Auditing Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purpose of strengthening State auditing supervision, maintaining the fiscal and economic order of the State, improving the efficiency in the use of fiscal funds, promoting the building of a clean government, and ensuring the sound development of the national economy and society.

Article 2 — The State shall implement a system of auditing supervision. The State Council and local people's governments at or above the county level shall establish auditing institutions.

The auditing institutions shall, in accordance with the law, exercise the power of auditing supervision over the fiscal revenues and expenditures of the various departments of the State Council, of local people's governments at various levels and their various departments, the financial revenues and expenditures of State-owned financial institutions, enterprises, and institutions, and other fiscal and financial revenues and expenditures that are subject to auditing under this Law.

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The auditing institutions shall, in accordance with the law, exercise the power of auditing supervision over the truthfulness, legality, and effectiveness of fiscal and financial revenues and expenditures referred to in the preceding paragraph.

Article 3 — Auditing institutions shall conduct audits in accordance with the functions and powers and procedures prescribed by law.

Auditing institutions shall, in accordance with the provisions of relevant laws and regulations and the State regulations on fiscal and financial revenues and expenditures, conduct auditing supervision, and shall, in respect of matters subject to audit evaluation, handling, and penalties, make audit decisions or put forward audit recommendations within the scope of their statutory functions and powers.

Article 4 — The State Council and local people's governments at or above the county level shall annually submit to the standing committees of the people's congresses at the corresponding levels the audit work reports of the auditors-general on budget implementation and other fiscal revenues and expenditures. The audit work reports shall focus on reporting the audit status of budget implementation. Where necessary, the standing committees of the people's congresses may make resolutions on the audit work reports.

The State Council and local people's governments at or above the county level shall report to the standing committees of the people's congresses at the corresponding levels on the rectification status and results of problems identified in the audit work reports.

Article 5 — Auditing institutions shall independently exercise their power of auditing supervision in accordance with the law and shall be free from interference by any administrative organ, public organization, or individual.

Article 6 — Auditing institutions and auditors shall act impartially, be practical and realistic, maintain integrity and observe secrecy in handling audit matters.

Chapter II — Auditing Institutions and Auditors

Article 7 — The State Council shall establish the National Audit Office which, under the leadership of the Premier of the State Council, shall take charge of the auditing work nationwide. The Auditor-General shall be the chief executive of the National Audit Office.

Article 8 — Auditing institutions of the people's governments of provinces, autonomous regions, municipalities directly under the Central Government, cities divided into districts, autonomous prefectures, counties, autonomous counties, cities not divided into districts, and municipal districts shall be responsible for the auditing work within their respective administrative areas under the dual leadership of the governors, chairpersons of autonomous regions, mayors, prefectural heads, county heads, and district heads and the auditing institutions at the next higher level respectively.

Article 9 — Local auditing institutions at various levels shall be accountable to and report on their work to the people's governments at the corresponding levels and to the auditing institutions at the next higher level respectively, and their auditing work shall be subject to the guidance primarily of the auditing institutions at the next higher level.

Article 10 — Auditing institutions may, in accordance with work requirements and with the approval of the people's governments at the corresponding levels, establish dispatched auditing offices within their jurisdictional limits.

Dispatched auditing offices shall carry out auditing work in accordance with the authorization of the auditing institutions.

Article 11 — Funds necessary for auditing institutions to perform their functions shall be included in the government budgets and guaranteed by the people's governments at the corresponding levels.

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Article 12 — Auditors shall possess professional knowledge and competence relevant to the auditing work they engage in.

Auditing institutions shall, in accordance with the relevant State regulations, conduct training on professional knowledge and competence for auditors.

Article 13 — If an auditor has an interest in the auditee or audit matter that may affect impartial performance of duties, the auditor shall recuse himself or herself.

Article 14 — Auditors shall have the obligation to keep confidential the State secrets and business secrets of the auditees that come to their knowledge in the course of performing their duties.

Article 15 — Auditors shall be protected by law in performing their duties in accordance with the law. No organization or individual may refuse or obstruct auditors from performing their duties in accordance with the law, or retaliate against auditors.

The leading persons of auditing institutions shall be appointed or removed in accordance with the statutory procedures. They may not be arbitrarily removed or replaced, and none of them may be retaliated against.

Chapter III — Responsibilities of Auditing Institutions

Article 16 — Auditing institutions shall exercise auditing supervision over the budget implementation, final accounts, and other fiscal revenues and expenditures of the various departments (including directly subordinate entities) at the corresponding level and the people's governments at lower levels.

Article 17 — The National Audit Office shall, under the leadership of the Premier of the State Council, exercise auditing supervision over the budget implementation and other fiscal revenues and expenditures of the Central Government, and submit an audit report on results to the Premier of the State Council.

Local auditing institutions at various levels shall, under the leadership of governors, chairpersons of autonomous regions, mayors, prefectural heads, county heads, and district heads respectively as well as the auditing institutions at the next higher level, exercise auditing supervision over the budget implementation and other fiscal revenues and expenditures at the corresponding level, and submit an audit report on results to the people's governments at the corresponding levels and to the auditing institutions at the next higher level respectively.

Article 18 — The National Audit Office shall exercise auditing supervision over the financial revenues and expenditures of the Central Bank.

Auditing institutions shall exercise auditing supervision over the assets, liabilities, profits and losses of State-owned financial institutions.

Article 19 — Auditing institutions shall exercise auditing supervision over the financial revenues and expenditures of State institutions.

Article 20 — Auditing institutions shall exercise auditing supervision over the assets, liabilities, profits and losses of State-owned enterprises.

Article 21 — Auditing institutions shall periodically exercise auditing supervision over enterprises and financial institutions in which State capital has a controlling or dominant interest in accordance with the provisions of the State Council.

Article 22 — Auditing institutions shall exercise auditing supervision over the budget implementation and final accounts of government-invested and government-dominated construction projects.

Article 23 — Auditing institutions shall exercise auditing supervision over Social Security Funds donated by international organizations and foreign governments, project funds provided as aid or loans, and other funds.

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Article 24 — Auditing institutions shall exercise auditing supervision through special audit investigations conducted in accordance with the provisions of the State Council over the fiscal and financial revenues and expenditures of relevant localities, departments, and entities involving specific matters of State financial revenues and expenditures.

Article 25 — Auditing institutions shall, in accordance with the provisions of the State, exercise auditing supervision over the performance of economic responsibilities of the principal leading persons of State organs and other entities lawfully subject to auditing supervision by auditing institutions during their terms of office.

Article 26 — Auditing institutions shall exercise auditing supervision over matters subject to auditing as prescribed by other laws and administrative regulations that shall be audited by auditing institutions in accordance with the provisions of this Law.

Article 27 — Auditing institutions shall have the power to conduct special audit investigations into specific matters relating to State fiscal and financial revenues and expenditures of the relevant localities, departments, or entities, and report the results thereof to the people's governments at the corresponding levels and to the auditing institutions at the next higher level.

Article 28 — Auditing institutions shall determine the scope of their audit jurisdiction in accordance with the financial and fiscal subordinate relationship of the auditee or the supervisory and management relationships of State-owned assets.

Where a dispute arises between auditing institutions over the scope of audit jurisdiction, it shall be determined by an auditing institution superior to both disputing parties.

Auditing institutions at higher levels may directly audit major matters falling within the jurisdiction of auditing institutions at lower levels; provided that under normal circumstances the audit shall not be conducted by multiple levels simultaneously over the same auditee.

Article 29 — Units that are required by law, administrative regulations, and State provisions to establish internal auditing systems shall do so in accordance with relevant State provisions; such internal auditing shall be subject to the professional guidance and supervision of auditing institutions.

Article 30 — Audit reports issued by social audit institutions in respect of units lawfully subject to auditing supervision by auditing institutions shall be subject to verification by auditing institutions; where the audit reports are found to be truthful and lawful, auditing institutions shall inform the relevant competent authorities that such audit reports may be relied upon.

Chapter IV — Powers of Auditing Institutions

Article 31 — Auditing institutions shall have the power to require auditees to provide, in accordance with the provisions of the auditing institutions, budgets or plans for financial revenues and expenditures, information on budget implementation, final accounts, financial and accounting reports, electronic data of fiscal and financial revenues and expenditures stored and processed by computers, and the necessary computer technical documentation; accounting vouchers, account books, financial and accounting reports, and other materials relevant to fiscal and financial revenues and expenditures; and materials on opening accounts in banks, and the auditees shall not refuse, delay, or make false reports.

The leading persons of auditees shall be responsible for the truthfulness and completeness of the materials provided by their own units.

Auditing institutions shall have the power to inspect the information systems concerning fiscal and financial revenues and expenditures of auditees.

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Article 32 — Auditing institutions shall have the power to conduct inspection of accounting vouchers, account books, financial and accounting reports, electronic data systems for fiscal and financial revenues and expenditures, and other materials and assets relevant to fiscal and financial revenues and expenditures of auditees, and the auditees shall not refuse.

Article 33 — Auditing institutions shall, when conducting audits, have the power to carry out investigations among the relevant entities and individuals into matters relating to audit matters, and obtain relevant supporting materials, and the relevant entities and individuals shall support and assist the auditing institutions in doing so, truthfully report the relevant information to the auditing institutions, and provide relevant supporting materials.

Auditing institutions shall, upon approval of the leading persons of the auditing institutions of the people's governments at or above the county level, have the power to inquire into the accounts of auditees with financial institutions.

Auditing institutions shall, upon approval of the leading persons of the auditing institutions of the people's governments at or above the county level, have the power to inquire into the deposits of auditees in financial institutions with evidential materials such as the auditees' embezzlement of public funds, concealment of government revenue, or acceptance of bribes as part of conducting illegal and irregular activities involving individual savings deposits.

Article 34 — Where auditees are committing acts in violation of State provisions on fiscal and financial revenues and expenditures, auditing institutions shall have the power to stop such acts; where the stopping is ineffective, with the approval of the leading persons of the auditing institutions of the people's governments at or above the county level, the auditing institutions shall notify the departments of finance and relevant competent authorities to suspend the allocation of funds directly related to the acts in violation of State provisions on fiscal and financial revenues and expenditures, or suspend the use of funds already allocated.

Where auditing institutions, in the course of conducting audits, consider that the matters falling within the scope of audit jurisdiction, such as the transfer of documents, objects obtained by the auditees in violation of State provisions, may be transferred, destroyed, or concealed, or the auditees may flee or attempt to flee, the auditing institutions shall, upon approval of the leading persons of the auditing institutions of the people's governments at or above the county level, have the power to seal relevant materials and assets obtained in violation of State provisions; where it is necessary to freeze the relevant deposits of the auditees in financial institutions, the auditing institutions shall submit an application to the people's court.

Auditing institutions shall not affect the lawful business operations and production activities of the auditees when taking the measures provided for in the preceding two paragraphs.

Article 35 — Where auditing institutions consider that the provisions of the competent authorities at higher levels on fiscal and financial revenues and expenditures applied by auditees contravene laws or administrative regulations, they shall recommend the competent authorities concerned to make corrections; where the competent authorities concerned refuse to make corrections, the auditing institutions shall submit the matter to the competent authorities with the power to handle the matter to investigate and handle the matter in accordance with the law.

Article 36 — Auditing institutions may publish audit results to the public in accordance with relevant State provisions.

Auditing institutions shall, when publishing audit results, preserve the confidentiality of State secrets and the business secrets of the auditees in accordance with the law, and comply with the relevant State Council provisions.

Article 37 — Auditing institutions may request the departments of public security, supervision, finance, taxation, customs, pricing, and industry and commerce administration to provide assistance in performing

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their audit duties.

Chapter V — Auditing Procedures

Article 38 — Auditing institutions shall form audit teams based on the audit matters determined in the audit project plans and shall serve audit notices on the auditees three days before the implementation of the audit; under special circumstances, the audit institutions may directly conduct audits with the audit notices upon approval of the people's governments at the corresponding levels.

Auditees shall cooperate with the work of the auditing institutions and provide necessary working conditions.

Auditing institutions shall improve the efficiency of their audit work.

Article 39 — Auditors shall conduct audits and obtain audit evidence by examining accounting vouchers, account books, financial and accounting reports, checking documents and materials relating to audit matters, inspecting cash, negotiable instruments, and property, and making inquiries of the relevant entities and individuals, among other methods.

Audit records, audit working papers, and other relevant materials obtained from the auditees shall be signed or sealed by the auditees, and the auditees shall not refuse to do so.

Where auditees refuse to sign or seal the materials provided, the auditors shall note such refusal and the reasons therefor, and the auditors shall determine the truthfulness of the facts on the basis of the evidence obtained by the auditing institutions.

Article 40 — After an audit team has implemented the auditing of audit matters, it shall submit an audit report of the auditing institution to the auditing institution. Before submitting the audit report, the audit team shall seek the opinions of the auditee in writing. The auditee shall, within ten days of receiving the audit report, submit its written opinions on the report to the audit team or the auditing institution; if the auditee fails to submit its opinions within ten days, it shall be deemed that it has no objection to the audit report.

Article 41 — Audit reports submitted by audit teams shall be deliberated and approved by auditing institutions in accordance with the procedures prescribed by the auditing institutions. Auditing institutions shall, after deliberation, issue audit reports on the audit matters. Where acts in violation of State provisions on fiscal and financial revenues and expenditures are found in the audit, and within the scope of statutory functions and powers of the auditing institutions, a decision shall be made regarding disposition and punishment, or the auditing institutions shall put forward recommendations on disposition and punishment to the competent authorities.

Decisions of the auditing institutions on disposition and punishment shall take effect as of the date of service.

Article 42 — Where auditing institutions at higher levels consider that audit decisions made by auditing institutions at lower levels are in violation of relevant State provisions, they may order the auditing institutions at lower levels to modify or revoke such decisions, and may directly modify or revoke such decisions when necessary.

Chapter VI — Legal Liability

Article 43 — Where an auditee, in violation of the provisions of this Law, refuses or delays the provision of materials relating to audit matters, or refuses or obstructs inspection, the auditing institution shall order it to make corrections, and may circulate a notice of criticism and issue a warning; if it refuses to make corrections, the auditing institution shall impose penalties in accordance with the law.

Article 44 — Where an auditee, in violation of the provisions of this Law, transfers, conceals, falsifies, or destroys accounting vouchers, account books, financial and accounting reports, or other materials relating to fiscal and financial revenues and expenditures, or transfers or conceals assets obtained in violation of State

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provisions, the auditing institution shall have the power to stop such acts; where it is necessary, the auditing institution shall, upon approval of the leading person of the auditing institution of the people's government at or above the county level, have the power to seal the relevant materials and assets obtained in violation of State provisions; where it is necessary to freeze the relevant deposits of the auditee in financial institutions, the auditing institution shall submit an application to the people's court. The auditing institution shall, in accordance with the law, impose penalties on the auditee or make recommendations on penalties to the relevant competent authorities; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 45 — Where the department of finance of the people's government at the corresponding level or the auditee fails to implement the provisions on fiscal revenues and expenditures, the auditing institution shall, within its statutory functions and powers and in light of the specific circumstances, make a decision in accordance with the provisions of laws and administrative regulations to order payment of the revenues that should be paid, order return of the illegally occupied State-owned assets, order return of the illegal gains, or order other rectification measures, and may impose penalties in accordance with the law.

Article 46 — Where the auditee violates the provisions on financial revenues and expenditures, the auditing institution or the relevant competent authority shall, within its statutory functions and powers and in light of the specific circumstances, adopt the measures provided for in the preceding Article, and may impose penalties on the auditee in accordance with the law.

Article 47 — Where the auditing institution, in accordance with the law, orders the auditee to pay the revenues that should be paid or return the illegal gains, and the auditee refuses to implement the order, the auditing institution shall notify the relevant competent authority to withhold such payment or take other measures, or apply to the people's court for compulsory enforcement.

Article 48 — Where an auditee refuses to accept an audit decision on financial revenues and expenditures made by the auditing institution, it may, within 60 days of the date of service of the audit decision, apply for administrative reconsideration to the people's government at the same level as the auditing institution or the auditing institution at the next higher level; or it may, within six months of the date of service of the audit decision, bring a lawsuit before a people's court in accordance with the law.

With respect to a decision on financial revenues and expenditures made by an auditing institution, the auditee may apply for reconsideration to the auditing institution at the next higher level or the people's government at the same level, or bring a lawsuit before a people's court in accordance with the law. Before the reconsideration or lawsuit, the execution of the decision shall not be suspended, except as otherwise provided by law.

Article 49 — Where the auditee maliciously resists or hinders the auditing work with violence or intimidation, which constitutes a crime, criminal liability shall be pursued in accordance with the law; where a crime is not constituted, the public security authority shall impose a penalty for administration of public security in accordance with the law.

Article 50 — Where an auditor abuses his or her powers, engages in fraudulent practices for personal gain, neglects his or her duties, or divulges State secrets or business secrets coming to his or her knowledge in the course of performing duties, sanctions shall be imposed in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

Article 51 — The auditing work of the Chinese People's Liberation Army shall be governed by the regulations formulated by the Central Military Commission in accordance with this Law.

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Article 52 — This Law shall be implemented as of January 1, 1995. The Auditing Regulations of the People's Republic of China promulgated by the State Council on November 30, 1988 shall be repealed simultaneously.

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