E-Commerce Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of safeguarding the lawful rights and interests of all parties to e-commerce activities, regulating e-commerce conduct, maintaining market order, and promoting the sustainable and healthy development of e-commerce.

Article 2 — This Law shall apply to e-commerce activities within the territory of the People's Republic of China. For the purposes of this Law, "e-commerce" means business activities of selling goods or providing services through information networks such as the internet. Where laws or administrative regulations provide otherwise for the sale of goods or provision of services, such provisions shall prevail. This Law shall not apply to financial products or services that utilize information networks to provide news and information,

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audio and video programs, publications, or cultural products.

Article 3 — The State shall encourage the development of new forms of e-commerce business, promote innovation in e-commerce technologies and business models, promote the upgrading of e-commerce technologies, and advance the construction of an e-commerce integrity system. The State shall encourage e-commerce operators to establish and improve service systems and safeguard mechanisms. The State shall encourage all parties to e-commerce activities to jointly participate in the construction of e-commerce governance.

Article 4 — The State shall establish online and offline business activities on an equal footing and promote the integrated development of online and offline activities. People's governments at all levels and the relevant departments shall not adopt discriminatory policy measures and shall safeguard the legitimate rights and interests of all market players on an equal footing.

Article 5 — E-commerce operators engaged in business activities shall adhere to the principles of voluntariness, equality, fairness and good faith and shall abide by laws and business ethics, fairly participate in market competition, and fulfill obligations such as consumer rights protection, environmental protection, intellectual property protection, network security and personal information protection, bear the responsibility for the quality of products and services, and accept supervision by the government and the public.

Article 6 — The relevant departments under the State Council shall, in accordance with their respective division of duties, be responsible for the supervision and administration of e-commerce. The local people's governments at or above the county level may, in accordance with the actual circumstances of their respective administrative regions, determine the division of duties of their departments in the supervision and administration of e-commerce.

Article 7 — The State shall establish a collaborative management system for e-commerce that meets the needs of the development of e-commerce and promote the formation of a market governance model in which relevant departments, e-commerce industry organizations, e-commerce operators, consumers and other parties jointly participate. E-commerce industry organizations shall, in accordance with their articles of association, strengthen industry self-discipline, guide the members of the industry to engage in lawful competition in e-commerce activities, advance the building of an e-commerce integrity system, and promote the healthy development of e-commerce.

Article 8 — All levels of competent authorities for e-commerce shall strengthen the capacity building of e-commerce supervision, utilize modern information technologies, establish a digital and information-based management system, and strengthen the monitoring and early warning of e-commerce. The State shall establish an e-commerce information sharing and collaborative supervision system.

Chapter II — E-Commerce Operators

Section 1 — General Rules

Article 9 — For the purposes of this Law, an "e-commerce operator" means a natural person, legal person or unincorporated organization engaged in the business of selling goods or providing services through information networks such as the internet, including e-commerce platform operators, operators on platforms, and e-commerce operators that build their own websites or sell goods or provide services through other network services. For the purposes of this Law, an "e-commerce platform operator" means a legal person or unincorporated organization that provides business premises for two or more parties to e-commerce activities, facilitates matching of transactions, publishes information and other services, and enables them to independently carry out e-commerce transaction activities. For the purposes of this Law, an "operator on a platform" means an e-commerce operator that sells goods or provides services through an e-commerce platform.

Article 10 — E-commerce operators shall handle the registration of market entities in accordance with the law. However, this shall not apply to individuals who sell self-produced agricultural and sideline products, family handicraft products, use their own skills to engage in convenient labor services for which administrative license is not required in accordance with the law, and sporadic small-value transactions, and who conduct transactions in accordance with laws and administrative regulations for which no registration is required.

Article 11 — E-commerce operators shall perform their tax payment obligations in accordance with the law and enjoy preferential tax treatment in accordance with the law. E-commerce operators who do not need to handle the registration of market entities in accordance with the provisions of the preceding article shall, after the tax obligation occurs for the first time, apply for tax registration in accordance with the provisions of tax collection and administration laws and administrative regulations, and truthfully declare and pay taxes.

Article 12 — Where e-commerce operators engage in business activities for which an administrative license is required in accordance with the law, they shall obtain such administrative license in accordance with the law.

Article 13 — Goods sold or services provided by e-commerce operators shall comply with the requirements for safeguarding personal and property safety and environmental protection, and shall not be goods or services prohibited from trading by laws or administrative regulations.

Article 14 — Goods sold or services provided by e-commerce operators shall be accompanied by electronic invoices or other documents when required. Electronic invoices and paper invoices shall have the same legal effect.

Article 15 — E-commerce operators shall publish their business license information, administrative license information related to their business, information that they do not need to handle the registration of market entities in accordance with the provisions of Article 10 of this Law, or links to the above information on a conspicuous position of their home page, and shall update such information in a timely manner. Where the information specified in the preceding paragraph is changed, the e-commerce operator shall update the published information in a timely manner.

Article 16 — Where e-commerce operators terminate their e-commerce activities, they shall publish the relevant information on the termination on a conspicuous position of their home page thirty days in advance and complete the relevant procedures in accordance with the law.

Article 17 — E-commerce operators shall disclose the information on goods or services comprehensively, truthfully, accurately and in a timely manner, and shall ensure consumers' right to know and right to choose. E-commerce operators shall not engage in false or misleading commercial promotion by fictitious transactions, fabricated user reviews or other means, to deceive or mislead consumers.

Article 18 — Where e-commerce operators provide search results for goods or services to consumers based on their hobbies, consumption habits and other characteristics, they shall also provide consumers with options not specific to their personal characteristics and shall respect and equally protect the lawful rights and interests of consumers. E-commerce operators sending advertisements to consumers shall abide by the relevant provisions of the Advertising Law of the People's Republic of China.

Article 19 — Where e-commerce operators tie in goods or services, they shall draw consumers' attention in a conspicuous manner and shall not treat tying-in as a default option.

Article 20 — Where e-commerce operators undertake the delivery of goods to consumers in accordance with their commitments or agreements with consumers, they shall do so in the promised manner and within the promised time limit, and bear the risks and responsibilities during the delivery of goods. Where consumers agree to choose express logistics service providers separately, the e-commerce operators shall bear the corresponding responsibilities.

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Article 21 — Where e-commerce operators collect deposits from consumers in accordance with the agreement, they shall clearly state the method and procedure for the return of deposits and shall not set unreasonable conditions for the return of deposits. Where a consumer applies for the return of a deposit and meets the conditions for the return of the deposit, the e-commerce operator shall return it in a timely manner.

Article 22 — Where e-commerce operators have a dominant market position as a result of their technical advantages, number of users, ability to control relevant industries and the degree of reliance of other business operators on them in transactions, they shall not abuse their dominant market position to exclude or restrict competition.

Article 23 — E-commerce operators collecting and using users' personal information shall comply with the provisions of laws and administrative regulations on the protection of personal information.

Article 24 — E-commerce operators shall clearly state the methods and procedures for users to access, correct, delete and deregister their user information, and shall not set unreasonable conditions for users to access, correct, delete and deregister their user information. Where e-commerce operators receive applications from users for accessing, correcting or deleting their user information, they shall provide such information or take such measures in a timely manner after verifying the identity. Where a user deregisters his or her account, the e-commerce operator shall delete the user information immediately; where the user information cannot be deleted for a period of time in accordance with the provisions of laws or administrative regulations or the agreement, the e-commerce operator shall cease the further processing of the information.

Article 25 — The relevant competent authorities shall protect the security of the personal information, privacy and trade secrets of e-commerce operators provided in accordance with the provisions of laws and administrative regulations, and shall not divulge, sell or illegally provide them to others.

Article 26 — E-commerce operators engaged in cross-border e-commerce shall abide by the laws, administrative regulations and relevant provisions of the State on import and export supervision and administration.

Chapter III — Formation and Performance of E-Commerce Contracts

Article 47 — Where parties to e-commerce conclude and perform contracts, the provisions of this Chapter and the Civil Code of the People's Republic of China, the Electronic Signature Law of the People's Republic of China and other laws shall apply.

Article 48 — The parties to e-commerce using an automated information system to conclude or perform a contract shall have legal effect against the party using the automated information system, and the party shall not assert that the contract is not concluded or valid on the basis that the contract was concluded or performed by the automated information system.

Article 49 — Where the goods or services published by e-commerce operators meet the conditions for an offer, and a consumer selects the goods or services and submits an order successfully, the contract is concluded, unless otherwise agreed by the parties. E-commerce operators shall not stipulate that the contract is not concluded after the consumer pays the price; where the contract is not concluded, the e-commerce operator shall refund the price paid by the consumer and bear the liability for damages as a result of its fault.

Article 50 — Where e-commerce operators clearly indicate the method, steps, and time limit for concluding a contract, they shall ensure that consumers can read and download the contract at the same time. E-commerce operators shall provide consumers with methods to correct input errors before concluding a contract.

Article 51 — Where the subject matter of the contract is the delivery of goods and the goods are delivered by express logistics, the time of delivery shall be the time when the consignee signs for receipt. Where the

subject matter of the contract is the provision of services, the generated electronic voucher or physical voucher shall be the time specified in the voucher; where no time is specified in the voucher or the time specified in the voucher is inconsistent with the actual time of provision of services, the actual time of provision of services shall prevail. Where the subject matter of the contract is delivered by online transmission, the time when the subject matter of the contract enters the specific system designated by the consignee and can be retrieved and identified shall be the time of delivery. Where the parties to an e-commerce contract have otherwise agreed on the method and time of delivery of goods or provision of services, such agreement shall govern.

Article 52 — E-commerce parties may agree to use express logistics to deliver goods. Where express logistics service providers provide services for e-commerce, they shall abide by laws and administrative regulations and shall meet the promised service specifications and time limits. Express logistics service providers shall, when accepting express delivery, check the identity of the consignor and check the goods to be delivered or seal the goods for delivery. Express logistics service providers shall, when delivering goods, prompt the consignee to check the goods in person; where the consignee authorizes another person to accept the delivery, the express logistics service provider shall verify the identity of the recipient after obtaining the consent of the consignee. Where express logistics service providers offer services using an agreed service method such as delivery to a smart express locker, they shall do so with the consent of the consignee. Where express logistics service providers accept orders from e-commerce operators, they shall enter into a written entrustment contract and stipulate the rights and obligations of both parties. Express logistics service providers shall strengthen service quality management, improve the express logistics network service system, and provide consumers with express services online and offline in a multi-faceted and integrated manner.

Article 53 — E-commerce parties may agree to make payments electronically. Electronic payment service providers shall provide electronic payment services to parties to e-commerce, comply with national regulations, inform users of the functions, usage, precautions, relevant risks and charging standards of electronic payment services, and shall not attach unreasonable trading conditions. Electronic payment service providers shall ensure the integrity, consistency, traceability and non-repudiation of electronic payment instructions. Electronic payment service providers shall provide users with records of their payment accounts and provide inquiry services free of charge. Electronic payment service providers shall ensure the security of electronic payments. Electronic payment instructions shall be authenticated by electronic signatures in accordance with the law. Electronic payment service providers shall inform users of unauthorized payment functions and provide corresponding services. Electronic payment service providers shall establish a sound risk control mechanism for electronic payments. Where losses are caused to users due to errors in the electronic payment service provider's payment system, security system, or failure to identify counterfeit payment instructions, the electronic payment service provider shall bear the liability for compensation.

Chapter IV — Dispute Resolution

Article 58 — The State shall encourage e-commerce platform operators to establish dispute resolution mechanisms conducive to the development of e-commerce and the protection of consumer rights and interests, and to establish consumer rights protection funds. E-commerce platform operators may establish online dispute resolution mechanisms, formulate and publish dispute resolution rules, and resolve disputes between parties fairly, fairly and impartially in accordance with the principles of voluntariness.

Article 59 — Where a dispute arises between consumers and operators on an e-commerce platform, consumers may request the e-commerce platform operator to assist in safeguarding their rights and interests through the platform's dispute resolution mechanism. The e-commerce platform operator shall actively assist consumers in safeguarding their rights and interests. Where e-commerce platform operators consider that the goods sold or services provided by the operators on the platform infringe upon consumers' lawful rights

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and interests, they shall take necessary measures in accordance with the law and the agreement.

Article 60 — Where a dispute arises over an e-commerce contract, the parties may resolve the dispute through conciliation, mediation, arbitration or litigation. Where consumers and operators on e-commerce platforms have disputes, e-commerce platform operators shall provide the original contract and transaction records. Where the original data is lost, tampered with or forged, and the e-commerce platform operator cannot provide the true original contract and transaction records, the e-commerce platform operator shall bear the corresponding legal liability. In disputes over e-commerce contracts, electronic data provided by e-commerce operators and other electronic data generated in e-commerce activities that can prove the facts may be used as evidence.

Article 61 — Where consumers and e-commerce platform operators have disputes, consumers may file complaints with the market supervision and administration departments or other relevant administrative departments, and the relevant departments shall handle the complaints in accordance with the law. E-commerce platform operators shall establish a convenient and effective complaint and reporting mechanism, publish information such as complaint and reporting methods, and accept and handle complaints and reports in a timely manner. For complaints and reports about operators on the platform or products or services on the platform, e-commerce platform operators shall take necessary measures such as warning, suspending or terminating services against the relevant operators on the platform, and shall actively cooperate with the relevant authorities in investigating and handling the case.

Article 62 — Where e-commerce platform operators know or should know that the goods sold or services provided by the operators on the platform do not comply with the requirements for safeguarding personal or property safety, or that the operators on the platform commit other acts infringing upon consumers' lawful rights and interests, and fail to take necessary measures, they shall bear joint and several liability with the operators on the platform in accordance with the law. For goods or services related to consumers' life and health, where e-commerce platform operators fail to perform the obligation of examining the qualifications of the operators on the platform, or fail to fulfill their obligation to protect consumers' safety, thus causing damage to consumers, they shall bear corresponding liability in accordance with the law.

Chapter V — Promotion of E-Commerce

Article 64 — The State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall incorporate the development of e-commerce into their national economic and social development plans, formulate scientific and reasonable industrial policies, and promote innovation and application of e-commerce. The State shall promote the construction of an e-commerce infrastructure and a logistics network, strengthen the e-commerce standard system, optimize the governance of the e-commerce environment, and provide support and guarantees for the development of e-commerce.

Article 65 — The State shall promote the interconnected sharing and application of e-commerce data, encourage and support the lawful use of e-commerce public data for innovation in technology and business models, and improve the quality of social and economic operation. The State Council and the relevant departments of the local people's governments at or above the county level and their relevant departments shall adopt measures to support and promote the development of green packaging, warehousing and transportation for e-commerce, and promote energy conservation and emission reduction in e-commerce.

Article 66 — The State shall promote the development of e-commerce in rural areas, give play to the role of e-commerce in targeted poverty alleviation, promote the integrated development of the agricultural and rural economy and e-commerce, and promote the establishment of rural e-commerce service systems. The State shall support the use of e-commerce platforms in agricultural product marketing, and promote the circulation of agricultural products and the development of rural industries.

Article 67 — The State shall promote the application of e-commerce in various fields of the national economy, support the integrated development of e-commerce and various industries, encourage the innovation of e-commerce technologies and business models, and promote e-commerce to improve the transformation and upgrading of traditional industries and the development of strategic emerging industries. The State shall promote the application of e-commerce in the field of public services, support the use of e-commerce to improve the quality of social services, and encourage and support the innovation of e-commerce in the fields of medical and health care, education, culture, tourism, sports, transportation and other fields.

Article 68 — The State shall promote the development of cross-border e-commerce, establish and improve management systems such as customs, taxation, entry-exit inspection and quarantine, payment and settlement that adapt to the characteristics of cross-border e-commerce, improve the level of facilitation of all aspects of cross-border e-commerce, and support cross-border e-commerce platform operators in providing services such as warehousing and logistics, customs declaration, inspection and quarantine declaration.

Article 69 — The State shall safeguard the security of cross-border e-commerce transactions, protect the security of personal information of cross-border e-commerce consumers, protect the lawful rights and interests of cross-border e-commerce operators, and encourage the establishment of dispute resolution mechanisms for cross-border e-commerce. The State shall support small and micro enterprises in engaging in cross-border e-commerce.

Chapter VI — Legal Liability

Article 74 — Where an e-commerce operator sells goods or provides services that do not comply with the requirements for safeguarding personal or property safety, or commits any other act infringing upon consumers' lawful rights and interests, it shall be punished in accordance with the provisions of relevant laws. Where e-commerce platform operators fail to perform their obligations as provided in this Law, thus infringing upon consumers' lawful rights and interests, they shall be ordered to make rectification by the market supervision and administration department, and may be fined not less than RMB 50,000 and not more than RMB 500,000; where the circumstances are serious, the fine shall be not less than RMB 500,000 and not more than RMB 2,000,000.

Article 75 — Where an e-commerce operator fails to publish business license information, administrative license information, or information that registration is not required on its home page as required, or where the above information is incorrectly published, or where it fails to terminate e-commerce activities in accordance with the provisions, the market supervision and administration department shall order it to make rectification within a specified time limit and may impose a fine of not more than RMB 10,000. Where an operator on an e-commerce platform commits an illegal act as provided in the preceding paragraph, the e-commerce platform operator shall take necessary measures in accordance with the provisions of Articles 80 and 81 of this Law.

Article 76 — Where an e-commerce operator violates the provisions of this Law by failing to clearly state the method and procedure for the return of deposits, imposing unreasonable conditions on the return of deposits, or failing to return deposits in a timely manner, the relevant competent department shall order it to make rectification within a specified time limit, and may impose a fine of not less than RMB 50,000 and not more than RMB 200,000; where the circumstances are serious, a fine of not less than RMB 200,000 and not more than RMB 500,000 shall be imposed.

Article 77 — Where an e-commerce operator violates the provisions of Article 18 of this Law by failing to provide consumers with options not specific to their personal characteristics when providing search results, or by sending advertisements in violation of the provisions, it shall be punished in accordance with the provisions of the Advertising Law of the People's Republic of China and other laws and administrative regulations.

Article 78 — Where an e-commerce operator violates the provisions of Article 19 of this Law by tying in goods or services, the market supervision and administration department shall order it to make rectification within a specified time limit and confiscate the illegal gains, and may impose a fine of not less than RMB 50,000 and not more than RMB 200,000; where the circumstances are serious, a fine of not less than RMB 200,000 and not more than RMB 500,000 shall be imposed.

Article 79 — Where e-commerce operators violate the provisions of laws and administrative regulations on the protection of personal information, or fail to perform their obligations of cybersecurity protection as provided in the relevant laws and administrative regulations on cybersecurity, they shall be punished in accordance with the provisions of the Personal Information Protection Law of the People's Republic of China, the Cybersecurity Law of the People's Republic of China and other laws and administrative regulations.

Article 80 — Where an e-commerce platform operator commits any of the following acts, the relevant competent department shall order it to make rectification within a specified time limit; where it fails to make rectification within the time limit, a fine of not less than RMB 20,000 and not more than RMB 100,000 shall be imposed; where the circumstances are serious, it shall be ordered to cease business operations for rectification and a fine of not less than RMB 100,000 and not more than RMB 500,000 shall be imposed: (1) failing to take necessary measures in accordance with Articles 29, 31, 41, 42 or 43 of this Law; (2) failing to perform the obligation of reporting to the market supervision and administration department as provided in Article 29 of this Law; (3) failing to verify the licenses and other information of operators on the platform applying to enter the platform for selling goods or providing services, or failing to fulfill the obligation of submitting identity information to the market supervision and administration department and tax authorities as provided in Article 28 of this Law; or (4) failing to keep complete and confidential commodity and service information and transaction information for the prescribed period, or failing to provide necessary data to the market supervision and administration department in accordance with the law.

Article 81 — Where an e-commerce platform operator violates the provisions of this Law by failing to publish service agreements and transaction rules on a conspicuous position of its home page; failing to clearly state the method and procedure for the return of deposits; failing to distinguish between its self-operated business and the business of operators on the platform; failing to provide consumers with methods to evaluate goods or services on the platform, or deleting consumers' evaluations without authorization, the market supervision and administration department shall order it to make rectification within a specified time limit and may impose a fine of not less than RMB 20,000 and not more than RMB 100,000; where the circumstances are serious, a fine of not less than RMB 100,000 and not more than RMB 500,000 shall be imposed.

Article 82 — Where an e-commerce platform operator violates the provisions of Article 35 of this Law by imposing unreasonable restrictions or unreasonable conditions on transactions, prices, or transactions with other operators on the platform, the market supervision and administration department shall order it to make rectification within a specified time limit and may impose a fine of not less than RMB 50,000 and not more than RMB 500,000; where the circumstances are serious, a fine of not less than RMB 500,000 and not more than RMB 2,000,000 shall be imposed.

Article 83 — Where an e-commerce platform operator violates the provisions of Article 38 of this Law by failing to take necessary measures against operators on the platform that infringe upon consumers' lawful rights and interests, or fails to perform its obligation of examining qualifications or its obligation of safeguarding consumers' safety, it shall be ordered by the market supervision and administration department to make rectification within a specified time limit and may be fined not less than RMB 50,000 and not more than RMB 500,000; where the circumstances are serious, it shall be ordered to cease business operations for rectification and be fined not less than RMB 500,000 and not more than RMB 2,000,000.

Article 84 — Where an e-commerce platform operator violates the provisions of this Law by failing to perform its obligation of protecting intellectual property rights in accordance with the law, the relevant intellectual

property administrative department shall order it to make rectification within a specified time limit; where it fails to make rectification within the time limit, a fine of not less than RMB 50,000 and not more than RMB 500,000 shall be imposed; where the circumstances are serious, a fine of not less than RMB 500,000 and not more than RMB 2,000,000 shall be imposed.

Article 85 — Where a staff member of a department supervising and administrating e-commerce abuses his or her powers, neglects his or her duties, engages in malpractices for personal gain, or divulges, sells or illegally provides others with personal information, privacy or trade secrets of e-commerce operators that he or she comes to know in the course of performing his or her duties, legal liability shall be pursued in accordance with the law.

Article 86 — Where a violation of the provisions of this Law constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

Article 87 — The provisions of this Law on the liability of e-commerce platform operators for compensation shall not affect the right of e-commerce platform operators to seek compensation from the operators on the platform in accordance with the law.

Article 88 — This Law shall come into force on January 1, 2019.

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