

**AGREEMENT  
BETWEEN  
MONGOLIA  
AND  
THE MACAO SPECIAL ADMINISTRATIVE REGION  
OF THE PEOPLE'S REPUBLIC OF CHINA  
ON LEGAL AND JUDICIAL ASSISTANCE IN CIVIL AND  
COMMERCIAL MATTERS**

Mongolia and the Macao Special Administrative Region of the People's Republic of China (hereinafter referred to as the "Macao SAR"), having been duly authorised to conclude this Agreement by the Central People's Government of the People's Republic of China (hereinafter referred to as the "Parties"),

Considering the importance of cooperation in the field of legal and judicial assistance in civil and commercial matters,

Have agreed as follows:

**Article 1**

**Scope of legal and judicial assistance**

Both Parties shall, in accordance with this Agreement, render to each other the following legal and judicial assistance in civil and commercial matters:

- (a) service of judicial and extrajudicial documents;
- (b) taking of evidence;
- (c) recognition and enforcement of judgments, including court decisions and equivalent decisions under the law of either Party;
- (d) exchange of information.

**Article 2**

**Judicial protection**

1. Nationals of Mongolia and residents of the Macao SAR shall enjoy, in the jurisdiction of the other Party, the same judicial protection and shall have the right to access to courts of the other Party under the same conditions as those for the nationals or residents of the other Party respectively.

2. Paragraph 1 of this Article shall also apply to legal persons located and incorporated in the jurisdiction of either Party in accordance with its law.

### **Article 3**

#### **Central authority**

1. Each Party shall designate a central authority to make or receive requests and communicate directly with each other for the purpose of this Agreement.

2. The Central Authority for Mongolia shall be the Supreme Court. The Central Authority for the Macao SAR shall be the Public Prosecutions Office of the Macao SAR.

3. Either Party may change its Central Authority, in which case it shall promptly notify the other Party of such change in writing.

### **Article 4**

#### **Form and contents of requests for assistance**

1. A request for legal and judicial assistance shall be in writing and shall contain the following:

- (a) the designation of the requesting authority;
- (b) the designation of the requested authority;
- (c) the specification of the case in relation to which legal and judicial assistance is requested;
- (d) the identities, nationalities and locations of persons related to the request. In case of legal persons, their names and addresses;
- (e) the names and addresses of the representatives of the persons related to the request, if any;
- (f) the description of the assistance sought and other information necessary for the execution of the request.

2. The request for legal and judicial assistance as well as other supporting documents and information shall be drawn up in an official language of the Requesting Party and accompanied by a translation into an official language of the Requested Party or into the English language.

### **Article 5**

#### **Costs of assistance**

1. The Parties shall cover the costs of legal and judicial assistance provided in their jurisdictions.



2. However, the Requesting Party shall bear:

- (a) the expenses and/or allowances for persons to travel to, stay in and leave the jurisdiction of the Requesting Party under Article 11 of this Agreement;
- (b) the expenses and fees for experts; and
- (c) the expenses and fees for translation and interpretation.

3. If the execution of a request requires expenses of an extraordinary nature, the Parties shall consult each other to determine the terms and conditions under which the request shall be executed.

4. The Requesting Party shall, if so requested by the Requested Party, pay in advance the expenses, allowances or fees mentioned in paragraph 2 of this Article.

## **Article 6**

### **Refusal of assistance**

1. The Requested Party shall refuse assistance if the request, if granted, in the case of Mongolia, impairs the sovereignty, security, public order or other essential public interests of Mongolia, or in the case of the Macao SAR, impairs the sovereignty of the People's Republic of China or the security, public order or other essential public interests of the People's Republic of China or any of its parts.

2. In case of refusal of assistance, the Requested Party shall return the request and related documents to the Requesting Party and shall inform the Requesting Party of the reasons for the refusal.

## **Article 7**

### **Service of judicial and extrajudicial documents**

1. The Requested Party shall, subject to its law, insofar as is possible, effect service of any document transmitted to it for this purpose by the Requesting Party.

2. A request for service shall contain the accurate address of the addressee and the documents to be served shall be attached to the request.

3. The Requested Party shall, after effecting service, forward to the Requesting Party a proof of service that shall include information on the date, place and manner of service, and be signed or sealed by the competent authority which served the document and be signed by the person served with the document. Reasons shall be given if service cannot be effected.

## **Article 8**

### **Taking of evidence**

1. The Parties shall, upon request, take evidence for each other, including obtaining statements of the parties to the case and testimonies of witnesses, taking material and documentary evidence, conducting expert evaluation or judicial inspection, or performing other judicial acts relating to the taking of evidence.

2. In addition to the provisions of Article 4, the request for the taking of evidence shall also specify:

- (a) a list of questions to be asked and the subject matter about which the parties, witnesses or experts are to be examined;
- (b) a description of the objects, documents or other properties to be inspected;
- (c) any information necessary for the application of subparagraph (b) of Article 12.

3. This Agreement shall not apply to:

- (a) the taking of evidence which is not intended for use in an existing judicial proceedings; or
- (b) obtaining documents which do not have direct and close connection with the case.

## **Article 9**

### **Refusal of assistance in service of documents or taking of evidence**

The request may not be refused by the Requested Party solely on the ground that its courts have exclusive jurisdiction over the subject matter of the action or that its internal law would not permit the action upon which the request is based.

## **Article 10**

### **Execution of requests for assistance in service of documents or taking of evidence**

1. In executing the request for service of document or taking of evidence, the Requested Party shall apply its law. However, upon request of the Requesting Party, the Requested Party may use the method suggested by the Requesting Party as long as it is not incompatible with its law.

2. Upon request of the Requesting Party, the Requested Party shall notify the Requesting Party and the interested parties and their representatives of the time when and the place where the request will be executed in order to enable their presence.

3. After the execution of the request, the Requested Party shall inform the Requesting Party of the results of the execution and shall forward all the related documents and/or the evidential materials obtained.



4. If the Requested Party considers that the information provided by the Requesting Party is inaccurate or is not sufficient to execute the request, it may request additional information from the Requesting Party, or in case of an inaccurate address, take the necessary measures to ascertain it.

5. Notwithstanding paragraph 4 of this Article, if the request cannot be executed, the Requested Party shall return the request and related documents to the Requesting Party and shall inform the latter of the reasons for the failure to execute it.

## **Article 11**

### **Appearance and protection of witnesses and experts**

1. Witnesses and experts who are staying in the jurisdiction of the Requested Party are not obliged to appear before the courts of the Requesting Party.

2. If the Requesting Party attributes importance to the personal appearance of a witness or an expert, who is staying in the jurisdiction of the Requested Party, before judicial authorities, the request for service of summons shall be transmitted to the Requested Party no less than 60 days before the scheduled appearance, unless the Requested Party agrees to a shorter period in urgent cases.

3. The Requested Party shall promptly inform the Requesting Party of the reply of the witness or expert.

4. The person summoned shall not be subjected to any penalties for failure to appear.

5. A witness or an expert, who, in response to a summon, voluntarily appears before the corresponding authority of the Requesting Party, shall not be prosecuted, detained, punished or subjected to any other restriction of personal liberty by that Party for any acts or omissions which preceded that person's entry into its jurisdiction, nor shall the person be obliged to give evidence in any other proceedings, except with the prior consent of the Requested Party and that person.

6. The protection provided in paragraph 5 of this Article shall cease if the witness or expert fails to leave the jurisdiction of the Requesting Party within 15 days after being informed by the competent authorities that his/her presence is no longer required. This period of time shall not include the time during which the witness or expert is unable to leave the jurisdiction of the Requesting Party for reasons beyond his/her control.

7. The request mentioned in paragraph 2 of this Article shall contain information concerning the expenses and/or allowances that the witness or expert is entitled to. For the purposes of paragraph 4 of Article 5, the witness or expert may inform the Requested Party of his/her desire to obtain the payment of the expenses and/or allowances in advance.

## **Article 12**

### **Refusal to give evidence**

A person who is requested to give evidence under this Agreement may refuse to give evidence insofar as he/she has a privilege or duty to refuse to give evidence:

- (a) under the law of the Requested Party; or
- (b) under the law of the Requesting Party, when the privilege or duty has been specified in the request, or when, at the instance of the Central Authority of the Requested Party, the privilege or duty has been confirmed to that authority by the Central Authority of the Requesting Party.

## **Article 13**

### **Recognition and enforcement of judgments**

Under the conditions provided in this Agreement, each Party shall recognise and enforce in its jurisdiction the judgments of the other Party in civil and commercial matters and the judgments on civil claims in criminal proceedings.

## **Article 14**

### **Request for recognition and enforcement of judgments**

The request for recognition and enforcement of a judgment shall be accompanied by:

- (a) a certified copy of the judgment and a document stating that the judgment entered into force, unless the information is indicated in the judgment itself;
- (b) a document certifying that the defeated litigant, who failed to appear in court, had been summoned in accordance with the law of the Requesting Party, unless it is so indicated in the judgment;
- (c) a document certifying that in the case of legal incapacity to act, the litigant has been properly represented, unless it is so indicated in the judgment.

## **Article 15**

### **Refusal of recognition and enforcement of judgments**

Recognition and enforcement of judgments may be refused if:

- (a) the judgment is rendered by a court which has no jurisdiction over the case in accordance with the law of the Requested Party;
- (b) the court of the Requested Party has already made the final judgment or has recognised the final judgment made by a third jurisdiction on the litigation between the



same parties and on the same object;

(c) proceedings between the same parties and on the same object are pending before a court of the Requested Party and those proceedings were the first to be instituted.

## **Article 16**

### **Procedures of recognition and enforcement of judgments**

1. The procedures of recognition and enforcement of judgments carried out by the courts of the Requested Party shall be in accordance with its law.

2. The courts of the Requested Party shall not examine the merits of the judgments, but shall only examine whether the judgments are in conformity with the provisions of this Agreement.

3. If a judgment has been given in respect of several matters and cannot be fully executed, the Requested Party may execute it partially.

## **Article 17**

### **Recognition and enforcement of arbitral awards**

Each Party shall recognise and enforce the arbitral awards rendered in the jurisdiction of the other Party in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted by the United Nations General Assembly in New York on 10 June 1958.

## **Article 18**

### **Exchange of information**

The Parties shall, upon request of the other Party, provide each other with information concerning the laws in force and the relevant legal and judicial practice in their respective jurisdictions.

## **Article 19**

### **Exemption from legalisation**

For the purpose of this Agreement, documents and translations drawn up or certified by the courts or other competent authorities of either Party shall not be subjected to any form of legalisation, provided that they are officially signed or sealed.

**Article 20**  
**Consultations**

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through consultations between the Central Authorities of the Parties; if the Central Authorities are unable to reach an agreement, the dispute shall be resolved through diplomatic channels.

**Article 21**

**Entry into force, amendments and termination**

1. This Agreement shall enter into force following the expiration of thirty (30) days after the date of the later notification by the Parties in writing that their respective requirements for the entry into force of the Agreement have been complied with.

2. This Agreement may be amended upon the mutual written agreement of the Parties. Such amendments shall enter into force in accordance with the provisions set in paragraph 1 of this Article.

3. The provisions of this Agreement shall apply to any requests presented after its entry into force even if the relevant conducts occurred prior to the entry into force of this Agreement.

4. This Agreement shall remain in force for an indefinite period. Either Party may terminate this Agreement at any time by giving notice in writing to the other Party. In that event, the Agreement shall cease to have effect one hundred and eighty (180) days after the receipt of the notice.

5. Requests for assistance which have been received prior to the termination of this Agreement shall nevertheless continue to be processed in accordance with the terms of the Agreement until their execution is concluded.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at ....., on this..... day of ....., in the Mongolian, Chinese and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR MONGOLIA**

**FOR THE MACAO SPECIAL  
ADMINISTRATIVE REGION OF THE  
PEOPLE'S REPUBLIC OF CHINA**