borne by the transferor, unless the parties stipulate otherwise.

Article 354 The parties to a technological transfer contract may, in accordance with the principle of mutual benefit, stipulate the method for sharing any subsequently improved technological result obtained from the patent exploitation or utilization of the technical know-how. Where such method is not stipulated or not clearly stipulated, nor can it be determined pursuant

to the provisions of Article 61 of this Law, the subsequently improved technological result achieved by one party may not be shared by any of the other parties.

Article 355 Where laws and administrative regulations stipulate otherwise on contracts for technology import and export or on contracts for patents and patent applications, the relevant provisions thereof shall govern.

#### Section IV Technical Consultation Contracts and Technical Service Contracts

Article 356 "Technical consultation contracts" include contracts for providing reports concerning a specific technological project on such subjects as feasibility study, technical projection, special technological investigations, and analysis and evaluation.

A "technical service contract" refers to a contract whereby one party uses its technical knowledge to solve specific technical problems for the other party, while not embracing the construction project contract and the work contract.

Article 357 The client to a technical consultation contract shall, as contracted, state the issues for consultation, provide background technical information and related technical materials and data, and accept the work results of the agent and pay remuneration.

Article 358 The agent to a technical consultation contract shall complete the consultation report or solve the problems within the contracted time limit, and the consultation report submitted shall meet the stipulated requirements.

Article 359 If the client to a technical consultation contract fails to provide necessary materials and data as contracted and thus affects the progress and quality of the work, or the client fails to accept the work results or delays the acceptance, the paid remuneration may not be reimbursed, while the unpaid remuneration shall be paid.

The agent to a technical consultation contract that fails to submit the consultation report as scheduled or submits a report failing to meet the contracted requirements shall bear the liability for breach of contract in form of reduction or waiver of its remuneration.

Any losses caused by the decision made by the client to a technical consultation contract according to the agent's consultation report and advice that meet the contracted requirements shall be borne by the client, unless the parties stipulate otherwise.

Article 360 The client to a technical service contract shall, as contracted, provide working conditions, accomplish cooperative work, accept the results of the work and pay remuneration.

Article 361 The agent to a technical service contract shall, as contracted, complete the service items, solve technical problems, guarantee the quality of the work, and impart the knowledge for solving technical problems.

Article 362 Where the client to a technical service contract fails to perform its contracted obligations or performs its obligations in a manner inconsistent with the contracted requirements, thus affecting the progress and quality of the work, or fails to accept the work results or delays its acceptance, the paid remuneration may not be reimbursed, while the unpaid remuneration shall be paid.

The agent to a technical service contract that fails to complete the service work as contracted shall bear the liability for breach of contract in the form of waiver of its remuneration, and etc.

Article 363 In the course of the performance of a technical consultation contract or a technical service contract, new technological results achieved by the agent with technical materials and working conditions provided by the client shall belong to the agent. New technological results achieved by the client on the basis of the work results of the agent shall belong to the client. If the parties have agreed otherwise, their agreement shall govern.

Article 364 Where laws and administrative regulations stipulate otherwise on technology brokerage contracts and technical training contracts, the relevant provisions thereof shall govern.

#### Chapter XIX Contracts of Deposit

Article 365 A "contract of deposit" is a contract whereby the depository safekeeps the articles delivered by the depositor and returns the said article.

Article 366 The depositor shall pay the deposit fee to the depository as contracted.

If the deposit fee is not stipulated or is not clearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the deposit shall be gratis.

Article 367 A contract of deposit shall be executed upon delivery of the deposited article unless the parties stipulate otherwise.

Article 368 Where the depositor delivers the deposited article to the depository, the latter shall issue a deposit certificate, unless there are other trade practices.

Article 369 The depository shall properly safekeep the article.

The parties may stipulate the place and method of safekeeping. Except in case of emergency or in the interests of the depositor, the place and method for safekeeping may not be changed unilaterally.

Article 370 If the article delivered for safekeeping by a depositor has defects or needs by nature special safekeeping measures, the depositor shall notify the depository about the relevant information. Where the depositor fails to give information resulting thus in loss or damage to the article, the depository shall not hold the liability for damages; if the depository suffers a loss therefrom, the depositor shall be liable for the loss unless the depository is aware or ought to be aware of the situation but fails to take remedial measures.

Article 371 The depository may not transfer the article to a third party for deposit, unless the parties stipulate otherwise.

A depository that violates the provisions of the preceding paragraph, transfers the article to a third party for deposit, and thus causes damage or loss to the article shall hold the liability for damages.

Article 372 The depository may not use nor permit a third party to use the deposited article, unless the parties stipulate otherwise.

Article 373 Where a third party claims rights over the deposited articles, the depository shall perform the obligation of returning the article to the depositor, except that the deposited article is put under preservation or execution according to law.

Where a third party initiates an action against the depository or applies for the distraint of the deposited article, the depository shall promptly notify the depositor.

Article 374 Where damage or loss of the deposited article is caused within the period of safekeeping due to improper safekeeping by the depository, the depository shall hold the liability for damages. However, if the deposit is non-gratis and the depository can prove itself free from any gross negligence, the depository shall not hold the liability for damages.

Article 375 The depositor shall declare to the depository where currencies, negotiable securities or other valuable objects are deposited, and the depository shall accept them after check or seal them. Where the said deposited article is damaged or lost in the absence of a declaration from the depositor, the depository may make a compensation at a rate for general articles.

Article 376 The depositor may collect its deposited article at any time.

Where the deposit period is not stipulated or unclearly stipulated by the parties, the depository may, at any time, ask the depositor to collect the deposited article; where the deposit period is stipulated, the depository may not ask the depositor to collect the deposited article ahead of time without a particular reason.

Article 377 When the deposit period expires or the depositor collects the deposited article ahead of schedule, the depository shall return the article together with its accrued interest to the depositor.

Article 378 Where a depository safekeeps currencies, the depository may return the same kind of currencies in same amount. Where other replaceable articles are deposited, the depository may return them in same kind, same quality and same quantity according to the contract.

Article 379 Under a contract for non-gratuitous deposit, the depositor shall pay a deposit fee to the depository at a contracted time.

Where the time limit for payment is not stipulated or is not clearly stipulated by the parties, nor can it be determined pursuant to the provisions of Article 61 of this Law, the payment shall be made at the time of collecting the deposited article.

Article 380 If the depositor fails to pay the deposit fee and other charges, the depository has the right of lien on the deposited article, unless the parties stipulate otherwise.

## Chapter XX Warehousing Contracts

Article 381 A warehousing contract is a contract whereby the depository stores the goods delivered by the depositor and the depositor pays the warehousing fee.

Article 382 A warehousing contract becomes valid when it is executed.

Article 383 Where dangerous goods such as inflammable, explosive, toxic, corrosive and radioactive or perishable articles are to be warehoused, the depositor shall state the nature of the said goods or articles and provide relevant information and materials.

If the depositor violates the provisions of the preceding paragraph, the depository may refuse to accept the goods for warehousing, or may take appropriate measures to avoid the occurrence of losses, and the expenses thus incurred shall be borne by the depositor.

The depository that warehouses dangerous goods such as inflammable, explosive, toxic, corrosive and radioactive materials shall have corresponding warehousing conditions.

Article 384 The depository shall check the goods as contracted before accepting the warehousing. If the depository finds during the check any inconsistency in the goods to be stored with the contract, the depository shall promptly notify the depositor. Where the warehoused goods are found, after being checked and accepted by the depository, not in conformity with the contract in terms of varieties, quantity or quality, the depository shall hold the liability for damages.

Article 385 Upon delivering of the goods by the depositor for storage, the depository shall issue a warehousing certificate.

Article 386 The depository shall sign or stamp the warehousing certificate. A warehousing certificate shall contain the following particulars:

1. designation or name and address of the depositor;
2. variety, quantity, quality, package, number of pieces and marks of the stored goods;
3. standards for damage and spoilage of the stored goods;
4. warehousing site;
5. warehousing period;
6. warehousing fee;
7. the insured amount, duration of insurance and designation of the insurance company if the goods to be stored have been insured; and
8. name of the issuer and the place and date of issuance.

Article 387 The warehousing certificate is the proof for collecting the stored goods. Where the depositor or the holder of the warehousing certificate endorses the certificate which is thus signed or stamped by the depository, the right to collect the stored goods may be transferred.

Article 388 The depository shall, at request of the depositor or the holder of the warehousing certificate, allow the depositor or the holder to examine the stored goods or to take samples.

Article 389 Where the depository finds that the warehoused goods deteriorate or suffer from other damages, the depository shall promptly inform the depositor or the holder of the warehousing certificate.

Article 390 Where the depository finds that the warehoused goods deteriorate or suffer from other damages, which endangers the safety and normal warehousing of other warehoused goods, it shall urge the depositor or the holder of the warehousing certificate to make necessary disposal. In case of emergency, the depository may make necessary disposal, but shall promptly notify the depositor or the holder of the warehousing certificate about the situation afterwards.

Article 391 If the warehousing period is not stipulated or is unclearly stipulated by the parties, the depositor or the holder of the warehousing certificate may collect at any time the warehoused goods, and the depository may also ask at any time the depositor to collect the warehoused goods but a reasonable period of time necessary for preparations shall be given.

Article 392 Where the warehousing period expires, the depositor or the holder of the warehousing certificate shall collect the stored goods on the strength of the warehousing certificate. If the depositor or the holder of the warehousing certificate delays in collecting the stored goods, extra warehousing fees shall be charged; if the goods are collected before the expiration, the warehousing fees shall not be reduced.

Article 393 Where the depositor or the holder of the warehousing certificate fails to collect the stored goods at expiration of the warehousing period, the depository may urge the depositor or the holder of the warehousing certificate to collect the goods within a reasonable period of time; if the depositor or the holder still fails to collect the goods beyond the reasonable period, the depository may have the stored goods deposited.

Article 394 If damages or losses caused to the stored goods are due to improper warehousing by the depository within the warehousing period, the depository shall hold the liability for damages.

If the deterioration or damage of the stored goods is due to the nature of the goods, the failure of their packaging to meet the requirements or the overrun of their valid storage period, the depository shall not be liable therefor.

Article 395 For matters not regulated by this Chapter, the relevant provisions on the contracts of deposit shall apply.

## Chapter XXI Entrustment Contract

Article 396 An entrustment contract is a contract whereby the principal and the agent agree that the agent shall handle the affairs of the principal.

Article 397 The principal may specifically authorize the agent to handle one or several affairs, and may also generally authorize the agent to handle all affairs.

Article 398 The principal shall pay in advance the expenses for handling the entrusted affairs. If the agent pays for the principal necessary expenses in handling entrusted affairs, the principal shall repay the expenses as well as the interest accrued.

Article 399 The agent shall handle the entrusted affairs in accordance with the instructions of the principal. If it is necessary to modify the instructions of the principal, the modification shall be approved by the principal; if it is difficult to contact the principal in an emergency, the agent shall properly handle the entrusted affairs, and shall promptly inform the principal of the situation afterwards.

Article 400 The agent shall handle in person the entrusted affairs. With the consent of the principal, the agent may sub-entrust a third party. If the sub-entrustment obtains consent, the principal may directly instruct the third party sub-entrusted on an entrusted affair, and the agent shall only be liable for the choice of the third party and for the instructions given by the agent to the third party. If the sub-entrustment does not obtain consent, the agent shall be liable for any acts of the sub-entrusted third party, except in case of emergency, a sub-entrustment for agent to protect the interests of the principal.

Article 401 The agent shall, at the request of the principal, report on the situation of the entrusted affairs handled. Upon termination of the entrustment contract, the agent shall report the result of the entrusted affairs handled.

Article 402 Where the agent enters into a contract with a third party under the agent's name within the scope of authorization by the principal, and if the third party is aware of the proxy relationship between the agent and the principal, the said contract shall directly bind the principal and the third party, unless truthful evidence proves that the said contract binds only the agent and the third party.

Article 403 Under a contract concluded by the agent in the agent's name with a third party that is not aware of the proxy relationship between the agent and the principal, when the agent fails to perform obligations toward the principal because of the third party, the agent shall disclose the third party to the principal, and the principal may then exercise the rights of the agent vis-a-vis the third party, except that the third party is unwilling to enter into the contract if it is aware of the principal while making the contract with the agent.

Where the agent fails to perform obligations towards the third party because of the principal, the agent shall disclose the principal to the third party, and the third party may then choose either the agent or the principal as the counterpart to claim its rights. However, the third party may not change the counterpart once chosen.

Where the principal exercises the rights of the agent vis-a-vis the third party, the third party may address its plea against the agent to the principal. When the third party chooses the principal as the counterpart, the principal may address to the third party the principal's plea against the agent as well as the agent's plea against the third party.

Article 404 The agent shall hand over to the principal any property acquired in handling the entrusted affairs.

Article 405 When the agent has accomplished the entrusted affairs, the principal shall pay remuneration to the agent. If the entrustment contract is dissolved or the entrusted affairs can not be accomplished due to reasons not attributable to the agent, the principal shall pay corresponding remuneration to the agent. If the parties have stipulated otherwise, such stipulations shall govern.

Article 406 Under a non-gratuitous entrustment contract where any loss is caused to the principal due to negligence of the agent, the principal may demand compensation therefor. Under a gratuitous entrustment contract where any loss is caused to the principal due to deliberate intention or gross fault of the agent, the principal may demand compensation therefor.

Where the agent acts beyond the authorization and causes thus losses to the principal, the agent shall make compensation therefor.

Article 407 If the agent suffers a loss in handling the entrusted affairs not due to reasons attributable to the agent, compensation therefor may be demanded from the principal.

Article 408 The principal may, with consent of the agent, authorize a third party to handle entrusted affairs in addition to the agent. If a loss is thus caused to the agent, the agent may demand compensation therefor from the principal.

Article 409 If two or more agents jointly handle the entrusted affairs, they shall bear joint and several liabilities.

Article 410 The principal or the agent may dissolve the entrustment contract at any time. If the dissolution of the contract by a party causes losses to the other party, the dissolving party shall compensate for the losses, except for reasons not attributable to that party.

Article 411 An entrustment contract shall terminate when either the principal or the agent dies, loses capacity of civil conduct or goes bankrupt, except in the event that the parties stipulate otherwise or it is inappropriate to terminate the contract due to the nature of the entrusted affairs.

Article 412 Where the termination of an entrustment contract is resulted from the death, loss of capacity of civil conduct or bankruptcy of the principal and will impair the interests of the principal, the agent shall continue to handle the entrusted affairs till the heir, legal agent or liquidation organization of the principal takes over the entrusted affairs.

Article 413 If the death, loss of capacity of civil conduct or bankruptcy of the agent leads to the termination of an entrustment contract, the heir, the legal agent or the liquidation organization of the agent shall promptly inform the principal. If the termination of the entrustment contract will impair the interests of the principal, the heir, the legal agent or the liquidation organization of the agent shall take necessary measures before the principal makes arrangement to deal with the aftermath.

## Chapter XXII Brokerage Contracts

Article 414 A brokerage contract is a contract whereby the broker in its own name engages in trade activities for the truster and the truster pays remuneration therefor.

Article 415 Expenses inflicted by the broker in handling the entrusted affairs shall be borne by the broker, unless the parties stipulate otherwise.

Article 416 If the broker possesses the commissioned articles, the broker shall properly safe-keep the articles.

Article 417 If the commissioned articles have defects or are vulnerable to degeneration or deterioration at the time when they are delivered to the broker, the broker may, with the consent of the truster, dispose of the articles; if the broker is unable to make prompt contact with the truster, the broker may dispose of the articles in a proper manner.

Article 418 If a broker sells at a price lower than the price set by the truster or buys at a price higher than the price set by the truster, the broker shall obtain the consent of the truster. If a deal is made without the consent of the truster, the broker shall make up for the price difference and the said deal shall be effective for the truster.

If a broker sells at a price higher than the price set by the truster or buys at a price lower than the price set by the truster, remuneration may be increased as contracted. If the increase is not stipulated or is not clearly stipulated, nor can it be determined pursuant to the provisions of Article 61 of this Law, the benefits involved shall belong to the truster.

If the truster has given special instructions regarding price, the broker may not sell or buy contrary to the said instructions.

Article 419 If the broker buys or sells commodities at a market price, unless the truster indicates otherwise, the broker itself may serve as the buyer or the seller.

Despite the conditions stipulated in the preceding paragraph, the broker may still ask the truster to pay remuneration.

Article 420 If the broker buys a commissioned article pursuant to the contract, the trustor shall accept the article in a timely manner. If, after being urged by the broker, the trustor refuses to accept the article without a justifiable reason, the broker may have the commissioned article deposited in accordance with the provisions of Article 101 of this Law.

If a commissioned article cannot be sold or the trustor withdraws the commissioned sale, and if the trustor after being urged by the broker fails to retrieve or dispose of the said article, the broker may have the commissioned article deposited pursuant to the provisions of Article 101 of this Law.

Article 421 A broker that enters into a contract with a third party shall directly enjoy the rights and bear the responsibilities under that contract.

Where the third party fails to fulfill the contracted obligations and causes thus losses to the trustor, the broker shall be liable therefor, unless the broker and the trustor stipulate otherwise.

Article 422 Where the broker has accomplished the commissioned affairs in full or in part, the trustor shall pay remuneration accordingly. If the trustor fails to pay remuneration as scheduled, the broker shall enjoy the right of lien on the commissioned articles, unless the parties stipulate otherwise.

Article 423 For questions not regulated by this Chapter, the relevant provisions on entrustment contracts shall apply.

#### Chapter XXIII Intermediation Contracts

Article 424 An intermediation contract is a contract whereby the middleman reports to the trustor the opportunity for making a contract or provides intermediating services for the making of a contract, and the trustor pays remuneration therefor.

Article 425 The middleman shall truthfully report to the trustor matters related to the making of a contract.

If the middleman intentionally conceals important facts in relation to the making of the contract or provides untrue information and thus impairs the interests of the trustor, the middleman may not claim remuneration and shall hold the liability for damages.

Article 426 If the middleman contributes to the making of a contract, the trustor shall pay remuneration as contracted. If the remuneration for the middleman is not stipulated or not clearly stipulated, nor can it be determined pursuant to the provisions of Article 61 of this Law, the remuneration shall be reasonably determined in accordance with the middleman's services. If the intermediating services provided by the middleman prompts the making of a contract, the parties to the said contract shall equally share the disbursement of the remuneration to the middleman.

In prompting the making of a contract, the expenses incurred in the intermediating activities shall be borne by the middleman.

Article 427 If the middleman fails to prompt the making of a contract, the middleman may not demand the payment of remuneration, but may ask the trustor to pay the necessary expenses incurred in the intermediating activities.

#### Supplementary Provisions

Article 428 This Law shall go into effect as of October 1, 1999. The Economic Contract Law of the People's Republic of China, the Law of the People's Republic of China on Economic Contracts Involving Foreign Interest and the Law of the People's Republic of China on Technology Contracts shall be simultaneously annulled.