Consumer Rights Protection Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of protecting the lawful rights and interests of consumers, maintaining social and economic order, and promoting the healthy development of the socialist market

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economy.

Article 2 — Where a consumer purchases or uses commodities or receives services for his or her daily consumption needs, his or her rights and interests shall be protected by this Law. Matters not provided for in this Law shall be protected by other relevant laws and regulations.

Article 3 — Business operators shall abide by this Law when providing consumers with commodities produced or sold by them or providing services. Matters not provided for in this Law shall be governed by other relevant laws and regulations.

Article 4 — Business operators shall, in their transactions with consumers, follow the principles of voluntariness, equality, fairness, honesty, and trustworthiness.

Article 5 — The state shall protect the lawful rights and interests of consumers from infringement. The state shall take measures to safeguard consumers' exercise of their rights in accordance with the law and to protect their lawful rights and interests. The state shall advocate frugal, rational, and civilized consumption patterns that are healthy, resource-saving, and environment-friendly, and shall oppose waste.

Article 6 — It shall be the common responsibility of the whole society to protect the lawful rights and interests of consumers. The state shall encourage and support all organizations and individuals to exercise social supervision over acts that harm the lawful rights and interests of consumers. The mass media shall publicize good practices in safeguarding the lawful rights and interests of consumers and expose and criticize acts that harm the lawful rights and interests of consumers by means of public opinion.

Chapter II — Rights of Consumers

Article 7 — A consumer shall have the right to the protection of personal safety and property safety when purchasing or using commodities or receiving services. A consumer shall have the right to require the commodities and services provided by business operators to meet the requirements for the protection of personal safety and property safety.

Article 8 — A consumer shall have the right to know the true facts concerning the commodities purchased or used or services received. A consumer shall have the right, based on the different conditions of commodities or services, to require business operators to provide information on the price, place of origin, manufacturer, use, performance, specifications, grade, main ingredients, date of production, expiration date, certificate of conformity, instruction for use, and after-sales services, or information on the content, specifications, and costs of services.

Article 9 — A consumer shall have the right to freely choose commodities or services. A consumer shall have the right to freely choose a business operator providing commodities or services, freely choose varieties of commodities or modes of services, and freely decide whether to purchase any commodity or receive any service. When freely choosing commodities or services, a consumer shall have the right to compare, identify, and select them.

Article 10 — A consumer shall have the right to fair dealing. When purchasing commodities or receiving services, a consumer shall have the right to obtain guaranteed quality, reasonable price, and correct measurement, and shall have the right to refuse any compulsory transaction by a business operator.

Article 11 — A consumer who has suffered personal injury or property damage as a result of the purchase or use of commodities or receipt of services shall have the right to claim compensation in accordance with the law.

Article 12 — A consumer shall have the right to form social organizations aimed at protecting his or her own lawful rights and interests in accordance with the law.

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Article 13 — A consumer shall have the right to acquire knowledge concerning consumption and the protection of consumer rights and interests. A consumer shall endeavor to master the knowledge and skills required for the use of the commodities or services, use the commodities properly, and raise his or her awareness of self-protection.

Article 14 — A consumer shall have the right to have his or her personality dignity and ethnic customs and traditions respected when purchasing or using commodities or receiving services. A consumer shall have the right to have his or her personal information protected in accordance with the law.

Article 15 — A consumer shall have the right to supervise commodities, services, and work relating to the protection of consumer rights and interests. A consumer shall have the right to report and accuse acts infringing upon consumer rights and interests, as well as illegal acts and dereliction of duty committed by state organs and their staff members in the work of protecting consumer rights and interests, and shall have the right to criticize or make suggestions for the work of protecting consumer rights and interests.

Chapter III — Obligations of Business Operators

Article 16 — Where a business operator provides commodities or services to consumers, it shall perform its obligations in accordance with the provisions of this Law and other relevant laws and regulations. Where an agreement is reached between the business operator and the consumer, the business operator shall perform its obligations under the agreement; however, the agreement between the two parties shall not violate the provisions of laws and regulations. Where a business operator provides commodities or services to consumers, it shall abide by social ethics, operate with integrity, protect the lawful rights and interests of consumers, and shall not set unreasonable or unfair trading conditions, nor impose compulsory transactions.

Article 17 — Business operators shall listen to consumers' opinions on the commodities or services they provide and accept consumers' supervision.

Article 18 — A business operator shall ensure that the commodities or services it provides meet the requirements for the protection of personal safety and property safety. For commodities or services that may endanger personal safety or property safety, a business operator shall provide consumers with truthful explanations and clear warnings, and shall explain or mark the correct methods for using the commodities or receiving the services, as well as the methods for preventing such harm. Where business operators such as hotels, shopping malls, restaurants, banks, airports, stations, ports, cinemas, theaters, scenic spots, and entertainment venues fail to fulfill their security obligations, thereby causing harm to consumers or other persons, they shall bear tort liability.

Article 19 — Where a business operator discovers that the commodities or services it provides have defects that may endanger personal safety or property safety, it shall immediately report to the relevant administrative authorities and inform consumers, and shall take measures such as stopping sales, giving warnings, recalling products, unconditionally accepting returns, or stopping the provision of services. Where a business operator takes recall measures, it shall bear the necessary expenses incurred by consumers as a result of the recall.

Article 20 — A business operator shall provide consumers with true information about commodities or services, and shall not make false or misleading publicity. A business operator shall give truthful and clear answers to consumers' inquiries about the quality and methods of use of the commodities or services it provides. A business operator shall clearly mark the prices of the commodities or services it provides.

Article 21 — A business operator shall clearly indicate its true name and trade mark. A business operator that rents counters or venues from another party to conduct business shall clearly indicate its true name and trade mark.

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Article 22 — A business operator providing commodities or services shall, in accordance with the relevant provisions of the state or commercial practice, issue purchase vouchers or service documents to consumers; where consumers request purchase vouchers or service documents, the business operator must issue them.

Article 23 — A business operator shall guarantee that the quality, performance, use, and effective term of the commodities it provides under normal conditions of use shall be consistent with the descriptions thereof. Defects existing at the time of purchase that are not known to consumers shall be covered by the warranty provided for in the preceding paragraph. However, business operators' promises made through advertisements, product descriptions, physical samples, or other means regarding the quality of commodities or services shall be deemed part of their obligations. Where a business operator provides commodities such as motor vehicles, computers, television sets, refrigerators, air conditioners, washing machines, or other durable goods, or services such as decoration and renovation, and a consumer discovers a defect within six months from the date of receiving the commodities or services, and a dispute arises, the business operator shall bear the burden of proof concerning the defect.

Article 24 — Where a business operator provides commodities or services that do not meet the quality requirements, a consumer may return the commodities or make a claim in accordance with the provisions of the state or the agreement between the parties; where there are no provisions of the state or the agreement between the parties, the consumer may return the commodities within seven days from the date of receipt. Where the consumer meets the requirements for statutory conditions for termination of the contract, he or she may return the commodities in a timely manner. Where the commodities do not meet the statutory conditions for termination of the contract, the consumer may require the business operator to repair or replace them.

Article 25 — A business operator providing commodities through online, television, telephone, mail order, or other such means, shall provide consumers with a seven-day right of return without giving a reason, with effect from the date of receipt of the commodities, except for the following commodities: (1) commodities customized by the consumer; (2) fresh and perishable commodities; (3) audio-visual products, computer software, and other digital commodities downloaded online or unpacked by the consumer; (4) newspapers and periodicals delivered; and (5) other commodities that, by their nature, are not suitable for return and have been confirmed as such by the consumer at the time of purchase. The commodities returned by consumers shall be in intact condition. The business operator shall return the price paid by the consumer within seven days from the date of receiving the returned commodities. The return freight for returned commodities shall be borne by the consumer, unless otherwise agreed between the business operator and the consumer.

Article 26 — When a business operator uses standard terms in the course of business, it shall draw consumers' attention to the content, quantity, quality, price or cost, term and duration, method of performance, safety precautions, risk warnings, after-sales services, civil liability, and other matters concerning consumers' significant interests, and shall provide explanations upon consumers' request. A business operator shall not, by means of standard terms, notices, statements, shop announcements, or other such means, impose unfair or unreasonable rules on consumers, such as excluding or restricting consumers' rights, reducing or exempting the business operator's liability, or increasing consumers' liability, nor shall it use standard terms or resort to technical means to compel transactions. Standard terms, notices, statements, shop announcements, or other such means that contain the content specified in the preceding paragraph shall be null and void.

Article 27 — A business operator shall not insult or slander consumers, shall not search the body of a consumer or articles carried by a consumer, and shall not infringe upon the personal freedom of a consumer.

Article 28 — A business operator providing commodities or services through online, television, telephone, mail order, or other such means, as well as a business operator providing securities, insurance, banking, or other financial services, shall provide consumers with information on the business address, contact details,

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quantity and quality of commodities or services, price or cost, term and duration of performance, method of performance, safety precautions, risk warnings, after-sales services, civil liability, and other such information.

Article 29 — A business operator shall follow the principles of lawfulness, propriety, and necessity when collecting and using consumers' personal information, shall clearly state the purpose, method, and scope of collection and use of the information, and shall obtain the consent of the consumer. A business operator shall disclose its rules on the collection and use of personal information, and shall not collect or use information in violation of laws and regulations or the agreement with the consumer. A business operator and its staff members shall keep consumers' personal information collected in the course of business confidential, and shall not divulge, sell, or illegally provide such information to others. A business operator shall take technical and other necessary measures to ensure the security of information, and shall promptly take remedial measures when information is leaked or lost. A business operator shall not send commercial information to consumers without the consent of consumers or the request of consumers, or where consumers have explicitly refused to receive such information.

Chapter IV — Protection of Consumers' Lawful Rights and Interests by the State

Article 30 — When formulating laws, regulations, rules, and mandatory standards concerning consumer rights and interests, the state shall listen to the opinions of consumers and consumer organizations.

Article 31 — The people's governments at all levels shall strengthen their leadership, organize, coordinate, and supervise the relevant administrative authorities in their work of protecting consumers' lawful rights and interests, and shall implement the responsibilities for the protection of consumers' lawful rights and interests. The people's governments at all levels shall strengthen supervision to prevent the occurrence of acts that harm the personal safety or property safety of consumers, and shall promptly stop such acts when they occur.

Article 32 — The administrative authorities for industry and commerce at all levels and other relevant administrative authorities shall, in accordance with the provisions of laws and regulations, take measures to protect consumers' lawful rights and interests within the scope of their respective duties. The relevant administrative authorities shall listen to the opinions of consumers and consumer organizations on the transactions of business operators and the quality of commodities and services, and shall investigate and deal with such matters in a timely manner.

Article 33 — The relevant administrative authorities shall, within the scope of their respective duties, conduct regular or random inspections of the commodities and services provided by business operators, and shall promptly investigate and deal with acts that harm consumers' lawful rights and interests.

Article 34 — The relevant state organs shall, in accordance with the provisions of laws and regulations, punish any illegal or criminal acts of business operators in the course of providing commodities and services that infringe upon the lawful rights and interests of consumers.

Article 35 — The people's courts shall take measures to facilitate consumers in filing lawsuits. For consumer rights disputes that meet the conditions for filing a lawsuit as prescribed by the Civil Procedure Law of the PRC, the people's court must accept and try them in a timely manner.

Chapter V — Consumer Organizations

Article 36 — Consumer associations and other consumer organizations are social organizations formed in accordance with the law to exercise social supervision over commodities and services and to protect consumers' lawful rights and interests.

Article 37 — A consumer association shall perform the following public welfare functions: (1) providing consumer information and consultation services, raising consumers' awareness of protecting their lawful rights and interests, and guiding frugal, rational, and civilized consumption patterns that are healthy,

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resource-saving, and environment-friendly; (2) participating in the formulation of laws, regulations, rules, and mandatory standards concerning consumer rights and interests; (3) participating in the supervision and inspection of commodities and services by relevant administrative authorities; (4) reporting, making suggestions, and raising inquiries with the relevant authorities on issues concerning consumers' lawful rights and interests; (5) accepting consumers' complaints and conducting investigations and mediations of complaints; (6) where a complaint involves the quality of commodities or services, entrusting a qualified appraiser to appraise the case and inform the consumer of the appraisal opinion; (7) supporting injured consumers in filing lawsuits or filing lawsuits on behalf of injured consumers against acts that harm consumers' lawful rights and interests; and (8) exposing and criticizing acts that harm consumers' lawful rights and interests through the mass media.

Article 38 — Consumer organizations shall not engage in commodity business operations or profit-making services, nor shall they recommend commodities or services to the public for profit-making purposes by means of charging fees or by any other means.

Chapter VI — Resolution of Disputes

Article 39 — Consumer-business operator disputes may be resolved through the following means: (1) negotiation and settlement with the business operator; (2) requesting a consumer association or any other legally established mediation organization for mediation; (3) lodging a complaint with the relevant administrative authority; (4) submitting the dispute to an arbitration institution for arbitration in accordance with the arbitration agreement reached with the business operator; or (5) filing a lawsuit with the people's court.

Article 40 — Where a consumer's lawful rights and interests are harmed when purchasing or using commodities, he or she may claim compensation from the seller. Where the seller has paid compensation but the responsibility rests with the manufacturer or another seller that provided the commodities to the seller, the seller shall have the right to seek reimbursement from the manufacturer or the other seller. Where a consumer's lawful rights and interests are harmed due to a defect in the commodities, resulting in personal injury or property damage, the consumer may claim compensation from the seller or the manufacturer. Where the responsibility rests with the manufacturer but the seller has paid compensation, the seller shall have the right to seek reimbursement from the manufacturer. Where the responsibility rests with the seller but the manufacturer has paid compensation, the manufacturer shall have the right to seek reimbursement from the seller. Where a consumer's lawful rights and interests are harmed when receiving services, he or she may claim compensation from the service provider.

Article 44 — Where a consumer's lawful rights and interests are harmed by purchasing commodities or receiving services through an online trading platform, the consumer may claim compensation from the seller or service provider. Where the online trading platform provider is unable to provide the true name, address, and valid contact details of the seller or service provider, the consumer may also claim compensation from the online trading platform provider. Where the online trading platform provider makes a commitment that is more favorable to the consumer, it shall perform the commitment. After paying compensation, the online trading platform provider shall have the right to seek reimbursement from the seller or service provider. Where the online trading platform provider knows or should have known that a seller or service provider is using its platform to infringe upon consumers' lawful rights and interests and fails to take necessary measures, it shall bear joint and several liability with the seller or service provider in accordance with the law.

Article 45 — Where a consumer's lawful rights and interests are harmed by a business operator using false advertising or other false publicity methods to provide commodities or services, the consumer may claim compensation from the business operator. Where an advertising agent or publisher designs, produces, or publishes false advertisements for commodities or services concerning consumers' life and health, thereby causing harm to consumers, it shall bear joint and several liability with the business operator providing the

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commodities or services.

Chapter VII — Legal Liability

Article 48 — Where a business operator provides commodities or services under any of the following circumstances, it shall bear civil liability in accordance with the provisions of this Law, the Product Quality Law, or other relevant laws and regulations, unless otherwise provided for in this Law: (1) the commodities or services are defective; (2) the commodities do not have the properties that they should have and the business operator fails to state the same at the time of sale; (3) the commodities do not conform to the standards stated on the commodities or their packaging; (4) the commodities do not conform to the quality specified by the methods of the samples or other quality indicators; (5) the commodities are sold with a counterfeit certificate of conformity, a counterfeit certificate of excellent quality, or any other quality certificate; (6) the commodities sold are those that have been officially declared by the relevant state authority to be eliminated or substandard; (7) the quantity of the commodities sold is insufficient; (8) the content or cost of the services is in violation of the agreement; (9) the business operator intentionally delays or unreasonably refuses to comply with a consumer's request for repair, redoing, replacement, return, replenishment of quantity, refund of payment for commodities or services, or compensation for losses; or (10) other circumstances prescribed by laws and regulations where consumers' rights and interests are harmed.

Article 51 — Where a business operator infringes upon the personal rights and interests of a consumer by means of insults, defamation, searching of the body or articles carried, or any other means, thereby causing serious mental distress, the consumer shall have the right to claim compensation for mental distress.

Article 55 — Where a business operator engages in fraudulent conduct in providing commodities or services, it shall, upon the request of the consumer, increase the compensation for the losses incurred by the consumer. The increased compensation shall be three times the price of the commodities purchased or the cost of the services received; where the increased compensation is less than RMB 500, it shall be RMB 500. Where a business operator knowingly provides a consumer with commodities or services that are defective and causes death or serious damage to the health of the consumer or any other victim, the victim shall have the right to claim compensation from the business operator in accordance with the provisions of Articles 49 and 51 of this Law and other relevant laws, and shall have the right to claim punitive damages not exceeding two times the amount of losses incurred.

Article 56 — Where a business operator commits any of the following acts, it shall bear corresponding civil liability; where there are other provisions in laws and regulations on the punishment authority and the method of punishment for the relevant acts, such provisions shall prevail; where there are no such provisions, the administrative department for industry and commerce or any other relevant administrative authority shall order the business operator to make corrections, and may, based on the circumstances, issue a warning, confiscate illegal gains, impose a fine of not less than one time and not more than 10 times the illegal gains, and where there are no illegal gains, impose a fine of not more than RMB 500,000; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification or its business license shall be revoked.

Article 62 — Where a farmer purchases or uses production materials directly used for agricultural production, the provisions of this Law shall apply by reference.

Chapter VIII — Supplementary Provisions

Article 62 — Where a farmer purchases or uses production materials directly used for agricultural production, the provisions of this Law shall apply by reference.

Article 63 — This Law shall take effect as of January 1, 1994.

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