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Law of the People's Republic of China on Mediation and Arbitration of Disputes over Rural **Land** Contractual Operation

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The Law of the People's Republic of China on Mediation and Arbitration of Disputes over Rural Land Contractual Operation adopted on June 27, 2009 at the Ninth Executive Committee Meeting of the 11th National People's Congress of the People's Republic of China is hereby promulgated and shall become effective from January 1, 2010.

Hu Jintao, President of the People's Republic of China
June 27, 2009

Law of the People's Republic of China on Mediation and Arbitration of Disputes over Rural Land Contractual Operation

(adopted on June 27, 2009 at the Ninth Executive Committee Meeting of the 11th National People's Congress)

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Chapter 1: General Provisions

Article 1 This Law is formulated in order to settle the disputes over the right for rural land contractual operation in a fair and timely manner, protect the legitimate rights and interests of the parties concerned, and facilitate the development of rural economy and social stability.

Article 2 This Law shall apply to the mediation and arbitration of disputes over rural land contractual operation right.

Disputes over rural land contractual operation right shall include:

- (1) Disputes arising from conclusion, performance, change, rescission and termination of rural land contractual contracts;
- (2) Disputes arising from sub-contracting, lease, mutual exchange, transfer of rural land contractual operation right, acting as equity participants in rural land contractual operation and the circulation of rural land contractual operation right in other forms;
- (3) Disputes arising from withdrawal of or adjustments to contractual land;
- (4) Disputes arising from confirmation of rural land contractual operation right;
- (5) Disputes arising from infringement of rural land contractual operation right;
- (6) Other disputes over rural land contractual operation specified in laws and regulations.

Disputes arising from requisition of collectively-owned lands and the compensation involved shall not

be within the scope of acceptance by the arbitration committees of rural land contractual operation (hereinafter referred to as the "Committees") and may be settled through administrative review and lawsuit.

Article 3 With respect to disputes over rural land contractual operation, the parties concerned may settle such disputes by seeking reconciliation among themselves or by filing a request for mediation with the relevant village committees or the people's governments of the villages (towns).

Article 4 If the parties concerned fail or are not willing to settle disputes through reconciliation or mediation, the parties may apply to the Committee for arbitration or may file a lawsuit directly with the relevant people's court.

Article 5 Mediation and arbitration of disputes over rural land contractual operation shall adhere to the principles of openness, fairness and impartiality as well as convenience and high efficiency and comply with the laws. Moreover, the mediation and arbitration shall be conducted based on facts and in line with social ethics.

Article 6 The people's governments at or above the county level shall strengthen the guidance over the mediation and arbitration of disputes over rural land contractual operation.

Administrative departments for rural land contractual operation established under the people's governments at or above the county level and other relevant departments shall, pursuant to the division of their duties and functions, support the relevant mediation organizations and Committee in carrying out the relevant work in accordance with the law.

Chapter 2: Mediation

Article 7 Any village committee or the people's government of the village (town) shall enhance work relating to mediation of disputes over rural land contractual operation and help the parties concerned to reach an agreement on dispute settlement.

Article 8 A party concerned, who applies for mediation of a dispute over rural land contractual operation, may file an application orally or in writing. If an application is filed orally, the relevant village committee or the people's government of the village (town) shall immediately take notes regarding the basic information of the applicant, the disputed issue under the application for mediation, the reasons thereof and the time schedule.

Article 9 With respect to the mediation of a dispute over rural land contractual operation, the relevant village committee or the people's government of the village (town) shall provide legally sufficient hearing to the parties concerned regarding their statements on the facts and grounds, impart the relevant laws and the State's policies to the parties concerned and help the parties concerned to reach an agreement on dispute settlement through patient persuasion.

Article 10 If an agreement is reached through mediation, the relevant village committee or the people's government of the village (town) shall prepare a written mediation agreement.

The written mediation agreement shall become effective after the two parties concerned affix their signatures and seals or fingerprints thereto and the relevant mediator affixes his/her signature and the seal of the relevant mediation organization thereto.

Article 11 The relevant arbitral tribunal shall mediate the disputes over rural land contractual operation. If an agreement is reached through mediation, the arbitral tribunal shall prepare the mediation statement; if the mediation fails, the arbitral tribunal shall render an arbitration award in a timely manner.

A mediation statement shall clearly state the arbitration claims and the results attained through the parties' agreement. The mediation statement to which affixed the signatures of the relevant arbitrators and the seal of the Committee shall be served on both parties concerned.

The mediation statement shall become effective upon signing by both parties as their acknowledgment for receipt. Where either of the parties repudiates before signing on the mediation statement to acknowledge receipt, the arbitral tribunal shall make an arbitration award in a timely manner.

Section 1: Arbitration Committee and Arbitrators

Article 12 A Committee shall be established based on actual needs for settling the disputes over rural land contractual operation. A Committee may be established either in a county or a city without districts or in a city with districts or a municipality directly under the Central Government.

A Committee shall be established under the guidance of the relevant local people's government. If a Committee is established, the Committee's daily work shall be undertaken by the local department in charge of administration of rural land contractual operation of the place where the Committee is located.

Article 13 A Committee shall be composed of representatives from the relevant local people's government and the relevant departments, the relevant people groups and rural collective economic organizations, farmers' representatives and legal, economic and other relevant professionals, who shall serve part-time with the Committee. At least half of the committee members shall be farmers' representatives and legal, economic and other relevant professionals.

The Committee shall have one chairman, one or two vice chairmen and several members. The chairman and vice chairmen shall be elected by all members of the Committee.

Article 14 A Committee shall perform the following duties in accordance with the law:

- (1) Appointing or dismissing arbitrators;
- (2) Accepting arbitration applications;
- (3) Supervising arbitration activities.

A Committee shall formulate the articles of association in accordance with this Law and specify the method for composition of the Committee, term of office and rules of procedure.

Article 15 A Committee shall appoint honest and upright persons as arbitrators.

An arbitrator shall be a citizen who satisfies any of the following requirements:

- (1) Engaged in work related to the administration of rural land contractual operation for five years;
- (2) Engaged in legal work or people's mediation work for five years;
- (3) Reputed in the locality and has thorough understanding of the laws on rural land contractual operation and the State's policies.

Article 16 A Committee shall impart training to the arbitrators in respect of laws on rural land contractual operation and the relevant State's policies.

The department in charge of administration of rural land contractual operation established under the people's government of the relevant province, autonomous region or municipality directly under the Central Government shall formulate training program for arbitrators and strengthen the organization of and guidance over work related to training of arbitrators.

Article 17 Arbitrators and members of a Committee shall perform their duties in accordance with the law, comply with the articles of association and arbitration rules of the Committee, and shall not commit graft, take bribes, play favoritism and commit irregularities, or infringe legitimate rights and interests of the parties concerned.

If an arbitrator commits graft, takes bribes, plays favoritism and commits irregularities, perverts the law in making an arbitration award, accepts a party's treats or gifts, or commits other acts in violation of laws and disciplines, the Committee shall dismiss such arbitrator; if the act constitutes a criminal offence, such arbitrator shall be held criminally liable.

The people's governments at or above the county level and the relevant departments shall accept the complaints and reporting against a Committee's members and arbitrators regarding their acts in violation of the laws and disciplines, organize investigation into the relevant cases and impose penalties in accordance with the law.

Section 2: Application and Acceptance

Article 18 The valid term for an application for arbitration of a dispute over rural land contractual operation shall be two years, which shall be calculated from the date on which the parties concerned

know or should have known that their rights have been infringed.

Article 19 The applicant and the respondent in an application for arbitration of a dispute over rural land contractual operation are the parties concerned. If the rural land is contracted by a household, the representatives of the household may participate in arbitration. If one of the parties concerned consists of a large number of persons, the representatives thereof shall be selected to participate in arbitration.

Any party that has interests in the results of the case may apply to participate in arbitration as a third party or the relevant Committee shall notify such party to participate in arbitration.

The parties concerned and the third party may authorize agents to participate in arbitration.

Article 20 An application for arbitration of a dispute over rural land contractual operation shall meet the following conditions:

- (1) The applicant has direct interests in the dispute;
- (2) There is a clearly-defined respondent;
- (3) There are specific arbitration claims, facts and grounds;
- (4) It is within the scope of functions and responsibilities of a Committee to accept the application.

Article 21 A party concerned that files an application for arbitration shall submit a written application to the relevant Committee at the place where the land under dispute is located. The written application may be submitted by mail or through other persons. The written application shall state the basic information of the applicant and the respondent, arbitration claims, facts and grounds, and shall provide corresponding evidence and the source of evidence.

If it is difficult to file a written application, the application may be filed orally and the Committee shall make a record which is signed and affixed with a seal or affixed with a fingerprint thereon by the applicant after check.

Article 22 A Committee shall examine the application for arbitration and accept the application if it deems that the application complies with the provisions in Article 20 hereof. The Committee shall not accept the application if the application is involved in any of the following circumstances; if the Committee has accepted the said application, it shall terminate the arbitration proceedings:

- (1) The application does not meet the conditions for filing an application;
- (2) The relevant people's court has accepted such dispute;
- (3) Such dispute should be handled by other institutions as specified by the laws;
- (4) A legally effective judgment, ruling, arbitration award or administrative decision has been made for such dispute.

Article 23 If a Committee decides to accept an application, the Committee shall serve the acceptance notification, arbitration rules and a list of names of the arbitrators on parties concerned within five working days after the date on which the Committee receives the application for arbitration; if the Committee decides not to accept the application or terminates the arbitration proceedings, the Committee shall notify in writing the applicant and state the reason within five working days after the date on which the Committee receives the application for arbitration or finds the circumstances under which the arbitration proceedings shall be terminated.

Article 24 The Committee shall serve the acceptance notification, duplicate of a written application, arbitration rules and a name list of arbitrators on the respondent within five working days after the date on which the Committee accepts the application for arbitration.

Article 25 The respondent shall submit a statement of defense to the relevant Committee within ten days after the date on which the Committee receives the duplicate of a written application for arbitration; if it is indeed difficult to submit a statement of defense in writing, the statement of defense shall be made orally. In such case, the Committee shall make a written record of the statement, which shall be signed, affixed with seal or fingerprint by the respondent after check. The Committee shall serve on the applicant the duplicate of the written statement of defense within five working days after the date on which the Committee receives the written statement of defense. Where the respondent fails to make a statement of defense, the arbitration proceedings shall be carried out without being affected thereby.

Article 26 A party may apply for property preservation if any of the other party's acts or any other reasons are likely to make it difficult or impossible to enforce an arbitration award.

Where a party applies for property preservation, the relevant Committee shall submit the application filed by the party concerned to the basic people's court at the place where the respondent is domiciled or the property is located.

Where an erroneous application is filed, the applicant shall compensate the respondent for its losses resulting from property preservation.

Section 3: Composition of An Arbitral Tribunal

Article 27 An arbitral tribunal shall be composed of three arbitrators. The presiding arbitrator shall be selected jointly by the two parties and the other two arbitrators shall be selected respectively by the two parties; if the parties fail to select the arbitrators, the chairman of the Committee shall designate the arbitrators.

With respect to a dispute over rural land contractual operation, in case the facts are clear, relationship between rights and obligations is explicitly defined and there is no significant problem involved in the dispute, the arbitration of such dispute may be handled by one arbitrator upon consent of the two parties concerned. The arbitrator shall be selected jointly by the two parties or assigned by the Committee.

The Committee shall notify the parties of the composition of the arbitral tribunal within two working days after the date on which the arbitral tribunal is composed.

Article 28 If an arbitrator falls under any of the following circumstances, the arbitrator must withdraw from a case and any of the parties concerned shall have the right to file an application to request such arbitrator to withdraw:

- (1) Is one of the parties concerned or is a near relative of a party concerned or to an agent in the case;
- (2) Has an interest in the case;
- (3) Is otherwise connected with one of the parties concerned or one of the agents in the case to the extent that the impartial arbitration of the case is likely to be affected; or
- (4) Has, in private, met with any of the parties concerned or an agent in the case, or has accepted a treat or a gift from that party or agent.

Where a party applies to request an arbitrator to withdraw from a case, the reasons shall be stated and an application shall be submitted prior to the first hearing. If the cause for withdrawal is known after the first hearing, an application may be submitted by the end of the final hearing.

Article 29 A Committee shall make a decision to approve or disapprove an application for withdrawal from the relevant arbitration proceedings in a timely manner and notify the parties concerned orally or in writing and state the reasons.

The chairman of a Committee shall decide whether or not an arbitrator shall withdraw from the arbitration proceedings; where the chairman of the Committee acts as an arbitrator, the decision shall be made collectively by the Committee.

Where an arbitrator fails to perform his/her duties due to his/her withdrawal from the case or for any other reason, a new arbitrator shall be selected or appointed in accordance with this Law.

Section 4: Hearings and Arbitration Awards

Article 30 The arbitration of disputes over rural land contractual operation shall be carried out by conducting hearings.

A hearing may be held in a village (town) where the land involved in a dispute is located or at the place where the relevant Committee is located. If both parties concerned request to hold a hearing in a village (town), the hearing shall be held in such village (town).

The hearing shall be held publicly unless the disputes involve the State secrets, trade secrets, personal privacy and the matters that are not open to the public as specified by the parties concerned.

Article 31 The arbitral tribunal shall notify the parties concerned and other arbitration participants of the time and place of holding a hearing five working days prior to holding a hearing.

If a party has a justifiable reason, it may request the arbitral tribunal to change the time or place of holding a hearing. The arbitral tribunal shall decide whether the time and place should be changed.

Article 32 After filing an arbitration application, the parties concerned may settle the relevant disputes by seeking reconciliation between themselves. Where the parties reach a reconciliation agreement, they may either request the arbitral tribunal to make an arbitration award on the basis of the reconciliation agreement, or withdraw the arbitration application.

Article 33 An applicant may waive or modify arbitration claims. The respondent may accept or reject the arbitration claims and shall have the right to make a counterclaim.

Article 34 If an applicant withdraws the arbitration application before the arbitral tribunal renders an arbitration award, the arbitral tribunal shall terminate the arbitration proceedings unless the respondent files a counterclaim.

Article 35 Where an applicant, who has been notified in writing fails to appear at the arbitration hearing without a justifiable reason, or leaves the hearing venue before the end of the hearing without the permission of the arbitral tribunal, the applicant may be deemed to have withdrawn its arbitration application.

Where a respondent, who has been notified in writing, fails to appear at the arbitration hearing without a justifiable reason, or leaves the hearing venue before the end of the hearing without the permission of the arbitral tribunal, a default award may be made.

Article 36 Any party concerned has the right to express its opinion, state facts and grounds, provide evidence, conduct evidence examination and debate during a hearing. If a party does not know the commonly used language and characters in the local region, the relevant Committee shall provide him/her with translation or interpretation services.

Article 37 Any party concerned shall present evidence in support of its claims. If the evidence relating to the dispute is under the control or management of the contractee of a party concerned, such party shall provide the evidence within the time limit specified by the arbitral tribunal; such party shall bear the adverse consequences if it fails to do so within the time limit.

Article 38 An arbitral tribunal may collect evidence on its own if it deems necessary.

Article 39 Where an arbitral tribunal believes that a special issue needs to be appraised, the arbitral tribunal may refer it to an appraisal agency agreed by the parties concerned; an appraisal agency shall be designated by the tribunal if the parties concerned do not have an agreement on an appraisal agency.

At a party's request or the tribunal's requirement, the appraisal agency shall assign appraisers to attend the hearing. Subject to the tribunal's permission, a party may put questions to the appraisers.

Article 40 The relevant evidence shall be presented during a hearing; however, the evidence involving the State secrets, trade secrets and personal privacy shall not be presented during a public hearing.

The relevant arbitral tribunal shall hold a hearing in accordance with the rules of arbitration, give equal opportunity to both parties for statement and debate, and organize the parties to conduct evidence examination.

Evidence verified by the arbitral tribunal shall serve as a basis for recognizing a fact.

Article 41 Under the circumstances that the relevant evidence is likely to be lost or damaged or difficult to obtain in the future, a party concerned may apply for evidence preservation. The relevant Committee shall, when a party applies for evidence preservation, submit the application to a basic people's court of the place where the evidence is located.

Article 42 With respect to a dispute in which the relationship between rights and obligations is clear, the relevant arbitral tribunal may render a preliminary award to maintain the current status, restore the agricultural production and suspend the actions of borrowing or occupying land upon the application filed by the parties concerned.

If any of the parties fails to perform such preliminary award, the other party may file an application for enforcement with the relevant people's court and provide the relevant guarantee.

Article 43 The relevant arbitral tribunal shall make a written record of the hearing and the relevant arbitrators, tribunal clerk, parties concerned and other arbitration participants shall affix their signatures, seals or fingerprints to such record.

Where a party or any other participant in the arbitration believes that the record of its own statements contains an omission or error, the party shall be entitled to file an application to make corrections or supplements. The application shall be registered if the corrections or supplements are rejected.

Article 44 The relevant arbitral tribunal shall make an award based on recognized facts and in accordance with the relevant laws and the State's policies, and shall produce an arbitration award document.

An arbitration award shall be made according to the opinion of the majority of arbitrators. The dissenting opinions of the minority arbitrators may be recorded in writing. In the event that the arbitral tribunal fails to attain a majority opinion, an arbitration award shall be made according to the presiding arbitrator's opinion.

Article 45 An arbitration award shall clearly state the disputed facts of the arbitration claims, grounds for making the award, award results, date of the award and the rights of the parties concerned to file a lawsuit in the case of dissatisfaction with the arbitration award and time limit for such action. The written award shall be signed by arbitrators and affixed with the seal of the relevant Committee.

The Committee shall serve the award on the parties concerned within three working days after the date of making the award and notify the parties concerned of the right to filing a lawsuit in the case of dissatisfaction with the arbitration award and the time limit for taking such action.

Article 46 The arbitral tribunal shall independently perform its duties in accordance with the law, and shall not be intervened by any administrative organ, social group or individual.

Article 47 Arbitration of a dispute over rural land contractual operation right shall be accomplished within 60 days after the date on which the application for arbitration is accepted; if the case involves complex legal issues resulting in a necessary extension of time period for arbitration, the arbitration period may be extended upon approval by the chairman of the relevant Committee who shall notify the parties concerned in writing; however, the extension period shall not exceed 30 days.

Article 48 If a party is dissatisfied with an arbitration award, the party may file a lawsuit with the relevant people's court within 30 days after the date of receipt of the award. If the party fails to file a lawsuit within the time limit, the award shall become legally effective.

Article 49 The parties concerned shall perform a legally effective statement of mediation or arbitration award within the specified time limit. If any of the parties fails to perform the mediation or award after the said time limit expires, the other party may file an application for enforcement with a basic people's court at the place where the respondent is domiciled or the property is located. The people's court that has accepted the application shall conduct the enforcement in accordance with the law.

Chapter 4: Supplementary Provisions

Article 50 For the purposes of this Law, "rural land" shall mean State-owned agricultural lands or agricultural lands collectively-owned by farmers which are used by farmer collectively in accordance with the law, including cultivated lands, forest lands, pastureland and other lands legally used for agricultural purpose.

Article 51 Rules for arbitration of disputes over rural land contractual operation and the sample articles of association of a Committee shall be jointly formulated by the departments in charge of agriculture and forestry under the State Council in accordance with this Law.

Article 52 Arbitration of disputes over rural land contractual operation shall be conducted free of charge. Expenditures for conducting arbitration shall be included in the fiscal budgetary plan and guaranteed by the government.

Article 53 This Law shall become effective from January 1, 2010.