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Trust Law of People's Republic of China

Order of the President of the People's Republic of China (No.50)

Trust Law of the People's Republic of China was adopted at the 21st session of the Standing Committee of the Ninth National People's Congress on April. 28, 2001, and is hereby promulgated and shall come into force on Oct.1, 2001.

President of the People's Republic of China: Jiang Zemin

Trust Law of the People's Republic of China

(Adopted at the 21st Meeting of the Standing Committee of the Ninth National People's Congress on April 28, 2001)

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Chapter 1. General Provisions

Article 1. This law is formulated in order to regulate the trust relationship, normalize trust acts, protect the lawful rights and interests of the parties to a trust and promote the healthy development of the trust business.

Article 2. Trust in this Law refers to the act in which the trustor, on the basis of confidence on the trustee, entrusts certain property rights it owns to the trustee and the trustee manages or disposes of the property rights in its own name in accordance with the intentions of the trustor and for the benefit of the beneficiary or for specific purposes.

Article 3. This Law applies to the trustor, trustee and beneficiary (hereinafter referred to in general as parties to a trust) conducting civil, business or public trust activities within the boundaries of the People's Republic of China.

Article 4. Trustees engage in trust activities by way of fiduciary institutions, the specific measures for the organization and management of which are to be formulated by the State Council.

Article 5. When conducting trust activities, the parties to a trust must abide by the laws and regulations, comply with the principle of willingness, equality and being honest and trustworthy, and must not harm the state interest and the social public interest.

Chapter 2. Establishment of a Trust

Article 6. The establishment of a trust shall serve a legitimate purpose of trust.

Article 7. To establish a trust, there must be certain trust properties and the properties must be properties lawfully owned by the trustor. Property in this Law includes lawful property rights.

Article 8. Written form shall be adopted for the establishment of a trust.

Written form includes trust contracts, wills or other written documents as provided by laws and regulations.

A trust established in the form of trust contract shall come into existence when the trust contract is concluded. A trust established in other written forms shall come into existence when the trustee promises to accept the trust.

Article 9. The written documents by which a trust is to be established shall provide the following information:

- 1) Purposes of the trust;
- 2) Names and addresses of the trustor, the trustee and the beneficiary;
- 3) The beneficiary or the scope of the beneficiary;
- 4) Scope, type and status of the trust property;
- 5) Ways and methods by which the beneficiary get the trust proceeds;

Apart from the information listed in the above paragraph, duration of the trust, methods of management of the trust property, remuneration of the trustee, methods of designation of new trustees, reasons for terminating a trust and other information may be provided.

Article 10. Where trust property shall be registered according to the provisions of laws or administrative regulations for the establishment of a trust, such property shall be registered.

If the trust registration fails to be made as required in the previous paragraph, it shall be made up later; the trust shall be invalid if no make-up trust registration is effected.

Article 11. The trust is void under any of the following circumstances:

- 1) The purposes of the trust are against laws or regulations, or harm the public interest of the society;
- 2) The trust property can not be identified;
- 3) The trustor establishes a trust by using illegal properties or properties that are prohibited by this Law from being used to establish a trust;
- 4) Establishing a trust especially for the purpose of litigation or of demanding the payment of a

debt or loan;

5) The beneficiary or the scope of beneficiaries cannot be identified; and

6) Other circumstances provided by laws and regulations.

Article 12. If the trust a trustor establishes has harmed the interests of the creditor, the creditor shall have the right to apply to the people's court for canceling the trust.

Trust benefits already obtained by a goodwill beneficiary shall not be affected if the people's court cancels the trust according to the provisions of the previous paragraph.

The right to apply shall extinguish if the creditor doesn't exercise it in one year since he knows or should know the reasons for cancellation.

Article 13. The establishment of testamentary trust shall abide by the provisions of the Succession Law on testament. If the person appointed by the testament refuses or doesn't have the capacity to act as trustee, the beneficiary may appoint other trustees; if the beneficiary is a person without civil capacity or a person with limited capacity, his guardian shall appoint the trustee on his behalf according to law. If there are other provisions on the appointment of the trustee in the testament, those provisions shall be followed.

Chapter 3. Trust Property

Article 14. The properties that the trustee obtains as a result of accepting the trust are trust property.

The properties that the trustee obtains by way of managing, utilizing, disposing of the trust property or by other means shall also be deemed as trust property.

Properties forbidden to circulate by laws or regulations shall not be used as trust property.

Properties limited in circulation by laws and regulations may be used as trust property with the approval of relevant departments in charge according to law.

Article 15. Trust property differs from other properties with which the trustor hasn't established a trust. After the trust is established, if the trustor dies or disbands according to law, or is canceled or declared bankrupt according to law, and if the trustor is the only beneficiary, the trust shall terminate and the trust property shall be deemed as his heritage or liquidation property; if the trustor is not the only beneficiary, the trust shall continue to exist and the trust property shall not be deemed as his heritage or liquidation property; but if the trustor, as a joint beneficiary, dies or disbands according to law, or is canceled or declared bankrupt according to law, the beneficial right of the trust shall be deemed as his heritage or liquidation property.

Article 16. The trust property differs from the property owned by the trustee (hereinafter referred to as inherent property for short) and shall not be deemed as the inherent property of the trustee or become part of the inherent property.

If the trustee dies or disbands or terminates as a result of being canceled or being declared bankrupt according to law, the trust property shall not be deemed as his heritage or liquidation property.

Article 17. Trust property shall not be enforced except under any of the following circumstances:

- 1) The creditor has already gotten the priority of compensation from the trust property before the trust is established and exercised the right according to law;
- 2) The debts incurred from the trustee's handling of the trust affairs and the creditor requires the debts to be paid off;
- 3) The taxes that the trust property are due; and
- 4) Other circumstances provided by law.

If the trust property is enforced against the provisions of the preceding paragraph, the trustor, trustee or beneficiary has the right to make an objection to the people's court.

Article 18. The creditor's right obtained by the trustee through the management, utilization and disposition of the trust property must not offset the debt caused by his inherent property.

The creditor's right and the debt caused when the trustee manages, utilizes and disposes the trust property of different trustors must not offset each other.

Chapter 4. Parties to a trust

Section 1. The trustor

Article 19. The trustor shall be a natural or a legal person with full civil capacity, or other organizations established according to law.

Article 20. The trustor has the right to know how his trust property is managed, utilized or disposed of and the income and expenses incurred therefrom, and has the right to ask the trustee to make explanations.

The trustor has the right to consult, write down or duplicate the trust accounts relating to his trust property and other documents relating to the handling of trust affairs.

Article 21. The trustor has the right to ask the trustee to adjust the methods of management of the trust property if the methods prevents the realization of the purposes of the trust or are not in accordance with the interests of the beneficiary due to special causes that are not foreseen when the trust was established.

Article 22. If the trustee disposes of the trust property against the purposes of the trust or causes losses to the trust property due to violation of the management duties or improper handling of the trust affairs, the trustor has the right to apply to the people's court for withdrawing the disposition; he also has the right to ask the trustee to revert the trust property or make compensation; if the transferee accepts the trust property though he is fully aware that it is against the purposes of the trust, he shall return the trust property or make compensation.

The right to apply as mentioned in the preceding paragraph shall extinguish if the trustor doesn't exercise it within 1 year since he knows or should have known the reasons for withdrawal.

Article 23. If the trustee disposes the trust property against the purposes of the trust or is at serious fault when managing, utilizing or disposing of the trust property, the trustor has the right to

remove the trustee according to the provisions of the trust documents or apply to the people's court to remove the trustee.

Section 2. The trustee

Article 24. The trustee shall be a natural or a legal person with full civil capacity.

If there are other provisions on the requirements of the trustee in laws and regulations, those provisions shall be followed.

Article 25. The trustee shall abide by the provisions of the trust documents and handle the trust affairs for the utmost interests of the beneficiary.

The trustee shall fulfill his duties and perform the obligation of being honest, trustworthy and cautious, and managing effectively.

Article 26. The trustee must not take advantage of the trust property to seek profits for his own except getting remuneration according to the provisions of this Law.

If the trustee violates the provisions of the preceding paragraph to take advantage of the trust property to seek profits for his own, the profits he obtains shall be brought into the trust property.

Article 27. The trustee must not change the trust property into his inherent property. The trustee must revert the trust property if he changes the trust property into his inherent property; and the trustee shall bear the liability of compensation if he causes losses to the trust property.

Article 28. The trustee must not make transactions between his inherent property and the trust property, or make transactions between the trust properties of different trustors, except that the trust documents prescribe otherwise or with the approval of the trustor or the beneficiary, and make transactions based on fair market price.

The trustee shall bear liability of compensation if he violates the provisions of the preceding paragraph and causes losses to the trust property.

Article 29. The trustee must manage the trust property and his inherent property separately and keep separate accounts, and must manage the trust property of different trustors separately and keep separate accounts.

Article 30. The trustee shall handle the trust affairs in person, but if there are otherwise provisions in the trust documents or there is no alternative, the trustee may entrust others to handle the affairs on his behalf.

The trustee shall bear liability for the handling of the trust affairs by others to whom he entrust the trust affairs.

Article 31. If there are more than two trustees of a same trust, they are joint trustees.

The joint trustees shall handle the trust affairs jointly, but if the trust documents prescribe that some specific affairs shall be handled by the trustees separately, those provisions shall be followed. If the joint trustees have different opinions when handling the trust affairs jointly, they shall follow

the provisions of the trust documents; and if there is no relevant prescriptions in the trust documents, it shall be subject to the decision of the trustor, beneficiary or interested person of the beneficiary.

Article 32. The joint trustees shall bear several and joint liability if they incur debts to a third party when handling the trust affairs. The declaration of will made by the third party to any of the trustees shall have the same effect to other trustees.

If any of the trustees disposes of the trust property against the purposes of the trust or causes losses to the trust property due to violation of his management duties or improper handling of the trust affairs, the other trustees shall assume several and joint liabilities.

Article 33. The trustee must keep full records of the handling of trust affairs.

The trustee shall report the management, utilization and disposition of the trust property and the income and expenses to the trustor and the beneficiary regularly every year.

The trustee shall bear the obligation to the trustor and beneficiary of keeping secret of the handling of trust affairs and the materials according to law.

Article 34 The trustee shall be responsible for paying trust benefits to the beneficiaries within the limit of the trust property.

Article 35. The trustee has the right to get remuneration according to the terms of the trust documents. If it is not prescribed beforehand in the trust documents, supplementary terms may be made with the approval of the parties of the trust after negotiation; the trustee must not get remuneration if no terms are made in advance and no supplementary terms are made.

The amount of the remuneration agreed upon may be added or reduced with the approval of the parties of the trust after negotiation.

Article 36. If the trustee disposes of the trust property against the purposes of the trust or causes losses to the trust property due to violation of the management duties or improper handling of the trust affairs, the trustee must not ask for remuneration before he has reverted the trust property or made compensations.

Article 37. The trustee may bear the expenses and debts to the third party incurred from the handling of trust affairs with the trust property. If the trustee has paid in advance with his inherent property, he has the priority right to get compensation from the trust property.

The trustee shall bear the debts to the third party or losses of himself incurred from the violation of his management duties or improper handling of the trust affairs with his inherent property.

Article 38. The trustee may resign upon the approval of the trustor and the beneficiary after the trust is established. If there are otherwise provisions on the resign of the trustee in public trust in this Law, those provisions shall be followed.

The resigned trustee shall continue to perform the duties of managing the trust affairs before the new trustee is appointed.

Article 39. The duties and responsibilities of the trustee shall end under any of the following circumstances:

- 1) The trustee dies or is declared dead;
- 2) The trustee is declared as a person without civil capacity or a person with limited civil capacity according to law;
- 3) The trustee is canceled according to law or is declared bankrupt;
- 4) The trustee disbands or loses legal qualification;
- 5) The trustee resigns or is dismissed; and
- 6) Other circumstances provided by laws and regulations.

When the duties and responsibilities of the trustee end, its heritor or the manager of the decedent's property, the guardian or the liquidator shall keep the trust property appropriately and assist the new trustee to take over the trust affairs.

Article 40. When the duties and responsibilities of the trustee end, a new trustee shall be appointed according to the provisions of the trust documents; if there are no relevant prescriptions in the trust documents, the trustor shall appoint a new trustee; if the trustor fails to appoint or doesn't have the capacity to appoint a new trustee, the beneficiary shall make the appointment; if the beneficiary is a person without civil capacity or a person with limited civil capacity, his guardian shall appoint the new trustee on his behalf according to law.

The new trustee shall inherit the rights and obligations of handling the trust affairs of the former trustee.

Article 41. If the duties and responsibilities of the trustee end under any of the circumstances listed in item 3) to item 6) of the first clause of Article 39, the trustee shall make reports on the handling of trust affairs and go through handover procedures of the trust property and trust affairs to the new trustee.

The liabilities of the former trustee of the matters listed in the report shall be relieved after the report mentioned in the above paragraph is recognized by the trustor or the beneficiary, except that the former trustee did unreasonable conducts.

Article 42. If the duties and responsibilities of any of the joint trustees end, the trust property shall be managed and disposed of by other trustees.

Section 3. The Beneficiary

Article 43. The beneficiary is the person who enjoys the beneficial right of the trust. The beneficiary may be a natural person, a legal person or other organizations established according to law.

The trustor may be the beneficiary, and may also be the only beneficiary of the same trust.

The trustee may be the beneficiary, but must not be the only beneficiary of the same trust.

Article 44. The beneficiary enjoys the beneficial right of the trust since the day on which the trust takes effect. If there are otherwise provisions in the trust documents, those provisions shall be followed.

Article 45. The joint beneficiaries enjoy trust benefits according to the terms of the trust documents. If there are no relevant provisions in the trust documents concerning the distribution proportion or the methods of distributing the trust benefits, each beneficiary shall enjoy the trust benefits according to equal proportions.

Article 46. The beneficiary may waive the beneficial right of the trust.

The trust shall terminate if all of the beneficiaries waive their beneficial rights of the trust.

If some of the beneficiaries waives the beneficial rights of the trust, the attribution of the abandoned beneficial right of the trust shall be determined in the following order:

- 1) Persons prescribed in the trust documents;
- 2) Other beneficiaries;
- 3) The trustor or its heir.

Article 47. The beneficiary who is not able to pay off matured debts may use his beneficial right of the trust to pay off his debts, except that there are restrictive provisions in laws, regulations or the trust documents.

Article 48. The beneficial right of the trust of the beneficiary may be transferred and inherited according to law, except that there are restrictive provisions in the trust documents.

Article 49. The beneficiary may enjoy the rights of the trustor prescribed in Articles 20 to 23. If the beneficiary has objections to the trustor when exercising the rights mentioned above, he may apply to the people's court for ruling.

If the trustee conducts any of the acts listed in the first clause of Article 22 and any of the joint beneficiaries applies to the people's court for withdrawing the disposition, the ruling of cancellation made by the people's court shall be of equal effect to all of the joint beneficiaries.

Chapter 5 Change and Termination of Trust

Article 50. The trustor or the heir thereof may rescind the trust if the trustor is the only beneficiary. If there are otherwise provisions in the trust documents, those provisions shall be followed.

Article 51. Under one of the following circumstances, the trustor may change the beneficiary or dispose of the beneficial rights of the trust of the beneficiary after the trust is established:

- 1) The beneficiary seriously infringes upon the rights of the trustor;
- 2) The beneficiary seriously infringes upon the rights of any of the other joint beneficiaries;
- 3) With the approval of the beneficiary; and
- 4) Other circumstances prescribed in the trust documents.

The trustor may rescind the trust under one of the circumstances listed in items 1, 3, and 4 of the above clause.

Article 52. The trust shall not terminate because the trustor or the trustee dies, loses civil capacity,

disbands according to law, or is canceled or declared bankrupt according to law, neither shall the trust terminate because the trustee resigns, unless there are otherwise provisions in this Law or the trust documents.

Article 53. The trust shall terminate under any of the following circumstances:

- 1) Any of the causes for termination as prescribed in the trust documents happens;
- 2) The existence and continuance of the trust go against the purposes of the trusts;
- 3) The purposes of the trust have already been realized or cannot be realized at all;
- 4) The parties of the trust agree so after negotiation;
- 5) The trust is withdrawn; or
- 6) The trust is rescinded.

Article 54. The trust property shall belong to the person prescribed in the trust documents when the trust terminates; if there are no relevant provisions in the trust documents, the attribution of the trust property shall be determined in the following order:

- 1) The beneficiary or its heritor;
- 2) The trustor or its heritor.

Article 55. After the attribution of the trust property is determined according to the preceding article, the trust is deemed as existing and continuing during the process when the trust property is transferred to the person who has the right to own the property, and the person is deemed as the beneficiary.

Article 56. If the people's court enforces the original trust property according to the provisions of Article 17 of this Law after the trust terminates, the person who has the right to own the trust property is the person against whom the order is to be executed.

Article 57. After the trust terminates, the trustee may, when exercising the rights to get remuneration and get compensation from the trust property according to the provisions of this law, retain the trust property or make claims to the person who has the right to own the trust property.

Article 58. The trustee shall make a liquidation report on the handling of the trust affairs if the trust terminates. If the beneficiary or the person who has the right to own the trust property has no objection to the liquidation report, the liabilities of the trustee of the matters listed in the liquidation report shall be relieved, unless the trustee did unreasonably.

Chapter 6. Public Trust

Article 59. The provisions of this chapter apply to public trusts. If there are no relevant provisions in this chapter, the provisions of this Law and other relevant laws shall apply.

Article 60. A trust established for any of the following purposes of public interests is a public trust:

- 1) Helping poor people;
- 2) Helping disaster victims;

- 3) Assisting the disabled;
- 4) Developing education, technology, culture, art and physical education undertakings;
- 5) Developing medical and sanitation undertakings;
- 6) Developing environment protection undertakings and maintaining the environment; and
- 7) Developing other public undertakings of the society.

Article 61. The state encourages the development of public trusts.

Article 62. The establishment of a public trust and the appointment of trustees shall be subject to the approval of the regulatory agency of relevant public undertakings (hereinafter referred to as regulatory agency of public undertakings for short).

One must not conduct activities in the name of public trust without the approval of the regulatory agency of public undertakings.

The regulatory agency of public undertakings shall give support to the activities of public trust.

Article 63. The trust property of public trust and its proceeds must not be used for non-public purposes.

Article 64. There shall be trust supervisors for public trusts.

The trust supervisor shall be prescribed in the trust documents. If there are no relevant provisions in the trust documents, the regulatory agency of public undertakings shall appoint the trust supervisor.

Article 65. The trust supervisor has the right to institute an action or carry out other legal acts in his own name in order to protect the interests of the beneficiary.

Article 66. The trustee of a public trust must not resign without the approval of the regulatory agency of public undertakings.

Article 67. The regulatory agency shall inspect how the trustee handles the public trust affairs and the status of the property.

The trustee shall make at least one report on the handling of public trust affairs and the status of the property each year, and submit to the regulatory agency of public undertakings for approval after being recognized by the trust supervisor, and the trustee shall make public announcement of the report.

Article 68. The regulatory agency of public undertakings shall change the trustee if the trustee of public trust violates the trust obligations or doesn't have the capacity to perform his duties.

Article 69. After a public trust is established, the regulatory agency of public undertakings may change relevant clauses of the trust documents on the basis of purposes of the trust if any of the circumstances that can't be anticipated when the trust is established happens.

Article 70. If the public trust terminates, the trustee shall report the causes of termination and the

date of termination to the regulatory agency of public undertakings within 15 days since the causes of termination happen.

Article 71. If the public trust terminates, the liquidation report on the handling of trust affairs made by the trustee shall be reported to the regulatory agency of public undertakings for ratification after the trust supervisor recognizes, and the trustee shall make public announcement.

Article 72. If there is not a person who has the right to own the trust property or it is the unspecified public that have the right to own the trust property when the public trust terminates, the trustee shall utilize the trust property for the former purposes of public interests or similar purposes, or transfer the trust property to the public organization that has similar purposes or other public trusts with the approval of the regulatory agency of public undertakings.

Article 73. The trustor, the trustee or the beneficiary has the right to raise an action at the people's court if the regulatory agency violates the provisions of this Law.

Chapter 7. Supplementary Provisions

Article 74. This Law shall come into force since Oct.1.2001