

CONTRACT LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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中华人民共和国合同法

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令第十五号公布 自1999年10月1日起施行

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General Principles

总则

Chapter One General Provisions

第一章 一般规定

Article 1. Purpose. This Law is formulated in order to protect the lawful rights and interests of contract parties, to safeguard social and economic order, and to promote socialist modernization.

第一条 为了保护合同当事人的合法权益，维护社会经济秩序，促进社会主义现代化建设，制定本法。

Article 2. Definition of Contract; Exclusions. For purposes of this Law, a contract is an agreement between natural persons, legal persons or other organizations with equal standing, for the purpose of establishing, altering, or discharging a relationship of civil rights and obligations.

第二条 本法所称合同是平等主体的自然人、法人、其他组织之间设立、变更、终止民事权利义务关系的协议。

An agreement concerning any personal relationship such as marriage, adoption, guardianship, etc. shall be governed by other applicable laws.

婚姻、收养、监护等有关身份关系的协议，适用其他法律的规定。

Article 3. Equal Standing of Parties. Contract parties enjoy equal legal standing and neither party may impose its will on the other party.

第三条 合同当事人的法律地位平等，一方不得将自己的意志强加给另一方。

Article 4. Right to Enter into Contract Voluntarily. A party is entitled to enter into a contract voluntarily under the law, and no entity or individual may unlawfully interfere with such right.

第四条 当事人依法享有自愿订立合同的权利，任何单位和个人不得非法干预。

Article 5. Fairness. The parties shall abide by the principle of fairness in prescribing their respective rights and obligations.

第五条 当事人应当遵循公平原则确定各方的权利和义务。

Article 6. Good Faith. The parties shall abide by the principle of good faith in exercising their rights and performing their obligations.

第六条 当事人行使权利、履行义务应当遵循诚实信用原则。

Article 7. Legality. In concluding or performing a contract, the parties shall abide by the relevant laws and administrative regulations, as well as observe social ethics, and may not disrupt social and economic order or harm the public interests.

第七条 当事人订立、履行合同，应当遵守法律、行政法规，尊重社会公德，不得扰乱社会经济秩序，损害社会公共利益。

Article 8. Binding Effect; Legal Protection. A lawfully formed contract is legally binding on the parties. The parties shall perform their respective obligations in accordance with the contract, and neither party may arbitrarily amend or terminate the contract.

第八条 依法成立的合同，对当事人具有法律约束力。当事人应当按照约定履行自己的义务，不得擅自变更或者解除合同。

A lawfully formed contract is protected by law.

依法成立的合同，受法律保护。

Chapter Two Formation of Contracts

第二章 合同的订立

Article 9. Capacity; Contract through Agent. In entering into a contract, the parties shall have the appropriate capacities for civil rights and civil acts.

A party may appoint an agent to enter into a contract on its behalf under the law.

Article 10. Forms of Contract; Writing Requirement. A contract may be made in a writing, in an oral conversation, as well as in any other form.

A contract shall be in writing if a relevant law or administrative regulation so requires. A contract shall be in writing if the parties have so agreed.

Article 11. Definition of Writing. A writing means a memorandum of contract, letter or electronic message (including telegram, telex, facsimile, electronic data exchange and electronic mail), etc. which is capable of expressing its contents in a tangible form.

Article 12 Terms of Contract. The terms of a contract shall be prescribed by the parties, and generally include the following:

- (1) names of the parties and the domiciles thereof;
- (2) subject matter;
- (3) quantity;
- (4) quality;
- (5) price or remuneration;
- (6) time, place and method of performance;
- (7) liabilities for breach of contract;
- (8) method of dispute resolution.

The parties may enter into a contract by referencing a model contract for the relevant contract category.

Article 13 Offer-Acceptance. A contract is concluded by the exchange of an offer and an acceptance.

Article 14 Definition of Offer. An offer is a party's manifestation of intention to enter into a contract with the other party, which shall comply with the following:

- (1) Its terms are specific and definite;
- (2) It indicates that upon acceptance by the offeree, the offeror will be bound thereby.

Article 15 Invitation to Offer. An invitation to offer is a party's manifestation of intention to invite the other party to make an offer thereto. A delivered price list, announcement of auction, call for tender, prospectus, or commercial advertisement, etc. is an invitation to offer.

A commercial advertisement is deemed an offer if its contents meet the requirements of an offer.

Article 16 Effectiveness of Offer, Offer through Electronic Message. An offer becomes effective when it reaches the offeree.

第九条 当事人订立合同,应当具有相应的民事权利能力和民事行为能力。

当事人依法可以委托代理人订立合同。

第十条 当事人订立合同,有书面形式、口头形式和其他形式。

法律、行政法规规定采用书面形式的,应当采用书面形式。当事人约定采用书面形式的,应当采用书面形式。

第十一条 书面形式是指合同书、信件和数据电文(包括电报、电传、传真、电子数据交换和电子邮件)等可以有形地表现所载内容的形式。

第十二条 合同的内容由当事人约定,一般包括以下条款:

- (一) 当事人的名称或者姓名和住所;
- (二) 标的;
- (三) 数量;
- (四) 质量;
- (五) 价款或者报酬;
- (六) 履行期限、地点和方式;
- (七) 违约责任;
- (八) 解决争议的方法。

当事人可以参照各类合同的示范文本订立合同。

第十三条 当事人订立合同,采取要约、承诺方式。

第十四条 要约是希望和他人订立合同的意思表示,该意思表示应当符合下列规定:

- (一) 内容具体确定;
- (二) 表明经受要约人承诺,要约人即受该意思表示约束。

第十五条 要约邀请是希望他人向自己发出要约的意思表示。寄送的价目表、拍卖公告、招标公告、招股说明书、商业广告等为要约邀请。

商业广告的内容符合要约规定的,视为要约。

第十六条 要约到达受要约人时生效。

When a contract is concluded by the exchange of electronic messages, if the recipient of an electronic message has designated a specific system to receive it, the time when the electronic message enters into such specific system is deemed its time of arrival; if no specific system has been designated, the time when the electronic message first enters into any of the recipient's systems is deemed its time of arrival.

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

Article 18 Revocation of Offer. An offer may be revoked. The notice of revocation shall reach the offeree before it has dispatched a notice of acceptance.

Article 19 Irrevocable Offer. An offer may not be revoked:

- (1) if it expressly indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable;
- (2) if the offeree has reason to regard the offer as irrevocable, and has undertaken preparation for performance.

Article 20 Extinguishment of Offer. An offer is extinguished in any of the following circumstances:

- (1) The notice of rejection reaches the offeror;
- (2) The offeror lawfully revokes the offer;
- (3) The offeree fails to dispatch its acceptance at the end of the period for acceptance;
- (4) The offeree makes a material change to the terms of the offer.

Article 21 Definition of Acceptance. An acceptance is the offeree's manifestation of intention to assent to an offer.

Article 22 Mode of Acceptance; Acceptance by Conduct. An acceptance shall be manifested by notification, except where it may be manifested by conduct in accordance with the relevant usage or as indicated in the offer.

Article 23 Timely Dispatch of Acceptance. An acceptance shall reach the offeror within the period prescribed in the offer.

Where the offer does not prescribe a period for acceptance, the acceptance shall reach the offeror as follows:

- (1) Where the offer is made orally, the acceptance shall be dispatched immediately, unless otherwise agreed by the parties;
- (2) Where the offer is made in a non-oral manner, the acceptance shall reach the offeror within a reasonable time.

采用数据电文形式订立合同，收件人指定特定系统接收数据电文的，该数据电文进入该特定系统的时间，视为到达时间；未指定特定系统的，该数据电文进入收件人的任何系统的首次时间，视为到达时间。

第十七条 要约可以撤回。撤回要约的通知应当在要约到达受要约人之前或者与要约同时到达受要约人。

第十八条 要约可以撤销。撤销要约的通知应当在受要约人发出承诺通知之前到达受要约人。

第十九条 有下列情形之一的，要约不得撤销：

- (一) 要约人确定了承诺期限或者以其他形式明示要约不可撤销；
- (二) 受要约人有理由认为要约是不可撤销的，并已经为履行合同作了准备工作。

第二十条 有下列情形之一的，要约失效：

- (一) 拒绝要约的通知到达要约人；
- (二) 要约人依法撤销要约；
- (三) 承诺期限届满，受要约人未作出承诺；
- (四) 受要约人对要约的内容作出实质性变更。

第二十一条 承诺是受要约人同意要约的意思表示。

第二十二条 承诺应当以通知的方式作出，但根据交易习惯或者要约表明可以通过行为作出承诺的除外。

第二十三条 承诺应当在要约确定的期限内到达要约人。

要约没有确定承诺期限的，承诺应当依照下列规定到达：

- (一) 要约以对话方式作出的，应当即时作出承诺，但当事人另有约定的除外；
- (二) 要约以非对话方式作出的，承诺应当在合理期限内到达。

Article 24 Commencement of the Period for Acceptance. Where an offer is made by a letter or a telegram, the period for acceptance commences on the date shown on the letter or the date on which the telegram is handed in for dispatch. If the letter does not specify a date, the period commences on the posting date stamped on the envelop. Where the offer is made through an instantaneous communication device such as telephone or facsimile, etc., the period for acceptance commences once the offer reaches the offeree.

Article 25 Contract Formed upon Effectiveness of Acceptance. A contract is formed once the acceptance becomes effective.

Article 26 Effectiveness of Acceptance. A notice of acceptance becomes effective once it reaches the offeror. Where the acceptance does not require notification, it becomes effective once an act of acceptance is performed in accordance with the relevant usage or as required by the offer.

Where a contract is concluded by the exchange of electronic messages, the time of arrival of the acceptance shall be governed by Paragraph 2 of Article 16 hereof.

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

Article 28 Late Acceptance. An acceptance dispatched by the offeree after expiration of the period for acceptance constitutes a new offer, unless the offeror timely advises the offeree that the acceptance is valid.

Article 29 Delayed Transmission of Acceptance. If the offeree dispatched its acceptance within the period for acceptance, and the acceptance, which would otherwise have reached the offeror in due time under normal circumstances, reaches the offeror after expiration of the period for acceptance due to any other reason, the acceptance is valid, unless the offeror timely advises the offeree that the acceptance has been rejected on grounds of the delay.

Article 30 Acceptance Containing Material Change. The terms of the acceptance shall be identical to those of the offer. A purported acceptance dispatched by the offeree which materially alters the terms of the offer constitutes a new offer. A change in the subject matter, quantity, quality, price or remuneration, time, place and method of performance, liabilities for breach of contract or method of dispute resolution is a material change to the terms of the offer.

Article 31 Acceptance Containing Non-material Changes An acceptance containing nonmaterial changes to the terms of the offer is nevertheless valid and the terms thereof prevail as the terms of the contract, unless the offeror timely objects to such changes or the offer indicated that acceptance may not contain any change to the terms thereof.

第二十四条 要约以信件或者电报作出的，承诺期限自信件载明的日期或者电报交发之日开始计算。信件未载明日期的，自投寄该信件的邮戳日期开始计算。要约以电话、传真等快速通讯方式作出的，承诺期限自要约到达受要约人时开始计算。

第二十五条 承诺生效时合同成立。

第二十六条 承诺通知到达要约人时生效。承诺不需要通知的，根据交易习惯或者要约的要求作出承诺的行为时生效。

采用数据电文形式订立合同的，承诺到达的时间适用本法第十六条第二款的规定。

第二十七条 承诺可以撤回。撤回承诺的通知应当在承诺通知到达要约人之前或者与承诺通知同时到达要约人。

第二十八条 受要约人超过承诺期限发出承诺的，除要约人及时通知受要约人该承诺有效的以外，为新要约。

第二十九条 受要约人在承诺期限内发出承诺，按照通常情形能够及时到达要约人，但因其他原因承诺到达要约人时超过承诺期限的，除要约人及时通知受要约人因承诺超过期限不接受该承诺的以外，该承诺有效。

第三十条 承诺的内容应当与要约的内容一致。受要约人对要约的内容作出实质性变更的，为新要约。有关合同标的、数量、质量、价款或者报酬、履行期限、履行地点和方式、违约责任和解决争议方法等的变更，是对要约内容的实质性变更。

第三十一条 承诺对要约的内容作出非实质性变更的，除要约人及时表示反对或者要约表明承诺不得对要约的内容作出任何变更的以外，该承诺有效，合同的内容以承诺的内容为准。

Article 32 Time of Formation in Case of Memorandum of Contract. Where the parties enter into a contract by a memorandum of contract, the contract is formed when it is signed or sealed by the parties.

Article 33 Time of Formation in Case of Letters or Electronic Messages; Confirmation Letter. Where the parties enter into a contract by the exchange of letters or electronic messages, one party may require execution of a confirmation letter before the contract is formed. The contract is formed upon execution of the confirmation letter.

Article 34 Place of Formation; Electronic Messages. The place where the acceptance becomes effective is the place of formation of a contract. Where a contract is concluded by the exchange of electronic messages, the recipient's main place of business is the place of formation of the contract; if the recipient does not have a main place of business, its habitual residence is the place of formation of the contract. If the parties have agreed otherwise, such agreement prevails.

Article 35 Place of Formation in Case of Memorandum of Contract. Where a contract is concluded by a memorandum of contract, its place of formation is the place where the parties sign or seal the contract.

Article 36 Effect of Failure to Conclude Contract in Writing. Where a contract is to be concluded by a writing as required by the relevant law or administrative regulation or as agreed by the parties, if the parties failed to conclude the contract in writing but one party has performed its main obligation and the other party has accepted the performance, the contract is formed.

Article 37 Effect of Failure to Sign in Case of Memorandum of Contract. Where a contract is to be concluded by a memorandum of contract, if prior to signing or sealing of the contract, one party has performed its main obligation and the other party has accepted the performance, the contract is formed.

Article 38 Contract under State Mandatory Plan. Where the state has, in light of its requirements, issued a mandatory plan or state purchase order, the relevant legal persons and other organizations shall enter into a contract based on the rights and obligations of the parties prescribed by the relevant laws and administrative regulations.

Article 39 Standard Terms; Duty to Call Attention. Where a contract is concluded by way of standard terms, the party supplying the standard terms shall abide by the principle of fairness in prescribing the rights and obligations of the parties and shall, in a reasonable manner, call the other party's attention to the provision(s) whereby such party's liabilities are excluded or limited, and shall explain such provision(s) upon request by the other party.

Standard terms are contract provisions which were prepared in advance by a party for repeated use, and which are not negotiated with the other party in the course of concluding the contract.

第三十二条 当事人采用合同书形式订立合同的，自双方当事人签字或者盖章时合同成立。

第三十三条 当事人采用信件、数据电文等形式订立合同的，可以在合同成立之前要求签订确认书。签订确认书时合同成立。

第三十四条 承诺生效的地点为合同成立的地点。

采用数据电文形式订立合同的，收件人的主营业地为合同成立的地点；没有主营业地的，其经常居住地为合同成立的地点。当事人另有约定的，按照其约定。

第三十五条 当事人采用合同书形式订立合同的，双方当事人签字或者盖章的地点为合同成立的地点。

第三十六条 法律、行政法规规定或者当事人约定采用书面形式订立合同，当事人未采用书面形式但一方已经履行主要义务，对方接受的，该合同成立。

第三十七条 采用合同书形式订立合同，在签字或者盖章之前，当事人一方已经履行主要义务，对方接受的，该合同成立。

第三十八条 国家根据需要下达指令性任务或者国家订货任务的，有关法人、其他组织之间应当依照有关法律、行政法规规定的权利和义务订立合同。

第三十九条 采用格式条款订立合同的，提供格式条款的一方应当遵循公平原则确定当事人之间的权利和义务，并采取合理的方式提请对方注意免除或者限制其责任的条款，按照对方的要求，对该条款予以说明。

格式条款是当事人为了重复使用而预先拟定，并在订立合同时未与对方协商的条款。

Article 40 Invalidity of Certain Standard Terms. A standard term is invalid if it falls into any of the circumstances set forth in Article 52 and Article 53 hereof, or if it excludes the liabilities of the party supplying such term, increases the liabilities of the other party, or deprives the other party of any of its material rights.

Article 41 Dispute Concerning Construction of Standard Term. In case of any dispute concerning the construction of a standard term, such term shall be interpreted in accordance with common sense. If the standard term is subject to two or more interpretations, it shall be interpreted against the party supplying it. If a discrepancy exists between the standard term and a non-standard term, the non-standard term prevails.

Article 42 Pre-contract Liabilities. Where in the course of concluding a contract, a party engaged in any of the following conducts, thereby causing loss to the other party, it shall be liable for damages:

- (1) negotiating in bad faith under the pretext of concluding a contract;
- (2) intentionally concealing a material fact relating to the conclusion of the contract or supplying false information;
- (3) any other conduct which violates the principle of good faith.

Article 43 Trade Secrets; Liability for Disclosure or Improper Use. A party may not disclose or improperly use any trade secret which it became aware of in the course of negotiating a contract, regardless of whether a contract is formed. If the party disclosed or improperly used such trade secret, thereby causing loss to the other party, it shall be liable for damages.

Chapter Three Validity of Contracts

Article 44 Effectiveness of Contract. A lawfully formed contract becomes effective upon its formation.

Where effectiveness of a contract is subject to any procedure such as approval or registration, etc. as required by a relevant law or administrative regulation, such provision applies.

Article 45 Conditions Precedent; Conditions Subsequent; Improper Impairment or Facilitation. The parties may prescribe that effectiveness of a contract be subject to certain conditions. A contract subject to a condition precedent becomes effective once such condition is satisfied. A contract subject to a condition subsequent is extinguished once such condition is satisfied.

Where in order to further its own interests, a party improperly impaired the satisfaction of a condition, the condition is deemed to have been satisfied; where a party improperly facilitated the satisfaction of a condition, the condition is deemed not to have been satisfied.

第四十条 格式条款具有本法第五十二条和第五十三条规定情形的, 或者提供格式条款一方免除其责任、加重对方责任、排除对方主要权利的, 该条款无效。

第四十一条 对格式条款的理解发生争议的, 应当按照通常理解予以解释。对格式条款有两种以上解释的, 应当作出不利于提供格式条款一方的解释。格式条款和非格式条款不一致的, 应当采用非格式条款。

第四十二条 当事人在订立合同过程中有下列情形之一, 给对方造成损失的, 应当承担损害赔偿责任:

- (一) 假借订立合同, 恶意进行磋商;
- (二) 故意隐瞒与订立合同有关的重要事实或者提供虚假情况;
- (三) 有其他违背诚实信用原则的行为。

第四十三条 当事人在订立合同过程中知悉的商业秘密, 无论合同是否成立, 不得泄露或者不正当地使用。泄露或者不正当地使用该商业秘密给对方造成损失的, 应当承担损害赔偿责任。

第三章 合同的效力

第四十四条 依法成立的合同, 自成立时生效。

法律、行政法规规定应当办理批准、登记等手续生效的, 依照其规定。

第四十五条 当事人对合同的效力可以约定附条件。附生效条件的合同, 自条件成就时生效。附解除条件的合同, 自条件成就时失效。

当事人为自己的利益不正当地阻止条件成就的, 视为条件已成就; 不正当地促成条件成就的, 视为条件不成就。

Article 46 Contract Term. The parties may prescribe a term for a contract. A contract subject to a time of commencement becomes effective at such time. A contract subject to a time of expiration is extinguished at such time.

Article 47 Contract by Person with Limited Capacity. A contract concluded by a person with limited capacity for civil act is valid upon ratification by the legal agent thereof, provided that a contract from which such person accrues benefits only or the conclusion of which is appropriate for his age, intelligence or mental health does not require ratification by his legal agent.

The other party may demand that the legal agent ratify the contract within one month. If the legal agent fails to manifest his intention, he is deemed to have declined to ratify the contract. Prior to ratification of the contract, the other party in good faith is entitled to cancel the contract. Cancellation shall be effected by notification.

Article 48 Contract by Unauthorized Agent. Absent ratification by the principal, a contract concluded on his behalf by a person who lacked agency authority, who acted beyond his agency authority or whose agency authority was extinguished is not binding upon the principal unless ratified by him, and the person performing such act is liable.

The other party may demand that the principal ratify the contract within one month. Where the principal fails to manifest his intention, he is deemed to have declined to ratify the contract. Prior to ratification of the contract, the other party in good faith is entitled to cancel the contract. Cancellation shall be effected by notification.

Article 49 Contract by Person with Apparent Agency Authority. Where the person lacking agency authority, acting beyond his agency authority, or whose agency authority was extinguished concluded a contract in the name of the principal, if it was reasonable for the other party to believe that the person performing the act had agency authority, such act of agency is valid.

Article 50 Contract Executed by Legal Representative. Where the legal representative or the person-in-charge of a legal person or an organization of any other nature entered into a contract acting beyond his scope of authority, unless the other party knew or should have known that he was acting beyond his scope of authority, such act of representation is valid.

Article 51 Unauthorized Disposal of Property through Contract. Where a piece of property belonging to another person was disposed of by a person without the power to do so, such contract is nevertheless valid once the person with the power to its disposal has ratified the contract, or if the person lacking the power to dispose of it when the contract was concluded has subsequently acquired such power.

第四十六条 当事人对合同的效力可以约定附期限。附生效期限的合同，自期限届至时生效。附终止期限的合同，自期限届满时失效。

第四十七条 限制民事行为能力人订立的合同，经法定代理人追认后，该合同有效，但纯获利益的合同或者与其年龄、智力、精神健康状况相适应而订立的合同，不必经法定代理人追认。

相对人可以催告法定代理人在一个月内予以追认。法定代理人未作表示的，视为拒绝追认。合同被追认之前，善意相对人有撤销的权利。撤销应当以通知的方式作出。

第四十八条 行为人没有代理权、超越代理权或者代理权终止后以被代理人名义订立的合同，未经被代理人追认，对被代理人不发生效力，由行为人承担责任。

相对人可以催告被代理人在一个月内予以追认。被代理人未作表示的，视为拒绝追认。合同被追认之前，善意相对人有撤销的权利。撤销应当以通知的方式作出。

第四十九条 行为人没有代理权、超越代理权或者代理权终止后以被代理人名义订立合同，相对人有理由相信行为人有代理权的，该代理行为有效。

第五十条 法人或者其他组织的法定代表人、负责人超越权限订立的合同，除相对人知道或者应当知道其超越权限的以外，该代表行为有效。

第五十一条 无处分权的人处分他人财产，经权利人追认或者无处分权的人订立合同后取得处分权的，该合同有效。

Article 52 Invalidating Circumstances. A contract is invalid in any of the following circumstances:

- (1) One party induced conclusion of the contract through fraud or duress, thereby harming the interests of the state;
- (2) The parties colluded in bad faith, thereby harming the interests of the state, the collective or any third party;
- (3) The parties intended to conceal an illegal purpose under the guise of a legitimate transaction;
- (4) The contract harms public interests;
- (5) The contract violates a mandatory provision of any law or administrative regulation.

Article 53 Invalidity of Certain Exculpatory Provisions. The following exculpatory provisions in a contract are invalid:

- (1) excluding one party's liability for personal injury caused to the other party;
- (2) excluding one party's liability for property loss caused to the other party by its intentional misconduct or gross negligence.

Article 54 Contract Subject to Amendment or Cancellation. Either of the parties may petition the People's Court or an arbitration institution for amendment or cancellation of a contract if:

- (1) the contract was concluded due to a material mistake;
- (2) the contract was grossly unconscionable at the time of its conclusion.

If a party induced the other party to enter into a contract against its true intention by fraud or duress, or by taking advantage of the other party's hardship, the aggrieved party is entitled to petition the People's Court or an arbitration institution for amendment or cancellation of the contract.

Where a party petitions for amendment of the contract, the People's Court or arbitration institution may not cancel the contract instead.

Article 55 Extinguishment of Cancellation Right. A party's cancellation right is extinguished in any of the following circumstances:

- (1) It fails to exercise the cancellation right within one year, commencing on the date when the party knew or should have known the cause for the cancellation;
- (2) Upon becoming aware of the cause for cancellation, it waives the cancellation right by express statement or by conduct.

Article 56 Effect of Invalidation or Cancellation; Partial Invalidation or Cancellation. An invalid or canceled contract is not legally binding ab initio. Where a contract is partially invalid, and the validity of the remaining provisions thereof is not affected as a result, the remaining provisions are nevertheless valid.

Article 57 Independence of Dispute Resolution Provision. The invalidation, cancellation or discharge of a contract does not impair the validity of the contract provision concerning the method of dispute resolution, which exists independently in the contract.

第五十二条 有下列情形之一的，合同无效：

- (一) 一方以欺诈、胁迫的手段订立合同，损害国家利益；
- (二) 恶意串通，损害国家、集体或者第三人利益；
- (三) 以合法形式掩盖非法目的；
- (四) 损害社会公共利益；
- (五) 违反法律、行政法规的强制性规定。

第五十三条 合同中的下列免责条款无效：

- (一) 造成对方人身伤害的；
- (二) 因故意或者重大过失造成对方财产损失的。

第五十四条 下列合同，当事人一方有权请求人民法院或者仲裁机构变更或者撤销：

- (一) 因重大误解订立的；
- (二) 在订立合同时显失公平的。

一方以欺诈、胁迫的手段或者乘人之危，使对方在违背真实意思的情况下订立的合同，受损害方有权请求人民法院或者仲裁机构变更或者撤销。

当事人请求变更的，人民法院或者仲裁机构不得撤销。

第五十五条 有下列情形之一的，撤销权消灭：

- (一) 具有撤销权的当事人自知道或者应当知道撤销事由之日起一年内没有行使撤销权；
- (二) 具有撤销权的当事人知道撤销事由后明确表示或者以自己的行为放弃撤销权。

第五十六条 无效的合同或者被撤销的合同自始没有法律约束力。合同部分无效，不影响其他部分效力的，其他部分仍然有效。

第五十七条 合同无效、被撤销或者终止的，不影响合同中独立存在的有关解决争议方法的条款的效力。

Article 58 Remedies in Case of Invalidation or Cancellation. After a contract was invalidated or canceled, the parties shall make restitution of any property acquired thereunder; where restitution in kind is not possible or necessary, allowance shall be made in money based on the value of the property. The party at fault shall indemnify the other party for its loss sustained as a result. Where both parties were at fault, the parties shall bear their respective liabilities accordingly.

Article 59 Remedies in Case of Collusion in Bad Faith. Where the parties colluded in bad faith, thereby harming the interests of the state, the collective or a third person, any property acquired as a result shall be turned over to the state or be returned to the collective or the third person.

Chapter Four Performance of Contracts

Article 60 Full Performance; Performance in Good Faith. The parties shall fully perform their respective obligations in accordance with the contract. The parties shall abide by the principle of good faith, and perform obligations such as notification, assistance, and confidentiality, etc. in light of the nature and purpose of the contract and in accordance with the relevant usage.

Article 61 Indeterminate Terms; Supplementary Agreement. If a term such as quality, price or remuneration, or place of performance etc. was not prescribed or clearly prescribed, after the contract has taken effect, the parties may supplement it through agreement; if the parties fail to reach a supplementary agreement, such term shall be determined in accordance with the relevant provisions of the contract or in accordance with the relevant usage.

Article 62 Gap Filling. Where a relevant term of the contract was not clearly prescribed, and cannot be determined in accordance with Article 61 hereof, one of the following provisions applies:

(1) If quality requirement was not clearly prescribed, performance shall be in accordance with the state standard or industry standard; absent any state or industry standard, performance shall be in accordance with the customary standard or any particular standard consistent with the purpose of the contract;

(2) If price or remuneration was not clearly prescribed, performance shall be in accordance with the prevailing market price at the place of performance at the time the contract was concluded, and if adoption of a price mandated by the government or based on government issued pricing guidelines is required by law, such requirement applies;

(3) Where the place of performance was not clearly prescribed, if the obligation is payment of money, performance shall be at the place where the payee is located; if the obligation is delivery of immovable property, performance shall be at the place where the immovable property is located; for any other subject matter, performance shall be at the place where the obligor is located;

第五十八条 合同无效或者被撤销后, 因该合同取得的财产, 应当予以返还; 不能返还或者没有必要返还的, 应当折价补偿。有过错的一方应当赔偿对方因此所受到的损失, 双方都有过错的, 应当各自承担相应的责任。

第五十九条 当事人恶意串通, 损害国家、集体或者第三人利益的, 因此取得的财产收归国家所有或者返还集体、第三人。

第四章 合同的履行

第六十条 当事人应当按照约定全面履行自己的义务。

当事人应当遵循诚实信用原则, 根据合同的性质、目的和交易习惯履行通知、协助、保密等义务。

第六十一条 合同生效后, 当事人就质量、价款或者报酬、履行地点等内容没有约定或者约定不明确的, 可以协议补充; 不能达成补充协议的, 按照合同有关条款或者交易习惯确定。

第六十二条 当事人就有关合同内容约定不明确, 依照本法第六十一条的规定仍不能确定的, 适用下列规定:

(一) 质量要求不明确的, 按照国家标准、行业标准履行; 没有国家标准、行业标准的, 按照通常标准或者符合合同目的的特定标准履行。

(二) 价款或者报酬不明确的, 按照订立合同时履行地的市场价格履行; 依法应当执行政府定价或者政府指导价的, 按照规定履行。

(三) 履行地点不明确, 给付货币的, 在接受货币一方所在地履行; 交付不动产的, 在不动产所在地履行; 其他标的, 在履行义务一方所在地履行。

(4) If the time of performance was not clearly prescribed, the obligor may perform, and the obligee may require performance, at any time, provided that the other party shall be given the time required for preparation;

(5) If the method of performance was not clearly prescribed, performance shall be rendered in a manner which is conducive to realizing the purpose of the contract;

(6) If the party responsible for the expenses of performance was not clearly prescribed, the obligor shall bear the expenses.

Article 63 Performance at Government Mandated Price. Where a contract is to be implemented at a price mandated by the government or based on government issued pricing guidelines, if the government adjusts the price during the prescribed period of delivery, the contract price shall be the price at the time of delivery. Where a party delays in delivering the subject matter, the original price applies if the price has increased, and the new price applies if the price has decreased. Where a party delays in taking delivery or making payment, the new price applies if the price has increased, and the original price applies if the price has decreased.

Article 64 Performance toward a Third Person. Where the parties prescribed that the obligor render performance to a third person, if the obligor fails to render its performance to the third person, or rendered non-conforming performance, it shall be liable to the obligee for breach of contract.

Article 65 Performance by a Third Person. Where the parties prescribed that a third person render performance to the obligee, if the third person fails to perform or rendered non-conforming performance, the obligor shall be liable to the obligee for breach of contract.

Article 66 Simultaneous Performance. Where the parties owe performance toward each other and there is no order of performance, the parties shall perform simultaneously. Prior to performance by the other party, one party is entitled to reject its requirement for performance. If the other party rendered non-conforming performance, one party is entitled to reject its corresponding requirement for performance.

Article 67 Consecutive Performance. Where the parties owe performance toward each other and there is an order of performance, prior to performance by the party required to perform first, the party who is to perform subsequently is entitled to reject its requirement for performance. If the party required to perform first rendered non-conforming performance, the party who is to perform subsequently is entitled to reject its corresponding requirement for performance.

Article 68 Right to Suspend Performance. The party required to perform first may suspend its performance if it has conclusive evidence establishing that the other party is in any of the following circumstances:

- (1) Its business has seriously deteriorated;
- (2) It has engaged in transfer of assets or withdrawal of funds for the purpose of evading debts;

(四) 履行期限不明确的, 债务人可以随时履行, 债权人也可以随时要求履行, 但应当给对方必要的准备时间。

(五) 履行方式不明确的, 按照有利于实现合同目的的方式履行。

(六) 履行费用的负担不明确的, 由履行义务一方负担。

第六十三条 执行政府定价或者政府指导价的, 在合同约定的交付期限内政府价格调整时, 按照交付时的价格计价。逾期交付标的物的, 遇价格上涨时, 按照原价格执行; 价格下降时, 按照新价格执行。逾期提取标的物或者逾期付款的, 遇价格上涨时, 按照新价格执行; 价格下降时, 按照原价格执行。

第六十四条 当事人约定由债务人向第三人履行债务的, 债务人未向第三人履行债务或者履行债务不符合约定, 应当向债权人承担违约责任。

第六十五条 当事人约定由第三人向债权人履行债务的, 第三人不履行债务或者履行债务不符合约定, 债务人应当向债权人承担违约责任。

第六十六条 当事人互负债务, 没有先后履行顺序的, 应当同时履行。一方在对方履行之前有权拒绝其履行要求。一方在对方履行债务不符合约定时, 有权拒绝其相应的履行要求。

第六十七条 当事人互负债务, 有先后履行顺序, 先履行一方未履行的, 后履行一方有权拒绝其履行要求。先履行一方履行债务不符合约定的, 后履行一方有权拒绝其相应的履行要求。

第六十八条 应当先履行债务的当事人, 有确切证据证明对方有下列情形之一的, 可以中止履行:

- (一) 经营状况严重恶化;
- (二) 转移财产、抽逃资金, 以逃避债务;

- (3) It has lost its business creditworthiness;
- (4) It is in any other circumstance which will or may cause it to lose its ability to perform.

Where a party suspends performance without conclusive evidence, it shall be liable for breach of contract.

Article 69 Notification upon Suspension of Performance; Termination. If a party suspends its performance in accordance with Article 68 hereof, it shall timely notify the other party.

If the other party provides appropriate assurance for its performance, the party shall resume performance. After performance was suspended, if the other party fails to regain its ability to perform and fails to provide appropriate assurance within a reasonable time, the suspending party may terminate the contract.

Article 70 Difficulty in Rendering Performance Due to Combination. Where after effecting combination, division, or change of domicile, the obligee failed to notify the obligor, thereby making it difficult to render performance, the obligor may suspend its performance or place the subject matter in escrow.

Article 71 Right to Reject Early Performance; Exception. The obligee may reject the obligor's early performance, except where such early performance does not harm the obligee's interests.

Any additional expense incurred by the obligee due to the obligor's early performance shall be borne by the obligor.

Article 72 Right to Reject Partial Performance; Exception. An obligee may reject the obligor's partial performance, except where such partial performance does not harm the obligee's interests.

Any additional expense incurred by the obligee due to the obligor's partial performance shall be borne by the obligor.

Article 73 Subrogation; Limitation. Where the obligor delayed in exercising its creditor's right against a third person that was due, thereby harming the obligee, the obligee may petition the People's Court for subrogation, except where such creditor's right is exclusively personal to the obligor.

The scope of subrogation is limited to the extent of the obligee's right to performance. The necessary expenses for subrogation by the obligee shall be borne by the obligor.

Article 74 Obligor's Right to Cancel Manifestly Unreasonable Act by Obligor. Where the obligor waived its creditor's right against a third person that was due or assigned its property without reward, thereby harming the obligee, the obligee may petition the People's Court for cancellation of the obligor's act. Where the obligor assigned its property at a low price which is manifestly unreasonable, thereby harming the obligee, and the assignee was aware of the situation, the obligee may also petition the People's Court for cancellation of the obligor's act.

(三) 丧失商业信誉;

(四) 有丧失或者可能丧失履行债务能力的其他情形。

当事人没有确切证据中止履行的,应当承担违约责任。

第六十九条 当事人依照本法第六十八条的规定中止履行的,应当及时通知对方。

对方提供适当担保时,应当恢复履行。中止履行后,对方在合理期限内未恢复履行能力并且未提供适当担保的,中止履行的一方可以解除合同。

第七十条 债权人分立、合并或者变更住所没有通知债务人,致使履行债务发生困难的,债务人可以中止履行或者将标的物提存。

第七十一条 债权人可以拒绝债务人提前履行债务,但提前履行不损害债权人利益的除外。

债务人提前履行债务给债权人增加的费用,由债务人负担。

第七十二条 债权人可以拒绝债务人部分履行债务,但部分履行不损害债权人利益的除外。

债务人部分履行债务给债权人增加的费用,由债务人负担。

第七十三条 因债务人怠于行使其到期债权,对债权人造成损害的,债权人可以向人民法院请求以自己的名义代位行使债务人的债权,但该债权专属于债务人自身的除外。

代位权的行使范围以债权人的债权为限。债权人行使代位权的必要费用,由债务人负担。

第七十四条 因债务人放弃其到期债权或者无偿转让财产,对债权人造成损害的,债权人可以请求人民法院撤销债务人的行为。债务人以明显不合理的低价转让财产,对债权人造成损害,并且受让人知道该情形的,债权人也可以请求人民法院撤销债务人的行为。

The scope of cancellation right is limited to the extent of the obligee's right to performance. The necessary expenses for the obligee's exercise of its cancellation right shall be borne by the obligor.

Article 75 Time Limit for Exercising Obligee's Cancellation Right. The obligee's cancellation right shall be exercised within one year, commencing on the date when it became, or should have become, aware of the cause for cancellation. Such cancellation right is extinguished if not exercised within five years, commencing on the date of occurrence of the obligor's act.

Article 76 A Party's Internal Change Not Excuse for Nonperformance. Once a contract becomes effective, a party may not refuse to perform its obligations thereunder on grounds of any change in its name or change of its legal representative, person in charge, or the person handling the contract.

Chapter Five Amendment and Assignment of Contracts

Article 78 Ambiguous Amendment Not Effective
A contract term is construed not to have been amended if the parties failed to clearly prescribe the terms of the amendment.

Article 79 Assignment of Rights; Exceptions
The obligee may assign its rights under a contract in whole or in part to a third person, except where such assignment is prohibited:

- (i) in light of the nature of the contract;
- (ii) by agreement between the parties;
- (iii) by law.

Article 80 Duty to Notify When Assigning Rights; Revocation of Assignment Subject to Assignee's Consent. Where the obligee assigns its rights, it shall notify the obligor. Such assignment is not binding upon the obligor if notice was not given. A notice of assignment of rights given by the obligee may not be revoked, except with the consent of the assignee.

Article 81 Assumption of Incidental Right in Case of Assignment. Where the obligee assigns a right, the assignee shall assume any incidental right associated with the obligee's right, except where such incidental right is exclusively personal to the obligee.

Article 82 Assigned Rights Subject to Accrued Defenses of Obligor. Upon receipt of the notice of assignment of the obligee's right, the obligor may, in respect of the assignee, avail itself of any defense it has against the assignor.

撤销权的行使范围以债权人的债权为限。债权人行使撤销权的必要费用，由债务人负担。

第七十五条 撤销权自债权人知道或者应当知道撤销事由之日起一年内行使。自债务人的行为发生之日起五年内没有行使撤销权的，该撤销权消灭。

第七十六条 合同生效后，当事人不得因姓名、名称的变更或者法定代表人、负责人、承办人的变动而不履行合同义务。

第五章 合同的变更和转让

第七十八条 当事人对合同变更的内容约定不明确的，推定为未变更。

第七十九条 债权人可以将合同的权利全部或者部分转让给第三人，但有下列情形之一的除外：

- (一) 根据合同性质不得转让；
- (二) 按照当事人约定不得转让；
- (三) 依照法律规定不得转让。

第八十条 债权人转让权利的，应当通知债务人。未经通知，该转让对债务人不发生法律效力。

债权人转让权利的通知不得撤销，但经受让人同意的除外。

第八十一条 债权人转让权利的，受让人取得与债权有关的从权利，但该从权利专属于债权人自身的除外。

第八十二条 债务人接到债权转让通知后，债务人对让与人的抗辩，可以向受让人主张。

Article 83 Availability of Set-off to Obligor.

Upon receipt of the notice of assignment of the obligee's right, if the obligor has any right to performance by the assignor which is due before or at the same time as the assigned obligee's right, the obligor may avail itself of any set-off against the assignee.

Article 84 Delegation of Obligations Subject to Consent by Obligee. Where the obligor delegates its obligations under a contract in whole or in part to a third person, such delegation is subject to consent by the obligee.

Article 85 Availability of Defenses to New Obligor. Where the obligor has delegated an obligation, the new obligor may avail itself of any of the original obligor's defenses against the obligee.

Article 86 Assumption of Incidental Obligation in Case of Delegation. Where the obligor delegates an obligation, the new obligor shall assume any incidental obligation associated with the main obligation, except where such incidental obligation is exclusively personal to the original obligor.

Article 87 Assignment Subject to Approval. Where the obligee's assignment of a right or the obligor's delegation of an obligation is subject to any procedure such as approval or registration, etc. as required by a relevant law or administrative regulation, such provision applies.

Article 88 Concurrent Assignment and Delegation. Upon consent by the other party, one party may concurrently assign its rights and delegate its obligations under a contract to a third person.

Article 89 Provisions Applicable to Concurrent Assignment. Where a party concurrently assigns its rights and delegates its obligations, the provisions in Article 79, Articles 81 to 83, and Articles 85 to 87 apply.

Article 90 Effect of Combination or Division of Contract Party. Where a party has effected combination after it entered into a contract, the legal person or organization of any other nature resulting from the combination assumes the rights and obligations thereunder. Where a party has effected division after it entered into a contract, unless otherwise agreed by the obligee and obligor thereunder, the legal persons or other organizations resulting from the division jointly and severally assume the rights and obligations thereunder.

Chapter Six Discharge of Contractual Rights and Obligations

Article 91 Conditions for Discharge. The rights and obligations under a contract are discharged in any of the following circumstances:

- (1) The obligations were performed in accordance with the contract;

第八十三条 债务人接到债权转让通知时，债务人对让与人享有债权，并且债务人的债权先于转让的债权到期或者同时到期的，债务人可以向受让人主张抵销。

第八十四条 债务人将合同的义务全部或者部分转移给第三人的，应当经债权人同意。

第八十五条 债务人转移义务的，新债务人可以主张原债务人对债权人的抗辩。

第八十六条 债务人转移义务的，新债务人应当承担与主债务有关的从债务，但该从债务专属于原债务人自身的除外。

第八十七条 法律、行政法规规定转让权利或者转移义务应当办理批准、登记等手续的，依照其规定。

第八十八条 当事人一方经对方同意，可以将自己在合同中的权利和义务一并转让给第三人。

第八十九条 权利和义务一并转让的，适用本法第七十九条、第八十一条至第八十三条、第八十五条至第八十七条的规定。

第九十条 当事人订立合同后合并的，由合并后的法人或者其他组织行使合同权利，履行合同义务。当事人订立合同后分立的，除债权人和债务人另有约定的以外，由分立的法人或者其他组织对合同的权利和义务享有连带债权，承担连带债务。

第六章 合同的权利义务终止

第九十一条 有下列情形之一的，合同的权利义务终止：

- (一) 债务已经按照约定履行；

- (2) The contract was terminated;
- (3) The obligations were set off against each other;
- (4) The obligor placed the subject matter in escrow in accordance with the law;
- (5) The obligee released the obligor from performance;
- (6) Both the obligee's rights and obligor's obligations were assumed by one party;
- (7) Any other discharging circumstance provided by law or prescribed by the parties occurred.

Article 92 Post-discharge Obligations. Upon discharge of the rights and obligations under a contract, the parties shall abide by the principle of good faith and perform obligations such as notification, assistance and confidentiality, etc. in accordance with the relevant usage.

Article 93 Termination by Agreement; Termination Right. The parties may terminate a contract if they have so agreed.

The parties may prescribe a condition under which one party is entitled to terminate the contract. Upon satisfaction of the condition for termination of the contract, the party with the termination right may terminate the contract.

Article 94 Legally Prescribed Conditions Giving Rise to Termination Right. The parties may terminate a contract if:

- (1) force majeure frustrated the purpose of the contract;
- (2) before the time of performance, the other party expressly stated or indicated by its conduct that it will not perform its main obligations;
- (3) the other party delayed performance of its main obligations, and failed to perform within a reasonable time after receiving demand for performance;
- (4) the other party delayed performance or otherwise breached the contract, thereby frustrating the purpose of the contract;
- (5) any other circumstance provided by law occurred.

Article 95 Time Limit for Termination; Extinguishment of Termination Right. Where the law or the parties prescribe a period for exercising termination right, failure by a party to exercise it at the end of the period shall extinguish such right.

Where neither the law nor the parties prescribe a period for exercising termination right, failure by a party to exercise it within a reasonable time after receiving demand from the other party shall extinguish such right.

- (二) 合同解除;
- (三) 债务相互抵销;
- (四) 债务人依法将标的物提存;
- (五) 债权人免除债务;
- (六) 债权债务同归于一人;

(七) 法律规定或者当事人约定终止的其他情形。

第九十二条 合同的权利义务终止后,当事人应当遵循诚实信用原则,根据交易习惯履行通知、协助、保密等义务。

第九十三条 当事人协商一致,可以解除合同。

当事人可以约定一方解除合同的条件。解除条件的条件成就时,解除权人可以解除合同。

第九十四条 有下列情形之一的,当事人可以解除合同:

- (一) 因不可抗力致使不能实现合同目的;
- (二) 在履行期限届满之前,当事人一方明确表示或者以自己的行为表明不履行主要债务;
- (三) 当事人一方迟延履行主要债务,经催告后在合理期限内仍未履行;
- (四) 当事人一方迟延履行债务或者其他违约行为致使不能实现合同目的;
- (五) 法律规定的其他情形。

第九十五条 法律规定或者当事人约定解除权行使期限,期限届满当事人不行使的,该权利消灭。

法律没有规定或者当事人没有约定解除权行使期限,经对方催告后在合理期限内不行使的,该权利消灭。

Article 96 Termination by Notification; Termination Subject to Approval. The party availing itself of termination of a contract in accordance with Paragraph 2 of Article 93 and Article 94 hereof shall notify the other party. The contract is terminated when the notice reaches the other party. If the other party objects to the termination, the terminating party may petition the People's Court or an arbitration institution to affirm the validity of the termination.

Where termination of a contract is subject to any procedure such as approval or registration, etc. as required by a relevant law or administrative regulation, such provision applies.

Article 97 Remedies in Case of Termination. Upon termination of a contract, a performance which has not been rendered is discharged; if a performance has been rendered, a party may, in light of the degree of performance and the nature of the contract, require the other party to restore the subject matter to its original condition or otherwise remedy the situation, and is entitled to claim damages.

Article 98 Settlement and Winding-up Provisions Not Affected by Discharge. Discharge of contractual rights and obligations does not affect the validity of contract provisions concerning settlement of account and winding-up.

Article 99 Set-off; Set-off Not Subject to Condition. Where each party owes performance to the other party that is due, and the subject matters of the obligations are identical in type and quality, either party may set off its obligation against the obligation of the other party, except where set-off is prohibited by law or in light of the nature of the contract.

The party availing itself of set-off shall notify the other party. The notice becomes effective when it reaches the other party. Set-off may not be subject to any condition or time limit.

Article 100 Set-off Involving Non-identical Subject Matters. Where each party owes performance to the other party that is due, and the subject matters of the obligations are not identical in type and quality, the parties may effect set-off by mutual agreement.

Article 101 Conditions Giving Rise to Right to Place Subject Matter in Escrow. Where any of the following circumstances makes it difficult to render performance, the obligor may place the subject matter in escrow:

- (1) The obligee refuses to take delivery of the subject matter without cause;
- (2) The obligee cannot be located;
- (3) The obligee is deceased or incapacitated, and his heir or guardian is not determined;

第九十六条 当事人一方依照本法第九十三条第二款、第九十四条的规定主张解除合同的，应当通知对方。合同自通知到达对方时解除。对方有异议的，可以请求人民法院或者仲裁机构确认解除合同的效力。

法律、行政法规规定解除合同应当办理批准、登记等手续的，依照其规定。

第九十七条 合同解除后，尚未履行的，终止履行；已经履行的，根据履行情况和合同性质，当事人可以要求恢复原状、采取其他补救措施，并有权要求赔偿损失。

第九十八条 合同的权利义务终止，不影响合同中结算和清理条款的效力。

第九十九条 当事人互负到期债务，该债务的标的物种类、品质相同的，任何一方可以将自己的债务与对方的债务抵销，但依照法律规定或者按照合同性质不得抵销的除外。

当事人主张抵销的，应当通知对方。通知自到达对方时生效。抵销不得附条件或者附期限。

第一百条 当事人互负债务，标的物种类、品质不相同的，经双方协商一致，也可以抵销。

第一百零一条 有下列情形之一的，难以履行债务的，债务人可以将标的物提存：

- (一) 债权人无正当理由拒绝受领；
- (二) 债权人下落不明；
- (三) 债权人死亡未确定继承人或者丧失民事行为能力未确定监护人；

(4) Any other circumstance provided by law occurs.

Where the subject matter is not fit for escrow, or the escrow expenses will be excessive, the obligor may auction or liquidate the subject matter and place the proceeds in escrow.

Article 102 Duty to Notify in Case of Escrow
After placing the subject matter in escrow, the obligor shall timely notify the obligee or his heir or guardian, except where the obligee cannot be located.

Article 103 Risk of Loss; Fruits of Subject Matter Accrued during Escrow. Once the subject matter is in escrow, the risk of its damage or loss is borne by the obligee. The fruits of the subject matter accrued during escrow belong to the obligee. Escrow expenses shall be borne by the obligee.

Article 104 Taking Delivery of Subject Matter in Escrow Conditional upon Performance; Time Limit
The obligee may take delivery of the subject matter in escrow at any time, provided that if the obligee owes performance toward the obligor that is due, prior to the obligee's performance or provision of assurance, the escrow agent shall reject the obligee's attempt to take delivery of the subject matter in escrow as required by the obligor.

The right of the obligee to take delivery of the subject matter in escrow is extinguished if not exercised within five years, commencing on the date when the subject matter was placed in escrow. After deduction of escrow expenses, the subject matter in escrow shall be turned over to the state.

Article 105 Release. Where the obligee released the obligor from performance in part or in whole, the rights and obligations under the contract are discharged in part or in whole.

Article 106 Merger of Rights and Obligations. If the same party assumed all the rights and obligations under a contract, the rights and obligations thereunder are discharged, except where the contract involves the interests of a third person.

Chapter Seven Liabilities for Breach of Contracts

Article 107 Types of Liabilities for Breach. If a party fails to perform its obligations under a contract, or rendered non-conforming performance, it shall bear the liabilities for breach of contract by specific performance, cure of non-conforming performance or payment of damages, etc.

(四) 法律规定的其他情形。

标的物不适于提存或者提存费用过高的，债务人依法可以拍卖或者变卖标的物，提存所得的价款。

第一百零二条 标的物提存后，除债权人下落不明的以外，债务人应当及时通知债权人或者债权人的继承人、监护人。

第一百零三条 标的物提存后，毁损、灭失的风险由债权人承担。提存期间，标的物的孳息归债权人所有。提存费用由债权人负担。

第一百零四条 债权人可以随时领取提存物，但债权人对债务人负有到期债务的，在债权人未履行债务或者提供担保之前，提存部门根据债务人的要求应当拒绝其领取提存物。

债权人领取提存物的权利，自提存之日起五年内不行使而消灭，提存物扣除提存费用后归国家所有。

第一百零五条 债权人免除债务人部分或者全部债务的，合同的权利义务部分或者全部终止。

第一百零六条 债权和债务同归于一人的，合同的权利义务终止，但涉及第三人利益的除外。

第七章 违约责任

第一百零七条 当事人一方不履行合同义务或者履行合同义务不符合约定的，应当承担继续履行、采取补救措施或者赔偿损失等违约责任。

Article 108 Anticipatory Breach. Where one party expressly states or indicates by its conduct that it will not perform its obligations under a contract, the other party may hold it liable for breach of contract before the time of performance.

Article 109 Monetary Specific Performance. If a party fails to pay the price or remuneration, the other party may require payment thereof.

Article 110 Non-monetary Specific Performance; Exceptions. Where a party fails to perform, or rendered non-conforming performance of, a non-monetary obligation, the other party may require performance, except where:

- (1) performance is impossible in law or in fact;
- (2) the subject matter of the obligation does not lend itself to enforcement by specific performance or the cost of performance is excessive;
- (3) the obligee does not require performance within a reasonable time.

Article 111 Liabilities in Case of Quality Non-compliance. Where a performance does not meet the prescribed quality requirements, the breaching party shall be liable for breach in accordance with the contract. Where the liabilities for breach were not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the aggrieved party may, by reasonable election in light of the nature of the subject matter and the degree of loss, require the other party to assume liabilities for breach by way of repair, replacement, remaking, acceptance of returned goods, or reduction in price or remuneration, etc.

Article 112 Liability for Damages Notwithstanding Subsequent Performance or Cure of Non-conforming Performance. Where a party failed to perform or rendered non-conforming performance, if notwithstanding its subsequent performance or cure of non-conforming performance, the other party has sustained other loss, the breaching party shall pay damages.

Article 113 Calculation of Damages; Damages to Consumer. Where a party failed to perform or rendered non-conforming performance, thereby causing loss to the other party, the amount of damages payable shall be equivalent to the other party's loss resulting from the breach, including any benefit that may be accrued from performance of the contract, provided that the amount shall not exceed the likely loss resulting from the breach which was foreseen or should have been foreseen by the breaching party at the time of conclusion of the contract.

第一百零八条 当事人一方明确表示或者以自己的行为表明不履行合同义务的，对方可以在履行期限届满之前要求其承担违约责任。

第一百零九条 当事人一方未支付价款或者报酬的，对方可以要求其支付价款或者报酬。

第一百一十条 当事人一方不履行非金钱债务或者履行非金钱债务不符合约定的，对方可以要求履行，但有下列情形之一的除外：

- (一) 法律上或者事实上不能履行
- (二) 债务的标的不适于强制履行或者履行费用过高；

(三) 债权人在合理期限内未要求履行。

第一百一十一条 质量不符合约定的，应当按照当事人的约定承担违约责任。对违约责任没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，受损害方根据标的的性质以及损失的大小，可以合理选择要求对方承担修理、更换、重作、退货、减少价款或者报酬等违约责任。

第一百一十二条 当事人一方不履行合同义务或者履行合同义务不符合约定的，在履行义务或者采取补救措施后，对方还有其他损失的，应当赔偿损失。

第一百一十三条 当事人一方不履行合同义务或者履行合同义务不符合约定，给对方造成损失的，损失赔偿额应当相当于因违约所造成的损失，包括合同履行后可以获得的利益，但不得超过违反合同一方订立合同时预见到或者应当预见到的因违反合同可能造成的损失。

Where a merchant engages in any fraudulent activity while supplying goods or services to a consumer, it is liable for damages in accordance with the Law of the People's Republic of China on Protection of Consumer Rights.

Article 114 Liquidated Damages; Adjustment; Continuing Performance Notwithstanding Payment of Liquidated Damages. The parties may prescribe that if one party breaches the contract, it will pay a certain sum of liquidated damages to the other party in light of the degree of breach, or prescribe a method for calculation of damages for the loss resulting from a party's breach.

Where the amount of liquidated damages prescribed is below the loss resulting from the breach, a party may petition the People's Court or an arbitration institution to increase the amount; where the amount of liquidated damages prescribed exceeds the loss resulting from the breach, a party may petition the People's Court or an arbitration institution to decrease the amount as appropriate.

Where the parties prescribed liquidated damages for delayed performance, the breaching party shall, in addition to payment of the liquidated damages, render performance.

Article 115 Deposit. The parties may prescribe that a party will give a deposit to the other party as assurance for the obligee's right to performance in accordance with the Security Law of the People's Republic of China. Upon performance by the obligor, the deposit shall be set off against the price or refunded to the obligor. If the party giving the deposit failed to perform its obligations under the contract, it is not entitled to claim refund of the deposit; where the party receiving the deposit failed to perform its obligations under the contract, it shall return to the other party twice the amount of the deposit.

Article 116 Election Between Deposit or Liquidated Damages Clauses. If the parties prescribed payment of both liquidated damages and a deposit, in case of breach by a party, the other party may elect in alternative to apply the liquidated damages clause or the deposit clause.

Article 117 Force Majeure. A party who was unable to perform a contract due to force majeure is exempted from liability in part or in whole in light of the impact of the event of force majeure, except otherwise provided by law. Where an event of force majeure occurred after the party's delay in performance, it is not exempted from liability.

For purposes of this Law, force majeure means any objective circumstance which is unforeseeable, unavoidable and insurmountable.

Article 118 Duty to Notify in Case of Force Majeure. If a party is unable to perform a contract due to force majeure, it shall timely notify the other party so as to mitigate the loss that may be caused to the other party, and shall provide proof of force majeure within a reasonable time.

经营者对消费者提供商品或者服务有欺诈行为的，依照《中华人民共和国消费者权益保护法》的规定承担损害赔偿责任。

第一百一十四条 当事人可以约定一方违约时应当根据违约情况向对方支付一定数额的违约金，也可以约定因违约产生的损失赔偿额的计算方法。

约定的违约金低于造成的损失的，当事人可以请求人民法院或者仲裁机构予以增加；约定的违约金过分高于造成的损失的，当事人可以请求人民法院或者仲裁机构予以适当减少。

当事人就迟延履行约定违约金的，违约方支付违约金后，还应当履行债务。

第一百一十五条 当事人可以依照《[中华人民共和国担保法](#)》约定一方向对方给付定金作为债权的担保。债务人履行债务后，定金应当抵作价款或者收回。给付定金的一方不履行约定的债务的，无权要求返还定金；收受定金的一方不履行约定的债务的，应当双倍返还定金。

第一百一十六条 当事人既约定违约金，又约定定金的，一方违约时，对方可以选择适用违约金或者定金条款。

第一百一十七条 因不可抗力不能履行合同的，根据不可抗力的影响，部分或者全部免除责任，但法律另有规定的除外。当事人迟延履行后发生不可抗力的，不能免除责任。

本法所称不可抗力，是指不能预见、不能避免并不能克服的客观情况。

第一百一十八条 当事人一方因不可抗力不能履行合同的，应当及时通知对方，以减轻可能给对方造成的损失，并应当在合理期限内提供证明。

Article 119 Non-Breaching Party's Duty to Mitigate Loss in Case of Breach. Where a party breached the contract, the other party shall take the appropriate measures to prevent further loss; where the other party sustained further loss due to its failure to take the appropriate measures, it may not claim damages for such further loss.

Any reasonable expense incurred by the other party in preventing further loss shall be borne by the breaching party.

Article 120 Bilateral Breach. In case of bilateral breach, the parties shall assume their respective liabilities accordingly.

Article 121 Breach Due to Act of Third Person. Where a party's breach was attributable to a third person, it shall nevertheless be liable to the other party for breach. Any dispute between the party and such third person shall be resolved in accordance with the law or the agreement between the parties.

Article 122 Election of Remedy in Tort or in Contract Where a party's breach harmed the personal or property interests of the other party, the aggrieved party is entitled to elect to hold the party liable for breach of contract in accordance herewith, or hold the party liable for tort in accordance with any other relevant law.

Chapter Eight Other Provisions

Article 123 Applicability of Other Laws. Where another law provides otherwise in respect of a certain contract, such provisions prevail.

Article 124 Applicability to Non-categorized Contracts. Where there is no express provision in the Specific Provisions hereof or any other law concerning a certain contract, the provisions in the General Principles hereof apply, and reference may be made to the provisions in the Specific Provisions hereof or any other law applicable to a contract which is most similar to such contract.

Article 125 Contract Interpretation; Language Versions. In case of any dispute between the parties concerning the construction of a contract term, the true meaning thereof shall be determined according to the words and sentences used in the contract, the relevant provisions and the purpose of the contract, and in accordance with the relevant usage and the principle of good faith.

Where a contract was executed in two or more languages and it provides that all versions are equally authentic, the words and sentences in each version are construed to have the same meaning. In case of any discrepancy in the words or sentences used in the different language versions, they shall be interpreted in light of the purpose of the contract.

Article 126 Choice of Law in Foreign-related Contracts; Contracts Subject to Mandatory Application of Chinese Law. Parties to a foreign related contract may select the applicable law for resolution of a contractual dispute, except otherwise provided by law. Where parties to the foreign related contract failed to select the applicable law, the contract shall be governed by the law of the country with the closest connection thereto.

第一百一十九条 当事人一方违约后,对方应当采取适当措施防止损失的扩大;没有采取适当措施致使损失扩大的,不得就扩大的损失要求赔偿。

当事人因防止损失扩大而支出的合理费用,由违约方承担。

第一百二十条 当事人双方都违反合同的,应当各自承担相应的责任。

第一百二十一条 当事人一方因第三人的原因造成违约的,应当向对方承担违约责任。当事人一方和第三人之间的纠纷,依照法律规定或者按照约定解决。

第一百二十二条 因当事人一方的违约行为,侵害对方人身、财产权益的,受损方有权选择依照本法要求其承担违约责任或者依照其他法律要求其承担侵权责任。

第八章 其他规定

第一百二十三条 其他法律对合同另有规定的,依照其规定。

第一百二十四条 本法分则或者其他法律没有明文规定的合同,适用本法总则的规定,并可以参照本法分则或者其他法律最相类似的规定。

第一百二十五条 当事人对合同条款的理解有争议的,应当按照合同所使用的词句、合同的有关条款、合同的目的、交易习惯以及诚实信用原则,确定该条款的真实意思。

合同文本采用两种以上文字订立并约定具有同等效力的,对各文本使用的词句推定具有相同含义。各文本使用的词句不一致的,应当根据合同的目的予以解释。

第一百二十六条 涉外合同的当事人可以选择处理合同争议所适用的法律,但法律另有规定的除外。涉外合同的当事人没有选择的,适用与合同有最密切联系的国家的法律。

For a Sino-foreign Equity Joint Venture Enterprise Contract, Sino-foreign Cooperative Joint Venture Contract, or a Contract for Sino-foreign Joint Exploration and Development of Natural Resources which is performed within the territory of the People's Republic of China, the law of the People's Republic of China applies.

Article 127 Role of Regulatory Authorities. Within the scope of their respective duties, the authority for the administration of industry and commerce and other relevant authorities shall, in accordance with the relevant laws and administrative regulations, be responsible for monitoring and dealing with any illegal act which, through the conclusion of a contract, harms the state interests or the public interests; where such act constitutes a crime, criminal liability shall be imposed in accordance with the law.

Article 128 Dispute Resolution. The parties may resolve a contractual dispute through settlement or mediation.

Where the parties do not wish to, or are unable to, resolve such dispute through settlement or mediation, the dispute may be submitted to the relevant arbitration institution for arbitration in accordance with the arbitration agreement between the parties. Parties to a foreign related contract may apply to a Chinese arbitration institution or another arbitration institution for arbitration. Where the parties did not conclude an arbitration agreement, or the arbitration agreement is invalid, either party may bring a suit to the People's Court. The parties shall perform any judgment, arbitral award or mediation agreement which has taken legal effect; if a party refuses to perform, the other party may apply to the People's Court for enforcement.

Article 129 Time Limit for Action. For a dispute arising from a contract for the international sale of goods or a technology import or export contract, the time limit for bringing a suit or applying for arbitration is four years, commencing on the date when the party knew or should have known that its rights were harmed. For a dispute arising from any other type of contract, the time limit for bringing a suit or applying for arbitration shall be governed by the relevant law.

SPECIFIC PROVISIONS

Chapter Nine Sales Contracts

Article 130 Definition of Sales Contract. A sales contract is a contract whereby the seller transfers title to the subject matter to the buyer, who pays the price.

Article 131 Additional Terms. In addition to the terms set forth in Article 12 hereof, a sales contract may include terms such as packing method, inspection standard and inspection method, method of settlement of account, and the language versions of the contract and the authenticity thereof, etc.

Article 132 Title or Disposal Power; Prohibition of or Restriction on Transfer. The seller shall have title to, or the power to dispose of, the subject matter for sale.

在中华人民共和国境内履行的中外合资经营企业合同、中外合作经营企业合同、中外合作勘探开发自然资源合同，适用中华人民共和国法律。

第一百二十七条 工商行政管理部门和其他有关行政主管部门在各自的职权范围内，依照法律、行政法规的规定，对利用合同危害国家利益、社会公共利益的违法行为，负责监督处理；构成犯罪的，依法追究刑事责任。

第一百二十八条 当事人可以通过和解或者调解解决合同争议。

当事人不愿和解、调解或者和解、调解不成的，可以根据仲裁协议向仲裁机构申请仲裁。涉外合同的当事人可以根据仲裁协议向中国仲裁机构或者其他仲裁机构申请仲裁。当事人没有订立仲裁协议或者仲裁协议无效的，可以向人民法院起诉。当事人应当履行发生法律效力的判决、仲裁裁决、调解书；拒不履行的，对方可以请求人民法院执行。

第一百二十九条 因国际货物买卖合同和技术进出口合同争议提起诉讼或者申请仲裁的期限为四年，自当事人知道或者应当知道其权利受到侵害之日起计算。因其他合同争议提起诉讼或者申请仲裁的期限，依照有关法律的规定。

分 则

第九章 买卖合同

第一百三十条 买卖合同是出卖人转移标的物的所有权于买受人，买受人支付价款的合同。

第一百三十一条 买卖合同的内容除依照本法第十二条的规定以外，还可以包括包装方式、检验标准和方法、结算方式、合同使用的文字及其效力等条款。

第一百三十二条 出卖的标的物，应当属于出卖人所有或者出卖人有权处分

Where a law or administrative regulation prohibits or restricts the transfer of the subject matter, such provision applies.

Article 133 Passing of Title. Title to the subject matter passes at the time of its delivery, except otherwise provided by law or agreed by the parties.

Article 134 Conditional Sale. The parties may prescribe in the sales contract that title to the subject matter remain in the seller until the buyer has paid the price or has performed other obligations.

Article 135 Seller's Obligations with Respect to Title Transfer. The seller shall perform the obligations of delivering to the buyer the subject matter or the document for taking delivery thereof, as well as transferring title to the subject matter.

Article 136 Delivery of Related Materials by Seller. In addition to the document for taking delivery, the seller shall deliver to the buyer documents and materials related to the subject matter in accordance with the contract or in accordance with the relevant usage.

Article 137 Sales Involving Intellectual Property. In a sale of any subject matter which contains intellectual property such as computer software, etc., the intellectual property in the subject matter does not vest in the buyer, except otherwise provided by law or agreed by the parties.

Article 138 Time of Delivery. The seller shall deliver the subject matter at the prescribed time. Where the contract prescribes a period during which delivery is to take place, the seller may deliver at any time during the delivery period.

Article 139 Absence of Provision for Time of Delivery Where the time for delivery of the subject matter was not prescribed or clearly prescribed, Article 61 and Item 4 of Article 62 apply.

Article 140 Time of Delivery of Subject Matter Already in Buyer's Possession. Where the subject matter was in buyer's possession prior to conclusion of the contract, the time when the contract becomes effective is the time of delivery

Article 141 Absence of Provision for Place of Delivery The seller shall deliver the subject matter at the prescribed place.

Where the place of delivery was not prescribed or clear prescribed, and cannot be determined in accordance with Article 61 hereof, the following provisions apply:

- (1) If the subject matter needs carriage, the seller shall deliver the subject matter to the first carrier for transmission to the buyer;

法律、行政法规禁止或者限制转让的标的物，依照其规定。

第一百三十三条 标的物的所有权自标的物交付时起转移，但法律另有规定或者当事人另有约定的除外。

第一百三十四条 当事人可以在买卖合同中约定买受人未履行支付价款或者其他义务的，标的物的所有权属于出卖人。

第一百三十五条 出卖人应当履行向买受人交付标的物或者交付提取标的物的单证，并转移标的物所有权的义务。

第一百三十六条 出卖人应当按照约定或者交易习惯向买受人交付提取标的物单证以外的有关单证和资料。

第一百三十七条 出卖具有知识产权的计算机软件等标的物的，除法律另有规定或者当事人另有约定的以外，该标的物的知识产权不属于买受人。

第一百三十八条 出卖人应当按照约定的期限交付标的物。约定交付期间的，出卖人可以在该交付期间的任何时间交付。

第一百三十九条 当事人没有约定标的物的交付期限或者约定不明确的，适用本法第六十一条、第六十二条第四项的规定。

第一百四十条 标的物在订立合同之前已为买受人占有的，合同生效的时间为交付时间。

第一百四十一条 出卖人应当按照约定的地点交付标的物。

当事人没有约定交付地点或者约定不明确，依照本法第六十一条的规定仍不能确定的，适用下列规定：

- (一) 标的物需要运输的，出卖人应当将标的物交付给第一承运人以运交给买受人；

- (2) Where the subject matter does not need carriage, if at the time of conclusion of the contract, the buyer and the seller knew the subject matter was at a particular place, the seller shall deliver the subject matter at such place; and if they did not know the location of the subject matter, delivery shall take place at the seller's place of business at the time of conclusion of the contract.

Article 142 Passing of Risk. The risk of damage to or loss of the subject matter is borne by the seller prior to delivery, and by the buyer after delivery, except otherwise provided by law or agreed by the parties.

Article 143 Risk Allocation in Case of Delayed Delivery. Where the subject matter was not delivered at the prescribed time due to any reason attributable to the buyer, the buyer shall bear the risk of damage to or loss of the subject matter as from the date of breach.

Article 144 Risk Allocation for Subject Matter in Transit. Where the seller sells the subject matter which has been delivered to a carrier for transportation and is in transit, unless otherwise agreed by the parties, the risk of damage or loss is borne by the buyer as from the time of formation of the contract.

Article 145 Passing of Risk in Case of Seller Arranged Carriage. Where the place of delivery was not prescribed or clearly prescribed, if the subject matter needs carriage as provided in Item (1) of Paragraph 2 of Article 141, the risk of damage to or loss of the subject matter is borne by the buyer as from the time the seller delivers the subject matter to the first carrier.

Article 146 Risk Allocation in Case of Delay in Taking Delivery. Where the seller placed the subject matter at the place of delivery in accordance with the contract or in accordance with Item (2i) of Paragraph 2 of Article 141 hereof and the buyer fails to take delivery in breach of the contract, the risk of damage to or loss of the subject matter is borne by the buyer as from the date of breach.

Article 147 Passing of Risk Notwithstanding Failure to Deliver Documents. Failure by the seller to deliver the documents and materials relating to the subject matter in accordance with the contract does not affect passing of the risk of damage to or loss of the subject matter.

Article 148 Rejection on Grounds of Quality Non-compliance; Risk Allocation in Case of Rejection. Where the purpose of the contract is frustrated due to failure of the subject matter to meet the quality requirements, the buyer may reject the subject matter or terminate the contract. If the buyer rejects the subject matter or terminates the contract, the risk of damage to or loss of the subject matter is borne by the seller.

(二) 标的物不需要运输, 出卖人和买受人订立合同时知道标的物在某一地点的, 出卖人应当在该地点交付标的物; 不知道标的物在某一地点的, 应当在出卖人订立合同时的营业地交付标的物。

第一百四十二条 标的物毁损、灭失的风险, 在标的物交付之前由出卖人承担, 交付之后由买受人承担, 但法律另有规定或者当事人另有约定的除外。

第一百四十三条 因买受人的原因致使标的物不能按照约定的期限交付的, 买受人应当自违反约定之日起承担标的物毁损、灭失的风险。

第一百四十四条 出卖人出卖交由承运人运输的在途标的物, 除当事人另有约定的以外, 毁损、灭失的风险自合同成立时起由买受人承担。

第一百四十五条 当事人没有约定交付地点或者约定不明确, 依照本法第一百四十一条第二款第一项的规定标的物需要运输的, 出卖人将标的物交付给第一承运人后, 标的物毁损、灭失的风险由买受人承担。

第一百四十六条 出卖人按照约定或者依照本法第一百四十一条第二款第二项的规定将标的物置于交付地点, 买受人违反约定没有收取的, 标的物毁损、灭失的风险自违反约定之日起由买受人承担。

第一百四十七条 出卖人按照约定未交付有关标的物的单证和资料的, 不影响标的物毁损、灭失风险的转移。

第一百四十八条 因标的物质量不符合质量要求, 致使不能实现合同目的的, 买受人可以拒绝接受标的物或者解除合同。买受人拒绝接受标的物或者解除合同的, 标的物毁损、灭失的风险由出卖人承担。

Article 149 Right to Remedy Notwithstanding Assumption of Risk. Buyer's assumption of the risk of damage to or loss of the subject matter does not prejudice its right to hold the seller liable for breach of contract if the seller rendered non-conforming performance.

Article 150 Third Party Claim Warranty. The seller is obligated to warrant that the buyer will be free from any third party claim against it in respect of the subject matter delivered, except otherwise provided by law.

Article 151 Buyer's Knowledge Releasing Third Party Claim Warranty. Where the buyer knew or should have known that the subject matter was subject to a third party claim at the time of conclusion of the contract, the seller does not assume the obligation prescribed in Article 150 hereof.

Article 152 Right to Withhold Payment in Case of Third Party Claim. Where the buyer has conclusive evidence establishing that a third person may make a claim on the subject matter, it may withhold payment of the corresponding price, except where the seller has provided appropriate assurance.

Article 153 Quality Specifications. The seller shall deliver the subject matter in compliance with the prescribed quality requirements. Where the seller gave quality specifications for the subject matter, the subject matter delivered shall comply with the quality requirements set forth therein.

Article 154 Absence of Prescribed Quality Requirements. Where the quality requirements for the subject matter were not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, Item (1) of Article 62 hereof applies.

Article 155 Quality Non-compliance Giving Rise to Claims. If the subject matter delivered by the seller fails to comply with the quality requirements, the buyer may hold the seller liable for breach of contract in accordance with Article 111 hereof.

Article 156 Packing Method. The seller shall deliver the subject matter packed in the prescribed manner. Where a packing method was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the subject matter shall be packed in a customary manner, or, if there is no customary manner, in a manner adequate to protect the subject matter.

Article 157 Inspection upon Receipt of Subject Matter. Upon receipt of the subject matter, the buyer shall inspect it within the prescribed inspection period. Where no inspection period was prescribed, the buyer shall timely inspect the subject matter.

Article 158 Consequence of Failure to Inspect; Exceptions. Where an inspection period was prescribed, the buyer shall notify the seller of any non-compliance in quantity or quality of the subject matter within such inspection period. Where the buyer delayed in notifying the seller, the quantity or quality of the subject matter is deemed to comply with the contract.

第一百四十九条 标的物毁损、灭失的风险由买受人承担的,不影响因出卖人履行债务不符合约定,买受人要求其承担违约责任的权利。

第一百五十条 出卖人就交付的标的物,负有保证第三人不得向买受人主张任何权利的义务,但法律另有规定的除外。

第一百五十一条 买受人订立合同时知道或者应当知道第三人对买卖的标的物享有权利的,出卖人不承担本法第一百五十条规定的义务。

第一百五十二条 买受人有确切证据证明第三人可能就标的物主张权利的,可以中止支付相应的价款,但出卖人提供适当担保的除外。

第一百五十三条 出卖人应当按照约定的质量要求交付标的物。出卖人提供有关标的物的质量说明的,交付的标的物应当符合该说明的质量要求。

第一百五十四条 当事人对标的物的质量要求没有约定或者约定不明确,依照本法第六十一条的规定仍不能确定的,适用本法第六十二条第一项的规定。

第一百五十五条 出卖人交付的标的物不符合质量要求的,买受人可以依照本法第一百一十一条的规定要求承担违约责任。

第一百五十六条 出卖人应当按照约定的包装方式交付标的物。对包装方式没有约定或者约定不明确,依照本法第六十一条的规定仍不能确定的,应当按照通用的方式包装,没有通用方式的,应当采取足以保护标的物的包装方式。

第一百五十七条 买受人收到标的物时应当在约定的检验期间内检验。没有约定检验期间的,应当及时检验。

第一百五十八条 当事人约定检验期间的,买受人应当在检验期间内将标的物的数量或者质量不符合约定的情形通知出卖人。买受人怠于通知的,视为标的物的数量或者质量符合约定。

Where no inspection period was prescribed, the buyer shall notify the seller within a reasonable period, commencing on the date when the buyer discovered or should have discovered the quantity or quality non-compliance. If the buyer fails to notify within a reasonable period or fails to notify within 2 years, commencing on the date when it received the subject matter, the quantity or quality of the subject matter is deemed to comply with the contract, except that if there is a warranty period in respect of the subject matter, the warranty period applies and supersedes such two year period.

Where the seller knew or should have known the non-compliance of the subject matter, the buyer is not subject to the time limits for notification prescribed in the previous two paragraphs.

Article 159 Absence of Price Provision. The buyer shall pay the price in the prescribed amount. Where the price was not prescribed or clearly prescribed, the provisions of Article 61 and Item (2) of Article 62 apply.

Article 160 Place of Payment. The buyer shall pay the price at the prescribed place. Where the place of payment was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the buyer shall make payment at the seller's place of business, provided that if the parties agreed that payment shall be conditional upon delivery of the subject matter or the document for taking delivery thereof, payment shall be made at the place where the subject matter, or the document for taking delivery thereof, is delivered.

Article 161 Time of Payment. The buyer shall pay the price at the prescribed time. Where the time for payment was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the buyer shall make payment at the same time it receives the subject matter or the document for taking delivery thereof.

Article 162 Buyer's Option in Case Delivered Quantity Exceeds Prescribed Amount. Where the seller delivered the subject matter in a quantity greater than that prescribed in the contract, the buyer may accept or reject the excess quantity. Where the buyer accepts the excess quantity, it shall pay the price based on the contract rate; where the buyer rejects the excess quantity, it shall timely notify the seller.

Article 163 Title to Fruits Before and After Delivery. The fruits of the subject matter belong to the seller if accrued before delivery, and to the buyer if accrued after delivery.

Article 164 Effect of Termination on Grounds of Non-compliance of Main or Ancillary Components. Where a contract is terminated due to non-compliance of any main component of the subject matter, the effect of termination extends to the ancillary components. Where the contract is terminated due to non-compliance of any ancillary component of the subject matter, the effect of termination does not extend to the main components.

当事人没有约定检验期间的，买受人应当在发现或者应当发现标的物的数量或者质量不符合约定的合理期间内通知出卖人。买受人在合理期间内未通知或者自标的物收到之日起两年内未通知出卖人的，视为标的物的数量或者质量符合约定，但对标的物有质量保证期的，适用质量保证期，不适用该两年的规定。

出卖人知道或者应当知道提供的标的物不符合约定的，买受人不受前两款规定的通知时间的限制。

第一百五十九条 买受人应当按照约定的数额支付价款。对价款没有约定或者约定不明确的，适用本法第六十一条、第六十二条第二项的规定。

第一百六十条 买受人应当按照约定的地点支付价款。对支付地点没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，买受人应当在出卖人的营业地支付，但约定支付价款以交付标的物或者交付提取标的物单证为条件的，在交付标的物或者交付提取标的物单证的所在地支付。

第一百六十一条 买受人应当按照约定的时间支付价款。对支付时间没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，买受人应当在收到标的物或者提取标的物单证的同时支付。

第一百六十二条 出卖人多交标的物的，买受人可以接收或者拒绝接收多交的部分。买受人接收多交部分的，按照合同的价格支付价款；买受人拒绝接收多交部分的，应当及时通知出卖人。

第一百六十三条 标的物在交付之前产生的孳息，归出卖人所有，交付之后产生的孳息，归买受人所有。

第一百六十四条 因标的物的主物不符合约定而解除合同的，解除合同的效力及于从物。因标的物的从物不符合约定被解除的，解除的效力不及于主物。

Article 165 Termination in Part or in Whole. Where the subject matter comprises of a number of components, one of which does not comply with the contract, the buyer may terminate the portion of the contract in respect of such component, provided that if severance of such component with the other components will significantly diminish the value of the subject matter, the party may terminate the contract in respect of such number of components.

Article 166 Effect of Termination in Case of Delivery in Installments. Where the seller is to deliver the subject matter in installments, if the seller's failure to deliver or non-conforming delivery of one installment frustrates the purpose of the contract in respect of such installment, the buyer may terminate the portion of the contract in respect thereof.

If the seller's failure to deliver or non-conforming delivery of one installment frustrates the purpose of the contract in respect of all subsequent installments notwithstanding their delivery, the buyer may terminate the portion of the contract in respect of such installment as well as any subsequent installment.

If the buyer is to terminate the portion of the contract in respect of a particular installment which is interdependent with all other installments, it may terminate the contract in respect of all delivered and undelivered installments.

Article 167 Termination in Case of Sale by Installment Payment. In a sale by installment payment, where the buyer failed to make payments as they became due, if the delinquent amount has reached one fifth of the total price, the seller may require payment of the full price from the buyer or terminate the contract.

If the seller terminates the contract, it may require the buyer to pay a fee for its use of the subject matter.

Article 168 Quality Provisions in Case of Sale by Sample. In a sale by sample, the parties shall place the sample under seal, and may specify the quality of the sample. The subject matter delivered by the seller shall comply with the sample as well as the quality specifications.

Article 169 Latent Defect in Sample. In a sale by sample, if the buyer was not aware of a latent defect in the sample, the subject matter delivered by the seller shall nevertheless comply with the normal quality standard for a like item, even though the subject matter delivered complies with the sample.

Article 170 Sale by Trial. In a sale by trial, the parties may prescribe the trial period. Where a trial period was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, it shall be determined by the seller.

Article 171 Purchase or Rejection During Trial Period. In a sale by trial, the buyer may either purchase or reject the subject matter during the trial period. At the end of the trial period, the buyer is deemed to have made the purchase if it fails to manifest its intention to purchase or reject the subject matter.

第一百六十五条 标的物为数物，其中一物不符合约定的，买受人可以就该物解除，但该物与他物分离使标的物的价值显受损害的，当事人可以就数物解除合同。

第一百六十六条 出卖人分批交付标的物的，出卖人对其中一批标的物不交付或者交付不符合约定，致使该批标的物不能实现合同目的的，买受人可以就该批标的物解除。

出卖人不交付其中一批标的物或者交付不符合约定，致使今后其他各批标的物的交付不能实现合同目的的，买受人可以就该批以及今后其他各批标的物解除。

买受人如果就其中一批标的物解除，该批标的物与其他各批标的物相互依存的，可以就已经交付和未交付的各批标的物解除。

第一百六十七条 分期付款的买受人未支付到期价款的金额达到全部价款的五分之一的，出卖人可以要求买受人支付全部价款或者解除合同。

出卖人解除合同的，可以向买受人要求支付该标的物的使用费。

第一百六十八条 凭样品买卖的当事人应当封存样品，并可以对样品质量予以说明。出卖人交付的标的物应当与样品及其说明的质量相同。

第一百六十九条 凭样品买卖的买受人不知道样品有隐蔽瑕疵的，即使交付的标的物与样品相同，出卖人交付的标的物的质量仍然应当符合合同种物的通常标准。

第一百七十条 试用买卖的当事人可以约定标的物的试用期间。对试用期间没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，由出卖人确定。

第一百七十一条 试用买卖的买受人在试用期内可以购买标的物，也可以拒绝购买。试用期间届满，买受人对是否购买标的物未作表示的，视为购买。

Article 172 Sale by Tender Governed by Relevant Laws. In a sale by tender, matters such as the rights and obligations of the parties and the tendering procedure, etc. are governed by the relevant laws and administrative regulations.

Article 173 Sale by Auction Governed by Relevant Laws. In a sale by auction, matters such as the rights and obligations of the parties and the auctioning procedure, etc. are governed by the relevant laws and administrative regulations.

Article 174 General Applicability to Contracts for Value. For any other contract for value, if the law provides for such contract, such provisions apply; absent any such provision, reference shall be made to the relevant provisions governing sales contracts.

Article 175 Applicability to Barter Transaction. Where the parties agree on a barter transaction involving transfer of title to the subject matters, such transaction shall be governed by reference to the relevant provisions governing sales contracts.

Chapter Ten Contracts for Supply of Power, Water, Gas, Or Heat

Article 176 Definition of Power Supply Contract. A power supply contract is a contract whereby the power supplier supplies power to the power customer, who pays the electricity charge.

Article 177 Terms of Power Supply Contract. A power supply contract includes terms such as the method, quality, and time of power supply, and the capacity, location and nature of power use, and the metering method, electricity rate, the method of settlement of electricity charge, and the responsibility for maintenance of the power supply and power use facilities, etc.

Article 178 Place of Performance of Power Supply Contract. The place of performance of a power supply contract shall be the place prescribed by the parties, and if not prescribed or clearly prescribed, the place of performance shall be the boundary where ownership of the power supply facilities is divided.

Article 179 Obligations of Power Supplier. The power supplier shall supply power in a safe manner in accordance with the power supply quality standard mandated by the state and in accordance with the contract. Where the power supplier failed to supply power in a safe manner in accordance with the power supply quality standard mandated by the state and in accordance with the contract, thereby causing loss to the power customer, it shall be liable for damages.

第一百七十二条 招标投标买卖的当事人的权利和义务以及招标投标程序等，依照有关法律、行政法规的规定。

第一百七十三条 拍卖的当事人的权利和义务以及拍卖程序等，依照有关法律、行政法规的规定。

第一百七十四条 法律对其他有偿合同有规定的，依照其规定；没有规定的，参照买卖合同的有关规定。

第一百七十五条 当事人约定易货交易，转移标的物的所有权的，参照买卖合同的有关规定。

第十章 供用电、水、气、热力合同

第一百七十六条 供用电合同是供电人向用电人供电，用电人支付电费的合同。

第一百七十七条 供用电合同的内容包括供电的方式、质量、时间，用电容量、地址、性质，计量方式，电价、电费的结算方式，供用电设施的维护责任等条款。

第一百七十八条 供用电合同的履行地点，按照当事人约定；当事人没有约定或者约定不明确的，供电设施的产权分界处为履行地点。

第一百七十九条 供电人应当按照国家规定的供电质量标准和约定安全供电。供电人未按照国家规定的供电质量标准和约定安全供电，造成用电人损失的，应当承担损害赔偿责任。

Article 180 Obligation to Notify in Case of Scheduled Suspension. Where the power supplier needs to suspend power supply due to reasons such as periodical maintenance or provisional maintenance of the power supply facilities, legally required power rationing, or illegal use of power by the power customer, etc., it shall notify the power customer in advance in accordance with the relevant stipulations of the state. Where the power supplier suspended power supply without notifying the power customer in advance, thereby causing loss to the power customer, it shall be liable for damages.

Article 181 Obligation to Make Emergency Repair in Case of Power Outage. Where a power outage is caused by reasons such as natural disasters, etc., the power supplier shall timely make emergency repair in accordance with the relevant stipulations of the state. Where the power supplier failed to timely make emergency repair, thereby causing loss to the power customer, it shall be liable for damages.

Article 182 Payment of Electricity Charge. The power customer shall timely pay the electricity charge in accordance with the relevant stipulations of the state and in accordance with the contract. Where the power customer delayed in paying the electricity charge, it shall pay liquidated damages in accordance with the contract. Where the power customer failed to pay the electricity charge and liquidated damages within a reasonable time after receiving demand for payment, the power supplier may shut off the power supply in accordance with the procedure prescribed by the state.

Article 183 Power Customer's Obligation of Proper Use. The power customer shall use power in a safe manner in accordance with the relevant stipulations of the state and in accordance with the contract. Where the power customer failed to use power in a safe manner in accordance with the relevant stipulations of the state and in accordance with the contract, thereby causing loss to the power supplier, it shall be liable for damages.

Article 184 Applicability to Contract for Supply of Water, Gas or Heat. A contract for the supply of water, gas or heat shall be governed by reference to the relevant provisions governing power supply contracts.

Chapter Eleven Gift Contracts

Article 185 Definition of Gift Contract. A gift contract is a contract whereby the donor conveys his property to the donee without reward and the donee manifests his acceptance of the gift.

Article 186 Revocation Prior to Transfer of Rights; Exception. Prior to the transfer of rights to the gift property, the donor may revoke the gift.

The previous paragraph does not apply to any gift contract the nature of which serves public interests or fulfills a moral obligation, such as disaster relief, poverty relief, etc., or any gift contract which has been notarized.

第一百八十条 供电人因供电设施计划检修、临时检修、依法限电或者用电人违法用电等原因，需要中断供电时，应当按照国家有关规定事先通知用电人。未事先通知用电人中断供电，造成用电人损失的，应当承担损害赔偿责任。

第一百八十一条 因自然灾害等原因断电，供电人应当按照国家有关规定及时抢修。未及时抢修，造成用电人损失的，应当承担损害赔偿责任。

第一百八十二条 用电人应当按照国家有关规定和当事人的约定及时交付电费。用电人逾期不交付电费的，应当按照约定支付违约金。经催告用电人在合理期限内仍不交付电费和违约金的，供电人可以按照国家规定的程序中止供电。

第一百八十三条 用电人应当按照国家有关规定和当事人的约定安全用电。用电人未按照国家有关规定和当事人的约定安全用电，造成供电人损失的，应当承担损害赔偿责任。

第一百八十四条 供用水、供用气、供用热力合同，参照供用电合同的有关规定。

第十一章 赠与合同

第一百八十五条 赠与合同是赠与人将自己的财产无偿给予受赠人，受赠人表示接受赠与的合同。

第一百八十六条 赠与人在赠与财产的权利转移之前可以撤销赠与。

具有救灾、扶贫等社会公益、道德义务性质的赠与合同或者经过公证的赠与合同，不适用前款规定。

Article 187 Observance of Conveyance Procedure. Where conveyance of the gift property is subject to any procedure such as registration, etc. under the law, the relevant procedure shall be carried out.

Article 188 Donee's Right to Require Delivery in Certain Cases. In the case of a gift contract the nature of which serves public interests or fulfills a moral obligation, such as disaster relief, poverty relief, etc., or a gift contract which has been notarized, if the donor fails to deliver the gift property, the donee may require delivery.

Article 189 Liability of Donor for Misconduct or Gross Negligence. Where the gift property is damaged or lost due to any intentional misconduct or gross negligence of the donor, he shall be liable for damages.

Article 190 Gift May Be Subject to Obligations. A gift may be subject to obligations.

Where the gift is subject to obligations, the donee shall perform his obligations in accordance with the contract.

Article 191 Donor Not Liable for Defect; Exceptions. The donor is not liable for any defect in the gift property. Where the gift is subject to obligations, and the gift property is defective, the donor has the same warranty obligations as a seller to the extent of the prescribed obligations.

Where the donor intentionally omitted to inform the donee of the defect or warranted the absence of any defect, thereby causing loss to the donee, he shall be liable for damages.

Article 192 Circumstances Giving Rise to Revocation Right. Where the donee is in any of the following circumstances, the donor may revoke the gift:

- (1) seriously harming the donor or any immediate family member thereof;
- (2) failing to perform support obligations owed to the donor
- (3) failing to perform the obligations under the gift contract.

The donor shall exercise his revocation right within one year after he became, or should have become, aware of the cause for revocation.

Article 193 Exercise of Revocation Right by Heir. Where the donor is deceased or incapacitated due to the donee's illegal act, his heir or legal agent may revoke the gift.

The heir or legal agent of the donor shall exercise the right of revocation within six months after he became, or should have become, aware of the cause for revocation.

第一百八十七条 赠与的财产依法需要办理登记等手续的,应当办理有关手续。

第一百八十八条 具有救灾、扶贫等社会公益、道德义务性质的赠与合同或者经过公证的赠与合同,赠与人不交付赠与的财产的,受赠人可以要求交付。

第一百八十九条 因赠与人故意或者重大过失致使赠与的财产毁损、灭失的,赠与人应当承担损害赔偿责任。

第一百九十条 赠与可以附义务。赠与附义务的,受赠人应当按照约定履行义务。

第一百九十一条 赠与的财产有瑕疵的,赠与人不承担责任。附义务的赠与,赠与的财产有瑕疵的,赠与人在附义务的限度内承担与出卖人相同的责任。

赠与人故意不告知瑕疵或者保证无瑕疵,造成受赠人损失的,应当承担损害赔偿责任。

第一百九十二条 受赠人有下列情形之一的,赠与人可以撤销赠与:

- (一) 严重侵害赠与人或者赠与人的近亲属;
- (二) 对赠与人有扶养义务而不履行;
- (三) 不履行赠与合同约定的义务。

赠与人的撤销权,自知道或者应当知道撤销原因之日起一年内行使。

第一百九十三条 因受赠人的违法行为致使赠与人死亡或者丧失民事行为能力的,赠与人的继承人或者法定代理人可以撤销赠与。

赠与人的继承人或者法定代理人的撤销权,自知道或者应当知道撤销原因之日起六个月内行使。

Article 194 Remedies in Case of Revocation. Upon revocation of the gift, the person with the revocation right may claim restitution of the gift property from the donee.

Article 195 Economic Hardship Releases Gift Obligation. If the donor's economic situation has deteriorated significantly, thereby seriously impacting on his business operation or family life, he may be released from the gift obligations.

Chapter Twelve Contracts for Loans of Money

Article 196 Definition of Contract for Loan of Money. A contract for loan of money is a contract whereby the borrower borrows a sum of money from the lender, and returns the sum borrowed and pays interest thereon at the prescribed time.

Article 197 Writing Requirement; Terms. A contract for loan of money shall be in writing, except where the loan is between natural persons who have agreed otherwise.

A contract for loan of money includes terms such as the loan's type, currency, purpose, amount, interest rate, term and method of repayment, etc.

Article 198 Assurance by Borrower. In entering into a contract for loan of money, the lender may require the borrower to provide assurance. Such assurance shall be arranged in accordance with the Security Law of the People's Republic of China.

Article 199 Borrower's Disclosure Obligation. In entering into a contract for loan of money, the borrower shall provide true information concerning its business operation and financial condition in connection with the loan as required by the lender.

Article 200 Deduction of Interest in Advance Prohibited. No interest shall be deducted from the principal in advance. Where any interest amount is deducted from the principal in advance, the repayment of principal and calculation of interest shall be based on the actual amount borrowed.

Article 201 Remedies in Case of Failure to Make Loan Amount Available Or Failure to Draw Down. Where the lender failed to make the loan amount available on the prescribed date and in the prescribed amount, thereby causing loss to the borrower, it shall pay damages.

Where the borrower failed to draw down on the prescribed date and in the prescribed amount, it shall nevertheless pay the interest on the prescribed date and in the prescribed amount.

第一百九十四条 撤销权人撤销赠与的，可以向受赠人要求返还赠与的财产。

第一百九十五条 赠与人的经济状况显著恶化，严重影响其生产经营或者家庭生活的，可以不再履行赠与义务。

第十二章 借款合同

第一百九十六条 借款合同是借款人向贷款人借款，到期返还借款并支付利息的合同。

第一百九十七条 借款合同采用书面形式，但自然人之间借款另有约定的除外。

借款合同的内容包括借款种类、币种、用途、数额、利率、期限和还款方式等条款。

第一百九十八条 订立借款合同，贷款人可以要求借款人提供担保。担保依照《[中华人民共和国担保法](#)》的规定。

第一百九十九条 订立借款合同，借款人应当按照贷款人的要求提供与借款有关的业务活动和财务状况的真实情况。

第二百条 借款的利息不得预先在本金中扣除。利息预先在本金中扣除的，应当按照实际借款数额返还借款并计算利息。

第二百零一条 贷款人未按照约定的日期、数额提供借款，造成借款人损失的，应当赔偿损失。

借款人未按照约定的日期、数额收取借款的，应当按照约定的日期、数额支付利息。

Article 202 Lender Entitled to Monitor Use of Proceeds. The lender may examine and monitor the application of the proceeds in accordance with the contract. The borrower shall periodically provide the lender with materials such as related financial and accounting reports, etc. in accordance with the contract.

Article 203 Lender's Remedies in Case of Borrower's Misuse of Proceeds. Where the borrower fails to use the proceeds for the prescribed purpose, the lender may withhold funding, call the loan, or terminate the contract.

Article 204 Minimum and Maximum Interest Rates. The interest rate on the loan provided by a financial institution engaged in lending operation shall be prescribed between the minimum and maximum rates mandated by the People's Bank of China.

Article 205 Time of Interest Payment. The borrower shall pay the interest at the prescribed time. Where the time of interest payment was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, if the loan term is less than one year, the interest shall be paid together with the principal at the time of repayment; if the loan term is one year or longer, the interest shall be paid at the end of each annual period, and where the remaining period is less than one year, the interest shall be paid together with the principal at the time of repayment.

Article 206 Time of Principal Repayment. The borrower shall repay the principal at the prescribed time. Where the time of repayment was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the borrower may repay at any time; and the lender may demand repayment from the borrower within a reasonable time.

Article 207 Delayed Repayment Interest. Where the borrower failed to repay the loan at the prescribed time, it shall pay delayed repayment interest in accordance with the contract or the relevant stipulations of the state.

Article 208 Calculation of Interest in Case of Prepayment. Where the borrower prepays the loan, unless otherwise agreed by the parties, the interest shall be calculated based on the actual period of loan.

Article 209 Extension of Loan Term. The borrower may apply to the lender for extension of the loan term before its maturity. Upon consent by the lender, the loan term may be extended.

Article 210 Time of Effectiveness of Loan Contract between Natural Persons. A contract for loan of money between natural persons becomes effective at the time the lender makes the loan amount available.

Article 211 Interest under Loan Contract between Natural Persons. Under a contract for loan of money between natural persons, if payment of interest was not prescribed or clearly prescribed, the loan is deemed interest free.

第二百零二条 贷款人按照约定可以检查、监督借款的使用情况。借款人应当按照约定向贷款人定期提供有关财务会计报表等资料。

第二百零三条 借款人未按照约定的借款用途使用借款的，贷款人可以停止发放借款、提前收回借款或者解除合同。

第二百零四条 办理贷款业务的金融机构贷款的利率，应当按照中国人民银行规定的贷款利率的上下限确定。

第二百零五条 借款人应当按照约定的期限支付利息。对支付利息的期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定，借款期间不满一年的，应当在返还借款时一并支付；借款期间一年以上的，应当在每届满一年时支付，剩余期间不满一年的，应当在返还借款时一并支付。

第二百零六条 借款人应当按照约定的期限返还借款。对借款期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，借款人可以随时返还；贷款人可以催告借款人在合理期限内返还。

第二百零七条 借款人未按照约定的期限返还借款的，应当按照约定或者国家有关规定支付逾期利息。

第二百零八条 借款人提前偿还借款的，除当事人另有约定的以外，应当按照实际借款的期间计算利息。

第二百零九条 借款人可以在还款期限届满之前向贷款人申请展期。贷款人同意的，可以展期。

第二百一十条 自然人之间的借款合同，自贷款人提供借款时生效。

第二百一十一条 自然人之间的借款合同对支付利息没有约定或者约定不明确的，视为不支付利息。

Under a contract for loan of money between natural persons, the interest rate on the loan may not contravene the relevant stipulations of the state regarding limit on loan interest rate.

Chapter Thirteen Leasing Contracts

Article 212 Definition of Leasing Contract. A leasing contract is a contract whereby the lessor delivers to the lessee the lease item for it to use or accrue benefit from, and the lessee pays the rent.

Article 213 Terms of Leasing Contract. A leasing contract includes terms such as the name, quantity and purpose of the lease item, lease term, amount of rent, time and method of rent payment, as well as maintenance and repair of the lease item, etc.

Article 214 Limit on Lease Term; Renewal. The lease term may not exceed twenty years. If the lease term exceeds twenty years, the portion of the lease term beyond the initial twenty year period is invalid.

At the end of the lease term, the parties may renew the lease, provided that the renewed term may not exceed twenty years commencing on the date of renewal.

Article 215 Writing Requirement in Case Lease Term Is Six Months or Longer. Where the lease term is six months or longer, the lease shall be in writing. If the parties fail to adopt a writing, the lease is deemed a non-term lease.

Article 216 Lessor's Obligation to Deliver Lease Item. The lessor shall deliver the lease item to the lessee in accordance with the contract and shall, during the lease term, keep the lease item fit for the prescribed purpose.

Article 217 Manner of Using Lease Item. The lessee shall use the lease item in the prescribed manner. Where the manner of use of the lease item was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the lease item shall be used in a manner consistent with its nature.

Article 218 Lessee Not Liable for Wear and Tear

Where the lessee used the lease item in the prescribed manner or in a manner consistent with its nature, thereby causing wear and tear to the lease item, it is not liable for damages.

Article 219 Lessor Entitled to Terminate in Case of Unauthorized Use. Where the lessee failed to use the lease item in the prescribed manner or in a manner consistent with its nature, thereby causing damage to it, the lessor may terminate the contract and claim damages.

Article 220 Lessor's Maintenance Obligations. The lessor shall perform the obligations of maintenance and repair of the lease item, except otherwise agreed by the parties.

自然人之间的借款合同约定支付利息的，借款的利率不得违反国家有关限制借款利率的规定。

第十三章 租赁合同

第二百一十二条 租赁合同是出租人将租赁物交付承租人使用、收益，承租人支付租金的合同。

第二百一十三条 租赁合同的内容包括租赁物的名称、数量、用途、租赁期限、租金及其支付期限和方式、租赁物维修等条款。

第二百一十四条 租赁期限不得超过二十年。超过二十年的，超过部分无效。

租赁期间届满，当事人可以续订租赁合同，但约定的租赁期限自续订之日起不得超过二十年。

第二百一十五条 租赁期限六个月以上的，应当采用书面形式。当事人未采用书面形式的，视为不定期租赁。

第二百一十六条 出租人应当按照约定将租赁物交付承租人，并在租赁期间保持租赁物符合约定的用途。

第二百一十七条 承租人应当按照约定的方法使用租赁物。对租赁物的使用方法没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，应当按照租赁物的性质使用。

第二百一十八条 承租人按照约定的方法或者租赁物的性质使用租赁物，致使租赁物受到损耗的，不承担损害赔偿责任。

第二百一十九条 承租人未按照约定的方法或者租赁物的性质使用租赁物，致使租赁物受到损失的，出租人可以解除合同并要求赔偿损失。

第二百二十条 出租人应当履行租赁物的维修义务，但当事人另有约定的除外。

Article 221 Lessee's Remedies in Case of Lessor's Failure to Maintain Lease Item. Where the lease item needs maintenance or repair, the lessee may require the lessor to perform maintenance or repair within a reasonable time. If the lessor fails to fulfill its obligations of maintenance or repair, the lessee may maintain or repair the lease item on its own at the lessor's expense. Where the lessee's use of the lease item is impaired due to maintenance or repair thereof, the rent shall be reduced or the lease term shall be extended accordingly.

Article 222 Lessee's Obligation of Due Care. The lessee shall keep the lease item with due care and shall be liable for damages if the lease item was damaged or lost due to improper care.

Article 223 Improvement or Addition. Subject to consent by the lessor, the lessee may make improvement on or addition to the lease item.

If the lessee made improvement on or addition to the lease item without consent by the lessor, the lessor may require the lessee to restore the lease item to its original condition or claim damages.

Article 224 Sublease. Subject to consent by the lessor, the lessee may sublease the lease item to a third person. Where the lessee subleases the lease item, the leasing contract between the lessee and the lessor remains valid, and if the third person causes damage to the lease item, the lessee shall pay damages.

Where the lessee subleases the lease item without the consent of the lessor, the lessor may terminate the contract.

Article 225 Benefit Accrued from Lease Item During Lease Term. During the lease term, any benefit accrued from the possession or use of the lease item belongs to the lessee, except otherwise agreed by the parties.

Article 226 Time for Rent Payment. The lessee shall pay the rent at the prescribed time. Where the time of payment was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the rent shall be paid at the end of the lease term if it is less than one year; if the lease term is one year or longer, the rent shall be paid at the end of each annual period, and where the remaining period is less than one year, the rent shall be paid at the end of the lease term.

Article 227 Lessor's Remedies in Case of Non-Payment of Rent. Where the lessee failed to pay or delayed in paying the rent without cause, the lessor may require the lessee to pay the rent within a reasonable period. If the lessee fails to pay the rent at the end of such period, the lessor may terminate the contract.

第二百二十一条 承租人在租赁物需要维修时可以要求出租人在合理期限内维修。出租人未履行维修义务的，承租人可自行维修，维修费用由出租人负担。因维修租赁物影响承租人使用的，应当相应减少租金或者延长租期。

第二百二十二条 承租人应当妥善保管租赁物，因保管不善造成租赁物毁损、灭失的，应当承担损害赔偿责任。

第二百二十三条 承租人经出租人同意，可以对租赁物进行改善或者增设他物。

承租人未经出租人同意，对租赁物进行改善或者增设他物的，出租人可以要求承租人恢复原状或者赔偿损失。

第二百二十四条 承租人经出租人同意，可以将租赁物转租给第三人。承租人转租的，承租人与出租人之间的租赁合同继续有效，第三人对租赁物造成损失的，承租人应当赔偿损失。

承租人未经出租人同意转租的，出租人可以解除合同。

第二百二十五条 在租赁期间因占有、使用租赁物获得的收益，归承租人所有，但当事人另有约定的除外。

第二百二十六条 承租人应当按照约定的期限支付租金。对支付期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定，租赁期间不满一年的，应当在租赁期间届满时支付；租赁期间一年以上的，应当在每届满一年时支付，剩余期间不满一年的，应当在租赁期间届满时支付。

第二百二十七条 承租人无正当理由未支付或者迟延支付租金的，出租人可以要求承租人在合理期限内支付。承租人逾期不支付的，出租人可以解除合同。

Article 228 Lessee's Remedies in Case of Third Party Claim; Duty to Notify. If due to any claim by a third person, the lessee is unable to use or accrue benefit from the lease item, the lessee may require reduction in rent or refuse to pay rent.

In case of any claim by a third person, the lessee shall timely notify the lessor.

Article 229 Leasing Contract Not Affected by Change of Ownership. Any change of ownership to the lease item does not affect the validity of the leasing contract.

Article 230 Sale of Dwelling Unit under Lease. Where the lessor is to sell a dwelling unit under a lease, it shall give the lessee a reasonable advance notice before the sale, and the lessee has the right of first refusal under the same conditions.

Article 231 Lessee's Remedies in Case of Damage Not Attributable to Itself . Where the lease item was damaged or lost in part or in whole due to any reason not attributable to the lessee, the lessee may require reduction in rent or refuse to pay rent; where the purpose of the contract is frustrated due to damage to or loss of the lease item in part or in whole, the lessee may terminate the contract.

Article 232 Non-Term Lease. Where the term of a lease was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, such lease is deemed a non-term lease. Either party may terminate the contract at any time, provided that the lessor shall give the lessee a reasonable advance notice before it terminates the contract.

Article 233 Lessee Entitled to Terminate in Case of Danger to Safety or Health. Where the lease item poses a danger to the safety or health of the lessee, the lessee may terminate the contract at any time even if the lessee was aware of the quality non-compliance of the lease item at the time of conclusion of the contract.

Article 234 Lease of Dwelling Unit Assumable. Where the lessee is deceased during the term of a dwelling unit lease, the person jointly living in the unit with the lessee while the lessee was alive may continue leasing it on the terms of the original leasing contract.

Article 235 Condition of Lease Item at End of Lease Term. The lessee shall return the lease item at the end of the lease term. The returned lease item shall be in a condition resulting from its use in the prescribed manner or in a manner consistent with its nature.

Article 236 Effect of Continued Use Beyond Lease Term. Upon expiration of the lease term, if the lessee continues to use the lease item without objection by the lessor, the original leasing contract remains effective, provided that it becomes a non-term lease.

第二百二十八条 因第三人主张权利,致使承租人不能对租赁物使用、收益的,承租人可以要求减少租金或者不支付租金。

第三人主张权利的,承租人应当及时通知出租人。

第二百二十九条 租赁物在租赁期间发生所有权变动的,不影响租赁合同的效力。

第二百三十条 出租人出卖租赁房屋的,应当在出卖之前的合理期限内通知承租人,承租人享有以同等条件优先购买的权利。

第二百三十一条 因不可归责于承租人的事由,致使租赁物部分或者全部毁损、灭失的,承租人可以要求减少租金或者不支付租金;因租赁物部分或者全部毁损、灭失,致使不能实现合同目的的,承租人可以解除合同。

第二百三十二条 当事人对租赁期限没有约定或者约定不明确,依照本法第六十一条的规定仍不能确定的,视为不定期租赁。当事人可以随时解除合同,但出租人解除合同应当在合理期限之前通知承租人。

第二百三十三条 租赁物危及承租人的安全或者健康的,即使承租人订立合同时明知该租赁物质量不合格,承租人仍然可以随时解除合同。

第二百三十四条 承租人在房屋租赁期间死亡的,与其生前共同居住的人可以按照原租赁合同租赁该房屋。

第二百三十五条 租赁期间届满,承租人应当返还租赁物。返还的租赁物应当符合按照约定或者租赁物的性质使用后的状态。

第二百三十六条 租赁期间届满,承租人继续使用租赁物,出租人没有提出异议的,原租赁合同继续有效,但租赁期限为不定期。

Chapter Fourteen Financial Leasing Contracts

Article 237 Definition of Financial Leasing Contract A financial leasing contract is a contract whereby the lessor, upon purchase of the lessee-selected lease item from a lessee-selected seller, provides the lease item to the lessee for its use, and the lessee pays the rent.

Article 238 Terms of Financial Leasing Contract; Writing Requirement. A financial leasing contract includes terms such as the name, quantity, specifications, technical performance, and method of inspection of the lease item, the lease term, the rental components and the time, method and currency of payment, as well as the ownership of the lease item at the end of the lease term, etc.

A financial leasing contract shall be in writing.

Article 239 Lessee's Assumption of Buyer's Rights. Under the sales contract concluded by the lessor according to the lessee's selection of the seller and the lease item, the seller shall deliver the subject matter to the lessee in accordance with the contract, and the lessee enjoys the rights of the buyer in respect of taking delivery of the subject matter.

Article 240 Lessee's Assumption of Buyer's Remedies in Case of Seller's Non-performance. The lessor, the seller and the lessee may agree that any claim arising from the seller's non-performance of its obligations under the sales contract will be made by the lessee. Where the lessee makes such a claim, the lessor shall provide assistance.

Article 241 Certain Amendment of Sales Contract Subject to Consent by Lessee. Absent consent by the lessee, the lessor may not amend any lessee-related term in the sales contract concluded by it according to the lessee's selection of the seller and the lease item.

Article 242 Exclusion of Lease Item from Bankruptcy Assets of Lessee. Title to the lease item vests in the lessor. In case the lessee enters into bankruptcy, the lease item is not part of its bankruptcy assets.

Article 243 Determination of Rental Components. Unless otherwise agreed by the parties, the rent under a financial leasing contract shall be determined based on the major portion of or full costs of purchasing the lease item and the lessor's reasonable profit.

Article 244 Lessor Not Liable for Non-fitness of Lease Item; Exceptions. Where the lease item does not comply with the contract or is not fit for the intended purpose, the lessor is not liable, except where the lessee relied on the skills of the lessor in selecting the lease item or the lessor interfered in the selection thereof.

第十四章 融资租赁合同

第二百三十七条 融资租赁合同是出租人根据承租人对出卖人、租赁物的选择, 向出卖人购买租赁物, 提供给承租人使用, 承租人支付租金的合同。

第二百三十八条 融资租赁合同的内容包括租赁物名称、数量、规格、技术性能、检验方法、租赁期限、租金构成及其支付期限和方式、币种、租赁期间届满租赁物的归属等条款。

融资租赁合同应当采用书面形式。

第二百三十九条 出租人根据承租人对出卖人、租赁物的选择订立的买卖合同, 出卖人应当按照约定向承租人交付标的物, 承租人享有与受领标的物有关的买受人的权利。

第二百四十条 出租人、出卖人、承租人可以约定, 出卖人不履行买卖合同义务的, 由承租人行使索赔的权利。承租人行使索赔权利的, 出租人应当协助。

第二百四十一条 出租人根据承租人对出卖人、租赁物的选择订立的买卖合同, 未经承租人同意, 出租人不得变更与承租人有关的合同内容。

第二百四十二条 出租人享有租赁物的所有权。承租人破产的, 租赁物不属于破产财产。

第二百四十三条 融资租赁合同的租金, 除当事人另有约定的以外, 应当根据购买租赁物的大部分或者全部成本以及出租人的合理利润确定。

第二百四十四条 租赁物不符合约定或者不符合使用目的的, 出租人不承担责任, 但承租人依赖出租人的技能确定租赁物或者出租人干预选择租赁物的除外。

Article 245 Warranty by Lessor. The lessor shall give warranty in respect of the lessee's possession and use of the lease item.

Article 246 Lessor Not Liable for Damage or Injury. If while in the possession of the lessee, the lease item caused personal injury or property damage to any third person, the lessor is not liable.

Article 247 Lessee's Obligation of Due Care; Maintenance Obligations. The lessee shall keep and use the lease item with due care.

While in possession of the lease item, the lessee shall perform the obligations of maintenance and repair thereof.

Article 248 Lessor's Remedies in Case of Non-payment by Lessee. The lessee shall pay the rent in accordance with the contract. Where the lessee fails to pay the rent within a reasonable period after receiving demand for payment from the lessor, the lessor may require payment of the full rent; or it may terminate the contract and repossess the lease item.

Article 249 Partial Refund in Case of Termination by Lessor. Where the parties agreed that title to the lease item will vest in the lessee at the end of the lease term, and after paying a major portion of the rent, the lessee is unable to pay the remaining balance, resulting in the lessor's termination of the contract and repossession of the lease item, if the value of the repossessed lease item exceeds the rent owed by the lessee and other expenses, the lessee may require partial refund.

Article 250 Ownership of Lease Item at End of Lease Term. The lessor and the lessee may agree on the ownership of the lease item at the end of the lease term. Where ownership of the lease item was not prescribed or clearly prescribed, and cannot be determined in accordance with

Article 61 hereof, title to the lease item shall vest in the lessor.

Chapter Fifteen Contracts of Hired Works

Article 251 Definition of Contract of Hired Work. A contract of hired work is a contract whereby the hiree completes certain work as required by the hirer and delivers the work product, and the hirer pays the remuneration.

Hired works include works such as processing, custom-made work, repair, reproduction, testing, and inspection, etc.

Article 252 Terms of Contract of Hired Work. A contract of hired work includes terms such as the subject matter of hire, quantity, quality, remuneration, method of hire, supply of materials, time of performance, standard applicable to and method of acceptance inspection, etc.

Article 253 Use of Hiree's Own Resources; Delegation of Main Task Subject to Consent. The hiree shall use its own equipment, skills and labor to complete the main tasks, except otherwise agreed by the parties.

第二百四十五条 出租人应当保证承租人对租赁物的占有和使用。

第二百四十六条 承租人占有租赁物期间, 租赁物造成第三人的人身伤害或者财产损害的, 出租人不承担责任。

第二百四十七条 承租人应当妥善保管、使用租赁物。

承租人应当履行占有租赁物期间的维修义务。

第二百四十八条 承租人应当按照约定支付租金。承租人经催告后在合理期限内仍不支付租金的, 出租人可以要求支付全部租金; 也可以解除合同, 收回租赁物。

第二百四十九条 当事人约定租赁期间届满租赁物归承租人所有, 承租人已经支付大部分租金, 但无力支付剩余租金, 出租人因此解除合同收回租赁物的, 收回的租赁物的价值超过承租人欠付的租金以及其他费用的, 承租人可以要求部分返还。

第二百五十条 出租人和承租人可以根据约定租赁期间届满租赁物的归属。对租赁物的归属没有约定或者约定不明确, 依照本法第六十一条的规定仍不能确定的, 租赁物的所有权归出租人。

第十五章 承揽合同

第二百五十一条 承揽合同是承揽人按照定作人的要求完成工作, 交付工作成果, 定作人给付报酬的合同。

承揽包括加工、定作、修理、复制、测试、检验等工作。

第二百五十二条 承揽合同的内容包括承揽的标的、数量、质量、报酬、承揽方式、材料的提供、履行期限、验收标准和方法等条款。

第二百五十三条 承揽人应当以自己的设备、技术和劳力, 完成主要工作, 但当事人另有约定的除外。

Where the hiree has delegated a main task of the hired work to a third person for completion, it shall be responsible to the hirer for the work product completed thereby; if the delegation was not approved by the hirer, the hirer may also terminate the contract.

Article 254 Delegation of Ancillary Task by Hiree. The hiree may delegate any ancillary task of the hired work to a third person for completion. Where the hiree delegated any ancillary task of the hired work to a third person for completion, it shall be responsible to the hirer for the work product completed thereby.

Article 255 Materials Supplied by Hiree Subject to Inspection. Where the hiree is to supply the materials, it shall select the materials in accordance with the contract and shall make such materials available for inspection by the hirer.

Article 256 Hiree's Timely Inspection of Materials Supplied by Hirer. Where the hirer is to supply the materials, it shall supply the materials in accordance with the contract. The hiree shall timely inspect the materials supplied by the hirer, and where non-compliance is discovered, it shall timely instruct the hirer to replace or supplement the materials or otherwise cure the non-compliance.

The hiree may not replace the materials supplied by the hirer without authorization, and may not replace any component which does not require repair.

Article 257 Hiree's Remedies in Case of Hirer's Delay in Responding. Where the hiree discovers that the drawings or technical requirements provided by the hirer are unreasonable, it shall timely notify the hirer. Where the hiree sustains any loss due to reasons such as the hirer's delay in responding, etc., the hirer shall pay damages.

Article 258 Hirer Responsible for Its Change of Requirements. Where the hirer changed its requirements for the hired work while the work was under way, thereby causing loss to the hiree, the hirer shall indemnify the hiree.

Article 259 Hirer's Obligation to Assist in Performance. Where performance of the hired work requires assistance by the hirer, it is obligated to provide assistance. Where the hired work is not capable of being completed due to failure by the hirer to fulfill its obligation to assist, the hiree may demand performance from the hirer within a reasonable period and extend the time of its own performance; where the hirer fails to perform at the end of such period, the hiree may terminate the contract.

Article 260 Hirer's Right to Monitor. In the course of performing the hired work, the hiree shall consent to any necessary monitoring and inspection by the hirer. Any monitoring or inspection conducted by the hirer may not impair the normal work of the hiree.

Article 261 Delivery of Work Product by Hiree. Upon completion of the hired work, the hiree shall deliver the work product to the hirer and shall submit thereto the required technical materials and related quality certificate. The hirer shall conduct acceptance inspection of the work product.

承揽人将其承揽的主要工作交由第三人完成的,应当就该第三人完成的工作成果向定作人负责;未经定作人同意的,定作人也可以解除合同。

第二百五十四条 承揽人可以将其承揽的辅助工作交由第三人完成。承揽人将其承揽的辅助工作交由第三人完成的,应当就该第三人完成的工作成果向定作人负责。

第二百五十五条 承揽人提供材料的,承揽人应当按照约定选用材料,并接受定作人检验。

第二百五十六条 定作人提供材料的,定作人应当按照约定提供材料。承揽人对定作人提供的材料,应当及时检验,发现不符合约定时,应当及时通知定作人更换、补齐或者采取其他补救措施。

承揽人不得擅自更换定作人提供的材料,不得更换不需要修理的零部件。

第二百五十七条 承揽人发现定作人提供的图纸或者技术要求不合理的,应当及时通知定作人。因定作人怠于答复等原因造成承揽人损失的,应当赔偿损失。

第二百五十八条 定作人中途变更承揽工作的要求,造成承揽人损失的,应当赔偿损失。

第二百五十九条 承揽工作需要定作人协助的,定作人有协助的义务。定作人不履行协助义务致使承揽工作不能完成的,承揽人可以催告定作人在合理期限内履行义务,并可以顺延履行期限;定作人逾期不履行的,承揽人可以解除合同。

第二百六十条 承揽人在工作期间,应当接受定作人必要的监督检验。定作人不得因监督检验妨碍承揽人的正常工作。

第二百六十一条 承揽人完成工作的,应当向定作人交付工作成果,并提交必要的技术资料 and 有关质量证明。定作人应当验收该工作成果。

Article 262 Hirer's Remedies in Case of Quality Non-compliance. Where the work product delivered by the hiree fails to meet the quality requirements, the hirer may require the hiree to assume liabilities for breach of contract by way of repair, remaking, reduction in remuneration, or payment of damages.

Article 263 Time of Payment of Remuneration. The hirer shall pay the remuneration at the prescribed time. Where the time of payment was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the hirer shall make payment at the time of the hiree's delivery of the work product; where the work product is partially delivered, the hirer shall make payment accordingly.

Article 264 Hiree's Possessory Lien in Case of Non-Payment. Where the hirer fails to pay the remuneration or cost of materials, etc. to the hiree, the hiree is entitled to a possessory lien on the work product completed, except otherwise agreed by the parties.

Article 265 Hiree's Obligation of Due Care for Materials and Work Product. The hiree shall keep the materials supplied by the hirer and the completed work product with due care, and shall be liable for damages in case of any damage or loss due to improper care.

Article 266 Hiree's Confidentiality Obligations. The hiree shall keep the relevant information confidential as required by the hirer, and may not retain any replica or technical material without permission by the hirer.

Article 267 Liability of Joint Hirees. Joint hirees are jointly and severally liable to the hirer, except otherwise agreed by the parties.

Article 268 Hirer's Termination Right Subject to Indemnification. The hirer may terminate the contract of hired work at any time, provided that it shall indemnify the hiree for its loss as a result, if any.

Chapter Sixteen Contracts for Construction Projects

Article 269 Definition of Contract for Construction Project. A contract for construction project is a contract whereby the contractor performs project construction, and the developer pays the price.

Contracts for construction projects include contracts for survey, design, and construction.

Article 270 Writing Requirement. A contract for construction project shall be in writing.

Article 271 Tendering Process in Construction Project. Tendering for a construction project shall be conducted in an open, fair and impartial manner in accordance with the relevant laws.

第二百六十二条 承揽人交付的工作成果不符合质量要求的, 定作人可以要求承揽人承担修理、重作、减少报酬、赔偿损失等违约责任。

第二百六十三条 定作人应当按照约定的期限支付报酬。对支付报酬的期限没有约定或者约定不明确, 依照本法第六十一条的规定仍不能确定的, 定作人应当在承揽人交付工作成果时支付; 工作成果部分交付的, 定作人应当相应支付。

第二百六十四条 定作人未向承揽人支付报酬或者材料费等价款的, 承揽人对完成的工作成果享有留置权, 但当事人另有约定的除外。

第二百六十五条 承揽人应当妥善保管定作人提供的材料以及完成的工作成果, 因保管不善造成毁损、灭失的, 应当承担损害赔偿责任。

第二百六十六条 承揽人应当按照定作人的要求保守秘密, 未经定作人许可, 不得留存复制品或者技术资料。

第二百六十七条 共同承揽人对定作人承担连带责任, 但当事人另有约定的除外。

第二百六十八条 定作人可以随时解除承揽合同, 造成承揽人损失的, 应当赔偿损失。

第十六章 建设工程合同

第二百六十九条 建设工程合同是承包人进行工程建设, 发包人支付价款的合同。

建设工程合同包括工程勘察、设计、施工合同。

第二百七十条 建设工程合同应当采用书面形式。

第二百七十一条 建设工程的招标投标活动, 应当依照有关法律的规定公开、公平、公正进行。

Article 272 Contracting and Subcontracting in Construction Projects. The developer may enter into a contract for construction project with a prime contractor, or enter into contracts for survey, design, and construction with the surveyor, designer, and constructor respectively. The developer may not divide a construction project which should be completed by one contractor into several parts and contract them out to several contractors.

Subject to consent by the developer, the prime contractor or the contractor for survey, design, or construction may delegate part of the contracted work to a third person. The third person and the prime contractor or the contractor for survey, design, or construction shall be jointly and severally liable to the developer in respect of the work product completed by such third person. The contractor may not assign in whole to any third person the contracted construction project, or divide the whole contracted construction project into several parts and separately assign each part to a third person under the guise of sub-contracting.

The contractor is prohibited from sub-contracting any part of the project to an entity not appropriately qualified. A sub-contractor is prohibited from further sub-contracting its contracted work. The main structure of the construction project must be constructed by the contractor itself.

Article 273 Major State Construction Projects. A contract for a major state construction project shall be concluded in accordance with the procedure prescribed by the state and in compliance with the state-approved documents such as the investment plan and feasibility studies report, etc.

Article 274 Terms of Contract for Survey or Design. A contract for survey or design includes terms such as the time limit for submission of the relevant basic information and documents (including budget estimate), the quality requirements, fees, and other conditions of cooperation, etc.

Article 275 Terms of Construction Contract. A construction contract includes terms such as the scope of the project, the construction period, the time for commencement and completion of any work to be commissioned in the interim, the quality of the project, the cost of the project, the time for delivery of technical materials, the responsibilities for the supply of materials and equipment, the appropriation of funds and settlement of account, inspection upon completion of the project, the scope and period of quality warranty, and cooperation between the parties, etc.

Article 276 Supervision of Construction Project. Where the construction project is subject to supervision, the developer shall enter into an agency appointment contract for project supervision with a project supervisor in writing. The rights, obligations and associated legal liabilities of the developer and supervisor shall be prescribed in accordance with the provisions hereof concerning agency appointment contracts and the provisions of other relevant laws and administrative regulations.

Article 277 Developer's Right to Inspect. Provided that the developer does not interfere with the normal operation of the contractor, it may inspect the progress and quality of the work at any time.

第二百七十二条 发包人可以与总承包人订立建设工程合同，也可以分别与勘察人、设计人、施工人订立勘察、设计、施工承包合同。发包人不得将应当由一个承包人完成的建设工程肢解成若干部分发包给几个承包人。

总承包人或者勘察、设计、施工承包人经发包人同意，可以将自己承包的部分工作交由第三人完成。第三人就其完成的工作成果与总承包人或者勘察、设计、施工承包人向发包人承担连带责任。承包人不得将其承包的全部建设工程转包给第三人或者将其承包的全部建设工程肢解以后以分包的名义分别转包给第三人。

禁止承包人将工程分包给不具备相应资质条件的单位。禁止分包单位将其承包的工程再分包。建设工程主体结构的施工必须由承包人自行完成。

第二百七十三条 国家重大建设工程合同，应当按照国家规定的程序和国家批准的投资计划、可行性研究报告等文件订立。

第二百七十四条 勘察、设计合同的内容包括提交有关基础资料 and 文件（包括概预算）的期限、质量要求、费用以及其他协作条件等条款。

第二百七十五条 施工合同的内容包括工程范围、建设工期、中间交工工程的开工和竣工时间、工程质量、工程造价、技术资料交付时间、材料和设备供应责任、拨款和结算、竣工验收、质量保修范围和质量保证期、双方相互协作等条款。

第二百七十六条 建设工程实行监理的，发包人应当与监理人采用书面形式订立委托监理合同。发包人与监理人的权利和义务以及法律责任，应当依照本法委托合同以及其他有关法律、行政法规的规定。

第二百七十七条 发包人在不妨碍承包人正常作业的情况下，可以随时对作业进度、质量进行检查。

Article 278 Concealed Work. In the case of concealed work, the contractor shall give the developer notice for inspection prior to concealment. Where the developer fails to timely conduct inspection, the contractor may extend the relevant project milestones, and is entitled to claim damages for work stoppage or work slowdown, etc.

Article 279 Inspection of Completed Project; No Use Prior to Inspection. Upon completion of the construction project, the developer shall conduct acceptance inspection according to the construction drawings and specifications, and in accordance with the rules of construction inspection and quality inspection standard prescribed by the state. Once the construction project has passed the acceptance inspection, the developer shall pay the prescribed price and accept the construction project. The completed construction project may be put into use only after it has passed the acceptance inspection; if the construction project has not been inspected or has failed the inspection, it may not be put into use.

Article 280 Developer's Remedies in Case of Non-compliant Survey or Design. Where the developer sustains any loss from construction delay due to non-compliance of the survey or design or due to delayed delivery of the survey or design documents, the surveyor or the designer shall continue to improve the survey or design, reduce or forgo the survey fee or design fee, and pay damages.

Article 281 Developer's Remedies in Case of Non-conforming Construction. Where the construction project fails to meet the prescribed quality requirements due to any reason attributable to the constructor, the developer is entitled to require the constructor to repair, re-construct or make alteration free of charge within a reasonable time. Where delivery of the project is delayed due to such repair, re-construction or alteration, the constructor shall be liable for breach of contract.

Article 282 Contractor Liable for Personal and Property Damage. Where the construction project caused personal injury and property damage during its reasonable usage period due to any reason attributable to the contractor, the contractor shall be liable for damages.

Article 283 Contractor's Remedies in Case of Developer's Failure to Provide Necessary Conditions. Where the developer fails to provide raw materials, equipment, site, funds, or technical information at the prescribed time and in accordance with the contractual requirements, the contractor may extend the relevant project milestones, and is entitled to claim damages for work stoppage or slowdown, etc.

Article 284 Contractor's Remedies in Case of Project Interruption Due to Reasons Attributable to Developer If an ongoing project is stopped or delayed due to any reason attributable to the developer, the developer shall take the appropriate measures to make up or mitigate the loss, and shall indemnify the contractor for its loss and out-of-pocket expenses arising from resulting work stoppage, slowdown, reshipment, re-dispatch of mechanical equipment, and excess inventory of materials and assemblies, etc.

第二百七十八条 隐蔽工程在隐蔽以前, 承包人应当通知发包人检查。发包人没有及时检查的, 承包人可以顺延工程日期, 并有权要求赔偿停工、窝工等损失。

第二百七十九条 建设工程竣工后, 发包人应当根据施工图纸及说明书、国家颁发的施工验收规范和质量检验标准及时进行验收。验收合格的, 发包人应当按照约定支付价款, 并接收该建设工程。建设工程竣工经验收合格后, 方可交付使用; 未经验收或者验收不合格的, 不得交付使用。

第二百八十条 勘察、设计的质量不符合要求或者未按照期限提交勘察、设计文件拖延工期, 造成发包人损失的, 勘察人、设计人应当继续完善勘察、设计, 减收或者免收勘察、设计费并赔偿损失。

第二百八十一条 因施工人的原因致使建设工程质量不符合约定的, 发包人有权要求施工人在合理期限内无偿修理或者返工、改建。经过修理或者返工、改建后, 造成逾期交付的, 施工人应当承担违约责任。

第二百八十二条 因承包人的原因致使建设工程在合理使用期限内造成人身和财产损害的, 承包人应当承担损害赔偿责任。

第二百八十三条 发包人未按照约定的时间和要求提供原材料、设备、场地、资金、技术资料的, 承包人可以顺延工程日期, 并有权要求赔偿停工、窝工等损失。

第二百八十四条 因发包人的原因致使工程中途停建、缓建的, 发包人应当采取措施弥补或者减少损失, 赔偿承包人因此造成的停工、窝工、倒运、机械设备调迁、材料和构件积压等损失和实际费用。

Article 285 Surveyor's Remedies in Case of Developer's Failure to Cooperate. Where in the course of survey or design, any repeating work, work stoppage or change of design occurs due to the developer's change of plan, the incorrect information provided by it, or its failure to provide the working conditions necessary for the survey or design at the prescribed time, the developer shall increase the fees in light of the actual amount of work done by the surveyor or designer.

Article 286 Contractor's Remedies in Case of Developer's Failure to Pay Price. If the developer failed to pay the price in accordance with the contract, the contractor may demand payment from the developer within a reasonable period. Where the developer fails to pay the price at the end of such period, the contractor may enter into an agreement with the developer to liquidate the project, and may also petition the People's Court to auction the project in accordance with the law, unless such project is not fit for liquidation or auction in light of its nature. The construction project price shall be paid in priority out of proceeds from the liquidation or auction of the project.

Article 287 Provisions Governing Contracts of Hired Works Applicable. Where this Chapter does not provide, the relevant provisions governing contracts of hired works shall apply.

Chapter Seventeen Carriage Contracts

Section One General Provisions

Article 288 Definition of Carriage Contract. A carriage contract is a contract whereby the carrier carries the passenger or cargo from the place of departure to the prescribed destination, and the passenger, consignor or consignee pays the fare or freightage.

Article 289 Common Carrier May Not Deny Reasonable Carriage Requirement. A common carrier may not deny any normal and reasonable carriage requirement by a passenger or consignor.

Article 290 Obligation of Carrier to Carry in Safe and Timely Manner. The carrier shall safely carry the passenger or cargo to the prescribed destination within the prescribed time or within a reasonable time.

Article 291 Obligation of Carrier to Travel by Prescribed Route. The carrier shall carry the passenger or cargo to the prescribed destination by the prescribed route or the normal route.

Article 292 Passenger's Remedies in Case of Carrier's Failure to Travel by Prescribed Route. The passenger, consignor or consignee shall pay the fare or freightage. Where the carrier failed to carry the passenger or the cargo by the prescribed or normal route, thereby increasing the fare or freightage, the passenger, consignor or consignee may refuse to pay any increased portion thereof.

第二百八十五条 因发包人变更计划,提供的资料不准确,或者未按照期限提供必需的勘察、设计工作条件而造成勘察、设计的返工、停工或者修改设计,发包人应当按照勘察人、设计人实际消耗的工作量增付费用。

第二百八十六条 发包人未按照约定支付价款的,承包人可以催告发包人在合理期限内支付价款。发包人逾期不支付的,除按照建设工程的性质不宜折价、拍卖的以外,承包人可以与发包人协议将该工程折价,也可以申请人民法院将该工程依法拍卖。建设工程的价款就该工程折价或者拍卖的价款优先受偿。

第二百八十七条 本章没有规定的,适用承揽合同的有关规定。

第十七章 运输合同

第一节 一般规定

第二百八十八条 运输合同是承运人将旅客或者货物从起运地点运输到约定地点,旅客、托运人或者收货人支付票款或者运输费用的合同。

第二百八十九条 从事公共运输的承运人不得拒绝旅客、托运人通常、合理的运输要求。

第二百九十条 承运人应当在约定期间或者合理期间内将旅客、货物安全运输到约定地点。

第二百九十一条 承运人应当按照约定的或者通常的运输路线将旅客、货物运输到约定地点。

第二百九十二条 旅客、托运人或者收货人应当支付票款或者运输费用。承运人未按照约定路线或者通常路线运输增加票款或者运输费用的,旅客、托运人或者收货人可以拒绝支付增加部分的票款或者运输费用。

Section Two Passenger Carriage Contracts

第二节 客运合同

Article 293 Formation of Passenger Carriage Contract. A passenger carriage contract is formed upon the carrier's delivery of the passenger ticket to the passenger, except otherwise agreed by the parties or provided by the relevant usage.

Article 294 Carrier's Remedies in Case of Passenger's Failure to Pay Fare. The passenger shall board the mode of transportation with a valid passenger ticket. If the passenger boards without a ticket, travels beyond the prescribed destination, boards a class higher than the prescribed class, or boards with an expired ticket, he shall pay the fare retroactively, and the carrier may charge additional fare in accordance with the relevant stipulations. Where the passenger fails to pay the fare, the carrier may refuse to carry.

Article 295 Passenger's Failure to Board on Time. Where the passenger is unable to board the mode of transportation at the time prescribed on the passenger ticket due to any reason attributable to himself, he shall carry out the formality for ticket refund or reschedule within the prescribed period. Where the passenger delays in carrying out the relevant formality, the carrier may refuse to refund the fare, and is no longer obligated to carry such passenger.

Article 296 Carry-on Luggage. In the course of carriage, the passenger's carry-on luggage shall be within the prescribed limit. Where his luggage exceeds the prescribed limit on carry-on luggage, the additional luggage shall be checked in.

Article 297 Boarding with Prohibited Item. The passenger may not carry in person, or place in his luggage, any hazardous material which is flammable, explosive, toxic, corrosive, or radioactive, etc., or possibly endangers people or property on board, or an otherwise prohibited item.

Where the passenger violates the previous paragraph, the carrier may unload, destroy or turn over to the relevant authority the prohibited item. Where the passenger insists on carrying in person or placing in his luggage the prohibited item, the carrier shall refuse to carry.

Article 298 Carrier's Obligation to Inform. The carrier shall timely inform the passenger of any major cause preventing it from normal carriage, as well as precautions relating to transportation safety.

Article 299 Passenger's Remedies in Case of Delay. The carrier shall carry the passenger according to the time and carrier number prescribed on the passenger ticket. Where the carrier delays in carriage, it shall, upon request by the passenger, either reschedule or refund the fare.

Article 300 Passenger's Remedies in Case of Unilateral Change of Mode of Transportation by Carrier. Where the carrier unilaterally changed the mode of transportation, thereby lowering the standard of service, it shall, upon request by the passenger, refund or reduce the fare; where the service standard is enhanced as a result, no additional fare shall be charged.

第二百九十三条 客运合同自承运人向旅客交付客票时成立，但当事人另有约定或者另有交易习惯的除外。

第二百九十四条 旅客应当持有效客票乘运。旅客无票乘运、超程乘运、越级乘运或者持失效客票乘运的，应当补交票款，承运人可以按照规定加收票款。旅客不交付票款的，承运人可以拒绝运输。

第二百九十五条 旅客因自己的原因不能按照客票记载的时间乘坐的，应当在约定的时间内办理退票或者变更手续。逾期办理的，承运人可以不退票款，并不再承担运输义务。

第二百九十六条 旅客在运输中应当按照约定的限量携带行李。超过限量携带行李的，应当办理托运手续。

第二百九十七条 旅客不得随身携带或者在行李中夹带易燃、易爆、有毒、有腐蚀性、有放射性以及有可能危及运输工具上人身和财产安全的危险物品或者其他违禁物品。

旅客违反前款规定的，承运人可以将违禁物品卸下、销毁或者送交有关部门。旅客坚持携带或者夹带违禁物品的，承运人应当拒绝运输。

第二百九十八条 承运人应当向旅客及时告知有关不能正常运输的重要事由和安全运输应当注意的事项。

第二百九十九条 承运人应当按照客票载明的时间和班次运输旅客。承运人迟延运输的，应当根据旅客的要求安排改乘其他班次或者退票。

第三百条 承运人擅自变更运输工具而降低服务标准的，应当根据旅客的要求退票或者减收票款；提高服务标准的，不应当加收票款。

Article 301 Carrier's Obligation to Assist Passenger.

In the course of carriage, the carrier shall use its best effort to assist any passenger who has a medical emergency, is in labor or encounters a dangerous situation.

Article 302 Carrier Liable for Injury of Passenger; Exceptions. The carrier shall be liable for damages in case of injury or death of the passenger in the course of carriage, except where such injury or death was attributable to the passenger's own health, or the carrier has established that such injury or death was caused by the passenger's intentional misconduct or gross negligence.

The provisions in the previous paragraph apply to a passenger who is exempted from buying a ticket or holds a discount ticket pursuant to the relevant stipulations, or who is permitted by the carrier to board without a ticket.

Article 303 Provisions Governing Loss of Passenger's Luggage. Where the passenger's carry-on luggage was damaged or lost in the course of carriage, the carrier shall be liable for damages if it was at fault.

Where the passenger's check-in luggage was damaged or lost, the relevant provisions governing cargo carriage apply.

Section Three Cargo Carriage Contracts

Article 304 Consignor's Obligation to Inform; Liability for Misrepresentation. In consigning its cargo, the consignor shall correctly provide the carrier with the name of the consignee or the consignee to whose order the cargo is deliverable, as well as any necessary information relating to carriage of the cargo, such as the name, nature, weight, and quantity of the cargo and the place for taking delivery thereof.

Where the carrier sustains any loss due to the consignor's provision of false information or omission of any material information, the consignor shall be liable for damages.

Article 305 Certain Cargo Carriage Subject to Approval. Where carriage of the cargo is subject to any procedure such as approval or inspection, etc., the consignor shall submit to the carrier the relevant documents evidencing completion of such procedure.

Article 306 Packing of Cargo in Prescribed Manner. The consignor shall pack the cargo in the prescribed manner. Where a packing method was not prescribed or clearly prescribed, Article 156 hereof applies.

Where the consignor violates the previous paragraph, the carrier may refuse to carry.

Article 307 Carriage of Hazardous Materials. In consigning any hazardous material which is inflammable, explosive, toxic, corrosive, or radioactive, etc., the consignor shall, in accordance with the stipulations of the state governing the carriage of hazardous materials, properly pack the hazardous material and affix thereon applicable signs and labels for hazardous materials, and shall submit its name and nature as well as related precautionary measures to the carrier in writing.

第三百零一条 承运人在运输过程中,应当尽力救助患有急病、分娩、遇险的旅客。

第三百零二条 承运人应当对运输过程中旅客的伤亡承担损害赔偿责任,但伤亡是旅客自身健康原因造成的或者承运人证明伤亡是旅客故意、重大过失造成的除外。

前款规定适用于按照规定免票、持优待票或者经承运人许可搭乘的无票旅客。

第三百零三条 在运输过程中旅客自带物品毁损、灭失,承运人有过错的,应当承担损害赔偿责任。

旅客托运的行李毁损、灭失的,适用货物运输的有关规定。

第三节 货运合同

第三百零四条 托运人办理货物运输,应当向承运人准确表明收货人的名称或者姓名或者凭指示的收货人,货物的名称、性质、重量、数量,收货地点等有关货物运输的必要情况。

因托运人申报不实或者遗漏重要情况,造成承运人损失的,托运人应当承担损害赔偿责任。

第三百零五条 货物运输需要办理审批、检验等手续的,托运人应当将办理完有关手续的文件提交承运人。

第三百零六条 托运人应当按照约定的方式包装货物。对包装方式没有约定或者约定不明确的,适用本法第一百五十六条的规定。

托运人违反前款规定的,承运人可以拒绝运输。

第三百零七条 托运人托运易燃、易爆、有毒、有腐蚀性、有放射性等危险物品的,应当按照国家有关危险物品运输的规定对危险物品妥善包装,作出危险物标志和标签,并将有关危险物品的名称、性质和防范措施的书面材料提交承运人。

托运人违反前款规定的,承运人可以

If the consignor violates the previous paragraph, the carrier may refuse to carry, and may also take the appropriate measures to prevent loss at the consignor's expense.

Article 308 Consignor's Right of Disposal Prior to Delivery. Prior to carrier's delivery of the cargo to the consignee, the consignor may require the carrier to suspend the carriage, return the cargo, change the destination or deliver the cargo to another consignee, provided that it shall indemnify the carrier for any loss it sustains as a result.

Article 309 Taking Delivery of Cargo by Consignee. Upon arrival of the cargo, if the carrier knows of the consignee, it shall timely notify the consignee, who shall timely take delivery. Where the consignee delays in taking delivery, it shall pay expenses such as safekeeping fee, etc. to the carrier.

Article 310 Inspection by Consignee; Effect of Failure to Inspect. Upon taking delivery of the cargo, the consignee shall inspect the cargo at the prescribed time. Where the time for inspection was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the consignee shall inspect the cargo within a reasonable time. The consignee's failure to raise any objection concerning the quantity of, or any damage to, the cargo within the prescribed time or within a reasonable time is deemed prima facie evidence of delivery by the carrier in compliance with the description in the transportation documents.

Article 311 Carrier Liable for Damage or Loss during Carriage; Exceptions. The carrier is liable for damages in case of damage to or loss of the cargo in the course of carriage, provided that it is not liable for damages if it has established that such damage to or loss of the cargo was caused by force majeure, the intrinsic characteristics of the cargo, reasonable depletion, or the fault of the consignor or consignee.

Article 312 Amount of Damages in Case of Loss of Cargo. Where the parties agreed on the amount of damages in case of damage to or loss of the cargo, the damages payable is the prescribed amount; if the amount of damages was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, it shall be calculated based on the prevailing market price at the destination when the cargo was or should have been delivered. Where a law or administrative regulation provides otherwise in respect of the method for calculation of damages and any limitation on damages, such provisions apply.

Article 313 Liabilities of Joint Carriers Using the Same Method of Transportation. Where two or more carriers jointly carry the cargo using the same method of transportation, the carrier contracting with the consignor shall be responsible for the whole course of carriage. Where the loss occurred at a particular segment, the carrier contracting with the consignor and the carrier for such segment are jointly and severally liable

拒绝运输，也可以采取相应措施以避免损失的发生，因此产生的费用由托运人承担。

第三百零八条 在承运人将货物交付收货人之前，托运人可以要求承运人中止运输、返还货物、变更到达地或者将货物交给其他收货人，但应当赔偿承运人因此受到的损失。

第三百零九条 货物运输到达后，承运人知道收货人的，应当及时通知收货人，收货人应当及时提货。收货人逾期提货的，应当向承运人支付保管费等费用。

第三百一十条 收货人提货时应当按照约定的期限检验货物。对检验货物的期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，应当在合理期限内检验货物。收货人在约定的期限或者合理期限内对货物的数量、毁损等未提出异议的，视为承运人已经按照运输单证的记载交付的初步证据。

第三百一十一条 承运人对运输过程中货物的毁损、灭失承担赔偿责任，但承运人证明货物的毁损、灭失是因不可抗力、货物本身的自然性质或者合理损耗以及托运人、收货人的过错造成的，不承担赔偿责任。

第三百一十二条 货物的毁损、灭失的赔偿额，当事人有约定的，按照其约定；没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，按照交付或者应当交付时货物到达地的市场价格计算。法律、行政法规对赔偿额的计算方法和赔偿限额另有规定的，依照其规定。

第三百一十三条 两个以上承运人以同一运输方式联运的，与托运人订立合同的承运人应当对全程运输承担责任。损失发生在某一运输区段的，与托运人订立合同的承运人和该区段的承运人承担连带责任。

Article 314 Freightage in Case of Force Majeure. Where the cargo was lost in the course of carriage due to force majeure, if the freightage has not been collected, the carrier may not require payment thereof; if the freightage has been collected, the consignor may claim refund.

Article 315 Carrier's Possessory Lien in Case of Non-payment. Where the consignor or consignee fails to pay the freightage, safekeeping fee and other expenses in connection with the carriage of the cargo, the carrier is entitled to a possessory lien on the corresponding portion of the cargo, except otherwise agreed by the parties.

Article 316 Placing Cargo in Escrow. Where the consignee is not known or refuses to take delivery of the cargo without cause, the carrier may place the cargo in escrow under Article 101 hereof.

Section Four Multi-modal Carriage Contract

Article 317 Rights and Obligations of Multi-modal Carriage Operator. A multi-modal carriage operator is responsible for performing, or arranging for performance of, the multi-modal carriage contract, and it enjoys the rights and assumes the obligations of a carrier throughout the course of carriage.

Article 318 Agreement between Multi-modal Carriage Operator and Segment Carriers. The multi-modal carriage operator and the segment carriers may prescribe their respective duties concerning each segment, provided that the obligations of the multi-modal carriage operator with respect to the entire course of carriage are not affected by any such agreement.

Article 319 Multi-modal Carriage Document. Upon receipt of the cargo delivered by the consignor, the multi-modal carriage operator shall issue thereto a multi-modal carriage document. The multi-modal carriage document may either be assignable or non-assignable as required by the consignor.

Article 320 Consignor's Liability Notwithstanding Assignment of Document. Where the multi-modal carriage operator sustains any loss due to the fault of the consignor in the course of consigning the cargo, the consignor shall be liable for damages notwithstanding its subsequent assignment of the multi-modal carriage document.

Article 321 Applicable Law Governing Loss of Cargo in Multi-modal Carriage. Where damage to or loss of the cargo occurred within a particular segment of the course of a multi-modal carriage, the multi-modal carriage operator's liability for damages and any limitation thereon are governed by the applicable transportation law of the jurisdiction which such segment is under. Where the segment in which the cargo was damaged or lost cannot be determined, the liability for damages shall be borne in accordance with this Chapter. A matter not provided for in this Chapter shall be governed by the relevant provision governing contracts of hired works.

第三百一十四条 货物在运输过程中因不可抗力灭失, 未收取运费的, 承运人不得要求支付运费; 已收取运费的, 托运人可以要求返还。

第三百一十五条 托运人或者收货人不支付运费、保管费以及其他运输费用的, 承运人对相应的运输货物享有留置权, 但当事人另有约定的除外。

第三百一十六条 收货人不明或者收货人无正当理由拒绝受领货物的, 依照本法第一百零一条的规定, 承运人可以提存货物。

第四节 多式联运合同

第三百一十七条 多式联运经营人负责履行或者组织履行多式联运合同, 对全程运输享有承运人的权利, 承担承运人的义务。

第三百一十八条 多式联运经营人可以与参加多式联运的各区段承运人就多式联运合同的各区段运输约定相互之间的责任, 但该约定不影响多式联运经营人对全程运输承担的义务。

第三百一十九条 多式联运经营人收到托运人交付的货物时, 应当签发多式联运单据。按照托运人的要求, 多式联运单据可以是可转让单据, 也可以是不可转让单据。

第三百二十条 因托运人托运货物时的过错造成多式联运经营人损失的, 即使托运人已经转让多式联运单据, 托运人仍然应当承担损害赔偿责任。

第三百二十一条 货物的毁损、灭失发生于多式联运的某一运输区段的, 多式联运经营人的赔偿责任和责任限额, 适用调整该区段运输方式的有关法律规定。货物毁损、灭失发生的运输区段不能确定的, 依照本章规定承担损害赔偿责任。

Chapter Eighteen Technology Contracts

第十八章 技术合同

Section One General Provisions

第一节 一般规定

Article 322 Definition of Technology Contract. A technology contract is a contract whereby the parties prescribe their rights and obligations in respect of the development or transfer of technology, or in respect of technical consulting or service.

第三百二十二条 技术合同是当事人就技术开发、转让、咨询或者服务订立的确立相互之间权利和义务的合同。

Article 323 General Requirements Concerning Technology Contract. Conclusion of a technology contract shall be conducive to the advancement of science and technology, and expedite the conversion, application and dissemination of scientific and technological achievements.

第三百二十三条 订立技术合同，应当有利于科学技术的进步，加速科学技术成果的转化、应用和推广。

Article 324 Terms of Technology Contract; Patents. Terms of a technology contract shall be prescribed by the parties, and generally include the following:

第三百二十四条 技术合同的内容由当事人约定，一般包括以下条款：

- (1) project name;
- (2) contents, scope and requirement of the subject matter;
- (3) the plan, schedule, period, place, territory and method of performance;
- (4) confidentiality of technical information and materials;
- (5) allocation of responsibilities for risks;
- (6) ownership of the technology and allocation of benefits accrued therefrom;
- (7) standard applicable to and method of acceptance test;
- (8) price, remuneration or licensing fee and the method of payment;
- (9) liquidated damages or method for calculation of damages;
- (10) method of dispute resolution;
- (11) definition of terms and phrases.

- (一) 项目名称；
- (二) 标的的内容、范围和要求；
- (三) 履行的计划、进度、期限、地点、地域和方式；
- (四) 技术情报和资料的保密；
- (五) 风险责任的承担；
- (六) 技术成果的归属和收益的分成办法；
- (七) 验收标准和方法；
- (八) 价款、报酬或者使用费及其支付方式；
- (九) 违约金或者损失赔偿的计算方法；
- (十) 解决争议的方法；
- (十一) 名词和术语的解释。

The parties may agree to include the following materials relating to the performance of the contract as an integral part thereof: technical background information, feasibility studies and technical evaluation report, project task matrix and project plan, technical standard, technical specifications, original design and technique documents, as well as other technical documentation.

与履行合同有关的技术背景资料、可行性论证和技术评价报告、项目任务书和计划书、技术标准、技术规范、原始设计和工艺文件，以及其他技术文档，按照当事人的约定可以作为合同的组成部分。

Where the technology contract involves any patent, it shall set forth the name of the invention/innovation, the patent applicant and the patentee, the date of application, the application number, patent number and the term of the patent.

技术合同涉及专利的，应当注明发明创造的名称、专利申请人和专利权人、申请日期、申请号、专利号以及专利权的有效期限。

Article 325 Payment Method; Royalty. The method for payment of the price, remuneration or licensing fee under a technology contract shall be prescribed by the parties, who may prescribe lump-sum payment based on one-time calculation or installment payment based on one-time calculation, and may also prescribe royalty payment or royalty payment plus advance payment of initial fee..

第三百二十五条 技术合同价款、报酬或者使用费的支付方式由当事人约定，可以采取一次总算、一次总付或者一次总算、分期支付，也可以采取提成支付或者提成支付附加预付入门费的方式。

Where a royalty payment method is prescribed, the royalty may be calculated as a percentage of the product price, any increase in product value resulting from exploitation of the patent or use of the technical secret, profit, or product sales, and may also be calculated by any other method prescribed by the parties. The royalty rate may be fixed or subject to annual increase or decrease.

Where a royalty payment is prescribed, the parties shall prescribe in the contract a method for inspection of the relevant accounting books.

Article 326 Employee-developed Technology; Definition. Where the right to use and the right to transfer employee-developed technology belong to a legal person or an organization of any other nature, the legal person or organization may enter into a technology contract in respect of such employee-developed technology. The legal person or organization shall reward or remunerate the individual(s) who developed the technology with a percentage of the benefits accrued from the use and transfer of the employee-developed technology. Where the legal person or organization is to enter into a technology contract for the transfer of the employee-developed technology, the employee-developer has the right of first refusal under the same conditions.

An employee-developed technology is a technology developed in the course of completing a task assigned by a legal person or an organization of any other nature, or developed by primarily utilizing the material and technical resources thereof.

Article 327 Non-employee-developed Technology. The right to use and the right to transfer non-employee-developed technology belong to the individual developer, who may enter into a technology contract in respect thereof.

Article 328 Individual's Rights with Respect to Technology Developed Thereby. The individual who developed the technology is entitled to identify himself as the developer in the documentation related thereto, and to receive honor certificate and reward.

Article 329 Invalidity of Technology-monopolizing and Infringing Contract. A technology contract which illegally monopolizes technology, impairs technological advancement or infringes on the technology of a third person is invalid.

Section Two Technology Development Contract

Article 330 Definition of Technology Development Contract. A technology development contract is a contract concluded in respect of the development of a new technology, product, technique or material and the associated system.

Technology development contracts include commissioned development contracts and cooperative development contracts.

约定提成支付的, 可以按照产品价格、实施专利和使用技术秘密后新增的产值、利润或者产品销售额的一定比例提成, 也可以按照约定的其他方式计算。提成支付的比例可以采取固定比例、逐年递增比例或者逐年递减比例。

约定提成支付的, 当事人应当在合同中约定查阅有关会计帐目的办法。

第三百二十六条 职务技术成果的使用权、转让权属于法人或者其他组织的, 法人或者其他组织可以就该项职务技术成果订立技术合同。法人或者其他组织应当从使用和转让该项职务技术成果所取得的收益中提取一定比例, 对完成该项职务技术成果的个人给予奖励或者报酬。法人或者其他组织订立技术合同转让职务技术成果时, 职务技术成果的完成人享有以同等条件优先受让的权利。

职务技术成果是执行法人或者其他组织的工作任务, 或者主要是利用法人或者其他组织的物质技术条件所完成的技术成果。

第三百二十七条 非职务技术成果的使用权、转让权属于完成技术成果的个人, 完成技术成果的个人可以就该项非职务技术成果订立技术合同。

第三百二十八条 完成技术成果的个人在有关技术成果文件上写明自己是技术成果完成者的权利和取得荣誉证书、奖励的权利。

第三百二十九条 非法垄断技术、妨碍技术进步或者侵害他人技术成果的技术合同无效。

第二节 技术开发合同

第三百三十条 技术开发合同是指当事人之间就新技术、新产品、新工艺或者新材料及其系统的研究开发所订立的合同。

技术开发合同包括委托开发合同和合作开发合同。

A technology development contract shall be in writing.

A contract on the conversion of a scientific achievement with potential for industrial application is governed by reference to the provisions applicable to technology development contracts.

Article 331 Obligations of Commissioning Party. The commissioning party under a commissioned development contract shall, in accordance with the contract, provide development funds and pay remuneration; supply technical materials and original data; complete its tasks of cooperation; and accept the developed technology.

Article 332 Obligations of Developer in Commissioned Development. The developer under a commissioned development contract shall, in accordance with the contract, prepare and implement the development plan; use development funds in a reasonable manner; timely complete the development and deliver the developed technology, as well as provide the relevant technical materials and necessary technical guidance so as to help the commissioning party master the developed technology.

Article 333 Commissioning Party's Breach. Where the commissioning party breached the contract, thereby causing stoppage, delay or failure of the development, it shall be liable for breach of contract.

Article 334 Developer's Breach. Where the developer breached the contract, thereby causing stoppage, delay or failure of the development, it shall be liable for breach of contract.

Article 335 Obligations of Parties in Cooperative Development. Parties to a cooperative development contract shall, in accordance with the contract, make investment, including investment in the form of technology; participate in the development by performing their respective tasks; and cooperate with each other in the development.

Article 336 Breach of Cooperative Contract. Where a party to a cooperative development contract breached the contract, thereby causing stoppage, delay or failure of the development, it shall be liable for breach of contract.

Article 337 Termination of Contract in Case Technology Becomes Public. Where the technology which is the subject matter of a technology development contract was made public by a third person, thereby rendering performance of the technology development contract no longer meaningful, the parties may terminate the contract.

Article 338 Allocation of Responsibility for Risk of Failure; Duty to Inform upon Discovery of Circumstance Which May Lead to Failure. If in the course of implementing a technology development contract, the development failed in whole or in part due to any insurmountable technical difficulty, allocation of the responsibility for such risk shall be prescribed by the parties. Where the allocation of responsibility for such risk was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, it shall be shared by the parties in a reasonable manner.

技术开发合同应当采用书面形式。

当事人之间就具有产业应用价值的科技成果实施转化订立的合同，参照技术开发合同的规定。

第三百三十一条 委托开发合同的委托人应当按照约定支付研究开发经费和报酬；提供技术资料、原始数据；完成协作事项；接受研究开发成果。

第三百三十二条 委托开发合同的研究开发人应当按照约定制定和实施研究开发计划；合理使用研究开发经费；按期完成研究开发工作，交付研究开发成果，提供有关的技术资料和必要的技术指导，帮助委托人掌握研究开发成果。

第三百三十三条 委托人违反约定造成研究开发工作停滞、延误或者失败的，应当承担违约责任。

第三百三十四条 研究开发人违反约定造成研究开发工作停滞、延误或者失败的，应当承担违约责任。

第三百三十五条 合作开发合同的当事人应当按照约定进行投资，包括以技术进行投资；分工参与研究开发工作；协作配合研究开发工作。

第三百三十六条 合作开发合同的当事人违反约定造成研究开发工作停滞、延误或者失败的，应当承担违约责任。

第三百三十七条 因作为技术开发合同标的的技术已经由他人公开，致使技术开发合同的履行没有意义的，当事人可以解除合同。

第三百三十八条 在技术开发合同履行过程中，因出现无法克服的技术困难，致使研究开发失败或者部分失败的，该风险责任由当事人约定。没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，风险责任由当事人合理分担。

Where a party discovers any circumstance which may lead to the failure of the development in whole or in part as described in the previous paragraph, it shall timely notify the other party and take the appropriate measures to mitigate loss; where the party failed to timely notify the other party and take the appropriate measures, thereby causing further loss, it shall be liable for such further loss.

Article 339 Right to Patent Application in Commissioned Development. Unless otherwise agreed by the parties, the right to apply for patent on the invention/innovation resulting from a commissioned development belongs to the developer. Where the developer is granted a patent, the commissioning party may exploit such patent free of charge.

Where the developer is to assign the right to apply for patent on the invention/innovation resulting from the commissioned development, the commissioning party has the right of first refusal under the same conditions.

Article 340 Right to Patent Application in Cooperative Development. Unless otherwise agreed by the parties, the right to apply for patent on the invention/innovation resulting from a cooperative development belongs to the parties therein jointly. Where a party is to assign its joint patent application right, the other parties have the right of first refusal under the same conditions.

Where a party in the cooperative development declares a waiver of its joint patent application right, the other party may apply by itself, or the other parties may jointly apply, as the case may be. Where a patent is granted on the invention/innovation, the party waiving its patent application right may exploit such patent free of charge.

If a party in the cooperative development does not consent to the application for patent, the other party or parties may not apply for patent.

Article 341 Right to Use or Transfer Technical Secret. The right to use and transfer the technical secret resulting from a commissioned or cooperative development, and the method for allocation of benefits accrued therefrom shall be prescribed by the parties. Where such matters were not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, all of the parties are entitled to use and transfer the technology, provided that the developer in a commissioned development may not transfer the technology to a third person before it delivers the technology to the commissioning party.

Section Three Technology Transfer Contracts

Article 342 Types of Technology Transfer Contract. Technology transfer contracts include contracts for the assignment of patent, assignment of patent application right, transfer of technical secrets, and patent licensing.

当事人一方发现前款规定的可能致使研究开发失败或者部分失败的情形时,应当及时通知另一方并采取适当措施减少损失。没有及时通知并采取适当措施,致使损失扩大的,应当就扩大的损失承担责任。

第三百三十九条 委托开发完成的发明创造,除当事人另有约定的以外,申请专利的权利属于研究开发人。研究开发人取得专利权的,委托人可以免费实施该专利。

研究开发人转让专利申请权的,委托人享有以同等条件优先受让的权利。

第三百四十条 合作开发完成的发明创造,除当事人另有约定的以外,申请专利的权利属于合作开发的当事人共有。当事人一方转让其共有的专利申请权的,其他各方享有以同等条件优先受让的权利。

合作开发的当事人一方声明放弃其共有的专利申请权的,可以由另一方单独申请或者由其他各方共同申请。申请人取得专利权的,放弃专利申请权的一方可以免费实施该专利。

合作开发的当事人一方不同意申请专利的,另一方或者其他各方不得申请专利。

第三百四十一条 委托开发或者合作开发完成的技术秘密成果的使用权、转让权以及利益的分配办法,由当事人约定。没有约定或者约定不明确,依照本法第六十一条的规定仍不能确定的,当事人均有使用和转让的权利,但委托开发的研究开发人不得在向委托人交付研究开发成果之前,将研究开发成果转让给第三人。

第三节 技术转让合同

第三百四十二条 技术转让合同包括专利权转让、专利申请权转让、技术秘密转让、专利实施许可合同。

A technology transfer contract shall be in writing.

Article 343 Limit on Scope of Implementation May Not Restrict Competition. A technology transfer contract may set forth the scope of exploitation of the patent or the use of the technical secret by the transferor and the transferee, provided that it may not restrict technological competition and technological development.

Article 344 Term of Patent Licensing Contract May Not Exceed Patent Term. A patent licensing contract is only valid during the term of the patent. Where the term of the patent expires or the patent is invalidated, the patentee may not enter into a patent licensing contract with any other person in respect thereof.

Article 345 Obligations of Patent Licensor. The transferor under a patent licensing contract shall, in accordance with the contract, license the patent to the transferee, deliver the technical materials related to the exploitation of the patent, and provide the necessary technical guidance.

Article 346 Obligations of Patent Licensee. The transferee under a patent licensing contract shall exploit the patent in accordance with the contract and may not license the patent to any third person except as provided in the contract; and shall pay the licensing fee in accordance with the contract.

Article 347 Obligations of Transferor of Technical Secret. The transferor under a contract for transfer of technical secret shall, in accordance with the contract, supply the technical materials, provide technical guidance, and warrant the practical applicability and reliability of the technology, and shall abide by its confidentiality obligations.

Article 348 Obligations of Transferee of Technical Secret. The transferee under a contract for transfer of technical secret shall, in accordance with the contract, use the technology, pay the licensing fee and abide by its confidentiality obligations.

Article 349 Warranty of Title, Completeness, Correctness and Effectiveness. The transferor under a technology transfer contract shall warrant that it is the lawful owner of the technology provided, and shall warrant that the technology provided is complete, free from error, effective, and capable of achieving the prescribed goals.

Article 350 Transferee's Confidentiality Obligations. The transferee under a technology transfer contract shall, to the prescribed extent and within the prescribed period, abide by its confidentiality obligations in respect of the non-public and secret portion of the technology provided by the transferor.

技术转让合同应当采用书面形式。

第三百四十三条 技术转让合同可以约定让与人和受让人实施专利或者使用技术秘密的范围，但不得限制技术竞争和技术发展。

第三百四十四条 专利实施许可合同只在该专利权的存续期间内有效。专利权有效期限届满或者专利权被宣布无效的，专利权人不得就该专利与他人订立专利实施许可合同。

第三百四十五条 专利实施许可合同的让与人应当按照约定许可受让人实施专利，交付实施专利有关的技术资料，提供必要的技术指导。

第三百四十六条 专利实施许可合同的受让人应当按照约定实施专利，不得许可约定以外的第三人实施该专利；并按照约定支付使用费。

第三百四十七条 技术秘密转让合同的让与人应当按照约定提供技术资料，进行技术指导，保证技术的实用性、可靠性，承担保密义务。

第三百四十八条 技术秘密转让合同的受让人应当按照约定使用技术，支付使用费，承担保密义务。

第三百四十九条 技术转让合同的让与人应当保证自己是所提供的技术的合法拥有者，并保证所提供的技术完整、无误、有效，能够达到约定的目标。

第三百五十条 技术转让合同的受让人应当按照约定的范围和期限，对让与人提供的技术中尚未公开的秘密部分，承担保密义务。

Article 351 Transferor's Liabilities for Breach. Where the transferor failed to transfer technology in accordance with the contract, it shall refund the licensing fee in part or in whole, and shall be liable for breach of contract; where the transferor exploited the patent or used the technical secret beyond the prescribed scope, or unilaterally allowed the patent to be exploited or the technical secret to be used by a third person in breach of the contract, it shall cease the breach and be liable for breach of contract; where the transferor breached any prescribed confidentiality obligation, it shall be liable for breach of contract.

Article 352 Transferee's Liabilities for Breach. Where the transferee failed to pay the prescribed licensing fee, it shall pay the overdue licensing fee and pay liquidated damages in accordance with the contract; where it failed to pay the overdue licensing fee and liquidated damages, it shall cease exploitation of the patent or use of the technical secret, return the technical materials, and be liable for breach of contract; where the transferee exploited the patent or used the technical secret beyond the prescribed scope, or allowed the patent to be exploited or the technical secret to be used by a third person without consent by the transferor in breach of the contract, it shall cease the breach and be liable for breach of contract; where the transferee breached any prescribed confidentiality obligation, it shall be liable for breach of contract.

Article 353 Transferor Liable in Case of Infringement; Exception. Where the exploitation of the patent or the use of the technical secret by the transferee in accordance with the contract infringes on the lawful interests of any other person, the liability shall be borne by the transferor, except otherwise agreed by the parties.

Article 354 Sharing of Improvement. The parties may, on the basis of mutual benefit, provide in the technology transfer contract for the method of sharing any subsequent improvement resulting from the exploitation of the patent or use of the technical secret. If such method was not prescribed or clearly prescribed, and cannot be determined in accordance with **Article 61** hereof, neither party is entitled to share any subsequent improvement made by the other party.

Article 355 Applicability of Other Laws or Administrative Regulations. Where the relevant laws or administrative regulations provide otherwise in respect of technology import/export contracts or in respect of patent contracts or contracts for patent application, such provisions prevail.

Section Four Technical Consulting Contracts and Technical Service Contracts

Article 356 Definitions of Technical Consulting and Technical Service Contracts. Technical consulting contracts include contracts for provision of feasibility studies, technical forecast, specialized technical investigation, and analysis and evaluation report, etc. in respect of a particular technical project.

第三百五十一条 让与人未按照约定转让技术的,应当返还部分或者全部使用费,并应当承担违约责任;实施专利或者使用技术秘密超越约定的范围的,违反约定擅自许可第三人实施该项专利或者使用该项技术秘密的,应当停止违约行为,承担违约责任;违反约定的保密义务的,应当承担违约责任。

第三百五十二条 受让人未按照约定支付使用费的,应当补交使用费并按照约定支付违约金;不补交使用费或者支付违约金的,应当停止实施专利或者使用技术秘密,交还技术资料,承担违约责任;实施专利或者使用技术秘密超越约定的范围的,未经让与人同意擅自许可第三人实施该专利或者使用该技术秘密的,应当停止违约行为,承担违约责任;违反约定的保密义务的,应当承担违约责任。

第三百五十三条 受让人按照约定实施专利、使用技术秘密侵害他人合法权益的,由让与人承担责任,但当事人另有约定的除外。

第三百五十四条 当事人可以按照互利的原则,在技术转让合同中约定实施专利、使用技术秘密后续改进的技术成果分享办法。没有约定或者约定不明确,依照本法第六十一条的规定仍不能确定的,一方后续改进的技术成果,其他各方无权分享。

第三百五十五条 法律、行政法规对技术进出口合同或者专利、专利申请合同另有规定的,依照其规定。

第四节 技术咨询合同和技术服务合同

第三百五十六条 技术咨询合同包括就特定技术项目提供可行性论证、技术预测、专题技术调查、分析评价报告等合同。

A technical service contract means a contract whereby one party solves a particular technical problem for the other party by utilizing its technical knowledge, excluding a contract for construction project or a contract of hired work.

Article 357 Obligations of Client under Technical Consulting Contract. The client under a technical consulting contract shall, in accordance with the contract, describe the problem on which consultancy is sought, provide the technical background information as well as related technical materials and data; and accept the work product from, and pay the remuneration to, the consultant.

Article 358 Obligations of Consultant under Technical Consulting Contract. The consultant under a technical consulting contract shall complete the consulting report or answer the question within the prescribed period; the consulting report submitted shall comply with the requirements set forth in the contract.

Article 359 Remedies for Breach; Consultant Not Liable for Loss. Where the client under a technical consulting contract failed to provide the necessary materials and data in accordance with the contract, thereby impairing the progress and quality of the work, or failed to accept or delayed in accepting the work product, it may not claim refund of the remuneration paid, and shall pay any unpaid remuneration.

Where the consultant under the technical consulting contract failed to provide the consulting report within the prescribed period or the consulting report submitted does not comply with the contract, it shall be liable for breach of contract by way of reducing or foregoing the remuneration, etc.

The client under a technical consulting contract shall bear the loss resulting from any decision made by it based on the complying consulting report and opinion provided by the consultant, except otherwise agreed by the parties.

Article 360 Obligations of Client under Technical Service Contract. The client under a technical service contract shall, in accordance with the contract, provide the working conditions and complete its tasks of cooperation; accept the work product and pay the remuneration.

Article 361 Obligations of Service Provider under Technical Service Contract The service provider under a technical service contract shall, in accordance with the contract, complete the services, solve the technical problem, warrant the quality of its work, and communicate the knowledge for solving the technical problem.

Article 362 Remedies for Breach. Where the client under a technical service contract failed to perform its contractual obligations, or rendered non-conforming performance, thereby impairing the progress and quality of the work, or failed to accept or delayed in accepting the work product, it may not claim refund of the remuneration paid, and shall pay any unpaid remuneration.

Where the service provider under a technical service contract failed to complete services in accordance with the contract, it shall be liable for breach of contract by way of forgoing the remuneration, etc.

技术服务合同是指当事人一方以技术知识为另一方解决特定技术问题所订立的合同，不包括建设工程合同和承揽合同。

第三百五十七条 技术咨询合同的委托人应当按照约定阐明咨询的问题，提供技术背景材料及有关技术资料、数据；接受受托人的工作成果，支付报酬。

第三百五十八条 技术咨询合同的受托人应当按照约定的期限完成咨询报告或者解答问题；提出的咨询报告应当达到约定的要求。

第三百五十九条 技术咨询合同的委托人未按照约定提供必要的资料和数据，影响工作进度和质量，不接受或者逾期接受工作成果的，支付的报酬不得追回，未支付的报酬应当支付。

技术咨询合同的受托人未按期提出咨询报告或者提出的咨询报告不符合约定的，应当承担减收或者免收报酬等违约责任。

技术咨询合同的委托人按照受托人符合约定要求的咨询报告和意见作出决策所造成的损失，由委托人承担，但当事人另有约定的除外。

第三百六十条 技术服务合同的委托人应当按照约定提供工作条件，完成配合事项；接受工作成果并支付报酬。

第三百六十一条 技术服务合同的受托人应当按照约定完成服务项目，解决技术问题，保证工作质量，并传授解决技术问题的知识。

第三百六十二条 技术服务合同的委托人不履行合同义务或者履行合同义务不符合约定，影响工作进度和质量，不接受或者逾期接受工作成果的，支付的报酬不得追回，未支付的报酬应当支付。

技术服务合同的受托人未按照合同约定完成服务工作的，应当承担免收报酬等违约责任。

Article 363 Ownership of New Technology in Connection with Technical Consulting/Service Contract.

In the course of performing a technical consulting contract or a technical service contract, any new technology developed by the consultant or service provider utilizing the technical materials and working conditions provided by the client belongs to the consultant or service provider. Any new technology developed by the client utilizing the work product provided by the consultant or service provider belongs to the client. However, if the parties agree otherwise in the contract, such provision prevails.

Article 364 Technology Intermediary Service or Technical Training. Where a relevant law or administrative regulation provides otherwise in respect of technology intermediary service contracts or technical training contracts, such provisions prevail.

Chapter Nineteen Safekeeping Contracts

Article 365 Definition of Safekeeping Contract. A safekeeping contract is a contract whereby the depository keeps the deposit delivered by the depositor, and eventually returns it thereto.

Article 366 Safekeeping Fee. The depositor shall pay the safekeeping fee to the depository in accordance with the contract.

Where the safekeeping fee was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the safekeeping is gratuitous.

Article 367 Formation of Safekeeping Contract. A safekeeping contract is formed upon delivery of the deposit, except otherwise agreed by the parties.

Article 368 Deposit Voucher. Upon the depositor's delivery of the deposit to the depository, the depository shall issue a deposit voucher thereto, except otherwise provided by the relevant usage.

Article 369 Place and Manner of Safekeeping. The depository shall keep the deposit with due care.

The parties may prescribe the place and manner of safekeeping. The place and manner of safekeeping may not be changed without authorization, except in an emergency situation or for the purpose of safeguarding the depositor's interests.

Article 370 Depositor's Obligation to Inform. Where the deposit delivered by the depositor has defects or requires special safekeeping measures in light of its nature, the depositor shall inform the depository of the relevant situation. Where the depositor failed to inform, thereby causing damage to the deposit, the depository is not liable for damages; where the depository sustains any loss as a result, the depositor shall be liable for damages, except where the depository was, or should have been, aware of the situation and failed to take remedial measures.

第三百六十三条 在技术咨询合同、技术服务合同履行过程中，受托人利用委托人提供的技术资料和工作条件完成的新的技术成果，属于受托人。委托人利用受托人的工作成果完成的新的技术成果，属于委托人。当事人另有约定的，按照其约定。

第三百六十四条 法律、行政法规对技术中介合同、技术培训合同另有规定的，依照其规定。

第十九章 保管合同

第三百六十五条 保管合同是保管人保管寄存人交付的保管物，并返还该物的合同。

第三百六十六条 寄存人应当按照约定向保管人支付保管费。

当事人对保管费没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，保管是无偿的。

第三百六十七条 保管合同自保管物交付时成立，但当事人另有约定的除外。

第三百六十八条 寄存人向保管人交付保管物的，保管人应当给付保管凭证，但另有交易习惯的除外。

第三百六十九条 保管人应当妥善保管保管物。

当事人可以约定保管场所或者方法。除紧急情况或者为了维护寄存人利益的以外，不得擅自改变保管场所或者方法。

第三百七十条 寄存人交付的保管物有瑕疵或者按照保管物的性质需要采取特殊保管措施的，寄存人应当将有关情况告知保管人。寄存人未告知，致使保管物受损失的，保管人不承担损害赔偿责任；保管人因此受损失的，除保管人知道或者应当知道并且未采取补救措施的以外，寄存人应当承担损害赔偿责任。

Article 371 Delegation of Safekeeping Prohibited Except with Prior Agreement. The depository may not delegate safekeeping of the deposit to a third person, except otherwise agreed by the parties.

Where the depository delegated safekeeping of the deposit to a third person in violation of the previous paragraph, thereby causing damage to the deposit, the depository shall be liable for damages.

Article 372 Use of Deposit Prohibited Except with Prior Agreement. The depository may not use, or allow to be used, the deposit, except otherwise agreed by the parties.

Article 373 Depository's Obligations in Case of Third Party Claim. Where a third person makes a claim on the deposit, the depository shall perform its obligation of returning the deposit to the depositor, except where an order of preservation or enforcement is carried out in respect of the deposit in accordance with the law.

Where a third person has initiated a suit against the depository or has applied for attachment of the deposit, the depository shall timely notify the depositor.

Article 374 Depository Liable in Case of Damage or Loss; Exception. If the deposit was damaged or lost due to improper safekeeping by the depository during the deposit period, the depository shall be liable for damages, provided that if the safekeeping is gratuitous, and the depository has established that it was without gross negligence, it is not liable for damages.

Article 375 Depositor's Obligation to Declare Valuable Deposit. Where the depositor is to deposit money, securities, or any other valuable item for safekeeping, it shall make a declaration to the depository on such item, which shall be inspected or sealed by the depository. Where the depositor failed to make such declaration, upon damage to or loss of the deposit, the depository may indemnify the depositor to the extent of the value of a regular item.

Article 376 Retrieval of Deposit The depositor may retrieve the deposit at any time.

Where a deposit period was not prescribed or clearly prescribed, the depository may require the depositor to retrieve the deposit at any time; where a deposit period was prescribed, absent special cause, the depository may not require the depositor to retrieve the deposit before the end of the deposit period.

Article 377 Depository's Obligation to Return Deposit and Fruit. At the end of the deposit period, or if the depositor retrieves the deposit before the end of the deposit period, the depository shall return the original item together with any fruit thereof to the depositor.

Article 378 Safekeeping of Fungible Items. Where the depository keeps money deposit, it may return money of the same type and quantity. Where the depository keeps any other fungible item, it may return any item of the same type, quality and quantity in accordance with the contract.

第三百七十一条 保管人不得将保管物转交第三人保管，但当事人另有约定的除外。

保管人违反前款规定，将保管物转交第三人保管，对保管物造成损失的，应当承担损害赔偿责任。

第三百七十二条 保管人不得使用或者许可第三人使用保管物，但当事人另有约定的除外。

第三百七十三条 第三人对保管物主张权利的，除依法对保管物采取保全或者执行的以外，保管人应当履行向寄存人返还保管物的义务。

第三人对保管人提起诉讼或者对保管物申请扣押的，保管人应当及时通知寄存人。

第三百七十四条 保管期间，因保管人保管不善造成保管物毁损、灭失的，保管人应当承担损害赔偿责任，但保管是无偿的，保管人证明自己没有重大过失的，不承担损害赔偿责任。

第三百七十五条 寄存人寄存货币、有价证券或者其他贵重物品的，应当向保管人声明，由保管人验收或者封存。寄存人未声明的，该物品毁损、灭失后，保管人可以按照一般物品予以赔偿。

第三百七十六条 寄存人可以随时领取保管物。

当事人对保管期间没有约定或者约定不明确的，保管人可以随时要求寄存人领取保管物；约定保管期间的，保管人无特别事由，不得要求寄存人提前领取保管物。

第三百七十七条 保管期间届满或者寄存人提前领取保管物的，保管人应当将原物及其孳息归还寄存人。

第三百七十八条 保管人保管货币的，可以返还相同种类、数量的货币。保管其他可替代物的，可以按照约定返还相同种类、品质、数量的物品。

Article 379 Time of Payment of Safekeeping Fee.

Under a safekeeping contract for value, the depositor shall pay to the depository the safekeeping fee at the prescribed time.

Where the time of payment of the safekeeping fee was not prescribed or clearly prescribed, and cannot be determined in accordance with **Article 61** hereof, the safekeeping fee shall be paid at the same time the deposit is retrieved.

Article 380 Depository's Lien in Case of Non-payment.

Where the depositor fails to pay the safekeeping fee and other expenses, the depository is entitled to a possessory lien on the deposit, unless otherwise agreed by the parties.

Chapter Twenty Warehousing Contracts

Article 381 Definition of Warehousing Contract.

A warehousing contract is a contract whereby the warehouse stores the goods delivered by the depositor, and the depositor pays the warehousing fee.

Article 382 Effectiveness of Warehousing Contract.

A warehousing contract becomes effective upon its formation.

Article 383 Storage of Hazardous Material. Where the depositor intends to store any hazardous material which is inflammable, explosive, toxic, corrosive, or radioactive, etc., or any material susceptible to deterioration, it shall describe the nature of the goods and provide the relevant information.

Where the depositor violates the previous paragraph, the warehouse may reject the goods and may also take the appropriate measures to prevent loss at the depositor's expense.

Where the warehouse is to store any hazardous material which is inflammable, explosive, toxic, corrosive, or radioactive, etc., it shall be equipped with the appropriate safekeeping conditions.

Article 384 Inspection by Warehouse; Passing of Responsibility. The warehouse shall, in accordance with the contract, conduct warehouse-in inspection of the goods. Where in the course of such inspection, the warehouse discovers any non-compliance of the goods, it shall timely notify the depositor. After inspection and acceptance by the warehouse, if any non-compliance in respect of the type, quantity or quality of the goods occurs, the warehouse shall be liable for damages.

Article 385 Warehouse Receipt. Upon the depositor's delivery of the goods, the warehouse shall issue thereto a warehouse receipt.

Article 386 Contents of Warehouse Receipt. The warehouse shall sign or seal the warehouse receipt. The warehouse receipt shall set forth the following:

- (1) name and domicile of the depositor;
- (2) the type, quantity, quality, and packing method of the goods, and the number of packages thereof and the marks thereon;

第三百七十九条 有偿的保管合同，寄存人应当按照约定的期限向保管人支付保管费。

当事人对支付期限没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，应当在领取保管物的同时支付。

第三百八十条 寄存人未按照约定支付保管费以及其他费用的，保管人对保管物享有留置权，但当事人另有约定的除外。

第二十章 仓储合同

第三百八十一条 仓储合同是保管人储存存货人交付的仓储物，存货人支付仓储费的合同。

第三百八十二条 仓储合同自成立时生效。

第三百八十三条 储存易燃、易爆、有毒、有腐蚀性、有放射性等危险物品或者易变质物品，存货人应当说明该物品的性质，提供有关资料。

存货人违反前款规定的，保管人可以拒收仓储物，也可以采取相应措施以避免损失的发生，因此产生的费用由存货人承担。

保管人储存易燃、易爆、有毒、有腐蚀性、有放射性等危险物品的，应当具备相应的保管条件。

第三百八十四条 保管人应当按照约定对入库仓储物进行验收。保管人验收时发现入库仓储物与约定不符合的，应当及时通知存货人。保管人验收后，发生仓储物的品种、数量、质量不符合约定的，保管人应当承担损害赔偿责任。

第三百八十五条 存货人交付仓储物的，保管人应当给付仓单。

第三百八十六条 保管人应当在仓单上签字或者盖章。仓单包括下列事项：

- (一) 存货人的名称或者姓名和住所；
- (二) 仓储物的品种、数量、质量、包装、件数和标记；

- (3) the depletion standard for the goods;
- (4) the warehousing facility;
- (5) the warehousing period;
- (6) the warehousing fee;
- (7) if the goods are insured, the insured amount, term of insurance and the name of the insurer;
- (8) the preparing and issuing person and place and date of preparation and issuance.

Article 387 Nature and Assignability of Warehouse Receipt. The warehouse receipt is the voucher for retrieving the goods. Where the depositor or holder of the warehouse receipt has endorsed the warehouse receipt and the warehouse has signed or sealed thereon, the right to retrieve the goods may be assigned.

Article 388 Warehouse Receipt Holder's Right to Inspect. Upon request by the holder of the warehouse receipt, the warehouse shall allow him to inspect the goods or take samples therefrom.

Article 389 Obligation of Warehouse to Notify in Case of Damage. Where the warehouse discovers that the warehoused goods are deteriorating or are otherwise damaged, it shall timely notify the depositor or holder of the warehouse receipt.

Article 390 Warehouse's Obligations and Rights in Respect of Deteriorating Goods. Where the warehouse discovers that the warehoused goods are deteriorating or are otherwise damaged, thereby endangering other goods and normal safekeeping, it shall demand disposal of the goods by the depositor or the holder of the warehouse receipt as necessary. In an emergency situation, the warehouse may dispose of the goods as necessary, provided that thereafter it shall timely notify the depositor or holder of the warehouse receipt of the situation.

Article 391 Warehousing Period. Where the warehousing period was not prescribed or clearly prescribed, the depositor or holder of the warehouse receipt may retrieve the goods at any time, and the warehouse may require the depositor or holder of the warehouse receipt to retrieve the goods at any time, provided that the other party shall be given the time required for preparation.

Article 392 Retrieval of Goods. At the end of the warehousing period, the depositor or holder of the warehouse receipt shall retrieve the goods by presenting the warehouse receipt to the warehouse. Where the depositor or holder of the warehouse receipt delays in retrieving the goods, additional warehousing fee shall be charged; where the goods are retrieved before the end of the warehousing period, the warehousing fee shall not be reduced.

Article 393 Placing Goods in Escrow in Case of Failure to Retrieve. At the end of the warehousing period, if the depositor or holder of the warehouse receipt failed to retrieve the goods, the warehouse may demand retrieval within a reasonable period, and if the goods are not retrieved at the end of such period, the warehouse may place the goods in escrow.

- (三) 仓储物的损耗标准;
- (四) 储存场所;
- (五) 储存期间;
- (六) 仓储费;
- (七) 仓储物已经办理保险的, 其保险金额、期间以及保险人的名称;
- (八) 填发人、填发地和填发日期。

第三百八十七条 仓单是提取仓储物的凭证。存货人或者仓单持有人在仓单上背书并经保管人签字或者盖章的, 可以转让提取仓储物的权利。

第三百八十八条 保管人根据存货人或者仓单持有人的要求, 应当同意其检查仓储物或者提取样品。

第三百八十九条 保管人对入库仓储物发现有变质或者其他损坏的, 应当及时通知存货人或者仓单持有人。

第三百九十条 保管人对入库仓储物发现有变质或者其他损坏, 危及其他仓储物的安全和正常保管的, 应当催告存货人或者仓单持有人作出必要的处置。因情况紧急, 保管人可以作出必要的处置, 但事后应当将该情况及时通知存货人或者仓单持有人。

第三百九十一条 当事人对储存期间没有约定或者约定不明确的, 存货人或者仓单持有人可以随时提取仓储物, 保管人也可以随时要求存货人或者仓单持有人提取仓储物, 但应当给予必要的准备时间。

第三百九十二条 储存期间届满, 存货人或者仓单持有人应当凭仓单提取仓储物。存货人或者仓单持有人逾期提取的, 应当加收仓储费; 提前提取的, 不减收仓储费。

第三百九十三条 储存期间届满, 存货人或者仓单持有人不提取仓储物的, 保管人可以催告其在合理期限内提取, 逾期不提取的, 保管人可以提存仓储物。

Article 394 Warehouse's Liabilities in Case of Damage to Goods. Where the goods were damaged or lost during the warehousing period due to improper safekeeping by the warehouse, it shall be liable for damages. If the goods deteriorated or were damaged due to their nature, non-conforming packing method, or storage beyond their shelf-life, the warehouse is not liable for damages.

Article 395 Provisions Governing Safekeeping Contracts Applicable. A matter not provided for in this Chapter shall be governed by the relevant provision applicable to safekeeping contracts.

Chapter Twenty One Agency Appointment Contracts

Article 396 Definition of Agency Appointment Contract. An agency appointment contract is a contract whereby the principal and the agent agree that the agent will handle the principal's affairs.

Article 397 Scope of Appointment. The principal may specifically appoint the agent to handle one or more of its affairs, or generally appoint the agent to handle all of its affairs.

Article 398 Principal's Obligation to Prepay Expenses. The principal shall prepay the expenses for handling the entrusted affair. Any expense necessary for handling the entrusted affair advanced by the agent shall be repaid with interest by the principal.

Article 399 Agent's Obligation to Follow Instruction; Deviation from Instruction. The agent shall handle the entrusted affair in accordance with the instruction of the principal. Any required deviation from the principal's instruction is subject to consent by the principal; in an emergency where the agent has difficulty contacting the principal, the agent shall properly handle the entrusted affair, provided that thereafter the agent shall timely notify the principal of the situation.

Article 400 Delegation of Agency Subject to Consent; Exceptions. The agent shall personally handle the entrusted affair. Subject to consent by the principal, the agent may delegate the agency to a third person. If the delegation is approved, the principal may issue instructions concerning the entrusted affair directly to the delegate, and the agent is only responsible for its selection of the delegate or its own instruction thereto. Where the agency is delegated without consent, the agent shall be liable for any act of the delegate, except in an emergency where the agent needs to delegate the agency in order to safeguard the interests of the principal.

Article 401 Agent's Obligation to Inform. Upon request by the principal, the agent shall report on the progress of the entrusted affair. Upon discharge of the agency contract, the agent shall render an account of the entrusted affair.

第三百九十四条 储存期间，因保管人保管不善造成仓储物毁损、灭失的，保管人应当承担损害赔偿责任。因仓储物的性质、包装不符合约定或者超过有效储存期造成仓储物变质、损坏的，保管人不承担损害赔偿责任。

第三百九十五条 本章没有规定的，适用保管合同的有关规定。

第二十一章 委托合同

第三百九十六条 委托合同是委托人和受托人约定，由受托人处理委托人事务的合同。

第三百九十七条 委托人可以特别委托受托人处理一项或者数项事务，也可以概括委托受托人处理一切事务。

第三百九十八条 委托人应当预付处理委托事务的费用。受托人为处理委托事务垫付的必要费用，委托人应当偿还该费用及其利息。

第三百九十九条 受托人应当按照委托人的指示处理委托事务。需要变更委托人指示的，应当经委托人同意；因情况紧急，难以和委托人取得联系的，受托人应当妥善处理委托事务，但事后应当将该情况及时报告委托人。

第四百条 受托人应当亲自处理委托事务。经委托人同意，受托人可以转委托。转委托经同意的，委托人可以就委托事务直接指示转委托的第三人，受托人仅就第三人的选任及其对第三人的指示承担责任。转委托未经同意的，受托人应当对转委托的第三人的行为承担责任，但在紧急情况下受托人为维护委托人的利益需要转委托的除外。

第四百零一条 受托人应当按照委托人的要求，报告委托事务的处理情况。委托合同终止时，受托人应当报告委托事务的结果。

Article 402 Agent's Act Binding on Principal; Exceptions. Where the agent, acting within the scope of authority granted by the principal, entered into a contract in its own name with a third person who was aware of the agency relationship between the principal and agent, the contract is directly binding upon the principal and such third person, except where there is conclusive evidence establishing that the contract is only binding upon the agent and such third person.

Article 403 Agent's Non-performance toward Principal Due to Act of Third Person; Non-performance toward Third Person Due to Act of Principal. Where the agent entered into a contract in its own name with a third person who was not aware of the agency relationship between the agent and the principal, if the agent failed to perform its obligation toward the principal due to any reason attributable to such third person, the agent shall disclose the third person to the principal, allowing it to exercise the agent's rights against such third person, except where the third person would not have entered into the contract with the agent had it known the identity of the principal.

Where the agent failed to perform its obligation toward the third person due to any reason attributable to the principal, the agent shall disclose the principal to the third person, allowing the third person to select in alternative either the principal or the agent as the other contract party against whom to make a claim, provided that the third person may not subsequently change its selection of the contract party.

Where the principal exercises the rights of the agent against the third person, the third person may avail itself of any defense it has against the agent. Where the third person selects the principal as the other party to the contract, the principal may avail itself of any defense it has against the agent as well as any defense the agent has against the third person.

Article 404 Property Acquired by Agent. Any property acquired by the agent in the course of handling the entrusted affair shall be turned over to the principal.

Article 405 Remuneration to Agent. Upon completion of the entrusted affair by the agent, the principal shall pay the remuneration thereto. Where the agency appointment contract is terminated or the entrusted affair is not capable of being completed due to any reason not attributable to the agent, the principal shall pay to the agent an appropriate amount of remuneration. If the parties have agreed otherwise, such agreement prevails.

Article 406 Liability of Agent; Unauthorized Act. Under an agency appointment contract for value, if the principal sustains any loss due to the fault of the agent, the principal may claim damages. Under a gratuitous agency appointment contract, if the principal sustains any loss due to the agent's intentional misconduct or gross negligence, the principal may claim damages. Where the agent acted beyond the scope of authorization, thereby causing loss to the principal, it shall pay damages.

第四百零二条 受托人以自己的名义，在委托人的授权范围内与第三人订立的合同，第三人在订立合同时知道受托人与委托人之间的代理关系的，该合同直接约束委托人和第三人，但有确切证据证明该合同只约束受托人和第三人的除外。

第四百零三条 受托人以自己的名义与第三人订立合同时，第三人不知道受托人与委托人之间的代理关系的，受托人因第三人的原因对委托人不履行义务，受托人应当向委托人披露第三人，委托人因此可以行使受托人对第三人的权利，但第三人与受托人订立合同时如果知道该委托人就不会订立合同的除外。

受托人因委托人的原因对第三人不履行义务，受托人应当向第三人披露委托人，第三人因此可以选择受托人或者委托人作为相对人主张其权利，但第三人不得变更选定的相对人。

委托人行使受托人对第三人的权利的，第三人可以向委托人主张其对受托人的抗辩。第三人选定委托人作为其相对人的，委托人可以向第三人主张其对受托人的抗辩以及受托人对第三人的抗辩。

第四百零四条 受托人处理委托事务取得的财产，应当转交给委托人。

第四百零五条 受托人完成委托事务的，委托人应当向其支付报酬。因不可归责于受托人的事由，委托合同解除或者委托事务不能完成的，委托人应当向受托人支付相应的报酬。当事人另有约定的，按照其约定。

第四百零六条 有偿的委托合同，因受托人的过错给委托人造成损失的，委托人可以要求赔偿损失。无偿的委托合同，因受托人的故意或者重大过失给委托人造成损失的，委托人可以要求赔偿损失。

受托人超越权限给委托人造成损失的，应当赔偿损失。

Article 407 Agent Entitled to Indemnification in Case of Loss. In the course of handling the entrusted affair, if the agent sustains any loss due to a reason not attributable to itself, the agent may seek indemnification from the principal.

Article 408 Additional Appointment by Principal Subject to Consent. Subject to consent by the agent, the principal may, in addition to appointing the agent, also appoint a third person to handle the entrusted affair. If such appointment results in loss to the agent, it may seek indemnification from the principal.

Article 409 Joint and Several Liability of Joint Agents. Where two or more agents jointly handle the entrusted affair, they are jointly and severally liable to the principal.

Article 410 Right to Terminate at Any Time. Either the principal or the agent may terminate the agency appointment contract at any time. Where the other party sustains any loss due to termination of the contract, the terminating party shall indemnify the other party, unless such loss is due to a reason not attributable to the terminating party.

Article 411 Discharge Due to Incapacitation. An agency appointment contract is discharged when either the principal or the agent is deceased or incapacitated or enters into bankruptcy, except where the parties have agreed otherwise, or where discharge is inappropriate in light of the nature of the entrusted affair.

Article 412 Agent's Obligations in Case of Principal's Incapacitation. Where discharge of the agency appointment contract due to the death, incapacitation or bankruptcy of the principal will harm the principal's interests, the agent shall continue to handle the entrusted affair before an heir, legal agent or liquidation team thereof takes over the entrusted affair.

Article 413 Heir's Obligations in Case of Agent's Incapacitation. If the agency appointment contract is discharged as a result of the death, incapacitation or bankruptcy of the agent, the heir, legal agent or liquidation team thereof shall timely notify the principal. Where discharge of the agency contract will harm the principal's interests, before the principal makes any care-taking arrangement, the heir, legal agent or liquidation team of the agent shall take the necessary measures.

Chapter Twenty Two Trading-Trust Contracts

Article 414 Definition of Trading-Trust Contract. A trading-trust contract is a contract whereby the trustee-trader conducts trading activities in its own name for the trustor, and the trustor pays the remuneration.

Article 415 Expenses Borne by Trustee-trader. The expenses incurred by the trustee-trader in the course of handling the entrusted affair shall be borne by the trustee-trader, except otherwise agreed by the parties.

第四百零七条 受托人处理委托事务时,因不可归责于自己的事由受到损失的,可以向委托人要求赔偿损失。

第四百零八条 委托人经受托人同意,可以在受托人之外委托第三人处理委托事务。因此给受托人造成损失的,受托人可以向委托人要求赔偿损失。

第四百零九条 两个以上的受托人共同处理委托事务的,对委托人承担连带责任。

第四百一十条 委托人或者受托人可以随时解除委托合同。因解除合同给对方造成损失的,除不可归责于该当事人的事由以外,应当赔偿损失。

第四百一十一条 委托人或者受托人死亡、丧失民事行为能力或者破产的,委托合同终止,但当事人另有约定或者根据委托事务的性质不宜终止的除外。

第四百一十二条 因委托人死亡、丧失民事行为能力或者破产,致使委托合同终止将损害委托人利益的,在委托人的继承人、法定代理人或者清算组织承受委托事务之前,受托人应当继续处理委托事务。

第四百一十三条 因受托人死亡、丧失民事行为能力或者破产,致使委托合同终止的,受托人的继承人、法定代理人或者清算组织应当及时通知委托人。因委托合同终止将损害委托人利益的,在委托人作出善后处理之前,受托人的继承人、法定代理人或者清算组织应当采取必要措施。

第二十二章 行纪合同

第四百一十四条 行纪合同是行纪人以自己的名义为委托人从事贸易活动,委托人支付报酬的合同。

第四百一十五条 行纪人处理委托事务支出的费用,由行纪人负担,但当事人另有约定的除外。

Article 416 Trustee-trader's Obligation to Exercise Due Care. Where the trustee-trader is in possession of the trust item, it shall keep the trust item with due care.

Article 417 Disposal of Defective Trust Item by Trustee-trader. If a trust item was defective, perishable or susceptible to deterioration at the time it was delivered to the trustee-trader, upon consent by the trustor, the trustee-trader may dispose of the item; where the trustee-trader is unable to contact the trustor in time, it may dispose of the trust item in a reasonable manner.

Article 418 Pricing of Trust Item. Where the trustee-trader is to sell the trust item below, or buy the trust item above, the price designated by the trustor, it shall obtain consent from the trustor. If such sale was effected without consent by the trustor, and the trustee-trader made up the deficiency on its own, it is binding on the trustor.

Where the trustee-trader sold the trust item above, or purchased the trust item below, the price designated by the trustor, the remuneration may be increased in accordance with the contract. Where such matter was not prescribed or clearly prescribed, and cannot be determined in accordance with Article 61 hereof, the benefit belongs to the trustor.

Where the trustor gives special pricing instruction, the trustee-trader may not make any sale or purchase in contravention thereof.

Article 419 Trustee-trader Acting as Purchaser or Seller. Where the trustee-trader is to sell or purchase a commodity the price of which is fixed by the market, the trustee-trader may act as the purchaser or seller itself, unless the trustor has otherwise manifested its intention.

Where the trustee-trader is in a situation described in the previous paragraph, it may still require payment of remuneration from the trustor.

Article 420 Trustor's Obligation to Take Delivery; Trustee-trader's Remedies in Case of Trustor's Failure to Take Delivery. Once the trustee-trader purchased the trust item in accordance with the contract, the trustor shall timely take delivery. Where after receiving demand from the trustee-trader, the trustor refuses to take delivery without cause, the trustee-trader may place the trust item in escrow in accordance with Article 101 hereof.

Where the trust item fails to be sold or the trustor withdraws it from sale, the trustee-trader may place the trust item in escrow in accordance with Article 101 hereof if the trustor fails to retrieve or dispose of it after receiving such demand from trustee-trader.

Article 421 Trustee-trader's Rights and Obligations as Party to Contract with Third Person. Where the trustee-trader entered into a contract with a third person, it directly enjoys the rights and assumes the obligations thereunder.

Where the third person failed to perform its obligations, thereby causing damage to the trustor, the trustee-trader shall be liable for damages, except otherwise agreed by the trustee-trader and the trustor.

第四百一十六条 行纪人占有委托物的，应当妥善保管委托物。

第四百一十七条 委托物交付给行纪人时有瑕疵或者容易腐烂、变质的，经委托人同意，行纪人可以处分该物；和委托人不能及时取得联系的，行纪人可以合理处分。

第四百一十八条 行纪人低于委托人指定的价格卖出或者高于委托人指定的价格买入的，应当经委托人同意。未经委托人同意，行纪人补偿其差额的，该买卖对委托人发生法律效力。

行纪人高于委托人指定的价格卖出或者低于委托人指定的价格买入的，可以按照约定增加报酬。没有约定或者约定不明确，依照本法第六十一条的规定仍不能确定的，该利益属于委托人。

委托人对价格有特别指示的，行纪人不得违背该指示卖出或者买入。

第四百一十九条 行纪人卖出或者买入具有市场定价的商品，除委托人有相反的意思表示的以外，行纪人自己可以作为买受人或者出卖人。

行纪人有前款规定情形的，仍然可以要求委托人支付报酬。

第四百二十条 行纪人按照约定买入委托物，委托人应当及时受领。经行纪人催告，委托人无正当理由拒绝受领的，行纪人依照本法第一百零一条的规定可以提存委托物。

委托物不能卖出或者委托人撤回出卖，经行纪人催告，委托人不取回或者不处分该物的，行纪人依照本法第一百零一条的规定可以提存委托物。

第四百二十一条 行纪人与第三人订立合同的，行纪人对该合同直接享有权利、承担义务。

第三人不履行义务致使委托人受到损害的，行纪人应当承担损害赔偿责任，但行纪人与委托人另有约定的除外。

Article 422 Trustee-trader's Right to Remuneration; Possessory Lien in Case of Non-payment. Where the trustee-trader has completed the entrusted matter or has partially completed the entrusted matter, the trustor shall pay the appropriate remuneration thereto. Where the trustor fails to pay the remuneration within the prescribed period, the trustee-trader is entitled to a possessory lien on the trust item, except otherwise agreed by the parties.

Article 423 Provisions Governing Agency Appointment Contracts Applicable. A matter not provided for in this Chapter shall be governed by the relevant provision applicable to agency appointment contracts.

Chapter Twenty Three Brokerage Contracts

Article 424 Definition of Brokerage Contract. A brokerage contract is a contract whereby the broker presents to the client an opportunity for entering into a contract or provides the client with intermediary services in connection with the conclusion thereof, and the client pays the remuneration.

Article 425 Broker's Obligation to Provide True Information. The broker shall provide true information concerning matters relevant to the conclusion of the proposed contract.

Where the broker intentionally concealed any material fact or provided false information in connection with the conclusion of the proposed contract, thereby harming the client's interests, it may not require payment of any remuneration and shall be liable for damages.

Article 426 Broker Entitled to Remuneration. Once the broker facilitated the formation of the proposed contract, the client shall pay the remuneration in accordance with the brokerage contract. Where remuneration to the broker was not prescribed or clearly prescribed, and cannot be determined in accordance with **Article 61** hereof, it shall be reasonably fixed in light of the amount of labor expended by the broker. Where the broker facilitated the formation of the proposed contract by providing intermediary services in connection therewith, the remuneration paid to the broker shall be equally borne by parties thereto.

Where the broker facilitated the formation of the proposed contract, the brokerage expenses shall be borne by itself.

Article 427 Broker Entitled to Reimbursement in Case of Failure to Conclude Proposed Contract. Where the broker failed to facilitate the formation of the proposed contract, it may not require payment of remuneration, provided that it may require the client to reimburse the necessary brokerage expenses incurred.

第四百二十二条 行纪人完成或者部分完成委托事务的, 委托人应当向其支付相应的报酬。委托人逾期不支付报酬的, 行纪人对委托物享有留置权, 但当事人另有约定的除外。

第四百二十三条 本章没有规定的, 适用委托合同的有关规定。

第二十三章 居间合同

第四百二十四条 居间合同是居间人向委托人报告订立合同的机会或者提供订立合同的中介服务, 委托人支付报酬的合同。

第四百二十五条 居间人应当就有关订立合同的事项向委托人如实报告。

居间人故意隐瞒与订立合同有关的重要事实或者提供虚假情况, 损害委托人利益的, 不得要求支付报酬并应当承担赔偿责任。

第四百二十六条 居间人促成合同成立的, 委托人应当按照约定支付报酬。对居间人的报酬没有约定或者约定不明确, 依照本法第六十一条的规定仍不能确定的, 根据居间人的劳务合理确定。因居间人提供订立合同的中介服务而促成合同成立的, 由该合同的当事人平均负担居间人的报酬。

居间人促成合同成立的, 居间活动的费用, 由居间人负担。

第四百二十七条 居间人未促成合同成立的, 不得要求支付报酬, 但可以要求委托人支付从事居间活动支出的必要费用。

SUPPLEMENTARY PROVISIONS

附则

Article 428 Effectiveness; Repealing Certain Laws.

This Law shall take effect as from October 1, 1999, and the Economic Contract Law of the People's Republic of China, the Foreign-related Economic Contract Law of the People's Republic of China, and the Technology Contract Law of the People's Republic of China shall be repealed simultaneously.

第四百二十八条 本法自1999年10月1日起施行,《[中华人民共和国经济合同法](#)》、《[中华人民共和国涉外经济合同法](#)》、《[中华人民共和国技术合同法](#)》同时废止。