

中华人民共和国民法典

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第一编 总 则

第一章 基 本 规 定

第一条 为了保护民事主体的合法权益，调整民事关系，维护社会和经济秩序，适应中国特色社会主义发展要求，弘扬社会主义核心价值观，根据宪法，制定本法。

第二条 民法调整平等主体的自然人、法人和非法人组织之间的人身关系和财产关系。

第三条 民事主体的人身权利、财产权利以及其他合法权益受法律保护，任何组织或者个人不得侵犯。

第四条 民事主体在民事活动中的法律地位一律平等。

第五条 民事主体从事民事活动，应当遵循自愿原则，按照自己的意思设立、变更、终止民事法律关系。

第六条 民事主体从事民事活动，应当遵循公平原则，合理确定各方的权利和义务。

第七条 民事主体从事民事活动，应当遵循诚信原则，秉持诚实，恪守承诺。

第八条 民事主体从事民事活动，不得违反法律，不得违背公序良俗。

第九条 民事主体从事民事活动，应当有利于节约资源、保护生态环境。

第十条 处理民事纠纷，应当依照法律；法律没有规定的，可以适用习惯，但是不得违背公序良俗。

第十一条 其他法律对民事关系有特别规定的，依照其规定。

第十二条 中华人民共和国领域内的民事活动，适用中华人民共和国法律。法律另有规定的，依照其规定。

第二章 自 然 人

第一节 民事权利能力和民事行为能力

第十三条 自然人从出生时起到死亡时止，具有民事权利能力，依法享有民事权利，承担民事义务。

第十四条 自然人的民事权利能力一律平等。

第十五条 自然人的出生时间和死亡时间，以出生证明、死亡证明记载的时间为准；没有出生证明、死亡证明的，以户籍登记或者其他有效身份登记记载的时间为准。有其他证据足以推翻以上记载时间的，以该证据证明的时间为准。

第十六条 涉及遗产继承、接受赠与等胎儿利益保护的，胎儿视为具有民事权利能力。但是，胎儿娩出时为死体的，其民事权利能力自始不存在。

第十七条 十八周岁以上的自然人为成年人。不满十八周岁的自然人为未成年人。

第十八条 成年人为完全民事行为能力人，可以独立实施民事法律行为。

十六周岁以上的未成年人，以自己的劳动收入为主要生活来源的，视为完全民事行为能力人。

第十九条 八周岁以上的未成年人为限制民事行为能力人，实施民事法律行为由其法定代理人代理或者经其法定代理人同意、追认；但是，可以独立实施纯获利益的民事法律行为或者与其年龄、智力相适应的民事法律行为。

第二十条 不满八周岁的未成年人为无民事行为能力人，由其法定代理人代理实施民事法律行为。

第二十一条 不能辨认自己行为的成年人为无民事行为能力人，由其法定代理人代理实施民事法律行为。

八周岁以上的未成年人不能辨认自己行为的，适用前款规定。

第二十二条 不能完全辨认自己行为的成年人为限制民事行为能力人，实施民事法律行为由其法定代理人代理或者经其法定代理人同意、追认；但是，可以独立实施纯获利益的民事法律行为或者与其智力、精神健康状况相适应的民事法律行为。

第二十三条 无民事行为能力人、限制民事行为能力人的监护人是其法定代理人。

第二十四条 不能辨认或者不能完全辨认自己行为的成年人，其利害关系人或者有关组织，可以向人民法院申请认定该成年人为无民事行为能力人或者限制民事行为能力人。

被人民法院认定为无民事行为能力人或者限制民事行为能力人的，经本人、利害关系人或者有关组织申请，人民法院可以根据其智力、精神健康恢复的状况，认定该成年人恢复为限制民事行为能力人或者完全民事行为能力人。

本条规定的有关组织包括：居民委员会、村民委员会、学校、医疗机构、妇女联合会、残疾人联合会、依法设立的老年人组织、民政部门等。

第二十五条 自然人以户籍登记或者其他有效身份登记记载的居所为住所；经常居所与住所不一致的，经常居所视为住所。

第二节 监 护

第二十六条 父母对未成年子女负有抚养、教育和保护的义务。

成年子女对父母负有赡养、扶助和保护的义务。

第二十七条 父母是未成年子女的监护人。

未成年人的父母已经死亡或者没有监护能力的，由下列有监护能力的人按顺序担任监护人：

（一）祖父母、外祖父母；

（二）兄、姐；

（三）其他愿意担任监护人的个人或者组织，但是须经未成年人住所地

的居民委员会、村民委员会或者民政部门同意。

第二十八条 无民事行为能力或者限制民事行为能力的成年人，由下列有监护能力的人按顺序担任监护人：

（一）配偶；

（二）父母、子女；

（三）其他近亲属；

（四）其他愿意担任监护人的个人或者组织，但是须经被监护人住所地的居民委员会、村民委员会或者民政部门同意。

第二十九条 被监护人的父母担任监护人的，可以通过遗嘱指定监护人。

第三十条 依法具有监护资格的人之间可以协议确定监护人。协议确定监护人应当尊重被监护人的真实意愿。

第三十一条 对监护人的确定有争议的，由被监护人住所地的居民委员会、村民委员会或者民政部门指定监护人，有关当事人对指定不服的，可以向人民法院申请指定监护人；有关当事人也可以直接向人民法院申请指定监护人。

居民委员会、村民委员会、民政部门或者人民法院应当尊重被监护人的真实意愿，按照最有利于被监护人的原则在依法具有监护资格的人中指定监护人。

依据本条第一款规定指定监护人前，被监护人的人身权利、财产权利以及其他合法权益处于无人保护状态的，由被监护人住所地的居民委员会、村民委员会、法律规定的有关组织或者民政部门担任临时监护人。

监护人被指定后，不得擅自变更；擅自变更的，不免除被指定的监护人的责任。

第三十二条 没有依法具有监护资格的人的，监护人由民政部门担任，也可以由具备履行监护职责条件的被监护人住所地的居民委员会、村民委员会担任。

第三十三条 具有完全民事行为能力的成年人，可以与其近亲属、其他愿意担任监护人的个人或者组织事先协商，以书面形式确定自己的监护人，在自己丧失或者部分丧失民事行为能力时，由该监护人履行监护职责。

第三十四条 监护人的职责是代理被监护人实施民事法律行为，保护被监护人的人身权利、财产权利以及其他合法权益等。

监护人依法履行监护职责产生的权利，受法律保护。

监护人不履行监护职责或者侵害被监护人合法权益的，应当承担法律责任。

因发生突发事件等紧急情况，监护人暂时无法履行监护职责，被监护人的生活处于无人照料状态的，被监护人住所地的居民委员会、村民委员会或者民政部门应当为被监护人安排必要的临时生活照料措施。

第三十五条 监护人应当按照最有利于被监护人的原则履行监护职责。监护人除为维护被监护人利益外，不得处分被监护人的财产。

未成年人的监护人履行监护职责，在作出与被监护人利益有关的决定时，应当根据被监护人的年龄和智力状况，尊重被监护人的真实意愿。

成年人的监护人履行监护职责，应当最大程度地尊重被监护人的真实意愿，保障并协助被监护人实施与其智力、精神健康状况相适应的民事法律行为。对被监护人有能力独立处理的事务，监护人不得干涉。

第三十六条 监护人有下列情形之一的，人民法院根据有关个人或者组织的申请，撤销其监护人资格，安排必要的临时监护措施，并按照最有利于被监护人的原则依法指定监护人：

（一）实施严重损害被监护人身心健康的行为；

（二）怠于履行监护职责，或者无法履行监护职责且拒绝将监护职责部分或者全部委托给他人，导致被监护人处于危困状态；

（三）实施严重侵害被监护人合法权益的其他行为。

本条规定的有关个人、组织包括：其他依法具有监护资格的人，居民委员会、村民委员会、学校、医疗机构、妇女联合会、残疾人联合会、未成年

人保护组织、依法设立的老年人组织、民政部门等。

前款规定的个人和民政部门以外的组织未及时向人民法院申请撤销监护人资格的，民政部门应当向人民法院申请。

第三十七条 依法负担被监护人抚养费、赡养费、扶养费的父母、子女、配偶等，被人民法院撤销监护人资格后，应当继续履行负担的义务。

第三十八条 被监护人的父母或者子女被人民法院撤销监护人资格后，除对被监护人实施故意犯罪的外，确有悔改表现的，经其申请，人民法院可以在尊重被监护人真实意愿的前提下，视情况恢复其监护人资格，人民法院指定的监护人与被监护人的监护关系同时终止。

第三十九条 有下列情形之一的，监护关系终止：

- (一) 被监护人取得或者恢复完全民事行为能力；
- (二) 监护人丧失监护能力；
- (三) 被监护人或者监护人死亡；
- (四) 人民法院认定监护关系终止的其他情形。

监护关系终止后，被监护人仍然需要监护的，应当依法另行确定监护人。

第三节 宣告失踪和宣告死亡

第四十条 自然人下落不明满二年的，利害关系人可以向人民法院申请宣告该自然人为失踪人。

第四十一条 自然人下落不明的时间自其失去音讯之日起计算。战争期间下落不明的，下落不明的时间自战争结束之日或者有关机关确定的下落不明之日起计算。

第四十二条 失踪人的财产由其配偶、成年子女、父母或者其他愿意担任财产代管人的人代管。

代管有争议，没有前款规定的人，或者前款规定的人无代管能力的，由人民法院指定的人代管。

第四十三条 财产代管人应当妥善管理失踪人的财产，维护其财产权益。

失踪人所欠税款、债务和应付的其他费用，由财产代管人从失踪人的财产中支付。

财产代管人因故意或者重大过失造成失踪人财产损失的，应当承担赔偿责任。

第四十四条 财产代管人不履行代管职责、侵害失踪人财产权益或者丧失代管能力的，失踪人的利害关系人可以向人民法院申请变更财产代管人。

财产代管人有正当理由的，可以向人民法院申请变更财产代管人。

人民法院变更财产代管人的，变更后的财产代管人有权请求原财产代管人及时移交有关财产并报告财产代管情况。

第四十五条 失踪人重新出现，经本人或者利害关系人申请，人民法院应当撤销失踪宣告。

失踪人重新出现，有权请求财产代管人及时移交有关财产并报告财产代管情况。

第四十六条 自然人有下列情形之一的，利害关系人可以向人民法院申请宣告该自然人死亡：

（一）下落不明满四年；

（二）因意外事件，下落不明满二年。

因意外事件下落不明，经有关机关证明该自然人不可能生存的，申请宣告死亡不受二年时间的限制。

第四十七条 对同一自然人，有的利害关系人申请宣告死亡，有的利害关系人申请宣告失踪，符合本法规定的宣告死亡条件的，人民法院应当宣告死亡。

第四十八条 被宣告死亡的人，人民法院宣告死亡的判决作出之日视为其死亡的日期；因意外事件下落不明宣告死亡的，意外事件发生之日视为其死亡的日期。

第四十九条 自然人被宣告死亡但是并未死亡的，不影响该自然人在被宣告死亡期间实施的民事法律行为的效力。

第五十条 被宣告死亡的人重新出现，经本人或者利害关系人申请，人民法院应当撤销死亡宣告。

第五十一条 被宣告死亡的人的婚姻关系，自死亡宣告之日起消除。死亡宣告被撤销的，婚姻关系自撤销死亡宣告之日起自行恢复。但是，其配偶再婚或者向婚姻登记机关书面声明不愿意恢复的除外。

第五十二条 被宣告死亡的人在被宣告死亡期间，其子女被他人依法收养的，在死亡宣告被撤销后，不得以未经本人同意为由主张收养行为无效。

第五十三条 被撤销死亡宣告的人有权请求依照本法第六编取得其财产的民事主体返还财产；无法返还的，应当给予适当补偿。

利害关系人隐瞒真实情况，致使他人被宣告死亡而取得其财产的，除应当返还财产外，还应当对由此造成的损失承担赔偿责任。

第四节 个体工商户和农村承包经营户

第五十四条 自然人从事工商业经营，经依法登记，为个体工商户。个体工商户可以起字号。

第五十五条 农村集体经济组织的成员，依法取得农村土地承包经营权，从事家庭承包经营的，为农村承包经营户。

第五十六条 个体工商户的债务，个人经营的，以个人财产承担；家庭经营的，以家庭财产承担；无法区分的，以家庭财产承担。

农村承包经营户的债务，以从事农村土地承包经营的农户财产承担；事实上由农户部分成员经营的，以该部分成员的财产承担。

第三章 法 人

第一节 一 般 规 定

第五十七条 法人是具有民事权利能力和民事行为能力，依法独立享有

民事权利和承担民事义务的组织。

第五十八条 法人应当依法成立。

法人应当有自己的名称、组织机构、住所、财产或者经费。法人成立的具体条件和程序，依照法律、行政法规的规定。

设立法人，法律、行政法规规定须经有关机关批准的，依照其规定。

第五十九条 法人的民事权利能力和民事行为能力，从法人成立时产生，到法人终止时消灭。

第六十条 法人以其全部财产独立承担民事责任。

第六十一条 依照法律或者法人章程的规定，代表法人从事民事活动的负责人，为法人的法定代表人。

法定代表人以法人名义从事的民事活动，其法律后果由法人承受。

法人章程或者法人权力机构对法定代表人代表权的限制，不得对抗善意相对人。

第六十二条 法定代表人因执行职务造成他人损害的，由法人承担民事责任。

法人承担民事责任后，依照法律或者法人章程的规定，可以向有过错的法定代表人追偿。

第六十三条 法人以其主要办事机构所在地为住所。依法需要办理法人登记的，应当将主要办事机构所在地登记为住所。

第六十四条 法人存续期间登记事项发生变化的，应当依法向登记机关申请变更登记。

第六十五条 法人的实际情况与登记的事项不一致的，不得对抗善意相对人。

第六十六条 登记机关应当依法及时公示法人登记的有关信息。

第六十七条 法人合并的，其权利和义务由合并后的法人享有和承担。

法人分立的，其权利和义务由分立后的法人享有连带债权，承担连带债务，但是债权人和债务人另有约定的除外。

第六十八条 有下列原因之一并依法完成清算、注销登记的，法人终止：

- （一）法人解散；
- （二）法人被宣告破产；
- （三）法律规定的其他原因。

法人终止，法律、行政法规规定须经有关机关批准的，依照其规定。

第六十九条 有下列情形之一的，法人解散：

（一）法人章程规定的存续期间届满或者法人章程规定的其他解散事由出现；

- （二）法人的权力机构决议解散；
- （三）因法人合并或者分立需要解散；
- （四）法人依法被吊销营业执照、登记证书，被责令关闭或者被撤销；
- （五）法律规定的其他情形。

第七十条 法人解散的，除合并或者分立的情形外，清算义务人应当及时组成清算组进行清算。

法人的董事、理事等执行机构或者决策机构的成员为清算义务人。法律、行政法规另有规定的，依照其规定。

清算义务人未及时履行清算义务，造成损害的，应当承担民事责任；主管机关或者利害关系人可以申请人民法院指定有关人员组成清算组进行清算。

第七十一条 法人的清算程序和清算组职权，依照有关法律的规定；没有规定的，参照适用公司法律的有关规定。

第七十二条 清算期间法人存续，但是不得从事与清算无关的活动。

法人清算后的剩余财产，按照法人章程的规定或者法人权力机构的决议处理。法律另有规定的，依照其规定。

清算结束并完成法人注销登记时，法人终止；依法不需要办理法人登记的，清算结束时，法人终止。

第七十三条 法人被宣告破产的，依法进行破产清算并完成法人注销登

记时，法人终止。

第七十四条 法人可以依法设立分支机构。法律、行政法规规定分支机构应当登记的，依照其规定。

分支机构以自己的名义从事民事活动，产生的民事责任由法人承担；也可以先以该分支机构管理的财产承担，不足以承担的，由法人承担。

第七十五条 设立人为设立法人从事的民事活动，其法律后果由法人承受；法人未成立的，其法律后果由设立人承受，设立人为二人以上的，享有连带债权，承担连带债务。

设立人为设立法人以自己的名义从事民事活动产生的民事责任，第三人有权选择请求法人或者设立人承担。

第二节 营 利 法 人

第七十六条 以取得利润并分配给股东等出资人为目的成立的法人，为营利法人。

营利法人包括有限责任公司、股份有限公司和其他企业法人等。

第七十七条 营利法人经依法登记成立。

第七十八条 依法设立的营利法人，由登记机关发给营利法人营业执照。营业执照签发日期为营利法人的成立日期。

第七十九条 设立营利法人应当依法制定法人章程。

第八十条 营利法人应当设权力机构。

权力机构行使修改法人章程，选举或者更换执行机构、监督机构成员，以及法人章程规定的其他职权。

第八十一条 营利法人应当设执行机构。

执行机构行使召集权力机构会议，决定法人的经营计划和投资方案，决定法人内部管理机构设置的，以及法人章程规定的其他职权。

执行机构为董事会或者执行董事的，董事长、执行董事或者经理按照法人章程的规定担任法定代表人；未设董事会或者执行董事的，法人章程规定

的主要负责人为其执行机构和法定代表人。

第八十二条 营利法人设监事会或者监事等监督机构的，监督机构依法行使检查法人财务，监督执行机构成员、高级管理人员执行法人职务的行为，以及法人章程规定的其他职权。

第八十三条 营利法人的出资人不得滥用出资人权利损害法人或者其他出资人的利益；滥用出资人权利造成法人或者其他出资人损失的，应当依法承担民事责任。

营利法人的出资人不得滥用法人独立地位和出资人有限责任损害法人债权人的利益；滥用法人独立地位和出资人有限责任，逃避债务，严重损害法人债权人的利益的，应当对法人债务承担连带责任。

第八十四条 营利法人的控股出资人、实际控制人、董事、监事、高级管理人员不得利用其关联关系损害法人的利益；利用关联关系造成法人损失的，应当承担赔偿责任。

第八十五条 营利法人的权力机构、执行机构作出决议的会议召集程序、表决方式违反法律、行政法规、法人章程，或者决议内容违反法人章程的，营利法人的出资人可以请求人民法院撤销该决议。但是，营利法人依据该决议与善意相对人形成的民事法律关系不受影响。

第八十六条 营利法人从事经营活动，应当遵守商业道德，维护交易安全，接受政府和社会的监督，承担社会责任。

第三节 非 营 利 法 人

第八十七条 为公益目的或者其他非营利目的成立，不向出资人、设立人或者会员分配所取得利润的法人，为非营利法人。

非营利法人包括事业单位、社会团体、基金会、社会服务机构等。

第八十八条 具备法人条件，为适应经济社会发展需要，提供公益服务设立的事业单位，经依法登记成立，取得事业单位法人资格；依法不需要办理法人登记的，从成立之日起，具有事业单位法人资格。

第八十九条 事业单位法人设理事会的，除法律另有规定外，理事会为其决策机构。事业单位法人的法定代表人依照法律、行政法规或者法人章程的规定产生。

第九十条 具备法人条件，基于会员共同意愿，为公益目的或者会员共同利益等非营利目的设立的社会团体，经依法登记成立，取得社会团体法人资格；依法不需要办理法人登记的，从成立之日起，具有社会团体法人资格。

第九十一条 设立社会团体法人应当依法制定法人章程。

社会团体法人应当设会员大会或者会员代表大会等权力机构。

社会团体法人应当设理事会等执行机构。理事长或者会长等负责人按照法人章程的规定担任法定代表人。

第九十二条 具备法人条件，为公益目的以捐助财产设立的基金会、社会服务机构等，经依法登记成立，取得捐助法人资格。

依法设立的宗教活动场所，具备法人条件的，可以申请法人登记，取得捐助法人资格。法律、行政法规对宗教活动场所有规定的，依照其规定。

第九十三条 设立捐助法人应当依法制定法人章程。

捐助法人应当设理事会、民主管理组织等决策机构，并设执行机构。理事长等负责人按照法人章程的规定担任法定代表人。

捐助法人应当设监事会等监督机构。

第九十四条 捐助人有权向捐助法人查询捐助财产的使用、管理情况，并提出意见和建议，捐助法人应当及时、如实答复。

捐助法人的决策机构、执行机构或者法定代表人作出决定的程序违反法律、行政法规、法人章程，或者决定内容违反法人章程的，捐助人等利害关系人或者主管机关可以请求人民法院撤销该决定。但是，捐助法人依据该决定与善意相对人形成的民事法律关系不受影响。

第九十五条 为公益目的成立的非营利法人终止时，不得向出资人、设立人或者会员分配剩余财产。剩余财产应当按照法人章程的规定或者权力机

构的决议用于公益目的；无法按照法人章程的规定或者权力机构的决议处理的，由主管机关主持转给宗旨相同或者相近的法人，并向社会公告。

第四节 特别法人

第九十六条 本节规定的机关法人、农村集体经济组织法人、城镇农村的合作经济组织法人、基层群众性自治组织法人，为特别法人。

第九十七条 有独立经费的机关和承担行政职能的法定机构从成立之日起，具有机关法人资格，可以从事为履行职能所需要的民事活动。

第九十八条 机关法人被撤销的，法人终止，其民事权利和义务由继任的机关法人享有和承担；没有继任的机关法人的，由作出撤销决定的机关法人享有和承担。

第九十九条 农村集体经济组织依法取得法人资格。

法律、行政法规对农村集体经济组织有规定的，依照其规定。

第一百条 城镇农村的合作经济组织依法取得法人资格。

法律、行政法规对城镇农村的合作经济组织有规定的，依照其规定。

第一百零一条 居民委员会、村民委员会具有基层群众性自治组织法人资格，可以从事为履行职能所需要的民事活动。

未设立村集体经济组织的，村民委员会可以依法代行村集体经济组织的职能。

第四章 非法人组织

第一百零二条 非法人组织是不具有法人资格，但是能够依法以自己的名义从事民事活动的组织。

非法人组织包括个人独资企业、合伙企业、不具有法人资格的专业服务机构等。

第一百零三条 非法人组织应当依照法律的规定登记。

设立非法人组织，法律、行政法规规定须经有关机关批准的，依照其规

定。

第一百零四条 非法人组织的财产不足以清偿债务的，其出资人或者设立人承担无限责任。法律另有规定的，依照其规定。

第一百零五条 非法人组织可以确定一人或者数人代表该组织从事民事活动。

第一百零六条 有下列情形之一的，非法人组织解散：

（一）章程规定的存续期间届满或者章程规定的其他解散事由出现；

（二）出资人或者设立人决定解散；

（三）法律规定的其他情形。

第一百零七条 非法人组织解散的，应当依法进行清算。

第一百零八条 非法人组织除适用本章规定外，参照适用本编第三章第一节的相关规定。

第五章 民 事 权 利

第一百零九条 自然人的人身自由、人格尊严受法律保护。

第一百一十条 自然人享有生命权、身体权、健康权、姓名权、肖像权、名誉权、荣誉权、隐私权、婚姻自主权等权利。

法人、非法人组织享有名称权、名誉权和荣誉权。

第一百一十一条 自然人的个人信息受法律保护。任何组织或者个人需要获取他人个人信息的，应当依法取得并确保信息安全，不得非法收集、使用、加工、传输他人个人信息，不得非法买卖、提供或者公开他人个人信息。

第一百一十二条 自然人因婚姻家庭关系等产生的人身权利受法律保护。

第一百一十三条 民事主体的财产权利受法律平等保护。

第一百一十四条 民事主体依法享有物权。

物权是权利人依法对特定的物享有直接支配和排他的权利，包括所有

权、用益物权和担保物权。

第一百一十五条 物包括不动产和动产。法律规定权利作为物权客体的，依照其规定。

第一百一十六条 物权的种类和内容，由法律规定。

第一百一十七条 为了公共利益的需要，依照法律规定的权限和程序征收、征用不动产或者动产的，应当给予公平、合理的补偿。

第一百一十八条 民事主体依法享有债权。

债权是因合同、侵权行为、无因管理、不当得利以及法律的其他规定，权利人请求特定义务人为或者不为一定行为的权利。

第一百一十九条 依法成立的合同，对当事人具有法律约束力。

第一百二十条 民事权益受到侵害的，被侵权人有权请求侵权人承担侵权责任。

第一百二十一条 没有法定的或者约定的义务，为避免他人利益受损失而进行管理的人，有权请求受益人偿还由此支出的必要费用。

第一百二十二条 因他人没有法律根据，取得不当利益，受损失的人有权请求其返还不当利益。

第一百二十三条 民事主体依法享有知识产权。

知识产权是权利人依法就下列客体享有的专有的权利：

- (一) 作品；
- (二) 发明、实用新型、外观设计；
- (三) 商标；
- (四) 地理标志；
- (五) 商业秘密；
- (六) 集成电路布图设计；
- (七) 植物新品种；
- (八) 法律规定的其他客体。

第一百二十四条 自然人依法享有继承权。

自然人合法的私有财产，可以依法继承。

第一百二十五条 民事主体依法享有股权和其他投资性权利。

第一百二十六条 民事主体享有法律规定的其他民事权利和利益。

第一百二十七条 法律对数据、网络虚拟财产的保护有规定的，依照其规定。

第一百二十八条 法律对未成年人、老年人、残疾人、妇女、消费者等的民事权利保护有特别规定的，依照其规定。

第一百二十九条 民事权利可以依据民事法律行为、事实行为、法律规定的事件或者法律规定的其他方式取得。

第一百三十条 民事主体按照自己的意愿依法行使民事权利，不受干涉。

第一百三十一条 民事主体行使权利时，应当履行法律规定的和当事人约定的义务。

第一百三十二条 民事主体不得滥用民事权利损害国家利益、社会公共利益或者他人合法权益。

第六章 民事法律行为

第一节 一般规定

第一百三十三条 民事法律行为是民事主体通过意思表示设立、变更、终止民事法律关系的行为。

第一百三十四条 民事法律行为可以基于双方或者多方的意思表示一致成立，也可以基于单方的意思表示成立。

法人、非法人组织依照法律或者章程规定的议事方式和表决程序作出决议的，该决议行为成立。

第一百三十五条 民事法律行为可以采用书面形式、口头形式或者其他形式；法律、行政法规规定或者当事人约定采用特定形式的，应当采用特定形式。

第一百三十六条 民事法律行为自成立时生效，但是法律另有规定或者当事人另有约定的除外。

行为人非依法律规定或者未经对方同意，不得擅自变更或者解除民事法律行为。

第二节 意思表示

第一百三十七条 以对话方式作出的意思表示，相对人知道其内容时生效。

以非对话方式作出的意思表示，到达相对人时生效。以非对话方式作出的采用数据电文形式的意思表示，相对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时生效；未指定特定系统的，相对人知道或者应当知道该数据电文进入其系统时生效。当事人对采用数据电文形式的意思表示的生效时间另有约定的，按照其约定。

第一百三十八条 无相对人的意思表示，表示完成时生效。法律另有规定的，依照其规定。

第一百三十九条 以公告方式作出的意思表示，公告发布时生效。

第一百四十条 行为人可以明示或者默示作出意思表示。

沉默只有在有法律规定、当事人约定或者符合当事人之间的交易习惯时，才可以视为意思表示。

第一百四十一条 行为人可以撤回意思表示。撤回意思表示的通知应当在意思表示到达相对人前或者与意思表示同时到达相对人。

第一百四十二条 有相对人的意思表示的解释，应当按照所使用的词句，结合相关条款、行为的性质和目的、习惯以及诚信原则，确定意思表示的含义。

无相对人的意思表示的解释，不能完全拘泥于所使用的词句，而应当结合相关条款、行为的性质和目的、习惯以及诚信原则，确定行为人的真实意思。

第三节 民事法律行为的效力

第一百四十三条 具备下列条件的民事法律行为有效：

- (一) 行为人具有相应的民事行为能力；
- (二) 意思表示真实；
- (三) 不违反法律、行政法规的强制性规定，不违背公序良俗。

第一百四十四条 无民事行为能力人实施的民事法律行为无效。

第一百四十五条 限制民事行为能力人实施的纯获利益的民事法律行为或者与其年龄、智力、精神健康状况相适应的民事法律行为有效；实施的其他民事法律行为经法定代理人同意或者追认后有效。

相对人可以催告法定代理人自收到通知之日起三十日内予以追认。法定代理人未作表示的，视为拒绝追认。民事法律行为被追认前，善意相对人有撤销的权利。撤销应当以通知的方式作出。

第一百四十六条 行为人与相对人以虚假的意思表示实施的民事法律行为无效。

以虚假的意思表示隐藏的民事法律行为的效力，依照有关法律规定处理。

第一百四十七条 基于重大误解实施的民事法律行为，行为人有权请求人民法院或者仲裁机构予以撤销。

第一百四十八条 一方以欺诈手段，使对方在违背真实意思的情况下实施的民事法律行为，受欺诈方有权请求人民法院或者仲裁机构予以撤销。

第一百四十九条 第三人实施欺诈行为，使一方在违背真实意思的情况下实施的民事法律行为，对方知道或者应当知道该欺诈行为的，受欺诈方有权请求人民法院或者仲裁机构予以撤销。

第一百五十条 一方或者第三人以胁迫手段，使对方在违背真实意思的情况下实施的民事法律行为，受胁迫方有权请求人民法院或者仲裁机构予以撤销。

第一百五十一条 一方利用对方处于危困状态、缺乏判断能力等情形，致使民事法律行为成立时显失公平的，受损害方有权请求人民法院或者仲裁机构予以撤销。

第一百五十二条 有下列情形之一的，撤销权消灭：

（一）当事人自知道或者应当知道撤销事由之日起一年内、重大误解的当事人自知道或者应当知道撤销事由之日起九十日内没有行使撤销权；

（二）当事人受胁迫，自胁迫行为终止之日起一年内没有行使撤销权；

（三）当事人知道撤销事由后明确表示或者以自己的行为表明放弃撤销权。

当事人自民事法律行为发生之日起五年内没有行使撤销权的，撤销权消灭。

第一百五十三条 违反法律、行政法规的强制性规定的民事法律行为无效。但是，该强制性规定不导致该民事法律行为无效的除外。

违背公序良俗的民事法律行为无效。

第一百五十四条 行为人与相对人恶意串通，损害他人合法权益的民事法律行为无效。

第一百五十五条 无效的或者被撤销的民事法律行为自始没有法律约束力。

第一百五十六条 民事法律行为部分无效，不影响其他部分效力的，其他部分仍然有效。

第一百五十七条 民事法律行为无效、被撤销或者确定不发生效力后，行为人因该行为取得的财产，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由此所受到的损失；各方都有过错的，应当各自承担相应的责任。法律另有规定的，依照其规定。

第四节 民事法律行为的附条件和附期限

第一百五十八条 民事法律行为可以附条件，但是根据其性质不得附条件的除外。附生效条件的民事法律行为，自条件成就时生效。附解除条件的民事法律行为，自条件成就时失效。

第一百五十九条 附条件的民事法律行为，当事人为自己的利益不正当地阻止条件成就的，视为条件已经成就；不正当地促成条件成就的，视为条件不成就。

第一百六十条 民事法律行为可以附期限，但是根据其性质不得附期限的除外。附生效期限的民事法律行为，自期限届至时生效。附终止期限的民事法律行为，自期限届满时失效。

第七章 代 理

第一节 一 般 规 定

第一百六十一条 民事主体可以通过代理人实施民事法律行为。

依照法律规定、当事人约定或者民事法律行为的性质，应当由本人亲自实施的民事法律行为，不得代理。

第一百六十二条 代理人在代理权限内，以被代理人名义实施的民事法律行为，对被代理人发生效力。

第一百六十三条 代理包括委托代理和法定代理。

委托代理人按照被代理人的委托行使代理权。法定代理人依照法律的规定行使代理权。

第一百六十四条 代理人不履行或者不完全履行职责，造成被代理人损害的，应当承担民事责任。

代理人和相对人恶意串通，损害被代理人合法权益的，代理人和相对人应当承担连带责任。

第二节 委 托 代 理

第一百六十五条 委托代理授权采用书面形式的，授权委托书应当载明代理人的姓名或者名称、代理事项、权限和期限，并由被代理人签名或者盖章。

第一百六十六条 数人为同一代理事项的代理人的，应当共同行使代理

权，但是当事人另有约定的除外。

第一百六十七条 代理人知道或者应当知道代理事项违法仍然实施代理行为，或者被代理人知道或者应当知道代理人的代理行为违法未作反对表示的，被代理人和代理人应当承担连带责任。

第一百六十八条 代理人不得以被代理人的名义与自己实施民事法律行为，但是被代理人同意或者追认的除外。

代理人不得以被代理人的名义与自己同时代理的其他人实施民事法律行为，但是被代理的双方同意或者追认的除外。

第一百六十九条 代理人需要转委托第三人代理的，应当取得被代理人的同意或者追认。

转委托代理经被代理人同意或者追认的，被代理人可以就代理事务直接指示转委托的第三人，代理人仅就第三人的选任以及对第三人的指示承担责任。

转委托代理未经被代理人同意或者追认的，代理人应当对转委托的第三人的行为承担责任；但是，在紧急情况下代理人为了维护被代理人的利益需要转委托第三人代理的除外。

第一百七十条 执行法人或者非法人组织工作任务的人员，就其职权范围内的事项，以法人或者非法人组织的名义实施的民事法律行为，对法人或者非法人组织发生效力。

法人或者非法人组织对执行其工作任务的人员职权范围的限制，不得对抗善意相对人。

第一百七十一条 行为人没有代理权、超越代理权或者代理权终止后，仍然实施代理行为，未经被代理人追认的，对被代理人不发生效力。

相对人可以催告被代理人自收到通知之日起三十日内予以追认。被代理人未作表示的，视为拒绝追认。行为人实施的行为被追认前，善意相对人有撤销的权利。撤销应当以通知的方式作出。

行为人实施的行为未被追认的，善意相对人有权请求行为人履行债务或

者就其受到的损害请求行为人赔偿。但是，赔偿的范围不得超过被代理人追认时相对人所能获得的利益。

相对人知道或者应当知道行为人无权代理的，相对人和行为人按照各自的过错承担责任。

第一百七十二条 行为人没有代理权、超越代理权或者代理权终止后，仍然实施代理行为，相对人有理由相信行为人有代理权的，代理行为有效。

第三节 代 理 终 止

第一百七十三条 有下列情形之一的，委托代理终止：

- （一）代理期限届满或者代理事务完成；
- （二）被代理人取消委托或者代理人辞去委托；
- （三）代理人丧失民事行为能力；
- （四）代理人或者被代理人死亡；
- （五）作为代理人或者被代理人的法人、非法人组织终止。

第一百七十四条 被代理人死亡后，有下列情形之一的，委托代理人实施的代理行为有效：

- （一）代理人不知道且不应当知道被代理人死亡；
 - （二）被代理人的继承人予以承认；
 - （三）授权中明确代理权在代理事务完成时终止；
 - （四）被代理人死亡前已经实施，为了被代理人的继承人的利益继续代理。
- 作为被代理人的法人、非法人组织终止的，参照适用前款规定。

第一百七十五条 有下列情形之一的，法定代理终止：

- （一）被代理人取得或者恢复完全民事行为能力；
- （二）代理人丧失民事行为能力；
- （三）代理人或者被代理人死亡；
- （四）法律规定的其他情形。

第八章 民 事 责 任

第一百七十六条 民事主体依照法律规定或者按照当事人约定，履行民事义务，承担民事责任。

第一百七十七条 二人以上依法承担按份责任，能够确定责任大小的，各自承担相应的责任；难以确定责任大小的，平均承担责任。

第一百七十八条 二人以上依法承担连带责任的，权利人有权请求部分或者全部连带责任人承担责任。

连带责任人的责任份额根据各自责任大小确定；难以确定责任大小的，平均承担责任。实际承担责任超过自己责任份额的连带责任人，有权向其他连带责任人追偿。

连带责任，由法律规定或者当事人约定。

第一百七十九条 承担民事责任的方式主要有：

- (一) 停止侵害；
- (二) 排除妨碍；
- (三) 消除危险；
- (四) 返还财产；
- (五) 恢复原状；
- (六) 修理、重作、更换；
- (七) 继续履行；
- (八) 赔偿损失；
- (九) 支付违约金；
- (十) 消除影响、恢复名誉；
- (十一) 赔礼道歉。

法律规定惩罚性赔偿的，依照其规定。

本条规定的承担民事责任的方式，可以单独适用，也可以合并适用。

第一百八十条 因不可抗力不能履行民事义务的，不承担民事责任。法

律另有规定的，依照其规定。

不可抗力是不能预见、不能避免且不能克服的客观情况。

第一百八十一条 因正当防卫造成损害的，不承担民事责任。

正当防卫超过必要的限度，造成不应有的损害的，正当防卫人应当承担适当的民事责任。

第一百八十二条 因紧急避险造成损害的，由引起险情发生的人承担民事责任。

危险由自然原因引起的，紧急避险人不承担民事责任，可以给予适当补偿。

紧急避险采取措施不当或者超过必要的限度，造成不应有的损害的，紧急避险人应当承担适当的民事责任。

第一百八十三条 因保护他人民事权益使自己受到损害的，由侵权人承担民事责任，受益人可以给予适当补偿。没有侵权人、侵权人逃逸或者无力承担民事责任，受害人请求补偿的，受益人应当给予适当补偿。

第一百八十四条 因自愿实施紧急救助行为造成受助人损害的，救助人不承担民事责任。

第一百八十五条 侵害英雄烈士等的姓名、肖像、名誉、荣誉，损害社会公共利益的，应当承担民事责任。

第一百八十六条 因当事人一方的违约行为，损害对方人身权益、财产权益的，受损害方有权选择请求其承担违约责任或者侵权责任。

第一百八十七条 民事主体因同一行为应当承担民事责任、行政责任和刑事责任的，承担行政责任或者刑事责任不影响承担民事责任；民事主体的财产不足以支付的，优先用于承担民事责任。

第九章 诉 讼 时 效

第一百八十八条 向人民法院请求保护民事权利的诉讼时效期间为三年。法律另有规定的，依照其规定。

诉讼时效期间自权利人知道或者应当知道权利受到损害以及义务人之日起计算。法律另有规定的，依照其规定。但是，自权利受到损害之日起超过二十年的，人民法院不予保护，有特殊情况的，人民法院可以根据权利人的申请决定延长。

第一百八十九条 当事人约定同一债务分期履行的，诉讼时效期间自最后一期履行期限届满之日起计算。

第一百九十条 无民事行为能力人或者限制民事行为能力人对其法定代理人的请求权的诉讼时效期间，自该法定代理终止之日起计算。

第一百九十一条 未成年人遭受性侵害的损害赔偿请求权的诉讼时效期间，自受害人年满十八周岁之日起计算。

第一百九十二条 诉讼时效期间届满的，义务人可以提出不履行义务的抗辩。

诉讼时效期间届满后，义务人同意履行的，不得以诉讼时效期间届满为由抗辩；义务人已经自愿履行的，不得请求返还。

第一百九十三条 人民法院不得主动适用诉讼时效的规定。

第一百九十四条 在诉讼时效期间的最后六个月内，因下列障碍，不能行使请求权的，诉讼时效中止：

（一）不可抗力；

（二）无民事行为能力人或者限制民事行为能力人没有法定代理人，或者法定代理人死亡、丧失民事行为能力、丧失代理权；

（三）继承开始后未确定继承人或者遗产管理人；

（四）权利人被义务人或者其他人控制；

（五）其他导致权利人不能行使请求权的障碍。

自中止时效的原因消除之日起满六个月，诉讼时效期间届满。

第一百九十五条 有下列情形之一的，诉讼时效中断，从中断、有关程序终结时起，诉讼时效期间重新计算：

（一）权利人向义务人提出履行请求；

- (二) 义务人同意履行义务；
- (三) 权利人提起诉讼或者申请仲裁；
- (四) 与提起诉讼或者申请仲裁具有同等效力的其他情形。

第一百九十六条 下列请求权不适用诉讼时效的规定：

- (一) 请求停止侵害、排除妨碍、消除危险；
- (二) 不动产物权和登记的动产物权的权利人请求返还财产；
- (三) 请求支付抚养费、赡养费或者扶养费；
- (四) 依法不适用诉讼时效的其他请求权。

第一百九十七条 诉讼时效的期间、计算方法以及中止、中断的事由由法律规定，当事人约定无效。

当事人对诉讼时效利益的预先放弃无效。

第一百九十八条 法律对仲裁时效有规定的，依照其规定；没有规定的，适用诉讼时效的规定。

第一百九十九条 法律规定或者当事人约定的撤销权、解除权等权利的存续期间，除法律另有规定外，自权利人知道或者应当知道权利产生之日起计算，不适用有关诉讼时效中止、中断和延长的规定。存续期间届满，撤销权、解除权等权利消灭。

第十章 期 间 计 算

第二百条 民法所称的期间按照公历年、月、日、小时计算。

第二百零一条 按照年、月、日计算期间的，开始的当日不计入，自下一日开始计算。

按照小时计算期间的，自法律规定或者当事人约定的时间开始计算。

第二百零二条 按照年、月计算期间的，到期月的对应日为期间的最后一日；没有对应日的，月末日为期间的最后一日。

第二百零三条 期间的最后一日是法定节假日的，以法定节假日结束的次日为期间的最后一日。

期间的最后一日的截止时间为二十四时；有业务时间的，停止业务活动的时间为截止时间。

第二百零四条 期间的计算方法依照本法的规定，但是法律另有规定或者当事人另有约定的除外。

第二编 物 权

第一分编 通 则

第一章 一 般 规 定

第二百零五条 本编调整因物的归属和利用产生的民事关系。

第二百零六条 国家坚持和完善公有制为主体、多种所有制经济共同发展，按劳分配为主体、多种分配方式并存，社会主义市场经济体制等社会主义基本经济制度。

国家巩固和发展公有制经济，鼓励、支持和引导非公有制经济的发展。

国家实行社会主义市场经济，保障一切市场主体的平等法律地位和发展权利。

第二百零七条 国家、集体、私人的物权和其他权利人的物权受法律平等保护，任何组织或者个人不得侵犯。

第二百零八条 不动产物权的设立、变更、转让和消灭，应当依照法律规定登记。动产物权的设立和转让，应当依照法律规定交付。

第二章 物权的设立、变更、转让和消灭

第一节 不动产权登记

第二百零九条 不动产物权的设立、变更、转让和消灭，经依法登记，发生效力；未经登记，不发生效力，但是法律另有规定的除外。

依法属于国家所有的自然资源，所有权可以不登记。

第二百一十条 不动产登记，由不动产所在地的登记机构办理。

国家对不动产实行统一登记制度。统一登记的范围、登记机构和登记办法，由法律、行政法规规定。

第二百一十一条 当事人申请登记，应当根据不同登记事项提供权属证明和不动产界址、面积等必要材料。

第二百一十二条 登记机构应当履行下列职责：

- (一) 查验申请人提供的权属证明和其他必要材料；
- (二) 就有关登记事项询问申请人；
- (三) 如实、及时登记有关事项；
- (四) 法律、行政法规规定的其他职责。

申请登记的不动产的有关情况需要进一步证明的，登记机构可以要求申请人补充材料，必要时可以实地查看。

第二百一十三条 登记机构不得有下列行为：

- (一) 要求对不动产进行评估；
- (二) 以年检等名义进行重复登记；
- (三) 超出登记职责范围的其他行为。

第二百一十四条 不动产物权的设立、变更、转让和消灭，依照法律规定应当登记的，自记载于不动产登记簿时发生效力。

第二百一十五条 当事人之间订立有关设立、变更、转让和消灭不动产物权的合同，除法律另有规定或者当事人另有约定外，自合同成立时生效；未办理物权登记的，不影响合同效力。

第二百一十六条 不动产登记簿是物权归属和内容的根据。

不动产登记簿由登记机构管理。

第二百一十七条 不动产权属证书是权利人享有该不动产物权的证明。不动产权属证书记载的事项，应当与不动产登记簿一致；记载不一致的，除有证据证明不动产登记簿确有错误外，以不动产登记簿为准。

第二百一十八条 权利人、利害关系人可以申请查询、复制不动产登记资料，登记机构应当提供。

第二百一十九条 利害关系人不得公开、非法使用权利人的不动产登记资料。

第二百二十条 权利人、利害关系人认为不动产登记簿记载的事项错误的，可以申请更正登记。不动产登记簿记载的权利人书面同意更正或者有证据证明登记确有错误的，登记机构应当予以更正。

不动产登记簿记载的权利人不同意更正的，利害关系人可以申请异议登记。登记机构予以异议登记，申请人自异议登记之日起十五日内不提起诉讼的，异议登记失效。异议登记不当，造成权利人损害的，权利人可以向申请人请求损害赔偿。

第二百二十一条 当事人签订买卖房屋的协议或者签订其他不动产物权的协议，为保障将来实现物权，按照约定可以向登记机构申请预告登记。预告登记后，未经预告登记的权利人同意，处分该不动产的，不发生物权效力。

预告登记后，债权消灭或者自能够进行不动产登记之日起九十日内未申请登记的，预告登记失效。

第二百二十二条 当事人提供虚假材料申请登记，造成他人损害的，应当承担赔偿责任。

因登记错误，造成他人损害的，登记机构应当承担赔偿责任。登记机构赔偿后，可以向造成登记错误的人追偿。

第二百二十三条 不动产登记费按件收取，不得按照不动产的面积、体积或者价款的比例收取。

第二节 动 产 交 付

第二百二十四条 动产物权的设立和转让，自交付时发生效力，但是法律另有规定的除外。

第二百二十五条 船舶、航空器和机动车等的物权的设立、变更、转让和消灭，未经登记，不得对抗善意第三人。

第二百二十六条 动产物权设立和转让前，权利人已经占有该动产的，物权自民事法律行为生效时发生效力。

第二百二十七条 动产物权设立和转让前，第三人占有该动产的，负有交付义务的人可以通过转让请求第三人返还原物的权利代替交付。

第二百二十八条 动产物权转让时，当事人又约定由出让人继续占有该动产的，物权自该约定生效时发生效力。

第三节 其 他 规 定

第二百二十九条 因人民法院、仲裁机构的法律文书或者人民政府的征收决定等，导致物权设立、变更、转让或者消灭的，自法律文书或者征收决定等生效时发生效力。

第二百三十条 因继承取得物权的，自继承开始时发生效力。

第二百三十一条 因合法建造、拆除房屋等事实行为设立或者消灭物权的，自事实行为成就时发生效力。

第二百三十二条 处分依照本节规定享有的不动产物权，依照法律规定需要办理登记的，未经登记，不生物权效力。

第三章 物 权 的 保 护

第二百三十三条 物权受到侵害的，权利人可以通过和解、调解、仲裁、诉讼等途径解决。

第二百三十四条 因物权的归属、内容发生争议的，利害关系人可以请求确认权利。

第二百三十五条 无权占有不动产或者动产的，权利人可以请求返还原物。

第二百三十六条 妨害物权或者可能妨害物权的，权利人可以请求排除妨害或者消除危险。

第二百三十七条 造成不动产或者动产毁损的，权利人可以依法请求修

理、重作、更换或者恢复原状。

第二百三十八条 侵害物权，造成权利人损害的，权利人可以依法请求损害赔偿，也可以依法请求承担其他民事责任。

第二百三十九条 本章规定的物权保护方式，可以单独适用，也可以根据权利被侵害的情形合并适用。

第二分编 所 有 权

第四章 一 般 规 定

第二百四十条 所有权人对自己的不动产或者动产，依法享有占有、使用、收益和处分的权利。

第二百四十一条 所有权人有权在自己的不动产或者动产上设立用益物权和担保物权。用益物权人、担保物权人行使权利，不得损害所有权人的权益。

第二百四十二条 法律规定专属于国家所有的不动产和动产，任何组织或者个人不能取得所有权。

第二百四十三条 为了公共利益的需要，依照法律规定的权限和程序可以征收集体所有的土地和组织、个人的房屋以及其他不动产。

征收集体所有的土地，应当依法及时足额支付土地补偿费、安置补助费以及农村村民住宅、其他地上附着物和青苗等的补偿费用，并安排被征地农民的社会保障费用，保障被征地农民的生活，维护被征地农民的合法权益。

征收组织、个人的房屋以及其他不动产，应当依法给予征收补偿，维护被征收人的合法权益；征收个人住宅的，还应当保障被征收人的居住条件。

任何组织或者个人不得贪污、挪用、私分、截留、拖欠征收补偿费等费用。

第二百四十四条 国家对耕地实行特殊保护，严格限制农用地转为建设用地，控制建设用地总量。不得违反法律规定的权限和程序征收集体所有的土地。

第二百四十五条 因抢险救灾、疫情防控等紧急需要，依照法律规定的权限和程序可以征用组织、个人的不动产或者动产。被征用的不动产或者动产使用后，应当返还被征用人。组织、个人的不动产或者动产被征用或者征用后毁损、灭失的，应当给予补偿。

第五章 国家所有权和集体所有权、私人所有权

第二百四十六条 法律规定属于国家所有的财产，属于国家所有即全民所有。

国有财产由国务院代表国家行使所有权。法律另有规定的，依照其规定。

第二百四十七条 矿藏、水流、海域属于国家所有。

第二百四十八条 无居民海岛属于国家所有，国务院代表国家行使无居民海岛所有权。

第二百四十九条 城市的土地，属于国家所有。法律规定属于国家所有的农村和城市郊区的土地，属于国家所有。

第二百五十条 森林、山岭、草原、荒地、滩涂等自然资源，属于国家所有，但是法律规定属于集体所有的除外。

第二百五十一条 法律规定属于国家所有的野生动植物资源，属于国家所有。

第二百五十二条 无线电频谱资源属于国家所有。

第二百五十三条 法律规定属于国家所有的文物，属于国家所有。

第二百五十四条 国防资产属于国家所有。

铁路、公路、电力设施、电信设施和油气管道等基础设施，依照法律规定为国家所有的，属于国家所有。

第二百五十五条 国家机关对其直接支配的不动产和动产，享有占有、使用以及依照法律和国务院的有关规定处分的权利。

第二百五十六条 国家举办的事业单位对其直接支配的不动产和动产，

享有占有、使用以及依照法律和国务院的有关规定收益、处分的权利。

第二百五十七条 国家出资的企业，由国务院、地方人民政府依照法律、行政法规规定分别代表国家履行出资人职责，享有出资人权益。

第二百五十八条 国家所有的财产受法律保护，禁止任何组织或者个人侵占、哄抢、私分、截留、破坏。

第二百五十九条 履行国有财产管理、监督职责的机构及其工作人员，应当依法加强对国有财产的管理、监督，促进国有财产保值增值，防止国有财产损失；滥用职权，玩忽职守，造成国有财产损失的，应当依法承担法律责任。

违反国有财产管理规定，在企业改制、合并分立、关联交易等过程中，低价转让、合谋私分、擅自担保或者以其他方式造成国有财产损失的，应当依法承担法律责任。

第二百六十条 集体所有的不动产和动产包括：

- （一）法律规定属于集体所有的土地和森林、山岭、草原、荒地、滩涂；
- （二）集体所有的建筑物、生产设施、农田水利设施；
- （三）集体所有的教育、科学、文化、卫生、体育等设施；
- （四）集体所有的其他不动产和动产。

第二百六十一条 农民集体所有的不动产和动产，属于本集体成员集体所有。

下列事项应当依照法定程序经本集体成员决定：

- （一）土地承包方案以及将土地发包给本集体以外的组织或者个人承包；
- （二）个别土地承包经营权人之间承包地的调整；
- （三）土地补偿费等费用的使用、分配办法；
- （四）集体出资的企业的所有权变动等事项；
- （五）规定的其他事项。

第二百六十二条 对于集体所有的土地和森林、山岭、草原、荒地、滩涂等，依照下列规定行使所有权：

(一) 属于村农民集体所有的，由村集体经济组织或者村民委员会依法代表集体行使所有权；

(二) 分别属于村内两个以上农民集体所有的，由村内各该集体经济组织或者村民小组依法代表集体行使所有权；

(三) 属于乡镇农民集体所有的，由乡镇集体经济组织代表集体行使所有权。

第二百六十三条 城镇集体所有的不动产和动产，依照法律、行政法规的规定由本集体享有占有、使用、收益和处分的权利。

第二百六十四条 农村集体经济组织或者村民委员会、村民小组应当依照法律、行政法规以及章程、村规民约向本集体成员公布集体财产的状况。集体成员有权查阅、复制相关资料。

第二百六十五条 集体所有的财产受法律保护，禁止任何组织或者个人侵占、哄抢、私分、破坏。

农村集体经济组织、村民委员会或者其负责人作出的决定侵害集体成员合法权益的，受侵害的集体成员可以请求人民法院予以撤销。

第二百六十六条 私人对其合法的收入、房屋、生活用品、生产工具、原材料等不动产和动产享有所有权。

第二百六十七条 私人的合法财产受法律保护，禁止任何组织或者个人侵占、哄抢、破坏。

第二百六十八条 国家、集体和私人依法可以出资设立有限责任公司、股份有限公司或者其他企业。国家、集体和私人所有的不动产或者动产投到企业的，由出资人按照约定或者出资比例享有资产收益、重大决策以及选择经营管理者等权利并履行义务。

第二百六十九条 营利法人对其不动产和动产依照法律、行政法规以及章程享有占有、使用、收益和处分的权利。

营利法人以外的法人，对其不动产和动产的权利，适用有关法律、行政法规以及章程的规定。

第二百七十条 社会团体法人、捐助法人依法所有的不动产和动产，受法律保护。

第六章 业主的建筑物区分所有权

第二百七十一条 业主对建筑物内的住宅、经营性用房等专有部分享有所有权，对专有部分以外的共有部分享有共有和共同管理的权利。

第二百七十二条 业主对其建筑物专有部分享有占有、使用、收益和处分的权利。业主行使权利不得危及建筑物的安全，不得损害其他业主的合法权益。

第二百七十三条 业主对建筑物专有部分以外的共有部分，享有权利，承担义务；不得以放弃权利为由不履行义务。

业主转让建筑物内的住宅、经营性用房，其对共有部分享有的共有和共同管理的权利一并转让。

第二百七十四条 建筑区划内的道路，属于业主共有，但是属于城镇公共道路的除外。建筑区划内的绿地，属于业主共有，但是属于城镇公共绿地或者明示属于个人的除外。建筑区划内的其他公共场所、公用设施和物业服务用房，属于业主共有。

第二百七十五条 建筑区划内，规划用于停放汽车的车位、车库的归属，由当事人通过出售、附赠或者出租等方式约定。

占用业主共有的道路或者其他场地用于停放汽车的车位，属于业主共有。

第二百七十六条 建筑区划内，规划用于停放汽车的车位、车库应当首先满足业主的需要。

第二百七十七条 业主可以设立业主大会，选举业主委员会。业主大会、业主委员会成立的具体条件和程序，依照法律、法规的规定。

地方人民政府有关部门、居民委员会应当对设立业主大会和选举业主委员会给予指导和协助。

第二百七十八条 下列事项由业主共同决定：

- (一) 制定和修改业主大会议事规则；
- (二) 制定和修改管理规约；
- (三) 选举业主委员会或者更换业主委员会成员；
- (四) 选聘和解聘物业服务企业或者其他管理人；
- (五) 使用建筑物及其附属设施的维修资金；
- (六) 筹集建筑物及其附属设施的维修资金；
- (七) 改建、重建建筑物及其附属设施；
- (八) 改变共有部分的用途或者利用共有部分从事经营活动；
- (九) 有关共有和共同管理权利的其他重大事项。

业主共同决定事项，应当由专有部分面积占比三分之二以上的业主且人数占比三分之二以上的业主参与表决。决定前款第六项至第八项规定的事项，应当经参与表决专有部分面积四分之三以上的业主且参与表决人数四分之三以上的业主同意。决定前款其他事项，应当经参与表决专有部分面积过半数的业主且参与表决人数过半数的业主同意。

第二百七十九条 业主不得违反法律、法规以及管理规约，将住宅改变为经营性用房。业主将住宅改变为经营性用房的，除遵守法律、法规以及管理规约外，应当经有利害关系的业主一致同意。

第二百八十条 业主大会或者业主委员会的决定，对业主具有法律约束力。

业主大会或者业主委员会作出的决定侵害业主合法权益的，受侵害的业主可以请求人民法院予以撤销。

第二百八十一条 建筑物及其附属设施的维修资金，属于业主共有。经业主共同决定，可以用于电梯、屋顶、外墙、无障碍设施等共有部分的维修、更新和改造。建筑物及其附属设施的维修资金的筹集、使用情况应当定期公布。

紧急情况下需要维修建筑物及其附属设施的，业主大会或者业主委员会可以依法申请使用建筑物及其附属设施的维修资金。

第二百八十二条 建设单位、物业服务企业或者其他管理人等利用业主的共有部分产生的收入，在扣除合理成本之后，属于业主共有。

第二百八十三条 建筑物及其附属设施的费用分摊、收益分配等事项，有约定的，按照约定；没有约定或者约定不明确的，按照业主专有部分面积所占比例确定。

第二百八十四条 业主可以自行管理建筑物及其附属设施，也可以委托物业服务企业或者其他管理人管理。

对建设单位聘请的物业服务企业或者其他管理人，业主有权依法更换。

第二百八十五条 物业服务企业或者其他管理人根据业主的委托，依照本法第三编有关物业服务合同的规定管理建筑区划内的建筑物及其附属设施，接受业主的监督，并及时答复业主对物业服务情况提出的询问。

物业服务企业或者其他管理人应当执行政府依法实施的应急处置措施和其他管理措施，积极配合开展相关工作。

第二百八十六条 业主应当遵守法律、法规以及管理规约，相关行为应当符合节约资源、保护生态环境的要求。对于物业服务企业或者其他管理人执行政府依法实施的应急处置措施和其他管理措施，业主应当依法予以配合。

业主大会或者业主委员会，对任意弃置垃圾、排放污染物或者噪声、违反规定饲养动物、违章搭建、侵占通道、拒付物业费等损害他人合法权益的行为，有权依照法律、法规以及管理规约，请求行为人停止侵害、排除妨碍、消除危险、恢复原状、赔偿损失。

业主或者其他行为人拒不履行相关义务的，有关当事人可以向有关行政主管部门报告或者投诉，有关行政主管部门应当依法处理。

第二百八十七条 业主对建设单位、物业服务企业或者其他管理人以及其他业主侵害自己合法权益的行为，有权请求其承担民事责任。

第七章 相 邻 关 系

第二百八十八条 不动产的相邻权利人应当按照有利生产、方便生活、

团结互助、公平合理的原则，正确处理相邻关系。

第二百八十九条 法律、法规对处理相邻关系有规定的，依照其规定；法律、法规没有规定的，可以按照当地习惯。

第二百九十条 不动产权利人应当为相邻权利人用水、排水提供必要的便利。

对自然流水的利用，应当在不动产的相邻权利人之间合理分配。对自然流水的排放，应当尊重自然流向。

第二百九十一条 不动产权利人对相邻权利人因通行等必须利用其土地的，应当提供必要的便利。

第二百九十二条 不动产权利人因建造、修缮建筑物以及铺设电线、电缆、水管、暖气和燃气管线等必须利用相邻土地、建筑物的，该土地、建筑物的权利人应当提供必要的便利。

第二百九十三条 建造建筑物，不得违反国家有关工程建设标准，不得妨碍相邻建筑物的通风、采光和日照。

第二百九十四条 不动产权利人不得违反国家规定弃置固体废物，排放大气污染物、水污染物、土壤污染物、噪声、光辐射、电磁辐射等有害物质。

第二百九十五条 不动产权利人挖掘土地、建造建筑物、铺设管线以及安装设备等，不得危及相邻不动产的安全。

第二百九十六条 不动产权利人因用水、排水、通行、铺设管线等利用相邻不动产的，应当尽量避免对相邻的不动产权利人造成损害。

第八章 共 有

第二百九十七条 不动产或者动产可以由两个以上组织、个人共有。共有包括按份共有和共同共有。

第二百九十八条 按份共有人对共有的不动产或者动产按照其份额享有所有权。

第二百九十九条 共同共有人对共有的不动产或者动产共同享有所有

权。

第三百条 共有人按照约定管理共有的不动产或者动产；没有约定或者约定不明确的，各共有人都有管理的权利和义务。

第三百零一条 处分共有的不动产或者动产以及对共有的不动产或者动产作重大修缮、变更性质或者用途的，应当经占份额三分之二以上的按份共有人或者全体共同共有人同意，但是共有人之间另有约定的除外。

第三百零二条 共有人对共有物的管理费用以及其他负担，有约定的，按照其约定；没有约定或者约定不明确的，按份共有人按照其份额负担，共同共有人共同负担。

第三百零三条 共有人约定不得分割共有的不动产或者动产，以维持共有关系的，应当按照约定，但是共有人有重大理由需要分割的，可以请求分割；没有约定或者约定不明确的，按份共有人可以随时请求分割，共同共有人在共有的基础丧失或者有重大理由需要分割时可以请求分割。因分割造成其他共有人损害的，应当给予赔偿。

第三百零四条 共有人可以协商确定分割方式。达不成协议，共有的不动产或者动产可以分割且不会因分割减损价值的，应当对实物予以分割；难以分割或者因分割会减损价值的，应当对折价或者拍卖、变卖取得的价款予以分割。

共有人分割所得的不动产或者动产有瑕疵的，其他共有人应当分担损失。

第三百零五条 按份共有人可以转让其享有的共有的不动产或者动产份额。其他共有人在同等条件下享有优先购买的权利。

第三百零六条 按份共有人转让其享有的共有的不动产或者动产份额的，应当将转让条件及时通知其他共有人。其他共有人应当在合理期限内行使优先购买权。

两个以上其他共有人主张行使优先购买权的，协商确定各自的购买比例；协商不成的，按照转让时各自的共有份额比例行使优先购买权。

第三百零七条 因共有的不动产或者动产产生的债权债务，在对外关系上，共有人享有连带债权、承担连带债务，但是法律另有规定或者第三人知道共有人不具有连带债权债务关系的除外；在共有人内部关系上，除共有人另有约定外，按份共有人按照份额享有债权、承担债务，共同共有人共同享有债权、承担债务。偿还债务超过自己应当承担份额的按份共有人，有权向其他共有人追偿。

第三百零八条 共有人对共有的不动产或者动产没有约定为按份共有或者共同共有，或者约定不明确的，除共有人具有家庭关系等外，视为按份共有。

第三百零九条 按份共有人对共有的不动产或者动产享有的份额，没有约定或者约定不明确的，按照出资额确定；不能确定出资额的，视为等额享有。

第三百一十条 两个以上组织、个人共同享有用益物权、担保物权的，参照适用本章的有关规定。

第九章 所有权取得的特别规定

第三百一十一条 无处分权人将不动产或者动产转让给受让人的，所有权人有权追回；除法律另有规定外，符合下列情形的，受让人取得该不动产或者动产的所有权：

（一）受让人受让该不动产或者动产时是善意；

（二）以合理的价格转让；

（三）转让的不动产或者动产依照法律规定应当登记的已经登记，不需要登记的已经交付给受让人。

受让人依据前款规定取得不动产或者动产的所有权的，原所有权人有权向无处分权人请求损害赔偿。

当事人善意取得其他物权的，参照适用前两款规定。

第三百一十二条 所有权人或者其他权利人有权追回遗失物。该遗失物

通过转让被他人占有的，权利人有权向无处分权人请求损害赔偿，或者自知道或者应当知道受让人之日起二年内向受让人请求返还原物；但是，受让人通过拍卖或者向具有经营资格的经营者购得该遗失物的，权利人请求返还原物时应当支付受让人所付的费用。权利人向受让人支付所付费用后，有权向无处分权人追偿。

第三百一十三条 善意受让人取得动产后，该动产上的原有权利消灭。但是，善意受让人在受让时知道或者应当知道该权利的除外。

第三百一十四条 拾得遗失物，应当返还权利人。拾得人应当及时通知权利人领取，或者送交公安等有关部门。

第三百一十五条 有关部门收到遗失物，知道权利人的，应当及时通知其领取；不知道的，应当及时发布招领公告。

第三百一十六条 拾得人在遗失物送交有关部门前，有关部门在遗失物被领取前，应当妥善保管遗失物。因故意或者重大过失致使遗失物毁损、灭失的，应当承担民事责任。

第三百一十七条 权利人领取遗失物时，应当向拾得人或者有关部门支付保管遗失物等支出的必要费用。

权利人悬赏寻找遗失物的，领取遗失物时应当按照承诺履行义务。

拾得人侵占遗失物的，无权请求保管遗失物等支出的费用，也无权请求权利人按照承诺履行义务。

第三百一十八条 遗失物自发布招领公告之日起一年内无人认领的，归国家所有。

第三百一十九条 拾得漂流物、发现埋藏物或者隐藏物的，参照适用拾得遗失物的有关规定。法律另有规定的，依照其规定。

第三百二十条 主物转让的，从物随主物转让，但是当事人另有约定的除外。

第三百二十一条 天然孳息，由所有权人取得；既有所有权人又有用益物权人的，由用益物权人取得。当事人另有约定的，按照其约定。

法定孳息，当事人有约定的，按照约定取得；没有约定或者约定不明确的，按照交易习惯取得。

第三百二十二条 因加工、附合、混合而产生的物的归属，有约定的，按照约定；没有约定或者约定不明确的，依照法律规定；法律没有规定的，按照充分发挥物的效用以及保护无过错当事人的原则确定。因一方当事人的过错或者确定物的归属造成另一方当事人损害的，应当给予赔偿或者补偿。

第三分编 用 益 物 权

第十章 一 般 规 定

第三百二十三条 用益物权人对他人所有的不动产或者动产，依法享有占有、使用和收益的权利。

第三百二十四条 国家所有或者国家所有由集体使用以及法律规定属于集体所有的自然资源，组织、个人依法可以占有、使用和收益。

第三百二十五条 国家实行自然资源有偿使用制度，但是法律另有规定的除外。

第三百二十六条 用益物权人行使权利，应当遵守法律有关保护和合理开发利用资源、保护生态环境的规定。所有权人不得干涉用益物权人行使权利。

第三百二十七条 因不动产或者动产被征收、征用致使用益物权消灭或者影响用益物权行使的，用益物权人有权依据本法第二百四十三条、第二百四十五条的规定获得相应补偿。

第三百二十八条 依法取得的海域使用权受法律保护。

第三百二十九条 依法取得的探矿权、采矿权、取水权和使用水域、滩涂从事养殖、捕捞的权利受法律保护。

第十一章 土地 承 包 经 营 权

第三百三十条 农村集体经济组织实行家庭承包经营为基础、统分结合的双层经营体制。

农民集体所有和国家所有由农民集体使用的耕地、林地、草地以及其他用于农业的土地，依法实行土地承包经营制度。

第三百三十一条 土地承包经营权人依法对其承包经营的耕地、林地、草地等享有占有、使用和收益的权利，有权从事种植业、林业、畜牧业等农业生产。

第三百三十二条 耕地的承包期为三十年。草地的承包期为三十年至五十年。林地的承包期为三十年至七十年。

前款规定的承包期限届满，由土地承包经营权人依照农村土地承包的法律规定继续承包。

第三百三十三条 土地承包经营权自土地承包经营权合同生效时设立。登记机构应当向土地承包经营权人发放土地承包经营权证、林权证等证书，并登记造册，确认土地承包经营权。

第三百三十四条 土地承包经营权人依照法律规定，有权将土地承包经营权互换、转让。未经依法批准，不得将承包地用于非农建设。

第三百三十五条 土地承包经营权互换、转让的，当事人可以向登记机构申请登记；未经登记，不得对抗善意第三人。

第三百三十六条 承包期内发包人不得调整承包地。

因自然灾害严重毁损承包地等特殊情形，需要适当调整承包的耕地和草地的，应当依照农村土地承包的法律规定办理。

第三百三十七条 承包期内发包人不得收回承包地。法律另有规定的，依照其规定。

第三百三十八条 承包地被征收的，土地承包经营权人有权依据本法第二百四十三条的规定获得相应补偿。

第三百三十九条 土地承包经营权人可以自主决定依法采取出租、入股或者其他方式向他人流转土地经营权。

第三百四十条 土地经营权人有权在合同约定的期限内占有农村土地，自主开展农业生产经营并取得收益。

第三百四十一条 流转期限为五年以上的土地经营权，自流转合同生效时设立。当事人可以向登记机构申请土地经营权登记；未经登记，不得对抗善意第三人。

第三百四十二条 通过招标、拍卖、公开协商等方式承包农村土地，经依法登记取得权属证书的，可以依法采取出租、入股、抵押或者其他方式流转土地经营权。

第三百四十三条 国家所有的农用地实行承包经营的，参照适用本编的有关规定。

第十二章 建设用地使用权

第三百四十四条 建设用地使用权人依法对国家所有的土地享有占有、使用和收益的权利，有权利用该土地建造建筑物、构筑物及其附属设施。

第三百四十五条 建设用地使用权可以在土地的地表、地上或者地下分别设立。

第三百四十六条 设立建设用地使用权，应当符合节约资源、保护生态环境的要求，遵守法律、行政法规关于土地用途的规定，不得损害已经设立的用益物权。

第三百四十七条 设立建设用地使用权，可以采取出让或者划拨等方式。工业、商业、旅游、娱乐和商品住宅等经营性用地以及同一土地有两个以上意向用地者的，应当采取招标、拍卖等公开竞价的方式出让。

严格限制以划拨方式设立建设用地使用权。

第三百四十八条 通过招标、拍卖、协议等出让方式设立建设用地使用权的，当事人应当采用书面形式订立建设用地使用权出让合同。

建设用地使用权出让合同一般包括下列条款：

- （一）当事人的名称和住所；
- （二）土地界址、面积等；
- （三）建筑物、构筑物及其附属设施占用的空间；

- (四) 土地用途、规划条件；
- (五) 建设用地使用权期限；
- (六) 出让金等费用及其支付方式；
- (七) 解决争议的方法。

第三百四十九条 设立建设用地使用权的，应当向登记机构申请建设用地使用权登记。建设用地使用权自登记时设立。登记机构应当向建设用地使用权人发放权属证书。

第三百五十条 建设用地使用权人应当合理利用土地，不得改变土地用途；需要改变土地用途的，应当依法经有关行政主管部门批准。

第三百五十一条 建设用地使用权人应当依照法律规定以及合同约定支付出让金等费用。

第三百五十二条 建设用地使用权人建造的建筑物、构筑物及其附属设施的所有权属于建设用地使用权人，但是有相反证据证明的除外。

第三百五十三条 建设用地使用权人有权将建设用地使用权转让、互换、出资、赠与或者抵押，但是法律另有规定的除外。

第三百五十四条 建设用地使用权转让、互换、出资、赠与或者抵押的，当事人应当采用书面形式订立相应的合同。使用期限由当事人约定，但是不得超过建设用地使用权的剩余期限。

第三百五十五条 建设用地使用权转让、互换、出资或者赠与的，应当向登记机构申请变更登记。

第三百五十六条 建设用地使用权转让、互换、出资或者赠与的，附着于该土地上的建筑物、构筑物及其附属设施一并处分。

第三百五十七条 建筑物、构筑物及其附属设施转让、互换、出资或者赠与的，该建筑物、构筑物及其附属设施占用范围内的建设用地使用权一并处分。

第三百五十八条 建设用地使用权期限届满前，因公共利益需要提前收回该土地的，应当依据本法第二百四十三条的规定对该土地上的房屋以及其

他不动产给予补偿，并退还相应的出让金。

第三百五十九条 住宅建设用地使用权期限届满的，自动续期。续期费用的缴纳或者减免，依照法律、行政法规的规定办理。

非住宅建设用地使用权期限届满后的续期，依照法律规定办理。该土地上的房屋以及其他不动产的归属，有约定的，按照约定；没有约定或者约定不明确的，依照法律、行政法规的规定办理。

第三百六十条 建设用地使用权消灭的，出让人应当及时办理注销登记。登记机构应当收回权属证书。

第三百六十一条 集体所有的土地作为建设用地的，应当依照土地管理的法律规定办理。

第十三章 宅基地使用权

第三百六十二条 宅基地使用权人依法对集体所有的土地享有占有和使用的权利，有权依法利用该土地建造住宅及其附属设施。

第三百六十三条 宅基地使用权的取得、行使和转让，适用土地管理的法律和国家有关规定。

第三百六十四条 宅基地因自然灾害等原因灭失的，宅基地使用权消灭。对失去宅基地的村民，应当依法重新分配宅基地。

第三百六十五条 已经登记的宅基地使用权转让或者消灭的，应当及时办理变更登记或者注销登记。

第十四章 居 住 权

第三百六十六条 居住权人有权按照合同约定，对他人的住宅享有占有、使用的用益物权，以满足生活居住的需要。

第三百六十七条 设立居住权，当事人应当采用书面形式订立居住权合同。

居住权合同一般包括下列条款：

- (一) 当事人的姓名或者名称和住所；
- (二) 住宅的位置；
- (三) 居住的条件和要求；
- (四) 居住权期限；
- (五) 解决争议的方法。

第三百六十八条 居住权无偿设立，但是当事人另有约定的除外。设立居住权的，应当向登记机构申请居住权登记。居住权自登记时设立。

第三百六十九条 居住权不得转让、继承。设立居住权的住宅不得出租，但是当事人另有约定的除外。

第三百七十条 居住权期限届满或者居住权人死亡的，居住权消灭。居住权消灭的，应当及时办理注销登记。

第三百七十一条 以遗嘱方式设立居住权的，参照适用本章的有关规定。

第十五章 地 役 权

第三百七十二條 地役权人有权按照合同约定，利用他人的不动产，以提高自己的不动产的效益。

前款所称他人的不动产为供役地，自己的不动产为需役地。

第三百七十三条 设立地役权，当事人应当采用书面形式订立地役权合同。

地役权合同一般包括下列条款：

- (一) 当事人的姓名或者名称和住所；
- (二) 供役地和需役地的位置；
- (三) 利用目的和方法；
- (四) 地役权期限；
- (五) 费用及其支付方式；
- (六) 解决争议的方法。

第三百七十四条 地役权自地役权合同生效时设立。当事人要求登记的，可以向登记机构申请地役权登记；未经登记，不得对抗善意第三人。

第三百七十五条 供役地权利人应当按照合同约定，允许地役权人利用其不动产，不得妨害地役权人行使权利。

第三百七十六条 地役权人应当按照合同约定的利用目的和方法利用供役地，尽量减少对供役地权利人物权的限制。

第三百七十七条 地役权期限由当事人约定；但是，不得超过土地承包经营权、建设用地使用权等用益物权的剩余期限。

第三百七十八条 土地所有权人享有地役权或者负担地役权的，设立土地承包经营权、宅基地使用权等用益物权时，该用益物权人继续享有或者负担已经设立的地役权。

第三百七十九条 土地上已经设立土地承包经营权、建设用地使用权、宅基地使用权等用益物权的，未经用益物权人同意，土地所有权人不得设立地役权。

第三百八十条 地役权不得单独转让。土地承包经营权、建设用地使用权等转让的，地役权一并转让，但是合同另有约定的除外。

第三百八十一条 地役权不得单独抵押。土地经营权、建设用地使用权等抵押的，在实现抵押权时，地役权一并转让。

第三百八十二条 需役地以及需役地上的土地承包经营权、建设用地使用权等部分转让时，转让部分涉及地役权的，受让人同时享有地役权。

第三百八十三条 供役地以及供役地上的土地承包经营权、建设用地使用权等部分转让时，转让部分涉及地役权的，地役权对受让人具有法律约束力。

第三百八十四条 地役权人有下列情形之一的，供役地权利人有权解除地役权合同，地役权消灭：

（一）违反法律规定或者合同约定，滥用地役权；

（二）有偿利用供役地，约定的付款期限届满后在合理期限内经两次催

告未支付费用。

第三百八十五条 已经登记的地役权变更、转让或者消灭的，应当及时办理变更登记或者注销登记。

第四分编 担 保 物 权

第十六章 一 般 规 定

第三百八十六条 担保物权人在债务人不履行到期债务或者发生当事人约定的实现担保物权的情形，依法享有就担保财产优先受偿的权利，但是法律另有规定的除外。

第三百八十七条 债权人在借贷、买卖等民事活动中，为保障实现其债权，需要担保的，可以依照本法和其他法律的规定设立担保物权。

第三人为债务人向债权人提供担保的，可以要求债务人提供反担保。反担保适用本法和其他法律的规定。

第三百八十八条 设立担保物权，应当依照本法和其他法律的规定订立担保合同。担保合同包括抵押合同、质押合同和其他具有担保功能的合同。担保合同是主债权债务合同的从合同。主债权债务合同无效的，担保合同无效，但是法律另有规定的除外。

担保合同被确认无效后，债务人、担保人、债权人有过错的，应当根据其过错各自承担相应的民事责任。

第三百八十九条 担保物权的担保范围包括主债权及其利息、违约金、损害赔偿金、保管担保财产和实现担保物权的费用。当事人另有约定的，按照其约定。

第三百九十条 担保期间，担保财产毁损、灭失或者被征收等，担保物权人可以就获得的保险金、赔偿金或者补偿金等优先受偿。被担保债权的履行期限未届满的，也可以提存该保险金、赔偿金或者补偿金等。

第三百九十一条 第三人提供担保，未经其书面同意，债权人允许债务人转移全部或者部分债务的，担保人不再承担相应的担保责任。

第三百九十二条 被担保的债权既有物的担保又有人的担保的，债务人不履行到期债务或者发生当事人约定的实现担保物权的情形，债权人应当按照约定实现债权；没有约定或者约定不明确，债务人自己提供物的担保的，债权人应当先就该物的担保实现债权；第三人提供物的担保的，债权人可以就物的担保实现债权，也可以请求保证人承担保证责任。提供担保的第三人承担担保责任后，有权向债务人追偿。

第三百九十三条 有下列情形之一的，担保物权消灭：

- （一）主债权消灭；
- （二）担保物权实现；
- （三）债权人放弃担保物权；
- （四）法律规定担保物权消灭的其他情形。

第十七章 抵 押 权

第一节 一般抵押权

第三百九十四条 为担保债务的履行，债务人或者第三人不转移财产的占有，将该财产抵押给债权人的，债务人不履行到期债务或者发生当事人约定的实现抵押权的情形，债权人有权就该财产优先受偿。

前款规定的债务人或者第三人为抵押人，债权人为抵押权人，提供担保的财产为抵押财产。

第三百九十五条 债务人或者第三人有权处分的下列财产可以抵押：

- （一）建筑物和其他土地附着物；
- （二）建设用地使用权；
- （三）海域使用权；
- （四）生产设备、原材料、半成品、产品；
- （五）正在建造的建筑物、船舶、航空器；
- （六）交通运输工具；
- （七）法律、行政法规未禁止抵押的其他财产。

抵押人可以将前款所列财产一并抵押。

第三百九十六条 企业、个体工商户、农业生产经营者可以将现有的以及将有的生产设备、原材料、半成品、产品抵押，债务人不履行到期债务或者发生当事人约定的实现抵押权的情形，债权人有权就抵押财产确定时的动产优先受偿。

第三百九十七条 以建筑物抵押的，该建筑物占用范围内的建设用地使用权一并抵押。以建设用地使用权抵押的，该土地上的建筑物一并抵押。

抵押人未依据前款规定一并抵押的，未抵押的财产视为一并抵押。

第三百九十八条 乡镇、村企业的建设用地使用权不得单独抵押。以乡镇、村企业的厂房等建筑物抵押的，其占用范围内的建设用地使用权一并抵押。

第三百九十九条 下列财产不得抵押：

（一）土地所有权；

（二）宅基地、自留地、自留山等集体所有土地的使用权，但是法律规定可以抵押的除外；

（三）学校、幼儿园、医疗机构等为公益目的成立的非营利法人的教育设施、医疗卫生设施和其他公益设施；

（四）所有权、使用权不明或者有争议的财产；

（五）依法被查封、扣押、监管的财产；

（六）法律、行政法规规定不得抵押的其他财产。

第四百条 设立抵押权，当事人应当采用书面形式订立抵押合同。

抵押合同一般包括下列条款：

（一）被担保债权的种类和数额；

（二）债务人履行债务的期限；

（三）抵押财产的名称、数量等情况；

（四）担保的范围。

第四百零一条 抵押权人在债务履行期限届满前，与抵押人约定债务人

不履行到期债务时抵押财产归债权人所有的，只能依法就抵押财产优先受偿。

第四百零二条 以本法第三百九十五条第一款第一项至第三项规定的财产或者第五项规定的正在建造的建筑物抵押的，应当办理抵押登记。抵押权自登记时设立。

第四百零三条 以动产抵押的，抵押权自抵押合同生效时设立；未经登记，不得对抗善意第三人。

第四百零四条 以动产抵押的，不得对抗正常经营活动中已经支付合理价款并取得抵押财产的买受人。

第四百零五条 抵押权设立前，抵押财产已经出租并转移占有的，原租赁关系不受该抵押权的影响。

第四百零六条 抵押期间，抵押人可以转让抵押财产。当事人另有约定的，按照其约定。抵押财产转让的，抵押权不受影响。

抵押人转让抵押财产的，应当及时通知抵押权人。抵押权人能够证明抵押财产转让可能损害抵押权的，可以请求抵押人将转让所得的价款向抵押权人提前清偿债务或者提存。转让的价款超过债权数额的部分归抵押人所有，不足部分由债务人清偿。

第四百零七条 抵押权不得与债权分离而单独转让或者作为其他债权的担保。债权转让的，担保该债权的抵押权一并转让，但是法律另有规定或者当事人另有约定的除外。

第四百零八条 抵押人的行为足以使抵押财产价值减少的，抵押权人有权请求抵押人停止其行为；抵押财产价值减少的，抵押权人有权请求恢复抵押财产的价值，或者提供与减少的价值相应的担保。抵押人不恢复抵押财产的价值，也不提供担保的，抵押权人有权请求债务人提前清偿债务。

第四百零九条 抵押权人可以放弃抵押权或者抵押权的顺位。抵押权人与抵押人可以协议变更抵押权顺位以及被担保的债权数额等内容。但是，抵押权的变更未经其他抵押权人书面同意的，不得对其他抵押权人产生不利影

响。

债务人以自己的财产设定抵押，抵押权人放弃该抵押权、抵押权顺位或者变更抵押权的，其他担保人在抵押权人丧失优先受偿权益的范围内免除担保责任，但是其他担保人承诺仍然提供担保的除外。

第四百一十条 债务人不履行到期债务或者发生当事人约定的实现抵押权的情形，抵押权人可以与抵押人协议以抵押财产折价或者以拍卖、变卖该抵押财产所得的价款优先受偿。协议损害其他债权人利益的，其他债权人可以请求人民法院撤销该协议。

抵押权人与抵押人未就抵押权实现方式达成协议的，抵押权人可以请求人民法院拍卖、变卖抵押财产。

抵押财产折价或者变卖的，应当参照市场价格。

第四百一十一条 依据本法第三百九十六条规定设定抵押的，抵押财产自下列情形之一发生时确定：

- （一）债务履行期限届满，债权未实现；
- （二）抵押人被宣告破产或者解散；
- （三）当事人约定的实现抵押权的情形；
- （四）严重影响债权实现的其他情形。

第四百一十二条 债务人不履行到期债务或者发生当事人约定的实现抵押权的情形，致使抵押财产被人民法院依法扣押的，自扣押之日起，抵押权人有权收取该抵押财产的天然孳息或者法定孳息，但是抵押权人未通知应当清偿法定孳息义务人的除外。

前款规定的孳息应当先充抵收取孳息的费用。

第四百一十三条 抵押财产折价或者拍卖、变卖后，其价款超过债权数额的部分归抵押人所有，不足部分由债务人清偿。

第四百一十四条 同一财产向两个以上债权人抵押的，拍卖、变卖抵押财产所得的价款依照下列规定清偿：

- （一）抵押权已经登记的，按照登记的时间先后确定清偿顺序；

(二) 抵押权已经登记的先于未登记的受偿；

(三) 抵押权未登记的，按照债权比例清偿。

其他可以登记的担保物权，清偿顺序参照适用前款规定。

第四百一十五条 同一财产既设立抵押权又设立质权的，拍卖、变卖该财产所得的价款按照登记、交付的时间先后确定清偿顺序。

第四百一十六条 动产抵押担保的主债权是抵押物的价款，标的物交付后十日内办理抵押登记的，该抵押权人优先于抵押物买受人的其他担保物权人受偿，但是留置权人除外。

第四百一十七条 建设用地使用权抵押后，该土地上新增的建筑物不属于抵押财产。该建设用地使用权实现抵押权时，应当将该土地上新增的建筑物与建设用地使用权一并处分。但是，新增建筑物所得的价款，抵押权人无权优先受偿。

第四百一十八条 以集体所有土地的使用权依法抵押的，实现抵押权后，未经法定程序，不得改变土地所有权的性质和土地用途。

第四百一十九条 抵押权人应当在主债权诉讼时效期间行使抵押权；未行使的，人民法院不予保护。

第二节 最高额抵押权

第四百二十条 为担保债务的履行，债务人或者第三人对一定期间内将要连续发生的债权提供担保财产的，债务人不履行到期债务或者发生当事人约定的实现抵押权的情形，抵押权人有权在最高债权额限度内就该担保财产优先受偿。

最高额抵押权设立前已经存在的债权，经当事人同意，可以转入最高额抵押担保的债权范围。

第四百二十一条 最高额抵押担保的债权确定前，部分债权转让的，最高额抵押权不得转让，但是当事人另有约定的除外。

第四百二十二条 最高额抵押担保的债权确定前，抵押权人与抵押人可

以通过协议变更债权确定的期间、债权范围以及最高债权额。但是，变更的内容不得对其他抵押权人产生不利影响。

第四百二十三条 有下列情形之一的，抵押权人的债权确定：

（一）约定的债权确定期间届满；

（二）没有约定债权确定期间或者约定不明确，抵押权人或者抵押人自最高额抵押权设立之日起满二年后请求确定债权；

（三）新的债权不可能发生；

（四）抵押权人知道或者应当知道抵押财产被查封、扣押；

（五）债务人、抵押人被宣告破产或者解散；

（六）法律规定债权确定的其他情形。

第四百二十四条 最高额抵押权除适用本节规定外，适用本章第一节的有关规定。

第十八章 质 权

第一节 动 产 质 权

第四百二十五条 为担保债务的履行，债务人或者第三人将其动产出质给债权人占有的，债务人不履行到期债务或者发生当事人约定的实现质权的情形，债权人有权就该动产优先受偿。

前款规定的债务人或者第三人为出质人，债权人为质权人，交付的动产为质押财产。

第四百二十六条 法律、行政法规禁止转让的动产不得出质。

第四百二十七条 设立质权，当事人应当采用书面形式订立质押合同。

质押合同一般包括下列条款：

（一）被担保债权的种类和数额；

（二）债务人履行债务的期限；

（三）质押财产的名称、数量等情况；

（四）担保的范围；

(五) 质押财产交付的时间、方式。

第四百二十八条 质权人在债务履行期限届满前，与出质人约定债务人不履行到期债务时质押财产归债权人所有的，只能依法就质押财产优先受偿。

第四百二十九条 质权自出质人交付质押财产时设立。

第四百三十条 质权人有权收取质押财产的孳息，但是合同另有约定的除外。

前款规定的孳息应当先充抵收取孳息的费用。

第四百三十一条 质权人在质权存续期间，未经出质人同意，擅自使用、处分质押财产，造成出质人损害的，应当承担赔偿责任。

第四百三十二条 质权人负有妥善保管质押财产的义务；因保管不善致使质押财产毁损、灭失的，应当承担赔偿责任。

质权人的行为可能使质押财产毁损、灭失的，出质人可以请求质权人将质押财产提存，或者请求提前清偿债务并返还质押财产。

第四百三十三条 因不可归责于质权人的事由可能使质押财产毁损或者价值明显减少，足以危害质权人权利的，质权人有权请求出质人提供相应的担保；出质人不提供的，质权人可以拍卖、变卖质押财产，并与出质人协议将拍卖、变卖所得的价款提前清偿债务或者提存。

第四百三十四条 质权人在质权存续期间，未经出质人同意转质，造成质押财产毁损、灭失的，应当承担赔偿责任。

第四百三十五条 质权人可以放弃质权。债务人以自己的财产出质，质权人放弃该质权的，其他担保人在质权人丧失优先受偿权益的范围内免除担保责任，但是其他担保人承诺仍然提供担保的除外。

第四百三十六条 债务人履行债务或者出质人提前清偿所担保的债权的，质权人应当返还质押财产。

债务人不履行到期债务或者发生当事人约定的实现质权的情形，质权人可以与出质人协议以质押财产折价，也可以就拍卖、变卖质押财产所得的价

款优先受偿。

质押财产折价或者变卖的，应当参照市场价格。

第四百三十七条 出质人可以请求质权人在债务履行期限届满后及时行使质权；质权人不行使的，出质人可以请求人民法院拍卖、变卖质押财产。

出质人请求质权人及时行使质权，因质权人怠于行使权利造成出质人损害的，由质权人承担赔偿责任。

第四百三十八条 质押财产折价或者拍卖、变卖后，其价款超过债权数额的部分归出质人所有，不足部分由债务人清偿。

第四百三十九条 出质人与质权人可以协议设立最高额质权。

最高额质权除适用本节有关规定外，参照适用本编第十七章第二节的有关规定。

第二节 权利质权

第四百四十条 债务人或者第三人有权处分的下列权利可以出质：

- (一) 汇票、本票、支票；
- (二) 债券、存款单；
- (三) 仓单、提单；
- (四) 可以转让的基金份额、股权；

(五) 可以转让的注册商标专用权、专利权、著作权等知识产权中的财产权；

(六) 现有的以及将有的应收账款；

(七) 法律、行政法规规定可以出质的其他财产权利。

第四百四十一条 以汇票、本票、支票、债券、存款单、仓单、提单出质的，质权自权利凭证交付质权人时设立；没有权利凭证的，质权自办理出质登记时设立。法律另有规定的，依照其规定。

第四百四十二条 汇票、本票、支票、债券、存款单、仓单、提单的兑现日期或者提货日期先于主债权到期的，质权人可以兑现或者提货，并与出

质人协议将兑现的价款或者提取的货物提前清偿债务或者提存。

第四百四十三条 以基金份额、股权出质，质权自办理出质登记时设立。

基金份额、股权出质后，不得转让，但是出质人与质权人协商同意的除外。出质人转让基金份额、股权所得的价款，应当向质权人提前清偿债务或者提存。

第四百四十四条 以注册商标专用权、专利权、著作权等知识产权中的财产权出质的，质权自办理出质登记时设立。

知识产权中的财产权出质后，出质人不得转让或者许可他人使用，但是出质人与质权人协商同意的除外。出质人转让或者许可他人使用出质的知识产权中的财产权所得的价款，应当向质权人提前清偿债务或者提存。

第四百四十五条 以应收账款出质的，质权自办理出质登记时设立。

应收账款出质后，不得转让，但是出质人与质权人协商同意的除外。出质人转让应收账款所得的价款，应当向质权人提前清偿债务或者提存。

第四百四十六条 权利质权除适用本节规定外，适用本章第一节的有关规定。

第十九章 留 置 权

第四百四十七条 债务人不履行到期债务，债权人可以留置已经合法占有的债务人的动产，并有权就该动产优先受偿。

前款规定的债权人为留置权人，占有的动产为留置财产。

第四百四十八条 债权人留置的动产，应当与债权属于同一法律关系，但是企业之间留置的除外。

第四百四十九条 法律规定或者当事人约定不得留置的动产，不得留置。

第四百五十条 留置财产为可分物的，留置财产的价值应当相当于债务的金额。

第四百五十一条 留置权人负有妥善保管留置财产的义务；因保管不善致使留置财产毁损、灭失的，应当承担赔偿责任。

第四百五十二条 留置权人有权收取留置财产的孳息。

前款规定的孳息应当先充抵收取孳息的费用。

第四百五十三条 留置权人与债务人应当约定留置财产后的债务履行期限；没有约定或者约定不明确的，留置权人应当给债务人六十日以上履行债务的期限，但是鲜活易腐等不易保管的动产除外。债务人逾期未履行的，留置权人可以与债务人协议以留置财产折价，也可以就拍卖、变卖留置财产所得的价款优先受偿。

留置财产折价或者变卖的，应当参照市场价格。

第四百五十四条 债务人可以请求留置权人在债务履行期限届满后行使留置权；留置权人不行使的，债务人可以请求人民法院拍卖、变卖留置财产。

第四百五十五条 留置财产折价或者拍卖、变卖后，其价款超过债权数额的部分归债务人所有，不足部分由债务人清偿。

第四百五十六条 同一动产上已经设立抵押权或者质权，该动产又被留置的，留置权人优先受偿。

第四百五十七条 留置权人对留置财产丧失占有或者留置权人接受债务人另行提供担保的，留置权消灭。

第五分编 占 有

第二十章 占 有

第四百五十八条 基于合同关系等产生的占有，有关不动产或者动产的使用、收益、违约责任等，按照合同约定；合同没有约定或者约定不明确的，依照有关法律规定。

第四百五十九条 占有人因使用占有的不动产或者动产，致使该不动产或者动产受到损害的，恶意占有人应当承担赔偿责任。

第四百六十条 不动产或者动产被占有人占有的，权利人可以请求返还原物及其孳息；但是，应当支付善意占有人因维护该不动产或者动产支出的必要费用。

第四百六十一条 占有的不动产或者动产毁损、灭失，该不动产或者动产的权利人请求赔偿的，占有人应当将因毁损、灭失取得的保险金、赔偿金或者补偿金等返还给权利人；权利人的损害未得到足够弥补的，恶意占有人还应当赔偿损失。

第四百六十二条 占有的不动产或者动产被侵占的，占有人有权请求返还原物；对妨害占有的行为，占有人有权请求排除妨害或者消除危险；因侵占或者妨害造成损害的，占有人有权依法请求损害赔偿。

占有人返还原物的请求权，自侵占发生之日起一年内未行使的，该请求权消灭。

第三编 合 同

第一分编 通 则

第一章 一 般 规 定

第四百六十三条 本编调整因合同产生的民事关系。

第四百六十四条 合同是民事主体之间设立、变更、终止民事法律关系的协议。

婚姻、收养、监护等有关身份关系的协议，适用有关该身份关系的法律规定；没有规定的，可以根据其性质参照适用本编规定。

第四百六十五条 依法成立的合同，受法律保护。

依法成立的合同，仅对当事人具有法律约束力，但是法律另有规定的除外。

第四百六十六条 当事人对合同条款的理解有争议的，应当依据本法第一百四十二条第一款的规定，确定争议条款的含义。

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，应当根据合同的相关条款、性质、目的以及诚信原则等予以解释。

第四百六十七条 本法或者其他法律没有明文规定的合同，适用本编通则的规定，并可以参照适用本编或者其他法律最相类似合同的规定。

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。

第四百六十八条 非因合同产生的债权债务关系，适用有关该债权债务关系的法律规定；没有规定的，适用本编通则的有关规定，但是根据其性质不能适用的除外。

第二章 合同的订立

第四百六十九条 当事人订立合同，可以采用书面形式、口头形式或者其他形式。

书面形式是合同书、信件、电报、电传、传真等可以有形地表现所载内容的形式。

以电子数据交换、电子邮件等方式能够有形地表现所载内容，并可以随时调取查用的数据电文，视为书面形式。

第四百七十条 合同的内容由当事人约定，一般包括下列条款：

- （一）当事人的姓名或者名称和住所；
- （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。

第四百七十一条 当事人订立合同，可以采取要约、承诺方式或者其他方式。

第四百七十二条 要约是希望与他人订立合同的意思表示，该意思表示应当符合下列条件：

- (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。

第四百七十三条 要约邀请是希望他人向自己发出要约的表示。拍卖公告、招标公告、招股说明书、债券募集办法、基金招募说明书、商业广告和宣传、寄送的价目表等为要约邀请。

商业广告和宣传的内容符合要约条件的，构成要约。

第四百七十四条 要约生效的时间适用本法第一百三十七条的规定。

第四百七十五条 要约可以撤回。要约的撤回适用本法第一百四十一条的规定。

第四百七十六条 要约可以撤销，但是有下列情形之一的除外：

- (一) 要约人以确定承诺期限或者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，并已经为履行合同做了合理准备工作。

第四百七十七条 撤销要约的意思表示以对话方式作出的，该意思表示的内容应当在受要约人作出承诺之前为受要约人所知道；撤销要约的意思表示以非对话方式作出的，应当在受要约人作出承诺之前到达受要约人。

第四百七十八条 有下列情形之一的，要约失效：

- (一) 要约被拒绝；
- (二) 要约被依法撤销；
- (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。

第四百七十九条 承诺是受要约人同意要约的意思表示。

第四百八十条 承诺应当以通知的方式作出；但是，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。

第四百八十一条 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；

（二）要约以非对话方式作出的，承诺应当在合理期限内到达。

第四百八十二条 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、电子邮件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。

第四百八十三条 承诺生效时合同成立，但是法律另有规定或者当事人另有约定的除外。

第四百八十四条 以通知方式作出的承诺，生效的时间适用本法第一百三十七条的规定。

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。

第四百八十五条 承诺可以撤回。承诺的撤回适用本法第一百四十一条的规定。

第四百八十六条 受要约人超过承诺期限发出承诺，或者在承诺期限内发出承诺，按照通常情形不能及时到达要约人的，为新要约；但是，要约人及时通知受要约人该承诺有效的除外。

第四百八十七条 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，但是因其他原因致使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外，该承诺有效。

第四百八十八条 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。

第四百八十九条 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外，该承诺有效，合同的内容以承诺的内容为准。

第四百九十条 当事人采用合同书形式订立合同的，自当事人均签名、盖章或者按指印时合同成立。在签名、盖章或者按指印之前，当事人一方已经履行主要义务，对方接受时，该合同成立。

法律、行政法规规定或者当事人约定合同应当采用书面形式订立，当事人未采用书面形式但是一方已经履行主要义务，对方接受时，该合同成立。

第四百九十一条 当事人采用信件、数据电文等形式订立合同要求签订确认书的，签订确认书时合同成立。

当事人一方通过互联网等信息网络发布的商品或者服务信息符合要约条件的，对方选择该商品或者服务并提交订单成功时合同成立，但是当事人另有约定的除外。

第四百九十二条 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，其住所地为合同成立的地点。当事人另有约定的，按照其约定。

第四百九十三条 当事人采用合同书形式订立合同的，最后签名、盖章或者按指印的地点为合同成立的地点，但是当事人另有约定的除外。

第四百九十四条 国家根据抢险救灾、疫情防控或者其他需要下达国家订货任务、指令性任务的，有关民事主体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。

依照法律、行政法规的规定负有发出要约义务的当事人，应当及时发出合理的要约。

依照法律、行政法规的规定负有作出承诺义务的当事人，不得拒绝对方合理的订立合同要求。

第四百九十五条 当事人约定在将来一定期限内订立合同的认购书、订购书、预订书等，构成预约合同。

当事人一方不履行预约合同约定的订立合同义务的，对方可以请求其承担预约合同的违约责任。

第四百九十六条 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。

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示对方注意免除或者减轻其责任等与对方有重大利害关系的条款，按照对方的要求，对该条款予以说明。提供格式条款的一方未履行提示或者说明义务，致使对方没有注意或者理解与其有重大利害关系的条款的，对方可以主张该条款不成为合同的内容。

第四百九十七条 有下列情形之一的，该格式条款无效：

（一）具有本法第一编第六章第三节和本法第五百零六条规定的无效情形；

（二）提供格式条款一方不合理地免除或者减轻其责任、加重对方责任、限制对方主要权利；

（三）提供格式条款一方排除对方主要权利。

第四百九十八条 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。

第四百九十九条 悬赏人以公开方式声明对完成特定行为的人支付报酬的，完成该行为的人可以请求其支付。

第五百条 当事人在订立合同过程中有下列情形之一的，造成对方损失的，应当承担赔偿责任：

（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) 有其他违背诚信原则的行为。

第五百零一条 当事人在订立合同过程中知悉的商业秘密或者其他应当保密的信息，无论合同是否成立，不得泄露或者不正当地使用；泄露、不正当地使用该商业秘密或者信息，造成对方损失的，应当承担赔偿责任。

第三章 合同的效力

第五百零二条 依法成立的合同，自成立时生效，但是法律另有规定或者当事人另有约定的除外。

依照法律、行政法规的规定，合同应当办理批准等手续的，依照其规定。未办理批准等手续影响合同生效的，不影响合同中履行报批等义务条款以及相关条款的效力。应当办理申请批准等手续的当事人未履行义务的，对方可以请求其承担违反该义务的责任。

依照法律、行政法规的规定，合同的变更、转让、解除等情形应当办理批准等手续的，适用前款规定。

第五百零三条 无权代理人以被代理人的名义订立合同，被代理人已经开始履行合同义务或者接受相对人履行的，视为对合同的追认。

第五百零四条 法人的法定代表人或者非法人组织的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外，该代表行为有效，订立的合同对法人或者非法人组织发生效力。

第五百零五条 当事人超越经营范围订立的合同的效力，应当依照本法第一编第六章第三节和本编的有关规定确定，不得仅以超越经营范围确认合同无效。

第五百零六条 合同中的下列免责条款无效：

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

第五百零七条 合同不生效、无效、被撤销或者终止的，不影响合同中有关解决争议方法的条款的效力。

第五百零八条 本编对合同的效力没有规定的，适用本法第一编第六章的有关规定。

第四章 合同的履行

第五百零九条 当事人应当按照约定全面履行自己的义务。

当事人应当遵循诚信原则，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。

当事人在履行合同过程中，应当避免浪费资源、污染环境和破坏生态。

第五百一十条 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，按照合同相关条款或者交易习惯确定。

第五百一十一条 当事人就有关合同内容约定不明确，依据前条规定仍不能确定的，适用下列规定：

（一）质量要求不明确的，按照强制性国家标准履行；没有强制性国家标准的，按照推荐性国家标准履行；没有推荐性国家标准的，按照行业标准履行；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，依照规定履行。

（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。

（四）履行期限不明确的，债务人可以随时履行，债权人也可以随时请求履行，但是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；因债权人原因增加的履行费用，由债权人负担。

第五百一十二条 通过互联网等信息网络订立的电子合同的标的为交付商品并采用快递物流方式交付的，收货人的签收时间为交付时间。电子合同的标的为提供服务的，生成的电子凭证或者实物凭证中载明的时间为提供服务时间；前述凭证没有载明时间或者载明时间与实际提供服务时间不一致的，以实际提供服务的时间为准。

电子合同的标的物为采用在线传输方式交付的，合同标的物进入对方当事人指定的特定系统且能够检索识别的时间为交付时间。

电子合同当事人对交付商品或者提供服务的方式、时间另有约定的，按照其约定。

第五百一十三条 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。

第五百一十四条 以支付金钱为内容的债，除法律另有规定或者当事人另有约定外，债权人可以请求债务人以实际履行地的法定货币履行。

第五百一十五条 标的有多项而债务人只需履行其中一项的，债务人享有选择权；但是，法律另有规定、当事人另有约定或者另有交易习惯的除外。

享有选择权的当事人在约定期限内或者履行期限届满未作选择，经催告后在合理期限内仍未选择的，选择权转移至对方。

第五百一十六条 当事人行使选择权应当及时通知对方，通知到达对方时，标的确定。标的确定后不得变更，但是经对方同意的除外。

可选择的标的发生不能履行情形的，享有选择权的当事人不得选择不能履行的标的，但是该不能履行的情形是由对方造成的除外。

第五百一十七条 债权人为二人以上，标的可分，按照份额各自享有债权的，为按份债权；债务人为二人以上，标的可分，按照份额各自负担债务

的，为按份债务。

按份债权人或者按份债务人的份额难以确定的，视为份额相同。

第五百一十八条 债权人为二人以上，部分或者全部债权人均可以请求债务人履行债务的，为连带债权；债务人为二人以上，债权人可以请求部分或者全部债务人履行全部债务的，为连带债务。

连带债权或者连带债务，由法律规定或者当事人约定。

第五百一十九条 连带债务人之间的份额难以确定的，视为份额相同。

实际承担债务超过自己份额的连带债务人，有权就超出部分在其他连带债务人未履行的份额范围内向其追偿，并相应地享有债权人的权利，但是不得损害债权人的利益。其他连带债务人对债权人的抗辩，可以向该债务人主张。

被追偿的连带债务人不能履行其应分担份额的，其他连带债务人应当在相应范围内按比例分担。

第五百二十条 部分连带债务人履行、抵销债务或者提存标的物的，其他债务人对债权人的债务在相应范围内消灭；该债务人可以依据前条规定向其他债务人追偿。

部分连带债务人的债务被债权人免除的，在该连带债务人应当承担的份额范围内，其他债务人对债权人的债务消灭。

部分连带债务人的债务与债权人的债权同归于一人的，在扣除该债务人应当承担的份额后，债权人对其他债务人的债权继续存在。

债权人对部分连带债务人的给付受领迟延的，对其他连带债务人发生效力。

第五百二十一条 连带债权人之间的份额难以确定的，视为份额相同。

实际受领债权的连带债权人，应当按比例向其他连带债权人返还。

连带债权参照适用本章连带债务的有关规定。

第五百二十二条 当事人约定由债务人向第三人履行债务，债务人未向第三人履行债务或者履行债务不符合约定的，应当向债权人承担违约责任。

法律规定或者当事人约定第三人可以直接请求债务人向其履行债务，第

三人未在合理期限内明确拒绝，债务人未向第三人履行债务或者履行债务不符合约定的，第三人可以请求债务人承担违约责任；债务人对债权人的抗辩，可以向第三人主张。

第五百二十三条 当事人约定由第三人向债权人履行债务，第三人不履行债务或者履行债务不符合约定的，债务人应当向债权人承担违约责任。

第五百二十四条 债务人不履行债务，第三人对履行该债务具有合法利益的，第三人有权向债权人代为履行；但是，根据债务性质、按照当事人约定或者依照法律规定只能由债务人履行的除外。

债权人接受第三人履行后，其对债务人的债权转让给第三人，但是债务人和第三人另有约定的除外。

第五百二十五条 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请求。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请求。

第五百二十六条 当事人互负债务，有先后履行顺序，应当先履行债务一方未履行的，后履行一方有权拒绝其履行请求。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请求。

第五百二十七条 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；
- （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。

第五百二十八条 当事人依据前条规定中止履行的，应当及时通知对方。对方提供适当担保的，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且未提供适当担保的，视为以自己的行为表明不履行主要债务，中止履行的一方可以解除合同并可以请求对方承担违约责任。

第五百二十九条 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。

第五百三十条 债权人可以拒绝债务人提前履行债务，但是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。

第五百三十一条 债权人可以拒绝债务人部分履行债务，但是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。

第五百三十二条 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。

第五百三十三条 合同成立后，合同的基础条件发生了当事人在订立合同时无法预见的、不属于商业风险的重大变化，继续履行合同对于当事人一方明显不公平的，受不利影响的当事人可以与对方重新协商；在合理期限内协商不成的，当事人可以请求人民法院或者仲裁机构变更或者解除合同。

人民法院或者仲裁机构应当结合案件的具体情况，根据公平原则变更或者解除合同。

第五百三十四条 对当事人利用合同实施危害国家利益、社会公共利益行为的，市场监督管理和其他有关行政主管部门依照法律、行政法规的规定负责监督处理。

第五章 合同的保全

第五百三十五条 因债务人怠于行使其债权或者与该债权有关的从权利，影响债权人的到期债权实现的，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对相对人的权利，但是该权利专属于债务人自身的除外。

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

相对人对债务人的抗辩，可以向债权人主张。

第五百三十六条 债权人的债权到期前，债务人的债权或者与该债权有关的从权利存在诉讼时效期间即将届满或者未及时申报破产债权等情形，影响债权人的债权实现的，债权人可以代位向债务人的相对人请求其向债务人履行、向破产管理人申报或者作出其他必要的行为。

第五百三十七条 人民法院认定代位权成立的，由债务人的相对人向债权人履行义务，债权人接受履行后，债权人与债务人、债务人与相对人之间相应的权利义务终止。债务人对相对人的债权或者与该债权有关的从权利被采取保全、执行措施，或者债务人破产的，依照相关法律的规定处理。

第五百三十八条 债务人以放弃其债权、放弃债权担保、无偿转让财产等方式无偿处分财产权益，或者恶意延长其到期债权的履行期限，影响债权人的债权实现的，债权人可以请求人民法院撤销债务人的行为。

第五百三十九条 债务人以明显不合理的低价转让财产、以明显不合理的高价受让他人财产或者为他人的债务提供担保，影响债权人的债权实现，债务人的相对人知道或者应当知道该情形的，债权人可以请求人民法院撤销债务人的行为。

第五百四十条 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。

第五百四十一条 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。

第五百四十二条 债务人影响债权人的债权实现的行为被撤销的，自始没有法律约束力。

第六章 合同的变更和转让

第五百四十三条 当事人协商一致，可以变更合同。

第五百四十四条 当事人对合同变更的内容约定不明确的，推定为未变更。

第五百四十五条 债权人可以将债权的全部或者部分转让给第三人，但是有下列情形之一的除外：

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

当事人约定非金钱债权不得转让的，不得对抗善意第三人。当事人约定金钱债权不得转让的，不得对抗第三人。

第五百四十六条 债权人转让债权，未通知债务人的，该转让对债务人不发生效力。

债权转让的通知不得撤销，但是经受让人同意的除外。

第五百四十七条 债权人转让债权的，受让人取得与债权有关的从权利，但是该从权利专属于债权人自身的除外。

受让人取得从权利不因该从权利未办理转移登记手续或者未转移占有而受到影响。

第五百四十八条 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。

第五百四十九条 有下列情形之一的，债务人可以向受让人主张抵销：

- (一) 债务人接到债权转让通知时，债务人对让与人享有债权，且债务人的债权先于转让的债权到期或者同时到期；
- (二) 债务人的债权与转让的债权是基于同一合同产生。

第五百五十条 因债权转让增加的履行费用，由让与人负担。

第五百五十一条 债务人将债务的全部或者部分转移给第三人的，应当经债权人同意。

债务人或者第三人可以催告债权人在合理期限内予以同意，债权人未作表示的，视为不同意。

第五百五十二条 第三人与债务人约定加入债务并通知债权人，或者第三人向债权人表示愿意加入债务，债权人未在合理期限内明确拒绝的，债权人可以请求第三人在其愿意承担的债务范围内和债务人承担连带债务。

第五百五十三条 债务人转移债务的，新债务人可以主张原债务人对债权人的抗辩；原债务人对债权人享有债权的，新债务人不得向债权人主张抵销。

第五百五十四条 债务人转移债务的，新债务人应当承担与主债务有关的从债务，但是该从债务专属于原债务人自身的除外。

第五百五十五条 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。

第五百五十六条 合同的权利和义务一并转让的，适用债权转让、债务转移的有关规定。

第七章 合同的权利义务终止

第五百五十七条 有下列情形之一的，债权债务终止：

- （一）债务已经履行；
- （二）债务相互抵销；
- （三）债务人依法将标的物提存；
- （四）债权人免除债务；
- （五）债权债务同归于一人；
- （六）法律规定或者当事人约定终止的其他情形。

合同解除的，该合同的权利义务关系终止。

第五百五十八条 债权债务终止后，当事人应当遵循诚信等原则，根据交易习惯履行通知、协助、保密、旧物回收等义务。

第五百五十九条 债权债务终止时，债权的从权利同时消灭，但是法律另有规定或者当事人另有约定的除外。

第五百六十条 债务人对同一债权人负担的数项债务种类相同，债务人

的给付不足以清偿全部债务的，除当事人另有约定外，由债务人在清偿时指定其履行的债务。

债务人未作指定的，应当优先履行已经到期的债务；数项债务均到期的，优先履行对债权人缺乏担保或者担保最少的债务；均无担保或者担保相等的，优先履行债务人负担较重的债务；负担相同的，按照债务到期的先后顺序履行；到期时间相同的，按照债务比例履行。

第五百六十一条 债务人在履行主债务外还应当支付利息和实现债权的有关费用，其给付不足以清偿全部债务的，除当事人另有约定外，应当按照下列顺序履行：

- （一）实现债权的有关费用；
- （二）利息；
- （三）主债务。

第五百六十二条 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事由。解除合同的事由发生时，解除权人可以解除合同。

第五百六十三条 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有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。

以持续履行的债务为内容的不定期合同，当事人可以随时解除合同，但是应当在合理期限之前通知对方。

第五百六十四条 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，自解除权人知道或者应当知道解除事由之日起一年内不行使，或者经对方催告后在合理期限内不行使的，该权利消灭。

第五百六十五条 当事人一方依法主张解除合同的，应当通知对方。合同自通知到达对方时解除；通知载明债务人在一定期限内不履行债务则合同自动解除，债务人在该期限内未履行债务的，合同自通知载明的期限届满时解除。对方对解除合同有异议的，任何一方当事人均可以请求人民法院或者仲裁机构确认解除行为的效力。

当事人一方未通知对方，直接以提起诉讼或者申请仲裁的方式依法主张解除合同，人民法院或者仲裁机构确认该主张的，合同自起诉状副本或者仲裁申请书副本送达对方时解除。

第五百六十六条 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，当事人可以请求恢复原状或者采取其他补救措施，并有权请求赔偿损失。

合同因违约解除的，解除权人可以请求违约方承担违约责任，但是当事人另有约定的除外。

主合同解除后，担保人对债务人应当承担的民事责任仍应当承担担保责任，但是担保合同另有约定的除外。

第五百六十七条 合同的权利义务关系终止，不影响合同中结算和清理条款的效力。

第五百六十八条 当事人互负债务，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到期债务抵销；但是，根据债务性质、按照当事人约定或者依照法律规定不得抵销的除外。

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。

第五百六十九条 当事人互负债务，标的物种类、品质不相同的，经协商一致，也可以抵销。

第五百七十条 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、遗产管理人，或者丧失民事行为能力未确定监护人；

（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。

第五百七十一条 债务人将标的物或者将标的物依法拍卖、变卖所得价款交付提存部门时，提存成立。

提存成立的，视为债务人在其提存范围内已经交付标的物。

第五百七十二条 标的物提存后，债务人应当及时通知债权人或者债权人的继承人、遗产管理人、监护人、财产代管人。

第五百七十三条 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。

第五百七十四条 债权人可以随时领取提存物。但是，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。但是，债权人未履行对债务人的到期债务，或者债权人向提存部门书面表示放弃领取提存物权利的，债务人负担提存费用后有权取回提存物。

第五百七十五条 债权人免除债务人部分或者全部债务的，债权债务部分或者全部终止，但是债务人在合理期限内拒绝的除外。

第五百七十六条 债权和债务同归于一人的，债权债务终止，但是损害第三人利益的除外。

第八章 违 约 责 任

第五百七十七条 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。

第五百七十八条 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前请求其承担违约责任。

第五百七十九条 当事人一方未支付价款、报酬、租金、利息,或者不履行其他金钱债务的,对方可以请求其支付。

第五百八十条 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,对方可以请求履行,但是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请求履行。

有前款规定的除外情形之一,致使不能实现合同目的的,人民法院或者仲裁机构可以根据当事人的请求终止合同权利义务关系,但是不影响违约责任的承担。

第五百八十一条 当事人一方不履行债务或者履行债务不符合约定,根据债务的性质不得强制履行的,对方可以请求其负担由第三人替代履行的费用。

第五百八十二条 履行不符合约定的,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,依据本法第五百一十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,可以合理选择请求对方承担修理、重作、更换、退货、减少价款或者报酬等违约责任。

第五百八十三条 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。

第五百八十四条 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，造成对方损失的，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；但是，不得超过违约一方订立合同时预见到或者应当预见到的因违约可能造成的损失。

第五百八十五条 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，人民法院或者仲裁机构可以根据当事人的请求予以增加；约定的违约金过分高于造成的损失的，人民法院或者仲裁机构可以根据当事人的请求予以适当减少。

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。

第五百八十六条 当事人可以约定一方向对方给付定金作为债权的担保。定金合同自实际交付定金时成立。

定金的数额由当事人约定；但是，不得超过主合同标的额的百分之二十，超过部分不产生定金的效力。实际交付的定金数额多于或者少于约定数额的，视为变更约定的定金数额。

第五百八十七条 债务人履行债务的，定金应当抵作价款或者收回。给付定金的一方不履行债务或者履行债务不符合约定，致使不能实现合同目的的，无权请求返还定金；收受定金的一方不履行债务或者履行债务不符合约定，致使不能实现合同目的的，应当双倍返还定金。

第五百八十八条 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。

定金不足以弥补一方违约造成的损失，对方可以请求赔偿超过定金数额的损失。

第五百八十九条 债务人按照约定履行债务，债权人无正当理由拒绝受领的，债务人可以请求债权人赔偿增加的费用。

在债权人受领迟延期间，债务人无须支付利息。

第五百九十条 当事人一方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，但是法律另有规定的除外。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。

当事人迟延履行后发生不可抗力的，不免除其违约责任。

第五百九十一条 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，不得就扩大的损失请求赔偿。

当事人因防止损失扩大而支出的合理费用，由违约方负担。

第五百九十二条 当事人都违反合同的，应当各自承担相应的责任。

当事人一方违约造成对方损失，对方对损失的发生有过错的，可以减少相应的损失赔偿额。

第五百九十三条 当事人一方因第三人的原因造成违约的，应当依法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处理。

第五百九十四条 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时效期间为四年。

第二分编 典 型 合 同

第九章 买 卖 合 同

第五百九十五条 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。

第五百九十六条 买卖合同的内容一般包括标的物的名称、数量、质量、价款、履行期限、履行地点和方式、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。

第五百九十七条 因出卖人未取得处分权致使标的物所有权不能转移的，买受人可以解除合同并请求出卖人承担违约责任。

法律、行政法规禁止或者限制转让的标的物，依照其规定。

第五百九十八条 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。

第五百九十九条 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。

第六百条 出卖具有知识产权的标的物的，除法律另有规定或者当事人另有约定外，该标的物的知识产权不属于买受人。

第六百零一条 出卖人应当按照约定的时间交付标的物。约定交付期限的，出卖人可以在该交付期限内的任何时间交付。

第六百零二条 当事人没有约定标的物的交付期限或者约定不明确的，适用本法第五百一十条、第五百一十一条第四项的规定。

第六百零三条 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，依据本法第五百一十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；

（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。

第六百零四条 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，但是法律另有规定或者当事人另有约定的除外。

第六百零五条 因买受人的原因致使标的物未按照约定的期限交付的，买受人应当自违反约定时起承担标的物毁损、灭失的风险。

第六百零六条 出卖人出卖交由承运人运输的在途标的物，除当事人另有约定外，毁损、灭失的风险自合同成立时起由买受人承担。

第六百零七条 出卖人按照约定将标的物运送至买受人指定地点并交付

给承运人后，标的物毁损、灭失的风险由买受人承担。

当事人没有约定交付地点或者约定不明确，依据本法第六百零三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。

第六百零八条 出卖人按照约定或者依据本法第六百零三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时起由买受人承担。

第六百零九条 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。

第六百一十条 因标的物不符合质量要求，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。

第六百一十一条 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义务不符合约定，买受人请求其承担违约责任的权利。

第六百一十二条 出卖人就交付的标的物，负有保证第三人对该标的物不享有任何权利的义务，但是法律另有规定的除外。

第六百一十三条 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，出卖人不承担前条规定的义务。

第六百一十四条 买受人有确切证据证明第三人对标的物享有权利的，可以中止支付相应的价款，但是出卖人提供适当担保的除外。

第六百一十五条 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质量说明的，交付的标的物应当符合该说明的质量要求。

第六百一十六条 当事人对标的物的质量要求没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定的，适用本法第五百一十一条第一项的规定。

第六百一十七条 出卖人交付的标的物不符合质量要求的，买受人可以依据本法第五百八十二条至第五百八十四条的规定请求承担违约责任。

第六百一十八条 当事人约定减轻或者免除出卖人对标的物的瑕疵承担的责任，因出卖人故意或者重大过失不告知买受人标的物的瑕疵的，出卖人无权主张减轻或者免除责任。

第六百一十九条 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，依据本法第五百一十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且有利于节约资源、保护生态环境的包装方式。

第六百二十条 买受人收到标的物时应当在约定的检验期限内检验。没有约定检验期限的，应当及时检验。

第六百二十一条 当事人约定检验期限的，买受人应当在检验期限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。

当事人没有约定检验期限的，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限内通知出卖人。买受人在合理期限内未通知或者自收到标的物之日起二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；但是，对标的物有质量保证期的，适用质量保证期，不适用该二年的规定。

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

第六百二十二条 当事人约定的检验期限过短，根据标的物的性质和交易习惯，买受人在检验期限内难以完成全面检验的，该期限仅视为买受人对标的物的外观瑕疵提出异议的期限。

约定的检验期限或者质量保证期短于法律、行政法规规定期限的，应当以法律、行政法规规定的期限为准。

第六百二十三条 当事人对检验期限未作约定，买受人签收的送货单、确认单等载明标的物数量、型号、规格的，推定买受人已经对数量和外观瑕疵进行检验，但是有相关证据足以推翻的除外。

第六百二十四条 出卖人依照买受人的指示向第三人交付标的物，出卖人和买受人约定的检验标准与买受人和第三人约定的检验标准不一致的，以出卖人和买受人约定的检验标准为准。

第六百二十五条 依照法律、行政法规的规定或者按照当事人的约定，标的物在有效使用年限届满后应予回收的，出卖人负有自行或者委托第三人对标的物予以回收的义务。

第六百二十六条 买受人应当按照约定的数额和支付方式支付价款。对价款的数额和支付方式没有约定或者约定不明确的，适用本法第五百一十条、第五百一十一条第二项和第五项的规定。

第六百二十七条 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，依据本法第五百一十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；但是，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。

第六百二十八条 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，依据本法第五百一十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。

第六百二十九条 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，按照约定的价格支付价款；买受人拒绝接收多交部分的，应当及时通知出卖人。

第六百三十条 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。但是，当事人另有约定的除外。

第六百三十一条 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。

第六百三十二条 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。但是，该物与他物分离使标的物的价值显受损害的，买受人可

以就数物解除合同。

第六百三十三条 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，致使之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之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。

第六百三十四条 分期付款的买受人未支付到期价款的数额达到全部价款的五分之一，经催告后在合理期限内仍未支付到期价款的，出卖人可以请求买受人支付全部价款或者解除合同。

出卖人解除合同的，可以向买受人请求支付该标的物的使用费。

第六百三十五条 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。

第六百三十六条 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。

第六百三十七条 试用买卖的当事人可以约定标的物的试用期限。对试用期限没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定的，由出卖人确定。

第六百三十八条 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。试用期限届满，买受人对是否购买标的物未作表示的，视为购买。

试用买卖的买受人在试用期内已经支付部分价款或者对标的物实施出卖、出租、设立担保物权等行为的，视为同意购买。

第六百三十九条 试用买卖的当事人对标的物使用费没有约定或者约定

不明确的，出卖人无权请求买受人支付。

第六百四十条 标的物在试用期内毁损、灭失的风险由出卖人承担。

第六百四十一条 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。

出卖人对标的物保留的所有权，未经登记，不得对抗善意第三人。

第六百四十二条 当事人约定出卖人保留合同标的物的所有权，在标的物所有权转移前，买受人有下列情形之一，造成出卖人损害的，除当事人另有约定外，出卖人有权取回标的物：

- （一）未按照约定支付价款，经催告后在合理期限内仍未支付；
- （二）未按照约定完成特定条件；
- （三）将标的物出卖、出质或者作出其他不当处分。

出卖人可以与买受人协商取回标的物；协商不成的，可以参照适用担保物权的实现程序。

第六百四十三条 出卖人依据前条第一款的规定取回标的物后，买受人在双方约定或者出卖人指定的合理回赎期限内，消除出卖人取回标的物事由的，可以请求回赎标的物。

买受人在回赎期限内没有回赎标的物，出卖人可以以合理价格将标的物出卖给第三人，出卖所得价款扣除买受人未支付的价款以及必要费用后仍有剩余的，应当返还买受人；不足部分由买受人清偿。

第六百四十四条 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。

第六百四十五条 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。

第六百四十六条 法律对其他有偿合同有规定的，依照其规定；没有规定的，参照适用买卖合同的有关规定。

第六百四十七条 当事人约定易货交易，转移标的物的所有权的，参照适用买卖合同的有关规定。

第十章 供用电、水、气、热力合同

第六百四十八条 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。

向社会公众供电的供电人，不得拒绝用电人合理的订立合同要求。

第六百四十九条 供用电合同的内容一般包括供电的方式、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。

第六百五十条 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。

第六百五十一条 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，应当承担赔偿责任。

第六百五十二条 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，应当承担赔偿责任。

第六百五十三条 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，应当承担赔偿责任。

第六百五十四条 用电人应当按照国家有关规定和当事人的约定及时支付电费。用电人逾期不支付电费的，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支付电费和违约金的，供电人可以按照国家规定的程序中止供电。

供电人依据前款规定中止供电的，应当事先通知用电人。

第六百五十五条 用电人应当按照国家有关规定和当事人的约定安全、节约和计划用电。用电人未按照国家有关规定和当事人的约定用电，造成供电人损失的，应当承担赔偿责任。

第六百五十六条 供用水、供用气、供用热力合同，参照适用供用电合同的有关规定。

第十一章 赠 与 合 同

第六百五十七条 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。

第六百五十八条 赠与人在赠与财产的权利转移之前可以撤销赠与。

经过公证的赠与合同或者依法不得撤销的具有救灾、扶贫、助残等公益、道德义务性质的赠与合同，不适用前款规定。

第六百五十九条 赠与的财产依法需要办理登记或者其他手续的，应当办理有关手续。

第六百六十条 经过公证的赠与合同或者依法不得撤销的具有救灾、扶贫、助残等公益、道德义务性质的赠与合同，赠与人不交付赠与财产的，受赠人可以请求交付。

依据前款规定应当交付的赠与财产因赠与人故意或者重大过失致使毁损、灭失的，赠与人应当承担赔偿责任。

第六百六十一条 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。

第六百六十二条 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，应当承担赔偿责任。

第六百六十三条 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近亲属的合法权益；
- （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事由之日起一年内行使。

第六百六十四条 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，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事由之日起六个月内行使。

第六百六十五条 撤销权人撤销赠与的，可以向受赠人请求返还赠与的财产。

第六百六十六条 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

第六百六十七条 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。

第六百六十八条 借款合同应当采用书面形式，但是自然人之间借款另有约定的除外。

借款合同的内容一般包括借款种类、币种、用途、数额、利率、期限和还款方式等条款。

第六百六十九条 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。

第六百七十条 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。

第六百七十一条 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。

第六百七十二条 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或者其他资料。

第六百七十三条 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。

第六百七十四条 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，依据本法第五百一十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。

第六百七十五条 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，依据本法第五百一十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。

第六百七十六条 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。

第六百七十七条 借款人提前返还借款的，除当事人另有约定外，应当按照实际借款的期间计算利息。

第六百七十八条 借款人可以在还款期限届满前向贷款人申请展期；贷款人同意的，可以展期。

第六百七十九条 自然人之间的借款合同，自贷款人提供借款时成立。

第六百八十条 禁止高利放贷，借款的利率不得违反国家有关规定。

借款合同对支付利息没有约定的，视为没有利息。

借款合同对支付利息约定不明确，当事人不能达成补充协议的，按照当地或者当事人的交易方式、交易习惯、市场利率等因素确定利息；自然人之间借款的，视为没有利息。

第十三章 保 证 合 同

第一节 一 般 规 定

第六百八十一条 保证合同是为保障债权的实现，保证人和债权人约定，当债务人不履行到期债务或者发生当事人约定的情形时，保证人履行债务或者承担责任的合同。

第六百八十二条 保证合同是主债权债务合同的从合同。主债权债务合同无效的，保证合同无效，但是法律另有规定的除外。

保证合同被确认无效后，债务人、保证人、债权人有过错的，应当根据其过错各自承担相应的民事责任。

第六百八十三条 机关法人不得为保证人，但是经国务院批准为使用外国政府或者国际经济组织贷款进行转贷的除外。

以公益为目的的非营利法人、非法人组织不得为保证人。

第六百八十四条 保证合同的内容一般包括被保证的主债权的种类、数额，债务人履行债务的期限，保证的方式、范围和期间等条款。

第六百八十五条 保证合同可以是单独订立的书面合同，也可以是主债权债务合同中的保证条款。

第三人单方以书面形式向债权人作出保证，债权人接收且未提出异议的，保证合同成立。

第六百八十六条 保证的方式包括一般保证和连带责任保证。

当事人在保证合同中对保证方式没有约定或者约定不明确的，按照一般保证承担保证责任。

第六百八十七条 当事人在保证合同中约定，债务人不能履行债务时，由保证人承担保证责任的，为一般保证。

一般保证的保证人在主合同纠纷未经审判或者仲裁，并就债务人财产依法强制执行仍不能履行债务前，有权拒绝向债权人承担保证责任，但是有下列情形之一的除外：

（一）债务人下落不明，且无财产可供执行；

（二）人民法院已经受理债务人破产案件；

（三）债权人有证据证明债务人的财产不足以履行全部债务或者丧失履行债务能力；

（四）保证人书面表示放弃前款规定的权利。

第六百八十八条 当事人在保证合同中约定保证人和债务人对债务承担

连带责任的，为连带责任保证。

连带责任保证的债务人不履行到期债务或者发生当事人约定的情形时，债权人可以请求债务人履行债务，也可以请求保证人在其保证范围内承担保证责任。

第六百八十九条 保证人可以要求债务人提供反担保。

第六百九十条 保证人与债权人可以协商订立最高额保证的合同，约定在最高债权额限度内就一定期间连续发生的债权提供保证。

最高额保证除适用本章规定外，参照适用本法第二编最高额抵押权的有关规定。

第二节 保证责任

第六百九十一条 保证的范围包括主债权及其利息、违约金、损害赔偿金和实现债权的费用。当事人另有约定的，按照其约定。

第六百九十二条 保证期间是确定保证人承担保证责任的期间，不发生中止、中断和延长。

债权人与保证人可以约定保证期间，但是约定的保证期间早于主债务履行期限或者与主债务履行期限同时届满的，视为没有约定；没有约定或者约定不明确的，保证期间为主债务履行期限届满之日起六个月。

债权人与债务人对主债务履行期限没有约定或者约定不明确的，保证期间自债权人请求债务人履行债务的宽限期届满之日起计算。

第六百九十三条 一般保证的债权人未在保证期间对债务人提起诉讼或者申请仲裁的，保证人不再承担保证责任。

连带责任保证的债权人未在保证期间请求保证人承担保证责任的，保证人不再承担保证责任。

第六百九十四条 一般保证的债权人在保证期间届满前对债务人提起诉讼或者申请仲裁的，从保证人拒绝承担保证责任的权利消灭之日起，开始计算保证债务的诉讼时效。

连带责任保证的债权人在保证期间届满前请求保证人承担保证责任的，从债权人请求保证人承担保证责任之日起，开始计算保证债务的诉讼时效。

第六百九十五条 债权人和债务人未经保证人书面同意，协商变更主债权债务合同内容，减轻债务的，保证人仍对变更后的债务承担保证责任；加重债务的，保证人对加重的部分不承担保证责任。

债权人和债务人变更主债权债务合同的履行期限，未经保证人书面同意的，保证期间不受影响。

第六百九十六条 债权人转让全部或者部分债权，未通知保证人的，该转让对保证人不发生效力。

保证人与债权人约定禁止债权转让，债权人未经保证人书面同意转让债权的，保证人对受让人不再承担保证责任。

第六百九十七条 债权人未经保证人书面同意，允许债务人转移全部或者部分债务，保证人对未经其同意转移的债务不再承担保证责任，但是债权人和保证人另有约定的除外。

第三人加入债务的，保证人的保证责任不受影响。

第六百九十八条 一般保证的保证人在主债务履行期限届满后，向债权人提供债务人可供执行财产的真实情况，债权人放弃或者怠于行使权利致使该财产不能被执行的，保证人在其提供可供执行财产的价值范围内不再承担保证责任。

第六百九十九条 同一债务有两个以上保证人的，保证人应当按照保证合同约定的保证份额，承担保证责任；没有约定保证份额的，债权人可以请求任何一个保证人在其保证范围内承担保证责任。

第七百条 保证人承担保证责任后，除当事人另有约定外，有权在其承担保证责任的范围内向债务人追偿，享有债权人对债务人的权利，但是不得损害债权人的利益。

第七百零一条 保证人可以主张债务人对债权人的抗辩。债务人放弃抗辩的，保证人仍有权向债权人主张抗辩。

第七百零二条 债务人对债权人享有抵销权或者撤销权的，保证人可以在相应范围内拒绝承担保证责任。

第十四章 租赁合同

第七百零三条 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。

第七百零四条 租赁合同的内容一般包括租赁物的名称、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。

第七百零五条 租赁期限不得超过二十年。超过二十年的，超过部分无效。

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

第七百零六条 当事人未依照法律、行政法规规定办理租赁合同登记备案手续的，不影响合同的效力。

第七百零七条 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，无法确定租赁期限的，视为不定期租赁。

第七百零八条 出租人应当按照约定将租赁物交付承租人，并在租赁期限内保持租赁物符合约定的用途。

第七百零九条 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，依据本法第五百一十条的规定仍不能确定的，应当根据租赁物的性质使用。

第七百一十条 承租人按照约定的方法或者根据租赁物的性质使用租赁物，致使租赁物受到损耗的，不承担赔偿责任。

第七百一十一条 承租人未按照约定的方法或者未根据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请求赔偿损失。

第七百一十二条 出租人应当履行租赁物的维修义务，但是当事人另有约定的除外。

第七百一十三条 承租人在租赁物需要维修时可以请求出租人在合理期限内维修。出租人未履行维修义务的，承租人可以自行维修，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。

因承租人的过错致使租赁物需要维修的，出租人不承担前款规定的维修义务。

第七百一十四条 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，应当承担赔偿责任。

第七百一十五条 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，出租人可以请求承租人恢复原状或者赔偿损失。

第七百一十六条 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；第三人造成租赁物损失的，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。

第七百一十七条 承租人经出租人同意将租赁物转租给第三人，转租期限超过承租人剩余租赁期限的，超过部分的约定对出租人不具有法律约束力，但是出租人与承租人另有约定的除外。

第七百一十八条 出租人知道或者应当知道承租人转租，但是在六个月内未提出异议的，视为出租人同意转租。

第七百一十九条 承租人拖欠租金的，次承租人可以代承租人支付其欠付的租金和违约金，但是转租合同对出租人不具有法律约束力的除外。

次承租人代为支付的租金和违约金，可以充抵次承租人应当向承租人支付的租金；超出其应付的租金数额的，可以向承租人追偿。

第七百二十条 在租赁期限内因占有、使用租赁物获得的收益，归承租人所有，但是当事人另有约定的除外。

第七百二十一条 承租人应当按照约定的期限支付租金。对支付租金的期限没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定，租赁期限不满一年的，应当在租赁期限届满时支付；租赁期限一年以上的，应当在每届满一年时支付，剩余期限不满一年的，应当在租赁期限届满时支付。

第七百二十二条 承租人无正当理由未支付或者迟延支付租金的，出租人可以请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。

第七百二十三条 因第三人主张权利，致使承租人不能对租赁物使用、收益的，承租人可以请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。

第七百二十四条 有下列情形之一的，非因承租人原因致使租赁物无法使用的，承租人可以解除合同：

- （一）租赁物被司法机关或者行政机关依法查封、扣押；
- （二）租赁物权属有争议；
- （三）租赁物具有违反法律、行政法规关于使用条件的强制性规定情形。

第七百二十五条 租赁物在承租人按照租赁合同占有期限内发生所有权变动的，不影响租赁合同的效力。

第七百二十六条 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；但是，房屋按份共有人行使优先购买权或者出租人将房屋出卖给近亲属的除外。

出租人履行通知义务后，承租人在十五日内未明确表示购买的，视为承租人放弃优先购买权。

第七百二十七条 出租人委托拍卖人拍卖租赁房屋的，应当在拍卖五日前通知承租人。承租人未参加拍卖的，视为放弃优先购买权。

第七百二十八条 出租人未通知承租人或者有其他妨害承租人行使优先购买权情形的，承租人可以请求出租人承担赔偿责任。但是，出租人与第三

人订立的房屋买卖合同的效力不受影响。

第七百二十九条 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，承租人可以请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。

第七百三十条 当事人对租赁期限没有约定或者约定不明确，依据本法第五百一十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，但是应当在合理期限之前通知对方。

第七百三十一条 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。

第七百三十二条 承租人在房屋租赁期限内死亡的，与其生前共同居住的人或者共同经营人可以按照原租赁合同租赁该房屋。

第七百三十三条 租赁期限届满，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根据租赁物的性质使用后的状态。

第七百三十四条 租赁期限届满，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，但是租赁期限为不定期。

租赁期限届满，房屋承租人享有以同等条件优先承租的权利。

第十五章 融资租赁合同

第七百三十五条 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。

第七百三十六条 融资租赁合同的内容一般包括租赁物的名称、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，租赁期限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。

第七百三十七条 当事人以虚构租赁物方式订立的融资租赁合同无效。

第七百三十八条 依照法律、行政法规的规定，对于租赁物的经营使用

应当取得行政许可的，出租人未取得行政许可不影响融资租赁合同的效力。

第七百三十九条 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。

第七百四十条 出卖人违反向承租人交付标的物的义务，有下列情形之一的，承租人可以拒绝受领出卖人向其交付的标的物：

（一）标的物严重不符合约定；

（二）未按照约定交付标的物，经承租人或者出租人催告后在合理期限内仍未交付。

承租人拒绝受领标的物的，应当及时通知出租人。

第七百四十一条 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。

第七百四十二条 承租人对出卖人行使索赔权利，不影响其履行支付租金的义务。但是，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，承租人请求减免相应租金。

第七百四十三条 出租人有下列情形之一的，致使承租人对出卖人行使索赔权利失败的，承租人有权请求出租人承担相应的责任：

（一）明知租赁物有质量瑕疵而不告知承租人；

（二）承租人行使索赔权利时，未及时提供必要协助。

出租人怠于行使只能由其对出卖人行使的索赔权利，造成承租人损失的，承租人有权请求出租人承担赔偿责任。

第七百四十四条 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。

第七百四十五条 出租人对租赁物享有的所有权，未经登记，不得对抗善意第三人。

第七百四十六条 融资租赁合同的租金，除当事人另有约定外，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。

第七百四十七条 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。但是，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。

第七百四十八条 出租人应当保证承租人对租赁物的占有和使用。

出租人有下列情形之一的，承租人有权请求其赔偿损失：

- （一）无正当理由收回租赁物；
- （二）无正当理由妨碍、干扰承租人对租赁物的占有和使用；
- （三）因出租人的原因致使第三人对租赁物主张权利；
- （四）不当影响承租人对租赁物占有和使用的其他情形。

第七百四十九条 承租人占有租赁物期间，租赁物造成第三人人身损害或者财产损失的，出租人不承担责任。

第七百五十条 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。

第七百五十一条 承租人占有租赁物期间，租赁物毁损、灭失的，出租人有权请求承租人继续支付租金，但是法律另有规定或者当事人另有约定的除外。

第七百五十二条 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，出租人可以请求支付全部租金；也可以解除合同，收回租赁物。

第七百五十三条 承租人未经出租人同意，将租赁物转让、抵押、质押、投资入股或者以其他方式处分的，出租人可以解除融资租赁合同。

第七百五十四条 有下列情形之一的，出租人或者承租人可以解除融资租赁合同：

- （一）出租人与出卖人订立的买卖合同解除、被确认无效或者被撤销，且未能重新订立买卖合同；
- （二）租赁物因不可归责于当事人的原因毁损、灭失，且不能修复或者

确定替代物；

（三）因出卖人的原因致使融资租赁合同的目的不能实现。

第七百五十五条 融资租赁合同因买卖合同解除、被确认无效或者被撤销而解除，出卖人、租赁物系由承租人选择的，出租人有权请求承租人赔偿相应损失；但是，因出租人原因致使买卖合同解除、被确认无效或者被撤销的除外。

出租人的损失已经在买卖合同解除、被确认无效或者被撤销时获得赔偿的，承租人不再承担相应的赔偿责任。

第七百五十六条 融资租赁合同因租赁物交付承租人后意外毁损、灭失等不可归责于当事人的原因解除的，出租人可以请求承租人按照租赁物折旧情况给予补偿。

第七百五十七条 出租人和承租人可以约定租赁期限届满租赁物的归属；对租赁物的归属没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定的，租赁物的所有权归出租人。

第七百五十八条 当事人约定租赁期限届满租赁物归承租人所有，承租人已经支付大部分租金，但是无力支付剩余租金，出租人因此解除合同收回租赁物，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，承租人可以请求相应返还。

当事人约定租赁期限届满租赁物归出租人所有，因租赁物毁损、灭失或者附合、混合于他物致使承租人不能返还的，出租人有权请求承租人给予合理补偿。

第七百五十九条 当事人约定租赁期限届满，承租人仅需向出租人支付象征性价款的，视为约定的租金义务履行完毕后租赁物的所有权归承租人。

第七百六十条 融资租赁合同无效，当事人就该情形下租赁物的归属有约定的，按照其约定；没有约定或者约定不明确的，租赁物应当返还出租人。但是，因承租人原因致使合同无效，出租人不请求返还或者返还后会显著降低租赁物效用的，租赁物的所有权归承租人，由承租人给予出租人合理

补偿。

第十六章 保 理 合 同

第七百六十一条 保理合同是应收账款债权人将现有的或者将有的应收账款转让给保理人，保理人提供资金融通、应收账款管理或者催收、应收账款债务人付款担保等服务的合同。

第七百六十二条 保理合同的内容一般包括业务类型、服务范围、服务期限、基础交易合同情况、应收账款信息、保理融资款或者服务报酬及其支付方式等条款。

保理合同应当采用书面形式。

第七百六十三条 应收账款债权人与债务人虚构应收账款作为转让标的，与保理人订立保理合同的，应收账款债务人不得以应收账款不存在为由对抗保理人，但是保理人明知虚构的除外。

第七百六十四条 保理人向应收账款债务人发出应收账款转让通知的，应当表明保理人身份并附有必要凭证。

第七百六十五条 应收账款债务人接到应收账款转让通知后，应收账款债权人与债务人无正当理由协商变更或者终止基础交易合同，对保理人产生不利影响的，对保理人不发生效力。

第七百六十六条 当事人约定有追索权保理的，保理人可以向应收账款债权人主张返还保理融资款本息或者回购应收账款债权，也可以向应收账款债务人主张应收账款债权。保理人向应收账款债务人主张应收账款债权，在扣除保理融资款本息和相关费用后有剩余的，剩余部分应当返还给应收账款债权人。

第七百六十七条 当事人约定无追索权保理的，保理人应当向应收账款债务人主张应收账款债权，保理人取得超过保理融资款本息和相关费用的部分，无需向应收账款债权人返还。

第七百六十八条 应收账款债权人就同一应收账款订立多个保理合同，

致使多个保理人主张权利的，已经登记的先于未登记的取得应收账款；均已登记的，按照登记时间的先后顺序取得应收账款；均未登记的，由最先到达应收账款债务人的转让通知中载明的保理人取得应收账款；既未登记也未通知的，按照保理融资款或者服务报酬的比例取得应收账款。

第七百六十九条 本章没有规定的，适用本编第六章债权转让的有关规定。

第十七章 承揽合同

第七百七十条 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，定作人支付报酬的合同。

承揽包括加工、定作、修理、复制、测试、检验等工作。

第七百七十一条 承揽合同的内容一般包括承揽的标的、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。

第七百七十二条 承揽人应当以自己的设备、技术和劳力，完成主要工作，但是当事人另有约定的除外。

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。

第七百七十三条 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。

第七百七十四条 承揽人提供材料的，应当按照约定选用材料，并接受定作人检验。

第七百七十五条 定作人提供材料的，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。

第七百七十六条 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。

第七百七十七条 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。

第七百七十八条 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。

第七百七十九条 承揽人在工作期间，应当接受定作人必要的监督检查。定作人不得因监督检查妨碍承揽人的正常工作。

第七百八十条 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和有关质量证明。定作人应当验收该工作成果。

第七百八十一条 承揽人交付的工作成果不符合质量要求的，定作人可以合理选择请求承揽人承担修理、重作、减少报酬、赔偿损失等违约责任。

第七百八十二条 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，依据本法第五百一十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。

第七百八十三条 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或者有权拒绝交付，但是当事人另有约定的除外。

第七百八十四条 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，应当承担赔偿责任。

第七百八十五条 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。

第七百八十六条 共同承揽人对定作人承担连带责任，但是当事人另有约定的除外。

第七百八十七条 定作人在承揽人完成工作前可以随时解除合同，造成承揽人损失的，应当赔偿损失。

第十八章 建设工程合同

第七百八十八条 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。

第七百八十九条 建设工程合同应当采用书面形式。

第七百九十条 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。

第七百九十一条 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支解成若干部分发包给数个承包人。

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支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。

第七百九十二条 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。

第七百九十三条 建设工程施工合同无效，但是建设工程经验收合格的，可以参照合同关于工程价款的约定折价补偿承包人。

建设工程施工合同无效，且建设工程经验收不合格的，按照以下情形处理：

（一）修复后的建设工程经验收合格的，发包人可以请求承包人承担修

复费用；

（二）修复后的建设工程经验收不合格的，承包人无权请求参照合同关于工程价款的约定折价补偿。

发包人对因建设工程不合格造成的损失有过错的，应当承担相应的责任。

第七百九十四条 勘察、设计合同的内容一般包括提交有关基础资料和概预算等文件的期限、质量要求、费用以及其他协作条件等条款。

第七百九十五条 施工合同的内容一般包括工程范围、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、相互协作等条款。

第七百九十六条 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，应当依照本编委托合同以及其他有关法律、行政法规的规定。

第七百九十七条 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。

第七百九十八条 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，并有权请求赔偿停工、窝工等损失。

第七百九十九条 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。

第八百条 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。

第八百零一条 因施工人的原因致使建设工程质量不符合约定的，发包人有权请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。

第八百零二条 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损害和财产损失的，承包人应当承担赔偿责任。

第八百零三条 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，并有权请求赔偿停工、窝工等损失。

第八百零四条 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。

第八百零五条 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。

第八百零六条 承包人将建设工程转包、违法分包的，发包人可以解除合同。

发包人提供的主要建筑材料、建筑构配件和设备不符合强制性标准或者不履行协助义务，致使承包人无法施工，经催告后在合理期限内仍未履行相应义务的，承包人可以解除合同。

合同解除后，已经完成的建设工程质量合格的，发包人应当按照约定支付相应的工程价款；已经完成的建设工程质量不合格的，参照本法第七百九十三条的规定处理。

第八百零七条 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，除根据建设工程的性质不宜折价、拍卖外，承包人可以与发包人协议将该工程折价，也可以请求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。

第八百零八条 本章没有规定的，适用承揽合同的有关规定。

第十九章 运 输 合 同

第一节 一 般 规 定

第八百零九条 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。

第八百一十条 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。

第八百一十一条 承运人应当在约定期限或者合理期限内将旅客、货物安全运输到约定地点。

第八百一十二条 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。

第八百一十三条 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。

第二节 客 运 合 同

第八百一十四条 客运合同自承运人向旅客出具客票时成立，但是当事人另有约定或者另有交易习惯的除外。

第八百一十五条 旅客应当按照有效客票记载的时间、班次和座位号乘坐。旅客无票乘坐、超程乘坐、越级乘坐或者持不符合减价条件的优惠客票乘坐的，应当补交票款，承运人可以按照规定加收票款；旅客不支付票款的，承运人可以拒绝运输。

实名制客运合同的旅客丢失客票的，可以请求承运人挂失补办，承运人不得再次收取票款和其他不合理费用。

第八百一十六条 旅客因自己的原因不能按照客票记载的时间乘坐的，应当在约定的期限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。

第八百一十七条 旅客随身携带行李应当符合约定的限量和品类要求；超过限量或者违反品类要求携带行李的，应当办理托运手续。

第八百一十八条 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、有放射性以及可能危及运输工具上人身和财产安全的危险物品或者违禁物品。

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

第八百一十九条 承运人应当严格履行安全运输义务，及时告知旅客安全运输应当注意的事项。旅客对承运人为安全运输所作的合理安排应当积极协助和配合。

第八百二十条 承运人应当按照有效客票记载的时间、班次和座位号运输旅客。承运人迟延运输或者有其他不能正常运输情形的，应当及时告知和提醒旅客，采取必要的安置措施，并根据旅客的要求安排改乘其他班次或者退票；由此造成旅客损失的，承运人应当承担赔偿责任，但是不可归责于承运人的除外。

第八百二十一条 承运人擅自降低服务标准的，应当根据旅客的请求退票或者减收票款；提高服务标准的，不得加收票款。

第八百二十二条 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。

第八百二十三条 承运人应当对运输过程中旅客的伤亡承担赔偿责任；但是，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。

第八百二十四条 在运输过程中旅客随身携带物品毁损、灭失，承运人

有过错的，应当承担赔偿责任。

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

第八百二十五条 托运人办理货物运输，应当向承运人准确表明收货人的姓名、名称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，托运人应当承担赔偿责任。

第八百二十六条 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。

第八百二十七条 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，适用本法第六百一十九条的规定。

托运人违反前款规定的，承运人可以拒绝运输。

第八百二十八条 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，做出危险物品标志和标签，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负担。

第八百二十九条 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，但是应当赔偿承运人因此受到的损失。

第八百三十条 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。

第八百三十一条 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，依据本法第五百一十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。

第八百三十二条 承运人对运输过程中货物的毁损、灭失承担赔偿责任。但是，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。

第八百三十三条 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，依据本法第五百一十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。

第八百三十四条 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。

第八百三十五条 货物在运输过程中因不可抗力灭失，未收取运费的，承运人不得请求支付运费；已经收取运费的，托运人可以请求返还。法律另有规定的，依照其规定。

第八百三十六条 托运人或者收货人不支付运费、保管费或者其他费用的，承运人对相应的运输货物享有留置权，但是当事人另有约定的除外。

第八百三十七条 收货人不明或者收货人无正当理由拒绝受领货物的，承运人依法可以提存货物。

第四节 多式联运合同

第八百三十八条 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。

第八百三十九条 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；但是，该约定不影响多

式联运经营人对全程运输承担的义务。

第八百四十条 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。

第八百四十一条 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赔偿责任。

第八百四十二条 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，依照本章规定承担赔偿责任。

第二十章 技 术 合 同

第一节 一 般 规 定

第八百四十三条 技术合同是当事人就技术开发、转让、许可、咨询或者服务订立的确立相互之间权利和义务的合同。

第八百四十四条 订立技术合同，应当有利于知识产权的保护和科学技术的进步，促进科学技术成果的研发、转化、应用和推广。

第八百四十五条 技术合同的内容一般包括项目的名称，标的的内容、范围和要求，履行的计划、地点和方式，技术信息和资料的保密，技术成果的归属和收益的分配办法，验收标准和方法，名词和术语的解释等条款。

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。

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。

第八百四十六条 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。

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，当事人可以约定查阅有关会计账目的办法。

第八百四十七条 职务技术成果的使用权、转让权属于法人或者非法人组织的，法人或者非法人组织可以就该项职务技术成果订立技术合同。法人或者非法人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非法人组织的工作任务，或者主要是利用法人或者非法人组织的物质技术条件所完成的技术成果。

第八百四十八条 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。

第八百四十九条 完成技术成果的个人享有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。

第八百五十条 非法垄断技术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

第八百五十一条 技术开发合同是当事人之间就新技术、新产品、新工艺、新品种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。

技术开发合同应当采用书面形式。

当事人之间就具有实用价值的科技成果实施转化订立的合同，参照适用技术开发合同的有关规定。

第八百五十二条 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，提出研究开发要求，完成协作事项，接受研究开

发成果。

第八百五十三条 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。

第八百五十四条 委托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。

第八百五十五条 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。

第八百五十六条 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。

第八百五十七条 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。

第八百五十八条 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，该风险由当事人约定；没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定的，风险由当事人合理分担。

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。

第八百五十九条 委托开发完成的发明创造，除法律另有规定或者当事人另有约定外，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，委托人可以依法实施该专利。

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。

第八百六十条 合作开发完成的发明创造，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。但是，当事人另有约定的除外。

合作开发的当事人一方声明放弃其共有的专利申请权的，除当事人另有约定外，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。

第八百六十一条 委托开发或者合作开发完成的技术秘密成果的使用权、转让权以及收益的分配办法，由当事人约定；没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定的，在没有相同技术方案被授予专利权前，当事人均有使用和转让的权利。但是，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 技术转让合同和技术许可合同

第八百六十二条 技术转让合同是合法拥有技术的权利人，将现有特定的专利、专利申请、技术秘密的相关权利让与他人所订立的合同。

技术许可合同是合法拥有技术的权利人，将现有特定的专利、技术秘密的相关权利许可他人实施、使用所订立的合同。

技术转让合同和技术许可合同中关于提供实施技术的专用设备、原材料或者提供有关的技术咨询、技术服务的约定，属于合同的组成部分。

第八百六十三条 技术转让合同包括专利权转让、专利申请权转让、技术秘密转让等合同。

技术许可合同包括专利实施许可、技术秘密使用许可等合同。

技术转让合同和技术许可合同应当采用书面形式。

第八百六十四条 技术转让合同和技术许可合同可以约定实施专利或者使用技术秘密的范围，但是不得限制技术竞争和技术发展。

第八百六十五条 专利实施许可合同仅在该专利权的存续期限内有效。专利权有效期限届满或者专利权被宣告无效的，专利权人不得就该专利与他

人订立专利实施许可合同。

第八百六十六条 专利实施许可合同的许可人应当按照约定许可被许可人实施专利，交付实施专利有关的技术资料，提供必要的技术指导。

第八百六十七条 专利实施许可合同的被许可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。

第八百六十八条 技术秘密转让合同的让与人和技术秘密使用许可合同的许可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。

前款规定的保密义务，不限制许可人申请专利，但是当事人另有约定的除外。

第八百六十九条 技术秘密转让合同的受让人和技术秘密使用许可合同的被许可人应当按照约定使用技术，支付转让费、使用费，承担保密义务。

第八百七十条 技术转让合同的让与人和技术许可合同的许可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。

第八百七十一条 技术转让合同的受让人和技术许可合同的被许可人应当按照约定的范围和期限，对让与人、许可人提供的技术中尚未公开的秘密部分，承担保密义务。

第八百七十二条 许可人未按照约定许可技术的，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。

让与人承担违约责任，参照适用前款规定。

第八百七十三条 被许可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，未经许可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。

受让人承担违约责任，参照适用前款规定。

第八百七十四条 受让人或者被许可人按照约定实施专利、使用技术秘密侵害他人合法权益的，由让与人或者许可人承担责任，但是当事人另有约定的除外。

第八百七十五条 当事人可以按照互利的原则，在合同中约定实施专利、使用技术秘密后续改进的技术成果的分享办法；没有约定或者约定不明确，依据本法第五百一十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。

第八百七十六条 集成电路布图设计专有权、植物新品种权、计算机软件著作权等其他知识产权的转让和许可，参照适用本节的有关规定。

第八百七十七条 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

第八百七十八条 技术咨询合同是当事人一方以技术知识为对方就特定技术项目提供可行性论证、技术预测、专题技术调查、分析评价报告等所订立的合同。

技术服务合同是当事人一方以技术知识为对方解决特定技术问题所订立的合同，不包括承揽合同和建设工程合同。

第八百七十九条 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，接受受托人的工作成果，支付报酬。

第八百八十条 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。

第八百八十一条 技术咨询合同的委托人未按照约定提供必要的资料，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，但是当事人另有约定的除外。

第八百八十二条 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。

第八百八十三条 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。

第八百八十四条 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约定完成服务工作的，应当承担免收报酬等违约责任。

第八百八十五条 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。

第八百八十六条 技术咨询合同和技术服务合同对受托人正常开展工作所需费用的负担没有约定或者约定不明确的，由受托人负担。

第八百八十七条 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。

第二十一章 保管合同

第八百八十八条 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。

寄存人到保管人处从事购物、就餐、住宿等活动，将物品存放在指定场所的，视为保管，但是当事人另有约定或者另有交易习惯的除外。

第八百八十九条 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，依据本法第五百一十条的规定仍不能确定的，视为无偿保管。

第八百九十条 保管合同自保管物交付时成立，但是当事人另有约定的除外。

第八百九十一条 寄存人向保管人交付保管物的，保管人应当出具保管凭证，但是另有交易习惯的除外。

第八百九十二条 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。除紧急情况或者为维护寄存人利益外，不得擅自改变保管场所或者方法。

第八百九十三条 寄存人交付的保管物有瑕疵或者根据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且未采取补救措施外，寄存人应当承担赔偿责任。

第八百九十四条 保管人不得将保管物转交第三人保管，但是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，造成保管物损失的，应当承担赔偿责任。

第八百九十五条 保管人不得使用或者许可第三人使用保管物，但是当事人另有约定的除外。

第八百九十六条 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措施外，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。

第八百九十七条 保管期内，因保管人保管不善造成保管物毁损、灭失的，保管人应当承担赔偿责任。但是，无偿保管人证明自己没有故意或者重大过失的，不承担赔偿责任。

第八百九十八条 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。

第八百九十九条 寄存人可以随时领取保管物。

当事人对保管期限没有约定或者约定不明确的，保管人可以随时请求寄存人领取保管物；约定保管期限的，保管人无特别事由，不得请求寄存人提前领取保管物。

第九百条 保管期限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。

第九百零一条 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。

第九百零二条 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，依据本法第五百一十条的规定仍不能确定的，应当在领取保管物的同时支付。

第九百零三条 寄存人未按照约定支付保管费或者其他费用的，保管人对保管物享有留置权，但是当事人另有约定的除外。

第二十二章 仓 储 合 同

第九百零四条 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。

第九百零五条 仓储合同自保管人和存货人意思表示一致时成立。

第九百零六条 储存易燃、易爆、有毒、有腐蚀性、有放射性等危险物

品或者易变质物品的，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负担。

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。

第九百零七条 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，保管人应当承担赔偿责任。

第九百零八条 存货人交付仓储物的，保管人应当出具仓单、入库单等凭证。

第九百零九条 保管人应当在仓单上签名或者盖章。仓单包括下列事项：

- （一）存货人的姓名或者名称和住所；
- （二）仓储物的品种、数量、质量、包装及其件数和标记；
- （三）仓储物的损耗标准；
- （四）储存场所；
- （五）储存期限；
- （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。

第九百一十条 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名或者盖章的，可以转让提取仓储物的权利。

第九百一十一条 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。

第九百一十二条 保管人发现入库仓储物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。

第九百一十三条 保管人发现入库仓储物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；但是，事后应当将该情况及时通知存货人或者仓单持有人。

第九百一十四条 当事人对储存期限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，保管人也可以随时请求存货人或者仓单持有人提取仓储物，但是应当给予必要的准备时间。

第九百一十五条 储存期限届满，存货人或者仓单持有人应当凭仓单、入库单等提取仓储物。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。

第九百一十六条 储存期限届满，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。

第九百一十七条 储存期内，因保管不善造成仓储物毁损、灭失的，保管人应当承担赔偿责任。因仓储物本身的自然性质、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，保管人不承担赔偿责任。

第九百一十八条 本章没有规定的，适用保管合同的有关规定。

第二十三章 委 托 合 同

第九百一十九条 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。

第九百二十条 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。

第九百二十一条 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并支付利息。

第九百二十二条 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，但是事后应当将该情况及时报告委托人。

第九百二十三条 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。转委托经同意或者追认的，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。转委托未经同意或者追认的，受托人应当对转委托的第三人的行为承担责任；但是，在紧急情况下受托人为了维护委托人的利益需要转委托第三人的除外。

第九百二十四条 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。

第九百二十五条 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；但是，有确切证据证明该合同只约束受托人和第三人的除外。

第九百二十六条 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。但是，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，但是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。

第九百二十七条 受托人处理委托事务取得的财产，应当转交给委托人。

第九百二十八条 受托人完成委托事务的，委托人应当按照约定向其支付报酬。

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。

第九百二十九条 有偿的委托合同，因受托人的过错造成委托人损失的，委托人可以请求赔偿损失。无偿的委托合同，因受托人的故意或者重大过失造成委托人损失的，委托人可以请求赔偿损失。

受托人超越权限造成委托人损失的，应当赔偿损失。

第九百三十条 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，可以向委托人请求赔偿损失。

第九百三十一条 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。因此造成受托人损失的，受托人可以向委托人请求赔偿损失。

第九百三十二条 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。

第九百三十三条 委托人或者受托人可以随时解除委托合同。因解除合同造成对方损失的，除不可归责于该当事人的事由外，无偿委托合同的解除方应当赔偿因解除时间不当造成的直接损失，有偿委托合同的解除方应当赔偿对方的直接损失和合同履行后可以获得的利益。

第九百三十四条 委托人死亡、终止或者受托人死亡、丧失民事行为能力、终止的，委托合同终止；但是，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。

第九百三十五条 因委托人死亡或者被宣告破产、解散，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、遗产管理人或者清算人承受委托事务之前，受托人应当继续处理委托事务。

第九百三十六条 因受托人死亡、丧失民事行为能力或者被宣告破产、解散，致使委托合同终止的，受托人的继承人、遗产管理人、法定代理人或

者清算人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、遗产管理人、法定代理人或者清算人应当采取必要措施。

第二十四章 物业服务合同

第九百三十七条 物业服务合同是物业服务人在物业服务区域内，为业主提供建筑物及其附属设施的维修养护、环境卫生和相关秩序的管理维护等物业服务，业主支付物业费的合同。

物业服务人包括物业服务企业和其他管理人。

第九百三十八条 物业服务合同的内容一般包括服务事项、服务质量、服务费用的标准和收取办法、维修资金的使用、服务用房的管理和使用、服务期限、服务交接等条款。

物业服务人公开作出的有利于业主的服务承诺，为物业服务合同的组成部分。

物业服务合同应当采用书面形式。

第九百三十九条 建设单位依法与物业服务人订立的前期物业服务合同，以及业主委员会与业主大会依法选聘的物业服务人订立的物业服务合同，对业主具有法律约束力。

第九百四十条 建设单位依法与物业服务人订立的前期物业服务合同约定的服务期限届满前，业主委员会或者业主与新物业服务人订立的物业服务合同生效的，前期物业服务合同终止。

第九百四十一条 物业服务人将物业服务区域内的部分专项服务事项委托给专业性服务组织或者其他第三人的，应当就该部分专项服务事项向业主负责。

物业服务人不得将其应当提供的全部物业服务转委托给第三人，或者将全部物业服务支解后分别转委托给第三人。

第九百四十二条 物业服务人应当按照约定和物业的使用性质，妥善维

修、养护、清洁、绿化和经营管理物业服务区域内的业主共有部分，维护物业服务区域内的基本秩序，采取合理措施保护业主的人身、财产安全。

对物业服务区域内违反有关治安、环保、消防等法律法规的行为，物业服务人应当及时采取合理措施制止、向有关行政主管部门报告并协助处理。

第九百四十三条 物业服务人应当定期将服务的事项、负责人员、质量要求、收费项目、收费标准、履行情况，以及维修资金使用情况、业主共有部分的经营与收益情况等以合理方式向业主公开并向业主大会、业主委员会报告。

第九百四十四条 业主应当按照约定向物业服务人支付物业费。物业服务人已经按照约定和有关规定提供服务的，业主不得以未接受或者无需接受相关物业服务为由拒绝支付物业费。

业主违反约定逾期不支付物业费的，物业服务人可以催告其在合理期限内支付；合理期限届满仍不支付的，物业服务人可以提起诉讼或者申请仲裁。

物业服务人不得采取停止供电、供水、供热、供燃气等方式催交物业费。

第九百四十五条 业主装饰装修房屋的，应当事先告知物业服务人，遵守物业服务人提示的合理注意事项，并配合其进行必要的现场检查。

业主转让、出租物业专有部分、设立居住权或者依法改变共有部分用途的，应当及时将相关情况告知物业服务人。

第九百四十六条 业主依照法定程序共同决定解聘物业服务人的，可以解除物业服务合同。决定解聘的，应当提前六十日书面通知物业服务人，但是合同对通知期限另有约定的除外。

依据前款规定解除合同造成物业服务人损失的，除不可归责于业主的事由外，业主应当赔偿损失。

第九百四十七条 物业服务期限届满前，业主依法共同决定续聘的，应当与原物业服务人在合同期限届满前续订物业服务合同。

物业服务期限届满前，物业服务人不同意续聘的，应当在合同期限届满前九十日书面通知业主或者业主委员会，但是合同对通知期限另有约定的除外。

第九百四十八条 物业服务期限届满后，业主没有依法作出续聘或者另聘物业服务人的决定，物业服务人继续提供物业服务的，原物业服务合同继续有效，但是服务期限为不定期。

当事人可以随时解除不定期物业服务合同，但是应当提前六十日书面通知对方。

第九百四十九条 物业服务合同终止的，原物业服务人应当在约定期限或者合理期限内退出物业服务区域，将物业服务用房、相关设施、物业服务所必需的相关资料等交还给业主委员会、决定自行管理的业主或者其指定的人，配合新物业服务人做好交接工作，并如实告知物业的使用和管理状况。

原物业服务人违反前款规定的，不得请求业主支付物业服务合同终止后的物业费；造成业主损失的，应当赔偿损失。

第九百五十条 物业服务合同终止后，在业主或者业主大会选聘的新物业服务人或者决定自行管理的业主接管之前，原物业服务人应当继续处理物业服务事项，并可以请求业主支付该期间的物业费。

第二十五章 行 纪 合 同

第九百五十一条 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。

第九百五十二条 行纪人处理委托事务支出的费用，由行纪人负担，但是当事人另有约定的除外。

第九百五十三条 行纪人占有委托物的，应当妥善保管委托物。

第九百五十四条 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；不能与委托人及时取得联系的，

行纪人可以合理处分。

第九百五十五条 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，依据本法第五百一十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。

第九百五十六条 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，仍然可以请求委托人支付报酬。

第九百五十七条 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，行纪人依法可以提存委托物。

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，行纪人依法可以提存委托物。

第九百五十八条 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，行纪人应当承担赔偿责任，但是行纪人与委托人另有约定的除外。

第九百五十九条 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，但是当事人另有约定的除外。

第九百六十条 本章没有规定的，参照适用委托合同的有关规定。

第二十六章 中 介 合 同

第九百六十一条 中介合同是中介人向委托人报告订立合同的机会或者

提供订立合同的媒介服务，委托人支付报酬的合同。

第九百六十二条 中介人应当就有关订立合同的事项向委托人如实报告。

中介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，不得请求支付报酬并应当承担赔偿责任。

第九百六十三条 中介人促成合同成立的，委托人应当按照约定支付报酬。对中介人的报酬没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定的，根据中介人的劳务合理确定。因中介人提供订立合同的媒介服务而促成合同成立的，由该合同的当事人平均负担中介人的报酬。

中介人促成合同成立的，中介活动的费用，由中介人负担。

第九百六十四条 中介人未促成合同成立的，不得请求支付报酬；但是，可以按照约定请求委托人支付从事中介活动支出的必要费用。

第九百六十五条 委托人在接受中介人的服务后，利用中介人提供的交易机会或者媒介服务，绕开中介人直接订立合同的，应当向中介人支付报酬。

第九百六十六条 本章没有规定的，参照适用委托合同的有关规定。

第二十七章 合 伙 合 同

第九百六十七条 合伙合同是两个以上合伙人为了共同的事业目的，订立的共享利益、共担风险的协议。

第九百六十八条 合伙人应当按照约定的出资方式、数额和缴付期限，履行出资义务。

第九百六十九条 合伙人的出资、因合伙事务依法取得的收益和其他财产，属于合伙财产。

合伙合同终止前，合伙人不得请求分割合伙财产。

第九百七十条 合伙人就合伙事务作出决定的，除合伙合同另有约定外，应当经全体合伙人一致同意。

合伙事务由全体合伙人共同执行。按照合伙合同的约定或者全体合伙人的决定，可以委托一个或者数个合伙人执行合伙事务；其他合伙人不再执行合伙事务，但是有权监督执行情况。

合伙人分别执行合伙事务的，执行事务合伙人可以对其他合伙人执行的事务提出异议；提出异议后，其他合伙人应当暂停该项事务的执行。

第九百七十一条 合伙人不得因执行合伙事务而请求支付报酬，但是合伙合同另有约定的除外。

第九百七十二条 合伙的利润分配和亏损分担，按照合伙合同的约定办理；合伙合同没有约定或者约定不明确的，由合伙人协商决定；协商不成的，由合伙人按照实缴出资比例分配、分担；无法确定出资比例的，由合伙人平均分配、分担。

第九百七十三条 合伙人对合伙债务承担连带责任。清偿合伙债务超过自己应当承担份额的合伙人，有权向其他合伙人追偿。

第九百七十四条 除合伙合同另有约定外，合伙人向合伙人以外的人转让其全部或者部分财产份额的，须经其他合伙人一致同意。

第九百七十五条 合伙人的债权人不得代位行使合伙人依照本章规定和合伙合同享有的权利，但是合伙人享有的利益分配请求权除外。

第九百七十六条 合伙人对合伙期限没有约定或者约定不明确，依据本法第五百一十条的规定仍不能确定的，视为不定期合伙。

合伙期限届满，合伙人继续执行合伙事务，其他合伙人没有提出异议的，原合伙合同继续有效，但是合伙期限为不定期。

合伙人可以随时解除不定期合伙合同，但是应当在合理期限之前通知其他合伙人。

第九百七十七条 合伙人死亡、丧失民事行为能力或者终止的，合伙合同终止；但是，合伙合同另有约定或者根据合伙事务的性质不宜终止的除外。

第九百七十八条 合伙合同终止后，合伙财产在支付因终止而产生的费用以及清偿合伙债务后有剩余的，依据本法第九百七十二条的规定进行分配。

第三分编 准 合 同

第二十八章 无 因 管 理

第九百七十九条 管理人没有法定的或者约定的义务，为避免他人利益受损失而管理他人事务的，可以请求受益人偿还因管理事务而支出的必要费用；管理人因管理事务受到损失的，可以请求受益人给予适当补偿。

管理事务不符合受益人真实意思的，管理人不享有前款规定的权利；但是，受益人的真实意思违反法律或者违背公序良俗的除外。

第九百八十条 管理人管理事务不属于前条规定的情形，但是受益人享有管理利益的，受益人应当在其获得的利益范围内向管理人承担前条第一款规定的义务。

第九百八十一条 管理人管理他人事务，应当采取有利于受益人的方法。中断管理对受益人不利的，无正当理由不得中断。

第九百八十二条 管理人管理他人事务，能够通知受益人的，应当及时通知受益人。管理的事务不需要紧急处理的，应当等待受益人的指示。

第九百八十三条 管理结束后，管理人应当向受益人报告管理事务的情况。管理人管理事务取得的财产，应当及时转交给受益人。

第九百八十四条 管理人管理事务经受益人事后追认的，从管理事务开始时起，适用委托合同的有关规定，但是管理人另有意思表示的除外。

第二十九章 不 当 得 利

第九百八十五条 得利人没有法律根据取得不当利益的，受损失的人可以请求得利人返还取得的利益，但是有下列情形之一的除外：

- （一）为履行道德义务进行的给付；
- （二）债务到期之前的清偿；
- （三）明知无给付义务而进行的债务清偿。

第九百八十六条 得利人不知道且不应当知道取得的利益没有法律根

据，取得的利益已经不存在的，不承担返还该利益的义务。

第九百八十七条 得利人知道或者应当知道取得的利益没有法律根据的，受损失的人可以请求得利人返还其取得的利益并依法赔偿损失。

第九百八十八条 得利人已经将取得的利益无偿转让给第三人的，受损失的人可以请求第三人在相应范围内承担返还义务。

第四编 人 格 权

第一章 一 般 规 定

第九百八十九条 本编调整因人格权的享有和保护产生的民事关系。

第九百九十条 人格权是民事主体享有的生命权、身体权、健康权、姓名权、名称权、肖像权、名誉权、荣誉权、隐私权等权利。

除前款规定的人格权外，自然人享有基于人身自由、人格尊严产生的其他人格权益。

第九百九十一条 民事主体的人格权受法律保护，任何组织或者个人不得侵害。

第九百九十二条 人格权不得放弃、转让或者继承。

第九百九十三条 民事主体可以将自己的姓名、名称、肖像等许可他人使用，但是依照法律规定或者根据其性质不得许可的除外。

第九百九十四条 死者的姓名、肖像、名誉、荣誉、隐私、遗体等受到侵害的，其配偶、子女、父母有权依法请求行为人承担民事责任；死者没有配偶、子女且父母已经死亡的，其他近亲属有权依法请求行为人承担民事责任。

第九百九十五条 人格权受到侵害的，受害人有权依照本法和其他法律的规定请求行为人承担民事责任。受害人的停止侵害、排除妨碍、消除危险、消除影响、恢复名誉、赔礼道歉请求权，不适用诉讼时效的规定。

第九百九十六条 因当事人一方的违约行为，损害对方人格权并造成严重精神损害，受损害方选择请求其承担违约责任的，不影响受损害方请求精神损害赔偿。

第九百九十七条 民事主体有证据证明行为人正在实施或者即将实施侵害其人格权的违法行为，不及时制止将使其合法权益受到难以弥补的损害的，有权依法向人民法院申请采取责令行为人停止有关行为的措施。

第九百九十八条 认定行为人承担侵害除生命权、身体权和健康权外的人格权的民事责任，应当考虑行为人和受害人的职业、影响范围、过错程度，以及行为的目的、方式、后果等因素。

第九百九十九条 为公共利益实施新闻报道、舆论监督等行为的，可以合理使用民事主体的姓名、名称、肖像、个人信息等；使用不合理侵害民事主体人格权的，应当依法承担民事责任。

第一千条 行为人因侵害人格权承担消除影响、恢复名誉、赔礼道歉等民事责任的，应当与行为的具体方式和造成的影响范围相当。

行为人拒不承担前款规定的民事责任的，人民法院可以采取在报刊、网络等媒体上发布公告或者公布生效裁判文书等方式执行，产生的费用由行为人负担。

第一千零一条 对自然人因婚姻家庭关系等产生的身份权利的保护，适用本法第一编、第五编和其他法律的相关规定；没有规定的，可以根据其性质参照适用本编人格权保护的有关规定。

第二章 生命权、身体权和健康权

第一千零二条 自然人享有生命权。自然人的生命安全和生命尊严受法律保护。任何组织或者个人不得侵害他人的生命权。

第一千零三条 自然人享有身体权。自然人的身体完整和行动自由受法律保护。任何组织或者个人不得侵害他人的身体权。

第一千零四条 自然人享有健康权。自然人的身心健康受法律保护。任何组织或者个人不得侵害他人的健康权。

第一千零五条 自然人的生命权、身体权、健康权受到侵害或者处于其他危难情形的，负有法定救助义务的组织或者个人应当及时施救。

第一千零六条 完全民事行为能力人有权依法自主决定无偿捐献其人体细胞、人体组织、人体器官、遗体。任何组织或者个人不得强迫、欺骗、利诱其捐献。

完全民事行为能力人依据前款规定同意捐献的，应当采用书面形式，也可以订立遗嘱。

自然人生前未表示不同意捐献的，该自然人死亡后，其配偶、成年子女、父母可以共同决定捐献，决定捐献应当采用书面形式。

第一千零七条 禁止以任何形式买卖人体细胞、人体组织、人体器官、遗体。

违反前款规定的买卖行为无效。

第一千零八条 为研制新药、医疗器械或者发展新的预防和治疗方法，需要进行临床试验的，应当依法经相关主管部门批准并经伦理委员会审查同意，向受试者或者受试者的监护人告知试验目的、用途和可能产生的风险等详细情况，并经其书面同意。

进行临床试验的，不得向受试者收取试验费用。

第一千零九条 从事与人体基因、人体胚胎等有关的医学和科研活动，应当遵守法律、行政法规和国家有关规定，不得危害人体健康，不得违背伦理道德，不得损害公共利益。

第一千零一十条 违背他人意愿，以言语、文字、图像、肢体行为等方式对他人实施性骚扰的，受害人有权依法请求行为人承担民事责任。

机关、企业、学校等单位应当采取合理的预防、受理投诉、调查处置等措施，防止和制止利用职权、从属关系等实施性骚扰。

第一千零一十一条 以非法拘禁等方式剥夺、限制他人的行动自由，或者非法搜查他人身体的，受害人有权依法请求行为人承担民事责任。

第三章 姓名权和名称权

第一千零一十二条 自然人享有姓名权，有权依法决定、使用、变更或

者许可他人使用自己的姓名，但是不得违背公序良俗。

第一千零一十三条 法人、非法人组织享有名称权，有权依法决定、使用、变更、转让或者许可他人使用自己的名称。

第一千零一十四条 任何组织或者个人不得以干涉、盗用、假冒等方式侵害他人的姓名权或者名称权。

第一千零一十五条 自然人应当随父姓或者母姓，但是有下列情形之一的，可以在父姓和母姓之外选取姓氏：

- （一）选取其他直系长辈血亲的姓氏；
- （二）因由法定扶养人以外的人扶养而选取扶养人姓氏；
- （三）有不违背公序良俗的其他正当理由。

少数民族自然人的姓氏可以遵从本民族的文化传统和风俗习惯。

第一千零一十六条 自然人决定、变更姓名，或者法人、非法人组织决定、变更、转让名称的，应当依法向有关机关办理登记手续，但是法律另有规定的除外。

民事主体变更姓名、名称的，变更前实施的民事法律行为对其具有法律约束力。

第一千零一十七条 具有一定社会知名度，被他人使用足以造成公众混淆的笔名、艺名、网名、译名、字号、姓名和名称的简称等，参照适用姓名权和名称权保护的有关规定。

第四章 肖像权

第一千零一十八条 自然人享有肖像权，有权依法制作、使用、公开或者许可他人使用自己的肖像。

肖像是通过影像、雕塑、绘画等方式在一定载体上所反映的特定自然人可以被识别的外部形象。

第一千零一十九条 任何组织或者个人不得以丑化、污损，或者利用信息技术手段伪造等方式侵害他人的肖像权。未经肖像权人同意，不得制作、

使用、公开肖像权人的肖像，但是法律另有规定的除外。

未经肖像权人同意，肖像作品权利人不得以发表、复制、发行、出租、展览等方式使用或者公开肖像权人的肖像。

第一千零二十条 合理实施下列行为的，可以不经肖像权人同意：

（一）为个人学习、艺术欣赏、课堂教学或者科学研究，在必要范围内使用肖像权人已经公开的肖像；

（二）为实施新闻报道，不可避免地制作、使用、公开肖像权人的肖像；

（三）为依法履行职责，国家机关在必要范围内制作、使用、公开肖像权人的肖像；

（四）为展示特定公共环境，不可避免地制作、使用、公开肖像权人的肖像；

（五）为维护公共利益或者肖像权人合法权益，制作、使用、公开肖像权人的肖像的其他行为。

第一千零二十一条 当事人对肖像许可使用合同中关于肖像使用条款的理解有争议的，应当作出有利于肖像权人的解释。

第一千零二十二条 当事人对肖像许可使用期限没有约定或者约定不明确的，任何一方当事人可以随时解除肖像许可使用合同，但是应当在合理期限之前通知对方。

当事人对肖像许可使用期限有明确约定，肖像权人有正当理由的，可以解除肖像许可使用合同，但是应当在合理期限之前通知对方。因解除合同造成对方损失的，除不可归责于肖像权人的事由外，应当赔偿损失。

第一千零二十三条 对姓名等的许可使用，参照适用肖像许可使用的有关规定。

对自然人声音的保护，参照适用肖像权保护的有关规定。

第五章 名誉权和荣誉权

第一千零二十四条 民事主体享有名誉权。任何组织或者个人不得以侮

辱、诽谤等方式侵害他人的名誉权。

名誉是对民事主体的品德、声望、才能、信用等的社会评价。

第一千零二十五条 行为人为公共利益实施新闻报道、舆论监督等行为，影响他人名誉的，不承担民事责任，但是有下列情形之一的除外：

- （一）捏造、歪曲事实；
- （二）对他人提供的严重失实内容未尽到合理核实义务；
- （三）使用侮辱性言辞等贬损他人名誉。

第一千零二十六条 认定行为人是否尽到前条第二项规定的合理核实义务，应当考虑下列因素：

- （一）内容来源的可信度；
- （二）对明显可能引发争议的内容是否进行了必要的调查；
- （三）内容的时限性；
- （四）内容与公序良俗的关联性；
- （五）受害人名誉受贬损的可能性；
- （六）核实能力和核实成本。

第一千零二十七条 行为人发表的文学、艺术作品以真人真事或者特定人为描述对象，含有侮辱、诽谤内容，侵害他人名誉权的，受害人有权依法请求该行为人承担民事责任。

行为人发表的文学、艺术作品不以特定人为描述对象，仅其中的情节与该特定人的情况相似的，不承担民事责任。

第一千零二十八条 民事主体有证据证明报刊、网络等媒体报道的内容失实，侵害其名誉权的，有权请求该媒体及时采取更正或者删除等必要措施。

第一千零二十九条 民事主体可以依法查询自己的信用评价；发现信用评价不当的，有权提出异议并请求采取更正、删除等必要措施。信用评价人应当及时核查，经核查属实的，应当及时采取必要措施。

第一千零三十条 民事主体与征信机构等信用信息处理者之间的关系，

适用本编有关个人信息保护的规定和其他法律、行政法规的有关规定。

第一千零三十一条 民事主体享有荣誉权。任何组织或者个人不得非法剥夺他人的荣誉称号，不得诋毁、贬损他人的荣誉。

获得的荣誉称号应当记载而没有记载的，民事主体可以请求记载；获得的荣誉称号记载错误的，民事主体可以请求更正。

第六章 隐私权和个人信息保护

第一千零三十二条 自然人享有隐私权。任何组织或者个人不得以刺探、侵扰、泄露、公开等方式侵害他人的隐私权。

隐私是自然人的私人生活安宁和不愿为他人知晓的私密空间、私密活动、私密信息。

第一千零三十三条 除法律另有规定或者权利人明确同意外，任何组织或者个人不得实施下列行为：

（一）以电话、短信、即时通讯工具、电子邮件、传单等方式侵扰他人的私人生活安宁；

（二）进入、拍摄、窥视他人的住宅、宾馆房间等私密空间；

（三）拍摄、窥视、窃听、公开他人的私密活动；

（四）拍摄、窥视他人身体的私密部位；

（五）处理他人的私密信息；

（六）以其他方式侵害他人的隐私权。

第一千零三十四条 自然人的个人信息受法律保护。

个人信息是以电子或者其他方式记录的能够单独或者与其他信息结合识别特定自然人的各种信息，包括自然人的姓名、出生日期、身份证件号码、生物识别信息、住址、电话号码、电子邮箱、健康信息、行踪信息等。

个人信息中的私密信息，适用有关隐私权的规定；没有规定的，适用有关个人信息保护的规定。

第一千零三十五条 处理个人信息的，应当遵循合法、正当、必要原

则，不得过度处理，并符合下列条件：

（一）征得该自然人或者其监护人同意，但是法律、行政法规另有规定的除外；

（二）公开处理信息的规则；

（三）明示处理信息的目的、方式和范围；

（四）不违反法律、行政法规的规定和双方的约定。

个人信息处理包括个人信息的收集、存储、使用、加工、传输、提供、公开等。

第一千零三十六条 处理个人信息，有下列情形之一的，行为人不承担民事责任：

（一）在该自然人或者其监护人同意的范围内合理实施的行为；

（二）合理处理该自然人自行公开的或者其他已经合法公开的信息，但是该自然人明确拒绝或者处理该信息侵害其重大利益的除外；

（三）为维护公共利益或者该自然人合法权益，合理实施的其他行为。

第一千零三十七条 自然人可以依法向信息处理者查阅或者复制其个人信息；发现信息有错误的，有权提出异议并请求及时采取更正等必要措施。

自然人发现信息处理者违反法律、行政法规的规定或者双方的约定处理其个人信息的，有权请求信息处理者及时删除。

第一千零三十八条 信息处理者不得泄露或者篡改其收集、存储的个人信息；未经自然人同意，不得向他人非法提供其个人信息，但是经过加工无法识别特定个人且不能复原的除外。

信息处理者应当采取技术措施和其他必要措施，确保其收集、存储的个人信息安全，防止信息泄露、篡改、丢失；发生或者可能发生个人信息泄露、篡改、丢失的，应当及时采取补救措施，按照规定告知自然人并向有关主管部门报告。

第一千零三十九条 国家机关、承担行政职能的法定机构及其工作人员

对于履行职责过程中知悉的自然人的隐私和个人信息，应当予以保密，不得泄露或者向他人非法提供。

第五编 婚 姻 家 庭

第一章 一 般 规 定

第一千零四十条 本编调整因婚姻家庭产生的民事关系。

第一千零四十一条 婚姻家庭受国家保护。

实行婚姻自由、一夫一妻、男女平等的婚姻制度。

保护妇女、未成年人、老年人、残疾人的合法权益。

第一千零四十二条 禁止包办、买卖婚姻和其他干涉婚姻自由的行为。
禁止借婚姻索取财物。

禁止重婚。禁止有配偶者与他人同居。

禁止家庭暴力。禁止家庭成员间的虐待和遗弃。

第一千零四十三条 家庭应当树立优良家风，弘扬家庭美德，重视家庭
文明建设。

夫妻应当互相忠实，互相尊重，互相关爱；家庭成员应当敬老爱幼，互相帮助，维护平等、和睦、文明的婚姻家庭关系。

第一千零四十四条 收养应当遵循最有利于被收养人的原则，保障被收养人和收养人的合法权益。

禁止借收养名义买卖未成年人。

第一千零四十五条 亲属包括配偶、血亲和姻亲。

配偶、父母、子女、兄弟姐妹、祖父母、外祖父母、孙子女、外孙子女为近亲属。

配偶、父母、子女和其他共同生活的近亲属为家庭成员。

第二章 结 婚

第一千零四十六条 结婚应当男女双方完全自愿，禁止任何一方对另一

方加以强迫，禁止任何组织或者个人加以干涉。

第一千零四十七条 结婚年龄，男不得早于二十二周岁，女不得早于二十周岁。

第一千零四十八条 直系血亲或者三代以内的旁系血亲禁止结婚。

第一千零四十九条 要求结婚的男女双方应当亲自到婚姻登记机关申请结婚登记。符合本法规定的，予以登记，发给结婚证。完成结婚登记，即确立婚姻关系。未办理结婚登记的，应当补办登记。

第一千零五十条 登记结婚后，按照男女双方约定，女方可以成为男方家庭的成员，男方可以成为女方家庭的成员。

第一千零五十一条 有下列情形之一的，婚姻无效：

- (一) 重婚；
- (二) 有禁止结婚的亲属关系；
- (三) 未到法定婚龄。

第一千零五十二条 因胁迫结婚的，受胁迫的一方可以向人民法院请求撤销婚姻。

请求撤销婚姻的，应当自胁迫行为终止之日起一年内提出。

被非法限制人身自由的当事人请求撤销婚姻的，应当自恢复人身自由之日起一年内提出。

第一千零五十三条 一方患有重大疾病的，应当在结婚登记前如实告知另一方；不如实告知的，另一方可以向人民法院请求撤销婚姻。

请求撤销婚姻的，应当自知道或者应当知道撤销事由之日起一年内提出。

第一千零五十四条 无效的或者被撤销的婚姻自始没有法律约束力，当事人不具有夫妻的权利和义务。同居期间所得的财产，由当事人协议处理；协议不成的，由人民法院根据照顾无过错方的原则判决。对重婚导致的无效婚姻的财产处理，不得侵害合法婚姻当事人的财产权益。当事人所生的子女，适用本法关于父母子女的规定。

婚姻无效或者被撤销的，无过错方有权请求损害赔偿。

第三章 家庭关系

第一节 夫妻关系

第一千零五十五条 夫妻在婚姻家庭中地位平等。

第一千零五十六条 夫妻双方都有各自使用自己姓名的权利。

第一千零五十七条 夫妻双方都有参加生产、工作、学习和社会活动的自由，一方不得对另一方加以限制或者干涉。

第一千零五十八条 夫妻双方平等享有对未成年子女抚养、教育和保护的權利，共同承担对未成年子女抚养、教育和保护的义务。

第一千零五十九条 夫妻有相互扶养的义务。

需要扶养的一方，在另一方不履行扶养义务时，有要求其给付扶养费的权利。

第一千零六十条 夫妻一方因家庭日常生活需要而实施的民事法律行为，对夫妻双方发生效力，但是夫妻一方与相对人另有约定的除外。

夫妻之间对一方可以实施的民事法律行为范围的限制，不得对抗善意相对人。

第一千零六十一条 夫妻有相互继承遗产的权利。

第一千零六十二条 夫妻在婚姻关系存续期间所得的下列财产，为夫妻的共同财产，归夫妻共同所有：

（一）工资、奖金、劳务报酬；

（二）生产、经营、投资的收益；

（三）知识产权的收益；

（四）继承或者受赠的财产，但是本法第一千零六十三条第三项规定的除外；

（五）其他应当归共同所有的财产。

夫妻对共同财产，有平等的处理权。

第一千零六十三条 下列财产为夫妻一方的个人财产：

- (一) 一方的婚前财产；
- (二) 一方因受到人身损害获得的赔偿或者补偿；
- (三) 遗嘱或者赠与合同中确定只归一方的财产；
- (四) 一方专用的生活用品；
- (五) 其他应当归一方的财产。

第一千零六十四条 夫妻双方共同签名或者夫妻一方事后追认等共同意思表示所负的债务，以及夫妻一方在婚姻关系存续期间以个人名义为家庭日常生活需要所负的债务，属于夫妻共同债务。

夫妻一方在婚姻关系存续期间以个人名义超出家庭日常生活需要所负的债务，不属于夫妻共同债务；但是，债权人能够证明该债务用于夫妻共同生活、共同生产经营或者基于夫妻双方共同意思表示的除外。

第一千零六十五条 男女双方可以约定婚姻关系存续期间所得的财产以及婚前财产归各自所有、共同所有或者部分各自所有、部分共同所有。约定应当采用书面形式。没有约定或者约定不明确的，适用本法第一千零六十二条、第一千零六十三条的规定。

夫妻对婚姻关系存续期间所得的财产以及婚前财产的约定，对双方具有法律约束力。

夫妻对婚姻关系存续期间所得的财产约定归各自所有，夫或者妻一方对外所负的债务，相对人知道该约定的，以夫或者妻一方的个人财产清偿。

第一千零六十六条 婚姻关系存续期间，有下列情形之一的，夫妻一方可以向人民法院请求分割共同财产：

- (一) 一方有隐藏、转移、变卖、毁损、挥霍夫妻共同财产或者伪造夫妻共同债务等严重损害夫妻共同财产利益的行为；
- (二) 一方负有法定扶养义务的人患重大疾病需要医治，另一方不同意支付相关医疗费用。

第二节 父母子女关系和其他近亲属关系

第一千零六十七条 父母不履行抚养义务的，未成年子女或者不能独立生活的成年子女，有要求父母给付抚养费的权利。

成年子女不履行赡养义务的，缺乏劳动能力或者生活困难的父母，有要求成年子女给付赡养费的权利。

第一千零六十八条 父母有教育、保护未成年子女的权利和义务。未成年子女造成他人损害的，父母应当依法承担民事责任。

第一千零六十九条 子女应当尊重父母的婚姻权利，不得干涉父母离婚、再婚以及婚后的生活。子女对父母的赡养义务，不因父母的婚姻关系变化而终止。

第一千零七十条 父母和子女有相互继承遗产的权利。

第一千零七十一条 非婚生子女享有与婚生子女同等的权利，任何组织或者个人不得加以危害和歧视。

不直接抚养非婚生子女的生父或者生母，应当负担未成年子女或者不能独立生活的成年子女的抚养费。

第一千零七十二条 继父母与继子女间，不得虐待或者歧视。

继父或者继母和受其抚养教育的继子女间的权利义务关系，适用本法关于父母子女关系的规定。

第一千零七十三条 对亲子关系有异议且有正当理由的，父或者母可以向人民法院提起诉讼，请求确认或者否认亲子关系。

对亲子关系有异议且有正当理由的，成年子女可以向人民法院提起诉讼，请求确认亲子关系。

第一千零七十四条 有负担能力的祖父母、外祖父母，对于父母已经死亡或者父母无力抚养的未成年孙子女、外孙子女，有抚养的义务。

有负担能力的孙子女、外孙子女，对于子女已经死亡或者子女无力赡养的祖父母、外祖父母，有赡养的义务。

第一千零七十五条 有负担能力的兄、姐，对于父母已经死亡或者父母无力抚养的未成年弟、妹，有扶养的义务。

由兄、姐扶养长大的有负担能力的弟、妹，对于缺乏劳动能力又缺乏生活来源的兄、姐，有扶养的义务。

第四章 离 婚

第一千零七十六条 夫妻双方自愿离婚的，应当签订书面离婚协议，并亲自到婚姻登记机关申请离婚登记。

离婚协议应当载明双方自愿离婚的意思表示和对子女抚养、财产以及债务处理等事项协商一致的意见。

第一千零七十七条 自婚姻登记机关收到离婚登记申请之日起三十日内，任何一方不愿意离婚的，可以向婚姻登记机关撤回离婚登记申请。

前款规定期限届满后三十日内，双方应当亲自到婚姻登记机关申请发给离婚证；未申请的，视为撤回离婚登记申请。

第一千零七十八条 婚姻登记机关查明双方确实是自愿离婚，并已经对子女抚养、财产以及债务处理等事项协商一致的，予以登记，发给离婚证。

第一千零七十九条 夫妻一方要求离婚的，可以由有关组织进行调解或者直接向人民法院提起离婚诉讼。

人民法院审理离婚案件，应当进行调解；如果感情确已破裂，调解无效的，应当准予离婚。

有下列情形之一的，调解无效的，应当准予离婚：

- （一）重婚或者与他人同居；
- （二）实施家庭暴力或者虐待、遗弃家庭成员；
- （三）有赌博、吸毒等恶习屡教不改；
- （四）因感情不和分居满二年；
- （五）其他导致夫妻感情破裂的情形。

一方被宣告失踪，另一方提起离婚诉讼的，应当准予离婚。

经人民法院判决不准离婚后，双方又分居满一年，一方再次提起离婚诉讼的，应当准予离婚。

第一千零八十条 完成离婚登记，或者离婚判决书、调解书生效，即解除婚姻关系。

第一千零八十一条 现役军人的配偶要求离婚，应当征得军人同意，但是军人一方有重大过错的除外。

第一千零八十二条 女方在怀孕期间、分娩后一年内或者终止妊娠后六个月内，男方不得提出离婚；但是，女方提出离婚或者人民法院认为确有必要受理男方离婚请求的除外。

第一千零八十三条 离婚后，男女双方自愿恢复婚姻关系的，应当到婚姻登记机关重新进行结婚登记。

第一千零八十四条 父母与子女间的关系，不因父母离婚而消除。离婚后，子女无论由父或者母直接抚养，仍是父母双方的子女。

离婚后，父母对于子女仍有抚养、教育、保护的权利和义务。

离婚后，不满两周岁的子女，以由母亲直接抚养为原则。已满两周岁的子女，父母双方对抚养问题协议不成的，由人民法院根据双方的具体情况，按照最有利于未成年子女的原则判决。子女已满八周岁的，应当尊重其真实意愿。

第一千零八十五条 离婚后，子女由一方直接抚养的，另一方应当负担部分或者全部抚养费。负担费用的多少和期限的长短，由双方协议；协议不成的，由人民法院判决。

前款规定的协议或者判决，不妨碍子女在必要时向父母任何一方提出超过协议或者判决原定数额的合理要求。

第一千零八十六条 离婚后，不直接抚养子女的父或者母，有探望子女的权利，另一方有协助的义务。

行使探望权利的方式、时间由当事人协议；协议不成的，由人民法院判决。

父或者母探望子女，不利于子女身心健康的，由人民法院依法中止探望；中止的事由消失后，应当恢复探望。

第一千零八十七条 离婚时，夫妻的共同财产由双方协议处理；协议不成的，由人民法院根据财产的具体情况，按照照顾子女、女方和无过错方权益的原则判决。

对夫或者妻在家庭土地承包经营中享有的权益等，应当依法予以保护。

第一千零八十八条 夫妻一方因抚育子女、照料老年人、协助另一方工作等负担较多义务的，离婚时有权向另一方请求补偿，另一方应当给予补偿。具体办法由双方协议；协议不成的，由人民法院判决。

第一千零八十九条 离婚时，夫妻共同债务应当共同偿还。共同财产不足清偿或者财产归各自所有的，由双方协议清偿；协议不成的，由人民法院判决。

第一千零九十条 离婚时，如果一方生活困难，有负担能力的另一方应当给予适当帮助。具体办法由双方协议；协议不成的，由人民法院判决。

第一千零九十一条 有下列情形之一，导致离婚的，无过错方有权请求损害赔偿：

- （一）重婚；
- （二）与他人同居；
- （三）实施家庭暴力；
- （四）虐待、遗弃家庭成员；
- （五）有其他重大过错。

第一千零九十二条 夫妻一方隐藏、转移、变卖、毁损、挥霍夫妻共同财产，或者伪造夫妻共同债务企图侵占另一方财产的，在离婚分割夫妻共同财产时，对该方可以少分或者不分。离婚后，另一方发现有上述行为的，可以向人民法院提起诉讼，请求再次分割夫妻共同财产。

第五章 收 养

第一节 收养关系的成立

第一千零九十三条 下列未成年人，可以被收养：

- (一) 丧失父母的孤儿；
- (二) 查找不到生父母的未成年人；
- (三) 生父母有特殊困难无力抚养的子女。

第一千零九十四条 下列个人、组织可以作送养人：

- (一) 孤儿的监护人；
- (二) 儿童福利机构；
- (三) 有特殊困难无力抚养子女的生父母。

第一千零九十五条 未成年人的父母均不具备完全民事行为能力且可能严重危害该未成年人的，该未成年人的监护人可以将其送养。

第一千零九十六条 监护人送养孤儿的，应当征得有抚养义务的人同意。有抚养义务的人不同意送养、监护人不愿意继续履行监护职责的，应当依照本法第一编的规定另行确定监护人。

第一千零九十七条 生父母送养子女，应当双方共同送养。生父母一方不明或者查找不到的，可以单方送养。

第一千零九十八条 收养人应当同时具备下列条件：

- (一) 无子女或者只有一名子女；
- (二) 有抚养、教育和保护被收养人的能力；
- (三) 未患有在医学上认为不应当收养子女的疾病；
- (四) 无不利于被收养人健康成长的违法犯罪记录；
- (五) 年满三十周岁。

第一千零九十九条 收养三代以内旁系同辈血亲的子女，可以不受本法第一千零九十三条第三项、第一千零九十四条第三项和第一千一百零二条规定的限制。

华侨收养三代以内旁系同辈血亲的子女，还可以不受本法第一千零九十八条第一项规定的限制。

第一千一百条 无子女的收养人可以收养两名子女；有子女的收养人只能收养一名子女。

收养孤儿、残疾未成年人或者儿童福利机构抚养的查找不到生父母的未成年人，可以不受前款和本法第一千零九十八条第一项规定的限制。

第一千一百零一条 有配偶者收养子女，应当夫妻共同收养。

第一千一百零二条 无配偶者收养异性子女的，收养人与被收养人的年龄应当相差四十周岁以上。

第一千一百零三条 继父或者继母经继子女的生父母同意，可以收养继子女，并可以不受本法第一千零九十三条第三项、第一千零九十四条第三项、第一千零九十八条和第一千一百条第一款规定的限制。

第一千一百零四条 收养人收养与送养人送养，应当双方自愿。收养八周岁以上未成年人的，应当征得被收养人的同意。

第一千一百零五条 收养应当向县级以上人民政府民政部门登记。收养关系自登记之日起成立。

收养查找不到生父母的未成年人的，办理登记的民政部门应当在登记前予以公告。

收养关系当事人愿意签订收养协议的，可以签订收养协议。

收养关系当事人各方或者一方要求办理收养公证的，应当办理收养公证。

县级以上人民政府民政部门应当依法进行收养评估。

第一千一百零六条 收养关系成立后，公安机关应当按照国家有关规定为被收养人办理户口登记。

第一千一百零七条 孤儿或者生父母无力抚养的子女，可以由生父母的亲属、朋友抚养；抚养人与被抚养人的关系不适用本章规定。

第一千一百零八条 配偶一方死亡，另一方送养未成年子女的，死亡一方的父母有优先抚养的权利。

第一千一百零九条 外国人依法可以在中华人民共和国收养子女。

外国人在中华人民共和国收养子女，应当经其所在国主管机关依照该国法律审查同意。收养人应当提供由其所在国有权机构出具的有关其年龄、婚姻、职业、财产、健康、有无受过刑事处罚等状况的证明材料，并与送养人签订书面协议，亲自向省、自治区、直辖市人民政府民政部门登记。

前款规定的证明材料应当经收养人所在国外交机关或者外交机关授权的机构认证，并经中华人民共和国驻该国使领馆认证，但是国家另有规定的除外。

第一千一百一十条 收养人、送养人要求保守收养秘密的，其他人应当尊重其意愿，不得泄露。

第二节 收养的效力

第一千一百一十一条 自收养关系成立之日起，养父母与养子女间的权利义务关系，适用本法关于父母子女关系的规定；养子女与养父母的近亲属间的权利义务关系，适用本法关于子女与父母的近亲属关系的规定。

养子女与生父母以及其他近亲属间的权利义务关系，因收养关系的成立而消除。

第一千一百一十二条 养子女可以随养父或者养母的姓氏，经当事人协商一致，也可以保留原姓氏。

第一千一百一十三条 有本法第一编关于民事法律行为无效规定情形或者违反本编规定的收养行为无效。

无效的收养行为自始没有法律约束力。

第三节 收养关系的解除

第一千一百一十四条 收养人在被收养人成年以前，不得解除收养关系，但是收养人、送养人双方协议解除的除外。养子女八周岁以上的，应当征得本人同意。

收养人不履行抚养义务，有虐待、遗弃等侵害未成年养子女合法权益行为的，送养人有权要求解除养父母与养子女间的收养关系。送养人、收养人不能达成解除收养关系协议的，可以向人民法院提起诉讼。

第一千一百一十五条 养父母与成年养子女关系恶化、无法共同生活的，可以协议解除收养关系。不能达成协议的，可以向人民法院提起诉讼。

第一千一百一十六条 当事人协议解除收养关系的，应当到民政部门办理解除收养关系登记。

第一千一百一十七条 收养关系解除后，养子女与养父母以及其他近亲属间的权利义务关系即行消除，与生父母以及其他近亲属间的权利义务关系自行恢复。但是，成年养子女与生父母以及其他近亲属间的权利义务关系是否恢复，可以协商确定。

第一千一百一十八条 收养关系解除后，经养父母抚养的成年养子女，对缺乏劳动能力又缺乏生活来源的养父母，应当给付生活费。因养子女成年后虐待、遗弃养父母而解除收养关系的，养父母可以要求养子女补偿收养期间支出的抚养费。

生父母要求解除收养关系的，养父母可以要求生父母适当补偿收养期间支出的抚养费；但是，因养父母虐待、遗弃养子女而解除收养关系的除外。

第六编 继 承

第一章 一 般 规 定

第一千一百一十九条 本编调整因继承产生的民事关系。

第一千一百二十条 国家保护自然人的继承权。

第一千一百二十一条 继承从被继承人死亡时开始。

相互有继承关系的数人在同一事件中死亡，难以确定死亡时间的，推定没有其他继承人的人先死亡。都有其他继承人，辈份不同的，推定长辈先死

亡；辈份相同的，推定同时死亡，相互不发生继承。

第一千一百二十二条 遗产是自然人死亡时遗留的个人合法财产。

依照法律规定或者根据其性质不得继承的遗产，不得继承。

第一千一百二十三条 继承开始后，按照法定继承办理；有遗嘱的，按照遗嘱继承或者遗赠办理；有遗赠扶养协议的，按照协议办理。

第一千一百二十四条 继承开始后，继承人放弃继承的，应当在遗产处理前，以书面形式作出放弃继承的表示；没有表示的，视为接受继承。

受遗赠人应当在知道受遗赠后六十日内，作出接受或者放弃受遗赠的表示；到期没有表示的，视为放弃受遗赠。

第一千一百二十五条 继承人有下列行为之一的，丧失继承权：

- （一）故意杀害被继承人；
- （二）为争夺遗产而杀害其他继承人；
- （三）遗弃被继承人，或者虐待被继承人情节严重；
- （四）伪造、篡改、隐匿或者销毁遗嘱，情节严重；
- （五）以欺诈、胁迫手段迫使或者妨碍被继承人设立、变更或者撤回遗嘱，情节严重。

继承人有前款第三项至第五项行为，确有悔改表现，被继承人表示宽恕或者事后在遗嘱中将其列为继承人的，该继承人不丧失继承权。

受遗赠人有本条第一款规定行为的，丧失受遗赠权。

第二章 法定继承

第一千一百二十六条 继承权男女平等。

第一千一百二十七条 遗产按照下列顺序继承：

- （一）第一顺序：配偶、子女、父母；
- （二）第二顺序：兄弟姐妹、祖父母、外祖父母。

继承开始后，由第一顺序继承人继承，第二顺序继承人不继承；没有第一顺序继承人继承的，由第二顺序继承人继承。

本编所称子女，包括婚生子女、非婚生子女、养子女和有扶养关系的继子女。

本编所称父母，包括生父母、养父母和有扶养关系的继父母。

本编所称兄弟姐妹，包括同父母的兄弟姐妹、同父异母或者同母异父的兄弟姐妹、养兄弟姐妹、有扶养关系的继兄弟姐妹。

第一千一百二十八条 被继承人的子女先于被继承人死亡的，由被继承人的子女的直系晚辈血亲代位继承。

被继承人的兄弟姐妹先于被继承人死亡的，由被继承人的兄弟姐妹的子女代位继承。

代位继承人一般只能继承被代位继承人有权继承的遗产份额。

第一千一百二十九条 丧偶儿媳对公婆，丧偶女婿对岳父母，尽了主要赡养义务的，作为第一顺序继承人。

第一千一百三十条 同一顺序继承人继承遗产的份额，一般应当均等。

对生活有特殊困难又缺乏劳动能力的继承人，分配遗产时，应当予以照顾。

对被继承人尽了主要扶养义务或者与被继承人共同生活的继承人，分配遗产时，可以多分。

有扶养能力和有扶养条件的继承人，不尽扶养义务的，分配遗产时，应当不分或者少分。

继承人协商同意的，也可以不均等。

第一千一百三十一条 对继承人以外的依靠被继承人扶养的人，或者继承人以外的对被继承人扶养较多的人，可以分给适当的遗产。

第一千一百三十二条 继承人应当本着互谅互让、和睦团结的精神，协商处理继承问题。遗产分割的时间、办法和份额，由继承人协商确定；协商不成的，可以由人民调解委员会调解或者向人民法院提起诉讼。

第三章 遗嘱继承和遗赠

第一千一百三十三条 自然人可以依照本法规定立遗嘱处分个人财产，

并可以指定遗嘱执行人。

自然人可以立遗嘱将个人财产指定由法定继承人中的一人或者数人继承。

自然人可以立遗嘱将个人财产赠与国家、集体或者法定继承人以外的组织、个人。

自然人可以依法设立遗嘱信托。

第一千一百三十四条 自书遗嘱由遗嘱人亲笔书写，签名，注明年、月、日。

第一千一百三十五条 代书遗嘱应当有两个以上见证人在场见证，由其中一人代书，并由遗嘱人、代书人和其他见证人签名，注明年、月、日。

第一千一百三十六条 打印遗嘱应当有两个以上见证人在场见证。遗嘱人和见证人应当在遗嘱每一页签名，注明年、月、日。

第一千一百三十七条 以录音录像形式立的遗嘱，应当有两个以上见证人在场见证。遗嘱人和见证人应当在录音录像中记录其姓名或者肖像，以及年、月、日。

第一千一百三十八条 遗嘱人在危急情况下，可以立口头遗嘱。口头遗嘱应当有两个以上见证人在场见证。危急情况消除后，遗嘱人能够以书面或者录音录像形式立遗嘱的，所立的口头遗嘱无效。

第一千一百三十九条 公证遗嘱由遗嘱人经公证机构办理。

第一千一百四十条 下列人员不能作为遗嘱见证人：

（一）无民事行为能力人、限制民事行为能力人以及其他不具有见证能力的人；

（二）继承人、受遗赠人；

（三）与继承人、受遗赠人有利害关系的人。

第一千一百四十一条 遗嘱应当为缺乏劳动能力又没有生活来源的继承人保留必要的遗产份额。

第一千一百四十二条 遗嘱人可以撤回、变更自己所立的遗嘱。

立遗嘱后，遗嘱人实施与遗嘱内容相反的民事法律行为的，视为对遗嘱相关内容的撤回。

立有数份遗嘱，内容相抵触的，以最后的遗嘱为准。

第一千一百四十三条 无民事行为能力人或者限制民事行为能力人所立的遗嘱无效。

遗嘱必须表示遗嘱人的真实意思，受欺诈、胁迫所立的遗嘱无效。

伪造的遗嘱无效。

遗嘱被篡改的，篡改的内容无效。

第一千一百四十四条 遗嘱继承或者遗赠附有义务的，继承人或者受遗赠人应当履行义务。没有正当理由不履行义务的，经利害关系人或者有关组织请求，人民法院可以取消其接受附义务部分遗产的权利。

第四章 遗产的处理

第一千一百四十五条 继承开始后，遗嘱执行人为遗产管理人；没有遗嘱执行人的，继承人应当及时推选遗产管理人；继承人未推选的，由继承人共同担任遗产管理人；没有继承人或者继承人均放弃继承的，由被继承人生前住所地的民政部门或者村民委员会担任遗产管理人。

第一千一百四十六条 对遗产管理人的确定有争议的，利害关系人可以向人民法院申请指定遗产管理人。

第一千一百四十七条 遗产管理人应当履行下列职责：

- （一）清理遗产并制作遗产清单；
- （二）向继承人报告遗产情况；
- （三）采取必要措施防止遗产毁损、灭失；
- （四）处理被继承人的债权债务；
- （五）按照遗嘱或者依照法律规定分割遗产；
- （六）实施与管理遗产有关的其他必要行为。

第一千一百四十八条 遗产管理人应当依法履行职责，因故意或者重大过失造成继承人、受遗赠人、债权人损害的，应当承担民事责任。

第一千一百四十九条 遗产管理人可以依照法律规定或者按照约定获得报酬。

第一千一百五十条 继承开始后，知道被继承人死亡的继承人应当及时通知其他继承人和遗嘱执行人。继承人中无人知道被继承人死亡或者知道被继承人死亡而不能通知的，由被继承人生前所在单位或者住所地的居民委员会、村民委员会负责通知。

第一千一百五十一条 存有遗产的人，应当妥善保管遗产，任何组织或者个人不得侵吞或者争抢。

第一千一百五十二条 继承开始后，继承人于遗产分割前死亡，并没有放弃继承的，该继承人应当继承的遗产转给其继承人，但是遗嘱另有安排的除外。

第一千一百五十三条 夫妻共同所有的财产，除有约定的外，遗产分割时，应当先将共同所有的财产的一半分出为配偶所有，其余的为被继承人的遗产。

遗产在家庭共有财产之中的，遗产分割时，应当先分出他人的财产。

第一千一百五十四条 有下列情形之一的，遗产中的有关部分按照法定继承办理：

- （一）遗嘱继承人放弃继承或者受遗赠人放弃受遗赠；
- （二）遗嘱继承人丧失继承权或者受遗赠人丧失受遗赠权；
- （三）遗嘱继承人、受遗赠人先于遗嘱人死亡或者终止；
- （四）遗嘱无效部分所涉及的遗产；
- （五）遗嘱未处分的遗产。

第一千一百五十五条 遗产分割时，应当保留胎儿的继承份额。胎儿娩出时是死体的，保留的份额按照法定继承办理。

第一千一百五十六条 遗产分割应当有利于生产和生活需要，不损害遗产的效用。

不宜分割的遗产，可以采取折价、适当补偿或者共有等方法处理。

第一千一百五十七条 夫妻一方死亡后另一方再婚的，有权处分所继承的财产，任何组织或者个人不得干涉。

第一千一百五十八条 自然人可以与继承人以外的组织或者个人签订遗

赠扶养协议。按照协议，该组织或者个人承担该自然人生养死葬的义务，享有受遗赠的权利。

第一千一百五十九条 分割遗产，应当清偿被继承人依法应当缴纳的税款和债务；但是，应当为缺乏劳动能力又没有生活来源的继承人保留必要的遗产。

第一千一百六十条 无人继承又无人受遗赠的遗产，归国家所有，用于公益事业；死者生前是集体所有制组织成员的，归所在集体所有制组织所有。

第一千一百六十一条 继承人以所得遗产实际价值为限清偿被继承人依法应当缴纳的税款和债务。超过遗产实际价值部分，继承人自愿偿还的不在此限。

继承人放弃继承的，对被继承人依法应当缴纳的税款和债务可以不负清偿责任。

第一千一百六十二条 执行遗赠不得妨碍清偿遗赠人依法应当缴纳的税款和债务。

第一千一百六十三条 既有法定继承又有遗嘱继承、遗赠的，由法定继承人清偿被继承人依法应当缴纳的税款和债务；超过法定继承遗产实际价值部分，由遗嘱继承人和受遗赠人按比例以所得遗产清偿。

第七编 侵 权 责 任

第一章 一 般 规 定

第一千一百六十四条 本编调整因侵害民事权益产生的民事关系。

第一千一百六十五条 行为人因过错侵害他人民事权益造成损害的，应当承担侵权责任。

依照法律规定推定行为人有过错，其不能证明自己没有过错的，应当承担侵权责任。

第一千一百六十六条 行为人造成他人民事权益损害，不论行为人有无过错，法律规定应当承担侵权责任的，依照其规定。

第一千一百六十七条 侵权行为危及他人人身、财产安全的，被侵权人

有权请求侵权人承担停止侵害、排除妨碍、消除危险等侵权责任。

第一千一百六十八条 二人以上共同实施侵权行为，造成他人损害的，应当承担连带责任。

第一千一百六十九条 教唆、帮助他人实施侵权行为的，应当与行为人承担连带责任。

教唆、帮助无民事行为能力人、限制民事行为能力人实施侵权行为的，应当承担侵权责任；该无民事行为能力人、限制民事行为能力人的监护人未尽到监护职责的，应当承担相应的责任。

第一千一百七十条 二人以上实施危及他人人身、财产安全的行为，其中一人或者数人的行为造成他人损害，能够确定具体侵权人的，由侵权人承担责任；不能确定具体侵权人的，行为人承担连带责任。

第一千一百七十一条 二人以上分别实施侵权行为造成同一损害，每个人的侵权行为都足以造成全部损害的，行为人承担连带责任。

第一千一百七十二条 二人以上分别实施侵权行为造成同一损害，能够确定责任大小的，各自承担相应的责任；难以确定责任大小的，平均承担责任。

第一千一百七十三条 被侵权人对同一损害的发生或者扩大有过错的，可以减轻侵权人的责任。

第一千一百七十四条 损害是因受害人故意造成的，行为人不承担责任。

第一千一百七十五条 损害是因第三人造成的，第三人应当承担侵权责任。

第一千一百七十六条 自愿参加具有一定风险的文体活动，因其他参加者的行为受到损害的，受害人不得请求其他参加者承担侵权责任；但是，其他参加者对损害的发生有故意或者重大过失的除外。

活动组织者的责任适用本法第一千一百九十八条至第一千二百零一条的规定。

第一千一百七十七条 合法权益受到侵害，情况紧迫且不能及时获得国

家机关保护，不立即采取措施将使其合法权益受到难以弥补的损害的，受害人可以在保护自己合法权益的必要范围内采取扣留侵权人的财物等合理措施；但是，应当立即请求有关国家机关处理。

受害人采取的措施不当造成他人损害的，应当承担侵权责任。

第一千一百七十八条 本法和其他法律对不承担责任或者减轻责任的情形另有规定的，依照其规定。

第二章 损 害 赔 偿

第一千一百七十九条 侵害他人造成人身损害的，应当赔偿医疗费、护理费、交通费、营养费、住院伙食补助费等为治疗和康复支出的合理费用，以及因误工减少的收入。造成残疾的，还应当赔偿辅助器具费和残疾赔偿金；造成死亡的，还应当赔偿丧葬费和死亡赔偿金。

第一千一百八十条 因同一侵权行为造成多人死亡的，可以以相同数额确定死亡赔偿金。

第一千一百八十一条 被侵权人死亡的，其近亲属有权请求侵权人承担侵权责任。被侵权人为组织，该组织分立、合并的，承继权利的组织有权请求侵权人承担侵权责任。

被侵权人死亡的，支付被侵权人医疗费、丧葬费等合理费用的人有权请求侵权人赔偿费用，但是侵权人已经支付该费用的除外。

第一千一百八十二条 侵害他人人身权益造成财产损失的，按照被侵权人因此受到的损失或者侵权人因此获得的利益赔偿；被侵权人因此受到的损失以及侵权人因此获得的利益难以确定，被侵权人和侵权人就赔偿数额协商不一致，向人民法院提起诉讼的，由人民法院根据实际情况确定赔偿数额。

第一千一百八十三条 侵害自然人人身权益造成严重精神损害的，被侵权人有权请求精神损害赔偿。

因故意或者重大过失侵害自然人具有人身意义的特定物造成严重精神损害的，被侵权人有权请求精神损害赔偿。

第一千一百八十四条 侵害他人财产的，财产损失按照损失发生时的市

场价格或者其他合理方式计算。

第一千一百八十五条 故意侵害他人知识产权，情节严重的，被侵权人有权请求相应的惩罚性赔偿。

第一千一百八十六条 受害人和行为人对损害的发生都没有过错的，依照法律的规定由双方分担损失。

第一千一百八十七条 损害发生后，当事人可以协商赔偿费用的支付方式。协商不一致的，赔偿费用应当一次性支付；一次性支付确有困难的，可以分期支付，但是被侵权人有权请求提供相应的担保。

第三章 责任主体的特殊规定

第一千一百八十八条 无民事行为能力人、限制民事行为能力人造成他人损害的，由监护人承担侵权责任。监护人尽到监护职责的，可以减轻其侵权责任。

有财产的无民事行为能力人、限制民事行为能力人造成他人损害的，从本人财产中支付赔偿费用；不足部分，由监护人赔偿。

第一千一百八十九条 无民事行为能力人、限制民事行为能力人造成他人损害，监护人将监护职责委托给他人的，监护人应当承担侵权责任；受托人有过错的，承担相应的责任。

第一千一百九十条 完全民事行为能力人对自己的行为暂时没有意识或者失去控制造成他人损害有过错的，应当承担侵权责任；没有过错的，根据行为人的经济状况对受害人适当补偿。

完全民事行为能力人因醉酒、滥用麻醉药品或者精神药品对自己的行为暂时没有意识或者失去控制造成他人损害的，应当承担侵权责任。

第一千一百九十一条 用人单位的工作人员因执行工作任务造成他人损害的，由用人单位承担侵权责任。用人单位承担侵权责任后，可以向有故意或者重大过失的工作人员追偿。

劳务派遣期间，被派遣的工作人员因执行工作任务造成他人损害的，由接受劳务派遣的用工单位承担侵权责任；劳务派遣单位有过错的，承担相应

的责任。

第一千一百九十二条 个人之间形成劳务关系，提供劳务一方因劳务造成他人损害的，由接受劳务一方承担侵权责任。接受劳务一方承担侵权责任后，可以向有故意或者重大过失的提供劳务一方追偿。提供劳务一方因劳务受到损害的，根据双方各自的过错承担相应的责任。

提供劳务期间，因第三人的行为造成提供劳务一方损害的，提供劳务一方有权请求第三人承担侵权责任，也有权请求接受劳务一方给予补偿。接受劳务一方补偿后，可以向第三人追偿。

第一千一百九十三条 承揽人在完成工作过程中造成第三人损害或者自己损害的，定作人不承担侵权责任。但是，定作人对定作、指示或者选任有过错的，应当承担相应的责任。

第一千一百九十四条 网络用户、网络服务提供者利用网络侵害他人民事权益的，应当承担侵权责任。法律另有规定的，依照其规定。

第一千一百九十五条 网络用户利用网络服务实施侵权行为的，权利人有权通知网络服务提供者采取删除、屏蔽、断开链接等必要措施。通知应当包括构成侵权的初步证据及权利人的真实身份信息。

网络服务提供者接到通知后，应当及时将该通知转送相关网络用户，并根据构成侵权的初步证据和服务类型采取必要措施；未及时采取必要措施的，对损害的扩大部分与该网络用户承担连带责任。

权利人因错误通知造成网络用户或者网络服务提供者损害的，应当承担侵权责任。法律另有规定的，依照其规定。

第一千一百九十六条 网络用户接到转送的通知后，可以向网络服务提供者提交不存在侵权行为的声明。声明应当包括不存在侵权行为的初步证据及网络用户的真实身份信息。

网络服务提供者接到声明后，应当将该声明转送发出通知的权利人，并告知其可以向有关部门投诉或者向人民法院提起诉讼。网络服务提供者在转送声明到达权利人后的合理期限内，未收到权利人已经投诉或者提起诉讼通知的，应当及时终止所采取的措施。

第一千一百九十七条 网络服务提供者知道或者应当知道网络用户利用其网络服务侵害他人民事权益，未采取必要措施的，与该网络用户承担连带责任。

第一千一百九十八条 宾馆、商场、银行、车站、机场、体育场馆、娱乐场所等经营场所、公共场所的经营者、管理者或者群众性活动的组织者，未尽到安全保障义务，造成他人损害的，应当承担侵权责任。

因第三人的行为造成他人损害的，由第三人承担侵权责任；经营者、管理者或者组织者未尽到安全保障义务的，承担相应的补充责任。经营者、管理者或者组织者承担补充责任后，可以向第三人追偿。

第一千一百九十九条 无民事行为能力人在幼儿园、学校或者其他教育机构学习、生活期间受到人身损害的，幼儿园、学校或者其他教育机构应当承担侵权责任；但是，能够证明尽到教育、管理职责的，不承担侵权责任。

第一千二百条 限制民事行为能力人在学校或者其他教育机构学习、生活期间受到人身损害，学校或者其他教育机构未尽到教育、管理职责的，应当承担侵权责任。

第一千二百零一条 无民事行为能力人或者限制民事行为能力人在幼儿园、学校或者其他教育机构学习、生活期间，受到幼儿园、学校或者其他教育机构以外的第三人人身损害的，由第三人承担侵权责任；幼儿园、学校或者其他教育机构未尽到管理职责的，承担相应的补充责任。幼儿园、学校或者其他教育机构承担补充责任后，可以向第三人追偿。

第四章 产 品 责 任

第一千二百零二条 因产品存在缺陷造成他人损害的，生产者应当承担侵权责任。

第一千二百零三条 因产品存在缺陷造成他人损害的，被侵权人可以向产品的生产者请求赔偿，也可以向产品的销售者请求赔偿。

产品缺陷由生产者造成的，销售者赔偿后，有权向生产者追偿。因销售者的过错使产品存在缺陷的，生产者赔偿后，有权向销售者追偿。

第一千二百零四条 因运输者、仓储者等第三人的过错使产品存在缺陷，造成他人损害的，产品的生产者、销售者赔偿后，有权向第三人追偿。

第一千二百零五条 因产品缺陷危及他人人身、财产安全的，被侵权人有权请求生产者、销售者承担停止侵害、排除妨碍、消除危险等侵权责任。

第一千二百零六条 产品投入流通后发现存在缺陷的，生产者、销售者应当及时采取停止销售、警示、召回等补救措施；未及时采取补救措施或者补救措施不力造成损害扩大的，对扩大的损害也应当承担侵权责任。

依据前款规定采取召回措施的，生产者、销售者应当负担被侵权人因此支出的必要费用。

第一千二百零七条 明知产品存在缺陷仍然生产、销售，或者没有依据前条规定采取有效补救措施，造成他人死亡或者健康严重损害的，被侵权人有权请求相应的惩罚性赔偿。

第五章 机动车交通事故责任

第一千二百零八条 机动车发生交通事故造成损害的，依照道路交通安全法律和本法的有关规定承担赔偿责任。

第一千二百零九条 因租赁、借用等情形机动车所有人、管理人与使用人不是同一人时，发生交通事故造成损害，属于该机动车一方责任的，由机动车使用人承担赔偿责任；机动车所有人、管理人对损害的发生有过错的，承担相应的赔偿责任。

第一千二百一十条 当事人之间已经以买卖或者其他方式转让并交付机动车但是未办理登记，发生交通事故造成损害，属于该机动车一方责任的，由受让人承担赔偿责任。

第一千二百一十一条 以挂靠形式从事道路运输经营活动的机动车，发生交通事故造成损害，属于该机动车一方责任的，由挂靠人和被挂靠人承担连带责任。

第一千二百一十二条 未经允许驾驶他人机动车，发生交通事故造成损害，属于该机动车一方责任的，由机动车使用人承担赔偿责任；机动车所有

人、管理人对损害的发生有过错的，承担相应的赔偿责任，但是本章另有规定的除外。

第一千二百一十三条 机动车发生交通事故造成损害，属于该机动车一方责任的，先由承保机动车强制保险的保险人在强制保险责任限额范围内予以赔偿；不足部分，由承保机动车商业保险的保险人按照保险合同的约定予以赔偿；仍然不足或者没有投保机动车商业保险的，由侵权人赔偿。

第一千二百一十四条 以买卖或者其他方式转让拼装或者已经达到报废标准的机动车，发生交通事故造成损害的，由转让人和受让人承担连带责任。

第一千二百一十五条 盗窃、抢劫或者抢夺的机动车发生交通事故造成损害的，由盗窃人、抢劫人或者抢夺人承担赔偿责任。盗窃人、抢劫人或者抢夺人与机动车使用人不是同一人，发生交通事故造成损害，属于该机动车一方责任的，由盗窃人、抢劫人或者抢夺人与机动车使用人承担连带责任。

保险人在机动车强制保险责任限额范围内垫付抢救费用的，有权向交通事故责任人追偿。

第一千二百一十六条 机动车驾驶人发生交通事故后逃逸，该机动车参加强制保险的，由保险人在机动车强制保险责任限额范围内予以赔偿；机动车不明、该机动车未参加强制保险或者抢救费用超过机动车强制保险责任限额，需要支付被侵权人人身伤亡的抢救、丧葬等费用的，由道路交通事故社会救助基金垫付。道路交通事故社会救助基金垫付后，其管理机构有权向交通事故责任人追偿。

第一千二百一十七条 非营运机动车发生交通事故造成无偿搭乘人损害，属于该机动车一方责任的，应当减轻其赔偿责任，但是机动车使用人有故意或者重大过失的除外。

第六章 医疗损害责任

第一千二百一十八条 患者在诊疗活动中受到损害，医疗机构或者其医

务人员有过错的，由医疗机构承担赔偿责任。

第一千二百一十九条 医务人员在诊疗活动中应当向患者说明病情和医疗措施。需要实施手术、特殊检查、特殊治疗的，医务人员应当及时向患者具体说明医疗风险、替代医疗方案等情况，并取得其明确同意；不能或者不宜向患者说明的，应当向患者的近亲属说明，并取得其明确同意。

医务人员未尽到前款义务，造成患者损害的，医疗机构应当承担赔偿责任。

第一千二百二十条 因抢救生命垂危的患者等紧急情况，不能取得患者或者其近亲属意见的，经医疗机构负责人或者授权的负责人批准，可以立即实施相应的医疗措施。

第一千二百二十一条 医务人员在诊疗活动中未尽到与当时的医疗水平相应的诊疗义务，造成患者损害的，医疗机构应当承担赔偿责任。

第一千二百二十二条 患者在诊疗活动中受到损害，有下列情形之一的，推定医疗机构有过错：

- （一）违反法律、行政法规、规章以及其他有关诊疗规范的规定；
- （二）隐匿或者拒绝提供与纠纷有关的病历资料；
- （三）遗失、伪造、篡改或者违法销毁病历资料。

第一千二百二十三条 因药品、消毒产品、医疗器械的缺陷，或者输入不合格的血液造成患者损害的，患者可以向药品上市许可持有人、生产者、血液提供机构请求赔偿，也可以向医疗机构请求赔偿。患者向医疗机构请求赔偿的，医疗机构赔偿后，有权向负有责任的药品上市许可持有人、生产者、血液提供机构追偿。

第一千二百二十四条 患者在诊疗活动中受到损害，有下列情形之一的，医疗机构不承担赔偿责任：

- （一）患者或者其近亲属不配合医疗机构进行符合诊疗规范的诊疗；
- （二）医务人员在抢救生命垂危的患者等紧急情况下已经尽到合理诊疗义务；
- （三）限于当时的医疗水平难以诊疗。

前款第一项情形中，医疗机构或者其医务人员也有过错的，应当承担相应的赔偿责任。

第一千二百二十五条 医疗机构及其医务人员应当按照规定填写并妥善保管住院志、医嘱单、检验报告、手术及麻醉记录、病理资料、护理记录等病历资料。

患者要求查阅、复制前款规定的病历资料的，医疗机构应当及时提供。

第一千二百二十六条 医疗机构及其医务人员应当对患者的隐私和个人信息保密。泄露患者的隐私和个人信息，或者未经患者同意公开其病历资料的，应当承担侵权责任。

第一千二百二十七条 医疗机构及其医务人员不得违反诊疗规范实施不必要的检查。

第一千二百二十八条 医疗机构及其医务人员的合法权益受法律保护。

干扰医疗秩序，妨碍医务人员工作、生活，侵害医务人员合法权益的，应当依法承担法律责任。

第七章 环境污染和生态破坏责任

第一千二百二十九条 因污染环境、破坏生态造成他人损害的，侵权人应当承担侵权责任。

第一千二百三十条 因污染环境、破坏生态发生纠纷，行为人应当就法律规定的不承担责任或者减轻责任的情形及其行为与损害之间不存在因果关系承担举证责任。

第一千二百三十一条 两个以上侵权人污染环境、破坏生态的，承担责任的大小，根据污染物的种类、浓度、排放量，破坏生态的方式、范围、程度，以及行为对损害后果所起的作用等因素确定。

第一千二百三十二条 侵权人违反法律规定故意污染环境、破坏生态造成严重后果的，被侵权人有权请求相应的惩罚性赔偿。

第一千二百三十三条 因第三人的过错污染环境、破坏生态的，被侵权人可以向侵权人请求赔偿，也可以向第三人请求赔偿。侵权人赔偿后，有权向第三人追偿。

第一千二百三十四条 违反国家规定造成生态环境损害，生态环境能够修复的，国家规定的机关或者法律规定的组织有权请求侵权人在合理期限内承担修复责任。侵权人在期限内未修复的，国家规定的机关或者法律规定的组织可以自行或者委托他人进行修复，所需费用由侵权人负担。

第一千二百三十五条 违反国家规定造成生态环境损害的，国家规定的机关或者法律规定的组织有权请求侵权人赔偿下列损失和费用：

- （一）生态环境受到损害至修复完成期间服务功能丧失导致的损失；
- （二）生态环境功能永久性损害造成的损失；
- （三）生态环境损害调查、鉴定评估等费用；
- （四）清除污染、修复生态环境费用；
- （五）防止损害的发生和扩大所支出的合理费用。

第八章 高度危险责任

第一千二百三十六条 从事高度危险作业造成他人损害的，应当承担侵权责任。

第一千二百三十七条 民用核设施或者运入运出核设施的核材料发生核事故造成他人损害的，民用核设施的营运单位应当承担侵权责任；但是，能够证明损害是因战争、武装冲突、暴乱等情形或者受害人故意造成的，不承担责任。

第一千二百三十八条 民用航空器造成他人损害的，民用航空器的经营者应当承担侵权责任；但是，能够证明损害是因受害人故意造成的，不承担责任。

第一千二百三十九条 占有或者使用易燃、易爆、剧毒、高放射性、强腐蚀性、高致病性等高度危险物造成他人损害的，占有人或者使用人应当承担侵权责任；但是，能够证明损害是因受害人故意或者不可抗力造成的，不

承担责任。被侵权人对损害的发生有重大过失的，可以减轻占有人或者使用人的责任。

第一千二百四十条 从事高空、高压、地下挖掘活动或者使用高速轨道运输工具造成他人损害的，经营者应当承担侵权责任；但是，能够证明损害是因受害人故意或者不可抗力造成的，不承担责任。被侵权人对损害的发生有重大过失的，可以减轻经营者的责任。

第一千二百四十一条 遗失、抛弃高度危险物造成他人损害的，由所有人承担侵权责任。所有人将高度危险物交由他人管理的，由管理人承担侵权责任；所有人有过错的，与管理人承担连带责任。

第一千二百四十二条 非法占有高度危险物造成他人损害的，由非法占有人承担侵权责任。所有人、管理人不能证明对防止非法占有尽到高度注意义务的，与非法占有人承担连带责任。

第一千二百四十三条 未经许可进入高度危险活动区域或者高度危险物存放区域受到损害，管理人能够证明已经采取足够安全措施并尽到充分警示义务的，可以减轻或者不承担责任。

第一千二百四十四条 承担高度危险责任，法律规定赔偿限额的，依照其规定，但是行为人有故意或者重大过失的除外。

第九章 饲养动物损害责任

第一千二百四十五条 饲养的动物造成他人损害的，动物饲养人或者管理人应当承担侵权责任；但是，能够证明损害是因被侵权人故意或者重大过失造成的，可以不承担或者减轻责任。

第一千二百四十六条 违反管理规定，未对动物采取安全措施造成他人损害的，动物饲养人或者管理人应当承担侵权责任；但是，能够证明损害是因被侵权人故意造成的，可以减轻责任。

第一千二百四十七条 禁止饲养的烈性犬等危险动物造成他人损害的，动物饲养人或者管理人应当承担侵权责任。

第一千二百四十八条 动物园的动物造成他人损害的，动物园应当承担

侵权责任；但是，能够证明尽到管理职责的，不承担侵权责任。

第一千二百四十九条 遗弃、逃逸的动物在遗弃、逃逸期间造成他人损害的，由动物原饲养人或者管理人承担侵权责任。

第一千二百五十条 因第三人的过错致使动物造成他人损害的，被侵权人可以向动物饲养人或者管理人请求赔偿，也可以向第三人请求赔偿。动物饲养人或者管理人赔偿后，有权向第三人追偿。

第一千二百五十一条 饲养动物应当遵守法律法规，尊重社会公德，不得妨碍他人生活。

第十章 建筑物和物件损害责任

第一千二百五十二条 建筑物、构筑物或者其他设施倒塌、塌陷造成他人损害的，由建设单位与施工单位承担连带责任，但是建设单位与施工单位能够证明不存在质量缺陷的除外。建设单位、施工单位赔偿后，有其他责任人的，有权向其他责任人追偿。

因所有人、管理人、使用人或者第三人的原因，建筑物、构筑物或者其他设施倒塌、塌陷造成他人损害的，由所有人、管理人、使用人或者第三人承担侵权责任。

第一千二百五十三条 建筑物、构筑物或者其他设施及其搁置物、悬挂物发生脱落、坠落造成他人损害，所有人、管理人或者使用人不能证明自己没有过错的，应当承担侵权责任。所有人、管理人或者使用人赔偿后，有其他责任人的，有权向其他责任人追偿。

第一千二百五十四条 禁止从建筑物中抛掷物品。从建筑物中抛掷物品或者从建筑物上坠落的物品造成他人损害的，由侵权人依法承担侵权责任；经调查难以确定具体侵权人的，除能够证明自己不是侵权人的外，由可能加害的建筑物使用人给予补偿。可能加害的建筑物使用人补偿后，有权向侵权人追偿。

物业服务企业等建筑物管理人应当采取必要的安全保障措施防止前款规定情形的发生；未采取必要的安全保障措施的，应当依法承担未履行安全保

障义务的侵权责任。

发生本条第一款规定的情形的，公安等机关应当依法及时调查，查清责任人。

第一千二百五十五条 堆放物倒塌、滚落或者滑落造成他人损害，堆放人不能证明自己没有过错的，应当承担侵权责任。

第一千二百五十六条 在公共道路上堆放、倾倒、遗撒妨碍通行的物品造成他人损害的，由行为人承担侵权责任。公共道路管理人不能证明已经尽到清理、防护、警示等义务的，应当承担相应的责任。

第一千二百五十七条 因林木折断、倾倒或者果实坠落等造成他人损害，林木的所有人或者管理人不能证明自己没有过错的，应当承担侵权责任。

第一千二百五十八条 在公共场所或者道路上挖掘、修缮安装地下设施等造成他人损害，施工人不能证明已经设置明显标志和采取安全措施的，应当承担侵权责任。

窖井等地下设施造成他人损害，管理人不能证明尽到管理职责的，应当承担侵权责任。

附 则

第一千二百五十九条 民法所称的“以上”、“以下”、“以内”、“届满”，包括本数；所称的“不满”、“超过”、“以外”，不包括本数。

第一千二百六十条 本法自2021年1月1日起施行。《中华人民共和国婚姻法》、《中华人民共和国继承法》、《中华人民共和国民法通则》、《中华人民共和国合同法》、《中华人民共和国收养法》、《中华人民共和国担保法》、《中华人民共和国合同法》、《中华人民共和国物权法》、《中华人民共和国侵权责任法》、《中华人民共和国民法总则》同时废止。

Civil Code of the People's Republic of China

中华人民共和国民法典

Order of the President of the People's Republic of China
(No. 45)

The Civil Code of the People's Republic of China, as adopted at the 3rd Session of the Thirteenth National People's Congress of the People's Republic of China on May 28, 2020, is hereby issued, and shall come into force on January 1, 2021.

Xi Jinping, President of the People's Republic of China
May 28, 2020

Civil Code of the People's Republic of China

(Adopted at the 3rd Session of the Thirteenth National People's Congress of the People's Republic of China on May 28, 2020)

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Book One General Provisions

Chapter I Basic Provisions

Article 1 This Code is enacted in accordance with the [Constitution](#) for the purposes of protecting the lawful rights and interests of the parties to civil legal relations, regulating civil relations, maintaining the social and economic order, meeting the developmental requirements of socialism with Chinese characteristics, and upholding core socialist values.

Article 2 Civil law regulates the personal relationships and property relationships among natural persons, legal persons, and unincorporated organizations, as equal parties.

Article 3 The personal rights, property rights, and other lawful rights and interests of the parties to civil legal relations shall be protected by law, and no organization or individual may infringe upon such rights and interests.

Article 4 All parties to civil legal relations are equal in legal status in civil activities.

Article 5 The parties to civil legal relations shall conduct civil activities under the principle of free will, and create, modify, or terminate civil legal relations according to their own wills.

Article 6 The parties to civil legal relations shall conduct civil activities under the principle of fairness, and rationally determine the rights and obligations of each party.

Article 7 The parties to civil legal relations shall conduct civil activities under the principle of good faith, adhere to honesty, and fulfill their promises.

Article 8 The parties to civil legal relations shall not conduct civil activities in violation of the law, nor contrary to public order and good morals.

Article 9 The parties to civil legal relations shall conduct civil activities contributing to the conservation of resources and protection of environment.

Article 10 Civil disputes shall be resolved in accordance with the law; or if the law is silent, customs may apply, but not contrary to public order and good morals.

Article 11 Where there are any special provisions on civil relations in any other law,

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such special provisions shall apply.

Article 12 The law of the People's Republic of China shall apply to civil activities within the territory of the People's Republic of China, except as otherwise provided for by any law.

Chapter II Natural Persons

Section 1 Capacity for Civil Rights and Capacity for Civil Conduct

Article 13 A natural person has the capacity for civil rights from the moment of birth to the moment of death, enjoying civil rights and assuming civil obligations in accordance with the law.

Article 14 All natural persons are equal in capacity for civil rights.

Article 15 The time of birth and the time of death of a natural person shall be the ones recorded on his or her birth certificate or death certificate; or in the absence of a birth certificate or death certificate, the time shall be the one recorded in the household registration or any other valid identity registration. If there is any other evidence sufficient to overturn the aforesaid time, the time proved by such evidence shall prevail.

Article 16 Where the protection of the interests of a fetus is involved in, among others, a succession or acceptance of a gift, the fetus shall be presumed to have capacity for civil rights. However, in case of a stillborn, the fetus's capacity for civil rights has never existed.

Article 17 A natural person attaining the age of eighteen is an adult. A natural person under the age of eighteen is a minor.

Article 18 An adult has full capacity for civil conduct, and may perform juridical acts independently.

A minor attaining the age of sixteen and primarily relying on his or her own labor income in living is deemed a person with full capacity for civil conduct.

Article 19 A minor attaining the age of eight is a person with limited capacity for civil conduct, who shall be represented by his or her statutory agent in performing juridical acts or whose performance of juridical acts shall be consented to or ratified by his or her statutory agent, but may alone perform juridical acts which purely benefit the minor or are commensurate with his or her age and intelligence.

Article 20 A minor under the age of eight is a person without capacity for civil conduct, who shall be represented in performing civil juridical acts by his or her statutory agent.

Article 21 An adult incapable of discerning his or her conduct is a person without capacity for civil conduct, who shall be represented by his or her statutory agent in performing juridical acts.

The provision of the preceding paragraph shall also apply to a minor attaining the age

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of eight without the power of discernment of his or her conduct.

Article 22 An adult incapable of fully discerning his or her conduct shall be a person with limited capacity for civil conduct, who shall be represented by his or her statutory agent in performing juridical acts or whose performance of juridical acts shall be consented to or ratified by his or her statutory agent, but may perform alone juridical acts which purely benefit the adult or are commensurate with his or her intelligence and mental health.

Article 23 The guardian of a person without capacity for civil conduct or with limited capacity for civil conduct shall be the statutory agent of the person.

Article 24 For an adult incapable of discerning or fully discerning his or her conduct, an interested party or a relevant organization may apply to a people's court for determining the adult as a person without capacity for civil conduct or a person with limited capacity for civil conduct.

After the adult is determined by a people's court as a person without capacity for civil conduct or a person with limited capacity for civil conduct, the people's court may, based on the recovery of his or her intelligence or mental health, determine the adult as a person with limited capacity for civil conduct or a person with full capacity for civil conduct, upon his or her application or application of an interested party or a relevant organization.

For the purposes of this article, the relevant organizations include but are not limited to: an urban residents' committee, a villagers' committee, a school, a medical institution, a women's federation, a disabled persons' federation, an organization legally formed for seniors, and a civil affairs department, among others.

Article 25 The domicile of a natural person shall be his or her residence recorded in the household registration or any other valid identity registration; but if his or her habitual residence is different from the domicile, the habitual residence shall be deemed his or her domicile.

Section 2 Guardianship

Article 26 Parents have the obligations of maintenance, education, and protection of their minor children.

Adult children have the obligations of supporting, assistance, and protection of their parents.

Article 27 The parents of a minor are his or her guardians.

Where both parents of a minor are dead or incapable of acting as a guardian, the following persons capable of acting as a guardian shall act as the guardian of the minor in the following order:

- (1) Paternal or maternal grandparents of the minor.
- (2) Elder brothers or sisters of the minor.
- (3) Other individuals or organizations willing to act as the guardian, provided that it is approved by the urban residents' committee, villagers' committee, or civil affairs department of the place of the minor's domicile.

Article 28 The following persons capable of acting as a guardian shall, in the

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following order, act as the guardian of an adult without capacity for civil conduct or with limited capacity for civil conduct:

- (1) Spouse of the adult.
- (2) Parents or children of the adult.
- (3) Other close relatives of the adult.
- (4) Other individuals or organizations willing to act as the guardian, provided that it is approved by the urban residents' committee, villagers' committee, or civil affairs department of the place of the adult's domicile.

Article 29 Where the parents of a ward are his or her guardians, they may designate the guardian by a will.

Article 30 Persons legally qualified for guardianship may, by agreement, determine the guardian. The true will of the ward shall be respected in the determination of guardian by agreement.

Article 31 In case of any dispute over the determination of guardian, the urban residents' committee, villagers' committee, or civil affairs department of the place of the ward's domicile may designate the guardian, and against the aforesaid designation, the relevant parties may apply to the people's court for designating the guardian; and the relevant parties may, notwithstanding, directly apply to the people's court for designating the guardian.

The urban residents' committee, villagers' committee, civil affairs department, or people's court shall respect the true will of the ward, and designate the guardian from among persons legally qualified for guardianship under the principle of most benefiting the ward.

Before the guardian is designated under paragraph 1 of this article, if the personal rights, property rights, and other lawful rights and interests of the ward are under no protection, the urban residents' committee, villagers' committee, relevant organization prescribed by the law, or civil affairs department of the place of the ward's domicile shall act as the provisional guardian.

After designation, the guardian shall not be replaced without permission; and in case of replacement without permission, the designated guardian is not relieved of his or her responsibilities.

Article 32 Where there is no person legally qualified for guardianship, the civil affairs department may or the urban residents' committee or villagers' committee of the place of the ward's domicile satisfying the conditions for performing the duty of guardianship may act as the guardian.

Article 33 An adult with full capacity for civil conduct may, by consulting in advance with his or her close relatives or other individuals or organizations willing to act as a guardian, determine his or her guardian in writing. When the adult loses all or part of capacity for civil conduct, the guardian shall perform the duty of guardianship of the adult.

Article 34 The duties of a guardian include but are not limited to representing the ward in performing juridical acts and protecting the personal rights, property rights, and other lawful rights and interests of the ward.

The guardian's rights arising from performance of the duty of guardianship in

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accordance with the law shall be protected by law.

A guardian failing to perform the duty of guardianship or infringing upon the ward's lawful rights and interests shall assume legal liability.

In case of emergency or under any other emergency circumstance, the guardian is temporarily unable to perform the duty of guardianship and the ward's life is unattended, the urban residents' committee, villagers' committee, or civil affairs department of the place of the ward's domicile shall arrange for necessary daily care for the ward.

Article 35 A guardian shall perform the duty of guardianship under the principle of most benefiting the ward. The guardian shall not dispose of the ward's property unless for safeguarding the ward's interests.

The guardian of a minor shall, in the performance of the duty of guardianship, respect the ward's true will when making decisions related to the ward's interests according to the ward's age and intelligence.

The guardian of an adult shall, in the performance of the duty of guardianship, respect the ward's true will to the fullest extent, safeguard and assist the ward in performing juridical acts that are commensurate with the ward's intelligence and mental health.

The guardian shall not interfere with any affairs that the ward is capable of handling alone.

Article 36 Where a guardian falls under any of the following circumstances, the people's court shall, upon application of the relevant individual or organization, disqualify the guardian, arrange necessary provisional guardianship measures, and designate another guardian in accordance with the law under the principle of most benefiting the ward:

(1) Committing any conduct seriously detrimental to the ward's physical and mental health.

(2) Being slack in performing the duty of guardianship, or being incapable of performing the duty of guardianship but refusing to delegate part or all of the duty of guardianship to another person, which causes distress of the ward.

(3) Otherwise seriously infringing upon the ward's lawful rights and interests.

For the purposes of this article, the relevant individuals and organizations include but are not limited to: any other person legally qualified for guardianship, an urban residents' committee, a villagers' committee, a school, a medical institution, a women's federation, a disabled persons' federation, an organization for the protection of minors, an organization legally formed for seniors, and a civil affairs department.

Where the individuals and organizations except the civil affairs department as prescribed in the preceding paragraph fail to apply for the disqualification of the guardian to the people's court in a timely manner, the civil affairs department shall file such an application with the people's court.

Article 37 Parents, children, and spouses who support the wards in the form of child support, support for elderly parents, or spousal support in accordance with the law shall continue to perform such obligations after they are disqualified by the people's courts as guardians.

Article 38 Where the ward's parent or child shows true repentance after being disqualified from guardianship by the people's court, except one having committed an intentional crime on the ward, the people's court may, by respecting the ward's true

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will and according to the circumstances, reinstate his or her guardianship upon his or her application, and the guardianship between the guardian designated by the people's court and the ward shall terminate concurrently.

Article 39 Under any of the following circumstances, the guardianship shall terminate:

- (1) The ward obtains or regains full capacity for civil conduct.
 - (2) The guardian becomes incapable of guardianship.
 - (3) The ward or the guardian dies.
 - (4) The guardian relationship otherwise terminates as determined by a people's court.
- If the ward still needs guardianship after the guardianship terminates, another guardian shall be determined in accordance with the law.

Section 3 Declaration of Absence and Declaration of Death

Article 40 Where a natural person has disappeared for two years, an interested party may apply to a people's court for a declaration of absence of the natural person.

Article 41 The period of disappearance of a natural person shall be counted from the day when he or she is not heard from. If a person disappears during a war, the period of disappearance shall be counted from the day when the war ends or from the date of absence as confirmed by the relevant authority.

Article 42 The property of an absentee shall be under the custody of his or her spouse, adult children, parents, or any other person willing to act as custodian of the property. If there is any dispute over custody or the persons as mentioned in the preceding paragraph do not exist or are incapable of custody, the property shall be under the custody of a person designated by a people's court.

Article 43 The property custodian shall appropriately manage the absentee's property, and protect the property rights and interests of the absentee.

Any taxes and debts owed and other expenses payable by the absentee shall be paid by the property custodian out of the absentee's property.

Where the property custodian causes damage to the absentee's property intentionally or with gross negligence, the custodian shall assume compensatory liability.

Article 44 Where the property custodian fails to perform the duty of custody, infringes upon the absentee's property rights and interests, or becomes incapable of custody, an interested party for the absentee may apply to a people's court for replacement of the property custodian.

The property custodian may, for good reason, apply to a people's court for replacement of the property custodian.

Where the people's court decides to replace the property custodian, the replacement custodian shall have the right to request the original custodian to hand over relevant property and report on property custody in a timely manner.

Article 45 Where an absentee reappears, the people's court shall revoke the declaration of absence upon application of the person or an interested party. Where an absentee reappears, the person shall have the right to request the property custodian to hand over relevant property and report on property custody in a timely manner.

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Article 46 Where a natural person falls under any of the following circumstances, an interested party may apply to a people's court for a declaration of death of the natural person:

(1) The natural person has disappeared for four years.

(2) The natural person has disappeared for two years from an accident.

Where a person has disappeared from an accident, and it is impossible for the person to survive the accident as certified by the relevant authority, an application for a declaration of death of the person is not subject to the two-year period.

Article 47 Where both an application for a declaration of death and an application for a declaration of absence of the same natural person are filed by the interested parties with a people's court, the people's court shall declare the death of the person if the conditions for a declaration of death as set out in this Code are met.

Article 48 The day when the people's court renders a judgment to declare the death of a person shall be deemed the date of death of the person; but if the person is declared dead for his or her disappearance from an accident, the day when the accident occurred shall be deemed the date of death of the person.

Article 49 Where a natural person declared dead is alive, the validity of the juridical acts performed by the natural person during the period of declared death shall not be affected.

Article 50 Where a person declared dead reappears, the people's court shall revoke the declaration of death upon application of the person or an interested party.

Article 51 The marital relationship of a person declared dead shall be extinguished from the date of declaration of death. If the declaration of death is revoked, the marital relationship shall resume automatically from the date of revocation of the declaration of death, unless his or her spouse has remarried or submits to the marriage registration authority a written statement of refusal to resume marriage.

Article 52 Where a child of a person declared dead is legally adopted by another person during the period of his or her declared death, the person shall not claim nullity of the adoption on the ground that the adoption is without his or her approval after the declaration of death is revoked.

Article 53 Where the declaration of death of a person is revoked, the person shall have the right to reclaim his or her property which has devolved to other parties to civil legal relationships in accordance with Book Six of this Code. If any property cannot be reclaimed, the person shall be indemnified appropriately.

Where an interested party conceals facts, causing another person to be declared dead, and thus obtains any property of the person, the interested party shall, in addition to returning the property, assume compensatory liability for any loss so caused.

Section 4 Individual Industrial and Commercial Households and Rural Usufructuary Households

Article 54 A natural person conducting industrial and commercial operations upon

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registration in accordance with the law is an individual industrial and commercial household. An individual industrial and commercial household may have a trade name.

Article 55 A member of a rural collective economic organization who has obtained a usufruct on rural land in accordance with the law for farm operations of the household is a rural usufructuary household.

Article 56 Where the business of an individual industrial and commercial household is operated by an individual, the debts of the individual industrial and commercial household shall be assumed by the individual with his or her own property; where that is operated by a family, the debts of the individual industrial and commercial household shall be assumed by the family with family property; or where if it is impossible to ascertain whether that is operated by an individual or a family, the debts of the individual industrial and commercial household shall be assumed by the family with family property.

The debts of a rural usufructuary household shall be assumed by the rural household which operates on the rural land subject to the usufruct with family property or be assumed by some family members with their property who actually operate on the rural land subject to the usufruct.

Chapter III Legal Persons

Section 1 General Rules

Article 57 A legal person is an organization with capacity for civil rights and capacity for civil conduct which independently enjoys civil rights and assumes civil obligations in accordance with the law.

Article 58 A legal person shall be formed in accordance with the law.

A legal person shall have its own name, organs, domicile, and property or funding. The specific conditions and procedures for formation of a legal person shall be governed by laws and administrative regulations.

Where the formation of a legal person is subject to the approval of the relevant authority in accordance with any law or administrative regulation, such a law or administrative regulation shall apply.

Article 59 A legal person's capacity for civil rights and capacity for civil conduct arise when the legal person is formed and cease to exist when the legal person is terminated.

Article 60 A legal person shall assume civil liabilities independently with all of its property.

Article 61 In accordance with the provisions of laws or the bylaws of a legal person, the person in charge who conducts civil activities on behalf of the legal person shall be the legal representative of the legal person.

The legal consequences of civil activities conducted by the legal representative in the name of the legal person shall be assumed by the legal person.

Any restriction on the legal representative's right of representation imposed by the bylaws or the supreme organ of the legal person shall not be set up against bona fide

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opposite parties.

Article 62 Where the legal representative of a legal person causes damage to any other person in the performance of duties, the legal person shall assume civil liability for such damage.

The legal person may, after assuming such civil liability, claim reimbursement from the legal representative at fault in accordance with the laws or its bylaws.

Article 63 A legal person's domicile shall be the place of its principal office. If a legal person needs to be registered in accordance with the law, it shall register the place of its principal office as its domicile.

Article 64 Where any registered information on a legal person changes during its existence, the legal person shall apply for modification registration to the registration authority in accordance with the law.

Article 65 The inconsistency between the actual circumstances of a legal person and the registered information on the legal person shall not be set up against bona fide opposite parties.

Article 66 The registration authority shall, in accordance with the law, publish the relevant registration information on a legal person in a timely manner.

Article 67 In case of combination of a legal person, the surviving legal person shall enjoy the rights and assume the obligations of the legal person.

In case of division of a legal person, the surviving legal persons shall jointly and severally enjoy the rights and assume the obligations of the legal person, unless the creditor and the debtor have agreed otherwise.

Article 68 A legal person is terminated upon completion of liquidation and deregistration in accordance with the law for any of the following reasons:

- (1) The legal person is dissolved.
- (2) The legal person is declared bankrupt.
- (3) Any other reason specified by laws.

Where the termination of a legal person is subject to the approval of the relevant authority in accordance with any law or administrative regulation, such a law or administrative regulation shall apply.

Article 69 A legal person shall be dissolved under any of the following circumstances:

- (1) The duration stated in the legal person's bylaws expires, or any other cause of dissolution stated in the legal person's bylaws arises.
- (2) The legal person's supreme organ makes a resolution for dissolution.
- (3) The legal person is dissolved as required by business combination or division.
- (4) The legal person's business license or registration certificate is revoked in accordance with the law, or the legal person is ordered to close down or is abolished.
- (5) Any other circumstances specified by laws.

Article 70 Where a legal person is dissolved, except for business combination or division, the liquidation obligors shall form a liquidation group to conduct liquidation in a timely manner.

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The members of a legal person's executive organ or decision-making organ, such as directors or council members, are liquidation obligors, except as otherwise provided for by any law or administrative regulation.

Where the liquidation obligors fail to fulfill their liquidation obligation in a timely manner, causing any damage, they shall assume civil liability; and the competent authority or an interested party may apply to a people's court for designating relevant persons to form a liquidation group to conduct liquidation.

Article 71 The liquidation procedures and the powers of the liquidation group of a legal person shall be governed by the provisions of relevant laws; and if there are no such provisions, the relevant provisions of the company's laws shall apply *mutatis mutandis*.

Article 72 In the course of liquidation, a legal person continues to exist, but shall not conduct any activity irrelevant to liquidation.

The residual property after the legal person is liquidated shall be dealt with in accordance with the provisions of the legal person's bylaws or the resolution of the legal person's supreme organ, except as otherwise provided for by any law.

The legal person is terminated upon completion of liquidation and deregistration of the legal person; or if the law does not require the legal person to be registered, it is terminated upon completion of liquidation.

Article 73 Where a legal person is declared bankrupt, it is terminated upon completion of bankruptcy liquidation and deregistration of the legal person in accordance with the law.

Article 74 A legal person may form branch offices in accordance with the law. If any law or administrative regulation requires the branch offices to be registered, such a law or administrative regulation shall apply.

Where a branch office conducts civil activities in its own name, any civil liability arising therefrom shall be assumed by the legal person; but such civil liability may be assumed first with the property managed by the branch office and then by the legal person for any deficit.

Article 75 The legal consequences of civil activities conducted by a promoter or promoters for the formation of a legal person shall be assumed by the legal person; but if the legal person fails to be formed, shall be assumed by the promoter or promoters, and in latter case, the two or more promoters shall jointly and severally enjoy rights and assume debts.

Where a promoter conducts civil activities in the name of the promoter for the formation of a legal person, a third party shall have the right to require the legal person or the promoter to assume civil liability arising therefrom.

Section 2 For-Profit Legal Persons

Article 76 A legal person formed for the purpose of making profits and distributing profits to its shareholders or other investors is a for-profit legal person.

For-profit legal persons include limited liability companies, joint stock limited companies, and other enterprise legal persons.

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Article 77 A for-profit legal person is formed upon registration in accordance with the law.

Article 78 The registration authority shall issue a for-profit legal person business license to a for-profit legal person legally formed. The issue date of the business license shall be the date of formation of the for-profit legal person.

Article 79 For the formation of a for-profit legal person, the bylaws of the legal person shall be developed in accordance with the law.

Article 80 A for-profit legal person shall have a supreme organ. The supreme organ exercises the powers of amending the bylaws of the legal person and electing or replacing members of the executive organ and supervisory organ and other powers stated in the bylaws of the legal person.

Article 81 A for-profit legal person shall have an executive organ. The executive organ exercises the powers of convening the meetings of the supreme organ, deciding the legal person's business plans and investment proposals, and deciding the internal management structure of the legal person and other powers stated in the bylaws of the legal person.

Where the executive organ is a board of directors or is an executive director, the chairman of the board of directors, the executive director, or a manager shall serve as the legal representative in accordance with the provisions of the bylaws of the legal person; or where the legal person has no board of directors or executive director, the primary person in charge stated in the bylaws of the legal person shall be the executive organ and legal representative of the legal person.

Article 82 Where a for-profit legal person has a supervisory organ such as the board of supervisors or a supervisor, the supervisory organ shall, in accordance with the law, exercise the powers of inspecting the legal person's financial affairs and overseeing the performance of duties by the members of the executive organ and the senior executives of the legal person and the powers stated in the bylaws of the legal person.

Article 83 An investor of a for-profit legal person shall not damage the interests of the legal person or any other investor by abusing the rights of an investor. If the investor abuses the rights of an investor, causing any loss to the legal person or any other investor, the investor shall assume civil liability in accordance with the law. An investor of a for-profit legal person shall not damage the interests of a creditor of the legal person by abusing the independent status of the legal person and the limited liability of the investor. If the investor abuses the legal person's independent status or the investor's limited liability to evade debts, causing serious damage to the interests of a creditor of the legal person, the investor shall be jointly and severally liable for the legal person's debts.

Article 84 The controlling investor, actual controller, directors, supervisors, and senior executives of a for-profit legal person shall not damage the interests of the legal person through affiliations. One that causes damage to the legal person through affiliations shall assume compensatory liability.

Article 85 Where a for-profit legal person's supreme organ or executive organ adopts

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a resolution under a convening procedure or in a voting mode that violates any law or administrative regulation or the bylaws of the legal person or any content of the resolution violates the bylaws of the legal person, an investor of the for-profit legal person may request a people's court to revoke the resolution, without prejudice to the civil legal relations formed between the for-profit legal person and bona fide opposite parties based on such a resolution.

Article 86 In business activities, a for-profit legal person shall comply with business ethics, maintain the safety of transactions, receive government supervision and public scrutiny, and assume social responsibilities.

Section 3 Non-profit Legal Persons

Article 87 A non-profit legal person is a legal person formed for public welfare or any other non-profit purpose without distribution of profits to its investors, promoters, or members.

Non-profit legal persons include but are not limited to public institutions, social groups, foundations, and social service organizations.

Article 88 A public institution satisfying the conditions for a legal person and to be formed for meeting the needs of economic and social development and providing public welfare services obtains the status of a public institution legal person upon formation through registration in accordance with the law; or if the law does not require it to undergo legal person registration, obtains the status of a public institution legal person from the date of formation.

Article 89 Where a public institution legal person has a council, the council shall be its decision-making organ, except as otherwise provided for by any law. The legal representative of a public institution legal person shall be determined in accordance with laws, administrative regulations, or its bylaws.

Article 90 A social group satisfying the conditions for a legal person and to be formed based on the common will of its members for public welfare, common interests of its members, or any other non-profit purpose obtains the status of a social group legal person upon formation through registration in accordance with the law; or if the law does not require it to undergo legal person registration, obtains the status of a social group legal person from the date of formation.

Article 91 For the formation of a social group legal person, the bylaws of the legal person shall be developed in accordance with the law.

A social group legal person shall have a supreme organ such as the congress of members or the congress of representatives of members.

A social group legal person shall have an executive organ such as a council. The person in charge of the council, such as the chairman or president, shall serve as the legal representative in accordance with the bylaws of the legal person.

Article 92 A foundation or a social service organization, among others, satisfying the conditions for a legal person and to be formed with donated property for public welfare purposes obtains the status of a donation-based legal person upon formation through registration in accordance with the law.

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A venue for holding religious activities formed in accordance with the law and satisfying the conditions for a legal person may apply for legal person registration and obtain the status of a donation-based legal person, subject to any provisions of laws and administrative regulations relating to the venues for holding religious activities.

Article 93 For the formation of a donation-based legal person, the bylaws of the legal person shall be developed in accordance with the law.

The donation-based legal person shall have a decision-making organ, such as a council or a democratic governing body, and an executive organ. The person in charge of the decision-making organ such as the chairman shall serve as the legal representative in accordance with the bylaws of the legal person.

The donation-based legal person shall have a supervisory organ such as a board of supervisors.

Article 94 Donors shall be entitled to ask the donation-based legal person about the use and management of donated property and give their opinions and recommendations, and the donation-based legal person shall give honest replies in a timely manner.

Where a donation-based legal person's decision-making organ, executive organ, or legal representative makes a decision under a procedure that violates any law or administrative regulation or the bylaws of the legal person or the content of the decision violates the bylaws of the legal person, a donor or any other interested party or the competent authority may request the people's court to revoke the decision, without prejudice to the civil legal relationship formed between the donor-based legal person and bona fide opposite parties based on the decision.

Article 95 When a non-profit legal person formed for public welfare purposes is terminated, it shall not distribute any residual property to its investors, promoters, or members. The residual property shall be used for public welfare purposes in accordance with the provisions of its bylaws or a resolution of its supreme organ; or if the residual property cannot be dealt with in accordance with the provisions of its bylaws or the resolution of its supreme organ, the competent authority shall cause the transfer of such residual property to other legal persons with the same or a similar vision, and announce it to the public.

Section 4 Special Legal Persons

Article 96 The state organ legal persons, rural collective economic organization legal persons, urban and rural cooperative economic organization legal persons, and basic self-governing mass organization legal persons as provided for in this section are special legal persons.

Article 97 An independently funded state organ or a statutory institution assuming administrative functions shall have the status of a state organ legal person from the date of formation of it, and may conduct civil activities necessary for performing its functions.

Article 98 Where a state organ legal person is abolished, the legal person is terminated, and its civil rights shall be enjoyed and its obligations shall be assumed by the state organ legal person as its successor; or if there is no such a successor, its

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rights shall be enjoyed and its obligations shall be assumed by the state organ legal person making the abolition decision.

Article 99 A rural collective economic organization shall obtain the status of a legal person in accordance with the law.

Where any laws and administrative regulations provide for rural collective economic organizations, such laws and administrative regulations shall apply.

Article 100 An urban or rural cooperative economic organization shall obtain the status of a legal person in accordance with the law.

Where any laws and administrative regulations provide for urban or rural cooperative economic organizations, such laws and administrative regulations shall apply.

Article 101 An urban residents' committee or a villagers' committee has the status of a basic self-governing mass organization legal person, and may conduct civil activities necessary for performing its functions.

Where no village collective economic organization is formed, a villagers' committee may instead perform the functions of a village collective economic organization in accordance with the law.

Chapter IV Unincorporated Organizations

Article 102 An unincorporated organization is an organization without the status of a legal person but able to conduct civil activities in its own name in accordance with the law.

Unincorporated organizations include but are not limited to sole proprietorships, partnerships, and professional service organizations without the status of a legal person.

Article 103 An unincorporated organization shall be registered as required by laws. Where the formation of an unincorporated organization shall be subject to the approval of the relevant authority in accordance with any law or administrative regulation, such law or administrative regulation shall apply.

Article 104 Where the property of an unincorporated organization is insufficient for paying its debts, its investors or promoters shall assume unlimited liability for such debts, except as otherwise provided for by any law.

Article 105 An unincorporated organization may choose one or more persons to conduct civil activities on its behalf.

Article 106 An unincorporated organization shall be dissolved under any of the following circumstances:

- (1) The duration stated in the bylaws expires, or any other cause of dissolution stated in the bylaws arises.
- (2) Its investors or promoters decide to dissolve it.
- (3) Any other circumstances specified by laws.

Article 107 Where an unincorporated organization is dissolved, its liquidation shall be conducted in accordance with the law.

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Article 108 In addition to the provisions of this Chapter, the relevant provisions of Section 1 of Chapter III of this Book shall apply, *mutatis mutandis*, to unincorporated organizations.

Chapter V Civil Rights

Article 109 The personal freedom and human dignity of a natural person shall be protected by law.

Article 110 A natural person enjoys the rights of life, inviolability and integrity of person, health, name, likeness, reputation, honor, privacy, and marital autonomy, among others.

A legal person or an unincorporated organization enjoys the rights of name, reputation, and honor.

Article 111 The personal information of a natural person shall be protected by law. Any organization or individual needing to obtain the personal information of other persons shall legally obtain and ensure the security of such information, and shall not illegally collect, use, process, or transmit the personal information of other persons, nor illegally buy, sell, provide, or publish the personal information of other persons.

Article 112 The personal rights of a natural person arising from marriage or family relations, among others, shall be protected by law.

Article 113 The property rights of the parties to civil legal relations shall be equally protected by law.

Article 114 The parties to civil legal relations enjoy real rights in accordance with the law.

A real right is the right holder's exclusive right to directly dominate a specific thing in accordance with the law, including ownership, usufruct, and security interest.

Article 115 Things include immovables and movables. If rights are the objects of any real rights in accordance with any laws, such laws shall apply.

Article 116 The types and contents of real rights shall be prescribed by laws.

Article 117 Fair and reasonable indemnification shall be made if any immovable or movable is expropriated or requisitioned for public interest according to the authority and procedures prescribed by laws.

Article 118 The parties to civil legal relations enjoy a creditor's rights in accordance with the law.

A creditor's right is the right holder's right to request that a specific obligor perform or not perform certain conduct, arising from contracts, torts, management of the business of another under no obligation, unjust enrichment, and other provisions of laws.

Article 119 A contract entered into in accordance with the law shall be legally binding upon the parties to the contract.

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Article 120 In case of infringement upon civil rights and interests, the victim shall have the right to request that the tortfeasor assume tort liability.

Article 121 A person who, under no statutory or contractual obligation, manages the business of another to prevent damage to the interest of another shall have the right to request that the beneficiary of such management reimburse the manager for necessary expenses incurred.

Article 122 Where a person is unjustly enriched without any legal basis, the person who so suffers a loss shall have the right to request that the person unjustly enriched return the amount to the extent of the unjust enrichment.

Article 123 The parties to civil legal relations enjoy intellectual property rights in accordance with the law.

Intellectual property rights are the proprietary rights enjoyed by right holders in accordance with the law in respect of the following objects:

- (1) Works.
- (2) Inventions, utility models, and designs.
- (3) Trademarks.
- (4) Geographic indications.
- (5) Trade secrets.
- (6) Layout designs of integrated circuits.
- (7) New varieties of plants.
- (8) Other objects specified by laws.

Article 124 Natural persons enjoy the right of succession in accordance with the law. The lawful private property of natural persons may be inherited in accordance with the law.

Article 125 The parties to civil legal relations enjoy stock rights and other investment rights in accordance with the law.

Article 126 The parties to civil legal relations enjoy other civil rights and interests prescribed by laws.

Article 127 Where any laws provide for the protection of data and network virtual property, such laws shall apply.

Article 128 Where any laws have special provisions on the protection of civil rights of the minors, the elderly, the disabled, women, and consumers, among others, such special provisions shall apply.

Article 129 Civil rights may be obtained by juridical acts, factual behaviors, events prescribed by laws, or other means prescribed by laws.

Article 130 The parties to civil legal relations shall, based on their free will, exercise civil rights in accordance with the law without any interference.

Article 131 The parties to civil legal relations shall perform the obligations imposed

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by laws and obligations agreed upon by the parties while exercising their rights.

Article 132 The parties to civil legal relations shall not abuse civil rights to damage the national interest, public interest, or the lawful rights and interests of any other person.

Chapter VI Juridical Acts

Section 1 General Rules

Article 133 Juridical acts are acts of the parties to civil legal relations to create, modify, or terminate civil legal relationships through a declaration of will.

Article 134 Juridical acts may be formed based on the unanimous declaration of will by two or more parties or based on the declaration of will by a single party. Where a legal person or an unincorporated organization makes a resolution according to the mode of deliberation and voting procedures prescribed by laws or its bylaws, the act of resolution is formed.

Article 135 Juridical acts may be made in written, verbal, or other forms; but if any law or administrative regulation requires or the parties agree upon a particular form, such a particular form shall be adopted.

Article 136 A juridical act shall become valid upon its formation, except as otherwise provided for by any law or agreed upon by the parties. The actor shall not modify or rescind the juridical act at will, except in accordance with any law or as permitted by the other party.

Section 2 Declaration of Will

Article 137 A declaration of will made by dialog shall become valid at the time when the opposite party knows the content of will. A declaration of will not made by dialog shall become valid at the time when it reaches the opposite party. If a declaration of will not made by dialog is in the form of data message, and the opposite party has designated a specific system to receive the data message, the declaration of will shall become valid at the time when the data message enters the specific system designated; or in the absence of such designation, the declaration of will shall become valid at the time when the opposite party knows or should have known that the data message has entered its system. If the parties have otherwise agreed upon the time when a declaration of will made in the form of data message becomes valid, such an agreement shall apply.

Article 138 A declaration of will made without any opposite party shall become valid upon completion of declaration, except as otherwise provided for by any law.

Article 139 A declaration of will made in the form of publishing an announcement shall become valid at the time when the announcement is published.

Article 140 An actor may expressly or tacitly declare his or her will. Will may be deemed tacitly declared only when it is in accordance with any law, is

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agreed upon by the parties, or conforms to the trading practices between the parties.

Article 141 An actor may withdraw his or her declaration of will. The notice of withdrawing his or her declaration of will shall reach the opposite party before his or her declaration of will reaches the opposite party or at the same time when his or her declaration of will reaches the opposite party.

Article 142 The meaning of a declaration of will made to an opposite party shall be interpreted according to the words used as well as considering the relevant clauses, nature and purpose of the act, customs, and the principle of good faith. In the interpretation of a declaration of will made without an opposite party, the true will of the actor shall be determined by considering the relevant clauses, nature and purpose of the act, customs, and the principle of good faith, rather than a total confinement to the words used.

Section 3 Validity of Juridical Acts

Article 143 A juridical act satisfying all of the following conditions shall be valid:

- (1) The actor has corresponding capacity for civil conduct.
- (2) The will expressed is true.
- (3) It neither violates the imperative provisions of laws and administrative regulations, nor is contrary to public order and good morals.

Article 144 A juridical act performed by a person without capacity for civil conduct shall be void.

Article 145 A juridical act performed by a person with limited capacity for civil conduct shall be valid if the act purely benefits the person or is commensurate with his or her age, intelligence, and mental health; and any other juridical acts performed by the person may become valid after they are consented to or ratified by his or her statutory agent.

The opposite party may, by a notice, demand the statutory agent to ratify within 30 days of receipt of the notice. If the statutory agent fails to respond, ratification shall be deemed denied. Before the ratification of a juridical act, a bona fide opposite party shall be entitled to revoke the act. The revocation shall be made by a notice.

Article 146 A juridical act performed by an actor and the opposite party based on false declaration of will shall be void.

The validity of a juridical act hidden behind a false declaration of will shall be dealt with in accordance with the relevant provisions of laws.

Article 147 The actor shall be entitled to request a people's court or an arbitral institution to revoke a juridical act performed based on a material mistake.

Article 148 Where a juridical act is performed by a party against his or her true will as a result of fraud by the other party, the defrauded party shall have the right to request a people's court or an arbitral institution to revoke the act.

Article 149 Where a juridical act is performed by a party against his or her true will as a result of fraud by a third party, the defrauded party shall have the right to request a

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people's court or an arbitral institution to revoke the act if the other party knows or should have known the fraud.

Article 150 Where a juridical act is performed by a party against his or her true will as a result of coercion by the other party or a third party, the coerced party shall have the right to request a people's court or an arbitral institution to revoke the act.

Article 151 Where a juridical act is evidently unfair when it is formed as a result of one party taking advantage of the other party's distress or lack of judgment, among others, the aggrieved party shall have the right to request a people's court or an arbitral institution to revoke the act.

Article 152 Under any of the following circumstances, the right of revocation shall be extinguished:

- (1) A party fails to exercise its right of revocation within one year from the day when the party knows or should have known the cause of revocation, or a party with a material mistake fails to exercise its right of revocation within 90 days from the day when the party knows or should have known the cause of revocation.
- (2) A coerced party fails to exercise its right of revocation within one year from the day when coercion terminates.
- (3) A party renounces its right of revocation, expressly or by its conduct, after knowing the cause of revocation.

Where a party fails to exercise its right of revocation within five years from the day when the juridical act occurs, the right of revocation shall be extinguished.

Article 153 A juridical act violating the imperative provisions of any law or administrative regulation shall be void, unless the imperative provisions do not result in the nullity of the juridical act.

A juridical act contrary to public order and good morals shall be void.

Article 154 A juridical act by which an actor maliciously colludes with the opposite party to damage any other person's lawful rights and interests shall be void.

Article 155 A void or revoked juridical act is not legally binding from the outset.

Article 156 Where the partial invalidity of a juridical act does not affect the validity of the other part, the other part shall remain valid.

Article 157 After a juridical act is void, revoked, or determined as having no binding force, the property obtained by the actor as a result of the act shall be restituted; if restitution is impossible or unnecessary, indemnification shall be made at an estimated price. The party at fault shall compensate the other party for any loss suffered as a result of the act; or if both parties are at fault, they shall assume corresponding liabilities respectively, except as otherwise provided for by any law.

Section 4 Juridical Acts Subject to Conditions or Terms

Article 158 A juridical act may be subject to a condition, unless such a condition is not allowed according to the nature of the juridical act. A juridical act subject to a condition for becoming valid shall become valid when the condition is fulfilled. A

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juridical act subject to a condition for rescission shall cease to be valid when the condition is fulfilled.

Article 159 For a juridical act subject to a condition, if a party prevents the fulfillment of the condition by improper means for its own benefits, the condition shall be deemed fulfilled; or if a party hastens the fulfillment of a condition by improper means, the condition shall not be deemed fulfilled.

Article 160 A juridical act may be subject to a term, unless such a term is not allowed according to the nature of the juridical act. A juridical act subject to a term for becoming valid shall become valid upon expiration of the term. A juridical act subject to a term for termination shall become invalid upon expiration of the term.

Chapter VII Agency

Section 1 General Rules

Article 161 The parties to civil legal relations may conduct juridical acts through agents.

A juridical act that shall be performed in person in accordance with the provisions of laws, an agreement between the parties, or the nature of the juridical act shall not be performed by an agent.

Article 162 A juridical act performed by an agent in the name of the principal within the power conferred on the agent shall be binding on the principal.

Article 163 Agency includes agency by mandate and statutory agency.

An agent under a mandate shall exercise the power conferred by the principal. A statutory agent shall exercise the power conferred by laws.

Article 164 Where an agent fails to perform or fully perform its duties, causing damage to the principal, the agent shall assume civil liability.

Where an agent and the opposite party in malicious collusion damages the principal's lawful rights and interests, the agent and the opposite party shall be jointly and severally liable.

Section 2 Agency by Mandate

Article 165 Where the power is conferred by a mandate in a written form, the power of attorney shall clearly state the agent's name and the object of, power conferred by, and term of the mandate, to which the signature or seal of the principal shall be affixed.

Article 166 Where the object of a mandate is to be performed by several agents, they shall jointly exercise the power conferred, except as otherwise agreed upon by the parties.

Article 167 Where an agent knows or should have known that the object of the mandate is illegal but still performs it, or the principal knows or should have known that an agent's performance is illegal but fails to raise any objection, the principal and

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the agent shall be jointly and severally liable.

Article 168 An agent shall not perform any juridical act with itself in the name of the principal, unless it is consented to or ratified by the principal.

An agent shall not perform any juridical act in the name of one principal with any other principal represented by it at the same time, unless it is consented to or ratified by both principals.

Article 169 Where an agent needs to appoint a third party to perform the object of the mandate in its place, the agent shall obtain the consent or ratification of the principal. With the principal's consent to or ratification of the appointment, the principal may directly instruct the third party appointed by the agent regarding the object of the mandate, and the agent shall only be liable for the selection of the third party and its instructions to the third party.

Without the principal's consent to or ratification of the appointment, the agent shall be liable for the acts of the third party appointed by the agent, unless it is necessary for the agent to appoint the third party in case of emergency to safeguard the interests of the principal.

Article 170 Where a person who performs tasks for a legal person or an unincorporated organization conducts juridical acts related to matters within his or her scope of powers in the name of the legal person or the unincorporated organization, such acts shall have binding force on the legal person or unincorporated organization. Any restrictions imposed by a legal person or an unincorporated organization on the scope of powers of the person performing tasks for the legal person or unincorporated organization shall not be set up against bona fide opposite parties.

Article 171 Where an actor still performs an act of agency without a power of attorney, beyond his or her power of attorney, or after his or her power of attorney terminates, the act shall not be binding on the principal without the principal's ratification.

The opposite party may, by a notice, urge the principal to ratify within 30 days from the date of receipt of the notice. If the principal fails to respond, ratification shall be deemed denied. Before the ratification of the act, the bona fide opposite party shall be entitled to revoke the act. The revocation shall be made by a notice.

Where ratification of the act is denied, the bona fide opposite party shall be entitled to request that the actor perform obligations or compensate it for any injury suffered by it, but such compensation shall not exceed the interest that could have been obtained by the opposite party if the act were ratified by the principal.

Where the opposite party knows or should have known that the actor has no power of attorney, the opposite party and the actor shall assume liability according to their respective faults.

Article 172 Where an actor still performs an act of agency without a power of agency, beyond his or her power of attorney, or after his or her power of attorney terminates, the act shall be valid if the opposite party has reason to believe that the actor has the power of attorney.

Section 3 Termination of Agency

Article 173 Agency by mandate shall terminate under any of the following

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circumstances:

- (1) The term of agency expires or the object of the mandate is fulfilled.
- (2) The principal cancels the mandate or the agent surrenders the mandate.
- (3) The agent loses capacity for civil conduct.
- (4) The agent or the principal dies.
- (5) The legal person or unincorporated organization as the agent or the principal is terminated.

Article 174 After the principal dies, the acts of agency performed by an agent under a mandate shall be valid under any of the following circumstances:

- (1) The agent does not know and should not have known that the principal died.
- (2) The successors of the principal recognize such acts.
- (3) The power of attorney expressly states that the power of agency shall terminate upon fulfillment of the object of the mandate.
- (4) Such acts have been conducted before the principal dies and continue for the benefits of the principal's successors.

The provision of the preceding paragraph shall apply, *mutatis mutandis*, where a legal person or an unincorporated organization as the principal is terminated.

Article 175 Statutory agency shall terminate under any of the following circumstances:

- (1) The principal obtains or regains full capacity for civil conduct.
- (2) The agent loses capacity for civil conduct.
- (3) The agent or the principal dies.
- (4) Any other circumstance specified by laws.

Chapter VIII Civil Liability

Article 176 The parties to civil legal relations shall perform their civil obligations and assume civil liabilities in accordance with the provisions of laws or the agreements of the parties.

Article 177 Where two or more persons share liability in accordance with the law, they shall assume corresponding liability respectively if their respective liabilities can be determined; or evenly assume liability if it is difficult to determine their respective liabilities.

Article 178 Where two or more persons are jointly and severally liable in accordance with the law, the obligee is entitled to request assumption of liability by part or all of the persons jointly and severally liable.

The shares of liability of persons jointly and severally liable shall be determined based on the gravity of liability of each person; or the liability shall be evenly shared if it is difficult to determine the gravity of liability of each person. If the liability actually assumed by a person jointly and severally liable exceeds the person's share of liability, the person shall be entitled to claim indemnities from other persons jointly and severally liable.

The joint and several liability shall be governed by the provisions of laws or the agreements of the parties.

Article 179 Civil liability shall be assumed primarily in the following manners:

- (1) Cessation of infringement.

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- (2) Removal of obstacles.
- (3) Elimination of danger.
- (4) Restitution of property.
- (5) Restoration to the original condition.
- (6) Repair, reworking, or replacement.
- (7) Continued performance.
- (8) Compensation for loss.
- (9) Payment of liquidated damages.
- (10) Elimination of adverse effects and rehabilitation of reputation.
- (11) Making an apology.

Where any law provides for punitive damages, such a law shall apply.

The manners of assuming civil liability as set forth in this article may be applied alone or by a combination.

Article 180 Where the non-performance of civil obligations is caused by a force majeure, no civil liability shall arise therefrom, except as otherwise provided for by any law.

A force majeure means any objective circumstance that is unforeseeable, inevitable, and insurmountable.

Article 181 Where any harm is caused by perfect defense, no civil liability shall arise therefrom.

Where the defense exceeds the limit of necessity for perfect defense and causes undue harm, the person acting in imperfect defense shall assume appropriate civil liability.

Article 182 Where any damage is caused by necessity to avoid a danger in emergency, the person causing the danger shall assume civil liability.

Where the danger arises from any natural cause, the person acting to avoid the danger shall not assume civil liability, but may make appropriate indemnification.

Where the act of avoiding a danger in emergency is inappropriate or exceeds the limit of necessity and causes undue harm, the person acting to avoid the danger shall assume appropriate civil liability.

Article 183 Where a person suffers any harm in order to protect any other person's civil rights and interests, the tortfeasor shall assume civil liability, and the beneficiary may make appropriate indemnification. If there is no tortfeasor or the tortfeasor has fled or is unable to assume civil liability, the beneficiary shall make appropriate indemnification if the victim claims indemnification.

Article 184 A person who voluntarily provides emergency assistance and causes harm to the recipient of assistance shall not assume civil liability.

Article 185 A person who infringes upon the name, likeness, reputation, or honor of a hero or a martyr, among others, causing damage to the public interest, shall assume civil liability.

Article 186 Where a party breaches a contract, causing damage to the other party's personal or property rights and interests, the aggrieved party shall be entitled to request the party to assume liability for breach of contract or assume tort liability.

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Article 187 Where a party to civil legal relations shall be held civilly, administratively, and criminally liable for the same act, the assumption of administrative liability or criminal liability does not affect the assumption of civil liability; and if the party's property is insufficient for payment, the property shall be used first for assumption of civil liability.

Chapter IX Extinctive Prescription

Article 188 An action instituted in a people's court for protection of civil rights is prescribed by three years, except as otherwise prescribed by any law. The prescriptive period shall be calculated from the day when the obligee knows or should have known that his or her right has been infringed upon and who the obligor is, except as otherwise provided for by any law. The people's court shall not offer protection if 20 years have elapsed since the infringement; but under special circumstances, the people's court may decide to extend the prescriptive period upon application of the obligee.

Article 189 Where the parties have agreed on the installment performance of a debt, the prescriptive period shall be calculated from the day when the time limit for the last installment expires.

Article 190 The prescriptive period of a claim of a person without or with limited capacity for civil conduct against his or her statutory agent shall be calculated from the day when the agency by operation of law is terminated.

Article 191 The prescriptive period of a claim for damages of a minor who has suffered sexual assault shall be calculated from the day when the victim attains the age of eighteen.

Article 192 When the prescriptive period expires, the obligor may use it as a defense for non-performance of obligations.

Where the obligor agrees to perform after the prescriptive period expires, the obligor may not defend on the ground that the prescriptive period has expired; and if the obligor has voluntarily performed, no request for restitution may be made.

Article 193 A people's court shall not apply the provisions on extinctive prescription of its own motion.

Article 194 The prescriptive period shall be suspended if during the last six months of the period, a claim cannot be filed for any of the following obstacles:

- (1) A force majeure.
- (2) The person without or with limited capacity for civil conduct has no statutory agent, or his or her statutory agent dies, loses capacity for civil conduct, or loses the power conferred by laws.
- (3) The successor or legacy administrator has not been determined after the commencement of succession.
- (4) The obligee is controlled by the obligor or any other person.
- (5) Any other obstacle resulting in the obligee's failure to file a claim.

The prescriptive period shall expire six months after the day when the obstacle causing the suspension is eliminated.

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Article 195 The prescriptive period interrupted under any of the following circumstances shall be recalculated from the time of interruption or conclusion of the relevant procedure:

- (1) The obligee requests the obligor's performance.
- (2) The obligor agrees to perform.
- (3) The obligee institutes an action or applies for arbitration.
- (4) Any other circumstance with equal effects as instituting an action or applying for arbitration.

Article 196 The provisions on prescriptive period shall not apply to the following claims:

- (1) A claim for cessation of infringement, removal of obstacles, or elimination of danger.
- (2) The claim of a holder of a real right in an immovable or a registered real right in a movable for restitution of property.
- (3) A claim for payment of child support, support for elderly parents, or spousal support.
- (4) Any other claim to which the prescriptive period does not apply in accordance with the law.

Article 197 The period, calculation method, and causes of suspension or interruption of extinctive prescription shall be provided for by laws, and any agreement between the parties in this respect shall be void.

A party's prior renouncement of the benefit of prescription shall be void.

Article 198 Where any law prescribes arbitration, such a law shall apply; otherwise, the provisions on extinctive prescription for actions shall apply.

Article 199 Except as otherwise provided for by any law, the duration of rights such as the right of revocation and the right of rescission as granted by laws or agreed upon by the parties shall be calculated from the day when a right holder knows or should have known that such a right has arisen, and the provisions on the suspension, interruption, and extension of extinctive prescription shall not apply to the above duration. The right of revocation, right of rescission, and other rights shall be extinguished upon expiration of such duration.

Chapter X Calculation of Time Periods

Article 200 For the purposes of the civil law, a time period shall be calculated according to the Gregorian calendar by year, month, day, and hour.

Article 201 Where a time period is calculated by year, month, and day, the first day of the period shall not be counted, and the period shall be counted from the next day. Where a time period is calculated by hour, the period shall be counted from the time specified by laws or agreed upon by the parties.

Article 202 Where a time period is calculated by year and month, the corresponding date of the expiry month shall be the last day of the time period; or if there is no corresponding date, the last day of the expiry month shall be the last day of the time

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period.

Article 203 Where the last day of a time period falls on a legal holiday, the day after the legal holiday shall be the last day of the time period.

The last day of a time period shall end at 24:00; or if business hours are applicable, the last day shall end at the closing hour.

Article 204 Time periods shall be calculated in methods specified by this Code, except as otherwise provided for by any law or agreed upon by the parties.

Book Two Real Rights

Title One General Provisions

Chapter I General Rules

Article 205 This Book regulates civil relations arising from the attribution and use of property.

Article 206 The state upholds and improves the co-development of multiple forms of ownership with public ownership playing a dominant role, the co-existence of multiple modes of distribution with distribution according to the amount of labor performed playing a dominant role, the system of socialist market economy, and other basic socialist economic regimes.

The state consolidates and develops the public sector of the economy, and encourages, supports, and guides the development of the non-public sectors of the economy.

The state implements the socialist market economy, and safeguards the equal legal status and development rights of all market players.

Article 207 The real rights of the state, collectives, individuals, and other right holders shall be equally protected by law, and shall not be infringed upon by any organization or individual.

Article 208 The creation, modification, transfer, or extinction of a real right in an immovable shall be registered in accordance with the provisions of laws. A real right in a movable shall be created or transferred upon delivery in accordance with the provisions of laws.

Chapter II Creation, Modification, Transfer and Extinction of Real Rights

Section 1 Registration of Immovables

Article 209 The creation, modification, transfer, or extinction of a real right in an immovable shall become valid after it is registered in accordance with the law; it shall have no binding force if it is not registered in accordance with the law, except as otherwise provided for by any law.

The ownership of natural resources belonging to the state in accordance with the law is not required to be registered.

Article 210 An immovable shall be registered at the registration authority at the place

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where the immovable is located.

The state implements the rules for the unified registration of immovables. The scope of unified registration, registration authorities and the measures for registration shall be provided for by laws and administrative regulations.

Article 211 A party that applies for the registration of an immovable shall, based on different registration items, provide the certificate of ownership of the immovable and required materials such as those on the boundary and area of the immovable.

Article 212 The registration authority shall perform the following duties:

- (1) Examining the certificate of ownership and other required materials provided by the applicant.
- (2) Inquiring the applicant about the relevant registration items.
- (3) Registering the relevant items based on facts and in a timely manner.
- (4) Performing other duties provided for by laws and administrative regulations.

Where it is necessary to further prove the relevant situation of the immovable involved in the application for registration, the registration authority may require the applicant to submit additional materials, and may conduct on-site inspection when necessary.

Article 213 The registration authority may not commit any of the following conduct:

- (1) Requiring the assessment of the immovable.
- (2) Conducting repeated registration in the name of annual inspection, among others.
- (3) Any other conduct beyond the scope of registration duties.

Article 214 The creation, modification, transfer, or extinction of the real right in an immovable shall, if it shall be registered in accordance with the provisions of laws, become valid from the time when it is recorded in the register of immovables.

Article 215 A contract entered into by the parties on the creation, modification, transfer, or extinction of the real right in an immovable shall become valid from the date when the contract is entered into, unless it is otherwise provided for by any law or agreed upon by the parties; and if the real right has not been registered, it shall not affect the validity of the contract.

Article 216 The register of immovables is the basis for determining the attribution and content of a real right.

The register of immovables shall be managed by the registration authority.

Article 217 The certificate of ownership of an immovable is the certificate proving that the right holder is entitled to the real right in the immovable. The items recorded in the certificate of ownership of the immovable shall be consistent with those recorded in the register of immovables; in the case of any discrepancy, the item recorded in the register of immovables shall prevail, except that there is any evidence to prove that there is any error in the item.

Article 218 The right holder or the interested party may apply for consulting or duplicating immovable registration materials, and the registration authority shall provide such materials.

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Article 219 The parties of interest shall not make public or illegally use the right holder's immovable registration materials.

Article 220 The right holder or the interested party may apply for correction registration if it or he is of the opinion that there is any error in the item recorded in the register of immovables. If the right holder recorded in the register of immovables agrees to correction in a written form or has evidence to prove that there is any error in the registration item, the registration authority shall make correction. Where the right holder recorded in the register of immovables disagrees to the correction, the interested party may apply for opposition registration. If the registration authority grants the opposition registration, but the applicant fails to institute an action within 15 days from the date of opposition registration, the opposition registration shall cease to be effective. If the opposition registration is inappropriate and causes any damage to the right holder, the right holder may claim compensation for damages from the applicant.

Article 221 Where a party enters into a property purchase agreement or an agreement on a real right in any other immovable, the party may, as agreed upon, apply to the registration authority for advance notice registration so as to guarantee the exercise of the real right in the future. After the advance notice registration, any disposal of the immovable without the consent of the right holder recorded in the advance notice registration shall produce no effect of real right. Where, after the advance notice registration, the creditor's right is extinguished or no application for the registration of the immovable is filed within 90 days from the date when the immovable can be registered, the advance notice registration shall cease to be effective.

Article 222 Any party that provides false application materials for registration, thus causing any damage to another person, shall assume compensatory liability. Where the registration authority causes any damage to another person due to any error in registration, it shall assume compensatory liability. After making the compensation, the registration authority may recover the amount from the person causing the error in registration.

Article 223 Immovable registration fees shall be collected on each piece, and may not be collected on the basis of the area or size of the immovable or in proportion to the price.

Section 2 Delivery of Movables

Article 224 The creation or transfer of the real right in a movable shall become valid upon delivery, except as otherwise provided for by any law.

Article 225 The creation, modification, transfer, or extinction of the real right in a vessel, aircraft, or motor vehicle, among others, if it is not registered, shall not be set up against a bona fide third party.

Article 226 Where the right holder has possessed a movable before the real right in the movable is created or transferred, the real right shall have binding force when the juridical act becomes valid.

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Article 227 Where a third party has possessed a movable before the real right in the movable is created or transferred, the person who is obliged to deliver the movable may transfer the right to request a third party to return the original property to replace the delivery.

Article 228 Where it is agreed by the parties that the transferor continues to possess the movable when the real right in the movable is transferred, the real right shall have binding force from the time when the agreement becomes valid.

Section 3 Other Provisions

Article 229 Where a real right is created, modified, transferred, or extinguished in accordance with the legal document of a people's court or an arbitration institution or an expropriation decision made by a people's government, among others, it shall have binding force from the time when the legal document or expropriation decision, among others, becomes valid.

Article 230 Where a real right is acquired through succession, it shall have binding force from the time of succession.

Article 231 Where a real right is created or extinguished due to such factual behavior as lawful construction and demolition of buildings, it shall have binding force at the time when the factual behavior is committed.

Article 232 Any disposal of the real right in an immovable enjoyed in accordance with the provisions of this Section shall produce no effect of real right if it is not registered as required by laws.

Chapter III Protection of Real Rights

Article 233 Where a real right is infringed upon, the right holder may have the matter settled by such means as conciliation, mediation, arbitration, and litigation.

Article 234 Where any dispute arises over the attribution or content of a real right, the interested parties may file a claim for confirmation of the right.

Article 235 With respect of the untitled possession of an immovable or movable, the right holder may file a claim for return of the original property.

Article 236 Where a real right has been or may be interfered with, the right holder may file a claim for removal of interference or elimination of danger.

Article 237 Where an immovable or movable is damaged, the right holder may file a claim for repair, rebuilding, replacement, or restoration to the original condition, in accordance with the law.

Article 238 Where the infringement upon a real right causes any damage to the right holder, the right holder may file a claim for damages in accordance with the law, and may also file a claim for assumption of any other civil liability in accordance with the

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law.

Article 239 The ways for the protection of a real right as provided for in this Chapter may be applied either separately or jointly, depending on the circumstance of the infringement upon the real right.

Title Two Ownership

Chapter IV General Rules

Article 240 The owner of an immovable or movable has the right to possess, use, enjoy, and dispose of such an immovable or movable in accordance with the law.

Article 241 The owner of an immovable or movable has the right to create usufructs and security interests on the immovable or movable. In exercising rights, the usufructuary or security interest holder may not damage the owner's rights and interests.

Article 242 No organization or individual may acquire the ownership of an immovable or movable exclusively owned by the state as provided for by laws.

Article 243 Land owned by collectives and buildings and other immovables of organizations or individuals may be expropriated in the interest of the public within the limits of power and under the procedures provided for by laws.

Where land owned by collectives is expropriated, land compensation, resettlement subsidies, and compensation for rural villagers' houses, other fixtures on land, and young crops, among others, shall be paid in full amount in accordance with law, and social security expenses for the farmers whose land is expropriated shall be arranged for, in order to guarantee the farmers' daily lives and safeguard their lawful rights and interests.

Where the buildings and other immovables of organizations or individuals are expropriated, indemnities for expropriation shall be given in accordance with the law, and the lawful rights and interests of the person whose land is expropriated shall be protected; and if the housing of individuals is expropriated, each individual's residential conditions shall also be guaranteed.

No organization or individual may embezzle, misappropriate, privately divide, withhold, or default on the payment of indemnities for expropriation and other expenses.

Article 244 The state provides special protection for arable land, strictly restricts the repurposing of farmland as land for construction, and controls the total amount of land for construction. No land owned by the collective may be expropriated beyond the limits of power or in violation of the procedures provided for by law.

Article 245 In order to meet such urgent needs as emergency rescue, disaster relief, and epidemic containment, the immovable or movable of an organization or individual may be requisitioned within the limits of power under the procedures as provided for by laws. After use, the requisitioned immovable or movable shall be returned to the organization or individual of which/whom the immovable or movable is requisitioned. If the immovable or movable of the organization or individual is

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requisitioned, or if it is damaged or lost after the requisition thereof, an indemnity shall be given.

Chapter V State Ownership, Collective Ownership and Private Ownership

Article 246 The property owned by the state as provided for by laws belong to the state, that is, the whole people.

The State Council exercises the ownership of state-owned property on behalf of the state, except as otherwise provided for by any law.

Article 247 All mineral resources, waters and sea areas belong to the state.

Article 248 Uninhabited sea islands belong to the state, and the State Council exercises the ownership of uninhabited sea islands on behalf of the state.

Article 249 Urban land belongs to the state. Land in rural areas and suburban areas owned by the state as provided for by laws belongs to the state.

Article 250 Natural resources such as forests, mountains, grassland, waste land, and intertidal zones belong to the state, except that they are owned collectively as provided for by laws.

Article 251 The wildlife resources owned by the state as provided for by laws belong to the state.

Article 252 Radio-frequency spectrum resources belong to the state.

Article 253 The cultural relics owned by the state as provided for by laws belong to the state.

Article 254 Assets for national defense belong to the state.

Infrastructures such as railways, highways, electric power facilities, telecommunications facilities, and oil and gas pipelines that are owned by the state as provided for by laws belong to the state.

Article 255 State organs are entitled to possess and use the immovables and movables directly under their control and to dispose of them in accordance with laws and the relevant provisions issued by the State Council.

Article 256 The public institutions sponsored by the state are entitled to possess and use the immovables and movables directly under their control and to enjoy and dispose of them in accordance with laws and the relevant provisions issued by the State Council.

Article 257 With respect to the enterprises invested by the state, the State Council and local people's governments shall, in accordance with the provisions of laws and administrative regulations, perform the duties of investors on behalf of the state, and enjoy the rights and interests of investors.

Article 258 The property owned by the state shall be protected by law, and no

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organization or individual may embezzle, loot, privately divide, withhold, or destroy them.

Article 259 The institutions performing the duties of administration and supervision of state-owned property and their staff members shall, in accordance with the law, strengthen the administration and supervision of state-owned property, promote the value preservation and increment of state-owned property, and prevent the loss of state-owned property; and whoever abuses power or neglects duty, causing any loss of state-owned property, shall assume legal liability in accordance with the law. Whoever, in violation of the provisions on the management of state-owned property, causes any loss of state-owned property by transferring it at a low price, privately dividing it in collusion with others, using it as security without approval or by other means in the course of enterprise restructuring, business combination or division, or affiliated transaction, among others, shall assume legal liability in accordance with the law.

Article 260 The immovables and movables owned by a collective include:

- (1) land, forests, mountains, grassland, waste land and intertidal zones owned by the collective as provided for by laws;
- (2) buildings, production facilities, and water conservancy facilities of farmland that are owned by the collective;
- (3) educational, scientific, cultural, public health, sports, and other facilities that are owned by the collective; and
- (4) other immovables and movables owned by the collective.

Article 261 The immovables and movables owned by a farmers' collective belong to all the members of the collective.

The following matters shall be subject to decision-making by the members of the collective under statutory procedures:

- (1) Land contracting plan, and offering land to organizations or individuals for agricultural operations other than those belonging to the collective.
- (2) Adjustment of the contracted land among the holders of a conventional usufruct on rural land for agricultural operations.
- (3) Measures for the use and distribution of land compensation and other expenses.
- (4) Such matters as change in the ownership of any enterprise invested by the collective.
- (5) Other matters provided for by laws.

Article 262 The ownership of collectively-owned land, forest, mountain, grassland, waste land or intertidal zone, among others, shall be exercised in accordance with the following provisions:

- (1) If it is owned by a farmers' collective of a village, the ownership shall be exercised by a collective economic organization or the villagers' committee of the village on behalf of the collective in accordance with the law.
- (2) If it is owned by two or more farmers' collectives of a village, the ownership shall be exercised by all the collective economic organizations or the villagers' groups of the village on behalf of the collective in accordance with the law.
- (3) If it is owned by a farmers' collective of a township or town, the ownership shall be exercised by a collective economic organization of the township or town on behalf of the collective.

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Article 263 An urban collective has the right to possess, use, enjoy, and dispose of any immovable or movable owned by it in accordance with the provisions of laws and administrative regulations.

Article 264 A rural collective economic organization, villager's committee or villagers' group shall publicize the status of the property owned by the collective to the members of the collective in accordance with laws, administrative regulations, its articles of association, village rules and villagers' agreements. Members of the collective have the right to consult and duplicate the relevant materials.

Article 265 The property owned by a collective shall be protected by law, and no organization or individual may encroach upon, loot, privately divide, or destroy such property.

Where a decision made by a rural collective economic organization, or a villagers' committee or by the person in charge thereof infringes upon the lawful rights and interests of any member of the collective, such a member may request the people's court to revoke such a decision.

Article 266 An individual shall have the ownership of his or her lawfully earned income, buildings, articles for daily use, means of production, raw materials, and other immovables and movables.

Article 267 An individual's lawful property shall be protected by law, and no organization or individual may encroach upon, loot, or destroy it.

Article 268 The state, any collective or individual may, in accordance with the law, make investment to form a limited liability company, a joint stock company, or any other enterprise. If the immovable or movable owned by the state, the collective or an individual is invested in an enterprise, the investor shall enjoy such rights as obtaining asset returns, making major decisions and selecting business managers, and shall perform duties as agreed upon or in proportion to the amount of investment.

Article 269 A for-profit legal person has the right to possess, use, enjoy, and dispose of its immovables and movables in accordance with laws and administrative regulations as well as its bylaws.

The rights enjoyed by a legal person other than for-profit legal persons over its immovables and movables shall be governed by the provisions of relevant laws and administrative regulations as well as its bylaws.

Article 270 The immovables and movables legally owned by social organization legal persons and legal persons making donations shall be protected by law.

Chapter VI Owners' Separate Ownership in a Building

Article 271 The owners have the ownership of private portions within a building, such as housing units and commercial units, and have the right to co-own and jointly manage the common portions other than the private portions.

Article 272 The owners have the right to possess, use, enjoy, and dispose of the

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private portions of a building. No owner may, in exercising rights, endanger the safety of the building or infringe upon the lawful rights and interests of any other owner.

Article 273 An owner shall enjoy the rights and fulfill the obligations over the common portions other than the private portions of a building, and may not refuse to fulfill the obligations on the excuse of waiver of rights.

When an owner transfers its housing unit or commercial unit within a building, the owner's right to co-own and jointly manage the common portions shall be transferred along with it.

Article 274 The roads within the zoning lot shall be co-owned by owners, except those belonging in the public roads of a city or town. The green spaces within the zoning lot shall be co-owned by owners, except those belonging in the public green spaces of a city or town or, as it is clearly indicated, belonging to individuals. Other public spaces, public facilities and buildings used for property management services within the zoning lot shall be co-owned by owners.

Article 275 In the zoning lot, the attribution of the planned parking spaces and garages shall be agreed upon by the parties by such means as sale, additional gift, and lease. The roads or other spaces co-owned by the owners, which are used for parking vehicles, shall belong to all the owners.

Article 276 In the zoning lot, the planned parking spaces and garages shall first be used to meet the needs of the owners.

Article 277 The owners may establish an owners' assembly to elect an owners' committee. The specific conditions and procedures for the establishment of the owners' assembly and owners' committee shall be governed by the provisions of laws and regulations.

The relevant departments of local people's governments and neighborhood committees shall provide guidance and assistance for the establishment of the owners' assembly and the election of the owners' committee.

Article 278 The following matters shall be decided on by all the owners:

- (1) Developing and amending the rules of procedures of the owners' assembly.
- (2) Developing and amending management rules and agreements.
- (3) Electing the owners' committee or replacing members of the owners' committee.
- (4) Selecting or dismissing the property management service enterprise or any other manager.
- (5) Using funds for the maintenance of a building and its ancillary facilities.
- (6) Raising funds for the maintenance of a building and its ancillary facilities.
- (7) Transforming and reconstructing a building and its ancillary facilities.
- (8) Changing the use of common portions or using common portions to conduct business activities.

(7) Other major matters relating to co-ownership and joint management rights.

The matters to be decided on by all the owners shall be voted on by two-thirds or more of all the owners, provided that the area of private portions owned by such owners accounts for two-thirds or more of the total area. The decisions on the matters set out in subparagraphs (6) through (8) of the preceding paragraph shall be subject to the consent of three quarters or more of the owners participating in the voting,

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provided that the area of private portions owned by such owners accounts for three quarters or more of the total area. The decisions on other matters set out in the preceding paragraph shall be subject to the consent of over a half of the owners participating in the voting, provided that the area of private portions owned by such owners accounts for over a half of the total area.

Article 279 No owner may change a housing unit into a commercial unit in violation of any law, regulation or management rule or agreement. If an owner intends to change a housing unit into a commercial unit, the owner shall, in addition to observing laws, regulations and management rules and agreements, obtain the consensus of the owners that have an interest in the change.

Article 280 The decisions made by an owners' assembly or an owners' committee are legally binding upon all the owners.
Where any decision made by the owners' assembly or the owners' committee infringes upon the lawful rights and interests of any owner, such an owner may request a people's court to revoke the decision.

Article 281 The funds for the maintenance of a building and its ancillary facilities are co-owned by owners, which, upon their common decision, may be used for maintaining, renovating and reconstructing the common portions such as elevators, roofs, outer walls, and barrier-free facilities. The information on the raising and use of funds for the maintenance of a building and its ancillary facilities shall be published on a periodical basis.

Where a building and its ancillary facilities need to be repaired in case of emergency, the owners' assembly or the owners' committee may apply for the use of funds for the maintenance of a building and its ancillary facilities in accordance with the law.

Article 282 The income derived from the use of common portions of the owners by the project owner, property management service enterprise or any other manager, among others, after the deduction of reasonable costs, shall belong to all the owners.

Article 283 Where there is an agreement on such matters as the apportioning of expenses for a building and its ancillary facilities and the distribution of proceeds therefrom, such an agreement shall prevail; in the absence of such an agreement or if such an agreement is ambiguous, such matters shall be determined based on the proportion of the area of the owners' private portions to the total area of the building.

Article 284 The owners may manage the building and its ancillary facilities by themselves, or entrust a property management service enterprise or any other manager to do so.

The owners have the right to legally replace the property management service enterprise or any other manager retained by the project owner.

Article 285 The property management service enterprise or any other manager shall, as authorized by the owners, manage the building and its ancillary facilities within the zoning lot according to the provisions of Book Three of this Code governing property management service contracts, accept the supervision from the owners, and give replies to the inquiries made by the owners on property management services in a timely manner.

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The property management service enterprise or any other manager shall execute the emergency response measures and other management measures legally taken by the government, and actively cooperate in the relevant work.

Article 286 The owners shall abide by laws, regulations and management rules and agreements, and their relevant acts shall comply with the requirements for the conservation of resources and the protection of ecology and environment. The owners shall, in accordance with the law, cooperate with the property management service enterprise or any other manager in the execution of emergency response measures and other management measures legally taken by the government.

With respect to any act that damages the lawful rights and interests of any other person, such as discarding wastes at will, discharging pollutants, making noises, feeding animals in violation of the relevant provisions, illegally building shelters, occupying passages, and refusing to pay property management fees, the owners' assembly or the owners' committee has the right to request the actor to cease the infringement, remove the obstacles, eliminate the danger, restore to the original conditions, and compensate for the losses in accordance with the relevant laws, regulations, and management rules and agreements.

Where the owner or any actor refuses to fulfill relevant obligations, the relevant party may file a report or complaint with the relevant administrative department, and the relevant administrative department shall handle it in accordance with the law.

Article 287 An owner whose lawful rights and interests are infringed upon by the project owner, a property management service enterprise, any other manager, or any other owner has the right to request the latter to assume civil liability.

Chapter VII Neighboring Relations

Article 288 The right holders of neighboring immovables shall properly handle their neighboring relations under the principles of being conducive to production, convenience for daily life, unity and mutual assistance, and fairness and rationality.

Article 289 Where the handling of neighboring relations is provided for any by law or regulation, the provisions thereof shall prevail; or if the law or regulation is silent, such relations may be handled according to local customs.

Article 290 The right holder of an immovable shall provide necessary convenience for water use and drainage by the right holder of the neighboring immovable.

Natural running water shall be rationally used by the right holders of neighboring immovables. The natural flow shall be observed with respect to the drainage of natural running water.

Article 291 The right holder of an immovable shall provide necessary convenience if the right holder of a neighboring immovable has to use the land thereof for passage or any other purpose.

Article 292 Where the right holder of an immovable has to use the neighboring land or building for constructing or maintaining a building, or laying wires, cables, water pipes, heating pipelines, or fuel gas pipelines, among others, the right holder of such land or building shall provide necessary convenience.

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Article 293 In the construction of a building, the relevant engineering construction standards of the state shall not be violated, and the ventilation, light and sunshine of the neighboring building shall not be interfered with.

Article 294 The right holder of an immovable shall not, in violation of the provisions issued by the state, discard solid waste, discharge air, water, or soil pollutants, make noise, produce optical or electromagnetic radiation, or discharge other hazardous substances.

Article 295 The right holder of an immovable shall not endanger the safety of the neighboring immovable when excavating land, constructing a building, laying pipelines, or installing equipment, among others.

Article 296 Where the right holder of an immovable uses the neighboring immovable for water use, drainage, passage, laying pipelines, or any other purpose, the right holder shall do the best to avoid causing any damage to the right holder of the neighboring immovable.

Chapter VIII Co-ownership

Article 297 Immovables or movables may be co-owned by two or more organizations or individuals. Co-ownership consists of divided co-ownership and undivided co-ownership.

Article 298 Co-owners in divided co-ownership have the ownership of a co-owned immovable or movable in proportion to their shares.

Article 299 Co-owners in undivided co-ownership jointly enjoy the ownership of a co-owned immovable or movable.

Article 300 Co-owners shall manage the co-owned immovable or movable as agreed upon; in the absence of such an agreement or if such an agreement is ambiguous, all co-owners have the management rights and obligations.

Article 301 The disposal or major repair, or modification of nature or use of a co-owned immovable or movable shall be subject to the consent of co-owners in divided co-ownership holding two-thirds or more of shares or all co-owners in undivided co-ownership, unless it is otherwise agreed upon by the co-owners.

Article 302 Where the co-owners have agreed upon the fees for managing the co-owned property and other expenses, such an agreement shall apply; in the absence of such an agreement or if such an agreement is ambiguous, such expenses shall be borne by co-owners in divided co-ownership in proportion to their shares, or be jointly borne by co-owners in undivided co-ownership.

Article 303 Where the co-owners have agreed not to partition the co-owned immovable or movable in order to maintain the co-ownership, such an agreement shall prevail; however, a co-owner that has any material reason for partition may request partition; in the absence of such an agreement or if the agreement is

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ambiguous, a co-owner in divided ownership may request partition at any time, while a co-owner in undivided ownership may request partition only if the basis for co-ownership has ceased to exist or partition is justified by any material reason. If the partition causes any damage to any other co-owner, compensation shall be made.

Article 304 Co-owners may determine the way of partition through consultation. If no agreement is reached and the co-owned immovable or movable may be partitioned without reducing its value, the property shall be partitioned; if it is difficult to partition the property or the partition will decrease its value, the proceeds obtained from the conversion into money, auction or sell-off of the immovable or movable shall be distributed.

Where the immovable or movable obtained by a co-owner through partition has any defect, other co-owners shall share the losses.

Article 305 A co-owner in divided co-ownership may transfer its share of the co-owned immovable or movable. Other co-owners have the preemptive right under equal conditions.

Article 306 A co-owner in divided co-ownership that transfers its share of a co-owned immovable or movable shall notify other co-owners of the conditions for transfer in a timely manner. Other co-owners shall exercise the preemptive right within a reasonable period.

Where two or more other co-owners claim the exercise of the preemptive right, they shall determine their respective purchase ratio through consultation; if such consultation fails, they shall exercise the preemptive right in proportion to their respective shares at the time of transfer.

Article 307 In external relations, the co-owners shall have joint and several rights and obligations arising from the co-owned immovable or movable, unless it is otherwise provided for by any law or a third party knows that the co-owners do not have joint and several rights and obligations; in internal relations among the co-owners, unless it is otherwise agreed upon by the co-owners, the co-owners in divided co-ownership shall have joint and several rights and obligations in proportion to their shares, while the co-owners in undivided ownership shall jointly have rights and obligations. A co-owner in divided ownership that pays the debt in excess of its share has the right to recover the overpaid amount from other co-owners.

Article 308 Where the co-owners fail to agree that the co-owned immovable or movable is subject to divided co-ownership or undivided co-ownership, or such an agreement is ambiguous, the ownership shall be deemed as divided ownership, unless the co-owners are of a family or have other relations.

Article 309 Where the co-owners in divided co-ownership fail to agree on the shares of the co-owned immovable or movable or such an agreement is ambiguous, the shares shall be determined based on their amount of investment. If the amount of investment cannot be determined, it shall be deemed that they have equal shares.

Article 310 The provisions of this Chapter shall apply, *mutatis mutandis*, to usufruct or security interest enjoyed by two or more organizations or individuals.

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Chapter IX Special Provisions on the Obtainment of Ownership

Article 311 Where a person transfers to the transferee an immovable or movable which such a person has no right to dispose of, the owner has the right to recover the immovable or movable; except as otherwise provided for by any law, the transferee shall obtain the ownership of the immovable or movable under any of the following circumstances:

- (1) The transferee is in good faith when accepting the transferred immovable or movable.
- (2) The transfer is made at a reasonable price.
- (3) The transferred immovable or movable has been registered as provided for by laws, or has been delivered to the transferee if no registration is required.

Where the transferee obtains the ownership of the immovable or movable in accordance with the provisions of the preceding paragraph, the original owner has the right to claim compensation for damages from the person that has no right to dispose of the immovable or movable.

The preceding two paragraphs shall apply, *mutatis mutandis*, to a party's obtainment of any other real right in good faith.

Article 312 The owner or any other right holder has the right to recover lost property. If the lost property is possessed by any other person through transfer, the holder has the right to claim compensation for damages from the person that has no right to dispose of the lost property, or request the transferee to return the original property within two years from the date when he knows or should have known the transferee; however, if the lost property is purchased by the transferee through auction or from a qualified trader, the right holder shall, when requesting the transferee to return the original property, compensate the transferee for the expenses the latter has paid for the property. After compensating the transferee for the expenses the latter has paid for the property, the holder has the right to recover the amount from the person that has no right to dispose of the property.

Article 313 After the transferee in good faith obtains a movable, the original rights on the movable shall be extinguished, unless the transferee in good faith knows or should have known such rights at the time of transfer.

Article 314 A person who finds the lost property shall return it to the right holder. The finder shall, in a timely manner, notify the right holder to take the property back, or deliver it to the public security organ or any other relevant department.

Article 315 Where the relevant department that receives the found property knows the right holder of the property, it shall, in a timely manner, notify the right holder to take the property back; otherwise, it shall publish a notice on the finding of the lost property in a timely manner.

Article 316 Lost property shall be properly kept by the finder before it is handed over to the relevant department and by the relevant department before it is taken back. Whoever causes any damage to or loss of the lost property intentionally or for gross negligence shall assume the civil liability.

Article 317 The right holder shall, when taking back the found property, pay to the

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finder or the relevant department the necessary expenses such as the cost for the safekeeping of the property.

The right holder that offers a reward to find the lost property shall fulfill his or her obligation as promised when taking the property back.

A finder that illegally possesses the found property shall have no right to claim the expenses paid for the safekeeping of the property, among others, or to request the right holder to fulfill the obligation as promised.

Article 318 Lost property shall belong to the state if it is not claimed within one year from the date when the notice of the finding of the lost property is published.

Article 319 The provisions on the finding of lost property shall apply, mutatis mutandis, to the finding of drifting property, or buried or hidden property, except as otherwise provided for by any law.

Article 320 Where the principal property is transferred, the accessory property shall be transferred along with it, except as otherwise agreed by the parties.

Article 321 Natural fruits shall be obtained by the owner; if there are both the owner and the usufructuary, natural fruits shall be obtained by the usufructuary. If it is otherwise agreed upon by the parties, their agreement shall prevail.

Where the parties have agreed on legal fruits, the fruits shall be obtained as agreed upon; in the absence of such an agreement or if such an agreement is ambiguous, the fruits shall be obtained according to the usage of trade.

Article 322 Where there is an agreement on the attribution of the property arising from processing, attachment, or mixing, such an agreement shall prevail; in the absence of such an agreement or if such an agreement is ambiguous, the ownership shall be determined in accordance with the provisions of laws; if it is not provided for by laws, the ownership shall be determined under the principles of maximum use of the property and protection of innocent parties. If one party's fault or the determination of attribution of the property has caused any damage to the other party, compensation shall be made.

Title Three Usufruct

Chapter X General Rules

Article 323 A usufructuary shall, in accordance with the law, have the right to possess, use and enjoy the immovable or movable owned by any other person.

Article 324 An organization or individual may, in accordance with the law, possess, use and enjoy the natural resources that are owned by the state, or owned by the state but are used by the collective, or owned by the collective as provided for by laws.

Article 325 The state implements the rules for the compensated use of natural resources, except as otherwise provided for by any law.

Article 326 A usufructuary exercising rights shall comply with the provisions of laws on the protection, reasonable exploitation and utilization of resources, and the

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protection of ecology and environment. The owner shall not interfere with the exercise of rights by the usufructuary.

Article 327 Where an immovable or movable is expropriated or requisitioned, which results in the extinction of the usufruct or affects the use of usufruct, the usufructuary has the right to compensation according to Articles 243 and 245 of this Code.

Article 328 The right to use sea areas that is obtained in accordance with law shall be protected by law.

Article 329 The mineral exploration right, the mining right, the water intake right and the right to use water areas or intertidal zones for aquaculture or fishery, which are obtained in accordance with the law, shall be protected by law.

Chapter XI Conventional Usufruct on Rural Land for Agricultural Operations

Article 330 Rural collective economic organizations shall implement the two-level management system characterized by the combination of centralized operation with decentralized operation on the basis of household contracted management. The system of land contracting for agricultural operations shall, in accordance with the law, be applied to arable land, forest land, grassland and other land for agricultural use, which are owned by farmers collectively or owned by the state but are used by farmers collectively.

Article 331 The holder of a conventional usufruct on rural land for agricultural operations shall, in accordance with the law, have the right to possess, use, and enjoy the arable land, forest land, grassland, among others, which are under their contracting for agricultural operations, and shall have the right to engage in agricultural production, including but not limited to crop cultivation, forestry and animal husbandry.

Article 332 The term of a usufruct on arable land shall be 30 years. The term of a usufruct on grassland shall range from 30 years to 50 years. The term of a usufruct on forest land shall range from 30 years and 70 years.

The term of a usufruct set out in the preceding paragraph may be renewed upon expiration by the holder of a conventional usufruct on rural land for agricultural operations in accordance with the provisions of laws on the contracting of rural land.

Article 333 A conventional usufruct on rural land for agricultural operations shall be created from the date when the contract for the usufruct on rural land for agricultural operations becomes valid.

The registration authority shall issue to the holder of a conventional usufruct on rural land for agricultural operations the certificate of a conventional usufruct on rural land for agricultural operations, a certificate of a forest right, or any other certificate for such a purpose, and register it in archives to confirm the conventional usufruct on rural land for agricultural operations.

Article 334 The holder of a conventional usufruct on rural land for agricultural operations shall have the right to exchange and transfer the conventional usufruct on rural land for agricultural operations in accordance with the provisions of laws. No

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contracted land may be used for non-agricultural construction without approval in accordance with the law.

Article 335 In case of the exchange or transfer of the conventional usufruct on rural land for agricultural operations, the party may apply to the registration authority for registration; and if it is not registered, it shall not be set up against a bona fide third party.

Article 336 During the term of a usufruct, the landowner shall not adjust the contracted land.

When the contracted arable land or grassland needs to be adjusted appropriately due to special circumstances, such as serious damage to the contracted land or grassland caused by a natural disaster, the matter shall be handled in accordance with the provisions of laws on the contracting of rural land.

Article 337 During the term of a usufruct, the landowner may not recover the contracted land, except as otherwise provided for by any law.

Article 338 Where the contracted land is expropriated, the holder of a conventional usufruct on rural land for agricultural operations has the right to compensation in accordance with Article 243 of this Code.

Article 339 The holder of a conventional usufruct on rural land for agricultural operations may, at its own discretion, circulate the land operating right to others by leasing, contribution for shares, or other means in accordance with the law.

Article 340 The holder of the land operating right has the right to occupy rural land, carry out agricultural production and operation independently, and obtain proceeds, during the period as agreed upon in the contract.

Article 341 The land operating right with a circulation period of five years or more shall be created when the circulation contract becomes valid. A party may apply to the registration authority for the registration of the land operating right; and if it is not registered, it shall not be set up against a bona fide third party.

Article 342 Where rural land is contracted by bidding, auction, open consultation, or other means, and the certificate of ownership has been obtained upon registration in accordance with the law, the land operating right may be legally circulated by leasing, contribution for shares, mortgage, or other means.

Article 343 The relevant provisions of this Book shall apply, *mutatis mutandis*, to the contracting of land for agricultural use owned by the state for agricultural operations.

Chapter XII Right to Use Land for Construction

Article 344 The holder of the right to use land for construction shall, in accordance with the law, have the right to possess, use and enjoy the land owned by the state, and shall have the right to use such land to construct buildings, structures and their ancillary facilities.

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Article 345 The right to use land for construction may be created separately on the surface of, above or under the ground.

Article 346 The right to use land for construction shall be created in compliance with the requirements for the conservation of resources and protection of ecological environment, and the provisions of laws and administrative regulations on land use, and shall not damage the usufruct that has already been created.

Article 347 The right to use land for construction may be created by assignment, allocation, or other means.

Where land is used for industrial, commercial, tourist, or entertaining purposes, constructing commercial residential buildings, or for other profit-making purposes, or two or more persons are willing to use the same tract of land, the right to use land for construction shall be assigned through bidding, auction, or other open bidding methods.

The creation of the right to use land for construction by means of allocation shall be strictly controlled.

Article 348 Where the right to use land for construction is created through bidding, auction, agreement, or by other means of assignment, the parties shall enter into a written contract on the assignment of the right to use land for construction. The contract on the assignment of the right to use land for construction shall generally include the following clauses:

- (1) Names and domiciles of the parties.
- (2) The boundary and area, among others, of the land.
- (3) The space occupied by buildings, structures and their ancillary facilities.
- (4) Use of the land and conditions for planning.
- (5) Term of the right to use land for construction.
- (6) Land transaction fees and other expenses and the methods for the payment thereof.
- (7) Methods for the resolution of disputes.

Article 349 For the creation of the right to use land for construction, an application for the registration of the right to use land for construction shall be filed with the registration authority. The right to use land for construction shall be created at the time of registration. The registration authority shall issue a certificate of ownership to the holder of the right to use land for construction.

Article 350 The holder of the right to use land for construction shall make rational use of the land, and shall not change the use of the land; and if the use of the land needs to be changed, it shall be subject to the approval of the relevant administrative department in accordance with the law.

Article 351 The holder of the right to use land for construction shall pay land transaction fees and other expenses according to the provisions of laws and as agreed upon in the contract.

Article 352 The ownership of the buildings, structures and their ancillary facilities constructed by the holder of the right to use land for construction shall belong to the holder of the right to use land for construction, unless it is otherwise proved by contrary evidence.

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Article 353 The holder of the right to use land for construction has the right to transfer, exchange, contribute as capital, gift, or mortgage the right to use land for construction, except as otherwise provided for by any law.

Article 354 Where the right to use land for construction is transferred, exchanged, contributed as capital, gifted, or mortgaged, the parties shall enter into a corresponding contract in a written form. The use term shall be agreed upon by the parties, provided that it shall not exceed the remaining term of the right to use land for construction.

Article 355 Where the right to use land for construction is transferred, exchanged, contributed as capital, or gifted, an application for modification registration shall be filed with the registration authority.

Article 356 Where the right to use land for construction is transferred, exchanged, contributed as capital, or gifted, the buildings, structures and their ancillary facilities on the land shall be disposed of along with the right.

Article 357 Where buildings, structures and their ancillary facilities are transferred, exchanged, contributed as capital, or gifted, the right to use land for construction within the area occupied by such buildings, structures and their ancillary facilities shall be disposed of along with them.

Article 358 Where, before the expiration of the term of the right to use land for construction, the land needs to be recovered in advance in the interest of the public, indemnities for the buildings and other immovables on the land shall be given in accordance with Article 243 of this Code, and the corresponding land transaction fees shall be refunded.

Article 359 The term of the right to use land for the construction of housing units shall be automatically renewed upon expiration. The payment, reduction or exemption of the renewal fee shall be handled in accordance with the provisions of laws and administrative regulations.

The term of the right to use land not for the construction of housing units shall be renewed upon expiration in accordance with the provisions of laws. If there is an agreement on the attribution of buildings and other immovables on the aforesaid land, such an agreement shall prevail; in the absence of such an agreement or if such an agreement is ambiguous, the ownership shall be determined in accordance with the provisions of laws and administrative regulations.

Article 360 Where the right to use land for construction is extinguished, the assignor shall undergo deregistration in a timely manner. The registration authority shall take back the ownership certificate.

Article 361 Where a tract of land owned by the collective is to be used for construction, the matter shall be handled according to the provisions of laws on land administration.

Chapter XIII Right to Use Rural Land as a Residential Lot

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Article 362 The holder of the right to use rural land as a residential lot shall, in accordance with the law, have the right to possess and use collectively-owned land, and use the land for constructing houses and their ancillary facilities.

Article 363 The laws on land administration and the relevant provisions issued by the state shall apply to the acquisition, exercise and transfer of the right to use rural land as a residential lot.

Article 364 When rural land as a residential lot is destroyed or lost due to a natural disaster or any other reason, the right to use rural land as a residential lot is extinguished. New rural land as a residential lot shall be allocated to the villagers who have lost their rural land as a residential lot in accordance with the law.

Article 365 Where the registered right to use rural land as a residential lot is transferred or extinguished, modification registration or deregistration shall be undergone in a timely manner.

Chapter XIV Right of Habitation

Article 366 As agreed upon in a contract, a person having a right of habitation enjoys the usufruct to occupy and use another's housing unit so as to meet the needs of living.

Article 367 To create a right of habitation, the parties shall enter into a contract on the right of habitation in a written form.

The contract on the right of habitation shall generally include the following clauses:

- (1) Names or titles, and domiciles of the parties.
- (2) Location of the housing unit.
- (3) The conditions and requirements for habitation.
- (4) Term of the right of habitation.
- (5) Methods for the resolution of disputes.

Article 368 The right of habitation shall be created free of charge, unless it is otherwise agreed upon by the parties. If the right of habitation is created, an application for the registration of the right of habitation shall be filed with the registration authority. The right of habitation is created at the time of registration.

Article 369 The right of habitation may not be transferred or inherited. A housing unit with the right of habitation created shall not be leased, unless it is otherwise agreed upon by the parties.

Article 370 The right of habitation is extinguished when the term of the right of habitation expires or the person having the right of habitation dies. If the right of habitation is extinguished, deregistration shall be undergone in a timely manner.

Article 371 The relevant provisions of this Chapter shall apply, mutatis mutandis, to the creation of the right of habitation by testament.

Chapter XV Servitude

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Article 372 The owner of the land to which the servitude is owed has the right to use another's immovable as agreed upon in the contract, so as to enhance the benefits of its own immovable.

For the purposes of the preceding paragraph, another's immovable is the servient land, and one's own immovable is the dominant land.

Article 373 To create servitude, the parties shall enter into a servitude contract in a written form.

The servitude contract shall generally include the following clauses:

- (1) Names or titles, and domiciles of the parties.
- (2) Locations of the servient land and dominant land.
- (3) Purposes and methods of use.
- (4) Term of servitude.
- (5) Fees and methods for the payment thereof.
- (6) Methods for the resolution of disputes.

Article 374 Servitude is created when the servitude contract becomes valid. If the parties request registration, they may apply to the registration authority for the registration of servitude; and if it is not registered, it shall not be used to set up against a bona fide third party.

Article 375 The owner of the servient land shall, as agreed upon in the contract, allow the owner of the land to which the servitude is owed to use its immovable, and shall not interfere with the latter's exercise of servitude.

Article 376 The owner of the land to which the servitude is owed shall use the servient land according to the purposes and methods of use as agreed upon in the contract and to reduce as much as possible the restrictions on the real right of the owner of the servient land.

Article 377 The term of servitude shall be agreed upon by the parties, provided that it shall not exceed the remaining term of usufruct, such as the conventional usufruct on rural land for agricultural operations and the right to use land for construction.

Article 378 Where the landowner enjoys or is burdened by servitude, when the conventional usufruct on rural land for agricultural operations, the right to use rural land as a residential lot, or any other usufruct is created, the usufructuary shall continue to enjoy or be burdened by the created servitude.

Article 379 Where the conventional usufruct on rural land for agricultural operations, the right to use land for construction, the right to use rural land as a residential lot, or any other usufruct has been created on land, the landowner shall not create servitude without the consent of the usufructuary.

Article 380 Servitude shall not be transferred separately. If the conventional usufruct on rural land for agricultural operations, or the right to use land for construction, among others, is transferred, servitude shall be transferred along with it, unless it is otherwise agreed upon in the contract.

Article 381 Servitude shall not be mortgaged separately. If the usufruct on rural land

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for agricultural operations, or the right to use land for construction, among others, is mortgaged, servitude shall be transferred along with it when mortgage is exercised.

Article 382 When the dominant land and the conventional usufruct on rural land for agricultural operations or the right to use land for construction thereon, among others, is partially transferred, if servitude is involved in the transferred part, the transferee shall enjoy the servitude at the same time.

Article 383 When the servient land and the conventional usufruct on rural land for agricultural operations or the right to use land for construction thereon, among others, is partially transferred, if servitude is involved in the transferred part, the servitude shall be legally binding upon the transferee.

Article 384 Where the owner of the land to which the servitude is owed falls under any of the following circumstances, the owner of the servient land has the right to rescind the servitude contract, and servitude is extinguished.

(1) Abusing servitude in violation of the provisions of any law or those agreed upon in the contract.

(2) Failing to pay fees for the compensated use of the servient land after being urged to do so for two times within a reasonable period, after the expiration of the agreed term for payment.

Article 385 Where a registered servitude is modified, transferred, or extinguished, modification registration or deregistration shall be undergone in a timely manner.

Title Four Security Interests

Chapter XVI General Rules

Article 386 The security interest holder shall, in accordance with the law, have the priority of compensation made from the property posted as security if the debtor fails to pay the due debt or falls under any circumstance where security interest shall be exercised as agreed upon by the parties, except as otherwise provided for by any law.

Article 387 The creditor may, in loans, sales or other civil activities, create security interest in accordance with the provisions of this Code and other laws, if security is required to guarantee the performance of obligation.

A third party that provides security to the creditor for the debtor may require the debtor to provide counter guarantee. The relevant provisions of this Code and other laws shall apply to counter guarantee.

Article 388 For the creation of security interest, a contract on the provision of security shall be entered into in accordance with the provisions of this Code and other laws. Contracts on the provision of security include mortgage contracts, pledge contracts and other contracts with security functions. A contract on the provision of security is a collateral contract of the master contract on obligations. When the master contract on obligations ceases to be effective, the contract on the provision of security shall cease to be effective accordingly, except as otherwise provided for by any law.

After a contract on the provision of security is confirmed null and void, if the debtor, the guarantor and the creditor are at fault, they shall assume corresponding civil

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liability in light of their respective fault.

Article 389 The scope of security interest covers the principal claim and the interest therefrom, default fine, compensation for damages, and the expenses for keeping the property posted as security and for exercising security interest. If it is otherwise agreed upon by the parties, such an agreement shall prevail.

Article 390 Where the property posted as security is damaged, lost, or expropriated, among others, during the term of provision of security, the security interest holder has the priority of compensation made with the insurance money, compensatory damages, or indemnity, among others. The insurance money, compensatory damages, or indemnity, among others, may also be set aside before the term for performing the obligation as secured expires.

Article 391 Where a security is provided by a third party, if the creditor permits the debtor's transfer of all or part of its obligations without the written consent of the third party, the guarantor shall no longer assume the corresponding suretyship.

Article 392 Where both real and personal security are provided to secure a claim, and the debtor fails to perform its obligation coming due or any circumstance for security interest to be exercised as agreed upon by the parties occurs, the creditor's claim shall be satisfied as agreed; in the absence of such an agreement or in the case of an ambiguous agreement, if the debtor itself provides real security, the creditor's claim shall first be satisfied by the real security; and if a third party provides real security, the creditor's claim may be satisfied by the real security, and the creditor may also request a surety to fulfill its liability. The third party providing security shall have the right of recovery against the debtor after fulfilling its liability.

Article 393 Security interest is extinguished under any of following circumstances:

- (1) The principal claim is extinguished.
- (2) The security interest is exercised.
- (3) The creditor waives the security interest.
- (4) Any other circumstance where security interest shall be extinguished as provided for by any law.

Chapter XVII Mortgage

Section 1 Ordinary Mortgage

Article 394 Where, for securing the performance of an obligation, the debtor or a third party mortgages any property to the creditor instead of transferring the possession of such property, if the debtor fails to pay the due debt or falls under any circumstance where mortgage shall be exercised as agreed upon by the parties, the creditor shall have the priority of compensation made from such property.

For the purposes of the preceding paragraph, the debtor or the third party is the mortgagor, the creditor is the mortgagee, and the property posted as security is the mortgaged property.

Article 395 The following property which the debtor or a third party has the right to dispose of may be mortgaged:

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- (1) Buildings and other fixtures on land.
 - (2) The right to use land for construction.
 - (3) The right to use sea areas.
 - (4) Production equipment, raw materials, semi-finished products, and products.
 - (5) Buildings, vessels, and aircrafts under construction.
 - (6) Means of transportation.
 - (7) Any other property that is not prohibited from being mortgaged by any law or administrative regulation.
- The mortgagor may mortgage all the property set out in the preceding paragraph at the same time.

Article 396 An enterprise, industrial and commercial household, or agricultural producer or trader may mortgage its existing and anticipated production equipment, raw materials, semi-finished products, and products, and if the debtor fails to pay the due debt or falls under any circumstance where mortgage shall be exercised as agreed upon by the parties, the creditor shall have the priority of compensation made with the movable determined as the mortgaged property.

Article 397 Where a building is mortgaged, the right to use land for construction within the area occupied by the building shall be mortgaged along with the building. If the right to use land for construction is mortgaged, the buildings on the land shall be mortgaged along with such a right. Where the mortgagor fails to mortgage as provided for in the preceding paragraph, the property not mortgaged shall be deemed to have been mortgaged along with the mortgaged property.

Article 398 The right to use land for construction enjoyed by a township (town) or village enterprise may not be mortgaged separately. If the workshop or any other building of a township (town) or village enterprise is mortgaged, the right to use land for construction within the area occupied by the workshop or building shall be mortgaged along with the workshop or building.

Article 399 The following property may not be mortgaged:

- (1) Land ownership.
- (2) The right to use the land owned by the collective, such as rural land as a residential lot, private plots and hilly land allotted for private use, except that it may be mortgaged as provided for by any law.
- (3) Educational, medical and health, and other public welfare facilities of schools, kindergartens, medical institutions, and other non-profit legal persons formed for public welfare purposes.
- (4) Property of which the ownership or the right to use is ambiguous or controversial.
- (5) Property seized, detained, or overseen in accordance with the law.
- (6) Any other property which may not be mortgaged as provided for by laws and administrative regulations.

Article 400 To create mortgage, the parties shall enter into a mortgage contract in a written form.

The mortgage contract shall generally include the following clauses:

- (1) The type and amount of the secured claim.
- (2) The term for the debtor to perform the obligation.

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- (3) The name, quality and other information of the mortgaged property.
- (4) The scope of security.

Article 401 Where, before the expiration of the term for performing obligations, the mortgagee agree with the mortgagor that the mortgaged property shall belong to the creditor when the debtor fails to pay the due debt, the creditor may only have the priority of compensation made from the mortgaged property.

Article 402 Where any property set out in subparagraphs (1) through (3) or a building under construction set out in subparagraph (5), paragraph 1 of Article 395 of this Code is mortgaged, mortgage registration shall be undergone. Mortgage is created at the time of registration.

Article 403 Where a movable is mortgaged, mortgage is created at the time when the mortgage contract becomes valid; and if it is not registered, it shall not be set up against a bona fide third party.

Article 404 Where a movable is mortgaged, it shall not be set up against the buyer that has paid reasonable price and obtained the mortgaged property in ordinary business activities.

Article 405 Where the mortgaged property has been leased and the possession thereof has been transferred before the creation of mortgage, the original lease relations shall not be affected by the mortgage.

Article 406 The mortgagor may transfer the mortgaged property during the mortgage term. If it is otherwise agreed upon by the parties, their agreement shall prevail. Mortgage is not affected if the mortgaged property is transferred. The mortgagor that transfers the mortgaged property shall notify the mortgagee in a timely manner. If the mortgagee is able to prove that mortgage may be damaged due to the transfer of the mortgaged property, the mortgagee may request the mortgagor to pay off the debt with the proceeds obtained from such transfer to the mortgagee in advance or set aside the proceeds. The part of proceeds obtained from transfer exceeding the amount of claim shall belong to the mortgagor, and if the proceeds are insufficient to pay the debt, the shortfall shall be paid off by the debtor.

Article 407 Mortgage may not be separated from the creditor's right and transferred alone, or be used as a security for any other creditor's right. If the creditor's right is transferred, the mortgage to secure the creditor's right shall be transferred along with it, unless it is otherwise provided for by any law or agreed upon by the parties.

Article 408 Where the mortgagor's act is sufficient to decrease the value of the mortgaged property, the mortgagee has the right to request the mortgagor to cease such an act. If the value of the mortgaged property decreases, the mortgagee has the right to claim the restoration of the original value of the mortgaged property or the provision of security corresponding to the amount of the value reduced. If the mortgagor fails to restore the original value of the mortgaged property or to provide security, the mortgagee has the right to request the debtor to pay off the debt in advance.

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Article 409 The mortgagee may waive the mortgage or its place in the order of mortgage. The mortgagee and the mortgagor may, upon agreement, modify such content as the place in the order of mortgage and the amount of secured claim, provided that such modification shall not have any adverse effect on any other mortgagee without the written consent of any other mortgagee.

Where the debtor creates mortgage with the property thereof, if the mortgagee waives the mortgage or place in the order of mortgage or makes any modification in respect of the mortgage thereof, other guarantors shall be exempted from the suretyship to the extent that the mortgagee forfeits the priority of compensation, unless other guarantors are still committed to the suretyship.

Article 410 Where the debtor fails to pay the due debt or falls under any circumstance where mortgage shall be exercised as agreed upon by the parties, the mortgagee may agree with the mortgagor that it has priority of compensation made with the money into which the mortgaged property is converted or the proceeds obtained from the auction or sell-off of the property. If such an agreement damages the interests of any other creditor, the other creditor may request the people's court to revoke the agreement.

Where the mortgagee and the mortgagor fail to reach an agreement on the means of exercising mortgage, the mortgagee may request the people's court to have the mortgaged property auctioned or sold off.

Where the mortgaged property is converted into money or sold off, its market price shall be taken as the reference.

Article 411 Where mortgage is created in accordance with Article 396 of this Code, the mortgaged property shall be determined under any of the following circumstances:

- (1) The creditor's right is not exercised upon the expiration of the term for performing the obligation.
- (2) The mortgagor is declared bankrupt or is dissolved.
- (3) Any circumstance where mortgage shall be exercised as agreed upon by the parties.
- (4) Any other circumstance that seriously affects the exercise of the creditor's right.

Article 412 Where the mortgaged property is detained by a people's court in accordance with law since the debtor fails to pay the due debt or falls under any circumstance where mortgage shall be exercised as agreed upon by the parties, from the date when the property is detained, the mortgagee has the right to collect the natural or legal fruits accrued from the mortgaged property, except that the mortgagee fails to notify the obligor to pay off the legal fruits.

The fruits as mentioned in the preceding paragraph shall first be used to pay the expenses for collecting such fruits.

Article 413 After the mortgaged property is converted into money, or auctioned or sold off, the part of proceeds therefrom exceeding the amount of claim shall belong to the mortgagor; and if the proceeds are insufficient to cover the claim, the shortfall shall be paid off by the debtor.

Article 414 Where a same property is mortgaged to two or more creditors, the proceeds from the auction or sell-off of the mortgaged property shall be used for payment according to the following provisions:

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- (1) If mortgage has been registered, payments shall be made in the order of the registration of the mortgage.
 - (2) The claim secured by a registered mortgage shall be satisfied prior to the unregistered ones.
 - (3) For unregistered mortgage, payment shall be made in proportion to the amount of claims.
- The provisions of the preceding paragraph shall apply, mutatis mutandis, to the order of payment with respect to any other security interest that may be registered.

Article 415 Where both mortgage and pledge are created on the same property, the order of payment made with the proceeds obtained from the auction or sale of such property shall be determined according to the time of registration and delivery.

Article 416 Where the principal claim secured by mortgage on a movable is the price of the mortgaged property, and mortgage registration is undergone within 10 days after the delivery of the subject matter, the mortgagee has the priority of compensation over other security interest holders of the buyer of the mortgaged property, except the lienor.

Article 417 After the right to use land for construction is mortgaged, the new building constructed on the land is not mortgaged property. If the right to use land for construction shall be disposed of so as to exercise mortgage, the new building constructed on the land shall be disposed of together with the right to use land for construction. However, the mortgagee has no priority of compensation made with the proceeds obtained from the new building.

Article 418 Where the right to use land owned by the collective is mortgaged in accordance with the law, the nature of the land ownership and the land use purpose may not be changed without undergoing statutory procedures after mortgage is exercised.

Article 419 The mortgagee shall exercise mortgage within the prescriptive period of the principal claim, failing which the mortgagee will not be protected by the people's court.

Section 2 Maximum Mortgage

Article 420 Where, for securing the performance of an obligation, the debtor or a third party provides any property as security for the debts to be incurred consecutively within a given period of time, if the debtor fails to pay the due debt or falls under any circumstance where mortgage shall be exercised as agreed upon by the parties, the mortgagee has the priority of compensation made with the mortgaged property to the extent of the maximum amount of claim.

A creditor's right that exists before the creation of maximum mortgage may be included in the creditor's rights secured by the maximum mortgage with the consent of the parties.

Article 421 Where part of the creditor's right is transferred before the creditor's right secured by the maximum mortgage is determined, the maximum mortgage may not be transferred, except as otherwise agreed upon by the parties.

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Article 422 Before the creditor's right secured by the maximum mortgage is determined, the mortgagee and the mortgagor may modify the term for determining the creditor's right, the scope of creditor's right and the maximum amount of claim through agreement, provided that such modification shall not have any adverse effect on any other mortgagee.

Article 423 The creditor's right of the mortgagee is determined under any of the following circumstances:

- (1) The agreed term for determining the creditor's right expires.
- (2) In the absence of an agreement on the term for determining the creditor's right or such an agreement is ambiguous, the mortgagee or the mortgagor claims the determination of the creditor's right after the lapse of two years from the date of creation of the maximum mortgage.
- (3) No new creditor's right will be created.
- (4) The mortgagee knows or should have known that the mortgaged property is seized or detained.
- (5) The debtor or the mortgagor is declared bankrupt or is dissolved.
- (6) Any other circumstance provided for by any law where the creditor's right is determined.

Article 424 In addition to the provisions of this Section, the relevant provisions of Section 1 of this Chapter shall apply to maximum mortgage.

Chapter XVIII Pledge

Section 1 Pledge of Movables

Article 425 Where, for securing the performance of an obligation, the debtor or a third party pledges the movable thereof to the creditor for possession, if the debtor fails to pay the due debt or falls under any circumstance where pledge shall be exercised as agreed upon by the parties, the creditor shall have the priority of compensation made from such a movable.

For the purposes of the preceding paragraph, the debtor or the third party is the pledgor, the creditor is the pledgee, and the delivered movable is the pledged property.

Article 426 The movables prohibited from transfer by any law or administrative regulation shall not be pledged.

Article 427 To create pledge, the parties shall enter into a pledge contract in a written form.

The pledge contract shall generally include the following clauses:

- (1) The type and amount of the secured claim.
- (2) The term for the debtor to perform the obligation.
- (3) The name, quantity and other conditions of the pledged property.
- (4) The scope of security.
- (5) The time and methods for the delivery of the pledged property.

Article 428 Where, before the expiration of the term for the performance of an obligation, the pledgee agrees with the pledgor that the pledged property shall belong

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to the creditor if the debtor fails to pay the due debt, the pledgee may only have the priority of compensation made with the pledged property in accordance with the law.

Article 429 Pledge is created when the pledged property is delivered by the pledgor.

Article 430 The pledgee has the right to collect the fruits accrued from the pledged property, except otherwise agreed upon in the contract.

The fruits as mentioned in the preceding paragraph shall first be used to pay the expenses for collecting the fruits.

Article 431 Where, during the existence of pledge, the pledgee uses or disposes of the pledged property without the consent of the pledgor, thus causing any damage to the pledgor, the pledgee shall assume compensatory liability.

Article 432 The pledgee is obliged to properly keep the pledged property; and shall assume compensatory liability if the pledged property is damaged or lost due to inappropriate safekeeping.

Where any act of the pledgee may cause the damage or loss of the pledged property, the pledgor may request the pledgee to set aside the pledged property, or request the advance payment of the debt and the return of the pledged property.

Article 433 Where any cause not attributable to the fault of the pledgee may result in the damage or an evident decrease of the value of the pledged property, which is sufficient to damage the rights of the pledgee, the pledgee has the right to request the pledgor to provide the corresponding security. If the pledgor refuses to do so, the pledgee may auction or sell off the pledged property, and may enter into an agreement with the pledgor to pay off the debt with the money obtained from auction or sell-off in advance or set aside the proceeds.

Article 434 Where, during the existence of the pledge, the pledgee transfers the property posted as pledge to a third party without the consent of the pledgor, thus causing the damage or loss of the pledged property, the pledgee shall assume compensatory liability.

Article 435 The pledgee may waive the pledge. If the debtor pledges the property thereof and the pledgee waives the pledge, other guarantors are exempted from suretyship to the extent that the pledgee forfeits the priority of compensation, unless other guarantors are still committed to the suretyship.

Article 436 Where the debtor performs obligations or the pledgor pays off the secured claim in advance, the pledgee shall return the pledged property.

Where the debtor fails to pay the due debt or falls under any circumstance where pledge shall be exercised as agreed upon by the parties, the pledgee may enter into an agreement with the pledgor to convert the pledged property into money, or may have the priority of compensation made with the proceeds obtained from the auction or sell-off of the pledged property.

Where the pledged property is converted into money or sold off, market price shall be taken as the reference.

Article 437 The pledgor may request the pledgee to exercise the pledge in a timely

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manner upon the expiration of the term for the performance of the obligation. If the pledgee fails to exercise the pledge, the pledgor may request the people's court to have the pledged property auctioned or sold off.

Where the pledgor requests the pledgee's exercise of pledge in a timely manner, but the pledgee is slack in exercising the pledge, thus causing any damage to the pledgor, the pledgee shall assume compensatory liability.

Article 438 After the pledged property is converted into money, auctioned or sold off, the part of the proceeds therefrom exceeding the amount of the claim shall belong to the pledgor, and if they are insufficient to repay the debt, the shortfall shall be paid off by the debtor.

Article 439 The pledgor and the pledgee may create the maximum pledge by agreement.

In addition that the relevant provisions of this Section shall apply to the maximum pledge, the relevant provisions of Section 2, Chapter XVII of this Book shall apply *mutatis mutandis*.

Section 2 Pledge of Rights

Article 440 The following rights that the debtor or a third party is entitled to dispose of may be pledged:

- (1) Bills of exchange, promissory notes and checks.
- (2) Bonds and certificates of deposit.
- (3) Warehouse receipts and bills of lading.
- (4) Transferable fund shares and stock rights.
- (5) Transferable property rights among intellectual property rights, such as the right to the exclusive use of registered trademarks, patents and copyrights.
- (6) Existing and anticipated accounts receivable.
- (7) Other property rights which may be pledged as provided for by laws and administrative regulations.

Article 441 Where a bill of exchange, promissory note, check, bond, certificate of deposit, warehouse receipt or bill of lading is pledged, pledge is created at the time when the right certificate is delivered to the pledgee; in the absence of such a right certificate, pledge is created at the time when pledge is registered, except as otherwise provided for by any law.

Article 442 Where the date of payment or of delivery of goods in respect of a pledged bill of exchange, promissory note, check, bond, certificate of deposit, warehouse receipt or bill of lading is matured prior to the date of maturity of the principal claim, the pledgee may accept the payment or the goods delivered, and may enter into an agreement with the pledgor to use the payment or the goods accepted to pay off the debt in advance or set aside them.

Article 443 Where fund shares or stock rights are pledged, pledge is created at the time when pledge is registered.

Fund shares or stock rights cannot be transferred after they are pledged, except as otherwise agreed upon by the pledgor and the pledgee upon consultation. The proceeds obtained by the pledgor from the transfer of fund shares or stock rights shall

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be used to pay off the debt to the pledgee in advance or be set aside.

Article 444 Where property rights among intellectual property rights, such as the right to the exclusive use of registered trademarks, patents and copyrights, are pledged, pledge is created at the time when pledge is registered.

The pledgor may not transfer or license another's use of property rights among intellectual property rights after they are pledged, unless it is agreed upon by the pledgor and the pledgee through consultation. The proceeds obtained by the pledgor from the transfer or licensing of another's use of property rights among intellectual property rights shall be used to pay off the debt to the pledgee in advance or be set aside.

Article 445 Where accounts receivable are pledged, pledge is created at the time when pledge is registered.

The pledged accounts receivable may not be transferred, unless it is agreed upon by the pledgor and the pledgee through consultation. The proceeds obtained by the pledgor from the transfer of the accounts receivable shall be used to pay off the debt to the pledgee in advance or be set aside.

Article 446 In addition to the provisions of this Section, the relevant provisions of Section 1 of this Chapter shall apply to the pledge of rights.

Chapter XIX Lien

Article 447 Where the debtor fails to pay the due debt, the creditor may exercise a lien over the legally possessed movable of the debtor, and has the priority of compensation made with such a movable.

For the purposes of the preceding paragraph, the creditor is the lienor, and the possessed movable is the property under lien.

Article 448 The movable on which the creditor exercises a lien shall fall under the same legal relationship with the creditor's right, except in the case of a lien between enterprises.

Article 449 No lien shall be exercised over the movable if it is prohibited by any law or the parties agree not to do so.

Article 450 Where the property under lien is divisible, the value of the property under lien shall be equivalent to the amount of the debt.

Article 451 The lienor is obliged to properly keep the property under lien; and shall assume compensatory liability if the property under lien is damaged or lost due to inappropriate safekeeping.

Article 452 The lienor has the right to collect the fruits accrued from the property under lien.

Fruits as mentioned in the preceding paragraph shall first be used to pay the expenses for collecting the fruits.

Article 453 The lienor and the debtor shall agree on the term for the performance of

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the obligation after lien is exercised on the property. In the absence of such an agreement or if such an agreement is ambiguous, the lienor shall allow the debtor to perform the obligation within the term of 60 days or longer, except that the movable is fresh, perishable or hard to keep. If the debtor fails to perform the obligation within the prescribed time limit, the lienor may agree upon with the debtor to have the property under lien converted into money, or may have the priority of compensation made from the auction or sell-off of the property.

Where the property under lien is converted into money or sold off, its market price shall be taken as the reference.

Article 454 The debtor may claim the lienor's exercise of lien after the expiration of the term for the performance of obligation. If the lienor fails to exercise the lien, the debtor may request a people's court to have the property under lien auctioned or sold off.

Article 455 After the property under lien is converted into money, auctioned or sold off, the part of proceeds therefrom exceeding the amount of claim shall belong to the debtor, and if they are insufficient to pay the debt, the shortfall shall be paid off by the debtor.

Article 456 Where a lien is exercised on a movable already subject to mortgage or pledge, the lienor shall have the priority of compensation.

Article 457 Where the lienor forfeits the possession of the property under lien or accepts other security separately provided by the debtor, lien shall be extinguished.

Title Five Possession

Chapter XX Possession

Article 458 With respect to possession arising from contractual relations, among others, the use of the relevant immovable or movable, the proceeds therefrom and liability for the breach of contract, among others, shall be subject to those agreed upon in the contract. In the absence of such an agreement in the contract or if such an agreement is ambiguous, the provisions of relevant laws shall apply.

Article 459 Where the possessor causes any damage to the possessed immovable or movable due to the use thereof, the possessor in bad faith shall assume compensatory liability.

Article 460 Where an immovable or movable is possessed by the possessor, the right holder may claim the return of the original property and the fruits therefrom; however, the holder shall pay necessary expenses arising from the maintenance of the immovable or movable to the possessor in good faith.

Article 461 Where a possessed immovable or movable is damaged or lost, and the right holder of such an immovable or movable claims compensation, the possessor shall return the insurance money, compensatory damages, or indemnity, among others, as compensation for the damage or loss, to the right holder. If the damage to the right holder is not fully covered thereby, the possessor in bad faith shall also compensate

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for the uncovered part.

Article 462 Where a possessed immovable or movable is encroached upon, the possessor has the right to file a claim for return of the original property. If possession is interfered with, the possessor has the right to file a claim for removal of interference or elimination of danger. If any damage is caused by encroachment or interference, the possessor has the right to claim damages in accordance with the law. Where the possessor fails to exercise the right to claim the return of the original property within one year from the date of encroachment, such a right of claim shall be extinguished.

Book Three Contracts

Title One General Provisions

Chapter I General Rules

Article 463 This Book regulates the civil relations arising from contracts.

Article 464 A contract refers to an agreement between the parties to civil legal relations for the establishment, modification, and termination of civil legal relations. Agreements concerning personal relations such as marriage, adoption, and guardianship shall be governed by the provisions of laws on the relevant personal relations; or absent such provisions, this Book may apply *mutatis mutandis* according to their nature.

Article 465 A contract legally formed shall be protected by the law. A contract legally formed shall be legally binding only on the parties, except as otherwise provided by the law.

Article 466 If any dispute arises between the parties over the understanding of any clause of the contract, the meaning of the clause in dispute shall be determined in accordance with paragraph 1, Article 142 of this Code. Where a contract is in two or more languages and it is agreed 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 construed in light of the relevant terms, nature and purpose of the contract and the principle of good faith.

Article 467 For a contract not expressly provided for in this Code or any other law, the General Provisions of this Book shall apply, and the provisions on the most similar contracts in this Book or any other law may apply *mutatis mutandis*. The law of the People's Republic of China shall apply to a contract for a Chinese-foreign equity joint venture, a contract for a Chinese-foreign contractual joint venture, or a contract for Chinese-foreign cooperative exploration and exploitation of natural resources performed in the People's Republic of China

Article 468 For a creditor-debtor relation not arising from a contract, the provisions of the law on such a creditor-debtor relation shall apply; or absent such provisions, the relevant provisions of the General Provisions of this Book shall apply, unless its

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nature precludes the application.

Chapter II Contracting

Article 469 The parties may enter into a contract in written, oral, or any other form. "Written form" means a written contract, letter, telegram, telex, facsimile, or any other form that can tangibly express the contents thereof.

A data message that tangibly expresses the contents thereof by electronic data interchange, e-mail, or any other means and is readily available for access and inspection shall be treated as a written form.

Article 470 The contents of a contract shall be agreed upon by the parties, and generally include the following clauses:

- (1) Names and domiciles of the parties.
- (2) Subject matter.
- (3) Quantity.
- (4) Quality.
- (5) Price or remuneration.
- (6) Time limit, place and method of performance.
- (7) Liability for breach of contract.
- (8) Method to settle disputes.

The parties may enter into a contract by referring to the model texts of various contracts.

Article 471 The parties may enter into a contract by offer and acceptance or any other means.

Article 472 An offer is a declaration of will to contract with another person, and the declaration of will shall meet the following conditions:

- (1) Its contents shall be specific and definite.
- (2) It indicates that the offeror will be bound by the declaration of will in case of acceptance by the offeree.

Article 473 An invitation for offer is a declaration to invite other parties to make offers to the inviter. Auction announcements, bidding announcements, stock prospectuses, bond prospectuses, fund prospectuses, commercial advertisements and publicity, mailed price lists, etc. are invitations for offer. Where the contents of commercial advertisements and publicity meet the conditions for an offer, they constitute an offer.

Article 474 The effective time of an offer shall be governed by the provisions of Article 137 of this Code.

Article 475 An offer may be withdrawn. The withdrawal of an offer shall be governed by the provisions of Article 141 of this Code.

Article 476 An offer may be revoked, except under any of the following circumstances:

- (1) The offeror explicitly states, by fixing a time limit for acceptance or otherwise, that the offer is irrevocable.

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(2) The offeree has reasons to believe that the offer is irrevocable, and has made reasonable preparation for performing the contract.

Article 477 Where a declaration of will to revoke an offer is made by means of dialog, the contents of the declaration of will shall come to the offeree's knowledge before the offeree accepts; and a declaration of will to revoke an offer made by means other than dialog shall reach the offeree before the offeree accepts.

Article 478 An offer lapses under any of the following circumstances:

- (1) The offer is rejected.
- (2) The offer is legally revoked.
- (3) The offeree fails to accept before the expiration of the time limit for acceptance.
- (4) The offeree makes a substantial modification to the contents of the offer.

Article 479 An acceptance is the declaration of will by the offeree to assent to the offer.

Article 480 An acceptance shall be made in the form of a notice, except where acceptance may be made by an act according to the usage of trade or as expressed in the offer.

Article 481 An acceptance shall reach the offeror within the time limit prescribed in the offer.

Where no time limit is prescribed in the offer, the acceptance shall reach the offeror in accordance with the following provisions:

- (1) If the offer is made in dialog, the acceptance shall be made immediately.
- (2) If the offer is made in forms other than a dialog, the acceptance shall reach the offeror within a reasonable time limit.

Article 482 Where an offer is made by letter or telegram, the time limit for acceptance shall accrue from the date shown in the letter or from the date on which the telegram is handed in for dispatch. If no such date is shown in the letter, it shall accrue from the postmark date on the envelope. Where an offer is made by means of instantaneous communication, such as telephone, facsimile or email, the time limit for acceptance shall accrue from the moment that the offer reaches the offeree.

Article 483 A contract is formed when the acceptance becomes effective, except as otherwise provided by the law or agreed by the parties.

Article 484 The effective time of an acceptance made in the form of a notice shall be governed by the provisions of Article 137 of this Code.

If notice of acceptance is not required, the acceptance shall become effective when an act of acceptance is performed according to the usage of trade or as required in the offer.

Article 485 An acceptance may be withdrawn. The withdrawal of an acceptance shall be governed by the provisions of Article 141 of this Code.

Article 486 Where an offeree makes an acceptance beyond the time limit for acceptance, or makes an acceptance within the time limit for acceptance which is

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unable to reach the offeror in a timely manner under normal circumstances, the acceptance shall be a new offer, unless the offeror notifies in a timely manner the offeree that the acceptance is effective.

Article 487 Where the offeree makes an acceptance within the time limit specified for acceptance, and under normal circumstances the acceptance would have reached the offeror in a timely manner, but for other reasons the acceptance reaches the offeror after the time limit for acceptance has expired, such acceptance shall be effective, unless the offeror notifies the offeree in a timely manner that it does not accept the acceptance due to the failure of the acceptance to arrive within the time limit.

Article 488 The contents of an acceptance shall correspond to those of the offer. If the offeree makes a substantial modification to the contents of the offer, the acceptance shall constitute a new offer. The modification relating to the subject matter, quality, quantity, price or remuneration, time or place or method of performance, liabilities for breach of contract, method of dispute resolution, etc. shall constitute the substantial modification of an offer.

Article 489 Where the acceptance does not substantially modifies the contents of the offer, it shall be effective, and the contents of the contract shall be subject to those of the acceptance, except as rejected in a timely manner by the offeror or indicated in the offer that an acceptance may not modify the offer at all.

Article 490 Where the parties enter into a contract in the form of a written contract, the contract is formed when each party affixes its signature, seal, or fingerprint. If a party has performed its principal obligation before the signature, seal or fingerprint is affixed, the contract is formed when the other party accepts the performance. If any law or administrative regulation requires that or the parties agrees that a contract should be entered into in written form, but the parties fail to enter into the contract in written form and one party has performed the principal obligation, the contract is formed when the other party accepts the performance.

Article 491 Where the parties enter into a contract by letter, data message, or any other form and require a written confirmation to be signed, the contract is formed when the written confirmation is signed. If the information on goods or service released by one party on an information network such as the Internet meets the conditions for an offer, the contract is formed when the other party selects the goods or service and successfully submits the order, unless the parties agree otherwise.

Article 492 The place of effectiveness of an acceptance shall be the place of the formation of the contract. In the case of contracting in the form of a data message, the place of formation of the contract shall be the main business place of the recipient, or absent a main business place, the place of its domicile, unless the parties agree otherwise.

Article 493 Where the parties enter into a contract in the form of a written contract, the place of formation of the contract shall be the last place where the signature, seal, or fingerprint is affixed, unless the parties agree otherwise.

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Article 494 Where the state has issued a state purchasing order or a mandatory plan as needed for emergency rescue, disaster relief, epidemic containment, etc., the relevant parties to civil legal relations shall enter into a contract in accordance with the rights and obligations as provided by the relevant laws and administrative regulations.

A party with an obligation to make an offer under laws and administrative regulations shall, in a timely manner, make a reasonable offer.

A party with an obligation to make an acceptance under laws and administrative regulations shall not reject the reasonable request for contracting from the other party.

Article 495 A subscription order, purchase order, pre-order, etc., under which the parties agree to enter into a contract within a certain time limit in the future shall constitute a preliminary agreement.

If one party fails to perform the obligation to contract as agreed in the preliminary agreement, the other party may claim liability of the party for breach of the preliminary agreement.

Article 496 Standard terms are terms drawn up by one party in advance for repeated use and not negotiated with the other party at the time of contracting.

Where standard terms are adopted for contracting, the party furnishing the standard terms shall define the rights and obligations between the parties under the principle of fairness, remind in a reasonable manner the other party to note the terms excluding or limiting the liability of the party furnishing the standard terms or otherwise related to the material interest of the other party, and explain the terms upon request of the other party. If the party furnishing the standard terms fails to perform the reminding or explanation obligation, resulting in the other party failing to note or understand the terms in which it has a material interest, the other party may argue that the terms are not a part of the contract.

Article 497 Under any of the following circumstances, standard terms shall be void:

- (1) Under the voidness circumstances set forth in Section 3, Chapter VI, Book One of this Code and Article 506 of this Code.
- (2) The party furnishing the standard terms unreasonably excludes or limits its liability, aggravates the liability of the other party, or restricts the main rights of the other party.
- (3) The party furnishing the standard terms excludes the main rights of the other party.

Article 498 If a dispute over the understanding of standard terms occurs, interpretation shall be made in accordance with common understanding. Where there are two or more kinds of interpretation, an interpretation unfavorable to the party furnishing the standard terms shall prevail. Where the standard terms are inconsistent with non-standard terms, the latter shall prevail.

Article 499 Where an offeror of a reward states in a public manner that remuneration will be paid to a person who performs a specific act, the person who has so performed may request the offeror to make the payment.

Article 500 A party shall be liable in damages if it has caused losses to the other party under any of the following circumstances in contracting:

- (1) Pretending to contract, and negotiating in bad faith.
- (2) Deliberately concealing important facts relating to contracting or providing false

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information.

(3) Performing other acts which violate the principle of good faith.

Article 501 A trade secret or any other confidential information that the parties have learned in contracting shall not be disclosed or improperly used, no matter the contract is formed or not; and if the party discloses or improperly uses such trade secret or information, causing loss to the other party, it shall be liable in damages.

Chapter III Validity of Contracts

Article 502 A contract legally formed shall become effective upon its formation, except as otherwise provided by the law or agreed by the parties.
With regard to contracts that are subject to approval as stipulated by relevant laws or administrative regulations, the provisions thereof shall be followed. If the approval and other procedures fail to be performed, precluding the contract from becoming effective, the validity of the terms regarding obligations such as the obligation to apply for approval and related terms of the contract is not affected. If the party obligated to apply for approval and undergo other procedures fails to perform the obligation, the other party may claim liability of the party for breach of the obligation. If any law or administrative regulation requires that the modification, assignment, rescission, and other circumstances of a contract be subject to approval and other procedures, the provisions of the preceding paragraph shall apply.

Article 503 Where an agent without authority enters into a contract in the name of the principal, and the principal commences to perform contractual obligations or accepts the performance from the other party, the principal shall be treated as having ratified the contract.

Article 504 Where the legal representative of a legal person or the person in charge of an unincorporated organization enters into a contract *ultra vires*, the representation shall be effective, and the contract shall be effective against the legal person or unincorporated organization, unless the other party knows or should have known that he or she acts *ultra vires*.

Article 505 The validity of a contract entered into by a party beyond its scope of business shall be determined in accordance with the relevant provisions of Section 3, Chapter VI, Book One of this Code and this Book, and the contract shall not be determined as void only on the grounds that it is entered into beyond the scope of business.

Article 506 The following exception clauses in a contract shall be void:

- (1) Those that cause personal damage to the other party.
- (2) Those that cause property damage to the other party intentionally or in gross negligence.

Article 507 Where a contract is not effective yet or is null and void, revoked or terminated, it shall not affect the validity of the dispute settlement clause of the contract.

Article 508 Where this Book is silent on the validity of contracts, the relevant

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provisions of Chapter VI, Book One of this Code shall apply.

Chapter IV Performance of Contracts

Article 509 Each party shall fully perform its own obligations as agreed.

The parties shall abide by the principle of good faith, and perform obligations of notification, assistance, confidentiality, etc. in accordance with the nature and purpose of the contract and the usage of trade.

In performing a contract, the parties shall avoid wasting resources, polluting the environment, and compromising ecology.

Article 510 Where, after the contract becomes effective, there is no agreement in the contract between the parties on such content as quality, price or remuneration, place of performance etc., or such agreement is ambiguous, the parties may agree upon supplementary terms through consultation; if a supplementary agreement cannot be reached, such terms shall be determined in accordance with the relevant provisions of the contract or usage of trade.

Article 511 Where certain content agreed upon by the parties in the contract is ambiguous and cannot be determined in accordance with the provisions in the preceding article, the following provisions shall apply:

(1) If quality requirement is not clear, performance shall be rendered in accordance with the state mandatory standard; absent any state mandatory standard, performance shall be rendered in accordance with the state voluntary standard; absent any state voluntary standard, performance shall be rendered in accordance with the industry voluntary standard; or absent any state or industry standard, performance shall be rendered in accordance with the customary standard or any particular standard consistent with the purpose of the contract.

(2) If price or remuneration is not clear, 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 set by the government or based on government issued pricing guidelines is required by law, such requirement applies.

(3) When the place of performance is not clear, if the obligation is payment of money, performance shall be at the place where the payee is located; if the obligation is delivery of an immovable, performance shall be at the place where the immovable is located; for any other subject matter, performance shall be effected at the place where the party performing the obligations is located.

(4) If the time limit for performance is not clear, the creditor may perform, and the debtor may request performance, at any time, provided that the other party shall be given the time required for preparation.

(5) If the method of performance is not clear, performance shall be rendered in a manner which is conducive to realizing the purpose of the contract.

(6) If the apportionment of the expenses of performance is not clear, the party performing the obligations shall bear the expenses; and any additional expenses of performance incurred because of the creditor shall be borne by the creditor.

Article 512 Where the subject matter of an electronic contract entered into through an information network such as the Internet is to deliver goods, and the delivery is made by means of express shipping service, the time of delivery shall be the time when the consignee acknowledges receipt. If the subject matter of an electronic contract is to

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provide services, the time of providing services shall be the time specified in the generated electronic document or paper document; or if the said document specifies no time, or the specified time is inconsistent with the time of actually providing the services, the time of actually providing the services shall prevail.

If the subject matter of an electronic contract is delivered by means of online transmission, the time of delivery shall be the time when the subject matter of the contract enters the specific system designated by the other party and becomes susceptible to search and identification.

If the parties to an electronic contract otherwise agree on the method and time of delivering goods or providing services, such agreement shall prevail.

Article 513 Where a price set by the government or based on government issued pricing guidelines is adopted, if the price is adjusted within the time limit for delivery as stipulated in the contract, the payment shall be calculated according to the price at the time of delivery. Where a party delays in delivering the subject matter, the original price shall be adopted if the price rises; and the new price shall be adopted if the price falls. Where a party delays in taking delivery of the subject matter or making payment, the new price shall be adopted if the price rises, and the original price shall be adopted if the price falls.

Article 514 For an obligation to pay money, the creditor may request the debtor to pay in legal tender at the place of actual performance, unless otherwise provided by the law or agreed by the parties.

Article 515 Where an obligation has multiple subject matters, only one of which the debtor is required to perform, the debtor shall have the choice, unless otherwise provided by the law, agreed by the parties, or required by the usage of trade.

If the party having the choice fails to exercise the choice within the agreed time limit or the time limit for performance, and fails to do so within a reasonable time limit after a demand, the choice shall pass to the other party.

Article 516 A party exercising its choice shall notify the other party in a timely manner, and when the notice is received by the other party, the subject matter is determined. The subject matter so determined may not be modified, except with the consent of the other party.

If any of the alternative subject matters of an obligation becomes impossible to perform, the party having the choice shall not choose the subject matter, unless the performance is made impossible by the other party.

Article 517 A joint obligation for creditors is an obligation between not less than two creditors with subject matter divisible in such a manner that each creditor is owed the obligation to the extent of its share; and a joint obligation for debtors is an obligation between not less than two debtors with subject matter divisible in such a manner that each debtor owes the obligation to the extent of its share.

If the shares of joint creditors or joint debtors are difficult to determine, the shares shall be treated as being equal.

Article 518 A joint and several obligation for creditors is an obligation between not less than two creditors the performance of which part or all of the creditors may request from the debtor; and a joint and several obligation for debtors is an obligation

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between not less than two debtors the whole performance of which the creditor may request from part or all of the debtors.

A joint and several obligation for creditors or debtors shall be provided by the law or agreed upon by the parties.

Article 519 Where the shares of joint and several debtors are difficult to determine, the shares shall be treated as being equal.

A joint and several debtor who actually pays the obligation in excess of its share shall have the right to recover the excess from the other joint and several debtors to the extent of the shares not performed and be subrogated to the right of the creditor accordingly without prejudice to the interest of the creditor. The other joint and several debtors may raise, against the debtor, defenses against the creditor.

Where a joint and several debtor against which recovery is exercised is unable to perform its share, the other joint and several debtors shall share the share pro rata, to the corresponding extent.

Article 520 Where a joint and several debtor performs or sets off the obligation, or tenders and deposits the subject matter, the obligation owed by the other debtors to the creditor shall be extinguished to the corresponding extent; and the debtor may exercise recovery against the other debtors in accordance with the provisions of the preceding article.

If the obligation owed by a joint and several debtor is remitted by the creditor, the obligation owed by the other debtors to the creditor shall be extinguished to the extent of the share to which the joint and several debtor is subject.

If the obligation owed by a joint and several debtor and the obligation owed to the creditor pass to the same person, the obligation owed by the other debtors to the creditor shall subsist, less the share to which the joint and several debtor is subject.

If a creditor delays accepting the performance from a joint and several debtor, the effect shall attach to the other joint and several debtors.

Article 521 Where the shares of joint and several creditors are difficult to determine, the shares shall be treated as being equal.

A joint and several creditor who actually accepts performance of obligation shall make restitution to the other joint creditors pro rata.

The provisions on joint and several obligations for debtors in this Chapter shall apply mutatis mutandis to joint and several obligations for creditors.

Article 522 Where the parties agree that the debtor shall perform the obligation to a third party, and the debtor fails to perform its obligations to such third party or the performance of the obligations is not in conformity with the agreement, the debtor shall be liable to the creditor for breach of contract.

When the law requires or the parties agree that a third party may directly request the debtor to perform the obligation to it, if the third party fails to expressly refuse within a reasonable time limit, and the debtor fails to perform the obligation to the third party, or the performance of the obligation is not in conformity with the agreement, the third party may claim liability of the debtor for breach of contract; and the debtor may raise, against the third party, defenses against the creditor.

Article 523 Where the parties agree that a third party performs the obligation to the creditor, and the third party fails to perform the obligation, or the performance is not

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in conformity with the agreement, the debtor shall be liable to the creditor for breach of contract.

Article 524 Where a debtor fails to perform the debt, and a third party has a lawful interest in performing the debt, the third party shall have the right to perform the obligation to the creditor on its behalf, unless the nature of the debt, the parties, or the law requires that only the debtor may perform.

After the creditor has accepted the performance from the third party, the obligation owed by the debtor to it shall be assigned to the third party, unless otherwise agreed by the debtor and the third party.

Article 525 Where both parties have obligations toward each other and there is no order of priority in respect of the performance, the parties shall perform the obligations simultaneously. Each party has the right to reject any request of the other party for performance prior to the performance by the other party. If the performance of the obligations of the party who is to perform first is not in conformity with the agreement, the party who is perform later has the right to reject the other party's request for corresponding performance.

Article 526 Where both parties have obligations toward each other and there is an order of priority in respect of the performance, and the party required to perform the obligation first fails to do so, the party who is to perform later has the right to reject the other party's request for performance. If the performance of the obligations of the party who is to perform first is not in conformity with the agreement, the party who is to perform later has the right to reject the other party's request for corresponding performance.

Article 527 The party required to perform first may suspend its performance if it has conclusive evidence that the other party is under 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 obligations.
- (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 528 Where a party suspends its performance in accordance with the provisions of the preceding article, it shall, in a timely manner, notify the other party. If the other party provides appropriate assurance for its performance, the party shall resume performance. After performance has been suspended, if the other party fails to regain its ability to perform and fails to provide appropriate assurance within a reasonable time, the other party shall be treated as repudiating main obligations by its act, and the suspending party may rescind the contract and claim liability of the other party for breach of contract.

Article 529 Where the creditor fails to notify the debtor of its split, combination, or modification of its domicile, rendering the performance of obligations difficult, the debtor may suspend its performance or tender and deposit the subject matter.

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Article 530 The creditor may reject the debtor's advance performance of its obligations, except that the advance performance does not harm the creditor's interests. Any additional expense incurred by the creditor due to the debtor's advance performance of its obligations shall be borne by the debtor.

Article 531 A creditor may reject the debtor's partial performance, except that the partial performance of its obligations does not harm the creditor's interests. Any additional expense incurred by the creditor due to the debtor's partial performance of its obligations shall be borne by the debtor.

Article 532 Once a contract becomes effective, a party may not refuse to perform its obligations thereunder due to a change in its name, or its legal representative, the person in charge, or the person handling the contract.

Article 533 Where the basic conditions of a contract undergoes a material change unforeseeable by the parties at the time of contracting which is not a commercial risk after the formation of the contract, rendering the continuation of the performance of the contract unconscionable for either party, the adversely affected party may renegotiate with the other party; and if the renegotiation fails within a reasonable time limit, the party may request the people's court or an arbitration institution to modify or rescind the contract.

The people's court or arbitration institution shall change or rescind the contract based on the actual circumstances of the case, in accordance with the principle of fairness.

Article 534 Where a party uses a contract to compromise the national interest or public interest, the market regulation and other relevant administrative departments shall be responsible for supervision and disposition in accordance with the laws and administrative regulations.

Chapter V Preservation of Contracts

Article 535 Where a debtor is remiss in exercising any obligation owed to the debtor or any right accessory thereto, affecting the realization of any due obligation owed by it to a creditor, the creditor may file a claim with the people's court for exercise of the rights of the debtor in place of the debtor against the opposite party in its own name, unless the right is strictly personal to the debtor.

The right of subrogation shall be exercised to the extent of the due obligation owed to the creditor. The expenses necessary for the creditor to exercise the right of subrogation shall be borne by the debtor.

The opposite party may raise, against the creditor, defenses against the debtor.

Article 536 Where, before an obligation owed to the creditor becomes due, any obligation owed to the debtor or any accessory right related thereto falls under any circumstances such as imminent expiry of the extinctive prescription or failure to declare claims in bankruptcy proceedings, affecting the realization of the obligation owed to the creditor, the creditor may, in place of the debtor, request the party opposite to the debtor to render performance to the debtor, make a declaration to the bankruptcy administrator, or perform any other necessary act.

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Article 537 Where the people's court determines that there is a right of subrogation, the party opposite to the debtor shall perform the obligation to the creditor, and after the creditor has accepted the performance, the corresponding rights and obligations between the creditor and the debtor and between the debtor and the opposite party shall terminate. If any obligation owed by the opposite party to the debtor or any accessory right related thereto is subjected to a preservation or enforcement measure, or the debtor is bankrupt, the provisions of relevant laws shall apply.

Article 538 Where a debtor gratuitously disposes of its property rights by waiving an obligation owed to the debtor, waiving the security provided for the obligation, gratuitously transferring property, and other means, or maliciously extends the time limit for performance of an obligation owed to the debtor, affecting the realization of the obligation owed to the creditor, the creditor may request the people's court to cancel the act of the debtor.

Article 539 Where an debtor transfers its property at a low price which is manifestly unreasonable, acquires by transfer the property of another person at a high price which is manifestly unreasonable, or provides security for an obligation owed by another person, affecting the realization of the obligation owed to the creditor, and the party opposite to the debtor knows or should have known the circumstances, the creditor may request the people's court to cancel the act of the debtor.

Article 540 The right of revocatory action shall be exercised to the extent of the obligation owed to the creditor. The expenses necessary for the creditor to exercise the right of revocatory action shall be borne by the debtor.

Article 541 The right of revocatory action shall be exercised within one year from the date the creditor knows or should have known the cause of cancellation. If the right of revocatory action is not exercised within five years from the date of the act of the debtor, the right of revocatory action is extinguished.

Article 542 Where the act of a debtor that affects the realization of the obligation owed to the creditor is canceled, the act shall be without legal binding force from the beginning.

Chapter VI Modification and Assignment of Contracts

Article 543 A contract may be modified if the parties reach a consensus through consultation.

Article 544 Where an agreement by the parties is ambiguous regarding the contents of modification, the contract shall be presumed not modified.

Article 545 A creditor may assign its claim, in whole or in part, to a third party, except under the following circumstances:

- (1) The claim may not be assigned in light of the nature of the contract.
- (2) The claim may not be assigned according to the agreement between the parties.
- (3) The claim may not be assigned according to the provisions of the laws.

If the parties agree that a non-monetary claim shall not be assigned, the agreement shall not be effective against a third party in good faith. If the parties agree that a

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monetary claim shall not be assigned, the agreement shall not be effective against a third party.

Article 546 Where a creditor assigns its claim without giving the debtor notice, such assignment will have no effect on the debtor.

A notice by the creditor to assign the claim shall not be revoked, unless such revocation is consented to by the assignee.

Article 547 Where a creditor assigns its claim, the assignee shall acquire any accessory right related to the claim, unless the accessory right is strictly personal to the creditor.

The assignee's acquisition of the accessory right shall not be affected by the failure to undergo registration procedures for the transfer of the accessory right or by the failure to transfer the possession of the accessory right.

Article 548 Upon receipt of the notice of assignment of the claim, a debtor may raise, against the assignee, any defenses against the assignor.

Article 549 Under any of the following circumstances, a debtor may claim set-off against the assignee:

(1) When the debtor receives a notice of assignment of the claim, the debtor is owed an obligation by the assignor, and the obligation is due before or at the same time as the claim assigned.

(2) The obligation owed to the debtor and the claim assigned arise from the same contract.

Article 550 Any additional expenses of performance caused by the assignment of the claim shall be borne by the assignor.

Article 551 Where a debtor delegates its obligation in whole or in part to a third party, such delegation shall be subject to the consent of the creditor.

The debtor or the third party may demand that the creditor give its consent within a reasonable time limit, and the silence of the creditor shall be treated as disagreement.

Article 552 Where a third party agrees with the debtor to join in the obligation and the creditor is notified, or the third party notifies the creditor of its willingness to join in the obligation, and the creditor fails to explicitly refuse within a reasonable time limit, the creditor may claim that the third party, to the extent of the obligation that it is willing to assume, and the debtor assume the obligation jointly and severally.

Article 553 Where a debtor delegates its obligation, the new debtor may raise defenses that the original debtor had against the creditor; and if the original debtor is owed an obligation by the creditor, the new debtor may not claim set-off against the creditor.

Article 554 Where a debtor delegates its obligation, the new debtor shall assume any accessory obligation related to the principal obligation, unless the accessory obligation is strictly personal to the original debtor.

Article 555 With the consent of the other party, one party may transfer its rights

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together with its obligations under contract to a third party.

Article 556 Where contractual rights and obligations are transferred together, the provisions on the assignment of claims and delegation of obligations shall apply.

Chapter VII Termination of Contractual Rights and Obligations

Article 557 An obligation shall be terminated under any of the following circumstances:

- (1) The obligation has been performed.
- (2) The obligation is set off against another.
- (3) The debtor legally tenders and deposits the subject matter.
- (4) The creditor remits the obligation.
- (5) The obligation is owed to and by the same person.
- (6) Any other circumstances for termination as stipulated by laws or agreed upon by the parties.

When a contract is rescinded, the rights and obligations under the contract shall be terminated.

Article 558 After the termination of an obligation, the parties shall observe the principles such as good faith and perform obligations such as notification, assistance, confidentiality, and recycling of used things in accordance with the relevant usage of trade.

Article 559 When an obligation is terminated, any right accessory to the obligation owed to the creditor shall be extinguished, except as otherwise provided by the law or agreed upon by the parties.

Article 560 Where a debtor owes several obligations of the same type to the same creditor, and the payment by the debtor is insufficient to cover all the obligations, the debtor may impute the repayment to the obligation that it intends to perform, unless otherwise agreed by the parties.

If the debtor fails to do so, performance shall be first imputed to the obligation that is due; if several obligations are due, performance shall be first imputed to the obligation that is not secured or is secured the least to the creditor; if none is secured, or the security is equal, performance shall be first imputed to the obligation that is more burdensome to the debtor; if the burdens are equal, performance shall be imputed to the obligations in the order of their due time; and if the due time is the same, performance shall be imputed to the obligations pro rata.

Article 561 Where a debtor is required, in addition to performing the principal obligation, to pay interest and the costs associated with the realization of the obligation, and its performance is not sufficient to cover all the obligations, performance shall imputed in the following order, unless otherwise agreed by the parties:

- (1) The costs associated with the realization of the obligation.
- (2) Interest.
- (3) Principal obligation

Article 562 The parties may rescind a contract if they reach a consensus through

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consultation.

The parties may agree upon the cause of rescission of the contract by either party. Upon the cause occurs, the party who has the right to rescission may rescind the contract.

Article 563 The parties to a contract may rescind the contract under any of the following circumstances:

- (1) It becomes impossible to achieve the purpose of contract for a force majeure.
- (2) Prior to the expiration of the period of performance, the other party expressly states, or indicates through its conduct, that it will not perform its main obligation.
- (3) The other party delays performance of its main obligation, and after such performance is demanded, still fails to perform within a reasonable period.
- (4) The other party delays performance of its obligations, or breaches the contract in some other manner, making it impossible to achieve the purpose of the contract.
- (5) Other circumstance as provided by the law.

A contract without a term, requiring the successive performance of the obligation, may be rescinded by a party any time, provided that the other party is notified within a reasonable time.

Article 564 Where the law provides for or the parties agree upon the time limit to exercise the right to rescind a contract, and no party exercises it when the time limit expires, the right shall be extinguished.

Where neither the law provides for nor the parties make an agreement upon the time limit to exercise the right to rescind a contract, the right shall be extinguished by non-exercise within one year from the day when the party who has the right to rescind knows or should have known the cause of rescission or within a reasonable period after the other party makes a demand.

Article 565 A party demanding rescission of a contract in accordance with the law shall notify the other party. The contract shall be rescinded upon the receipt of the notice by the other party; and if the notice states that the contract will be automatically rescinded by the debtor's failure to perform the obligation within a time limit, and the debtor fails to do so, the contract shall be rescinded at the expiration of the time limit stated in the notice. If the other party objects to such rescission, either party may petition the people's court or an arbitration institution to confirm the validity of the rescission.

Where one party fails to notify the other party and directly claims the rescission of the contract by instituting an action or applying for arbitration, if the people's court or arbitration institution affirms the claim, the contract shall be rescinded when a copy of the written complaint or a copy of the arbitration application is served on the other party.

Article 566 After the rescission of a contract, performance shall cease if the contract has not been performed; if the contract has been performed, a party may, in accordance with the circumstances of performance or the nature of the contract, request restoration to the original state or adopt other remedial measures, and shall have the right to claim damages.

If a contract is rescinded because of breach of contract, the party who has the right to rescind may claim liability of the party in breach for breach of contract, unless otherwise agreed by the parties.

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After the rescission of the principal contract, the guarantor's liability shall remain to cover the civil liability that the debtor assumes, except as otherwise stipulated in the guarantee contract.

Article 567 The termination of a relation of rights and obligations under a contract shall not affect the validity of clauses that related to settlement of accounts and winding-up.

Article 568 Where the parties owe obligations to each other, and the type and nature of the subject matter of such obligations are the same, any party may set off its own obligation against the due obligation of the other party, unless such set-off is not allowed by the nature of the obligations, as agreed upon by the parties, or according to the laws and regulations.

A party who claims set-off shall notify the other party. The notice shall become effective when it reaches the other party. The set-off shall not be subject to any condition or term.

Article 569 Where the parties owe obligations to each other, and the type and nature of such obligations are different, the obligations may also be set off upon consensus between the parties after consultation.

Article 570 A debtor may tender and deposit the subject matter of an obligation under any of the following circumstances which render performance of the obligation difficult:

- (1) The creditor refuses to accept performance without justified reasons.
- (2) The whereabouts of the creditor are unknown.
- (3) The creditor is deceased and the successor or administrator of its estate has not been determined, or the creditor has lost civil capacity and a guardian has not been appointed.
- (4) Other circumstances as provided for by the law.

Where the subject matter is not fit for tender and deposit, or the tender and deposit costs are excessively high, the debtor may auction or sell the subject matter according to the law, and tender and deposit the proceeds therefrom.

Article 571 Tender and deposit are made when a debtor delivers the subject matter or the proceeds from the legal auction or sale of the subject matter to the depository. In such a case, the debtor shall be treated as having delivered the subject matter to the extent of the tender and deposit.

Article 572 A debtor shall notify the creditor, or the successor, administrator of the estate, guardian, or administrator of the property of the creditor in a timely manner after the subject matter has been tendered and deposited.

Article 573 Once the subject matter has been tendered and deposited, the risk of damage to and destruction or loss of the subject matter shall be borne by the creditor. The creditor shall be entitled to any fruits of the subject matter during the tender and deposit period. Tender and deposit costs shall be borne by the creditor.

Article 574 A creditor may claim the subject matter tendered and deposited at any time, unless the creditor has any due obligations toward the debtor, in which case,

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prior to the creditor's performance of its obligations or the creditor's provision of security for its performance, the depositary shall, at the request of the debtor, refuse the creditor's claim of the tendered and deposited property.

The right of the creditor to claim the tendered and deposited property shall lapse if it is not exercised within five years from the tender and deposit date, and the tendered and deposited property shall revert to the national treasury after the deduction of the tender and deposit costs. However, if the creditor fails to perform its due obligation owed to the debtor, or notifies the depositary in writing of waiving its right to claim the tendered and deposited property, the debtor shall have the right to recover the tendered and deposited property after paying the tender and deposit costs.

Article 575 Where a creditor remits part or whole of the obligation owed by the debtor, the obligation shall terminate in whole or in part, unless the debtor refuses within a reasonable time limit.

Article 576 Where an obligation is owed to and by the same person, the obligation shall terminate, unless it is detrimental to the interests of a third party.

Chapter VIII Liability for Breach of Contract

Article 577 Where a party fails to perform its obligations under a contract, or its performance fails to satisfy the terms of the contract, it shall continue to perform its obligations, take remedial measures, pay damages, or be otherwise held liable for breach of contract.

Article 578 Where one party expresses explicitly or indicates by its conduct that it will not perform its obligations under a contract, the other party may claim liability of the party for breach of contract before the expiry of the time limit for performance.

Article 579 Where a party fails to pay the price, remuneration, rent, or interest, or fails to perform any other monetary obligation, the other party may request it to make the payment.

Article 580 Where a party fails to perform the non-monetary obligations, or fails to perform the non-monetary obligations as agreed, the other party may request it to perform except under any of the following circumstances:

- (1) It is unable to be performed in law or in fact.
- (2) The subject matter of the obligation is unfit for enforcement or the performance expenses are excessively high;
- (3) The creditor does not request performance within a reasonable time limit.

If any of the foregoing circumstances makes it impossible to achieve the purpose of contract, the people's court or arbitration institution may terminate the relation of contractual obligations and rights at the request of either party, without affecting the assumption of the liability for breach of contract.

Article 581 Where one party fails to perform the obligation, or fails to perform the obligation as agreed, and the nature of the obligation precludes the enforcement of performance, the other party may request it to bear the costs of substitute performance by the third party.

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Article 582 Where performance fails to satisfy the agreement, the liability for breach of contract shall be borne as agreed upon by the parties. Where there is no agreement in the contract on the liability for breach of contract or such agreement is not clear, nor can it be determined in accordance with the provisions of Article 510 of this Code, the aggrieved party may, in light of the nature of the subject matter and the degree of loss, reasonably choose to request the other party to bear the liability for breach of contract by repairing, remaking, replacing, returning the goods, reducing the price or remuneration, etc.

Article 583 Where a party fails to perform its obligations under the contract or fails to perform the obligations as agreed, and the other party still suffers from other losses after the performance of the obligations or adoption of remedial measures, the party shall compensate the other party for such losses.

Article 584 Where a party fails to perform its obligations under the contract or its performance fails to conform to the agreement, causing losses to the other party, the amount of compensation for losses shall be equal to the losses caused by the breach of contract, including the interests receivable after the performance of the contract, but not exceeding the probable losses caused by the breach of contract which are foreseen or should have been foreseen when the party in breach concludes the contract.

Article 585 The parties may agree that if one party breaches the contract, it shall pay a certain sum of liquidated damages to the other party in light of the circumstances of the breach, and may also agree on a method for the calculation of the amount of compensation for losses incurred as a result of the breach.

Where the amount of liquidated damages agreed upon is lower than the losses incurred, the people's court or arbitration institution may, at the request of a party, increase the amount of liquidated damages; where the amount of liquidated damages agreed upon are significantly higher than the losses incurred, the people's court or arbitration institution may appropriately reduce it at the request of a party.

Where the parties agree upon liquidated damages in respect to the delay in performance, the party in breach shall still perform the obligations after paying the liquidated damages.

Article 586 The parties may agree that one party pays a deposit to the other party as security for the obligation owed to the creditor. The deposit contract shall be formed when the deposit is actually delivered.

The amount of the deposit shall be agreed upon by the parties, but shall not exceed 20% of the value of the subject matter of the principal contract, and any excess shall be without the effect of deposit. If the amount of the deposit actually delivered is more or less than the agreed amount, the agreed amount of the deposit shall be treated as being modified.

Article 587 Where the debtor performs its obligation, the deposit shall be set off against the price or refunded to the debtor. If the party that pays the deposit fails to perform the obligation or fails to perform the obligation as agreed, making it impossible to achieve the purpose of the contract, it shall have no right to request the refunding of the deposit; where the party accepting the deposit fails to perform its obligations or fails to perform the obligation as agreed, making it impossible to achieve the purpose of the contract, it shall refund twice the value of the deposit.

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Article 588 Where the parties agree on both liquidated damages and a deposit, and one party is in breach, the other party may choose to apply either the liquidated damages clause or the deposit clause.

If the agreed deposit is insufficient to cover the losses caused by a party's breach of contract, the other party may claim compensation for losses in excess of the amount of the deposit.

Article 589 Where a debtor performs the obligation as agreed, and the creditor refuses to accept without justification, the debtor may claim compensation for additional expenses from the creditor.

During the creditor's delay in acceptance, the debtor is not required to pay interest.

Article 590 Where a party is unable to perform the contract due to a force majeure, the party shall be exempt from liability in part or in whole based on the impact of force majeure, except as otherwise provided by the law. In such a case, the party shall, in a timely manner, notify the other party, so as to mitigate the loss possibly caused to the other party, and provide proof within a reasonable time limit.

If a force majeure occurs after a party delays performance, the party shall not be exempt from liability for breach.

Article 591 Where a party is in breach of contract, the other party shall take appropriate measures to prevent the aggravation of losses; and if the failure to do so results in the aggravation of losses, the other party may not claim compensation for the aggravation of losses.

The reasonable expenses incurred by the other party to prevent the aggravation of losses shall be borne by the party in breach.

Article 592 If both parties are in breach of contract, each party shall be correspondingly liable.

If one party's breach of contract causes loss to the other party, and the other party is at fault for the occurrence of the loss, the amount of compensation for the loss may be reduced correspondingly.

Article 593 Where a party is in breach because of a third party, it shall be liable to the other party for breach in accordance with the law. Any dispute between the party and such third party shall be handled in accordance with the law or as agreed.

Article 594 For a dispute arising from a contract for the international sale of goods or a technology import or export contract, the time limit for instituting an action or applying for arbitration is four years

Title Two Nominate Contracts

Chapter IX Sales Contracts

Article 595 A sales contract is a contract whereby the seller transfers the ownership of the subject matter to the buyer and the buyer pays the price for it.

Article 596 A sales contract shall generally include the name, quantity, quality, and

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price of the subject matter; the time limit, place, and method for performance; and packaging method, inspection standards and methods, settlement method, the language employed in the contract, and its validity.

Article 597 Where a seller fails to acquire the right to dispose, rendering the transfer of ownership of the subject matter impossible, the buyer may rescind the contract, and claim liability of the seller for breach of contract.

Where the transfer of a subject matter is prohibited or restricted by any law or administrative regulation, the law or administrative regulation shall prevail.

Article 598 A seller shall perform the obligation to deliver the subject matter or a document for taking delivery of the subject matter, and transfer the ownership to the buyer.

Article 599 In addition to the document for taking delivery of the subject matter, the seller shall deliver to the buyer the relevant documents and information in accordance with the agreement or usage of trade.

Article 600 In a sale of any subject matter subject to intellectual property rights, the intellectual property rights in the subject matter does not belong to the buyer, except as otherwise provided by the law or agreed by the parties.

Article 601 The seller shall deliver the subject matter at the time agreed upon. Where a period for delivery is agreed upon, the seller may deliver at any time within the period.

Article 602 Where no period for delivery of the subject matter is agreed upon between the parties or the agreement is not clear, the provisions of Articles 510 and 511(4) of this Code shall apply.

Article 603 The seller shall deliver the subject matter at the agreed place.

Where there is no agreement between the parties as to a place for delivery, or such agreement is not clear, nor can it be determined according to the provisions of Article 510 of this Code, the following provisions shall apply:

(1) If the subject matter needs carriage, the seller shall deliver the subject matter to the first carrier so as to hand it over to the buyer.

(2) If the subject matter does not need carriage, and the seller and buyer know the place of the subject matter when concluding the contract, the seller shall deliver the subject matter at such place; if the place is unknown, the subject matter shall be delivered at the business place of the seller when concluding the contract.

Article 604 The risk of damage to or loss of a subject matter shall be borne by the seller prior to the delivery of the subject matter and by the buyer after delivery, except as otherwise stipulated by law or agreed upon by the parties.

Article 605 Where a subject matter fails to be delivered within the agreed time limit because of the buyer, the buyer shall bear the risk of damage to or loss of the subject matter as from the date it breaches the agreement.

Article 606 Where the seller sells a subject matter delivered to a carrier for carriage

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and is in transit, unless otherwise agreed upon by the parties, the risk of damage to or loss of the subject matter shall pass to the buyer at the time of formation of the contract.

Article 607 After the seller has the subject matter transported to the place designated by the buyer and delivered to the carrier in accordance with the agreement, the risk of damage to or loss of the subject matter shall be borne by the buyer.

Where there is no agreement between the parties as to the place for delivery or such agreement is not clearly, and the subject matter needs carriage according to the provisions of paragraph 2(1), Article 603 of this Code, the risk of damage to or loss of the subject matter shall be borne by the buyer after the seller has delivered the subject matter to the first carrier.

Article 608 Where the seller has placed the subject matter at the place of delivery in accordance with the agreement or in accordance with the provisions of paragraph 2(2), Article 603 of this Code, while the buyer fails to take delivery in breach of the agreement, the risk of damage to or loss of the subject matter shall pass to the buyer on the date of breach of the agreement.

Article 609 The failure of the seller to deliver the documents and information relating to the subject matter as agreed upon shall not affect the passing of the risk of damage to or loss of the subject matter.

Article 610 Where the quality of the subject matter does not conform to the quality requirements, making it impossible to achieve the purpose of the contract, the buyer may refuse to accept the subject matter or may rescind the contract. If the buyer refuses to accept the subject matter or rescinds the contract, the risk of damage to or loss of the subject matter shall be borne by the seller.

Article 611 Where the risk of damage to or loss of the subject matter is borne by the buyer, it shall not affect the buyer's claim of liability of the seller for breach of contract because the seller's performance of its obligations is not in conformity with the agreement.

Article 612 Unless otherwise provided by the law, the seller shall have the obligation to warrant that no third party has any right to the delivered subject matter.

Article 613 Where the buyer knows or should have known, at the time of contracting, that a third party has rights to the subject matter for sale, the seller shall have no obligation prescribed in the preceding article.

Article 614 Where the buyer has conclusive evidence that a third party has rights to the subject matter, it may stop paying the corresponding price, except where the seller provides appropriate security.

Article 615 The seller shall deliver the subject matter in compliance with the agreed quality requirements. Where the seller gives the quality specifications for the subject matter, the subject matter delivered shall comply with the quality requirements set forth therein.

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Article 616 Where the quality requirements for the subject matter is not agreed between parties or such agreement is not clear, nor can it be determined according to the provisions of Article 510 of this Code, the provisions of Article 511(1) of this Code shall be applied.

Article 617 Where the subject matter delivered by the seller fails to comply with the quality requirements, the buyer may request the seller to bear liability for breach of contract in accordance with Articles 582 through 584 of this Code.

Article 618 Where the parties agree to limit or exclude the liability for any defect in the subject matter, and the seller fails to notify the buyer of the defect in the subject matter intentionally or due to gross negligence, the seller shall have no right to claim limitation or exclusion of the liability.

Article 619 The seller shall deliver the subject matter packed in the agreed manner. Where there is no agreement on package manner in the contract or the agreement is not clear, nor can it be determined according to the provisions of Article 510 of this Code, the subject matter shall be packed in a general manner, and if no general manner, a package manner enough to protect the subject matter and conducive to conserving resources and protecting the ecology and environment shall be adopted.

Article 620 Upon receipt of the subject matter, the buyer shall inspect it within the agreed inspection period. Where no inspection period is agreed, the buyer shall inspect the subject matter in a timely manner.

Article 621 Where the parties have agreed upon an inspection period, 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 is remiss in notifying the seller, the quantity or quality of the subject matter is deemed to comply with the contract. Where no inspection period is agreed, 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 knows 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 preceding two paragraphs.

Article 622 Where the inspection period agreed upon by the parties is so short that, based on the nature of the subject matter and usage of trade, it is difficult for the buyer to complete a comprehensive inspection during the inspection period, the period shall be treated only as a period for the buyer to raise an objection to an apparent defect. If the agreed inspection period or warranty period is shorter than that prescribed by the laws and administrative regulations, the period prescribed by the laws and administrative regulations shall prevail.

Article 623 Where the parties fail to agree on an inspection period, and the delivery note, acknowledgment, and the like signed by the buyer state the quantity, model, and

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specifications of the subject matter, the buyer shall be presumed to have made an inspection in respect of quantity and apparent defects, in the absence of sufficient evidence to the contrary.

Article 624 Where a seller delivers the subject matter to a third party on the buyer's instructions, and the inspection standards agreed upon by the seller and the buyer are inconsistent with those agreed upon by the buyer and the third party, the inspection standards agreed upon by the seller and the buyer shall prevail.

Article 625 Where any law or administrative regulation requires, or the parties agree, that the subject matter should be recovered after the expiration of its useful life, the seller shall have the obligation to recover the subject matter in person or authorize a third party to do so.

Article 626 The buyer shall pay the price according to the agreed amount and payment method. Where the price and payment method are not agreed or the agreement is not clear, the provisions of Article 510 and Article 511(2) and (5) of this Code shall be applied.

Article 627 The buyer shall pay the price at the agreed place. Where the place of payment is not agreed or the agreement is not clear, nor can it be determined according to the provisions of Article 510 of this Code, 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 628 The buyer shall pay the price at the agreed time. Where the time for payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the buyer shall make payment at the same time it receives the subject matter or the document for taking delivery thereof.

Article 629 Where the seller delivers the subject matter in a quantity greater than that agreed in the contract, the buyer may accept or reject the excess quantity. Where the buyer accepts the excess quantity, it shall pay the price as agreed; where the buyer rejects the excess quantity, it shall notify the seller in a timely manner.

Article 630 The fruits of the subject matter belong to the seller if accrued before delivery, and to the buyer if accrued after delivery, unless otherwise agreed by the parties.

Article 631 Where a contract is rescinded due to non-compliance of any main component of the subject matter, the effect of rescission extends to the ancillary components. Where the contract is rescinded due to non-compliance of any ancillary component of the subject matter, the effect of rescission does not extend to the main components.

Article 632 Where the subject matter comprises of a number of components, one of which does not comply with the contract, the buyer may rescind the portion of the contract in respect of such component, provided that if severance of such component

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with the other components will significantly diminish the value of the subject matter, the buyer may rescind the contract in respect of such number of components.

Article 633 Where the seller is to deliver the subject matter in installments, if the seller fails to deliver one installment of the subject matter or the delivery fails to satisfy the terms of the contract so that the said installment cannot realize the contract purpose, the buyer may rescind the portion of the contract in respect thereof. If the seller fails to deliver one installment of the subject matter or the delivery fails to satisfy the terms of the contract so that the delivery of the subsequent installments of subject matter cannot realize the contract purpose, the buyer may rescind the portion of the contract in respect of such installment as well as any subsequent installment. If the buyer rescinds the portion of the contract in respect of a particular installment which is interdependent with all other installments, it may rescind the contract in respect of all delivered and undelivered installments.

Article 634 In a sale by installment payment, where the buyer fails to make payments as they became due, if the delinquent amount has reached one fifth of the total price, and the payments due fail to be made within a reasonable time limit after a demand, the seller may request payment of the full price from the buyer or rescind the contract. If the seller rescinds the contract, it may request the buyer to pay a fee for its use of the subject matter.

Article 635 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 636 In a sale by sample, if the buyer is 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 637 In a sale by trial, the parties may agree on the trial period. Where a trial period is not agreed on or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, it shall be determined by the seller.

Article 638 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 demonstrate its intent to purchase or reject the subject matter.

If the buyer in a sale by trial pays part of the price, or performs an act such as selling, leasing, or creating a security interest on the subject matter during the trial period, the buyer shall be treated as having consented to purchase.

Article 639 Where the parties to a sale by trial fails to make an agreement on the expenses of use of the subject matter, or the agreement is not clear, the seller shall have no right to request the buyer to pay.

Article 640 The risk of damage to or loss of the subject matter during the trial period shall be borne by the seller.

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Article 641 The parties may agree in the sales contract that the ownership remains with the seller if the buyer fails to pay the price or perform other obligations. The ownership of the subject matter retained by the seller shall not be effective against a third party in good faith without registration.

Article 642 Where the parties agree that the seller retains the ownership of the subject matter of the contract, and before the ownership of the subject matter is transferred, the buyer has any of the following circumstances that causes damage to the seller, the seller shall have the right to reclaim the subject matter, unless otherwise agreed by the parties:

- (1) Failing to pay the price in accordance with the agreement and failing to pay within a reasonable time limit after a demand.
- (2) Failing to fulfill specific conditions as agreed.
- (3) Selling, pledging, or otherwise improperly disposing of the subject matter.

The seller may negotiate with the buyer for reclaiming the subject matter; and if the negotiation fails, the realization procedure for security interests may apply mutatis mutandis.

Article 643 Where after a seller has reclaimed the subject matter in accordance with the provisions of paragraph 1, the preceding article, the buyer removes the cause for which the seller reclaims the subject matter within a reasonable redemption period agreed by the parties or specified by the seller, the seller may request redemption of the subject matter.

If the buyer fails to redeem the subject matter within the redemption period, the seller may sell the subject matter to a third party at a reasonable price, recover the price due by the buyer and necessary expenses out of the proceeds of resale, and refund the remainder to the buyer, if any, or request the buyer to cover the shortfall.

Article 644 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 645 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 646 If there are provisions in the law for other onerous contracts, such provisions shall apply; in the absence of such provisions, the provisions on sales contract shall apply mutatis mutandis.

Article 647 Where the parties agree on a barter transaction involving transfer of ownership of the subject matter, the relevant provisions on sales contracts shall apply mutatis mutandis.

Chapter X Contracts for Supply of Power, Water, Gas, or Heat

Article 648 A power supply contract is a contract whereby the power supplier supplies power to the power customer, and the power consumer pay an electricity fee. A power supplier who supplies power to the public shall not reject a user's reasonable request for contracting.

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Article 649 The contents of a power supply contract generally include 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 fees, and the responsibility for maintenance of the power supply and use facilities, etc..

Article 650 The place of performance of a power supply contract shall be the place agreed upon by the parties, and if there is no agreement or the agreement is not clear, the place of performance shall be the boundary where ownership of the power supply facilities is divided.

Article 651 The power supplier shall supply power in a safe manner in accordance with the standards for power supply stipulated by the State and with the terms of the contract. Where the power supplier fails to supply power in a safe manner in accordance with the standards for power supply stipulated by the State and with the terms of the contract, thereby causing losses to the power customer, it shall be liable in damages.

Article 652 Where the power supplier needs to suspend the power supply due to reasons such as planned maintenance or provisional inspection and repair of the power supply facilities, legally restriction on power, or illegal use of power by the power customer, etc., it shall notify the power customer in advance in accordance with relevant provisions issued by the state. Where the power supplier suspends power supply without notifying the power customer in advance, thereby causing losses to the power customer, it shall be liable in damages.

Article 653 Where the power supply is suspended due to a natural disaster or other causes, the power supplier shall make repair in a timely manner in accordance with relevant provisions issued by the state; and where the power supplier fails to make repair in a timely manner, thereby causing loss to the power customer, it shall be liable in damages.

Article 654 The power customer shall, in a timely manner, pay the electricity fees in accordance with relevant provisions issued by the state and with the terms of the contract. Where the power customer delays in paying the electricity fees, it shall pay breach of contract damages in accordance with the contract. Where the power customer fails to pay the electricity fees and breach of contract damages within a reasonable time limit after receiving demand for payment, the power supplier may shut off the power supply in accordance with the procedure prescribed by the state. If a power supplier suspends power supply in accordance with the preceding paragraph, it shall notify the power customer in advance.

Article 655 The power customer shall use power in a safe, conservative, and planned manner in accordance with the relevant provisions issued by the state and with the terms of the contract. Where the power customer fails to use power in accordance with relevant provisions issued by the state and the terms of the contract, causing losses to the power supplier, it shall be liable in damages.

Article 656 The provisions on power supply contracts shall apply mutatis mutandis to

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a contract for the supply of water, gas or heat.

Chapter XI Gift Contracts

Article 657 A gift contract is a contract whereby the donor conveys his property to the donee gratuitously and the donee expresses his acceptance of the gift.

Article 658 Prior to the transfer of rights to the gift property, the donor may revoke the gift.

The provisions of the preceding paragraph do not apply to any gift contract which has been notarized, or any gift contract in the nature of disaster relief, poverty alleviation, disability assistance, or any other public interest or moral obligation of which the law precludes revocation.

Article 659 Where conveyance of the gifted property is subject to such procedures as registration according to the law, the relevant procedures shall be performed.

Article 660 In the case of a gift contract which has been notarized, or a gift contract in the nature of disaster relief, poverty alleviation, disability assistance, or any other public interest or moral obligation of which the law precludes revocation, if the donor fails to deliver the gift property, the donee may request delivery.

Where the gifted property required to be delivered by the provisions of the preceding paragraph is damaged or lost due to any intention or gross negligence of the donor, the donor shall be liable in damages.

Article 661 A gift may be conditional on an obligation.

Where the gift is conditional on an obligation, the donee shall perform his obligations in accordance with the contract.

Article 662 The donor is not liable for any defect in the gifted property. Where the gift is conditional on an obligation, and the gifted property is defective, the donor has the same warranty obligations as a seller to the extent of the prescribed obligations.

Where the donor intentionally fails to notify the donee of the defect or warrants the absence of any defect, thereby causing losses to the donee, he or she shall be liable in damages.

Article 663 Where the donee has any of the following circumstances, the donor may revoke the gift:

- (1) Seriously harming the lawful rights and interests of the donor or any of his or her close relatives.
- (2) Failing to perform support obligations owed to the donor.
- (3) Failing to perform the obligations under the gift contract.

The donor shall exercise its revocation right within one year after he or she knows, or should have known, the cause of revocation.

Article 664 Where the donor is deceased or incapacitated due to the donee's illegal act, his successor or legal representative may revoke the gift.

The successor or legal representative of the donor shall exercise the right of revocation within six months after he or she knows, or should have known, the cause of revocation.

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Article 665 Upon revocation of the gift, the person with the revocation right may request restitution of the gifted property from the donee.

Article 666 If the donor's economic situation is deteriorated significantly, seriously impacting on his business operation or family life, he or she may no longer perform the gift obligations.

Chapter XII Contracts for Loan of Money

Article 667 A contract for loan of money is a contract whereby the borrower borrows a sum of money from the lender, and repays the borrowed money with interest thereon when it becomes due.

Article 668 A contract for loan of money shall be in written form, except where the loan is between natural persons who have agreed otherwise.
The contents of a contract for loan of money generally include the terms such as the loan's type, currency, purpose, amount, interest rate, term, and method of repayment, etc.

Article 669 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 670 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 671 Where the lender fails to make the loan amount available on the agreed date and in the agreed amount, thereby causing losses to the borrower, it shall pay damages.

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

Article 672 The lender may examine and monitor the application of the proceeds in accordance with the contract. The borrower shall periodically provide the lender with related financial statements or other materials in accordance with the contract.

Article 673 Where the borrower fails to use the proceeds for the prescribed purpose, the lender may withhold funding, call the loan, or rescind the contract.

Article 674 The borrower shall pay the interest within the agreed time limit. Where the time limit for interest payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, if the loan period is less than one year, the interest shall be paid together with the principal at the time of repayment; if the loan period is one year or longer, the interest shall be paid at the end of a year, 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 675 The borrower shall repay the principal within the agreed time limit.

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Where the loan term is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the borrower may repay at any time; and the lender may demand repayment from the borrower within a reasonable time limit.

Article 676 Where the borrower fails to repay the loan at the agreed time limit, it shall pay delayed repayment interest in accordance with the contract or the relevant provisions of the State.

Article 677 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 678 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 679 A contract for loan of money between natural persons is formed at the time the lender makes the loan amount available.

Article 680 Usury shall be prohibited, and the interest rate on a loan shall not contravene the relevant provisions issued by the state.

The absence of a stipulation about payment of interest in a contract for loan of money shall be treated as charging no interest.

If a contract for loan of money is not clear in terms of payment of interest, and the parties are unable to reach a supplementary agreement, the interest shall be determined in accordance with local or the parties' transaction methods, usage of trade, market interest rates, and other factors; and a loan between natural persons shall be treated as bearing no interest.

Chapter XIII Contracts of Suretyship

Section 1 General Rules

Article 681 "Contract of suretyship" means a contract by which a surety performs the obligation or assumes the responsibility under an agreement between the surety and the creditor in order to protect the realization of the obligation, in case the debtor fails to perform the obligation due, or the circumstances agreed upon by the parties occur.

Article 682 A contract of suretyship is a contract accessory to the principal obligation contract. If the principal obligation contract is void, the contract of suretyship is void, except as otherwise provided by the law.

After a contract of suretyship is nullified, the debtor, the surety, and the creditor, if at fault, shall respectively bear civil liability according to their fault.

Article 683 A state organ legal person may not be a surety, except for sub-lending of loans from foreign governments or international economic organizations approved by the State Council.

A non-profit legal person or unincorporated organization in public interest shall not be a surety.

Article 684 The contents of a contract of suretyship shall generally include the

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category and amount of the principal obligation secured by the suretyship; the time limit for the debtor to pay the obligation; and the method, scope, and period of the suretyship.

Article 685 A contract of suretyship may be a separate written contract, or a suretyship clause in the principal obligation contract.

If a third party unilaterally gives suretyship to the creditor in written form, and the creditor receives the writing without raising an objection, the contract of suretyship is formed.

Article 686 Suretyship shall be divided into ordinary suretyship and joint and several suretyship according to methods.

If the parties fail to agree on the method of suretyship in the contract of suretyship, or the agreement is not clear, the suretyship shall be treated as ordinary suretyship.

Article 687 Ordinary suretyship takes place where the parties agree in the contract of suretyship that the surety assumes suretyship liability when the debtor fails to perform the obligation.

A surety under ordinary suretyship shall have the right to refuse to assume suretyship liability to the creditor before the dispute over the principal contract goes to trial or arbitration and the obligation fails to be performed despite enforcement legally executed against the property of the debtor, except under any of the following circumstances.

- (1) The whereabouts of the debtor are unknown, and no property is available for enforcement.
- (2) The people's court has accepted the debtor bankruptcy case.
- (3) The creditor has evidence that the debtor has insufficient property to perform the whole obligation or becomes insolvent.
- (4) The surety states a waiver of the right under this paragraph in written form.

Article 688 Joint and several suretyship takes place where the parties agree in the contract of suretyship that the surety and the debtor are jointly and severally liable for the obligation.

When a debtor under joint and several suretyship fails to perform the obligation due, or the circumstances agreed upon by the parties occur, the creditor may request the debtor to perform the obligation, or request the surety to assume suretyship liability to the extent of its suretyship.

Article 689 A surety may require the debtor to provide counter security.

Article 690 A surety and the creditor may negotiate a contract of maximum-amount suretyship, agreeing on providing suretyship for the obligations arising successively within a certain period to the extent of the maximum amount of obligations.

The provisions on maximum-mortgages in Book Two of this Code shall apply mutatis mutandis to maximum-amount suretyship, in addition to being governed by the provisions of this Chapter.

Section 2 Suretyship Liability

Article 691 The scope of suretyship covers the principal obligation and its interest,

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liquidated damages, damages, and the cost of realizing the obligation, unless otherwise agreed by the parties.

Article 692 The period for suretyship is a period to determine that the surety is subject to suretyship liability, without any suspension, interruption, or extension.

A creditor and the surety may agree on a period for suretyship, but if the agreed period for suretyship precedes, or expires at the same time as, the time limit for performance of the principal obligation, the period shall be treated as having never been agreed; and absent agreement, or if the agreement is not clear, the period for suretyship shall be six months from the expiration of the time limit for performance of the principal obligation.

If a creditor and the debtor fail to agree on a time limit for performance of the principal obligation, or the agreement is not clear, the period for suretyship shall be counted from the expiration of the grace period when the creditor requests the debtor to perform the obligation.

Article 693 Where a creditor secured by ordinary suretyship fails to institute an action or apply for arbitration against the debtor within the period for suretyship, the surety shall cease to assume the suretyship liability.

If a creditor secured by joint and several suretyship fails to request the surety to assume suretyship liability during the period for suretyship, the surety shall cease to assume the suretyship liability.

Article 694 Where a creditor secured by ordinary suretyship institutes an action or applies for arbitration against the debtor before the expiration of the period for suretyship, the extinctive prescription for the suretyship obligation shall commence to run from the date when the right of the surety to refuse to assume the suretyship liability is extinguished.

If a creditor secured by joint and several suretyship requests the surety to assume the suretyship liability before the expiration of the period for suretyship, the extinctive prescription for the suretyship obligation shall commence to run from the date when the creditor so requests.

Article 695 When a creditor and the debtor negotiate the modification of the contract for the principal obligation without the written consent of the surety, the surety shall remain subject to suretyship liability for the obligation as modified, if the obligation is reduced, or be exempt from suretyship liability for the aggravation, if the obligation is aggravated.

If a creditor and the debtor modify the time limit for performance of the contract for the principal obligation, without the written consent of the surety, the period for suretyship is not affected.

Article 696 Where a creditor assigns all or part of the claim without notifying the surety, the assignment shall be without effect against the surety.

When a surety and the creditor agree on prohibiting the assignment of the claim, if the creditor assigns the claim without the written consent of the surety, the surety shall cease to assume suretyship liability to the assignee.

Article 697 Where the creditor allows the debtor to delegate all or part of the obligation without the written consent of the surety, the surety shall cease to assume

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suretyship liability for the obligation so delegated, unless otherwise agreed by the creditor and the surety.

If a third party joins in the obligation, the suretyship liability to which the surety is subject is not affected.

Article 698 Where a surety under ordinary suretyship provides the creditor with authentic information on the property of the debtor available for enforcement after the expiration of the time limit for performance of the principal obligation, and the creditor waives or is remiss in exercising its right resulting in impossibility of enforcement against the property, the surety shall cease to assume suretyship liability to the extent of the value of the property on which it provides information.

Article 699 Where there are not less than two sureties for the same obligation, the sureties shall assume suretyship liability in accordance with the share of suretyship agreed in the contract of suretyship; and absent agreement on the share of suretyship, the creditor may request any surety to assume suretyship liability to the extent of its suretyship.

Article 700 Unless otherwise agreed by the parties, a surety who has assumed the suretyship liability shall have the right to reimbursement from the debtor to the extent of the suretyship liability it has assumed and be subrogated to the rights of the creditor against the debtor, without prejudice to the interests of the creditor.

Article 701 A surety may raise defenses the debtor would have raised against the creditor. If the debtor renounces the defenses, the surety shall nevertheless have the right to raise the defenses against the creditor.

Article 702 Where the debtor has the right to set-off or revocatory action against the creditor, the surety may refuse to assume suretyship liability to the corresponding extent.

Chapter XIV Leasing Contracts

Article 703 A leasing contract is a contract whereby the lessor delivers to the lessee the leased property for it to use or accrue benefit from, and the lessee pays the rent.

Article 704 The contents of a leasing contract generally include terms such as the name, quantity and purpose of the leased property, lease term, amount of rent, time and method of rent payment, as well as maintenance and repair of the leased property, etc.

Article 705 The lease term may not exceed twenty years. If the lease term exceeds twenty years, the excess is void.

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 706 Where the parties fail to perform the registration and filing procedures for the leasing contract in accordance with the laws and administrative regulations, the validity of the contract is not affected.

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Article 707 Where the lease term is six months or longer, the lease shall be in writing. If the parties fail to adopt a writing form, rendering the determination of a lease term impossible, the lease is deemed an indeterminate-term lease.

Article 708 The lessor shall deliver the leased property to the lessee in accordance with the contract and shall, during the lease term, keep the leased property fit for the agreed purpose.

Article 709 The lessee shall use the leased property in the agreed manner. Where the manner of use of the leased property is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the leased property shall be used in a manner consistent with its nature.

Article 710 Where the lessee uses the leased property in the agreed manner or in a manner consistent with its nature, thereby causing wear and tear to the leased property, it is not liable in damages.

Article 711 Where the lessee fails to use the leased property in the agreed manner or in a manner consistent with its nature, thereby causing damage to it, the lessor may rescind the contract and claim damages.

Article 712 The lessor shall perform the obligations of maintenance and repair of the leased property, except otherwise agreed by the parties.

Article 713 Where the leased property needs maintenance or repair, the lessee may require the lessor to perform maintenance or repair within a reasonable time limit. If the lessor fails to fulfill its obligations of maintenance or repair, the lessee may maintain or repair the leased property on its own at the lessor's expense. Where the lessee's use of the leased property is impaired due to maintenance or repair thereof, the rent shall be reduced or the lease term shall be extended accordingly. If the leased property needs repairing through the fault of the lessee, the lessor shall be exempt from the repair obligation specified in the preceding paragraph.

Article 714 The lessee shall keep the leased property with due care and shall be liable in damages if the leased property is damaged or lost due to improper care.

Article 715 Subject to consent of the lessor, the lessee may make improvement on or addition to the leased property. If the lessee makes improvement on or addition to the leased property without consent of the lessor, the lessor may request the lessee to restore the leased property to its original condition or claim compensation for the losses.

Article 716 Subject to consent of the lessor, the lessee may sublease the leased property to a third party. Where the lessee subleases the leased property, the leasing contract between the lessee and the lessor remains valid, and if the third party causes damage to the leased property, the lessee shall compensate for the losses. Where the lessee subleases the leased property without the consent of the lessor, the lessor may rescind the contract.

Article 717 Where a lessee subleases the leased property to a third party with the

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consent of the lessor under a sublease term in excess of the remaining lease term in favor of the lessee, the agreement in connection with the excess shall be without legal binding force on the lessor, unless otherwise agreed by the lessor and the lessee.

Article 718 Where a lessor knows or should have known the sublease by the lessee without raising an objection within six months, the lessor shall be treated as giving consent to the sublease.

Article 719 Where a lessee is in default on rent, the sublessee may pay the rent and liquidated damages owed on behalf of the lessee, unless the sublease contract is without legal binding force on the lessor.

The rent and liquidated damages so paid may be set off against the rent payable by the sublessee to the lessee; and the excess over the rent payable by the sublessee may be recovered from the lessee.

Article 720 During the lease term, any benefit accrued from the possession or use of the leased property belongs to the lessee, except otherwise agreed by the parties.

Article 721 The lessee shall pay the rent at the agreed time. Where the time of payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, 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 722 Where the lessee fails to pay or delays in paying the rent without any reason, the lessor may request the lessee to pay the rent within a reasonable time limit; and if the lessee fails to pay the rent at the end of such time limit, the lessor may rescind the contract.

Article 723 If due to any claim by a third party, the lessee is unable to use or accrue benefit from the leased property, the lessee may require reduction in rent or refuse to pay rent.

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

Article 724 Under any of the following circumstances, a lessee may rescind the contract if the leased property is rendered unusable not by the lessee:

- (1) The leased property is seized or impounded by the judicial or administrative authority according to the law.
- (2) The ownership of the leased property is in dispute.
- (3) The leased property has circumstances in violation of the mandatory conditions for use required by the laws and administrative regulations.

Article 725 Any change to the ownership of the leased property when the lessee is in possession under the leasing contract does not affect the validity of the leasing contract.

Article 726 Where the lessor is to sell a leased property, it shall give the lessee a notice within a reasonable time limit before the sale, and the lessee has the right of

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first refusal under the same conditions, unless a divided co-owner of the property exercises the right of first refusal, or the lessor sells the property to any of its close relative.

If a lessee fails to explicitly state its intention to buy within fifteen days after the lessor performs its obligation to give notice, the lessee shall be treated as having waived the right of first refusal.

Article 727 Where a lessor entrusts an auctioneer with the auction of the leased property, the lessor shall notify the lessee five days before the auction. If the lessee fails to participate in the auction, the lessee shall be treated as having waived the right of first refusal.

Article 728 Where a lessor fails to notify the lessee or otherwise interferes with the lessee exercising the right of first refusal, the lessee may claim damages from the lessor. However, the validity of the property sale contract entered into between the lessor and a third party is not affected.

Article 729 Where the leased property is damaged or lost in part or in whole due to any reason not attributable to the lessee, the lessee may request reduction in rent or refuse to pay rent; where the purpose of the contract cannot be achieved due to damage to or loss of the leased property in part or in whole, the lessee may rescind the contract.

Article 730 Where the term of a lease is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, such lease is deemed an indeterminate-term lease. Either party may rescind the contract at any time, giving the other party a reasonable notice.

Article 731 Where the leased property endangers the safety or health of the lessee, the lessee may rescind the contract at any time even if the lessee knows the leased property does not meet the quality requirements when concluding the contract.

Article 732 Where the lessee is deceased during the lease term of the leased property, the person living with the lessee, or the lessee's co-owner of the business, while the lessee is alive may continue leasing it on the terms of the original leasing contract.

Article 733 The lessee shall return the leased property at the end of the lease term. The returned leased property shall be in a condition resulting from its use in the agreed manner or in a manner consistent with its nature.

Article 734 Upon expiration of the lease term, if the lessee continues to use the leased property without objection by the lessor, the original leasing contract remains effective, provided that it becomes an indeterminate-term lease. Upon the expiration of the lease term, the lessee of a property shall have a preference in a lease on equal terms.

Chapter XV Financial Leasing Contracts

Article 735 A financial leasing contract is a contract whereby the lessor, upon purchase of the lessee-selected leased property from a lessee-selected seller, provides

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the leased property to the lessee for its use, and the lessee pays the rent.

Article 736 The contents of a financial leasing contract generally include terms such as the name, quantity, specifications, technical performance, and method of inspection of the leased property, the lease term, the rental components and the time, method and currency of payment, the attribution of the leased property at the end of the lease term, etc.

A financial leasing contract shall be in written form.

Article 737 A financial leasing contract concluded by the parties by fabricating the leased property shall be void.

Article 738 Where any law or administrative regulation requires a lessee to obtain administrative license for the operation and use of the leased property, the failure of the lessor to obtain administrative license does not affect the validity of the financial leasing contract.

Article 739 Under the sales contract concluded by the lessor according to the lessee's selection of the seller and the leased property, 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 740 Where a seller in breach of the obligation to deliver the subject matter to the lessee has any of the following circumstances, the lessee may refuse to accept the subject matter delivered to it by the seller:

- (1) The subject matter seriously does not conform to the agreement.
- (2) The subject matter fails to be delivered as agreed, and delivery fails to be made within a reasonable time limit after a demand from the lessee or the lessor.

If the lessee refuses to accept the subject matter, it shall, in a timely manner, notify the lessor.

Article 741 The lessor, the seller and the lessee may agree that any claim arising from the seller's failure in the 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 742 The exercise of the right to claims against a seller by the lessee does not affect the performance of its obligation to pay rent. However, if the lessee relies on the skills of the lessor to determine leased property, or the lessor intervenes in selecting leased property, the lessee may request a reduction or remission of the corresponding rent.

Article 743 Where a lessor has any of the following circumstances, frustrating the lessee's exercise of the right to claims against the seller, the lessee shall have the right to request the lessor to assume corresponding liability:

- (1) Knowing that the leased property is defective in quality and failing to notify the lessee.
- (2) Failing to provide necessary assistance in a timely manner when the lessee exercises the right to claims.

If the lessor is remiss in exercising the right to claims that may be exercised only by

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the lessor against the seller, causing loss to the lessee, the lessee shall have the right to request the lessor to be liable for compensation.

Article 744 Without the consent of the lessee, the lessor may not modify any lessee-related term in the sales contract concluded by it according to the lessee's selection of the seller and the leased property.

Article 745 A lessor's ownership of leased property shall not be effective against a good faith third party without registration.

Article 746 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 leased property and the lessor's reasonable profit.

Article 747 Where the leased property does not comply with the contract or is not fit for the intended purpose, the lessor is not liable, except where the lessee relies on the skills of the lessor in selecting the leased property or the lessor interferes with the selection thereof.

Article 748 The lessor shall give warranty in respect of the lessee's possession and use of the leased property.

If a lessor has any of the following circumstances, the lessee shall have the right to request the lessor to make compensation for its loss:

- (1) Recovering the leased property without justification.
- (2) Obstructing or interfering with the lessee's possession and use of the leased property without justification.
- (3) A third party claims rights to the leased property because of the lessor.
- (4) Otherwise improperly affecting the lessee's possession and use of the leased property.

Article 749 If in the possession of the lessee, the leased property causes personal injury or property damage to a third party, the lessor is not liable.

Article 750 The lessee shall keep and use the leased property with due care.

While in possession of the leased property, the lessee shall perform the obligations of maintenance and repair thereof.

Article 751 Where leased property is damaged or lost in the possession of the lessee, the lessor shall have the right to request the lessee to continue paying the rent, except as otherwise provided by the law or agreed by the parties.

Article 752 The lessee shall pay the rent in accordance with the contract. Where the lessee fails to pay the rent within a reasonable time limit after receiving the demand for payment from the lessor, the lessor may require payment of the full rent; or it may rescind the contract and take back the leased property.

Article 753 Where a lessee transfers, mortgages, pledges, invests for capital stock, or otherwise disposes of the leased property without the consent of the lessor, the lessor may rescind the financial leasing contract.

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Article 754 Under any of the following circumstances, a lessor or lessee may rescind the financial leasing contract:

- (1) The sales contract entered into between the lessor and the seller is rescinded, nullified, or revoked, and a new sales contract fails to be concluded.
- (2) The leased property is damaged or lost for reasons not attributable to the parties, and is beyond repair or irreplaceable.
- (3) The purpose of the financial leasing contract is defeated because of the seller.

Article 755 Where a financial leasing contract is rescinded because the sales contract is rescinded, nullified, or revoked, if the seller and the leased property are selected by the lessee, the lessor shall have the right to request the lessee to make compensation for the corresponding loss, unless the sales contract is rescinded, nullified, or revoked because of the lessor.

If the lessor is compensated for its loss when the sales contract is rescinded, nullified, or revoked, the lessee shall cease to bear the corresponding liability for compensation.

Article 756 Where a financial leasing contract is rescinded for the accidental damage to or loss of the leased property or other reasons not attributable to the parties after the leased property has been delivered to the lessee, the lessor may request the lessee to make compensation according to the depreciation of the leased property.

Article 757 The lessor and the lessee may agree on the ownership of the leased property at the expiry of the lease term. Where ownership of the leased property is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the ownership of the leased property shall belong to the lessor.

Article 758 Where the parties agree that the leased property shall belong to the lessee at the expiry of the lease term, the lessee has paid the majority of the rent but is unable to pay the remaining rent, and the lessor rescinds the contract for this reason and recovers the leased property, if the value of the leased property recovered exceeds the rent and other expenses which the lessee owes to the lessor, the lessee may request corresponding return from the lessor.

When the parties agree that the leased property belongs to the lessor at the expiry of the lease term, if the lessee is unable to return the leased property because the leased property is damaged, lost, attached to, or incorporated into another property, the lessor shall have the right to request the lessee to make reasonable compensation.

Article 759 Where the parties agree that the lessee is required only to pay a nominal price to the lessor at the expiry of the lease term, the ownership of the leased property shall be treated as passing to the lessee after the agreed obligation to pay rent has been performed.

Article 760 When a financial leasing contract is void, if the parties agree on the ownership of the leased property under the circumstances, the agreement shall prevail; or absent such agreement, or if the agreement is not clear, the leased property shall be returned to the lessor. However, if the contract becomes void because of the lessee, and the lessor fails to request return, or the return is to significantly reduce the effectiveness of the leased property, the ownership of the leased property shall pass to the lessee, and the lessee shall give the lessor reasonable compensation.

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Chapter XVI Factoring Contracts

Article 761 A factoring contract is a contract by which an accounts receivable creditor assigns existing or future accounts receivable to a factor, who provides financial facilities, management or collection of accounts receivable, assurance of payment from accounts receivable debtors, and other services.

Article 762 The contents of a factoring contract generally include business type, service scope, service term, information on underlying transaction contracts, information on accounts receivable, proceeds of factoring financing or service remuneration, and payment method.

A factoring contract shall be in written form.

Article 763 Where an accounts receivable creditor and debtor fabricate accounts receivable as the subject matter of assignment and enter into a factoring contract with a factor, the accounts receivable debtor shall not set up the nonexistence of accounts receivable against the factor, unless the factor knows the fabrication.

Article 764 A factor shall state its identity as a factor and attach necessary documents when issuing a notice of assignment of accounts receivable to the accounts receivable debtor.

Article 765 Where after an accounts receivable debtor receives a notice of assignment of accounts receivable, the accounts receivable creditor and debtor negotiate the modification or termination of the underlying transaction contract without justification, which adversely affects the factor, the modification or termination shall be without effect against the factor.

Article 766 Where the parties agree on recourse factoring, the factor may claim the return of the principal and interest of factoring financing or buyback of the accounts receivable against the accounts receivable creditor, or claim the accounts receivable against the accounts receivable debtor. In the latter case, the remainder, if any, after the deduction of the principal and interest of factoring financing and related expenses shall be returned to the accounts receivable creditor.

Article 767 Where the parties agree on non-recourse factoring, the factor shall claim accounts receivable against the accounts receivable debtor and is not required to return to the accounts receivable creditor any excess acquired by the factor over the principal and interest of factoring financing and related expenses.

Article 768 Where an accounts receivable creditor enters into multiple factoring contracts for the same accounts receivable, causing multiple factors to assert their rights, the factor that has made registration shall acquire the accounts receivable in preference to the factor that has not made registration; if each factor has made registration, the accounts receivable shall be acquired in the order of the time of registration; if none has made registration, the factor stated in the notice of assignment that first reaches the accounts receivable debtor shall acquire the accounts receivable; and absent registration and notice, the accounts receivable shall be acquired in proportion to the proceeds of factoring financing or service remuneration.

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Article 769 Where this Chapter is silent, the provisions on assignment of claims in Chapter VI of this Book shall apply.

Chapter XVII Contracts for Work

Article 770 A contract for work is a contract whereby the contractor shall, in light of the requirements of the ordering party, complete certain work and deliver the results therefrom, and the ordering party pays remuneration.

Work includes processing, ordering, repairing, duplicating, testing, inspecting, etc.

Article 771 The contents of a contract for work shall generally contain such clauses as the subject matter, quantity, quality, remuneration, method of the work, supply of materials, term of performance, standards and method of acceptance inspection.

Article 772 The contractor shall use its own equipment, skills and labor to complete the main part of the work, except as otherwise agreed upon by the parties. Where the contractor delegates the main contracted work to a third party for completion, the contractor shall be responsible to the ordering party in respect of the work results completed by the third party; however, if the assignment is not approved by the ordering party, the ordering party may rescind the contract.

Article 773 The contractor may delegate some ancillary work contracted to a third party for completion. Where the contractor delegates some ancillary work to a third party for completion, the contractor shall be responsible to the ordering party for the work result completed by a third party.

Article 774 Where the contractor is to supply the materials, the contractor shall select the materials in accordance with the contract and shall make such materials available for inspection by the ordering party.

Article 775 Where the ordering party is to supply the materials, it shall supply the materials in accordance with the contract. The contractor shall, in a timely manner, inspect the materials supplied by the ordering party, and if it discovers that they do not conform to the agreement in the contract, it shall, in a timely manner, notify the ordering party to replace them or supply what is lacking or take other remedial measures.

The contractor may not replace the materials supplied by the ordering party without authorization, and may not replace any components which do not need to be repaired.

Article 776 Where the contractor discovers that the drawings or technical requirements provided by the ordering party are unreasonable, it shall, in a timely manner, notify the ordering party. Where any losses are caused to the contractor due to the indolent reply of the ordering party and other reasons, the ordering party shall be liable for making compensation.

Article 777 Where the ordering party changes its requirements for the contracted work while the work is under way, thereby causing losses to the contractor, the ordering party shall be liable for making compensation.

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Article 778 Where the performance of the contracted work requires assistance of the ordering party, the ordering party shall have the obligation to provide assistance. Where the contracted work is unable to be completed due to the ordering party's failure in fulfilling its obligation of assistance, the contractor may urge the ordering party to perform its obligation within a reasonable time limit and may extend the term of its performance; where the ordering party fails to perform such obligation within the time limit, the contractor may rescind the contract.

Article 779 In the period of working, the contractor shall accept the necessary supervision over and inspection of the work by the ordering party. The ordering party may not obstruct the normal work of the contractor with the supervision and inspection.

Article 780 Upon the completion of the contracted work, the contractor shall deliver the work results to the ordering party and shall submit necessary technical materials and the relevant quality certificate. The ordering party shall conduct acceptance inspection of the work results.

Article 781 Where the work results delivered by the contractor fail to meet the quality requirements, the ordering party may reasonably choose to claim liability of the contractor for breach of contract by repairing, remaking, reducing remuneration, or compensating for losses.

Article 782 The ordering party shall pay the remuneration at the agreed time limit. Where the time limit of payment is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the ordering party shall pay it at the time when the contractor delivers the work results; where the work results are partially delivered, the ordering party shall make payment accordingly.

Article 783 Where the ordering party fails to pay the remuneration or cost for the materials, etc. to the contractor, the contractor is entitled to lien upon the work results or refuse to make delivery, except as otherwise agreed upon by the parties.

Article 784 The contractor shall keep the materials supplied by the ordering party and the completed work results with due care, and shall be liable for compensation in case of any damage or losses due to improper care.

Article 785 The contractor shall keep the relevant information confidential as required by the ordering party, and may not retain any replica or technical material without permission of the ordering party.

Article 786 Joint contractors are jointly and severally liable to the ordering party, except as otherwise agreed upon by the parties.

Article 787 The ordering party may rescind the contract at any time before the contractor completes the work, but it shall bear the liability for making compensation for losses, if the contractor suffers losses therefrom.

Chapter XVIII Contracts for Construction Projects

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Article 788 A contract for construction project is a contract whereby the contractor performs project construction and the employer pays the price. Contracts for construction projects include contracts for survey, design, and construction.

Article 789 A contract for construction project shall be in written form.

Article 790 Bidding for a construction project shall be conducted in an open, fair and impartial manner in accordance with the relevant laws.

Article 791 The employer 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 employer 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 employer, the prime contractor or the contractor for survey, design, or construction may delegate part of the contracted work to a third party. The third party and the prime contractor or the contractor for survey, design, or construction shall be jointly and severally liable to the employer in respect of the work product completed by such third party. The contractor may not assign in whole to any third party the contracted construction project, or divide the whole contracted construction project into several parts and separately assign each part to a third party 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 792 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 793 Where a contract for construction of a construction project is void, and the construction project passes the acceptance inspection, the contractor may be compensated by liquidation with reference to the stipulation about the project price in the contract.

If a contract for construction of a construction project is void, and the construction project fails the acceptance inspection, action shall be taken according to the following circumstances:

- (1) If the construction project as repaired passes the acceptance inspection, the employer may request the contractor to bear the repair costs.
- (2) If the construction project as repaired fails the acceptance inspection, the contractor has no right to request equivalent-value compensation with reference to the stipulation about the project price in the contract.

If the employer is at fault for the loss caused by the nonconformity of the construction project, the employer shall be correspondingly liable.

Article 794 A contract for survey or design generally includes terms such as the time limit for submission of the relevant basic information, budget estimate, and other

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documents, quality requirements, fees, and other conditions of cooperation, etc.

Article 795 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, etc.

Article 796 Where the construction project is subject to supervision, the employer shall enter into a commission contract of project supervision with a project supervisor in writing. The rights, obligations and associated legal liability of the employer and supervisor shall be prescribed in accordance with the provisions of this Book concerning commission contracts and the provisions of other relevant laws and administrative regulations.

Article 797 Provided that the employer does not interfere with the normal operation of the contractor, it may inspect the progress and quality of the work at any time.

Article 798 In the case of concealed work, the contractor shall give the employer notice for inspection prior to concealment. Where the employer fails to conduct inspection in a timely manner, the contractor may extend the relevant project milestones, and is entitled to claim damages for work stoppage or work slowdown, etc.

Article 799 Upon completion of the construction project, the employer 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 employer 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 800 Where the employer 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 801 Where the construction project fails to meet the prescribed quality requirements due to any reason attributable to the constructor, the employer is entitled to require the constructor to repair, re-construct or make alteration gratuitously 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 802 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 in damages.

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Article 803 Where the employer 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 804 If an ongoing project is stopped or delayed due to any reason attributable to the employer, the employer 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.

Article 805 Where in the course of survey or design, any repeating work, work stoppage or change of design occurs due to the employer'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 employer shall pay additional fees in light of the actual amount of work done by the surveyor or designer.

Article 806 Where a contractor assigns the whole or illegally subcontracts any part of the construction project, the employer may rescind the contract.

If a employer furnishes main building materials, building components, and equipment not conforming to mandatory standards, or fails to perform its obligation to assist, rendering the contractor unable to perform construction, and fails to perform the corresponding obligation within a reasonable time limit after demand, the contractor may rescind the contract.

After the contract is rescinded, if the completed construction project is conforming in quality, the employer shall pay the corresponding project price as agreed; and if the completed construction project is nonconforming in quality, the provisions of Article 793 of this Code shall apply mutatis mutandis.

Article 807 If the employer failed to pay the price in accordance with the contract, the contractor may demand payment from the employer within a reasonable period.

Where the employer fails to pay the price at the end of such period, the contractor may enter into an agreement with the employer 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 808 Where this Chapter is silent, the provision on contracts for work shall apply.

Chapter XIX Transportation Contracts

Section 1 General Rules

Article 809 A transportation contract is a contract whereby the carrier carries passengers or cargoes from the starting place of carriage to the agreed destination, and the passenger, consignor or consignee pays for the ticket-fare or freight.

Article 810 A carrier engaged in public transportation may not refuse the normal and

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reasonable carriage request of a passenger or consignor.

Article 811 The carrier shall safely carry the passengers or cargoes to the agreed destination within the agreed time or within a reasonable time.

Article 812 The carrier shall carry the passengers or cargoes to the agreed destination via the agreed route or the customary carriage route.

Article 813 A passenger, a consignor or a consignee shall pay the ticket-fare or freight. Where the carrier fails to carry the passengers or the cargoes via the agreed or customary carriage route, thereby increasing the ticket-fare or freight, the passenger, consignor or consignee may refuse to pay any increased portion thereof.

Section 2 Passenger Transportation Contracts

Article 814 A passenger transportation contract is established upon the carrier's issuance of the passenger ticket to the passenger, except as otherwise agreed upon by the parties or there are other usage of trade.

Article 815 A passenger shall board according to the time, service, and seat number stated in his valid passenger ticket. If the passenger boards without a ticket, exceeds the distance paid for, takes a higher class or higher berth than booked, or boards with a concessional ticket lacking eligibility for concession, he or she shall make up the payment for an appropriate ticket, and the carrier may charge an additional payment in accordance with the relevant provisions. Where the passenger fails to pay the ticket-fare, the carrier may deny transportation.

If a passenger under a non-anonymous passenger transportation contract loses his ticket, he or she may request loss registration and a replacement from the carrier, and the carrier shall not further charge a fare or any other unreasonable fee.

Article 816 Where the passenger is unable to board the means of transportation at the time stated on the passenger ticket due to any reason attributable to himself, he or she shall undergo the formalities for ticket cancellation and refund or for ticket modification within the agreed period. Where the passenger fails to do so within the period, the carrier may refuse to refund the ticket-fare, and no longer bear the obligation of carriage.

Article 817 A passenger's carry-on luggage shall conform to the agreed quantity limit and category requirements; and in the case of non-conformity, luggage check-in procedures shall be performed.

Article 818 The passenger may not bring with him or pack in the luggage flammable, explosive, toxic, corrosive, or radioactive, and dangerous articles that might endanger the life and property on board the means of transportation or contraband. Where the passenger violates the provisions of the preceding paragraph, the carrier may unload, destroy or turn over to the relevant authority the dangerous articles or contraband articles. Where the passenger insists on carrying in person or placing in his luggage the dangerous articles or contraband articles, the carrier shall deny transportation.

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Article 819 A carrier shall strictly perform its obligations of safe transportation, and notify, in a timely manner, passengers of the matters that should be noted for safe transportation. A passenger shall actively assist and cooperate with the carrier in the reasonable arrangements made for safe transportation.

Article 820 The carrier shall carry a passenger according to the time, service, and seat number stated on his valid passenger ticket. Where the carrier delays in carriage or is otherwise unable to normally perform carriage, it shall notify and caution the passenger, take necessary accommodating measures, and, upon request by the passenger, either arrange the passenger to use another service or refund the ticket-fare; and if the passenger sustains loss as a result, the carrier shall be liable for compensation, except through no fault of the carrier.

Article 821 Where the carrier unilaterally lowers the standards of service, it shall, upon request by the passenger, refund the ticket-fare or lower the price of the ticket; where the service standards are enhanced, no additional ticket-fare shall be charged.

Article 822 In the course of carriage, the carrier shall give its best efforts to assist the passenger who is seriously ill, or who is giving birth to a child or whose life is at risk.

Article 823 The carrier shall be liable for compensation in case of injury or death of the passenger in the course of carriage, except where such injury or death is attributable to the passenger's own health, or the carrier proves that such injury or death is caused by the passenger's intentional misconduct or gross negligence. The provisions in the preceding paragraph apply to a passenger who is exempted from buying a ticket or holds a preferential ticket pursuant to the relevant provisions, or who is permitted by the carrier to be on board without a ticket.

Article 824 Where an article that the passenger takes with him on board is damaged or destroyed during the period of carriage, the carrier shall be liable for compensation if it has committed faults.
Where the passenger's check-in luggage is damaged or lost, the relevant provisions on the carriage of cargoes shall be applied.

Section 3 Cargo Transportation Contracts

Article 825 In undergoing the formalities for cargoes, the consignor shall precisely indicate to carrier the name of the consignee or the consignee by order, the name, nature weight, amount and the place for taking delivery of the cargoes, and other information necessary for cargo carriage.
Where the carrier suffers from damage due to untrue declaration or omission of important information by the consignor, the consignor shall be liable for compensation.

Article 826 Where carriage of the cargo is subject to such procedures as examination and approval or inspection, the consignor shall submit to the carrier the documents of fulfillment of the relevant procedure.

Article 827 The consignor shall pack the cargo in the agreed manner. Where the packing manner is not agreed or the agreement is not clear, the provisions of Article

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619 of this Code shall be applied.

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

Article 828 In consigning any dangerous articles which are inflammable, explosive, toxic, corrosive, or radioactive, the consignor shall, in accordance with the provisions of the state on the carriage of dangerous articles, properly pack the dangerous articles and affix thereon signs and labels for dangerous articles, and shall submit the written papers relating to the number and measures of precaution to the carrier.

If the consignor violates the provisions of the preceding paragraph, the carrier may refuse to carry, and may also take corresponding measures to avoid losses, expenses thus caused shall be borne by the consignor.

Article 829 Prior to carrier's delivery of the cargoes to the consignee, the consignor may request the carrier to suspend the carriage, return the cargoes, change the destination or deliver the cargoes to another consignee, but it shall compensate the carrier for any losses thus caused.

Article 830 Upon arrival of the cargoes, if the carrier has the knowledge of the consignee, it shall, in a timely manner, notify the consignee and the consignee shall, in a timely manner, take delivery. Where the consignee takes delivery exceeding the time limit, it shall pay such expenses as storage of the goods, etc.

Article 831 Upon taking delivery of the cargoes, the consignee shall inspect the cargoes at the agreed time. Where the time for inspection is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the consignee shall inspect the cargo within a reasonable time limit. The consignee's failure to raise any objection on the quantity of, or any damage to, the cargoes within the agreed time limit or within a reasonable time limit is deemed prima facie evidence of delivery by the carrier in compliance with the description in the transportation documents.

Article 832 The carrier is liable for compensation in case of damage to or loss of the cargoes in the course of carriage, provided that it is not liable for compensation if it proves that such damage to or loss of the cargoes is caused by force majeure, the intrinsic characteristics of the cargoes, reasonable depletion, or the fault of the consignor or consignee.

Article 833 Where the parties agree on the amount of damages in case of damage to or loss of the cargoes, the damages payable is the agreed amount; if the amount of damages is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, it shall be calculated on the basis of the prevailing market price at the destination when the cargoes are or ought to be delivered. Where a law or administrative regulation provides otherwise for the measures for the calculation of damages and of the ceiling of the amount of damages, these provisions shall be applied.

Article 834 Where two or more carriers jointly carry the cargoes using the same means of transportation, the carrier contracting with the consignor shall be responsible for the whole course of carriage. Where the losses occurred at a particular segment,

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the carrier contracting with the consignor and the carrier for such segment are jointly and severally liable.

Article 835 Where the cargoes are lost in the course of carriage due to force majeure, if the freight has not been collected, the carrier may not request the payment thereof; if the freight has been collected, the consignor may request the refund of the freight, except as otherwise provided by the law.

Article 836 Where the consignor or consignee fails to pay the freight, storage fees or other expenses, the carrier is entitled to lien on the relevant carried cargoes, except as otherwise agreed upon by the parties.

Article 837 Where the consignee is not clear or refuses to take delivery of the cargoes without justified reasons, the carrier may tender and deposit the cargo according to the law.

Section 4 Multimodal Transport Contracts

Article 838 A multimodal carriage operator is responsible for performing, or arranging for performance of, the multimodal transportation contract, and it enjoys the rights and assumes the obligations of a carrier throughout the course of carriage.

Article 839 The multimodal carriage operator and the segment carriers may enter into agreements on their respective duties concerning each segment, provided that the obligations of the multimodal carriage operator with respect to the entire course of carriage are not affected by any such agreement.

Article 840 Upon receipt of the cargo delivered by the consignor, the multimodal carriage operator shall issue thereto a multimodal carriage document. The multimodal carriage document may either be assignable or non-assignable as required by the consignor.

Article 841 Where the multimodal 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 compensation notwithstanding its subsequent assignment of the multimodal carriage document.

Article 842 Where damage to or loss of the cargo occurred within a particular segment of the course of a multimodal carriage, the multimodal 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 is damaged or lost cannot be determined, the liability for compensation shall be borne in accordance with the provisions of this Chapter.

Chapter XX Technology Contracts

Section 1 General Rules

Article 843 A technology contract is a contract the parties conclude for establishing their rights and obligations in respect of the development, transfer, or licensing of

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technology, or in respect of technical consulting or service.

Article 844 The conclusion of a technology contract shall be conducive to the protection of intellectual property rights and advancement of science and technology, and promote the research and development, conversion, application and dissemination of scientific and technological achievements.

Article 845 The contents of a technology contract shall generally include the name, content of the subject matter, scope, and requirements of the project; the plan, place, and method for performance; confidentiality of technical information and materials; ownership of the technology and methods for allocating benefits accrued therefrom; standards and method for acceptance inspection; definition of terms and phrases. 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.

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

Article 846 The method for payment of the price, remuneration or licensing fee under a technology contract shall be agreed upon by the parties, who may agree upon lump-sum payment based on one-time calculation or installment payment based on one-time calculation, and may also agree upon royalty payment or royalty payment plus advance payment of initial fee.

Where a royalty payment method is agreed upon, 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 know-how, profit, or product sales, and may also be calculated by any other method agreed upon by the parties. The royalty rate may be fixed or subject to annual increase or decrease.

Where a royalty payment is agreed, the parties may agree a method for inspection of the relevant accounting items.

Article 847 Where the right to use and the right to transfer job-related technology belong to a legal person or an unincorporated organization, the legal person or unincorporated organization may enter into a technology contract in respect of such job-related technology. Where the legal person or unincorporated organization is to enter into a technology contract for the transfer of the job-related technology, the individual who accomplished this technological achievement shall have the priority to be the transferee under the same conditions.

A job-related technology is a technology developed in the course of completing a task assigned by a legal person or an unincorporated organization, or developed by primarily utilizing the material and technical resources thereof.

Article 848 The right to use and the right to transfer non-job-related technology belong to the individual developer, who may enter into a technology contract in respect thereof.

Article 849 The individual who has developed a technology is entitled to identify

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himself as the developer in the documentation related thereto, and to receive honor certificate and reward.

Article 850 A technology contract which illegally monopolizes technology or infringes on the technology of a third party is void.

Section 2 Technology Development Contracts

Article 851 A technology development contract is a contract concluded in respect of the development of a new technology, product, technique, variety, or material and the associated system.

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

A technology development contract shall be in written form.

The provisions on technology development contracts shall apply mutatis mutandis to a contract between parties on the conversion of a scientific and technological achievement of practical value.

Article 852 The commissioning party under a commissioned development contract shall, in accordance with the contract, pay development funds and remuneration, supply technical materials, propose requirements for research and development, complete its tasks of cooperation, and accept the developed technology.

Article 853 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, complete the development as scheduled, deliver the developed technology, provide the relevant technical materials and necessary technical guidance, and help the commissioning party master the technology developed.

Article 854 Where a party to the commissioned development contract violates the agreement, resulting in the stoppage of, delay in, or failure of the research and development work, the party shall be liable for breach of contract.

Article 855 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 856 Where a party to a cooperative development contract breaches the contract, thereby causing stoppage, delay or failure of the development, it shall be liable for the breach of contract.

Article 857 Where the technology which is the subject matter of a technology development contract is made public by a third party, thereby making the performance of the technology development contract meaningless, the parties may rescind the contract.

Article 858 If, in the course of implementing a technology development contract, the development is failed in whole or in part due to any insurmountable technical

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difficulty, allocation of the responsibility for such risk shall be agreed upon by the parties. Where the allocation of responsibility for such risk is not agreed upon or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, it shall be shared by the parties in a reasonable manner.

Where a party discovers any circumstance which may lead to the failure of the development in whole or in part as described in the preceding paragraph, it shall, in a timely manner, notify the other party and take the appropriate measures to mitigate loss; where the party fails to notify, in a timely manner, the other party and take the appropriate measures, thereby aggravating the losses, it shall be liable for the aggravation.

Article 859 Unless otherwise provided by the law or agreed upon by the parties, the right to apply for patent on the invention-creation resulting from a commissioned development belongs to the developer. Where the developer is granted a patent, the commissioning party may exploit such patent gratuitously.

Where the developer is to assign the right to apply for patent on the Invention or innovation resulting from the commissioned development, the commissioning party shall have the right to priority in acquiring such right under the same conditions.

Article 860 Unless otherwise agreed upon by the parties, the right to apply for patent on the invention-creation resulting from a cooperative development belongs to the parties therein jointly; and where a party is to assign its joint patent application right, the other parties shall have the right to priority in acquiring such right under the same conditions.

Where a party in the cooperative development states 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, unless otherwise agreed upon by the parties. Where the applicant acquires patent, the party waiving its patent application right may exploit such patent gratuitously.

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 861 The right to use and transfer the know-how resulting from a commissioned or cooperative development, and the method for allocation of income shall be agreed upon by the parties. Where such matters are not agreed or the agreement is not clear, nor can they be determined in accordance Article 510 of this Code, each party is entitled to use and transfer the technology, before a patent is granted on the same technical solution, provided that the developer in a commissioned development may not transfer the technology to a third party before it delivers the technology to the commissioning party.

Section 3 Technology Transfer Contracts and Technology License Contracts

Article 862 A technology transfer contract is a contract by which a right holder that legally owns technology assigns rights related to an existing specific patent, patent application, or know-how to another person.

A technology licensing contract is a contract by which a right holder who legally owns technology licenses another person to exploit and use rights related to an existing specific patent and know-how.

The stipulations in a technology transfer contract or technology licensing contract

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regarding the provision of special equipment and raw materials for the exploitation of the technology, or that of related technical consulting and technical services are an integral part of the contract.

Article 863 Technology transfer contracts include contracts for the assignment of patent, assignment of patent application right, and transfer of know-how, among others.

Technology licensing contracts include patent licensing, know-how licensing, and other contracts.

Technology transfer contracts and technology licensing contracts shall be in written form.

Article 864 A technology transfer contract or technology licensing contract may set forth the scope of exploitation of the patent or the use of the know-how by the transferor and the transferee, provided that it may not restrict technological competition and technological development.

Article 865 A patent licensing contract is valid only when the patent subsists. 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 866 The licensor under a patent licensing contract shall, in accordance with the contract, license the licensee to exploit the patent, deliver the technical materials related to the exploitation of the patent, and provide the necessary technical guidance.

Article 867 The licensee under a patent licensing contract shall exploit the patent in accordance with the contract and may not license the patent to any third party except as provided for in the contract; and shall pay the licensing fee in accordance with the contract.

Article 868 A transferor under a contract for transfer of know-how or a licensor under a know-how licensing contract 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. For the purpose of the preceding paragraph, the confidentiality obligation does not restrict the licensor from applying for a patent, unless otherwise agreed by the parties.

Article 869 The transferee under a contract for transfer of know-how, or a licensee under a know-how licensing contract, shall, in accordance with the contract, use the technology, pay the proceeds of transfer, licensing fee and abide by its confidentiality obligations.

Article 870 The transferor under a technology transfer contract or licensor under a technology licensing 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 871 The transferee under a technology transfer contract or licensee under a technology licensing contract shall, in conformity with the scope and the period as agreed upon in the contract, abide by its confidentiality obligations in respect of the

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non-public and secret portion of the technology provided by the transferor or licensor.

Article 872 Where the licensor fails to license technology in accordance with the contract, it shall refund the licensing fee in part or in whole, and shall be liable for the breach of contract; where the licensor exploits the patent or uses the know-how beyond the agreed scope, or unilaterally allows the patent to be exploited or the know-how to be used by a third party in breach of the contract, it shall cease the breach and be liable for the breach of contract; where the licensor breaches any agreed confidentiality obligation, it shall be liable for the breach of contract. If a transferor is liable for breach of contract, the provisions of the preceding paragraph shall apply mutatis mutandis.

Article 873 Where the licensee fails to pay the agreed licensing fee, it shall pay the overdue licensing fee and pay breach of contract damages in accordance with the contract; where it fails to pay the overdue licensing fee and breach of contract damages, it shall cease exploitation of the patent or use of the know-how, return the technical materials, and be liable for the breach of contract; where the licensee exploits the patent or uses the know-how beyond the agreed scope, or allows the patent to be exploited or the know-how to be used by a third party without consent of the licensor in breach of the contract, it shall cease the breach and be liable for the breach of contract; where the licensee breaches any agreed confidentiality obligation, it shall be liable for the breach of contract. If a transferee is liable for breach of contract, the provisions of the preceding paragraph shall apply mutatis mutandis.

Article 874 Where the exploitation of the patent or the use of the know-how by a transferee or licensee in accordance with the contract infringes on the lawful interests of any other person, the liability shall be borne by the transferor or licensee, except as otherwise agreed upon by the parties.

Article 875 The parties may, on the basis of mutual benefit, provide in the contract for the method of sharing any subsequent improvement resulting from the exploitation of the patent or use of the know-how. If such method is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, neither party is entitled to share any subsequent improvement made by the other party.

Article 876 The relevant provisions of this Section shall apply mutatis mutandis to the assignment and licensing of other intellectual property rights such as exclusive rights of integrated circuit layout design, rights to new plant varieties, and copyright of computer software.

Article 877 Where the relevant laws or administrative regulations provide otherwise in respect of technology import or export contracts or in respect of patent contracts or contracts for patent application, such provisions shall prevail.

Section 4 Technical Consulting Contracts and Technical Service Contracts

Article 878 A technical consulting contract is a contract by which a party with technical knowledge provides the other party with feasibility studies, technical forecast, specialized technical investigation, and analysis and evaluation report,

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among others, in respect of a particular technical project.

A technical service contract is a contract whereby one party solves a particular technical problem for the other party by utilizing its technical knowledge, other than a contract of work or contract for construction project.

Article 879 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 accept the work product from, and pay the remuneration to, the consultant.

Article 880 The consultant under a technical consulting contract shall complete the consulting report or answer the question within the agreed period, and the consulting report submitted shall comply with the requirements set forth in the contract.

Article 881 Where the client under a technical consulting contract fails to provide the necessary materials in accordance with the contract, thereby impairing the progress and quality of the work, or fails to accept or delays in accepting the work result, it may not claim refund of the remuneration paid, and shall pay any unpaid remuneration.

Where the consultant under the technical consulting contract fails to provide the consulting report within the agreed period or the consulting report submitted does not comply with the contract, it shall be liable for the breach of contract by way of reducing or foregoing the remuneration, etc.

The client under a technical consulting contract shall be liable for the loss resulting from any decision made by it based on the complying consulting report and opinion provided by the consultant, except as otherwise agreed upon by the parties.

Article 882 The client under a technical service contract shall, in accordance with the contract, provide the working conditions and complete its tasks of cooperation, and accept the work results and pay the remuneration.

Article 883 The service provider under a technical service contract shall, in accordance with the contract, complete the service project, solve the technical problem, warrant the quality of its work, and communicate the knowledge for solving the technical problem.

Article 884 Where the client under a technical service contract fails to perform its contractual obligations, or the performance is not in conformity with the contract, thereby impairing the progress and quality of the work, or fails to accept or delays in accepting the work results, it may not claim refund of the remuneration paid, and shall pay any unpaid remuneration.

Where the service provider under a technical service contract fails to provide services as agreed, it shall be liable for the breach of contract by way of forgoing the remuneration, etc.

Article 885 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 results provided by the consultant or service provider belongs

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to the client. If the parties agree otherwise, such agreement shall prevail.

Article 886 Where a technical consulting contract or technical service contract is silent on, or is not clear in, the payment of the expenses necessary for the consultant or service provider to normally conduct work, the consultant or service provider shall pay the expenses.

Article 887 Where a relevant law or administrative regulation provides otherwise in respect of technology intermediary service contracts or technical training contracts, such provisions shall prevail.

Chapter XXI Deposit Contracts

Article 888 A deposit contract is a contract whereby the depositary keeps the deposited property delivered by the depositor and eventually restores it thereto. If a depositor engages in activities such as shopping, dining, and accommodation at the depositary and deposit its property in the designated place, deposit shall be treated as taking place, subject to the agreement between the parties or usage of trade.

Article 889 The depositor shall pay a deposit fee to the depositary as agreed. Where the deposit fee is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the deposit shall be treated as being gratuitous.

Article 890 A deposit contract is formed upon delivery of the deposited property, except as otherwise agreed upon by the parties.

Article 891 Upon the depositor's delivery of the deposited property to the depositary, the depositary shall issue a deposit document thereto, subject to the usage of trade.

Article 892 The depositary shall keep the deposited property with due care. The parties may agree the place and manner of deposit. The place and manner of deposit may not be changed without authorization, except in an emergency situation or for the purpose of protecting the depositor's interests.

Article 893 Where the deposited property delivered by the depositor is defective or requires special deposit measures in light of its nature, the depositor shall inform the depositary of the relevant situation. Where the depositor fails to do so, thereby causing damage to the deposited property, the depositary shall be exempt from liability for compensation; where the depositary sustains any loss as a result, the depositor shall be liable for compensation, except where the depositary knows or should have known the situation and fails to take remedial measures.

Article 894 The depositary may not delegate deposit of the deposited property to a third party, except as otherwise agreed upon by the parties. Where the depositary delegated deposit of the deposited property to a third party in violation of the provisions of the preceding paragraph, thereby causing damage to the deposited property, the depositary shall be liable for compensation.

Article 895 The depositary may neither use nor permit a third party to use the

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deposited property, except as otherwise agreed upon by the parties.

Article 896 Where a third party makes a claim on the deposited property, the depositary shall perform its obligation of restoring the deposit to the depositor, except where preservation or enforcement measures are taken against the deposited property in accordance with the law.

Where a third party institutes an action against the depositary or applies for attachment of the deposited property, the depositary shall, in a timely manner, notify the depositor.

Article 897 If the deposited property is damaged or lost due to improper keeping by the depositary during the deposit period, the depositary shall be liable for compensation, but if a depositary by gratuitous title proves the absence of its intention or gross negligence, it shall be exempt from liability for compensation.

Article 898 Where the depositor deposits money, denominated securities, or any other valuable property, it shall make a declaration to the depositary on such property, which shall be inspected or sealed by the depositary. Where the depositor fails to make such declaration and the property is damaged, destroyed or lost afterwards, the depositary may make compensation as if it were ordinary property.

Article 899 The depositor may reclaim the deposited property at any time.

Where a deposit period is not agreed or the agreement is not clear, the depositary may request the depositor to reclaim the deposited property at any time; where a deposit period is agreed, without special reason, the depositary may not request the depositor to reclaim the deposited property before the expiry of the deposit period.

Article 900 At the expiry of the deposit period, or if the depositor reclaims the deposited property before the expiry of the deposit period, the depositary shall restore the original property together with any fruit thereof to the depositor.

Article 901 Where the depositary keeps custody of money, it may restore money of the same type and quantity. Where the depositary keeps any other fungible property, it may restore any property of the same type, quality and quantity in accordance with the contract.

Article 902 Under an onerous deposit contract, the depositor shall pay to the depositary the deposit fee at the agreed time.

Where the time of payment of the deposit fee is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the deposit fee shall be paid at the same time the deposit is retrieved.

Article 903 Where the depositor fails to pay the deposit fee or other expenses, the depositary is entitled to lien on the deposited property, unless as otherwise agreed upon by the parties.

Chapter XXII Warehousing Contracts

Article 904 A warehousing contract is a contract whereby the depositary stores the warehoused property delivered by the depositor, and the depositor pays the

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warehousing fee.

Article 905 A warehousing contract is formed when the depositary and the depositor agree by declaration of will.

Article 906 Where the depositor intends to store any dangerous article which is inflammable, explosive, toxic, corrosive, or radioactive, etc., or any material susceptible to deterioration, it shall indicate the nature of the property and provide the relevant information.

Where the depositor violates the provisions of the preceding paragraph, the depositary may reject the warehoused property and may also take the appropriate measures to avoid losses, the cost consequently incurred shall be borne by the depositor.

Where the depositary is to store any dangerous article that is inflammable, explosive, toxic, corrosive, or radioactive, etc., it shall be equipped with the appropriate safekeeping conditions.

Article 907 The depositary shall inspect the received warehoused property as agreed. Where in the course of such inspection, the depositary discovers that the warehoused property is not in conformity with the agreement, it shall, in a timely manner, notify the depositor. After acceptance inspection by the depositary, if it is discovered that the category, quantity or quality of the warehoused property is not in conformity with the agreement, the depositary shall be liable for compensation.

Article 908 Upon the depositor's delivery of the warehouse property, the depositary shall issue a warehouse receipt, property received note, and other documents.

Article 909 The depositary shall sign its name or seal the warehouse receipt. The warehouse receipt shall contain the following:

- (1) Name and domicile of the depositor.
- (2) Category, quantity, quality, and package, number of pieces and marks of the warehoused property.
- (3) Standards of spoilage of the warehoused property.
- (4) Place of storage.
- (5) Warehousing period.
- (6) Warehousing fee.
- (7) If the warehoused property has been insured, the insured amount, term of insurance and the name of the insurer.
- (8) Name of the person issuing the warehouse receipt, the place and the date of issuance.

Article 910 The warehouse receipt is the voucher for taking delivery of the warehoused property. Where the depositor or holder of the warehouse receipt has endorsed the warehouse receipt and the depositary has signed its name or sealed thereon, the right to take delivery of the warehoused property may be assigned.

Article 911 Upon request of the depositor or the holder of the warehouse receipt, the depositary shall allow the person to inspect the warehoused property or take samples therefrom.

Article 912 Where the depositary discovers that the warehoused property is

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deteriorating or are otherwise damaged, it shall, in a timely manner, notify the depositor or holder of the warehouse receipt.

Article 913 Where the depositary discovers that the warehoused property is deteriorating or are otherwise damaged, thereby endangering the safety and normal safekeeping of other warehoused property, it shall demand disposal of the warehoused property by the depositor or the holder of the warehouse receipt as necessary. In an emergency situation, the depositary may dispose of the warehoused property as necessary, but shall, in a timely manner, notify the depositor or holder of the warehouse receipt of the situation.

Article 914 Where the warehousing period is not agreed or the agreement is not clear, the depositor or holder of the warehouse receipt may take delivery of the warehoused property at any time, and the depositary may request the depositor or holder of the warehouse receipt to take delivery of the warehoused property at any time, provided that the other party shall be given the time required for preparation.

Article 915 At the expiry of the warehousing period, the depositor or holder of the warehouse receipt shall take delivery of the warehoused property by presenting the warehouse receipt and property received note, among others, to the depositary. Where the depositor or holder of the warehouse receipt fails to take delivery of the warehoused property, additional warehousing fees shall be charged; where delivery of the warehoused property is taken before the expiry the warehousing period, the warehousing fee shall not be reduced.

Article 916 At the expiry of the warehousing period, if the depositor or holder of the warehouse receipt fails to take delivery of the warehoused property, the depositary may demand delivery taken within a reasonable period, and if the delivery of the warehoused property is not taken at the expiry of such period, the depositary may tender and deposit the warehoused property.

Article 917 Where the warehoused property is damaged or lost during the warehousing period due to improper keeping by the depositary, it shall be liable for compensation. If the warehoused property is deteriorated or damaged because the warehoused property does not conform to the agreement in terms of its natural nature and packing, or passes its expiration date for storage, the depositary shall be exempt from liability for compensation.

Article 918 Matters not provided for in this Chapter shall be governed by the relevant provision on deposit contracts.

Chapter XXIII Contracts of Mandate

Article 919 A contract of mandate is a contract whereby the mandator and the mandatary agree that the mandatary handles the affairs of the mandator.

Article 920 The mandator may specifically mandate the mandatary to handle one or more of its affairs, or generally mandate the mandatary to handle all of its affairs.

Article 921 The mandator shall advance the expenses for handling the affairs under

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the mandate. For any expense necessary for handling the affairs under the mandate advanced by the mandatary, the mandator shall make reimbursement for the expense with interest.

Article 922 The mandatary shall handle the affairs under the mandate in accordance with the instruction of the mandator. Any required deviation from the mandator's instruction is subject to consent of the mandator; in an emergency where the mandatary has difficulty in contacting the mandator, the mandatary shall properly handle the affair under the mandate but shall, in a timely manner, report it to the mandator thereafter.

Article 923 The mandatary shall personally handle the affair under the mandate. Subject to consent by the mandator, the mandatary may delegate the mandate to a third party. If the delegation is approved or ratified, the mandator may issue instructions concerning the affair under the mandate directly to the delegatee, and the mandatary is only responsible for its selection of the delegatee or its own instruction thereto. Where the mandate is delegated without consent or ratification, the mandatary shall be liable for any act of the delegatee, except in an emergency where the mandatary needs to delegate the mandate to a third party in order to safeguard the interests of the mandator.

Article 924 Upon request by the mandator, the mandatary shall report on the progress of the affair under the mandate. Upon termination of the contract of mandate, the mandatary shall render an account of the affair under the mandate.

Article 925 Where the mandatary, acting within the scope of authority granted by the mandator, enter into a contract in its own name with a third party who is aware of the mandate relationship between the mandator and mandatary, the contract is directly binding upon the mandator and such third party, except where there is conclusive evidence that the contract is only binding upon the mandatary and such third party.

Article 926 Where the mandatary contracts in its own name with a third party who is not aware of the mandate relationship between the mandatary and the mandator, if the mandatary fails to perform its obligation toward the mandator due to any reason attributable to such third party, the mandatary shall disclose the third party to the mandator, allowing it to exercise the mandatary's rights against such third party, except where the third party would not have contracted with the mandatary if he or she knew the mandator at the time of contracting.

Where the mandatary fails to perform its obligation toward the third party because of the mandator, the mandatary shall disclose the mandator to the third party, allowing the third party to select in alternative either the mandator or the mandatary as the other contract party against whom rights are asserted, provided that the third party may not subsequently modify its selection of the opposite party.

Where the mandator exercises the rights of the mandatary against the third party, the third party may avail itself of any defense it has against the mandatary. Where the third party selects the mandator as the other party to the contract, the mandator may avail itself of any defense it has against the mandatary as well as any defense the mandatary has against the third party.

Article 927 Any property acquired by the mandatary in the course of handling the

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affair under the mandate shall be turned over to the mandator.

Article 928 Upon completion of the affair under the mandate by the mandatary, the mandator shall pay the remuneration thereto as agreed.

Where the contract of mandate is rescinded or the affair under the mandate is not capable of being completed due to any reason not attributable to the mandatary, the mandator shall pay to the mandatary an appropriate amount of remuneration. If the parties agree otherwise, such agreement shall prevail.

Article 929 Under an onerous contract of mandate, if the mandator sustains any loss through the fault of the mandatary, the mandator may claim damages. Under a gratuitous contract of mandate, if the mandator sustains any loss due to the mandatary's intention or gross negligence, the mandator may claim damages. Where the mandatary acts beyond its power, thereby causing loss to the mandator, it shall pay compensation for the loss.

Article 930 In the course of handling the affair under the mandate, if the mandatary sustains any loss due to a reason not attributable to itself, the mandatary may request compensation for the loss from the mandator.

Article 931 Subject to consent by the mandatary, the mandator may, in addition to mandating the mandatary, mandate a third party to handle the affair under the mandate. If such mandate results in loss to the mandatary, it may request compensation for the loss from the mandator.

Article 932 Where two or more mandataries jointly handle the affair under the mandate, they are jointly and severally liable to the mandator.

Article 933 Either the mandator or the mandatary may rescind the contract of mandate at any time. When the other party sustains any loss due to rescission of the contract, the rescinding party shall make compensation for the direct loss caused by the improper timing of rescission, as in the case of a gratuitous contract of mandate, or compensate the other party for the direct loss and the interests acquirable if the contract were performed, as in the case of an onerous contract of mandate, except for a cause not attributable to the rescinding party.

Article 934 Where a mandator is deceased or terminated, or a mandatary is deceased, incapacitated, or terminated, the contract of mandate is terminated, except where the parties agree otherwise, or where the termination is inappropriate in light of the nature of the affair under the mandate.

Article 935 Where the mandator is deceased, or is declared bankrupt or dissolved, resulting in the termination of the contract of mandate which will harm the mandator's interests, the mandatary shall continue to handle the affair under the mandate before the successor, administrator of estate, or liquidator of the mandator takes over the affair under the mandate.

Article 936 Where a contract of mandate is terminated because the mandatary dies or is incapacitated, declared bankrupt, or dissolved, the successor, estate administrator, legal representative, or liquidator of the mandatary shall, in a timely manner, notify

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the mandator. Where the termination of a contract of mandate is to harm the mandator's interests, before the mandator makes any remedial measures, the successor, estate administrator, legal representative, or liquidator of the mandatory shall take necessary measures.

Chapter XXIV Property Management Service Contracts

Article 937 A property management service contract is a contract by which a property management service provider provides an owner with property management services such as maintenance of buildings and auxiliary facilities, environmental cleaning, and management and maintenance of related order in the property management service area, and the owner pays a management fee.

Property management service providers include property management enterprises and other managers.

Article 938 The contents of a property management service contract generally include services, service quality, service fee rates and collection methods, use of maintenance funds, management and use of service premises, service term, and service handover. A service commitment made publicly by a property management service provider in favor of the owner is an integral part of the property management service contract. A property management service contract shall be in written form.

Article 939 The preliminary property management service contract entered into between a construction employer and a property management service provider according to the law, or the property management service contract entered into between an owners' committee and a property management service provider selected by the owners' meeting according to the law, shall be legally binding on owners.

Article 940 Where, prior to the expiration of the service term stipulated in the preliminary property management service contract entered into between a construction employer and a property management service provider according to the law, the property management service contract entered into by the owners' committee or owners and a new property management service provider becomes effective, the preliminary property management service contract shall be terminated.

Article 941 Where a property management service provider delegates some specialized services in the property management service area to a specialized service organization or any other third party, the property management service provider shall be responsible to owners for the specialized services.

A property management service provider shall not delegate to a third party all the property management services it should provide, or delegate all property management services as divided to third parties respectively.

Article 942 A property management service provider shall, in accordance with the agreement and the nature of the use of property, properly maintain, service, clean, green, and manage the part of the property management service area held in co-ownership by the owners, maintain the basic order in the property management service area, and take reasonable measures to protect the person and property of owners.

For any violation of the relevant laws and regulations on public security,

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environmental protection, and fire protection, among others, in the property management service area, the property management service provider shall, in a timely manner, take reasonable measures to stop the violation, make a report to the relevant authority, and assist in handling.

Article 943 A property management service provider shall regularly disclose to owners and report to the owners' meeting and the owners' committee on services, responsible personnel, quality requirements, chargeable items, fee rates, performance, the use of maintenance funds, and the management and income of the part held in co-ownership by owners, among others, in a reasonable manner.

Article 944 An owner shall pay a management fee to the property management service provider as agreed. If the property management service provider has provided services in accordance with the agreement and relevant provisions, the owner shall not refuse to pay the management fee on the grounds that it has not accepted or need not accept relevant property management services.

If the owner fails to pay the management fee overdue in breach of the agreement, the property management service provider may demand its payment within a reasonable time limit; and if no payment is made within the reasonable time limit, the property management service provider may institute an action or apply for arbitration.

The property management service provider may not collect the management fee by shutting off power, water, heat, or gas supply or any other means.

Article 945 When an owner remodels a property, he or she shall notify the property management service provider in advance, follow the reasonable matters to note given by the property management service provider, and cooperate with it in necessary on-site inspection.

If an owner transfers or leases the part of the property held in exclusive ownership, creates a right of habitation, or changes the use of the part held in co-ownership in accordance with the law, he or she shall, in a timely manner, inform the property management service provider of the relevant circumstances.

Article 946 Where owners jointly decide to expel the property management service provider in accordance with legal procedures, the property management service contract may be rescinded. In such a case, the property management service provider shall be notified in writing 60 days in advance, unless otherwise stipulated by contract. If the rescission of the contract under the preceding paragraph causes loss to the property management service provider, the owners shall make compensation for the loss, except for reasons not attributable to the owners.

Article 947 Where owners jointly decide in favor of further employment before the expiration of the term of property management services, they shall renew the property management service contract with the original property management service provider before the expiration of the contractual term.

If the property management service provider does not consent to further employment before the expiration of the term of property management services, the owners or the owners' committee shall be notified in writing 90 days before the expiration of the contractual term, unless otherwise stipulated by contract.

Article 948 Where, after the expiration of the term of property management services,

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owners fail to make a decision in favor of further employment or of the employment of another property management service provider according to the law, and the property management service provider continues to provide property management services, the original property management service contract continues to be with effect, but with an indeterminate term.

Either party may rescind the indeterminate-term property management service contract at any time, but shall notify the other party in writing 60 days in advance.

Article 949 Where the property management service contract is terminated, the original property management service provider shall vacate the property management service area within an agreed or reasonable time limit, surrender the property management service premises, related facilities, and relevant information necessary for property management services, among others, to the owners' committee, owners who decide to exercise management themselves, or the person designated by them, cooperate with the new property management service provider in effectively conducting handover work, and truthfully state the use and management status of property.

If the original property management service provider violates the provisions of the preceding paragraph, he or she shall not request the owners to pay the management fee after the termination of the property management service contract; and if loss is caused to the owners, he or she shall make compensation for the loss.

Article 950 Between the termination of a property management service contract and the handover to the new property management service provider selected by owners or the owners' meeting or to the owners who decide to exercise management themselves, the original property management service provider shall continue to provide property management services, and may request the owners to pay the management fee for the period.

Chapter XXV Commission Agent Contracts

Article 951 A commission agent contract is a contract whereby the commission agent conducts trading activities in its own name for the principal, and the principal pays the remuneration.

Article 952 The expenses incurred by the commission agent in the course of handling the commissioned affair shall be borne by the commission agent, except as otherwise agreed upon by the parties.

Article 953 Where the commission agent is in possession of the entrusted item, it shall keep the entrusted item with due care.

Article 954 Where an entrusted item is defective, perishable or susceptible to deterioration at the time it was delivered to the commission agent, upon consent by the principal, the commission agent may dispose of the item; where it is unable to contact the principal in time, it may dispose of the entrusted item in a reasonable manner.

Article 955 Where the commission agent is to sell the entrusted item below, or buy the entrusted item above, the price designated by the principal, it shall obtain consent

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from the principal. If such sale is effected without consent by the principal, and the commission agent makes up the deficiency on its own, it is binding on the principal. Where the commission agent sells the entrusted item above, or purchases the entrusted item below, the price designated by the principal, the remuneration may be increased in accordance with the contract; and where such matter is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, the benefit belongs to the principal.

Where the principal gives special pricing instruction, the commission agent may not make any sale or purchase in contravention thereof.

Article 956 Where the commission agent is to sell or purchase a commodity the price of which is fixed by the market, the commission agent may act as the purchaser or seller itself, unless the principal expresses otherwise.

Where the commission agent is under the situation prescribed in the preceding paragraph, it may still request payment of remuneration from the principal.

Article 957 Once the commission agent purchases the entrusted item in accordance with the contract, the principal shall, in a timely manner, take delivery. Where after receiving demand from the commission agent, the principal refuses to take delivery without cause, the commission agent may tender and deposit the entrusted item in accordance with the law.

Where the entrusted item fails to be sold or the principal withdraws it from sale, the commission agent may tender and deposit the entrusted item according to the law if the principal fails to claim or dispose of it after receiving such demand from commission agent.

Article 958 Where the commission agent enters into a contract with a third party, it directly enjoys the rights and assumes the obligations thereunder.

Where the third party fails to perform its obligations, thereby causing damage to the principal, the commission agent shall be liable for compensation, except as otherwise agreed upon by the commission agent and the principal.

Article 959 Where the commission agent has completed the entrusted matter or has partially completed the entrusted matter, the principal shall pay the appropriate remuneration thereto. Where the principal fails to pay the remuneration within the prescribed period, the commission agent is entitled to lien on the entrusted item, except as otherwise agreed upon by the parties.

Article 960 Where this Chapter is silent, the provisions on contracts of mandate shall apply mutatis mutandis.

Chapter XXVI Intermediary Contracts

Article 961 An intermediary contract is a contract whereby the intermediary 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 962 The intermediary shall faithfully report to the client on matters concerning contracting.

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Where the intermediary intentionally conceals any material fact or provided false information on contracting, thereby harming the client's interests, it may not request payment of any remuneration and shall be liable for compensation.

Article 963 Once the intermediary facilitates the formation of the proposed contract, the client shall pay the remuneration in accordance with the intermediary contract. Where remuneration to the intermediary is not agreed or the agreement is not clear, nor can it be determined in accordance with Article 510 of this Code, it shall be reasonably fixed in light of the amount of labor expended by the broker. Where the intermediary facilitates the formation of a contract by providing intermediary services in connection with contracting, the remuneration paid to the intermediary shall be equally borne by parties thereto.

Where the intermediary facilitates the formation of the proposed contract, the intermediary expenses shall be borne by itself.

Article 964 Where the intermediary fails to facilitate the formation of a contract, it may not request payment of remuneration, provided that it may request the client to reimburse the necessary expenses incurred as agreed.

Article 965 Where a client uses the trading opportunity or intermediary services provided by the intermediary to bypass the intermediary and directly contract after accepting the services from the intermediary, the client shall pay remuneration to the intermediary.

Article 966 Where this Chapter is silent, the provisions on contracts of mandate shall apply mutatis mutandis.

Chapter XXVII Contracts of Partnership

Article 967 A contract of partnership is an agreement between not less than two partners to share benefits at mutual risk for a joint enterprise.

Article 968 A partner shall perform its obligation to contribute capital in accordance with the agreed capital contribution method, amount, and time limit for payment.

Article 969 The capital contributions made by partners and the proceeds and other property acquired in accordance with the law because of partnership business are partnership property.

A partner may not request the division of partnership property until the termination of the contract of partnership.

Article 970 A partner shall make a decision on partnership business with the unanimous consent of all the partners, unless otherwise agreed in the contract of partnership.

Partnership business shall be jointly managed by all partners. As agreed in the contract of partnership or decided by all partners, one or more partners may be mandated to manage partnership business; and the other partners shall cease to manage partnership business, but have the right to supervise the management. If partners manage partnership business separately, the managing partner may raise objections to the business managed by other partners, in which case, the other partners

shall suspend the management of the business.

Article 971 A partner may not request remuneration for management of partnership business, except as otherwise stipulated in the contract of partnership.

Article 972 The allocation of the profits and sharing of losses of a partnership shall be governed by the contract of partnership; if the contract of partnership is silent or not clear, the partners shall negotiate a decision; if the negotiation fails, the partners shall receive allocations and shares in proportion to the paid-in capital; and if the proportions of paid-in capital cannot be determined, the partners shall receive allocations and shares equally.

Article 973 Partners shall be jointly and severally liable for partnership obligations. A partner who performs a partnership obligation in excess of its share shall be entitled to reimbursement from the other partners.

Article 974 Unless the contract of partnership provides otherwise, a partner shall transfer all or part of its share of property to a person other than a partner with the unanimous consent of the other partners.

Article 975 Any creditor of a partner shall not exercise any right of the partner under this Chapter and the contract of partnership in the place of the partner, unless the partner has a claim for allocation of benefits.

Article 976 Where partners fail to agree or fail to clearly agree on the term of the partnership, and the term cannot be determined according to the provisions of Article 510 of this Code, the partnership shall be treated as being with an indeterminate term. If a partner continues to manage partnership business at the expiration of the term of the partnership, and the other partners fail to raise any objection, the original contract of partnership shall continue to be with effect, but with an indeterminate term. A partner may rescind a contract of partnership with an indeterminate term at any time, but shall give a reasonable notice to the other partners.

Article 977 Where a partner is deceased, incapacitated, or terminated, the contract of partnership is terminated, unless the contract of partnership otherwise stipulates, or the termination is inappropriate based on the nature of partnership business.

Article 978 When a contract of partnership terminates, the remainder of partnership property, if any, after the payment of the expenses incurred as a result of the termination and the performance of partnership obligations shall be allocated in accordance with the provisions of Article 972 of this Code.

Title Three Quasi-contracts

Chapter XXVIII Management of the Business of Another

Article 979 Where a manager, under no statutory or agreed obligation, manages the business of another in order to avoid the damage to the interests of another, the manager may request the beneficiary to make reimbursement for the necessary expenses of the management of the business; and if the manager sustains losses

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because of the management of the business, the manager may request the beneficiary to make appropriate compensation.

If the management of the business is contrary to the true will of the beneficiary, the manager has no rights under the preceding paragraph, unless the true will of the beneficiary violates the law, or is contrary to public order and good morals.

Article 980 Where the management of business by the manager is not the circumstances under the preceding article, but the beneficiary has the benefit of the management, the beneficiary shall be subject to the obligation under paragraph 1, the preceding article towards the manager to the extent of the benefit it gains.

Article 981 A manager shall manage the business of another in a manner favorable to the beneficiary. If the interruption of management is to put the beneficiary at a disadvantage, the management may not be interrupted without justification.

Article 982 Where the manager of the business of another is able to do so, the manager shall notify the beneficiary in a timely manner. If the business under management need not be handled urgently, the instructions of the beneficiary shall be awaited.

Article 983 After management, a manager shall report the management of business to the beneficiary. The property acquired by the manager in the management of business shall be surrendered to the beneficiary in a timely manner.

Article 984 Where the management of business by a manager is subsequently ratified by the beneficiary, the provisions on contracts of mandate shall apply from the commencement of the management of business, unless the manager declares will otherwise.

Chapter XXIX Unjust Enrichment

Article 985 Where a person is enriched without a legal basis, the person impoverished may request the person enriched to make restitution of the enrichment, except under any of the following circumstances:

- (1) Payment made for the performance of a moral obligation.
- (2) Payment of an obligation not due.
- (3) Payment of an obligation knowing that there is no obligation to pay.

Article 986 Unless a person enriched knows or should have known that the enrichment is without a legal basis, and the enrichment exists, the person shall be under no obligation to make restitution of the enrichment.

Article 987 Where a person enriched knows or should have known that the enrichment is without a legal basis, the person impoverished may request the person enriched to make restitution of the enrichment and make compensation for the losses in accordance with the law.

Article 988 Where a person enriched has transferred the enrichment to a third party gratuitously, the person impoverished may request the third party to assume the obligation to make restitution to the corresponding extent.

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Book Four Personality Rights

Chapter I General Rules

Article 989 This Book adjusts the civil relations arising from the enjoyment and protection of personality rights.

Article 990 Personality rights are the rights of life, inviolability and integrity of person, health, name, likeness, reputation, honor, and privacy, among others, enjoyed by parties to civil legal relations.

Besides the personality rights prescribed in the preceding paragraph, a natural person enjoys other personality rights based on personal freedom and personal dignity.

Article 991 The personality rights of parties to civil legal relations are protected by law and shall not be infringed upon by any organization or individual.

Article 992 The personality rights shall not be waived, transferred, or inherited.

Article 993 A party to civil legal relations may license another person to use his name and likeness, among others, except those prohibited to be licensed according to the law or the nature.

Article 994 Where the name, likeness, reputation, honor, privacy, or body of a deceased person is infringed upon, his spouse, children, and parents have the right to request the actor to assume the civil liability according to the law; and where the deceased has no spouse or children, and his parents are dead, other close relatives have the right to request the actor to assume the civil liability according to the law.

Article 995 Where the personality rights are infringed upon, a victim has the right to request the actor to assume civil liability in accordance with this Code and other laws. The provisions on the statutes of limitation shall not apply to any request of a victim for cessation of infringement, removal of obstacles, elimination of danger, elimination of adverse effects, rehabilitation of reputation, or extending a formal apology.

Article 996 Where a party breaches a contract, causing damage to the other party's personality rights and causing serious mental distress, the aggrieved party's choice of requesting the party to assume liability for breach of contract shall not affect the aggrieved party's request for compensation for mental distress.

Article 997 Where a party to civil legal relations has evidence to prove that an actor is committing or will commit an illegal act of infringing upon his personality rights, and, if failing to guard his lawful rights and interests in a timely manner will lead to irreparable damages, he has the right to apply to the people's court in accordance with the law for taking the measure of ordering the actor to cease the relevant behavior.

Article 998 To determine that an actor assumes civil liability for infringing upon personality rights other than the rights of life, inviolability and integrity of person, and health, the occupation, scope of influence, degree of fault, purpose, methods, and consequences of the behavior, and other factors of the actor and aggrieved party shall

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be considered.

Article 999 Whoever conducts such acts as news reporting and supervision over public opinions, among others, for public interests, may properly use the name, likeness, and personal information, among others, of a party to civil legal relations; and whoever uses them improperly and infringes upon the personality rights of a party to civil legal relations shall assume civil liability according to the law.

Article 1000 An actor that assumes civil liabilities of elimination of adverse effects, rehabilitation of reputation, and extending a formal apology, among others, for infringing upon the personality rights shall assume liabilities equivalent to the specific manner of the acts and the scope of influence.

Where an actor refuses to assume the civil liability prescribed in the preceding paragraph, the people's court may adopt such methods as issuing an announcement or announcing an effective judgment document in such media as newspapers, periodicals, and the Internet for enforcement, at the expense of the actor.

Article 1001 The protection of a natural person's right of identity arising from marital and family relations, among others, shall be governed by Book One and Book Five of this Code, and the relevant provisions of other laws; and where there are no such provisions, the relevant provisions of this book on the protection of personality rights shall apply mutatis mutandis according to its nature.

Chapter II Rights of Life, Inviolability and Integrity of Person, and Health

Article 1002 A natural person enjoys the right of life. The safety and dignity of life of natural persons shall be protected by law. No organization or individual may infringe upon any other's right of life.

Article 1003 A natural person enjoys the right of inviolability and integrity of person. The physical integrity and freedom of movement of natural persons shall be protected by law. No organization or individual may infringe upon any other's right of inviolability or integrity of person.

Article 1004 A natural person enjoys the right of health. The physical and mental health of natural persons shall be protected by law. No organization or individual may infringe upon any other's right of health.

Article 1005 Where a natural person's right of life, inviolability and integrity of person, or health is infringed upon or under other situations of danger, the organization or individual with the legal obligation of rescue shall conduct rescue activities in a timely manner.

Article 1006 A person with full capacity for civil conduct has the autonomy to decide to donate his human cells, human tissues, human organs, and remains in accordance with the law. No organization or individual may force or induce any person to make donation or deceive any person into making donation.

A person with full capacity for civil conduct agreeing to make donation in accordance with the provisions of the preceding paragraph shall adopt the written form and may make a will.

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The spouse, grownup children or parents of a natural person who has not expressed dissent from the donation may jointly decide on the donation in writing after his death.

Article 1007 Trading in human cells, human tissues, human organs, and remains in any form is prohibited.

Any sale or purchase in violation of the provisions of the preceding paragraph is invalid.

Article 1008 Where clinical experiments need to be conducted for the development of new drugs and medical devices or the development of new prevention and treatment methods, with the approval of the competent department and the consent of the ethics committee upon examination, the subjects or their guardians shall be notified of the experiment purpose, use, possible risks and other details according to the law, and their written consent shall be obtained.

For clinical experiments, no experiment fee shall be collected from any subject.

Article 1009 Medical and scientific research activities concerning human genes and human embryos, among others, shall be carried out according to the laws and administrative regulations, and relevant provisions issued by the state, without endangering human health, violating moral principles, or damaging public interests.

Article 1010 In the event of sexual harassment against another person's will by words, characters, images, or physical acts, the victim has the right to request the actor to assume civil liability according to the law.

Organs, enterprises, schools and other entities shall take reasonable measures of prevention, acceptance of complaints, investigation and handling, so as to prevent and cease sexual harassment conducted by violators by making use of their powers and affiliation relationship.

Article 1011 In the event of deprivation or restriction of another person's freedom of movement by illegal detention, or illegal body search of another person, the victim has the right to request the actor to assume civil liability according to the law.

Chapter III Right of Name

Article 1012 A natural person has the right of name and has the right to determine, use, change or permit another person's use of his own name according to the law, without being contrary to public order and good morals.

Article 1013 Legal persons and unincorporated organizations have the right of name and to decide, use, change, transfer or license others' use of their names in accordance with the law.

Article 1014 No organization or individual may infringe upon any other's right of name by interference, misappropriation, or counterfeiting.

Article 1015 A natural person shall take the surname of either the father or mother. Under one of the following circumstances, he may adopt a surname other than that of the father or mother:

(1) Adoption of the surname of a senior lineal relative by blood.

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- (2) Adoption of the surname of a supporter, since the citizen is supported by a supporter other than the statutory one.
- (3) Any other justified reason not being contrary to public order and good morals. A natural person of ethnic minority may adopt the surname based on the cultural traditions and customs of his ethnic minority.

Article 1016 A natural person deciding or changing his own name, or a legal person or unincorporated organization deciding, changing, or transferring its own name shall undergo the registration formalities with the relevant authority according to the law, except as otherwise prescribed by law.

Where a party to civil legal relations changes his name, the civil legal acts conducted before the change shall be legally binding upon him or it.

Article 1017 Pseudonyms, stage names, net names, translated names, identifiers, and abbreviations of names, among others, with certain social popularity, whose use by others is sufficient to cause public confusion shall be governed, mutatis mutandis, by the applicable provisions on the protection of rights of names.

Chapter IV Right of Likeness

Article 1018 A natural person has the right of likeness and has the right to make, use, publish or permit another person's use of his own likeness according to the law. A likeness is an external image reflected on a certain carrier by means of video, sculpture, and painting, among others, through which a specific natural person can be identified.

Article 1019 No organization or individual may infringe upon any other's right of likeness by defaming, defacing, or forgery by information technology, and other means. Without consent of the likeness right holder, no likeness of any likeness right holder shall be made, used, or published, except as otherwise prescribed by law. Without consent of the likeness right holder, the right holder of likeness works shall not use or publish the likeness of the likeness right holder by publication, reproduction, issuance, leasing, exhibition, or any other means.

Article 1020 The following acts, if conducted properly, can be without the consent of the likeness right holder:

- (1) Using a likeness of a likeness right holder that has been published, for personal study, art appreciation, classroom teaching or scientific research within a necessary scope.
- (2) Inevitably producing, using, or publishing a likeness of a likeness right holder, for news reporting.
- (3) Producing, using, or publishing a likeness of a likeness right holder within a necessary scope, for lawful fulfillment of duties.
- (4) Inevitably producing, using, or publishing a likeness of a likeness right holder, for displaying a specific public environment.
- (5) Other acts of producing, using, or publishing a likeness of a likeness right holder, for protecting the public interests or the lawful rights and interests of the likeness right holder.

Article 1021 Where the parties have disputes on the understanding of the clauses in a

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contract on the licensed use of a likeness concerning the use of a likeness, an explanation in favor of the likeness right holder shall be made.

Article 1022 Where the parties have not agreed on the time limit for licensed use of likeness or the agreement is undefined, either party may terminate the contract on the licensed use of a likeness at any time, but shall notify the other party prior to a rational time limit.

Where the parties have expressly agreed on the time limit for licensed use of a likeness, a likeness right holder may, with justified reasons, terminate the contract on the licensed use of a likeness, but shall notify the other party prior to a rational time limit. Where losses are caused to the other party due to the termination of a contract, the losses shall be compensated for by the likeness right holder, except for matters not attributable to the likeness right holder.

Article 1023 The licensed use of a name, etc., shall be governed by the relevant provisions on the licensed use of likeness, *mutatis mutandis*.
The protection of a natural person's voice shall be governed by the relevant provisions on the protection of the right of likeness, *mutatis mutandis*.

Chapter V Right of Reputation and Right of Honor

Article 1024 A party to civil legal relations enjoys the right of reputation. No organization or individual may infringe upon any other's right of reputation by insulting, defaming or any other means.
Reputation is the social evaluation of a party to civil legal relations in terms of moral character, prestige, talent, and credit, among others.

Article 1025 An actor affecting any other's reputation by news reporting, supervision over public opinions, or any other behavior conducted for public interests shall not assume civil liability, except under one of the following circumstances:

- (1) Fabricating and distorting the fact.
- (2) Failing to fulfill the obligation of rational verification for the seriously false content provided by any other.
- (3) Degrading any other's reputation with insulting words.

Article 1026 To determine whether an actor has fulfilled the obligation of rational verification prescribed in item (2) of the preceding article, the following factors shall be considered:

- (1) The credibility of the source.
- (2) Whether necessary investigations have been conducted into the content that may obviously cause dispute.
- (3) The timeliness of the content.
- (4) The relevance between the content and the public order and good morals.
- (5) The possibility of degrading the victim's reputation.
- (6) The verification capability and verification costs.

Article 1027 Where the literary and artistic works which are published by an actor and which describe a real person, a real event or a specific person, contain insulting or defamatory content, and infringe upon the right of reputation of another person, the victim has the right to request the actor to assume the civil liability according to the

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law.

Where the literary and artistic works published by an actor do not describe a specific person, and only have plots similar to that of the specific person, the actor shall not assume any civil liability.

Article 1028 A party to civil legal relations that has evidence to prove that the contents reported in the newspaper, periodicals, network, and other media are inconsistent with the facts and infringe upon his right of reputation has the right to request the media to take such necessary measures as making corrections or deletion in a timely manner.

Article 1029 A party to civil legal relations may check his own credit rating according to the law; and upon discovery of any inappropriateness in credit rating, he or it has the right to raise an objection and request taking of necessary measures such as making corrections and deletion. Credit raters shall conduct inspection in a timely manner, and take necessary measures in a timely manner, where it is verified to be true.

Article 1030 The relationship between the parties to civil legal relations and credit information handlers such as credit rating agencies shall be governed by the provisions of this Book on the protection of personal information and other relevant laws and administrative regulations.

Article 1031 A party to civil legal relations enjoys the right of honor. No organization or individual may illegally deprive any other of his honorary title, or denigrate or degrade any other's honor.

Where an honorary title obtained should be recorded but is not recorded, a party to civil legal relations may request that it be recorded; and where an honorary title obtained is incorrectly recorded, the party to civil legal relations may request correction.

Chapter VI Right of Privacy and Protection of Personal Information

Article 1032 A natural person enjoys the right of privacy. No organization or individual may infringe upon any other's right of privacy by spying, intrusion, divulgence, public disclosure, or any other means.

Privacy is the tranquility of the private life of a natural person, and the private space, private activities, and private information that he is unwilling to be known to others.

Article 1033 Except as otherwise prescribed by law or with the express consent of the right holder, no organization or individual may conduct the following acts:

- (1) Invading the tranquility of the private life of any other by phone calls, SMS, instant messaging tools, emails, leaflets, or any other means.
- (2) Entering, photographing, or peeping at any other's residence, hotel room, or any other private space.
- (3) Photographing, peeping at, eavesdropping on, or disclosing to the public the private activities of any other.
- (4) Photographing or peeping at any private part of any other's body.
- (5) Handling the private information of any other.
- (6) Infringing upon the right of privacy of any other by other means.

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Article 1034 The personal information of natural persons is protected by law. Personal information is various information recorded electronically or in other forms that can identify a specific natural person separately or in combination with other information, including a natural person's name, date of birth, identity card number, biological recognition information, address, telephone number, e-mail address, health information, and whereabouts information, among others. Private information in personal information shall be governed by the provisions on privacy right; where there are no provisions, the provisions on the protection of personal information shall apply.

Article 1035 The personal information of a natural person shall be processed under the principles of lawfulness, justification and necessity, shall not be excessively processed, and shall meet the following conditions:

- (1) The consent of the natural person or his or her guardian is obtained, unless as otherwise prescribed by laws and administrative regulations.
- (2) The rules for information processing are published.
- (3) The purpose, method, and scope of information processing are explicit.
- (4) The provisions of laws and administrative regulations and the agreement between both parties are not violated.

The processing of personal information includes the collection, storage, use, processing, transmission, provision, and public disclosure, among others, of personal information.

Article 1036 For personal information processing, an actor shall not assume any civil liability under one of the following circumstances:

- (1) Conducting the acts reasonably within the scope consented to by the natural person or his or her guardian.
- (2) Reasonably processing the information that the natural person has published on his or her own initiative or other information that has been legally published, except that it is explicitly refused by the natural person or the processing of the information infringes upon his or her major interests.
- (3) Other acts reasonably conducted for protecting the public interest or the lawful rights and interests of the natural person.

Article 1037 A natural person may consult or reproduce his or her personal information from the information processor according to the law; and upon discovery of any error in the information, he or she has the right to raise an objection and request correction and other necessary measures to be taken in a timely manner. A natural person who discovers that an information processor has processed his or her personal information in violation of the laws and administrative regulations or the agreement between the two parties has the right to request the information processor to delete it in a timely manner.

Article 1038 An information processor shall not disclose or tamper with any personal information collected or stored thereby; and without consent of a natural person, no personal information shall be illegally provided for any other person, excluding the information through which the specific individual cannot be identified after processing and which cannot be restored. An information processor shall take technical measures and other necessary measures

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to ensure the security of the personal information collected and stored thereby and prevent information leakage, tampering, and loss; and for any personal information leakage, tampering, or loss that occurs or is likely to occur, remedy measures shall be taken in a timely manner, the natural person shall be notified according to the provisions, and it shall be reported to the competent department.

Article 1039 The state organs, statutory institutions assuming administrative functions, and their staff members shall keep confidential the privacy and personal information of natural persons known in the course of fulfilling duties, and shall not disclose it or illegally provide it for others.

Book Five Marriage and Family

Chapter I General Rules

Article 1040 This Book regulates civil relations arising out of marriage and family.

Article 1041 Marriage and family are protected by the state.

A marriage system based on freedom of marriage, monogamy and equality between man and woman is applied.

The lawful rights and interests of women, minors, the elderly and the disabled are protected.

Article 1042 Arranged marriage, mercenary marriage and any other act of interference in freedom of marriage are prohibited. The exaction of money or gifts in connection with marriage is prohibited.

Bigamy is prohibited. Cohabitation of a married person with any third party is prohibited.

Domestic violence is prohibited. Maltreatment or desertion of any family member is prohibited.

Article 1043 Families shall establish good family values, promote family virtues, and pay close attention to cultural and ethical advancement in families.

Husband and wife shall be faithful to, respect and care for each other. Family members shall respect the elderly, take good care of children, help each other, and maintain equal, harmonious and civilized marriage and family relations.

Article 1044 Adoption shall follow the principle of serving the best interest of the adopted person, and protect the lawful rights and interests of the adopter and the adopted person.

It is prohibited to buy or sell a minor under the cloak of adoption.

Article 1045 Relatives include spouses, blood relations, and relations by marriage.

Spouses, parents, children, siblings, paternal and maternal grandparents, and paternal and maternal grandchildren are close relatives.

Spouses, parents, children and other close relatives living together are family members.

Chapter II Marriage

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Article 1046 Marriage shall be based on the complete willingness of both man and woman, and compulsion used by either party on the other and interference by any organization or individual shall be prohibited.

Article 1047 No marriage shall be allowed before the man has reached 22 years of age and the woman 20 years of age.

Article 1048 The marriage between lineal relatives by blood or between collateral relatives by blood up to the third degree of kinship is prohibited.

Article 1049 Both the man and the woman desiring to marry shall apply for marriage registration in person at the marriage registration authority. If the proposed marriage is found to conform to the provisions of this Code, the couple shall be granted registration and issued marriage certificates. The marital relationship shall be established as soon as the marriage registration is completed. A couple shall go through marriage registration if it has not done so.

Article 1050 After a marriage has been registered, the woman may become a member of the man's family or vice versa, depending on the agreed wishes of the two parties.

Article 1051 A marriage shall be invalid under any of the following circumstances:

- (1) Either of the married parties commits bigamy.
- (2) There is prohibited degree of kinship between the married parties.
- (3) The legally marriageable age is not attained.

Article 1052 Where a marriage is as a result of coercion, the coerced party may make a request to the people's court for annulment of such marriage.

Such a request for annulment of marriage shall be made within one year from the day on which coercion terminates.

Where the party whose personal freedom has been illegally restricted makes a request for annulment of marriage, such a request shall be made within one year from the date of restoration of personal freedom.

Article 1053 Where one of the parties suffers from a serious illness, he or she shall truthfully inform the other party before marriage registration. In the case of failure to do so, the other party may make a request to the people's court for annulment of marriage.

Such a request for annulment of marriage shall be made within one year from the day on which the party knows or should have known the cause of annulment.

Article 1054 An invalid or annulled marriage is not legally binding from the outset, and the parties concerned are devoid of any rights or duties of a husband and a wife. The property acquired by them during their cohabitation shall be disposed of by both parties upon agreement; if they fail to reach an agreement, the people's court shall make a judgment under the principle of favoring the no-fault party. The disposition of the property in respect of the invalid marriage caused by bigamy may not be to the detriment of the property rights and interests of the party concerned to the lawful marriage. With regard to the children born of the parties concerned, the provisions governing parents and children as set out in this Code shall apply.

Where a marriage is invalid or annulled, the no-fault party shall have the right to

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claim compensation.

Chapter III Family Relations

Section 1 Husband and Wife

Article 1055 Husband and wife have equal status in marriage and family.

Article 1056 Both husband and wife are entitled to use their respective names.

Article 1057 Both husband and wife have the freedom to engage in production and other work, to study, and to participate in social activities; neither party may restrict or interfere with the other party.

Article 1058 Both husband and wife equally enjoy the rights to support, educate and protect their minor children, and shall jointly assume the duties to support, educate, and protect their minor children.

Article 1059 Husband and wife have the duty to support each other.
Where one party fails to perform this duty, the party in need of support shall have the right to demand spousal support from the other party.

Article 1060 A juridical act performed by one of the spouses to meet the needs of the family's daily life shall be binding on both of them, except as otherwise agreed between one spouse and an opposite party.

The restrictions agreed upon by the spouses on the scope of juridical acts that one spouse may perform shall not be set up against bona fide opposite parties.

Article 1061 Husband and wife are entitled to inherit the property of each other.

Article 1062 The following property acquired by the husband and the wife during the marriage shall be considered as community property and be in their joint possession:

- (1) Wages, bonuses, and remuneration for personal services.
- (2) Earnings from production, operation, and investment.
- (3) Earnings from intellectual property.
- (4) Property acquired from inheritance or gift, except as provided in subparagraph 3 of Article 1,063 of this Code.
- (5) Other property that should be in their joint possession.

Husband and wife enjoy equal rights in the disposition of their community property.

Article 1063 The following property shall be considered as the separate property of one of the spouses:

- (1) Prenuptial property that belongs to one spouse.
- (2) Compensation or indemnification received by one spouse for personal injuries.
- (3) The property going only to one spouse as specified in a will or a gift contract.
- (4) Private articles for daily use of one spouse.
- (5) Other property that should be in the possession of one spouse.

Article 1064 The debts incurred by the husband and wife through a common declaration of will such as the joint signatures of husband and wife or the subsequent

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ratification by the other spouse and the debts incurred by the husband or wife in his or her own name to meet the needs of the family's daily life during the marriage shall be considered as community debts.

The debt incurred by the husband or wife in his or her own name beyond the needs of the family's daily life during the marriage shall not be considered as community debt, except if the creditor can prove that the debt is used to meet the joint needs of life or production or operation of husband and wife, or based on common declaration of will of husband and wife.

Article 1065 So far as the property acquired during the marriage and the prenuptial property are concerned, husband and wife may agree as to whether they should be in the separate possession, joint possession or partly separate possession and partly joint possession. The agreement shall be made in writing. In the absence of such an agreement or of an express agreement, the provisions of Articles 1,062 and 1,063 of this Code shall apply.

The agreement reached between husband and wife on the property acquired during the marriage and on their prenuptial property shall be legally binding on both parties. Where husband and wife agree to separately possess the property acquired by them during the marriage, the debt owed by the husband or the wife to any other person shall be paid off out of his or her separate property, if such other person knows that there is such an agreement.

Article 1066 During the marriage, the husband or wife may make a request to the people's court for the partition of their community property under any of the following circumstances:

- (1) One spouse conceals, transfers, sells off, destroys or squanders community property, fabricates community debts, or commits any other conduct that seriously damages the interests of the community property.
- (2) A person towards whom a spouse has a statutory duty of support suffers from a serious illness and needs medical treatment, while the other spouse refuses to pay the relevant medical expenses.

Section 2 Parents, Children, and Other Close Relatives

Article 1067 Where parents fail to perform their duty of support, minor children or children of full age who are incapable of living on their own shall have the right to demand child support from their parents.

Where children of full age fail to perform their duty to support parents, parents who have lost the ability to work or have difficulties in supporting themselves shall have the right to demand support for elderly parents from their children.

Article 1068 Parents have the rights and duties to educate and protect their minor children. Where minor children cause damage to others, their parents shall assume civil liability in accordance with the law.

Article 1069 Children shall have respect for their parents' marital rights, and shall not interfere in their parents' divorce, remarriage and their life after remarriage. Children's duty to support their parents shall not terminate with the change in their parents' marital relationship.

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Article 1070 Parents and children are entitled to inherit each other's property.

Article 1071 Children born out of wedlock enjoy the same rights as children born in wedlock. No organization or individual may harm or discriminate against them. The natural father or the natural mother who does not have custody of his or her child born out of wedlock shall pay the child support of the minor child or the child of full age who is incapable of living on his or her own.

Article 1072 No maltreatment or discrimination is allowed between stepparents and stepchildren. The relevant provisions governing the relationship between parents and children as set out in this Code shall apply to the rights and duties between stepfathers or stepmothers and their stepchildren who are supported and educated by them.

Article 1073 Where an objection to maternity or paternity is justifiably raised, the father or mother may institute an action in the people's court for affirmation or denial of the maternity or paternity. Where an objection to maternity or paternity is justifiably raised, a child of full age may institute an action in the people's court for determination of the maternity or paternity.

Article 1074 Paternal or maternal grandparents who can afford it shall have the duty to support their paternal or maternal grandchildren who are minors and whose parents are dead or have no means to support them. Paternal or maternal grandchildren who can afford it shall have the duty to support their paternal or maternal grandparents whose children are dead or have no means to support them.

Article 1075 Elder brothers or sisters who can afford it shall have the duty to support their younger brothers or sisters who are minors if their parents are dead or have no means to support them. Younger brothers or sisters who have been brought up by their elder brothers or sisters and can afford it shall have the duty to support their elder brothers or sisters who have lost the ability to work and have no source of income.

Chapter IV Divorce

Article 1076 Where husband and wife both desire divorce, they shall sign a written divorce agreement and apply for divorce registration in person at the marriage registration authority for divorce registration. The divorce agreement shall specify the declaration of will that divorce is desired by both parties and the consensus reached through consultation on matters such as support of children, disposition of property, and debt settlement.

Article 1077 Where either spouse is unwilling to divorce, he or she may, within 30 days from the day on which the marriage registration authority receives the application for divorce registration, withdraw the application for divorce registration from the marriage registration authority. Within 30 days after the expiration of the period as prescribed in the preceding paragraph, both parties shall apply for divorce certificates in person at the marriage

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registration authority. If no application is filed, the divorce registration application shall be deemed to have been withdrawn.

Article 1078 The marriage registration authority shall, after finding that divorce is desired by both parties and they have reached a consensus through consultation on matters such as support of children, disposition of property, and debt settlement, grant registration and issue divorce certificates.

Article 1079 Where one spouse alone desires a divorce, the organization concerned may carry out mediation, or the spouse may directly file a divorce action with the people's court.

The people's court shall carry out mediation when trying a divorce case. Where mediation fails because mutual affection no longer exists, a divorce shall be granted. A divorce shall be granted if mediation fails under any of the following circumstances:

- (1) Either spouse commits bigamy or cohabits with any third party.
- (2) There is domestic violence, or maltreatment or desertion of any family member.
- (3) Either spouse has vicious habits of gambling or drug abuse, and remains incorrigible despite repeated admonition.
- (4) The spouses have been living separate and apart for up to two years due to incompatibility.
- (5) Other circumstances causing alienation of mutual affection.

A divorce shall be granted if one spouse is declared absent and the other spouse thereby files an action for divorce.

Where the spouses have been living separate and apart for another year after the people's court has ruled that a divorce is not granted, a divorce shall be granted if either spouse files a divorce action again.

Article 1080 The completion of divorce registration or the entry into force of the divorce decree or mediation decision shall be considered as the dissolution of marriage.

Article 1081 Where the spouse of a serviceman or servicewoman desires a divorce, the consent of the serviceman or servicewoman shall be obtained, unless the serviceman or servicewoman commits a serious fault.

Article 1082 A husband may not apply for a divorce when his wife is pregnant, or within one year after his wife gives birth to a child, or within six months after his wife's termination of pregnancy, except if the wife applies for a divorce or the people's court deems it necessary to accept the divorce application made by the husband.

Article 1083 Where, after divorce, both parties desire to resume their marital relationship, they shall undergo the formalities for re-registration of marriage with the marriage registration authority.

Article 1084 The relationship between parents and children shall not come to an end with the parents' divorce. After divorce, regardless of whether the children are directly put in the custody of the father or the mother, they shall remain the children of both parents.

After divorce, both parents shall still have the right and duty to support, educate and

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protect their children.

In principle, the mother shall have the custody of the children under two years of age after divorce. If the father and the mother fail to reach an agreement on the custody of their child who has reached two years of age, the people's court shall, in light of the specific circumstances of both parties, make a judgment in the best interest of the minor child. If the child has reached eight years of age, his or her true will shall be respected.

Article 1085 Where, after divorce, one party has custody of a child, the other party shall pay part or all of the child support. The two parties shall seek agreement regarding the amount and duration of such payment. If they fail to reach an agreement, the people's court shall make a judgment.

The agreement or judgment stipulated in the preceding paragraph shall not preclude the child from making a reasonable request, where necessary, to either parent for an amount exceeding what is decided upon in the said agreement or judgment.

Article 1086 After divorce, the father or the mother who does not have custody of his or her child shall have the right to visit the child, while the other party shall have the duty to provide assistance.

The parents shall reach an agreement about how and when to exercise the visitation right. If they fail to reach an agreement, the people's court shall make a judgment. Where the father or the mother visits his or her child to the detriment of the physical and mental health of the child, the people's court shall suspend the visit according to the law. After the cause of suspension disappears, the visit shall be resumed.

Article 1087 In the case of divorce, the community property shall be disposed of by the two parties upon agreement. If they fail to reach an agreement, the people's court shall make a judgment in light of the actual circumstance of the property and under the principle of caring for the rights and interests of the child or children, the wife, and the no-fault party.

The rights and interests enjoyed by the husband or wife in the operation of land subject to the usufruct on a household basis shall be protected according to the law.

Article 1088 Where one of the spouses performs more duties in bringing up children, taking care of the elderly or assisting the other spouse in his or her work, that spouse shall have the right to claim compensation from the other spouse in the case of divorce, and the other spouse shall make compensation. The specific arrangements shall be agreed upon by both parties. If they fail to reach an agreement, the people's court shall make a judgment.

Article 1089 In the case of divorce, the community debts incurred by the husband and wife shall be paid off jointly by them. If the community property is insufficient to pay off the debts or the items of the property are in their separate possession, the two parties shall work out an agreement on repayment. If they fail to reach an agreement, the people's court shall make a judgment.

Article 1090 Where, at the time of divorce, one party has difficulty in supporting himself or herself, the other party who can afford it shall render appropriate assistance. The specific arrangements shall be agreed upon by both parties. If they fail to reach an agreement, the people's court shall make a judgment.

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Article 1091 Under any of the following circumstances which leads to a divorce, the no-fault party shall have the right to claim damages:

- (1) Bigamy.
- (2) Cohabitation of a married person with any third party.
- (3) Domestic violence.
- (4) Maltreatment or desertion of any family member.
- (5) Any other major fault.

Article 1092 Where one of the spouses conceals, transfers, sells off, destroys or squanders community property, or fabricates their community debts in an attempt to encroach upon the other spouse's property, that spouse may, in the case of divorce, get a smaller or even no share of property in the partition of community property. If the other party discovers any of the aforementioned acts after divorce, he or she may institute an action in the people's court for repartitioning the community property.

Chapter V Adoption

Section 1 Establishment of an Adoptive Relationship

Article 1093 The following minors may be adopted:

- (1) Orphans bereaved of parents.
- (2) Minors whose natural parents cannot be ascertained or found.
- (3) Children whose natural parents are unable to support them due to unusual difficulties.

Article 1094 The following individuals or organizations are entitled to place out children for adoption:

- (1) Guardians of an orphan.
- (2) Child welfare institutions.
- (3) Natural parents who are unable to support their children due to unusual difficulties.

Article 1095 Where the parents of a minor are both persons without full capacity for civil conduct and may do serious harm to the minor, the guardian of the minor may place out the minor for adoption.

Article 1096 Where a guardian intends to place out an orphan for adoption, the guardian shall obtain the consent of the person who has the duty to support the orphan. If the person who has the duty to support the orphan does not agree to place out the orphan for adoption and the guardian is unwilling to continue the performance of his or her guardianship, another guardian shall be otherwise appointed in accordance with Book One of this Code.

Article 1097 Where the natural parents intend to place out their child for adoption, they shall act in concert. If one parent cannot be ascertained or found, the other parent may place out the child for adoption alone.

Article 1098 An adopter shall satisfy all of the following requirements:

- (1) Having no children or only one child.
- (2) Having the ability to support, educate and protect the adopted person.

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- (3) Suffering from no such disease as is medically regarded as unfit for adopting a child.
- (4) Having no illegal and criminal records detrimental to the healthy growth of the adopted person.
- (5) Having reached 30 years of age.

Article 1099 A person may adopt a child of a collateral relative by blood of the same generation and up to third degree of kinship, irrespective of the restrictions specified in subparagraph 3 of Article 1093, subparagraph 3 of Article 1094 and Article 1102 of this Code.

An overseas Chinese, in adopting a child of a collateral relative by blood of the same generation and up to the third degree of kinship, is even not required to be subject to the provisions of subparagraph 1 of Article 1098 of this Code.

Article 1100 A childless adopter may adopt two children; an adopter with one child may adopt only one child.

Orphans, disabled minors or minors whose natural parents cannot be ascertained or found and who are under the care of a child welfare institution may be adopted irrespective of the restrictions specified in the preceding paragraph and subparagraph 1 of Article 1098 of this Code.

Article 1101 Where a person with spouse intends to adopt a child, the husband and wife shall adopt the child in concert.

Article 1102 Where a person without spouse intends to adopt a child of the opposite sex, the adopter shall be not less than 40 years older than the adopted child.

Article 1103 A stepfather or stepmother may adopt the stepchild with the consent of the natural parents of the stepchild, and is not required to be subject to the provisions of subparagraph 3 of Article 1093, subparagraph 3 of Article 1094, Article 1098, and paragraph 1 of Article 1100 of this Code.

Article 1104 Both adoption and the placing out of a child for adoption shall take place on a voluntary basis. In the case of adoption of a minor of eight years of age or over, the consent of the minor shall be obtained.

Article 1105 The adoption shall be registered with the civil affairs department of the people's government at or above the county level. The adoptive relationship shall be established as of the date of registration.

In the case of the adoption of a minor whose natural parents cannot be ascertained or found, the civil affairs department in charge of registration shall make it known to the general public before registration.

Where the parties involved in the adoptive relationship wish to enter into an adoption agreement, they may sign such an agreement.

Where the parties or one party involved in the adoptive relationship demands that the adoption be notarized, the notarization shall be made accordingly.

The civil affairs department of the people's government at or above the county level shall evaluate the adoption in accordance with the law.

Article 1106 After an adoptive relationship is established, the public security organ

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shall, in accordance with the relevant provisions issued by the state, handle the household registration for the adopted person.

Article 1107 Orphans or children whose natural parents are unable to support them may be supported by the relatives or friends of their natural parents. The provisions of this Chapter shall not apply to the relationship between the supporter and the supported.

Article 1108 Where a spouse places out a minor child for adoption after the death of the other spouse, the parents of the deceased spouse shall have priority in rearing the child.

Article 1109 A foreigner may, in accordance with the law, adopt a child in the People's Republic of China.

The adoption by a foreigner of a child in the People's Republic of China shall be subject to examination and approval by the competent authorities of the country, in which the foreigner is domiciled, in accordance with the law of that country. The adopter shall provide the papers, as issued by the competent authorities of the country in which the adopter is domiciled, that certify his or her particulars such as age, marital status, profession, property, health and whether ever subjected to criminal punishment. The adopter shall sign a written agreement with the person who places out the child for adoption, and register in person the adoption with the civil affairs department of the people's government of a province, autonomous region, or municipality directly under the Central Government.

The certifying papers as mentioned in the preceding paragraph shall be subject to the authentication by the foreign affairs organ of the country in which the adopter is domiciled or by an agency authorized by the said organ, and the authentication by the embassy or consulate of the People's Republic of China stationed in that country, except as otherwise provided by the state.

Article 1110 Where the adopter and the person placing out the child for adoption wish to keep the adoption confidential, others shall respect their wish and shall not make a disclosure thereof.

Section 2 Validity of Adoption

Article 1111 As of the date of establishment of the adoptive relationship, the provisions governing the relationship between parents and children as set out in this Code shall apply to the rights and duties between adoptive parents and adopted children; the provisions governing the relationship between children and close relatives of their parents as set out in this Code shall apply to the rights and duties between adopted children and close relatives of the adoptive parents.

The rights and duties between an adopted child and his or her natural parents and other close relatives shall terminate with the establishment of the adoptive relationship.

Article 1112 An adopted child may adopt the surname of his or her adoptive father or adoptive mother, or retain his or her original surname, if so agreed through consultation between the parties concerned.

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Article 1113 Any act of adoption that involves the circumstances under which a juridical act is void as stipulated in Book One of this Code or that violates the provisions of this Book shall be void.

A void adoption is not legally binding from the outset.

Section 3 Termination of an Adoptive Relationship

Article 1114 No adopter may terminate the adoptive relationship before the adopted child comes of age, unless the adopter and the person having placed out the child for adoption agree to terminate such relationship. If the adopted child involved has reached eight years of age, his or her consent shall be obtained.

Where an adopter fails to perform the duty to support the adopted child or commits maltreatment, desertion or other acts of encroachment upon the lawful rights and interests of the minor adopted child, the person having placed out the child for adoption shall have the right to demand termination of the adoptive relationship. Where the person having placed out the child for adoption and the adopter fail to reach an agreement thereon, an action may be instituted in the people's court.

Article 1115 Where the relationship between the adoptive parents and an adopted child of full age deteriorates to such an extent that their living together in the same household becomes impossible, they may terminate the adoptive relationship by agreement. If they fail to reach an agreement, they may institute an action in the people's court.

Article 1116 Where the parties agree to terminate the adoptive relationship, they shall register the termination of the adoptive relationship with the civil affairs department.

Article 1117 Upon termination of an adoptive relationship, the rights and duties between the adopted child and his or her adoptive parents and their close relatives shall terminate accordingly, while the rights and duties between the child and his or her natural parents and their close relatives shall be restored automatically; however, whether to restore the rights and duties between an adopted child of full age and his or her natural parents and their close relatives may be determined through consultation.

Article 1118 Upon termination of an adoptive relationship, an adopted child of full age who has been reared by his or her adoptive parents shall pay the living expenses to his or her adoptive parents who have lost ability to work and have no source of income. If the adoptive relationship is terminated on account of the maltreatment or desertion of the adoptive parents by the adopted child of full age, the adoptive parents may demand compensation from the adopted child for the child support incurred during the adoption.

Where the natural parents of an adopted child request the termination of the adoptive relationship, the adoptive parents may demand appropriate compensation from the natural parents for the child support incurred during the adoption, except if the adoptive relationship is terminated on account of the maltreatment or desertion of the adopted child by the adoptive parents.

Book Six Succession

Chapter I General Rules

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Article 1119 This Book adjusts the civil relations arising from successions.

Article 1120 The state protects the right of succession of natural persons.

Article 1121 The succession of a decedent opens at the time of his death.

If several persons with intertwined relationships of succession died in the same event, and it is difficult to determine the time of deaths, it is presumed that the one without any other successor died first. If all of them have successors, the elders are presumed to die earlier if they are of different generations; or they are presumed to die at the same time without any succession to each other if they are of the same generation.

Article 1122 Estate denotes the personal lawful property left by a natural person at the time of his death.

The estate that is not allowed to be inherited according to the law or based on its nature shall not be inherited.

Article 1123 Succession shall, after its opening, be handled in accordance with the provisions on statutory succession; where a will exists, it shall be handled in accordance with provisions on testamentary succession or as legacy; or where there is an agreement for legacy in return for support, it shall be handled based on the terms of the agreement.

Article 1124 A successor who, after the opening of succession, renounces the succession shall make known his decision to renounce the succession in writing before the disposition of the estate. In the absence of such an indication, he shall be deemed to have accepted the succession.

A legatee shall, within 60 days after he learns of the legacy, make known whether he accepts or renounces it. In the absence of such an indication during the specified period, he shall be deemed to have disclaimed the legacy.

Article 1125 A successor shall be disinherited if he commits any of the following acts:

- (1) Intentionally killing the decedent.
- (2) Killing any other successor in fighting over the estate.
- (3) Abandoning or maltreating the decedent with serious circumstances.
- (4) Forging, tampering with, concealing or destroying the will with serious circumstances.
- (5) Forcing or hindering by fraud or coercion the establishment, change or revocation of the will by the testator with serious circumstances.

Where the successor who commits any of the acts as mentioned in subparagraphs (3) to (5) of the preceding paragraph does show repentance, and the testator forgives him or lists him as a successor in the will afterwards, the successor shall not be disinherited.

A legatee committing the act as prescribed in paragraph 1 of this article shall be deprived of his right to legacy.

Chapter II Statutory Succession

Article 1126 Males and females are equal in their right of succession.

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Article 1127 The estate of a decedent shall be inherited in the following order:

(1) First in order: Spouse, children, parents.

(2) Second in order: Brothers and sisters, paternal grandparents, maternal grandparents.

When succession opens, the successor(s) first in order shall inherit to the exclusion of the successor(s) second in order. The successor(s) second in order shall inherit in default of any successor first in order.

For the purpose of this Book, “children” shall include legitimate children, illegitimate children and adopted children, as well as stepchildren who supported or were supported by the decedent.

For the purpose of this Book, “parents” shall include natural parents and adoptive parents, as well as step-parents who supported or were supported by the decedent.

For the purpose of this Book, “brothers and sisters” shall include blood brothers and sisters, brothers and sisters of half blood, adopted brothers and sisters, as well as step-brothers and step-sisters who supported or were supported by the decedent.

Article 1128 Where a decedent survived his child, the direct lineal descendants of the child who has predeceased the decedent shall inherit in subrogation.

Where a decedent survived his brother or sister, the children of the brother or sister who has predeceased the decedent shall inherit in subrogation.

Successors who inherit in subrogation shall generally take only the share of the estate the subrogated successors are entitled to inherit.

Article 1129 Widowed daughters-in-law or sons-in-law who have made the predominant contributions in maintaining their parents-in-law shall, in relationship to their parents-in-law, be regarded as successors first in order.

Article 1130 Successors same in order shall, in general, inherit in equal shares.

At the time of distributing the estate, due consideration shall be given to successors who have special difficulties in life and are unable to work.

At the time of distributing the estate, successors who have made the predominant contributions in maintaining the decedent or have lived with the decedent may be given a larger share.

At the time of distributing the estate, successors who had the ability and were in a position to maintain the decedent but failed to fulfill their duties shall be given no share or a smaller share of the estate.

Successors may take unequal shares if an agreement to that effect is reached among them.

Article 1131 An appropriate share of the estate may be given to a person, other than a successor, who depended on the support of the decedent, or to a person, other than a successor, who was largely responsible for supporting the decedent.

Article 1132 Issues pertaining to succession shall be dealt with through consultation by and among the successors in the spirit of mutual understanding and mutual accommodation, as well as of amity and unity. The time and mode for partitioning the estate and the shares shall be determined by the successors through consultation. If no agreement is reached through consultation, they may apply to a People's Mediation Committee for mediation or institute an action in the people's court.

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Chapter III Testamentary Succession and Legacy

Article 1133 A natural person may, by means of a will made in accordance with the provisions of this Code, dispose of the property he owns and may designate a testamentary executor for the purpose.

A natural person may, by making a will, designate one or more of the statutory successors to inherit his personal property.

A natural person may, by making a will, donate his personal property to the state or a collective, or bequeath it to organizations or individuals other than statutory successors.

A natural person may establish a testamentary trust according to the law.

Article 1134 A testator-written will shall be made in the testator's own handwriting and signed by him, specifying the date of its making.

Article 1135 A will written on behalf of the testator shall be made in the presence of two or more witnesses of whom one writes the will, and the testator, the one who writes the will and other witnesses shall sign and date the will.

Article 1136 A printed will shall be made in the presence of two or more witnesses. The testator and witnesses shall sign and date each page of the will.

Article 1137 A will in the form of a sound or video recording shall be made in the presence of two or more witnesses. The testator and witnesses shall record his name or portrait as well as the date in the sound or video recording.

Article 1138 A testator may, in an emergency situation, make a nuncupative will, which shall be made in the presence of two or more witnesses. Where, after the emergency situation is eliminated, the testator is able to make a will in writing or in the form of a sound or video recording, the nuncupative will he has made shall be invalidated.

Article 1139 A notarial will shall be made by a testator through a notary agency.

Article 1140 None of the following persons shall act as a witness of a will:

- (1) Persons with no capacity for civil conduct or with limited capacity for civil conduct, and other persons without witness capabilities.
- (2) Successors and legatees.
- (3) Persons who are interested parties of successors and legatees.

Article 1141 Reservation of a necessary portion of an estate shall be made in a will for a successor who has neither the ability to work nor a source of income.

Article 1142 A testator may revoke or alter a will he previously made.

After a will is made, a testator who commits a civil legal act contrary to the content of the will shall be deemed to have revoked the relevant content of the will.

Where several wills that have been made conflict with one another in content, the last one shall prevail.

Article 1143 Wills made by persons with no capacity for civil conduct or with limited

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capacity for civil conduct shall be void.

Wills shall manifest the genuine intention of the testators and those made as a result of fraud or under duress shall be void.

Forged wills shall be void.

Where a will has been tampered with, the affected parts of it shall be void.

Article 1144 Where obligations are attached to testamentary succession or legacy, the successor or legatee shall perform such obligations. Any failure to perform the obligations without a good reason may, upon request by an interested party or a relevant organization, entail nullification of the right of succession to the estate to which obligations are attached by a people's court.

Chapter IV Disposition of the Estate

Article 1145 After the opening of succession, the testamentary executor shall be the estate administrator; in the absence of a testamentary executor, the successor(s) shall recommend an estate administrator in a timely manner; if the successor(s) fails to do so, the successor(s) shall act as the estate administrator; and in the absence of a successor or if all successors renounce the succession, the civil affairs department or villagers' committee at the place of domicile of the decedent before his death shall act as the estate administrator.

Article 1146 Where there is any dispute over the determination of an estate administrator, an interested party may apply to the people's court for designating an estate administrator.

Article 1147 An estate administrator shall perform the following duties:

- (1) Reviewing the estate and making an estate inventory.
- (2) Reporting the estate information to successor(s).
- (3) Taking necessary measures to prevent damages to and loss of the estate.
- (4) Disposing of the creditor's rights and debts of the decedent.
- (5) Partitioning the estate according to the will or according to the law.
- (6) Conducting other necessary acts related to the administration of the estate.

Article 1148 Estate administrators shall perform their duties according to the law, and bear civil liabilities for the damages caused by them to successors, legatees and creditors by intention or due to gross negligence.

Article 1149 Estate administrators may obtain remuneration according to the law or based on agreements.

Article 1150 After the opening of succession, a successor who is aware of the death of the decedent shall notify other successors and the testamentary executor in a timely manner. If none of the successors know about the death of the decedent, or if there is no way to make the notification even though his death is known, the employer of the decedent before his death or the residents' committee or villagers' committee at his place of domicile before his death shall make the notification.

Article 1151 Whoever has in his possession the estate of the decedent shall take good care of such estate and no organization or individual is allowed to misappropriate it or

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contend for it.

Article 1152 A successor who, after the opening of succession, died before the partitioning of the estate, and has not renounced the succession, the estate which the successor is entitled to inherit shall devolve to his successors, except as otherwise specified in the will.

Article 1153 When a decedent's estate is partitioned, half of the joint property acquired by the spouses shall, unless otherwise agreed upon, be first allotted to the surviving spouse as his or her own property; and the remainder shall constitute the decedent's estate.

If the decedent's estate is a component part of the common property of his family, that portion of the property belonging to the other members of the family shall first be separated at the time of the partitioning of the decedent's estate.

Article 1154 Under any of the following circumstances, the part of the estate affected shall be dealt with in accordance with provisions on statutory succession:

- (1) Succession is renounced by a testamentary successor or a legacy is disclaimed by a legatee.
- (2) A testamentary successor is disinherited or a legatee is deprived of the right to legacy.
- (3) A testamentary successor or legatee predeceases or terminates before the testator.
- (4) An invalidated portion of the will involves part of the estate.
- (5) Part of the estate is not disposed of under the will.

Article 1155 At the time of the partitioning of the estate, reservation shall be made for the share of an unborn child. The share reserved shall be dealt with in accordance with provisions on statutory succession if the baby is stillborn.

Article 1156 The partitioning of a decedent's estate shall be conducted in a way beneficial to the needs of production and livelihood, and shall not diminish the usefulness of the estate.

If the estate is unsuitable for partitioning, it may be disposed of by means such as price evaluation, appropriate compensation or co-ownership.

Article 1157 A surviving spouse who re-marries is entitled to dispose of the property he or she has inherited, subject to no interference by any other organization or individual.

Article 1158 A natural person may enter into a legacy-support agreement with an organization or individual other than a successor that, in accordance with the agreement, assumes the obligation to support the former in his or her lifetime and attend to his or her interment after his or her death, in return for the right to legacy.

Article 1159 At the time of partitioning of an estate, the taxes and debts payable by the decedent according to the law shall be paid off. However, a necessary portion of the estate shall be reserved for a successor who has neither the ability to work nor a source of income.

Article 1160 An estate which is left with neither a successor nor a legatee shall belong

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to the state and be used for public welfare undertakings; and where the decedent was a member of an organization under collective ownership before his or her death, the estate shall be owned by such organization.

Article 1161 The successor to an estate shall pay off the taxes and debts payable by the decedent according to the law within the limit of the actual value of such estate, unless the successor pays voluntarily in excess of the limit.

The successor who renounces the succession may assume no responsibility for paying off the taxes and debts payable by the decedent according to the law.

Article 1162 The execution of a legacy shall not affect the payment of taxes and debts payable by the legator according to the law.

Article 1163 Where statutory succession, testamentary succession and legacy coexist, the statutory successor(s) shall pay off the taxes and debts payable by the decedent according to the law; and the portion in excess of the actual value of the estate that shall be inherited by the statutory successor(s) shall be paid off by the testamentary successor(s) and the legatee(s) with the estate they acquire in proportion.

Book Seven Tort Liability

Chapter I General Rules

Article 1164 This Book regulates civil relations arising from infringement on civil rights and interests.

Article 1165 One who is at fault for infringement upon a civil right or interest of another person, causing harm, shall be subject to the tort liability.

One who is at fault as construed in accordance with legal provisions and cannot prove otherwise shall be subject to the tort liability.

Article 1166 One who shall assume the tort liability for causing any harm to a civil right or interest of another person, whether at fault or not, as provided for by law, shall be subject to such legal provisions.

Article 1167 Where a tort endangers the personal or property safety of another person, the victim of the tort shall have the right to require the tortfeasor to assume the tort liability including but not limited to cession of infringement, removal of obstruction and elimination of danger.

Article 1168 Where two or more persons jointly commit a tort, causing harm to another person, they shall be liable jointly and severally.

Article 1169 One who abets or assists another person in committing a tort shall be liable jointly and severally with the tortfeasor.

One who abets or assists a person who does not have civil conduct capacity or only has limited civil conduct capacity in committing a tort shall assume the tort liability; the guardian of such a person without civil conduct capacity or with limited civil conduct capacity shall assume the relevant liability if failing to fulfill his guardian duties.

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Article 1170 Where two or more persons engage in conduct that endangers the personal or property safety of another person, if only the conduct of one or several of them causes harm to another person and the specific tortfeasor can be determined, the tortfeasor shall be liable; or if the specific tortfeasor cannot be determined, all of them shall be liable jointly and severally.

Article 1171 Where two or more persons commit torts respectively, causing the same harm, and each tort is sufficient to cause the entire harm, the tortfeasors shall be liable jointly and severally.

Article 1172 Where two or more persons commit torts respectively, causing the same harm, if the seriousness of liability of each tortfeasor can be determined, the tortfeasors shall assume corresponding liability respectively; or if the seriousness of liability of each tortfeasor is hard to be determined, the tortfeasors shall evenly assume the liability.

Article 1173 Where the victim of a tort is at fault as to the occurrence or aggravation of the same harm, the liability of the tortfeasor may be mitigated.

Article 1174 The actor shall not be liable for any harm that is caused intentionally by the victim.

Article 1175 Where any harm is caused by a third party, the third party shall assume the tort liability.

Article 1176 Where a voluntary participant in a recreational or sports activity carrying certain risk sustains harm caused by another participant, the victim may not require the other participant to assume the tort liability, unless the harm is caused intentionally by, or through gross negligence on the part of, the other participant. The liability of the organizer of the activity shall be governed by the provisions of Articles 1198 through 1201 of this Code.

Article 1177 Where one whose lawful rights and interests are infringed is unable, under pressing conditions, to receive protection from the state authorities in a timely manner, and his lawful rights and interests would be irreparably damaged unless measures were immediately taken, the victim may take reasonable measures such as distraining the property of the tortfeasor to the necessary extent of protecting the victim's own lawful rights and interests, and shall immediately request the relevant state authorities to take action.

Where the victim takes such improper measures that any harm is caused to another person, he shall assume the tort liability.

Article 1178 Where this Code or any other law provides otherwise for the circumstances of exemption from or mitigation of liability, this Code or the other law shall prevail.

Chapter II Damages

Article 1179 Where a tort causes any personal injury to another person, the tortfeasor

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shall compensate the victim for the reasonable costs and expenses for treatment and rehabilitation, such as medical treatment expenses, nursing fees, travel expenses, expenses of dietary supplements, and subsidies for food expenses during hospital stay, as well as the lost wages. If the victim suffers any disability, the tortfeasor shall also pay the costs of assistance equipment and the disability indemnity. If it causes the death of the victim, the tortfeasor shall also pay the funeral service fees and the death compensation.

Article 1180 Where the same tort causes the deaths of several persons, a uniform amount of death compensation may be determined.

Article 1181 Where a tort causes the death to the victim, the close relative of the victim shall be entitled to require the tortfeasor to assume the tort liability. Where the victim of a tort, which is an organization, is divided or combined, the organization succeeding to the rights of the victim shall be entitled to require the tortfeasor to assume the tort liability.

Where a tort causes the death to the victim, those who have paid the medical treatment expenses, funeral service fees and other reasonable costs and expenses for the victim shall be entitled to require the tortfeasor to compensate them for such costs and expenses, except that the tortfeasor has already paid such costs and expenses.

Article 1182 Where any harm caused by a tort to a personal right or interest of another person gives rise to any loss to the property of the victim of the tort, the tortfeasor shall make compensation as per the loss sustained by the victim as the result of the tort or as per any benefit obtained by the tortfeasor from the tort. If the loss sustained by the victim as the result of the tort and the benefit obtained by the tortfeasor from the tort are hard to be determined, the victim and the tortfeasor disagree to the amount of compensation after consultation, and an action is instituted in a people's court, the people's court shall determine the amount of compensation based on the actual situations.

Article 1183 Where any harm caused by a tort to a personal right or interest of a natural person inflicts a serious mental distress on the victim of the tort, the victim of the tort shall have the right to require compensation for the infliction of mental distress.

If any harm caused intentionally or grossly negligently by a tort to a specific thing of personal significance of a natural person inflicts a serious mental distress on the victim of the tort, the victim of the tort shall have the right to require compensation for the infliction of mental distress.

Article 1184 Where a tort causes any harm to the property of another person, the amount of loss to the property shall be calculated as per the market price at the time of occurrence of the loss or by any other reasonable means.

Article 1185 Where any harm caused intentionally by a tort to the intellectual property rights of another person has serious circumstances, the victim of the tort shall have the right to require corresponding punitive damages.

Article 1186 Where neither the victim nor the actor is at fault for the occurrence of a damage, both of them may share the damage according to the provisions of the law.

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Article 1187 After the occurrence of any harm, the parties may consult each other about the methods to pay for compensations. If the consultation fails, the compensations shall be paid in a lump sum. If it is hard to make the payment in a lump sum, the payment may be made in installments but the victim of the tort shall have the right to require a corresponding security to be provided.

Chapter III Special Provisions on Tortfeasors

Article 1188 Where a person without civil conduct capacity or with limited civil conduct capacity causes any harm to another person, the guardian shall assume the tort liability. If the guardian has fulfilled his guardian duties, his tort liability may be mitigated.

Where a person without civil conduct capacity or with limited civil conduct capacity, who has property, causes any harm to another person, the compensations shall be paid out of his own property. The guardian shall make up any deficit of the compensations.

Article 1189 Where a person without civil conduct capacity or with limited civil conduct capacity causes any harm to another person, and the guardian entrusts his guardian duties to another person, the guardian shall assume the tort liability; and if the entrusted person is at fault, he shall be liable accordingly.

Article 1190 Where a person with full civil conduct capacity causes any harm to another person as the result of his temporary loss of consciousness or control of his conduct, if he is at fault, he shall assume the tort liability; or if he is not at fault, the victim shall be compensated properly according to the economic condition of the person causing the harm.

Where a person with full civil conduct capacity causes any harm to another person as the result of his temporary loss of consciousness or control of his conduct due to alcohol intoxication or abuse of narcotic or psychoactive drug, he shall assume the tort liability.

Article 1191 Where an employee of an employer which is an entity causes any harm to another person in the execution of his work duty, the employer shall assume the tort liability. After the employer assumes the tort liability, it may claim reimbursement from the employee with intent or grossly negligent.

Where, during the period of labor dispatch, a dispatched employee causes any harm to another person in the execution of his work duty, the entity employer receiving the dispatched employee shall assume the tort liability; and the entity employer dispatching the employee, if at fault, shall assume the corresponding liability.

Article 1192 Where, in a labor relationship formed between individuals, the party providing labor services causes any harm to another person as the result of the labor services, the party receiving labor services shall assume the tort liability. After assuming the tort liability, the party receiving labor services may claim reimbursement from the party providing labor services that is with intent or grossly negligent. If the party providing labor services sustains any harm as the result of the labor services, both parties shall assume corresponding liability according to their respective faults.

During the period of providing labor services, if a third party causes harm to the party

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providing labor services, the party providing labor services shall have the right to require the third party to assume the tort liability or to require the party receiving labor services to pay compensation. After payment of compensation, the party receiving labor services may claim reimbursement from the third party.

Article 1193 Where a contractor causes any harm to a third party or himself in the course of conducting the work, the ordering party shall be exempt from the tort liability. However, if the ordering party is at fault for the ordering, instruction or election, it shall assume the corresponding liability.

Article 1194 A network user or network service provider who infringes upon the civil right or interest of another person through network shall assume the tort liability, unless otherwise provided by law.

Article 1195 Where a network user commits a tort through the network services, the right holder shall be entitled to notify the network service provider to take such necessary measures as deletion, block or disconnection. The notice shall include the prima facie evidence of the tort and the true identity information of the right holder. After receiving the notice, the network service provider shall, in a timely manner, forward the notice to the relevant network user and take necessary measures based on the prima facie evidence of the tort and type of service; and if the network service provider fails to take necessary measures in a timely manner, it shall be jointly and severally liable for any additional harm with the network user. If the right holder causes harm to the network user or network service provider by erroneous notice, the right holder shall assume the tort liability, unless otherwise provided by law.

Article 1196 After receiving the notice forwarded, the network user may submit a statement of non-existence of tort to the network service provider. The statement shall include the prima facie evidence of non-existence of tort and the true identity information of the network user. After receiving the statement, the network service provider shall forward the statement to the right holder who issues the notice and notify him that he may complain to the relevant authority or institute an action in a people's court. If the network service provider fails to receive, within a reasonable period of time after the forwarded statement reaches the right holder, a notice from the right holder that he has complained or instituted an action, it shall, in a timely manner, terminate the measures taken.

Article 1197 Where a network service provider knows or should know that a network user is infringing upon a civil right or interest of another person through its network services, and fails to take necessary measures, it shall be jointly and severally liable with the network user.

Article 1198 The operator or manager of a commercial or public venue such as hotel, shopping center, bank, station, airport, sports venue, or entertainment place or the organizer of a mass activity shall assume the tort liability for any harm caused to another person as the result of his failure to fulfill the duty of safety protection. If the harm to another person is caused by a third party, the third party shall assume the tort liability; and the operator, manager or organizer, if failing to fulfill the duty of

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safety protection, shall assume the corresponding complementary liability. The operator, manager or organizer that has assumed the complementary liability may claim reimbursement from the third party.

Article 1199 Where a person without civil conduct capacity sustains any personal injury during the period of studying or living in a kindergarten, school or any other educational institution, the kindergarten, school or other educational institution shall assume the tort liability unless it can prove that it has fulfilled its duties of education and management.

Article 1200 Where a person with limited civil conduct capacity sustains any personal injury during the period of studying or living in a school or any other educational institution, the school or other educational institution shall assume the tort liability if failing to fulfill its duties of education and management.

Article 1201 Where, during the period of studying or living in a kindergarten, a school or any other educational institution, a person without civil conduct capacity or with limited civil conduct capacity sustains any personal injury caused by a third party other than those of the kindergarten, school or other education institution, the third party shall assume the tort liability; and the kindergarten, school or other educational institution shall assume the corresponding complementary liability if failing to fulfill its duties of management. The kindergarten, school or other educational institution that has assumed complementary liability may claim reimbursement from the third party.

Chapter IV Product Liability

Article 1202 Where a defective product causes any harm to another person, the manufacturer shall assume the tort liability.

Article 1203 Where any harm is caused to another person by a defective product, the victim may require compensation to be made by the manufacturer of the product or the seller of the product.

If the defect of the product is caused by the manufacturer and the seller has made the compensation for the defect, the seller shall be entitled to be reimbursed by the manufacturer. If the defect of the product is caused by the fault of the seller and the manufacturer has made the compensation for the defect, the manufacturer shall be entitled to be reimbursed by the seller.

Article 1204 Where any harm is caused to another person by a defective product and the defect is caused by the fault of a third party such as carrier or warehouseman, the manufacturer or seller of the product that has paid the compensation shall be entitled to be reimbursed by the third party.

Article 1205 Where the defect of a product endangers the personal or property safety of another person, the victim shall be entitled to require the manufacturer or seller to assume the tort liability by ceasing infringement, removing the obstruction, or eliminating the danger.

Article 1206 Where any defect of a product is found after the product is put into circulation, the manufacturer or seller shall take such remedial measures as ceasing

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sale, warning and recall in a timely manner; and the manufacturer or seller who fails to take remedial measures in a timely manner or take sufficient and effective measures and has caused the aggravation of any harm shall also assume the tort liability for the aggravation.

Where recall measures are taken in accordance with the preceding paragraph, the manufacturer or seller shall bear the necessary expenses incurred by the victim.

Article 1207 Where a manufacturer or seller knowing any defect of a product continues to manufacture or sell the product, or fails to take effective remedial measures as required by the preceding Article, and the defect causes a death or any serious damage to the health of another person, the victim shall be entitled to require the corresponding punitive compensation.

Chapter V Liability for Motor Vehicle Traffic Accident

Article 1208 Where a motor vehicle traffic accident causes any harm, the compensatory liability shall be assumed according to the relevant provisions of road traffic safety laws and this Code.

Article 1209 Where the owner, the manager, and the user of a motor vehicle are not the same person due to the relationship of a lease, a borrowing or any other reason and the liability for any harm caused in a traffic accident is attributed to the motor vehicle, the user of the motor vehicle shall assume the compensatory liability; and if the owner and the manager of the motor vehicle are at fault as to the harm, the owner and the manager shall assume the corresponding compensatory liability.

Article 1210 Where a motor vehicle has been transferred and delivered from one party to another through sale or in any other method but the registration has not been conducted, if the liability for any harm caused in a traffic accident is attributed to the motor vehicle, the transferee shall assume the compensatory liability.

Article 1211 Where a motor vehicle intended for road transportation business activities in the form of affiliation is involved in a traffic accident, in which the liability for any harm caused is attributed to the motor vehicle, the affiliate and the entity with which it is affiliated shall be jointly and severally liable.

Article 1212 Where a person drives the motor vehicle of another person without permission and is involved in a traffic accident, in which the liability for any harm caused is attributed to the motor vehicle, the user of the motor vehicle shall assume the compensatory liability; and if the owner and the manager of the motor vehicle are at fault as to the harm, the owner and the manager shall assume the corresponding compensatory liability, except as otherwise provided in this Chapter.

Article 1213 Where a motor vehicle is involved in a traffic accident, in which the liability for any harm caused is attributed to the motor vehicle, the insurer underwriting the mandatory motor vehicle insurance shall first make compensation within the liability limit of the mandatory motor vehicle insurance; for any shortfall, the insurer underwriting the commercial motor vehicle insurance shall make compensation in accordance with the insurance contract; and for a further shortfall, or in the absence of commercial motor vehicle insurance, the tortfeasor shall make

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compensation.

Article 1214 Where an illegally assembled motor vehicle or a motor vehicle having reached the standard of retirement, which has been transferred through sale or in any other method, causes a traffic accident and a harm, the transferor and the transferee shall be liable jointly and severally.

Article 1215 Where a traffic accident occurs to a motor vehicle that has been obtained by theft, robbery or snatch and causes a harm, the thief, robber or snatcher shall assume the compensatory liability. If the thief, robber or snatcher is not the user of the motor vehicle, and the liability for damage caused by the traffic accident is attributed to the motor vehicle, the thief, robber or snatcher and the user of the motor vehicle shall be jointly and severally liable.

The insurer that makes advances for rescue expenses within the liability limit of the mandatory motor vehicle insurance shall be entitled to be reimbursed by the person liable for the traffic accident.

Article 1216 Where the driver of a motor vehicle flees after a traffic accident occurs to the motor vehicle, if the motor vehicle is covered by the mandatory insurance, the insurer shall make compensation within the liability limit of the mandatory motor vehicle insurance; or if the motor vehicle cannot be identified or is not covered by the mandatory insurance, or rescue expenses exceed the liability limit of the mandatory motor vehicle insurance, and the expenses for the death of or personal injury to the victim, such as rescue and funeral fees, need to be paid, the advances shall be made out of the Social Assistance Fund for Road Traffic Accidents. After advances are made out of the Social Assistance Fund for Road Traffic Accidents, the governing body of the fund shall be entitled to be reimbursed by the person liable for the traffic accident.

Article 1217 Where a non-commercial motor vehicle is involved in a traffic accident causing harm to a passenger taking the ride gratuitously, for which the liability is attributed to the motor vehicle, the compensatory liability of the motor vehicle user, unless with intent or grossly negligent, shall be mitigated.

Chapter VI Liability for Medical Malpractice

Article 1218 Where a patient sustains any harm during diagnosis and treatment, if the medical institution or any of its medical staff is at fault, the medical institution shall assume the compensatory liability.

Article 1219 During the diagnosis and treatment, the medical staff shall explain the illness condition and relevant medical measures to their patients. If any operation, special examination or special treatment is needed, the medical staff shall specifically explain the medical risks, alternate medical treatment plans and other information to the patient in a timely manner, and obtain an explicit consent of the patient; or, when it is not possible or proper to explain the information to the patient, explain the information to the close relative of the patient, and obtain an explicit consent of the close relative.

Where any medical staff member fails to fulfill the duties in the preceding paragraph and causes any harm to a patient, the medical institution shall assume the

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compensatory liability.

Article 1220 Where the opinion of a patient or his close relative cannot be obtained in the case of an emergency such as rescue of a patient in critical condition, with the approval of the person in charge of the medical institution or an authorized person in charge, the corresponding medical measures may be taken immediately.

Article 1221 Where any medical staff member fails to fulfill the obligations of diagnosis and treatment up to the standard at the time of the diagnosis and treatment and causes any harm to a patient, the medical institution shall assume the compensatory liability.

Article 1222 Under any of the following circumstances, a medical institution shall be at fault constructively for any harm caused to a patient during diagnosis and treatment:

- (1) Violating a law, administrative regulation or rule, or any other provision on the procedures and standards for diagnosis and treatment.
- (2) Concealing or refusing to provide the medical history data related to a dispute.
- (3) Losing, forging, tampering with or illegally destroying any medical history data.

Article 1223 Where any harm to a patient is caused by the defect of any drug, disinfection product or medical instrument or by the transfusion of substandard blood, the patient may require a compensation from the drug marketing authorization holder, manufacturer or institution providing blood, or require a compensation from the medical institution. If the patient requires a compensation from the medical institution, the medical institution that has paid the compensation shall be entitled to be reimbursed by the liable drug marketing authorization holder, manufacturer or institution providing blood.

Article 1224 Under any of the following circumstances, a medical institution shall not assume compensatory liability for any harm caused to a patient during diagnosis and treatment:

- (1) The patient or his close relative does not cooperate with the medical institution in the diagnosis and treatment in line with the procedures and standards for diagnosis and treatment.
- (2) The medical staff have fulfilled the duty of reasonable diagnosis and treatment in the case of an emergency such as rescue of a patient in critical condition.
- (3) Diagnosis and treatment of the patient is difficult due to the medical level at the time.

Under the circumstance in subparagraph 1 of the preceding paragraph, if the medical institution or any of its medical staff is also at fault, the medical institution shall assume the corresponding compensatory liability.

Article 1225 A medical institution and its medical staff shall fill out and properly keep the hospital admission logs, medical treatment order slips, test reports, operation and anesthesia records, pathology records, nurse care records, and other medical history data according to the relevant provisions.

Where a patient files a request for consulting or copying the medical history data in the preceding paragraph, the medical institution shall provide the data in a timely manner.

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Article 1226 A medical institution and its medical staff shall keep confidential the privacy and personal information of a patient. If any privacy data and personal information of a patient is divulged or any of the medical history data of a patient is open to the public without the consent of the patient, the medical institution shall assume the tort liability.

Article 1227 A medical institution and its medical staff shall not conduct unnecessary examinations in violation of the procedures and standards for diagnosis and treatment.

Article 1228 The lawful rights and interests of a medical institution and its medical staff shall be protected by law.

Anyone who interrupts the order of the medical system, or obstructs the work or life of medical staff, or infringes upon the lawful rights and interests of medical staff shall be subject to legal liability.

Chapter VII Liability for Environmental Pollution and Ecological Damage

Article 1229 Where any harm is caused to another person by environmental pollution or ecological damage, the tortfeasor shall assume the tort liability.

Article 1230 Where any dispute arises over an environmental pollution or ecological damage, the actor shall assume the burden to prove that it should not be liable or its liability could be mitigated under certain circumstances as provided for by law or to prove that there is no causation between its conduct and the harm.

Article 1231 Where not less than two tortfeasors cause environmental pollution or ecological damage, the shares of liability shall be determined, according to the type, concentration, and quantity of pollutants, the manner, scope, and degree of ecological damage, the role of conduct in causing the harmful consequences, and other factors.

Article 1232 Where a tortfeasor violates the provisions of laws and intentionally causes environmental pollution or ecological damage, resulting in serious consequences, the victim shall have the right to claim corresponding punitive compensation.

Article 1233 Where environmental pollution or ecological damage is through the fault of a third party, the victim may require a compensation from either the tortfeasor or the third party. After making compensation, the tortfeasor shall be entitled to be reimbursed by the third party.

Article 1234 Where a violation of the provisions issued by the state causes harm to the ecology and environment, and the ecology and environment are capable of remediation, the authority specified by the state or the organization specified by law shall have the right to require the tortfeasor to assume the liability for remediation within a reasonable time limit. If the tortfeasor fails to do so, the authority specified by the state or the organization specified by law may conduct remediation, by itself or through any other party authorized by it, at the expense of the tortfeasor.

Article 1235 Where a violation of the provisions issued by the state causes harm to the ecology and environment, the authority specified by the state or the organization

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specified by law shall have the right to require the tortfeasor to make compensation for the following losses and expenses:

- (1) The losses resulting from the loss of service functions from the time when damage is caused to the ecology and environment to the completion of remediation.
- (2) The losses resulting from permanent damage to ecological and environmental functions.
- (3) Expenses of investigation, authentication, and assessment of ecological and environmental damage.
- (4) Expenses of pollution removal and ecological and environmental remediation.
- (5) Reasonable expenses incurred to prevent the occurrence and aggravation of damage.

Chapter VIII Liability for Ultrahazardous Activity

Article 1236 One who causes any harm to another person while engaging in any ultrahazardous operation shall assume the tort liability.

Article 1237 Where a nuclear accident occurs to a civil nuclear facility or the nuclear materials transported into or out of the civil nuclear facility and causes any harm to another person, the operating entity of the civil nuclear facility shall assume the tort liability unless it can prove that the harm is caused by a situation such as war, armed conflict, and riot or by the victim intentionally.

Article 1238 Where a civil aircraft causes any harm to another person, the operator of the civil aircraft shall assume the tort liability unless it can prove that the harm is caused by the victim intentionally.

Article 1239 Where the possession or use of inflammable, explosive, acutely toxic, highly radioactive, highly corrosive, highly pathogenic or any other ultrahazardous materials causes any harm to another person, the possessor or user shall assume the tort liability unless it can prove that the harm is caused by the victim intentionally or by a force majeure. If the victim is grossly negligent for the occurrence of the harm, the liability of the possessor or user may be mitigated.

Article 1240 Where any harm is caused to another person by an aerial, high pressure or underground excavation activity or by the use of high speed rail transport vehicle, the operator shall assume the tort liability unless it can prove that the harm is caused by the victim intentionally or by a force majeure. If the victim is grossly negligent for the occurrence of the harm, the liability of the operator may be mitigated.

Article 1241 Where any harm is caused to another person by the loss or abandonment of ultrahazardous materials, the owner shall assume the tort liability. If the owner has delivered the ultrahazardous materials to another person for management, the person who manages the materials shall assume the tort liability; and if the owner is at fault, he shall be liable jointly and severally with the person who manages the materials.

Article 1242 Where any harm to another person is caused by the illegal possession of ultrahazardous materials, the illegal possessor shall assume the tort liability. If the owner and the manager cannot prove that it has fulfilled its duty of a high degree of care in preventing illegal possession, they shall be liable jointly and severally with the

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illegal possessor.

Article 1243 Where any harm is caused by the unauthorized entry into an area of ultrahazardous activities or an area of storing ultrahazardous materials, if the manager can prove that it has taken sufficient safety measures and fulfilled its duty of sufficient warning, its liability may be mitigated or it may assume no liability.

Article 1244 Where any legal provision prescribes a limit of compensation for liability for an ultrahazardous activity, such a provision shall apply, unless the actor is with intent or grossly negligent.

Chapter IX Liability for Harm Caused by Domestic Animal

Article 1245 Where a domestic animal causes any harm to another person, the keeper or manager of the animal shall assume the tort liability, but may assume no liability or assume mitigated liability, if it can prove that the harm is caused by the victim intentionally or grossly negligently.

Article 1246 Where safety measures fail to be taken in relation to an animal in violation of administrative provisions, causing any harm to another person, the keeper or manager of the animal shall assume the tort liability, but may assume mitigated liability, if it can prove that the harm is caused by the victim intentionally.

Article 1247 Where any dangerous animal such as a fierce dog that is prohibited from keeping causes any harm to another person, the keeper or manager of the animal shall assume the tort liability.

Article 1248 Where any animal of a zoo causes any harm to another person, the zoo shall assume the tort liability unless it can prove that it has fulfilled its duties of management.

Article 1249 Where an abandoned or fleeing animal causes any harm to another person during the time period of its abandonment or fleeing, the original keeper or manager of the animal shall assume the tort liability.

Article 1250 Where any harm is caused to another person by an animal for the fault of a third party, the victim may require a compensation from the keeper or manager of the animal, or require a compensation from the third party. After making compensation, the keeper or manager of the animal shall be entitled to be reimbursed by the third party.

Article 1251 Animals shall be kept in accordance with the laws and regulations, in the manner of respecting the social morals, and without interference with the life of others.

Chapter X Liability for Harm Caused by Building or Object

Article 1252 Where any building, structure or facility collapses or subsides, causing any harm to another person, the construction employer and contractor shall be liable jointly and severally, unless the construction employer and contractor can prove the non-existence of quality defect. After making compensation, the construction

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employer or contractor shall be entitled to be reimbursed by other liable persons if any. Where the collapse or subsidence of any building, structure or facility, which causes any harm to another person, is attributed to the owner, manager, user, or a third party, the owner, manager, user, or third party shall assume the tort liability.

Article 1253 Where any building, structure or facility or anything laid thereon or suspended therefrom falls off or falls down, causing any harm to another person, if the owner, manager or user cannot prove that he is not at fault, he shall assume the tort liability. After making compensation, the owner, manager or user shall be entitled to be reimbursed by other liable persons if any.

Article 1254 Throwing an object out of a building is prohibited. Where any object thrown out of a building or falling down from a building causes any harm to another person, the tortfeasor shall assume the tort liability according to the law; and if it is hard to determine the specific tortfeasor through investigation, all the users of the building who possibly commit the tort but those who can prove that they are not the tortfeasor shall make indemnity. After making indemnity, the users of the building who possibly commit the tort shall be entitled to be reimbursed by the tortfeasor. A property management service enterprise or any other building manager shall take necessary security measures to prevent the circumstances specified in the preceding paragraph; and if the property management service enterprise or any other building manager fails to take necessary security measures, it shall assume the tort liability for failure to perform its security obligations in accordance with the law. If the circumstances specified in paragraph 1 of this Article occur, public security and other authorities shall investigate in accordance with the law in a timely manner and discover the liable person.

Article 1255 Where a pile of objects collapse, roll down, or slip down, causing any harm to another person, the person making the pile shall assume the tort liability if it cannot prove that it has no fault.

Article 1256 Where any harm is caused to another person by objects piled, dumped or scattered on a public road, which obstruct passage, the actor shall assume the tort liability. The manager of the public road shall assume the corresponding liability unless it can prove that it has performed its duties such as cleaning, protection, and warning.

Article 1257 Where any harm is caused to another person by a broken or fallen tree, a fallen fruit, or the like, the owner or manager of the tree shall assume the tort liability if it cannot prove that it is not at fault.

Article 1258 Where anyone digs, repairs or installs any underground facility, among others, at a public venue or on a public road and causes any harm to another person, if the person cannot prove that it has set up any obvious warning sign or taken any safety measure, the person shall assume the tort liability. Where a manhole or any other underground facility causes any harm to another person, the manager of the manhole or the facility shall assume the tort liability if it cannot prove that it has fulfilled the duties of management.

Supplemental Provisions

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Article 1259 For the purposes of the civil law, “not less than,” “not more than,” “within,” and “expire” shall include the figure itself; “under,” “exceed,” and “beyond” shall not include the figure itself.

Article 1260 This Code shall come into force on January 1, 2021, upon which the Marriage Law of the People's Republic of China, the Succession Law of the People's Republic of China, the General Principles of the Civil Law of the People's Republic of China, the Adoption Law of the People's Republic of China, the Guarantee Law of the People's Republic of China, the Contract Law of the People's Republic of China, the Real Right Law of the People's Republic of China, the Tort Law of the People's Republic of China, and the General Provisions of the Civil Law of the People's Republic of China shall be repealed.

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