Electronic Commerce Law of the PRC

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Adopted at the 5th Session of the Standing Committee of the 13th National People's Congress on August 31, 2018
Effective: January 1, 2019

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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 the 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 or to activities that use information networks to provide news and information, audio and video programs, publications, or cultural products.

Article 3 — The State shall encourage the development of new forms of e-commerce business, bring into play the role of e-commerce in promoting high-quality development, meeting the people's ever-growing needs for a better life, and building an open economy.

Article 4 — The State shall establish equal rights, obligations, and market rules for online and offline business activities, and promote the integrated development of online and offline businesses. People's governments at all levels and the relevant departments shall not adopt discriminatory policy measures and shall safeguard equal rights of all market participants.

Article 5 — In carrying out business activities, e-commerce operators shall abide by the principles of voluntariness, equality, fairness, and good faith, and shall observe laws and business ethics, fairly participate in market competition, fulfill their obligations regarding consumer rights protection, environmental protection, intellectual property protection, cybersecurity, and personal information protection, assume responsibility for product and service quality, and accept supervision by the government and the public.

Article 6 — The relevant departments of the State Council shall be responsible for the promotion, supervision, and administration of e-commerce according to the division of their functions. Local people's governments at or above the county level may, according to the actual conditions of their respective administrative regions, determine the division of functions for the promotion, supervision, and administration of e-commerce within their respective administrative regions.

Article 7 — The State shall establish a collaborative administration system for e-commerce that meets the needs of the development of e-commerce, and promote the formation of a market governance system in which relevant government departments, industry organizations, e-commerce operators, consumers, and other parties jointly participate.

Article 8 — E-commerce industry organizations shall, according to the articles of their organizations, strengthen industry self-discipline, formulate and promote industry norms, and carry out industry services and industry development activities.

Chapter II — E-Commerce Operators

Section 1 — General Provisions

Article 9 — For the purposes of this Law, "e-commerce operators" means natural persons, legal persons, and unincorporated organizations that carry out business activities through information networks such as the internet, including e-commerce platform operators, operators on platforms, and e-commerce operators that sell goods or provide services through self-built websites or other online services. "E-commerce platform operators" as used in this Law means legal persons or unincorporated organizations that provide two or more parties to a transaction with an online business place, matching of transactions, information release, and other services for the parties to carry out independent transactions. "Operators on platforms" as used in this Law means e-commerce operators that sell goods or provide services through e-commerce platforms.

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 service activities and sporadic small-amount transactions for which no license is required according to law, or engage in other activities for which registration is not required according to laws and administrative regulations.

Article 11 — E-commerce operators shall fulfill their tax payment obligations in accordance with the law and enjoy the preferential tax treatment prescribed by law. E-commerce operators who do not need to handle

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market entity registration in accordance with the provisions of the preceding article shall, after their first tax payment obligation arises, apply for tax registration and truthfully declare tax payment in accordance with the provisions of laws and administrative regulations on tax collection administration.

Article 12 — Where an e-commerce operator needs to obtain the relevant administrative license for engaging in business activities in accordance with the law, it shall obtain the license in accordance with the law.

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

Article 14 — E-commerce operators shall issue paper or electronic purchase vouchers or service documents such as invoices. Electronic invoices shall have the same legal effect as paper invoices.

Article 15 — E-commerce operators shall continuously display their business license information, information on the relevant administrative license, information on not requiring market entity registration, or the link to the above information on their homepage in a conspicuous position.

Article 16 — Where an e-commerce operator ceases its business on its own, it shall, 30 days in advance, continuously publish the relevant information on the homepage in a conspicuous position.

Article 17 — E-commerce operators shall disclose the information on goods or services comprehensively, truthfully, accurately, and in a timely manner, to ensure consumers' right to know and right to choose. No false or misleading commercial publicity shall be carried out by means of fictitious transactions, fabricated user reviews, or other means to deceive or mislead consumers.

Article 18 — Where an e-commerce operator provides search results for goods or services to consumers based on their hobbies, consumption habits, or other characteristics, it shall also provide the consumers with options that do not target their personal characteristics, and shall respect and equally protect the lawful rights and interests of consumers. Where an e-commerce operator sends advertisements to consumers, it shall comply with the relevant provisions of the Advertising Law of the People's Republic of China.

Article 19 — Where an e-commerce operator ties the sale of goods or services without following the transaction customs and the consumers' specific practices, and takes the option of consent as the default, the consumers shall be reminded to pay attention and such conduct shall not infringe upon the lawful rights and interests of consumers.

Article 20 — E-commerce operators shall deliver goods or services to consumers in the manner and within the time limit as promised, or as required by consumers, and shall assume the risks and responsibilities for the goods in transit. However, this shall not apply to cases where consumers have separately chosen a logistics service provider.

Article 21 — Where an e-commerce operator collects a deposit from a consumer in accordance with the agreement, it shall specify the method and procedure for the return of the deposit, and shall not set unreasonable conditions for the return of the deposit. Where a consumer applies for the return of a deposit and meets the conditions for return, the e-commerce operator shall return the deposit in a timely manner.

Article 22 — Where an e-commerce operator has a dominant market position, it shall not abuse its dominant market position to eliminate or restrict competition.

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

Article 24 — E-commerce operators shall clearly indicate the methods, procedures, and conditions for users to access, correct, or delete information, or to cancel their accounts, and shall not set unreasonable conditions. Where a user cancels an account, the e-commerce operator shall immediately delete all the

personal information of the user; where it is necessary to retain such information in accordance with the provisions of laws or administrative regulations, such provisions shall prevail.

Article 25 — Where the relevant competent departments require e-commerce operators to provide relevant e-commerce data and information in accordance with laws and administrative regulations, the e-commerce operators shall provide such data and information. The relevant competent departments shall take necessary measures to protect the security of the data and information provided by e-commerce operators, and shall strictly keep confidential any personal information, privacy, and trade secrets therein, and shall not disclose, sell, or illegally provide them to others.

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

Section 2 — E-Commerce Platform Operators

Article 27 — E-commerce platform operators shall require operators applying to enter the platform to sell goods or provide services to submit their true identity, address, contact information, administrative license, and other information, and shall verify and register such information, establish registration files, and regularly verify and update such information. E-commerce platform operators shall submit identity information of operators on platforms to the market regulation authorities, and shall, in accordance with the provisions, submit tax-related information to tax authorities. Where operators on platforms are individuals, the identity information shall be submitted, and the market regulation authorities and tax authorities shall verify it in accordance with the provisions.

Article 28 — E-commerce platform operators shall, in accordance with the provisions, record and retain the information on goods, services, and transactions published on the platform, and ensure the integrity, confidentiality, and availability of such information. The retention period for information on goods, services, and transactions shall be not less than three years from the date of completion of the transaction. Where laws or administrative regulations provide otherwise, such provisions shall prevail.

Article 29 — E-commerce platform operators who discover that operators on the platform have failed to obtain the relevant administrative license or that the goods or services sold or provided do not meet the requirements for safeguarding personal or property safety, or who discover any other conduct in violation of laws or regulations, shall take necessary disposal measures in accordance with the law and report to the relevant competent departments.

Article 30 — Where e-commerce platform operators formulate or modify service agreements and transaction rules, they shall publicly solicit opinions on the homepage in a conspicuous position and adopt reasonable measures to ensure that all relevant parties can timely and fully express their opinions. The content of the revision shall be published on the homepage in a conspicuous position at least seven days before its implementation. Where operators on platforms do not accept the content of the revision and request to withdraw from the platform, the e-commerce platform operator shall not prevent them and shall assume the relevant responsibilities in accordance with the service agreement and transaction rules prior to the modification.

Article 31 — E-commerce platform operators shall record and retain the information on goods, services, and transactions published on the platform, and shall ensure the integrity, confidentiality, and availability of such information.

Article 32 — E-commerce platform operators shall follow the principles of openness, fairness, and impartiality in formulating the rules for entering and withdrawing from the platform, quality assurance of goods and services, protection of consumers' rights and interests, and protection of personal information, and shall not set unreasonable conditions.

Article 33 — Where e-commerce platform operators provide services to operators on platforms, they shall not restrict them by means of service agreements, transaction rules, technology, or other means, nor impose unreasonable restrictions or conditions on their transactions, transaction prices, or transactions with other business operators, or charge unreasonable fees.

Article 34 — Where an e-commerce platform operator, based on its own operational needs, temporarily takes restrictive measures such as warning, suspending or terminating services against an operator on the platform through technical means due to the violation of laws or regulations by the operator on the platform, it shall publicize such measures on the homepage in a conspicuous position in a timely manner.

Article 35 — Where an e-commerce platform operator knows or should know that an operator on the platform sells goods or provides services that do not meet the requirements for safeguarding personal or property safety, or that the operator on the platform has committed other acts infringing upon the lawful rights and interests of consumers, and fails to take necessary measures, it shall bear joint and several liability with the operator on the platform in accordance with the law. Where an e-commerce platform operator fails to fulfill the obligation of verifying the qualifications of operators on the platform or the obligation of safeguarding the safety of consumers, and causes damage to consumers, it shall bear corresponding liability in accordance with the law.

Article 36 — For goods or services relating to the life and health of consumers, e-commerce platform operators shall examine or verify the qualifications of the operators on the platform. Where e-commerce platform operators fail to fulfill the obligation of examination or verification, or fail to take necessary measures against operators on the platform after discovering that the operators on the platform have seriously infringed upon the lawful rights and interests of consumers, they shall bear joint and several liability with the operators on the platform in accordance with the law.

Article 37 — Where an e-commerce platform operator labels itself or engages in business by marking that the goods or services sold on the platform are "self-operated," it shall bear the liability of a seller of goods or a provider of services in accordance with the law. Where an e-commerce platform operator fails to mark itself as a seller of goods or a provider of services in a conspicuous manner, causing misunderstanding among consumers, it shall bear civil liability in accordance with the law.

Article 38 — E-commerce platform operators shall establish a sound credit evaluation system, publicize credit evaluation rules, and provide consumers with a way to evaluate the goods sold or services provided on the platform. E-commerce platform operators shall not delete consumers' evaluations of the goods sold or services provided on the platform.

Article 39 — Where e-commerce platform operators carry out business by means of tying the sale of goods or services, they shall remind consumers to pay attention in a conspicuous manner, and shall not take the option of consent as the default.

Article 40 — E-commerce platform operators shall, based on the nature of goods or services, provide consumers with conspicuous options for price comparison, collection, or sharing of goods or services.

Article 41 — E-commerce platform operators shall establish intellectual property protection rules and strengthen cooperation with intellectual property rights holders to protect intellectual property rights in accordance with the law.

Article 42 — Where an intellectual property rights holder believes that its intellectual property rights have been infringed upon, it shall have the right to notify the e-commerce platform operator to take necessary measures such as deleting, blocking, disconnecting the link, or terminating the transaction and services. The notification shall include prima facie evidence of the infringement. After receiving the notification, the e-commerce platform operator shall promptly take necessary measures and forward the notification to the operator on the platform. If the e-commerce platform operator fails to take necessary measures in a timely

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manner, it shall bear joint and several liability with the operator on the platform for the expanded part of the damage. Where a wrong notification causes damage to the operator on the platform, the notifying party shall bear civil liability in accordance with the law. Where a malicious notification causes damage to the operator on the platform, the liability for compensation shall be doubled.

Article 43 — After receiving the forwarded notification, the operator on the platform may submit a declaration of non-infringement to the e-commerce platform operator. The declaration shall include prima facie evidence of non-infringement. After receiving the declaration, the e-commerce platform operator shall forward it to the intellectual property rights holder who issued the notification, and inform the intellectual property rights holder that it may file a complaint with the relevant competent department or file a lawsuit with the people's court. If the e-commerce platform operator does not receive a notification from the intellectual property rights holder that a complaint has been filed or a lawsuit has been initiated within 15 days after the declaration is forwarded to the intellectual property rights holder, the e-commerce platform operator shall promptly terminate the measures taken.

Article 44 — E-commerce platform operators shall promptly publicize the notifications, declarations, and handling results received.

Article 45 — Where an e-commerce platform operator knows or should know that an operator on the platform has infringed upon intellectual property rights, it shall take necessary measures such as deleting, blocking, disconnecting the link, or terminating the transaction and services; if it fails to take necessary measures, it shall bear joint and several liability with the infringer.

Article 46 — E-commerce operators shall abide by the provisions of laws and administrative regulations on the protection of consumers' rights and interests. In addition to the provisions of this Law, the relevant provisions of the Law of the People's Republic of China on the Protection of Consumers' Rights and Interests shall apply.

Chapter III — Formation and Performance of E-Commerce Contracts

Article 47 — When parties enter into and perform contracts through e-commerce, the provisions of this Chapter, the Civil Code of the People's Republic of China, the Law of the People's Republic of China on Electronic Signatures, and other laws shall apply.

Article 48 — Where an e-commerce operator publishes information on goods or services that meets the requirements for an offer, a contract is formed when the user selects the goods or services and submits the order. Unless otherwise agreed by the parties, such agreement shall prevail.

Article 49 — Where an e-commerce operator publishes information on goods or services by means of price listing, it shall be deemed as an invitation to offer. However, this shall not apply where the content of such publication meets the requirements for an offer.

Article 50 — E-commerce operators shall clearly and comprehensively inform users of the steps, precautions, and methods for downloading of the contract formation, and ensure that users have the opportunity to review and correct before submitting an order. The provision of an application procedure for correcting input errors shall not be used to charge consumers.

Article 51 — Where an e-commerce contract is formed, the time and place of formation of the contract shall be determined in accordance with the provisions of the Civil Code of the People's Republic of China and the Law of the People's Republic of China on Electronic Signatures. Where the parties agree otherwise, such agreement shall prevail.

Chapter IV — Dispute Resolution

Article 52 — The State shall encourage e-commerce platform operators to establish dispute resolution mechanisms conducive to the online resolution of e-commerce disputes, formulate and publicize dispute resolution rules, and resolve disputes between the parties fairly and impartially.

Article 53 — Where a dispute arises between a consumer and an operator on a platform over an e-commerce transaction, the e-commerce platform operator shall actively assist the consumer in safeguarding his or her rights. Where an e-commerce platform operator cannot provide the true name, address, and valid contact information of an operator on the platform for selling goods or providing services, the consumer may claim compensation from the e-commerce platform operator. After assuming the compensation liability, the e-commerce platform operator shall have the right to recover from the operator on the platform.

Article 54 — Where an e-commerce platform operator provides a service in the form of self-operated business, it shall bear the civil liability of a seller of goods or a provider of services in accordance with the law.

Article 55 — Consumers may file complaints and reports on any infringements upon their lawful rights and interests in e-commerce to market regulation authorities and other relevant competent departments. The relevant competent departments shall deal with them in a timely manner and inform the complainants or informants of the results.

Article 56 — An e-commerce dispute may be resolved through negotiation, mediation, filing a complaint or report, arbitration, or litigation.

Article 57 — E-commerce platform operators shall record the information on the resolution of disputes, and the relevant competent departments may consult such information in accordance with the provisions.

Chapter V — Promotion of E-Commerce

Article 58 — The State shall promote the application of e-commerce in various fields of the national economy and shall support the deep integration of e-commerce with various industries.

Article 59 — The State shall establish a public data sharing mechanism that meets the needs of the development of e-commerce, and promote the interconnection and sharing of data among e-commerce operators in accordance with the law. The State shall support the lawful use of data resources for the development of e-commerce.

Article 60 — The State shall promote the construction of e-commerce infrastructure and logistics networks, improve the e-commerce statistical system, and promote the development of e-commerce.

Article 61 — The State shall take measures to promote the development of e-commerce in rural areas, bring into play the role of e-commerce in targeted poverty alleviation, and support the integration of rural e-commerce with various industries.

Article 62 — The State shall promote the development of cross-border e-commerce, establish and improve management systems suitable for the characteristics of cross-border e-commerce, such as customs declaration, tax payment, and inspection and quarantine, and improve the facilitation level of cross-border e-commerce.

Article 63 — The State shall support the participation of e-commerce platform operators and other entities in the construction of cross-border e-commerce platforms and in international exchanges and cooperation. The State shall promote the mutual recognition of rules and standards for cross-border e-commerce and other aspects with different countries and regions.

Chapter VI — Legal Liability

Article 64 — Where an e-commerce operator, in violation of the provisions of this Law, sells goods or provides services that do not meet the requirements for safeguarding personal and property safety, or commits other acts infringing upon the lawful rights and interests of consumers, it shall be punished in accordance with the provisions of relevant laws.

Article 65 — Where an e-commerce operator, in violation of the provisions of this Law, provides search results for goods or services but fails to provide options that do not target consumers' personal characteristics, or engages in tie-in sales, the market regulation authorities shall order it to make rectification within a prescribed time limit, confiscate illegal gains, and may impose a fine of not less than 50,000 yuan but not more than 200,000 yuan; where the circumstances are serious, a fine of not less than 200,000 yuan but not more than 500,000 yuan shall be imposed.

Article 66 — Where an e-commerce platform operator commits any of the following acts, the relevant competent department shall order it to make rectification within a prescribed time limit; where it fails to do so, a fine of not less than 20,000 yuan but not more than 100,000 yuan shall be imposed: (1) failing to fulfill the obligation of verifying the identity information of operators on platforms; (2) failing to continuously display the relevant licensing information on the homepage in a conspicuous position; or (3) failing to publicly solicit opinions or to make a public announcement at least seven days before the implementation of modification of service agreements or transaction rules.

Article 67 — Where an e-commerce platform operator, in violation of the provisions of this Law, fails to take necessary measures against an operator on the platform that infringes upon the lawful rights and interests of consumers, the market regulation authorities shall order it to make rectification within a prescribed time limit and may impose a fine of not less than 50,000 yuan but not more than 500,000 yuan; where the circumstances are serious, the fine shall be not less than 500,000 yuan but not more than 2,000,000 yuan.

Article 68 — Where an e-commerce platform operator, in violation of the provisions of this Law, commits any of the following acts, the market regulation authorities shall order it to make rectification and may impose a fine of not less than 50,000 yuan but not more than 500,000 yuan; where the circumstances are serious, a fine of not less than 500,000 yuan but not more than 2,000,000 yuan shall be imposed: (1) failing to fulfill the obligation of recording, retaining, or submitting the relevant information on operators on the platform; (2) failing to carry out credit evaluation in accordance with the provisions, or improperly deleting consumers' evaluations; (3) failing to establish or fulfill the obligation of intellectual property protection; or (4) restricting the transactions of operators on platforms by means of service agreements, transaction rules, technology, or other unreasonable means.

Article 69 — Where an e-commerce operator violates the provisions of this Law and a fine is imposed in accordance with the provisions of this Law, the relevant competent departments shall record such violation in the credit files and publicize it in accordance with the provisions.

Article 70 — Where a violation of the provisions of this Law constitutes a crime, criminal liability shall be pursued in accordance with the law. Where a violation of the provisions of this Law causes damage to others, civil liability shall be borne in accordance with the law.

Chapter VII — Supplementary Provisions

Article 71 — The State shall promote the establishment of a cross-border e-commerce dispute resolution mechanism and strengthen international exchanges and cooperation in this field.

Article 72 — For the purposes of this Law, the term "cross-border e-commerce" means an international commercial activity in which transaction entities in different customs territories conclude transactions, make payments and settlements through e-commerce platforms, and deliver goods and complete transactions through cross-border logistics.

Article 73 — This Law shall come into force on January 1, 2019.

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