Product Quality Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of strengthening the supervision and administration of product quality, improving the quality level of products, clearly defining the liability for product quality, protecting the lawful rights and interests of consumers, and maintaining the social and economic order.

Article 2 — This Law shall apply to all production and sale activities of products within the territory of the People’s Republic of China. For the purposes of this Law, “product” means a product that has been processed or manufactured and is intended for sale. This Law shall not apply to construction projects, except for construction materials, construction components and fittings, and equipment that fall within the scope of products as specified in the preceding paragraph.

Article 3 — Producers and sellers shall establish and improve their internal product quality management systems and strictly implement job quality standards, quality responsibilities and corresponding assessment methods.

Article 4 — Producers and sellers shall bear responsibility for product quality in accordance with the provisions of this Law.

Article 5 — It is prohibited to forge or fraudulently use quality marks such as certification marks; it is prohibited to forge the origin of products or falsely use the names and addresses of other factories; and it is

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prohibited to mix impurities or imitations into products produced or sold, pass off fake products as genuine, substandard products as high-quality products, or substandard products as qualified products.

Article 6 — The state shall encourage the adoption of scientific quality management methods and advanced science and technology, and encourage enterprises to achieve product quality that meets or exceeds industry, national and international standards. Units and individuals that have made outstanding achievements in advanced product quality management and product quality reaching internationally advanced levels shall be rewarded.

Article 7 — People's governments at all levels shall incorporate the improvement of product quality into their national economic and social development plans, strengthen overall planning and organization and leadership for product quality work, guide and urge producers and sellers to strengthen product quality management, improve product quality, and organize the relevant departments to take measures to stop illegal acts in the production and sale of products in accordance with the law and ensure the implementation of this Law.

Article 8 — The market supervision and administration department of the State Council shall be responsible for the nationwide supervision and administration of product quality. The relevant departments of the State Council shall be responsible for the supervision and administration of product quality within their respective functions and duties. The local market supervision and administration departments at or above the county level shall be responsible for the supervision and administration of product quality within their respective administrative regions. The relevant departments of local people's governments at or above the county level shall be responsible for the supervision and administration of product quality within their respective functions and duties. Where laws provide otherwise for the supervision and administration departments of product quality, the provisions of such laws shall prevail.

Article 9 — No staff member of a people's government at any level or any other state organ shall abuse his or her power or neglect his or her duties, engage in malpractice for personal gain, cover up or condone violations of this Law in the production or sale of products within his or her respective region or system, or obstruct or interfere with the investigation of violations of this Law in the production or sale of products in accordance with the law. Where a local people's government at any level or any other state organ covers up or condones violations of this Law in the production or sale of products, the principal responsible person of the government or organ shall bear legal liability in accordance with the law.

Article 10 — Any unit or individual shall have the right to report violations of this Law to the market supervision and administration department or other relevant departments. The market supervision and administration department and the relevant departments shall keep the informant's information confidential and give awards in accordance with the provisions of the people's government of the province, autonomous region or municipality directly under the Central Government.

Article 11 — No unit or individual shall exclude qualified products produced by enterprises outside the region or system from entering the region or system.

Chapter II — Supervision and Administration of Product Quality

Article 12 — The quality of products shall be subject to inspection, and the quality shall be deemed as qualified if it has passed inspection. Products that fail to meet the inspection standards shall not leave the factory for sale.

Article 13 — Industrial products that may endanger human health or the safety of person or property shall meet the national or industry standards safeguarding human health and the safety of person or property. Industrial products for which there are no national or industry standards shall meet the requirements for safeguarding human health and the safety of person or property. It is prohibited to produce or sell industrial products that do not meet the standards or requirements for safeguarding human health and the safety of

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person or property. The specific administrative measures shall be formulated by the State Council.

Article 14 — The state shall, in accordance with internationally accepted quality management standards, promote the enterprise quality system certification system. Enterprises may, on a voluntary basis, apply to certification bodies recognized by the market supervision and administration department of the State Council or by a department authorized by the market supervision and administration department of the State Council for enterprise quality system certification. Those that have passed the certification shall be issued an enterprise quality system certification certificate by the certification body. The state shall, with reference to internationally advanced product standards and technical requirements, implement a product quality certification system. Enterprises may, on a voluntary basis, apply to certification bodies recognized by the market supervision and administration department of the State Council or by a department authorized by the market supervision and administration department of the State Council for product quality certification. Those that have passed the certification shall be issued a product quality certification certificate by the certification body, which shall allow the enterprises to use the product quality certification mark on their products and their packaging.

Article 15 — The state shall exercise a system of random inspection over product quality, whereby the inspection focuses on products that may endanger human health or the safety of person or property, important industrial products that affect the national economy and people's livelihood, and products for which consumers, relevant organizations or the relevant media have reported quality problems. Random samples shall be taken from the products on the market or from the finished products in the warehouses of enterprises for inspection. The supervision and random inspection work shall be planned and organized by the market supervision and administration department of the State Council. Local market supervision and administration departments at or above the county level may also organize supervision and random inspection within their respective administrative regions. Where laws provide otherwise for the supervision and administration of product quality, the provisions of such laws shall prevail. Products that have been subject to supervision and random inspection organized by the state shall not be subject to repeated random inspection organized by local authorities. Products that have been subject to supervision and random inspection organized by the higher-level supervision and administration department shall not be subject to repeated random inspection organized by the lower-level supervision and administration department. Samples may be taken for inspection free of charge depending on the needs of supervision and random inspection. The market supervision and administration department of the State Council shall publish the number of samples taken for inspection and the number of inspection agencies identified. The inspection agency shall have the corresponding testing conditions and capabilities and shall be assessed and recognized by the market supervision and administration department of the people's government at or above the provincial level or by the department authorized by it before it may assume the inspection work of product quality inspection. Where laws or administrative regulations provide otherwise for the inspection agencies for product quality inspection, the provisions of such laws or administrative regulations shall prevail.

Article 16 — Producers and sellers shall not refuse supervision and random inspection of product quality conducted in accordance with the law.

Article 17 — Where a product fails to pass the supervision and random inspection organized in accordance with the provisions of this Law, the market supervision and administration department shall order the producer or seller to make rectification within a time limit. Where the producer or seller fails to make rectification within the time limit, the market supervision and administration department of the people's government at or above the provincial level shall make a public announcement. Where the product still fails to pass the inspection after the announcement and re-inspection, the business license shall be revoked if the circumstances are serious. Where within six months after the product has passed the supervision and random inspection, repeated random inspection shows that there are three types of quality defects that render the product substandard, the market supervision and administration department of the people's

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government at or above the provincial level shall make a public announcement. Where the product still fails to pass the re-inspection after the announcement, the business license shall be revoked if the circumstances are serious.

Article 18 — The market supervision and administration department at or above the county level may, based on the suspected evidence of illegal acts already obtained or on reports received, exercise the following powers when investigating suspected violations of this Law: (1) conducting on-site inspections of the places where the parties are suspected of engaging in illegal production or sale activities; (2) making inquiries of the parties, interested parties and other relevant units and individuals regarding the illegal production or sale activities and requiring them to provide explanations on the matters under investigation; (3) accessing and copying contracts, invoices, account books and other relevant materials of the parties; and (4) sealing up or seizing products that may endanger human health or the safety of person or property, and raw materials, packaging, production tools and other items directly used in the illegal production or sale of such products. The market supervision and administration department at or above the county level may, when it considers it necessary, investigate and deal with illegal acts falling under the jurisdiction of the lower-level market supervision and administration department. Where the lower-level market supervision and administration department considers that the illegal act under its jurisdiction requires investigation and handling by the higher-level market supervision and administration department, it may submit a request to the higher-level market supervision and administration department for investigation and handling.

Article 19 — A product quality inspection agency shall have the corresponding testing conditions and capabilities, and may undertake the inspection of product quality only after passing the assessment by the market supervision and administration department of the people's government at or above the provincial level or its authorized department. Where laws or administrative regulations provide otherwise for product quality inspection agencies, the provisions of such laws or administrative regulations shall prevail.

Article 20 — Social intermediary organizations engaged in product quality inspection and certification shall be established in accordance with the law and shall not have any affiliation with administrative organs or other state organs. A product quality inspection or certification agency shall objectively and impartially issue inspection results or certification certificates in accordance with the law and the relevant standards. A product quality certification body shall, in accordance with the provisions of the state, conduct follow-up inspections of the products for which certification has been granted. Where a certified product fails to meet the certification requirements, the certification body shall order the user of the certification mark to make rectification. Where the circumstances are serious, the certification qualification shall be revoked.

Article 21 — Consumers shall have the right to make inquiries to the producer or seller about the quality of the products. The market supervision and administration department and the relevant departments shall be responsible for handling consumer complaints and shall handle them in accordance with the law.

Article 22 — Consumer protection organizations and other social organizations may make recommendations to the relevant authorities on product quality issues reflected by consumers, and support consumers in filing lawsuits with people's courts against damage caused by product quality.

Chapter III — Liability and Obligations of Producers and Sellers for Product Quality

Article 23 — Producers shall be responsible for the quality of the products they produce. The quality of products shall meet the following requirements: (1) the products shall not pose any unreasonable danger endangering the safety of person or property, and shall meet the national or industry standards safeguarding human health and the safety of person or property where such standards exist; (2) the products shall have the performance and usefulness they are supposed to have, except where there are instructions on the defects in the performance of the products; (3) the products shall conform to the product standards indicated on the products or their packaging, and to the quality indicated by the product specifications, samples and

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other means; and (4) the products shall have the quality that a product of the same kind shall normally have.

Article 24 — The marks on the products or their packaging shall be true and meet the following requirements: (1) the products shall bear a quality inspection certificate; (2) the products shall be marked with the Chinese characters indicating the product name, the name and address of the factory; (3) according to the characteristics and requirements for use of the products, if the product specifications, grade, and the name and content of the main ingredients are required to be indicated, they shall be so indicated in Chinese characters; where consumers are required to be informed in advance, the relevant information shall be indicated on the outer packaging or given in the relevant information provided to consumers before purchase; (4) products that have a limited period of use shall be marked with the production date, safe-use period or expiry date in a conspicuous position; and (5) products that are likely to cause damage to the product itself or endanger the safety of person or property if used improperly shall be provided with warning signs or warning instructions in Chinese characters. Products that do not require packaging or for which the product marks may be omitted in accordance with the product characteristics shall not be subject to the provisions of the preceding paragraph.

Article 25 — Producers shall not engage in any of the following acts: (1) producing products that are eliminated by order of the state; (2) forging the origin of products, or forging or falsely using the names and addresses of other factories; (3) forging or falsely using quality marks such as certification marks; or (4) mixing impurities or imitations into products, passing off fake products as genuine, substandard products as high-quality products, or substandard products as qualified products.

Article 26 — Sellers shall establish and implement a system of inspection and acceptance of goods upon purchase, verify the product quality certificate and other marks.

Article 27 — Sellers shall adopt measures to maintain the quality of the products they sell.

Article 28 — Sellers shall not sell products that have been eliminated by order of the state or products that have expired or deteriorated.

Article 29 — Sellers shall not forge the origin of products, or forge or falsely use the names and addresses of other factories.

Article 30 — Sellers shall not forge or falsely use quality marks such as certification marks.

Article 31 — Sellers shall not mix impurities or imitations into products, pass off fake products as genuine, substandard products as high-quality products, or substandard products as qualified products.

Chapter IV — Compensation for Damage

Article 32 — A seller shall be responsible for repairing or replacing the product, or returning the purchase price and compensating for any loss suffered by the consumer where the product it sells falls under any of the following circumstances: (1) the product does not have the performance and usefulness it is supposed to have and no prior declaration thereof has been made; (2) the product does not conform to the product standards indicated on the product or its packaging; or (3) the product does not conform to the quality indicated by the product specifications, samples and other means. Where the seller performs its obligations in accordance with the provisions of the preceding paragraph, if it is the producer’s liability or the liability of another seller that supplied the product to the seller, the seller shall have the right to seek recourse against the producer or the seller that supplied the product. Where a seller fails to perform its obligations in accordance with the provisions of the first paragraph, the market supervision and administration department shall order rectification. Where the contract between the parties or the parties’ agreement provides otherwise, the provisions of the contract or the agreement shall be followed, provided that the intention of the contract or agreement shall not violate the provisions of laws or regulations.

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Article 33 — Where a seller fails to repair, replace or return a product as required, causing losses to consumers, the seller shall compensate the consumers for the losses.

Article 34 — Where losses are caused to consumers purchasing products due to product defects, the seller shall compensate for the losses. Where the seller compensates for the losses and determines that the defect is attributable to the producer or to another seller that supplied the product, the seller shall have the right to seek recourse against the producer or the seller that supplied the product. Where losses are caused to consumers due to product defects, consumers may claim compensation from either the seller or the producer. Where the product defect is attributable to the producer's liability and the seller compensates, the seller shall have the right to seek recourse against the producer. Where the product defect is attributable to the seller's liability and the producer compensates, the producer shall have the right to seek recourse against the seller.

Article 35 — Where personal injury or property damage is caused to others due to a product defect, the victim may claim compensation from the producer or the seller. Where the product defect is attributable to the producer's liability and the seller compensates, the seller shall have the right to seek recourse against the producer. Where the product defect is attributable to the seller's liability and the producer compensates, the producer shall have the right to seek recourse against the seller. The limitation period for filing a lawsuit for compensation for damage caused by a product defect shall be two years, calculated from the date when the party concerned becomes aware or should have become aware that its rights and interests have been infringed upon. The right to claim compensation for damage caused by a defective product shall be extinguished ten years after the defective product causing the damage was first delivered to the initial consumer, except where the safe-use period has not yet expired.

Article 36 — For the purposes of this Law, "defect" means any unreasonable danger existing in a product that endangers the safety of person or property of others. Where there are national or industry standards safeguarding human health and the safety of person or property, "defect" means failure to conform to such standards.

Article 37 — Where a dispute over product quality arises between the parties, it may be resolved through negotiation or mediation. Where the parties are unwilling to resolve the dispute through negotiation or mediation, or where negotiation or mediation fails, they may apply to an arbitration institution for arbitration in accordance with the agreement between the parties. Where the parties have not concluded an arbitration agreement or the arbitration agreement is invalid, they may file a lawsuit directly with a people's court.

Article 38 — An arbitration institution or a people's court may entrust a product quality inspection agency specified in Article 19 of this Law to conduct an inspection of the product quality in dispute.

Chapter V — Penalty Provisions

Article 39 — Where a product is produced or sold that does not meet the national or industry standards safeguarding human health and the safety of person or property, the order shall be given to stop production or sale, the illegally produced or sold products shall be confiscated, a fine of not less than three times the value of the illegally produced or sold products shall be imposed concurrently; the illegal gains, if any, shall be confiscated; and where the circumstances are serious, the business license shall be revoked. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 40 — Where impurities or imitations are mixed into products, fake products are passed off as genuine, substandard products are passed off as high-quality products, or substandard products are passed off as qualified products, the order shall be given to stop production or sale, the illegally produced or sold products shall be confiscated, a fine of not less than 50 percent but not more than three times the value of the illegally produced or sold products shall be imposed concurrently; the illegal gains, if any, shall be confiscated; and where the circumstances are serious, the business license shall be revoked. Where a crime

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is constituted, criminal liability shall be pursued in accordance with the law.

Article 41 — Where products that have been eliminated by order of the state are produced, or products that have been eliminated by order of the state or products that have expired or deteriorated are sold, the order shall be given to stop production or sale, the illegally produced or sold products shall be confiscated, a fine of not more than the value of such products shall be imposed concurrently; the illegal gains, if any, shall be confiscated; and where the circumstances are serious, the business license shall be revoked.

Article 42 — Where the origin of a product is forged, or the name and address of another factory are forged or falsely used, or quality marks such as certification marks are forged or falsely used, the order shall be given to make rectification, the illegally produced or sold products shall be confiscated, a fine of not more than the value of such products shall be imposed concurrently; the illegal gains, if any, shall be confiscated; and where the circumstances are serious, the business license shall be revoked.

Article 43 — Where product marks do not conform to the provisions of Article 24 of this Law, the order shall be given to make rectification; where the circumstances are serious, the order shall be given to stop production or sale, and a fine of not less than 30 percent but not more than the value of the illegally produced or sold products shall be imposed; the illegal gains, if any, shall be confiscated.

Article 44 — Where a seller sells a product knowing that the product does not meet the national or industry standards safeguarding human health and the safety of person or property, or is adulterated, counterfeit, substandard or fake, and the sale value is 50,000 yuan or more, the seller shall be ordered to stop the illegal act and the illegally sold products and illegal gains shall be confiscated, and a fine of not less than 50 percent but not more than three times the sale value shall be imposed. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 45 — Where a producer or seller refuses to accept supervision and random inspection of product quality conducted in accordance with the law in violation of the provisions of this Law, the market supervision and administration department shall give a warning and order rectification. Where the producer or seller refuses to make rectification, the order shall be given to suspend business for rectification; where the circumstances are particularly serious, the business license shall be revoked.

Article 46 — Where a product quality inspection or certification agency forges inspection results or issues false certificates, the order shall be given to make rectification, and a fine of not less than 50,000 yuan but not more than 100,000 yuan shall be imposed on the unit, and a fine of not less than 10,000 yuan but not more than 50,000 yuan shall be imposed directly on the person in charge and other directly responsible persons; the illegal gains, if any, shall be confiscated; and where the circumstances are serious, the qualification for inspection or certification shall be revoked. Where a crime is constituted, criminal liability shall be pursued in accordance with the law. Where a product quality inspection or certification agency issues false inspection results or certificates, causing losses to consumers, it shall bear joint and several liability for compensation with the producer or seller of the product. Where the inspection results issued are inaccurate and cause losses, the inspection agency shall bear the corresponding liability for compensation. Where the certification is inaccurate, and the certified product causes losses to consumers, and the certification agency fails to revoke the certification mark or rectify the situation, the certification agency shall bear joint and several liability with the producer or seller of the product for compensation.

Article 47 — Where, in accordance with the provisions of this Law, the market supervision and administration department or the administrative department for industry and commerce makes a decision to revoke a business license, it shall notify the party concerned in writing and the party shall complete the deregistration with the enterprise registration authority. Where the party fails to complete the deregistration, the enterprise registration authority shall deregister the party.

Article 48 — The value of products specified in Articles 39 through 44 of this Law shall be calculated based on the marked price of the illegally produced or sold products; where there is no marked price, it shall be

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calculated based on the market price of similar products.

Article 49 — Where state functionaries, when performing their duties, engage in malpractice for personal gain, abuse their power, neglect their duties, or cover up or condone violations of this Law, and the case does not constitute a crime, disciplinary action shall be taken against them in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 50 — Where decisions on administrative penalties such as fines, confiscation of illegal gains and revocation of business licenses made by the market supervision and administration department or the administrative department for industry and commerce are not enforced, the market supervision and administration department or the administrative department for industry and commerce shall apply to the people's court for compulsory enforcement.

Article 51 — A party that is dissatisfied with an administrative penalty decision may apply for administrative reconsideration or file an administrative lawsuit directly with a people's court within 15 days from the date of receipt of the penalty notice. Where, after the expiration of the time limit for filing an administrative lawsuit, the party neither applies for administrative reconsideration, nor files an administrative lawsuit, nor implements the penalty decision, the administrative organ making the penalty decision may apply to the people's court for compulsory enforcement.

Article 52 — Where a producer or seller of a product, through means such as bribery, sells its products in the process of public procurement by government organs, public institutions and other organizations, the penalties shall be imposed in accordance with the provisions of the relevant laws. Where the circumstances are serious, the business license shall be revoked. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VI — Supplementary Provisions

Article 53 — The administrative measures for product quality in military industrial enterprises shall be separately formulated by the State Council and the Central Military Commission in accordance with this Law.

Article 54 — This Law shall not apply to the supervision and administration of the quality of nuclear facilities and nuclear products.

Article 55 — Where a producer or seller knows or should have known that the provisions of this Law prohibit production or sale and continues to produce or sell, the market supervision and administration department and other relevant departments shall, in accordance with the division of functions and duties prescribed by the State Council, impose penalties in accordance with the provisions of this Law.

Article 56 — This Law shall come into force as of September 1, 1993. The amended text (2018 Amendment) shall come into force as of December 29, 2018.

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