

Guide

指南

between the

DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

迪拜国际金融中心法院



and

KING & WOOD MALLESONS

**KING & WOOD
MALLESONS
金杜律师事务所**

**KING & WOOD MALLESONS PREPARED CHINESE VERSION AND PROVIDED ADVICE IN
RESPECT OF PRC LAW.**

金杜律师事务所提供本《指南》的中文版本并提供与中国法有关的建议。

迪拜国际金融中心法院

与中国法院民商事判决相互承认与执行的指南

DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

GUIDE ON

MUTUAL RECOGNITION AND ENFORCEMENT OF CIVIL AND COMMERCIAL JUDGMENTS WITH THE PRC COURTS

引言

Introduction

1. 中华人民共和国（下称“中国”）和阿拉伯联合酋长国（下称“阿联酋”）两国政府于 2004 年 4 月 21 日签署了《关于民事和商事司法协助的协定》（下称“《司法协助协定》”），对两国之间民事和商事司法协助事项进行了规定，其中包括相互承认与执行法院裁判文书的相关规定。

In 2004 the People’s Republic of China (the “**PRC**”) and the United Arab Emirates (the “**UAE**”) entered into the *Agreement on Judicial Assistance in Civil and Commercial Matters* (the “**Agreement**”), pursuant to which either Party’s judgments in civil and commercial matters may be enforced in the other Party’s courts.

2. 为了方便相关当事人依据《司法协助协定》在对方国申请执行具有金钱给付内容的法院裁判文书，迪拜国际金融中心法院（下称“**DIFC 法院**”）发布本指南，旨在为当事人提供实务操作方面的指引。

The Dubai International Financial Centre (the “**DIFC**”) Courts issue this Guide on the mutual enforcement of monetary judgments issued by the courts in the PRC and the UAE, in order to provide practical guidance for parties that seek recognition and enforcement of monetary judgement under the *Agreement*.

3. 鉴于本指南中涉及中国法律的相关内容，DIFC 法院邀请中国的金杜律师事务所参与草拟本指南中涉及中国相关法律的部分。本指南的中文版亦由金杜律师事务所进行翻译并最后审定。ⁱ

As this Guide involves PRC laws, the DIFC Courts have instructed King & Wood Mallesons to draft the parts that involve PRC law. The Chinese version of the Guide is translated and finalised by King & Wood Mallesons.

4. 本指南不具有法律约束力，不构成条约或法律，也不约束各方法官，更不取代任何现行的法律、司法决定和法院规则。本指南也并不意图穷尽所有相关内容，创设或改变任何现存的法律权利或关系。本指南并未由任何中国法院参与审阅和制定。

This Guide has no legally binding effect. It does not constitute a treaty or legislation, is not binding on the judges of either Party and does not supersede any existing laws, judicial decisions or court rules. It is not intended to be exhaustive and is not intended to create or alter any existing legal rights or relations. It is not reviewed, commented nor endorsed by any PRC courts.

迪拜国际金融中心法院（DIFC 法院）

DIFC Courts

5. DIFC 法院是阿联酋司法系统的组成部分。本指南仅适用于 DIFC 法院。DIFC 法院对与迪拜国际金融中心有关的或者案件当事人同意交由该法院管辖的民商事案件享有专属管辖权。

The DIFC Courts form part of the legal system of the UAE. This Guide only applies to the DIFC Courts. The Guide pertains to civil and commercial disputes which are connected to the Dubai International Financial Centre or where the parties have agreed that the DIFC Courts should have exclusive jurisdiction.

6. DIFC 法院由小额诉讼法庭、一审法院和上诉法院组成。它们是根据迪拜 2004 年第 9 号和 12 号法律设立的普通法法院，采用最高国际标准的法律程序。法官从迪拜和世界其他普通法法域中选择，均享有极高的国际声誉，其中有三名阿联酋法官能同等运用大陆法和普通法。

The DIFC Courts consist of the Small Claims Tribunal, the Court of First Instance and the Court of Appeal. They were established by Dubai Laws No. 9 and 12 of 2004 and operate as a common law court which applies legal procedures of the highest international standards. The Courts' internationally renowned judiciary is selected from common law jurisdictions around the world and includes three Emirati judges equally conversant in civil and common law.

法律适用

Application of the Laws

7. 根据《司法协助协定》第十七条规定，中国法院（本指南所指中国法院，仅指中国大陆地区的法院，不包括香港、澳门、台湾地区的法院）和 DIFC 法院应依据各自的本国法律来承认和执行另一方法院作出的判决。

In accordance with Article 17 of the Agreement, PRC courts (not including the courts in Hong Kong, Macau and Taiwan) and DIFC Courts shall mutually recognise and enforce judgments pursuant to their respective national laws.

8. 向中国法院申请承认和执行 DIFC 法院裁判文书的主要法律依据包括但不限于：《司法协助协定》、《中华人民共和国民事诉讼法》（2012 年 8 月 31 日第二次修订，简称“《民事诉讼法》”）、《最高人民法院关于适用〈民事诉讼法〉的解释》（2015 年 2 月 4 日起施行，简称“《民事诉讼司法解释》”）。其中，《民事诉讼法》第 281 条和第 282 条特别明确规定，外国法院的判决可以根据中华人民共和国缔结或参加的国际条约或者依据互惠原则向中国法院申请承认与执行。

The approach of the PRC courts to the enforcement of the DIFC Courts' judgments is based on the *Agreement* and the *Civil Procedure Law of the People's Republic of China (2012 Second Amendment)* (the "**Civil Procedure Law**") and the *Judicial Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China* (the "**Judicial Interpretation of the Civil Procedure Law**", effective from February 4, 2015). Under Articles 281 and 282 of the Civil Procedure Law, a foreign judgment can be recognised and enforced upon an application to a PRC court in accordance with international treaties and / or agreements which the PRC is a party to, or upon the principle of reciprocity.

9. DIFC 法院根据普通法原则承认和执行中国法院的判决。基于普通法原则，如果一方当事人欠付另一方当事人特定金额的到期债务，拥有管辖权的外国法院可以判决该方当事人负有偿付该到期债务的法律义务。债权人可以以此为诉由在 DIFC 法院起诉债务人。

The approach of the DIFC Courts to the recognition and enforcement of the PRC courts' judgments is based on common law principles. Where a foreign court with jurisdiction has determined that a sum is due from one party to another, a legal obligation arises for the debtor to pay that sum. The creditor may bring a claim against the debtor to enforce that debt.

中国法院执行 DIFC 法院裁判文书的要求

The Requirements for Enforcement of the DIFC Courts' Judgments in PRC Courts

10. 除非存在《司法协助协定》第二十一条所规定的有限的情形，否则对于 DIFC 法院的判决，中国法院应予以承认和执行，这些情形包括：

The DIFC Courts' judgment shall be recognised and enforced by the PRC Courts unless it falls within the limited grounds provided in Article 21 of the *Agreement*. These grounds are:

- (a) 判决不是终局判决或不具有可执行性；

The judgment is not final and conclusive or is unenforceable;

- (b) 判决由不具有管辖权的法院作出；

The judgment has been issued by a court with no competent jurisdiction;

- (c) 判决支持的请求违反了宪法原则、主权、国家安全或公共政策；

The judgment supports a claim that is in violation of the constitutional laws and principles, sovereignty, national security or public policy of the PRC;

- (d) 判决违反了有关无行为能力人代理权的法律规定；

The judgment violates PRC laws on litigation representative(s) of person(s) lacking in legal capacity.

- (e) 在缺席判决的情况下，缺席一方未按迪拜国际金融中心法律获正当传唤；

The judgment issued is a judgment in default where the absent party was not duly summoned in accordance with DIFC laws;

- (f) 当承认与执行 DIFC 法院判决的申请被提到中国法院时，如果有管辖权的中国法院正在审理相同当事人之间的相同诉讼标的的案件，而且该案件在中国法院提起的时间先于在 DIFC 法院提起的时间；或者中国法院已经承认了第三国就相同当事人之间的同一诉讼标的案件所作出的终局司法裁判文书。

Where the application for the recognition and enforcement of a DIFC judgment is made when a PRC court with competent jurisdiction is still in the process of hearing a matter that involves the same parties and the same subject matter that was commenced at the PRC court earlier in time before it was commenced at the DIFC

Courts; or when a PRC court has recognized a third-party country's final judgement on a matter involving the same parties and the same subject matter.

11. 关于前述第 10 条第 (b) 款的情形，根据《司法协助协定》第十八条，如果不动产所在地理位置位于 DIFC 法院司法管辖区域内，DIFC 法院应被视为享有与该不动产有关的纠纷的管辖权。

In respect of paragraph 10 (b) above, the DIFC Courts are deemed to have jurisdiction to adjudicate disputes relating to immovable property if the immovable property is located within the geographical area under the jurisdiction of the DIFC Courts, pursuant to Article 18 of the Agreement.

12. 关于前述第 10 条第 (b) 款情形，根据《司法协助协定》第十九条，对于不动产以外的事项，DIFC 法院在以下情形具有管辖权：

In respect of paragraph 10 (b) above, the DIFC Courts have jurisdiction on matters other than immovable property in the following situations pursuant to Article 19 of the Agreement:

- (a) 提起诉讼时，被告在 DIFC 境内有住所或居所；

The Defendant has his domicile or residence in the territory of the DIFC at the time of the commencement of the suit; or

- (b) 提起诉讼时，被告在 DIFC 境内有工商业经营场所或分支机构，或从事赢利活动，且诉讼与该等活动有关；

The Defendant, at the time of commencement of the suit, owns industrial or commercial premises or subsidiaries, or engages in commercial activities in the DIFC district, and the litigation relates to these activities.

- (c) 根据原告和被告间明示或默示协议，引起诉讼的合同义务应当或已经在 DIFC 境内履行；

By an express or implied agreement between the Plaintiff and the Defendant, the contractual obligations giving rise to the litigation shall be or have been performed in the territory of the DIFC; or

- (d) 在非合同责任中，侵权行为系在 DIFC 的管辖区域范围内发生；

The infringing act, which is a non-contractual tortious liability, is committed within the geographical area under the jurisdiction of the DIFC; or

- (e) 被告已经明示或默示接受 DIFC 法院的管辖权。

The Defendant has expressly or impliedly accepted the jurisdiction of the DIFC Courts.

在 DIFC 法院执行中国法院裁判文书的要求

The Requirements for Enforcement of the PRC Courts' Judgments in the DIFC Courts

13. DIFC 法院适用与上述所列相似的规则来决定一方当事人是否可以向 DIFC 法院申请承认与执行中国法院作出的判决。

The DIFC Courts shall apply rules similar to the guidelines set out above to determine whether a party may apply for recognition and enforcement of a judgment issued by a PRC court.

14. 根据 DIFC 的冲突法规则，要承认和执行中国法院的判决，中国法院必须对相关争议事项具有管辖权。如有下列情形的，DIFC 法院通常会认为中国法院具有管辖权：

In accordance with the DIFC rules on conflict of laws, for the DIFC Courts to enforce judgments made by a PRC court, the PRC court must have jurisdiction on the matter in dispute. The DIFC Courts will usually consider the PRC courts to have jurisdiction under the following situations:

- (a) 提起诉讼时，被告在中国相关一审法院的管辖区域内有住所或居所；

At the time of the commencement of the suit, the Defendant has domicile or residence in the area under the jurisdiction of the PRC court of first instance.

- (b) 提起诉讼时，被告在中国相关一审法院的管辖区域内有工商业经营场所或分支机构，或者从事商业活动，且诉讼与上述活动有关；

The Defendant, at the time of commencement of the suit, owns industrial or commercial premises or subsidiaries, or engages in commercial activities in the area under the jurisdiction of the PRC court of first instance, and the litigation relates to those activities; or

- (c) 根据原告和被告间明示或默示的协议，引起诉讼的合同义务应当或已经在中国相关的一审法院的管辖区域内履行；

According to the express or implied agreement between the Plaintiff and the Defendant, the contractual obligations giving rise to the litigation shall be or have been performed in the geographical area under the jurisdiction of the PRC court of first instance; or

- (d) 在非合同责任中，侵权行为发生在中国相关的一审法院的管辖范围内；

The infringing act, which is a non-contractual tortious liability, is committed within the geographical area under the jurisdiction of the PRC court of first instance; or

- (e) 被告已经明示或默示接受中国相关的一审法院的管辖。

The Defendant has expressly or impliedly accepted the jurisdiction of the PRC Courts.

15. 在满足 DIFC 法院的上述要求的情况下，中国法院的判决不被承认与执行的理由仅限如下规定的情形：

Where the above requirements by the DIFC Courts are satisfied, a PRC court judgment will not be recognized and enforced only on the following grounds:

- (a) 判决不是终局判决，或不具有可被执行性；

The judgment is not final and conclusive or unenforceable;

- (b) 判决不是由有管辖权的法院作出；

The judgment has been issued by a Court with no competent jurisdiction;

- (c) 判决所支持的诉讼请求违反了迪拜国际金融中心的现行法律，或与阿联酋的宪法原则、主权、国家安全或公共秩序相悖；

The judgment supports a claim that is in violation of any law in force in the DIFC, or the constitutional laws and principles, sovereignty, national security, or public policy of the UAE;

- (d) 判决违反了迪拜国际金融中心关于无行为能力人代理权的法律；

The judgment violates DIFC laws on litigation representative(s) of person(s) lacking in legal capacity.

- (e) 判决系缺席作出，而缺席方未按中国法律规定获正当传唤；

The judgment issued is a default judgment where the absent party was not duly summoned in accordance with PRC laws;

- (f) 当承认与执行中国法院判决的申请被提到 DIFC 法院时，如果 DIFC 法院有管辖权，而且正在审理相同当事人之间的相同诉讼标的的案件，并且该案件在 DIFC 法院提起的时间先于在中国有管辖权的法院提起的时间；或者 DIFC 法院已经承认了第三国就相同当事人之间的相同诉讼标的的案件所作出的终局司法裁判文书。

Where the application for the recognition and enforcement of a PRC judgment is made to a DIFC Court and when a DIFC Court, which has competent jurisdiction, is still in the process of hearing a matter that involves the same parties and the same subject matter that was commenced at the DIFC Court earlier in time before it was commenced at the PRC court with competent jurisdiction; or when a DIFC Court has recognised a third-party country's final judgment on a matter involving the same parties and the same subject matter.

16. 根据《司法协助协议》第二十三条规定，DIFC 法院不会审查中国法院判决认定的案件的实体问题，该等判决不会因事实或法律错误而不被承认和执行。如果相关当事人负有法律义务履行中国法院的判决，该义务就会得到 DIFC 法院承认，并会在 DIFC 法院得到执行。

According to Article 23 of the *Agreement*, the DIFC Courts will not examine the substantive merits of a PRC court's judgment. The judgment will not be refused recognition and enforcement on the ground of error in a finding of fact or law. If the relevant party has legal obligations to carry out the PRC court's judgment, such obligations will receive recognition from the DIFC Courts and will be enforceable in the DIFC Courts.

中国法院执行 DIFC 法院判决的程序

The Procedure for Enforcement of the DIFC Courts' Judgments in the PRC Courts

17. 根据《司法协助协定》第二十二条规定，承认和执行裁决应当适用被请求方法律规定的程序，即在中国法院申请承认和执行 DIFC 法院判决，应当适用中国的相关法律规定。

According to Article 22 of the Agreement, procedures relating to recognition or enforcement of a judgment shall be subject to the laws of the Party which the judgment is enforced against. For example, the relevant PRC laws shall be applied in a procedure for recognition and enforcement of DIFC Courts' judgments in the PRC.

18. 根据《民事诉讼司法解释》第五百四十六条规定，对 DIFC 法院作出的发生法律效力终局裁判文书，需要在中国法院承认与执行的，当事人应当先向中国法院申请承认。经审查，中国法院作出裁定予以承认后，根据《民事诉讼法》等相关规定予以执行。

Pursuant to Article 546 of the *Judicial Interpretation of the Civil Procedure Law*, for a DIFC Court's judgment to be legally valid for recognition and enforcement in PRC, a party must first apply to the PRC court for recognition. After reviewing the DIFC Court's judgment, if the PRC court decides to recognize the judgment, it will be enforceable under relevant provisions of the *PRC Civil Procedure Law*.

19. 根据《民事诉讼司法解释》第五百四十七条以及《民事诉讼法》第二百三十九条规定，向中国法院申请承认和执行 DIFC 法院判决的期限是两年。该期限从 DIFC 法院判决规定的债务履行期间的最后一日起计算；如果判决规定分期履行的，从规定的每次履行期间届满的最后一日起计算；判决未规定债务履行期限的，从判决生效之日起计算。当事人仅申请承认而未同时申请执行的，申请执行的期间自中国法院对承认申请作出的裁定生效之日起，重新按照两年时间进行计算。

According to Article 547 of the *Judicial Interpretation of the Civil Procedure Law* and Article 239 of the *Civil Procedure Law*, the statute of limitations for applications to the PRC courts for recognition and enforcement of judgments of the DIFC Courts is two

years. The limitation period will commence from the last day of performance as provided for in the judgment; if the judgment requires performance by instalments, the limitation period will commence from the last day of the un-performed instalment; if the judgment does not stipulate the date of performance, the limitation period will commence from the day the judgment becomes effective. Where a party only applies for recognition without applying for enforcement at the same time, the two year limitation period for enforcement shall be recalculated from the day when the decision issued by the PRC Courts on the recognition application comes into force.

20. 根据《民事诉讼法》第二百八十一条规定，当事人向中国法院申请承认和执行 DIFC 法院判决，应当向被申请人住所地或财产所在地的中国的相关中级人民法院提出。

According to Article 281 of the Civil Procedure Law, when applying to the PRC Courts for recognition and enforcement of the DIFC Court judgments, a party shall apply to the relevant Intermediate People's Court in PRC at the Respondent's place of residence or where the Respondent's assets are located.

21. 根据《民事诉讼司法解释》第五百四十三条和《司法协助协定》第二十四条规定，向中国法院申请承认和执行 DIFC 法院判决，申请人须提交以下文件：

According to Article 543 of the *Judicial Interpretation of the Civil Procedure Law* and Article 24 of the *Agreement*, to apply to the PRC courts for recognition and enforcement of a judgment of the DIFC Courts, the applicant shall submit the following documents:

- (a) 书面的中文申请书，并附 DIFC 法院作出的发生法律效力判决及中文译本；

A written application in Chinese language, together with an original copy of the legally valid judgment issued by the DIFC Courts and a Chinese translation of the judgment;

- (b) 由作出生效判决的法院出具的证明判决属终局和具有可执行性的证明文件，但生效判决本身已载明该判决为终局的除外；

Unless it is provided for in the judgment *per se*, a document issued by the court which made the legally valid judgment certifying that the judgment is final and conclusive and enforceable.

- (c) 如果属缺席裁决，能够证明被申请执行一方已经被法院合法传唤的证明文件，包括法院传票、送达回证、公告送达的副本等；

In case of a judgment in default, documents showing that the Respondent had been duly summoned, such as, but not limited to, copies of court summons, proof of service

- (d) 证明无诉讼行为能力的当事人已经得到适当代理的文件。

A document to establish that the party who lacks legal capacity in litigation has been duly represented.

上述所列文件需要经过当地公证机关公证并在中国驻阿联酋使领馆认证后递交中国法院。

The documents listed in paragraph above shall be notarized by a local notary and attested to by the Chinese embassy in UAE before being submitted to the PRC courts.

22. 根据《司法协助协定》第二十六条规定，承认和执行法院裁决的申请可以由当事人直接向被请求方的主管法院提出。根据《民事诉讼司法解释》第五百四十八条规定，对于当事人申请承认和执行 DIFC 法院作出的发生法律效力判决，中国法院将组成合议庭进行审查。中国法院负责将申请人的申请书送达被申请人。被申请人可以陈述意见。被申请人不应诉的，中国法院可以缺席裁定。中国法院经审查作出的裁定，一经送达即发生法律效力。

According to Article 26 of the *Agreement*, an application for recognition and enforcement of a court judgment may be submitted directly by the Claimant to the competent court of the requested party. According to Article 548 of the *Judicial Interpretation of the Civil Procedure Law*, upon an application by a party to recognise and to enforce a judgment of the DIFC Courts, the PRC Courts shall form a collegiate bench to review the judgment of the DIFC Courts. The PRC courts will be responsible for serving the Claimant's application to the Respondent. The Respondent may submit its opinions. The PRC courts can issue a decision in default if the Respondent does not respond to the application. The decision by the PRC courts will be legally valid upon service.

23. 根据《司法协助协定》第二十三条规定，中国法院不会审查 DIFC 法院判决认定的案件实体问题，而仅审查 DIFC 法院的判决是否存在《司法协助协定》第二十一条所述情形。该等情形请见前述第十五条。

According to Article 23 of the *Agreement*, the PRC Courts will not review the merits of the judgment which has been determined by the DIFC Courts. It will confine itself to deciding whether the situations under Article 21 of the *Agreement* exist. These situations have been listed in paragraph 15 above.

24. 根据《司法协助协定》第二十七条规定，被承认和执行的 DIFC 法院的判决与中国法院作出的判决在中国境内具有同等法律效力。

According to Article 27 of the *Agreement*, the DIFC Courts' judgment which has been granted recognition or enforcement shall have the same legal effect in the territory of the PRC as judgments rendered by the PRC courts.

在 DIFC 法院执行中国法院判决书的程序

The Procedure for Enforcement of the PRC Courts Judgments in the DIFC Courts

25. DIFC 法院执行中国法院判决书的程序与上述程序类似。

The procedure for enforcing a PRC Court judgment in the DIFC Courts is similar.

26. 向 DIFC 法院申请执行中国法院判决时，申请方必须向 DIFC 法院提交一份起诉书，起诉书需载有请求性质的简要陈述和请求支付判决债务的金额，还需附一份经证明无误的中国法院判决书的副本。

To enforce a PRC court's judgment in the DIFC Courts, a party must furnish a Claim Application to the DIFC Courts, which shall contain the salient points of the claim and relief including the amount of the judgment debt. A certified copy of the judgment must be exhibited together with the Claim Application.

27. 中国法院作出判决后会向当事人送达加盖有中国法院公章的判决书正本。该判决书正本可作为当事人向 DIFC 法院起诉要求执行的依据。如果当事人需要，可向作出发生法律效力判决的法院提出申请，中国法院经审查后，出具判决书副本，加盖人民法院盖章或者出具副本复印件与判决书正本一致的证明文件。

After issuing a judgment, the PRC court will serve an original copy of the judgment sealed with the court's seal to the parties. The judgment can be used by the parties to bring a claim for enforcement before the DIFC Courts. If the parties so require, the parties may apply to the court which issued the legally effective judgment to issue a copy of the judgment. Upon review, the PRC court will issue a copy of the judgment sealed with the seal of the PRC court or issue a duplicate with the corresponding documents certifying the duplicate.

28. 根据 DIFC 法院规则（2011 年版）第 9.52 条的规定，在送达前，并不要求事先取得 DIFC 法院准许。但是，被申请人有权对 DIFC 法院的管辖权提出异议。

Under Rule 9.52 of the Rules of the DIFC Courts 2011, there is no requirement to obtain the permission of the DIFC Courts before serving proceedings. However, it remains open for the Respondent to challenge the jurisdiction of the DIFC Courts.

29. 申请文书被送达后，如果被申请人没有予以答复，根据 DIFC 法院规则（2011 年版）第十三条规定，申请人有权获得缺席判决。

If, following service of the application documents, the Respondent does not respond to the claim, the Claimant will be entitled to obtain a judgment in default under Part 13 of the Rules of the DIFC Courts 2011.

30. 如果被申请人认可送达，申请人必须提交并送达《诉讼内容说明》，简要陈述申请所依据的事实。《诉讼内容说明》应包括上文第 14 段规定的中国法院享有管辖权的声明。

If the Respondent acknowledges service, the Claimant must file and serve Particulars of Claim, setting out a concise statement of the facts relied on in support of the claim. The Particulars of Claim should contain a statement that the PRC Courts had jurisdiction on the grounds set out in paragraph 14 above.

31. 大多数案件中，申请人依据 DIFC 法院规则（2011 年版）第二十四条规定，有权要求在不经庭审的情况下通过简易程序获得判决，除非债务人能说服法院其有可能通过庭审证明上文第 19 段列出的情形。简易程序的申请处理速度快，且不需要提供证人的口头证供。

In most cases, the Claimant will be entitled to apply to obtain a judgment by summary procedure without trial under Part 24 of the Rules of the DIFC Courts 2011, unless the debtor can satisfy the Court that it has a real prospect of establishing at trial one of the grounds set out in paragraph 19 above. Applications for summary judgment are dealt with swiftly and do not require oral testimony from witnesses.

32. 在中国法院获得胜诉判决的债权人，DIFC 法院将判决其享有与中国法院的判决相同的权益，据此该判决的债权人将有权通过 DIFC 法院的程序要求强制执行，DIFC 法院可以出具：

If the claim before the PRC Court is successful, the judgment creditor will then have the same rights and benefits as a judgment rendered by the DIFC Courts. The judgment creditor will be entitled, if necessary, to enforce performance according to the procedural rules of the DIFC Courts, including the issuance of:

- (a) 第三方债务令，要求对判决债务人有负债的第三人向判决债权人支付债务；

Third party debt orders, which require third parties who are indebted to the judgment debtor to pay the sum owed to the judgment creditor;

- (b) 财产扣押令，以判决债权人作为受益人，在判决债务人财产上设定扣押；

Charging orders, which impose charges over the judgment debtor's property in favour of the judgment creditor;

- (c) 占有土地的命令；

Orders for possession of land;

- (d) 出售判决债权人享有扣押利益的土地或其他财产的命令；

Orders for sale of land or other property over which the judgment creditor has the benefit of a charge;

- (e) 要求判决债务人提供其财产信息的命令；

Orders requiring judgment debtors to provide information about their assets;

- (f) 指定执行官扣押并出售判决债务人所拥有物品的命令；

Orders appointing enforcement officers to seize and to sell the judgment debtor's goods;

(g) 指定财产管理人的命令；

Orders appointing receivers;

(h) 以藐视法庭为由的羁押令；

Orders for committal for contempt of court;

(i) 与破产程序相关的命令。

Orders relating to insolvency procedures.

联系法院

33. 关于中国法院的信息可以通过以下途径获得：

Further information about the PRC Courts can be obtained:

(a) 访问中国法院网站，地址为 <http://www.chinacourt.org/index.shtml>

By visiting the website of the PRC Courts at <http://www.chinacourt.org/index.shtml>

34. 关于 DIFC 法院的信息可以通过以下途径获得：

Further information about the DIFC Courts can be obtained below:

(a) 访问迪拜国际金融中心法院的网站，地址为：<http://www.difccourts.ae/>;

By visiting the website of the DIFC Courts at <http://www.difccourts.ae/> ;

(b) 联系迪拜国际金融中心法院的登记处：

- i. 阿联酋迪拜，盖特区，4号楼1层，邮箱 211724;
- ii. 电话: +971 4 427 3333; 或
- iii. 电子邮件 registry@difccourts.ae

- i. at Ground Floor, Building 4, The Gate District, PO Box 211724, Dubai, UAE;
- ii. By telephone on +971 4 427 3333; or
- iii. by email at registry@difccourts.ae

迪拜国际金融中心法院首席大法官黄锡义博士

Dr. Michael Hwang, SC

Chief Justice of the DIFC Courts

北京市金杜律师事务所主席邵子力律师

Mr. Shao Zili

Co-Chairman of King & Wood Mallesons China Management Committee

Annex

附件

1. 《中华人民共和国和阿拉伯联合酋长国关于民事和商事司法协助的协定》（2004年）
相关规定

**Agreement between The People's Republic of China and the United Arab Emirates on
Judicial Assistance in Civil and Commercial Matters**

第十七条

- 一、双方应当根据本国法律，承认和执行另一方法院作出的民事、商事和身份判决，以及刑事附带民事判决。
- 二、本协定所称判决，不论其名称为何，系指双方的主管法院在司法程序中作出的任何决定。
- 三、本协定不适用于保全措施或临时措施，但与支付生活费有关的事项除外。

Article 17

1. Each of the Parties shall, in accordance with its laws, recognize and/or execute decrees passed by the Courts of the other Party in civil, commercial and personal matters and by criminal courts in civil matters.
2. The term "Decree" as used in this Agreement, whatever its designation, means any decision rendered in judicial proceedings by a competent Court of the Parties.
3. This Agreement shall not apply to interim or provisional measures, except matters relating to allowance.

第十八条

不动产所在地法院有权确定与该不动产有关的权利。

Article 18

The Courts of the Contracting Party where immovable property is situated shall be competent to determine the rights connected with such property.

第十九条

对于不动产以外的诉讼，一方的法院在下列情形下具有管辖权：

- （一）提起诉讼时，被告在其境内有住所或居所；
- （二）提起诉讼时，被告在其境内有工商业经营场所或分支机构，或从事赢利活动，且诉讼与上述活动有关；
- （三）根据原告和被告间明示或默示的协议，引起诉讼的合同义务应当或已经在该方境内履行；
- （四）在非合同责任中，侵权行为系在该方境内发生；
- （五）被告已经明示或默示接受该方法院的管辖权；
- （六）如果一方法院根据本协议对主要争议有管辖权，则其对采取临时措施的申请也具有管辖权。

Article 19

In matters other than immovable property, the Courts of a Party shall have jurisdiction in the following cases:

- a. If the defendant has his domicile or residence in the territory of that Party at the time of institution of the suit;

- b. Or the defendant has at the time of institution of the suit, a place or a branch of commercial or industrial nature or works for gain in the territory of that Party, and the suit relates to such activity;
- c. Or by an express or implied agreement between the plaintiff and the defendant, the contractual obligation giving rise to the litigation are or have to be performed in the territory of that Party;
- d. Or in case of non-contractual liability the infringing act is committed in the territory of that Party;
- e. The defendant has accepted explicitly or implicitly the jurisdiction of the Court;
- f. Or any application for provisional measures, if the Courts of such Party are deemed competent to hear the principal dispute, by virtue of the provisions of this Agreement.

第二十条

被请求承认和执行判决的一方法院根据本协定审查另一方法院的管辖权时，应当受判决中说明的据以确立管辖权的事实的约束，除非判决系缺席作出。

Article 20

Subject to the provisions of this Agreement, the Court of the Contracting Party requested to recognize or execute a decree shall, when examining the grounds of jurisdiction exercised by the Courts of the other Contracting Party, be bound by the facts stated in that decree and on which jurisdiction is based, unless the said decree had been passed in absentia.

第二十一条

如遇下列情形之一，判决不应被承认和执行：

- （一）判决不是终局性的，或不具有执行力；
- （二）判决不是由有管辖权的法院作出；

(三) 判决所支持的诉讼请求违反被请求方现行法律，或与被请求方的宪法原则、主权、安全或公共秩序相悖；

(四) 违反了被请求方关于无行为能力人代理权的法律规定；

(五) 判决系缺席作出，而缺席方未按其本国法律规定获正当传唤；

(六) 被请求方法院正在审理相同当事方之间的同一标的的诉讼，该诉讼在被请求方法院提起的时间先于其在作出判决的法院提起的时间，且被请求方法院有权审理并做出决定；或被请求方法院已承认了第三国就相同当事人之间的同一标的的诉讼作出的终局判决。

Article 21

A decree shall not be recognized or executed in the following cases:

- a. If it is not conclusive and executable;
- b. Or it has not been pronounced by a Court of competent jurisdiction;
- c. Or it sustains a claim founded on a breach of any law in force, or is contrary to the constitutional rules, sovereignty, security or the principles of public order in the Requested Party;
- d. Or it contravenes the rules concerning the legal representation of persons suffering from lack of capacity in the Requested Party;
- e. Or it is passed in absentia and the defaulting party was not duly summoned in accordance with the rules applicable in his country;
- f. Or the dispute in which the decree was passed is pending in a suit before one the courts in the Party, between the same parties and involving the same cause of action, and that suit was raised before one of the courts of the latter Party, at a date prior to the raising of that dispute in the Court of the Party which passed the decree, and provided that the court before which the suit was raised, is competent to hear and decide upon it. Or if the decree was rendered by a court of third State, between the same parties and on the same subject matter, has been recognized by the requested Party.

第二十二條

承认和执行判决应当适用被请求方法律规定的程序。

Article 22

Procedures relating to recognition or execution of a decree shall be subject to the laws of the Requested Party.

第二十三条

一、被请求方承认和执行判决的主管司法机关应当仅限于确认判决符合本协定规定的条件，不得审查案件的实质问题。

二、如果本国法律有此项要求，被请求方主管司法机关在执行判决时，应当采取必要措施，按照与在其本国境内作出的判决相同的方式公告判决。

三、如果判决可予部分执行，可以就判决的全部或部分内容作出执行的裁定。

Article 23

1. The competent judicial authority in the Requested Party to recognize or execute a decree shall, without reviewing the merits of the case, confine itself to ascertaining the compliance of the decree with the conditions provided for in this Agreement.
2. The competent judicial authority in the Requested Party shall, if so required by its laws, in executing the decree, take the necessary action to notify it, in the same manner as it would have done had it been passed in its own territory.
3. The decisions for execution may be made for the whole or part of the decree, if the execution of such part of the decree is severable.

第二十四条

承认和执行判决的请求应当附有下列文件：

- （一）判决的正式副本；

- (二) 证明判决属终局和具有执行力的文件，除非判决本身已说明此点；
- (三) 如果属缺席判决，能够证明败诉方被合法传唤的经证明无误的传票副本或其他文件；
- (四) 证明无诉讼行为能力的当事人已经得到适当代理的文件。

Article 24

The request of recognition or execution of a decree shall be accompanied by the following:

- a. An official copy of the decree;
- b. Certificates showing that the decree is final and executable, unless that is provided for in the decree itself;
- c. In case of a decree in absentia, an authenticated copy of the summons or any other document showing that the defendant was duly summoned;
- d. A document to establish that the party who lacks legal capacity in litigation has been duly represented.

第二十五条

一、一方法院根据本国法律就当事人之间的有关争议制作的调解书，在其内容不违反另一方的现行法律、宪法原则、主权、安全或公共秩序的前提下，应当在另一方境内予以承认和执行。

二、请求承认和执行调解书的当事人应当提交调解书的正式副本，以及由法院出具的证明调解书的履行状况的文件。

Article 25

- 1. The settlement of a claim which is reached between the parties and approved by a competent court of either Party according to its national law shall be recognized and enforced in the territory of the other Party, after ascertaining that it does not contain any provisions

contravening any law in force, or the constitutional rules, sovereignty, security or the public order in the Requested Party;

2. The party requesting recognition or execution of a settlement must submit an official copy and a certificate from the court stating the extent, to which the settlement has been satisfied.

第二十六条

承认和执行法院判决和调解书的申请，可以由当事人直接向被请求方的主管法院提出。

Article 26

Application for recognition and enforcement of court decrees and settlements may be submitted directly by the party to the case to the competent court of the Requested Party.

第二十七条

被承认和执行的判决在被请求方境内应当与被请求方法院作出的判决具有相同效力。

Article 27

The court decrees which have been granted recognition or enforcement shall have the same effect as those rendered by the courts of the Requested Party in the territory of that Party.

2. 《中华人民共和国民事诉讼法》（2012）相关规定

Civil Procedure Law of the People's Republic of China

第一百四十四条

被告经传票传唤，无正当理由拒不到庭的，或者未经法庭许可中途退庭的，可以缺席判决。

Article 144

Where the Defendant refuses to be present in court upon being served a summons and without a proper reason, or leaves the courtroom halfway without the consent of the court, the judgment in default may be made.

第二百三十九条

申请执行的期间为二年。申请执行时效的中止、中断，适用法律有关诉讼时效中止、中断的规定。

前款规定的期间，从法律文书规定履行期间的最后一日起计算；法律文书规定分期履行的，从规定的每次履行期间的最后一日起计算；法律文书未规定履行期间的，从法律文书生效之日起计算。

Article 239

The timeframe for application for enforcement shall be two years. The provisions of the applicable laws on suspension and termination of limitation of action shall apply to suspension and termination of limitation period for application for enforcement.

The period stipulated in the preceding paragraph shall commence from the last day of the performance period stipulated in the legal document; where the legal document stipulates performance in phases, the period shall commence from the last day of each stipulated performance period; where the legal document does not stipulate the performance period, the period shall commence from the effective date of the legal document.

第二百八十一条

外国法院作出的发生法律效力判决、裁定，需要中华人民共和国人民法院承认和执行的，可以由当事人直接向中华人民共和国有管辖权的中级人民法院申请承认和执行，也可以由外国法院依照该国与中华人民共和国缔结或者参加的国际条约的规定，或者按照互惠原则，请求人民法院承认和执行。

Article 281

Where a judgment or ruling made by a foreign court which has come into legal effect requires ratification and enforcement by a People's Court of the People's Republic of China, the parties concerned may submit an application directly to an intermediate People's Court of the People's Republic of China which has jurisdiction for ratification and enforcement, or the foreign court may, pursuant to the provisions of the international treaty concluded or participated by the country and the People's Republic of China or in accordance with the principle of reciprocity, request for ratification and enforcement by the People's Court.

第二百八十二条

人民法院对申请或者请求承认和执行的外国法院作出的发生法律效力判决、裁定，依照中华人民共和国缔结或者参加的国际条约，或者按照互惠原则进行审查后，认为不违反中华人民共和国法律的基本原则或者国家主权、安全、社会公共利益的，裁定承认其效力，需要执行的，发出执行令，依照本法的有关规定执行。违反中华人民共和国法律的基本原则或者国家主权、安全、社会公共利益的，不予承认和执行。

Article 282

For a judgment or ruling made by a foreign court which has come into legal effect for which ratification and enforcement is applied or requested, where a People's Court concludes, upon examination pursuant to the international treaty concluded or participated by the People's Republic of China or in accordance with the principle of reciprocity, that the basic principle of the laws of the People's Republic of China or the sovereignty, security or public interest of the State is not violated, the People's Court shall rule on ratification of the validity; where there is a need for enforcement, an enforcement order shall be issued and enforced pursuant to the relevant provisions of this Law. Where the People's Court deemed that the basic principle of the laws of the People's Republic of China or the sovereignty, security or public interest of the State is violated, the judgment or ruling made by the foreign court shall not be ratified and enforced.

3. 最高人民法院关于适用《中华人民共和国民事诉讼法》的解释

Interpretations of the Supreme People's Court on Application of the "Civil Procedural Law of the People's Republic of China"

第五百四十三条

申请人向人民法院申请承认和执行外国法院作出的发生法律效力判决、裁定，应当提交申请书，并附外国法院作出的发生法律效力判决、裁定正本或者经证明无误的副本以及中文译本。外国法院判决、裁定为缺席判决、裁定的，申请人应当同时提交该外国法院已经合法传唤的证明文件，但判决、裁定已经对此予以明确说明的除外。

中华人民共和国缔结或者参加的国际条约对提交文件有规定的，按照规定办理。

Article 543

A petitioner applying to a People's Court for acknowledgement and enforcement of a judgment or ruling of a foreign court, which has come into legal effect, shall submit a petition form, and attach the original copy of the judgment or ruling of the foreign court which has come into legal effect, or a certified error-free duplicate copy and Chinese translation thereof. Where the judgment or ruling of a foreign court is made in the absence of a litigant, the applicant shall also submit proof document that the foreign court has issued legitimate summon, except where the judgment or ruling has specifically stated so.

Where an international convention concluded or participated by the People's Republic of China stipulates on the documents to be submitted, such provisions shall prevail.

第五百四十六条

对外国法院作出的发生法律效力判决、裁定或者外国仲裁裁决，需要中华人民共和国法院执行的，当事人应当先向人民法院申请承认。人民法院经审查，裁定承认后，再根据民事诉讼法第三编的规定予以执行。

当事人仅申请承认而未同时申请执行的，人民法院仅对应否承认进行审查并作出裁定。

Article 546

Where a judgment or ruling of a foreign court which has come into legal effect or a foreign arbitral award requires enforcement by a court in the People's Republic of China, the litigants shall first apply to a People's Court for acknowledgement. Upon examination, where the People's Court rules on acknowledgement, the judgment or ruling or arbitral award shall be enforced pursuant to the provisions of Part 3 of the Civil Procedural Law.

Where a litigant applies for acknowledgement without simultaneously applying for enforcement, the People's Court shall only conduct examination on whether to acknowledge and make a ruling thereto.

第五百四十七条

当事人申请承认和执行外国法院作出的发生法律效力判决、裁定或者外国仲裁裁决的期间，适用民事诉讼法第二百三十九条的规定。

当事人仅申请承认而未同时申请执行的，申请执行的期间自人民法院对承认申请作出的裁定生效之日起重新计算。

Article 547

The provisions of Article 239 of the Civil Procedural Law shall apply to the period for a litigant's petition for acknowledgement and enforcement of a judgment or ruling of a foreign court which has come into legal effect or a foreign arbitral award.

Where a litigant applies for acknowledgement without simultaneously applying for enforcement, the period for petition for enforcement shall be re-computed with effect from the date on which the ruling of acknowledgement come into legal effect.

4. 《中华人民共和国宪法修正案》（1988）相关规定

Amendments to the PRC Constitution

第二条

宪法第十条第四款“任何组织或者个人不得侵占、买卖、出租或者以其他形式非法转让土地。”修改为：“任何组织或个人不得侵占、买卖或者以其他形式非法转让土地。土地的使用权可以依照法律的规定转让。”

Article 2

The fourth paragraph of Article 10 of the Constitution, which reads, "No organization or individual may appropriate, buy, sell or lease land or otherwise engage in the transfer of land by unlawful means", is revised to read, "No organization or individual may appropriate, buy, sell or otherwise engage in the transfer of land by unlawful means. The right to the use of land may be transferred according to law."

ⁱ Founded in 1993, King & Wood Mallesons ("KWM") is one of the global law firm headquartered in the Asia Pacific region. As a top 10 global firm by lawyer numbers and the only firm in the world able to practice PRC, Australian, Hong Kong, English, US and a significant range of European laws, KWM is providing clients with deep legal and commercial expertise, business acumen and real cultural understanding on the ground where they need it most. KWM's dispute resolution team is highly regarded in China and abroad, and has participated in numerous litigation and arbitration cases of great significance at home and overseas.

金杜律师事务所成立于 1993 年，是一家总部位于亚太地区的全球性律师事务所。作为律师总人数跻身全球前十位的律师事务所，以及一家在中国、澳大利亚、香港、英国、美国及欧洲的重要区域均拥有执业能力的律师事务所，金杜正在为客户提供他们迫切需要的极具深度的商业和法律专业知识、分享商业智慧和对本土文化的深刻理解。金杜争议解决团队在中国乃至国际争议解决领域享有极高的声誉，代理了众多在国内外具有重大影响的诉讼和仲裁案件。