Product Quality Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted to strengthen the supervision and administration of product quality, improve the level of product quality, clarify liability for product quality, protect the lawful rights and interests of

consumers, and maintain the social and economic order.

Article 2 — This Law shall apply to all production and sales activities conducted within the territory of the PRC involving products. "Products" as used in this Law means products that have been processed or manufactured and are intended for sale. This Law shall not apply to construction projects. However, this Law shall apply to building materials, building components, and fittings, as well as equipment, etc., which are used in construction projects and are within the scope of products specified in the preceding paragraph.

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

Article 4 — Producers and sellers shall bear liability 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 place of origin of products, or forge or fraudulently use the names and addresses of other people's factories. It is prohibited to adulterate or mix impurities, pass off a fake as a genuine, pass off a substandard product as a quality product, or pass off a non-conforming product as a conforming product in the course of production or sales.

Article 6 — The State encourages enterprises to reach or exceed the industrial standards or national standards for product quality. The State encourages the implementation of scientific quality management methods, the adoption of advanced science and technology, and the active participation of enterprises in making their product quality reach and surpass advanced international standards. Units and individuals that have made outstanding achievements in the implementation of advanced standards for product quality and in making their product quality reach advanced international standards shall be rewarded.

Article 7 — The people's governments at all levels shall include the improvement of product quality in their national economic and social development plans, strengthen the overall planning, organization, and leadership of the work on product quality, guide and urge producers and sellers to strengthen product quality management, improve product quality, and organize the relevant departments to take measures in accordance with law to stop illegal acts such as adulteration or mixing impurities, passing off a fake as a genuine, or passing off a substandard product as a quality product committed in the course of production or sales.

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

Article 9 — No functionary of a people's government at any level or of any other state organ may abuse his or her power, shield or connive at any act that violates the provisions of this Law in the production or sale of products within the locality or industry, or obstruct or interfere with the lawful investigation of such acts. Where a local people's government at any level or any other state organ shields or connives at any act that violates the provisions of this Law in the production or sale of products, the principal responsible person shall be held legally liable in accordance with law.

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Article 10 — Any entity or individual shall have the right to report any act that violates the provisions 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 confidential and shall give rewards 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 entity or individual may exclude qualified products produced by enterprises from other regions or places from entering the local region or the region of the entity.

Chapter II — Supervision and Administration of Product Quality

Article 12 — Product quality shall be subject to inspection, and no substandard product shall be allowed to pass as a conforming product.

Article 13 — For industrial products that may endanger human health or personal or property safety, national standards and industrial standards for safeguarding human health and personal and property safety must be formulated. For products for which national standards or industrial standards have not been formulated, they must meet the requirements for safeguarding human health and personal and property safety. It is prohibited to produce or sell industrial products that do not conform to the standards or requirements for safeguarding human health and personal and property safety. The specific administrative measures shall be formulated by the State Council.

Article 14 — The State shall, with reference to internationally accepted product quality standards and administrative methods, implement a product quality certification system based on an enterprise's voluntary application. An enterprise may, on the basis of the principle of voluntariness, apply to the certification body recognized by the market supervision and administration department of the State Council or a certification body authorized by a department authorized by the market supervision and administration department of the State Council for product quality certification. Those that have been certified shall be permitted to use the product quality certification mark on their products or the packaging thereof.

Article 15 — The State shall conduct supervision and random inspection of product quality by means of random sampling inspection, focusing on the following products: (1) products that may endanger human health or personal or property safety; (2) important industrial products that affect the national economy and people's livelihood; (3) products for which consumers or relevant organizations have reported quality problems. Samples for random inspection may be randomly drawn from the market or the finished product warehouse of an enterprise for sale. The higher-level market supervision and administration department that supervises random inspections shall not conduct repeated random inspections of the same product of the same enterprise within the same period. The State shall implement uniform plans and programs for supervision and random inspections. The market supervision and administration departments at or above the county level may also organize supervision and random inspections within their respective administrative areas. Where laws provide otherwise with respect to supervision and random inspections of product quality, the provisions of the relevant laws shall apply. Where the State conducts supervision and random inspections of product quality, the State shall not charge the enterprise for the inspection of the samples; and the samples randomly drawn for inspection shall not exceed a reasonable quantity needed for inspection. The expenses required shall be included in the budget in accordance with the provisions of the State Council.

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

Article 17 — Where the quality of a product is found to be substandard through supervision and random inspection in accordance with the provisions of this Law, the market supervision and administration department that conducted the random inspection shall order the producer or seller to make corrections

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within a specified time limit. If the producer or seller fails to make corrections within the specified time limit, the matter shall be announced by the market supervision and administration department of the people's government at or above the provincial level; if the quality of the product is still found to be substandard through a subsequent random inspection, the business license shall be revoked. Where the quality of a product involving safety and health indicators is found to be seriously substandard through supervision and random inspection, the same penalty shall be imposed as provided in the preceding paragraph.

Article 18 — The market supervision and administration departments at or above the county level may, based on the suspected illegal evidence obtained or reports received, exercise the following functions and powers when investigating suspected acts in violation of this Law: (1) conducting on-site inspections of the premises where the parties are suspected of engaging in illegal production and sales activities; (2) investigating and questioning the parties, interested parties, and other relevant entities and individuals about the circumstances relating to the suspected illegal production and sales activities; (3) consulting and copying the relevant contracts, invoices, account books, and other relevant materials of the parties concerned; (4) sealing up or seizing products that, according to the evidence, are liable to endanger human health or personal and property safety, as well as products that are seriously substandard, and raw and auxiliary materials, packaging, and production tools directly used for the production and sale of such products.

Article 19 — Product quality inspection bodies must have the corresponding testing conditions and capabilities and may undertake product quality inspection work only after passing the examination conducted by the market supervision and administration department of the people's government at or above the provincial level or a department authorized by it. Where laws or administrative regulations provide otherwise with respect to product quality inspection bodies, the provisions of the relevant laws or administrative regulations shall apply.

Article 20 — Social intermediary institutions engaged in product quality inspection and certification must be established in accordance with law and shall not have any affiliation or other interest relationship with administrative organs or other state organs.

Article 21 — Product quality inspection bodies and certification bodies must follow the relevant standards in accordance with law and be objective, fair, and timely in issuing inspection conclusions and certification certificates. Product quality certification bodies shall, in accordance with the provisions of the State, permit enterprises that meet the certification standards to use the product quality certification mark on their products or the packaging thereof, and follow up on the products. If the products fail to meet the certification standards and the certification mark is still used, the certification body shall order it to make corrections; if the circumstances are serious, the qualification for use of the certification mark shall be revoked.

Article 22 — Consumers shall have the right to inquire of the producer or seller about the quality of the product. Consumers shall have the right to file complaints with the market supervision and administration department and the relevant departments about product quality problems, and the departments accepting the complaints shall be responsible for handling them.

Article 23 — Social organizations for the protection of consumer rights and interests may propose to the relevant departments to handle product quality problems reported by consumers and support consumers in bringing lawsuits in people's courts for damage caused by product quality.

Article 24 — The market supervision and administration department of the State Council and the market supervision and administration departments of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government shall regularly publish the status of product quality as determined by random inspections. The market supervision and administration departments exercising the power of announcement shall keep the trade secrets of the enterprises for which the announcement is made.

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

Article 25 — Producers shall be responsible for the quality of the products they produce. Product quality shall meet the following requirements: (1) the product must not have any unreasonable danger endangering personal or property safety, and must conform to the national standards or industrial standards for safeguarding human health and personal and property safety, if any; (2) the product must have the properties for use that it should possess, unless otherwise stated with respect to the defects of such properties for use; (3) the product must conform to the product standards indicated on the product or its packaging and to the quality status indicated in the product descriptions, physical samples, and other media.

Article 26 — The marks on a product or its packaging shall meet the following requirements: (1) having a product quality inspection conformity certificate; (2) having the product name, the name and address of the producer indicated in Chinese; (3) for products that require the indication of the product specifications, grade, and the main ingredients and their quantities contained therein according to the characteristics and requirements for use, the corresponding indications shall be made in Chinese; for products that require consumers to be informed in advance, the indications shall be indicated on the outer packaging, or relevant materials shall be provided to consumers in advance; (4) products with a limited period of use shall be marked with the production date and safe use period or the expiration date in a conspicuous position; (5) products that, if used improperly, are liable to cause damage to the product itself or may endanger personal or property safety shall bear warning signs or warning statements in Chinese. Products without packaging such as naked foods and other products that are difficult to attach marks to based on their characteristics need not have product marks.

Article 27 — Producers shall not produce products that have been eliminated by the State. Producers shall not forge the place of origin, forge or fraudulently use another person's factory name or address. Producers shall not forge or fraudulently use quality marks such as certification marks. Producers shall not adulterate or mix impurities, pass off a fake as a genuine, pass off a substandard product as a quality product, or pass off a non-conforming product as a conforming product in the course of production.

Article 28 — Sellers shall establish and implement a system for inspection and acceptance of goods upon arrival, verifying product conformity certificates and other marks.

Article 29 — Sellers shall take measures to maintain the quality of the products they sell.

Article 30 — Sellers shall not sell products that have been officially eliminated and stopped by the State, or expired or deteriorated products.

Article 31 — Sellers shall not forge the place of origin, forge or fraudulently use another person's factory name or address.

Article 32 — Sellers shall not forge or fraudulently use quality marks such as certification marks.

Article 33 — Sellers shall not adulterate or mix impurities, pass off a fake as a genuine, pass off a substandard product as a quality product, or pass off a non-conforming product as a conforming product in the course of sales.

Chapter IV — Compensation for Damage

Article 34 — Sellers shall be responsible for the repair, replacement, or return of products sold, or compensation for losses caused to consumers who purchase the products, if the products are under any of the following circumstances: (1) the product does not have the properties for use that it should possess and has not been declared in advance; (2) the product does not conform to the product standards indicated on the product or its packaging; (3) the product does not conform to the quality status indicated in the product descriptions, physical samples, and other media. Sellers shall, after being responsible for the repair,

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replacement, or return of products or compensating for losses in accordance with the provisions of the preceding paragraph, have the right to recover from the producer or the supplier from whom the products were purchased if the liability falls on the producer or the supplier. Where a seller fails to perform the obligations of repair, replacement, return, or compensation for losses in accordance with the provisions of the first paragraph, the market supervision and administration department shall order it to make corrections. The limitation period for the rights of the parties shall be governed by the relevant provisions of the Civil Code of the PRC.

Article 35 — Where a product sold by a seller causes personal injury or property damage to others due to a defect of the product, and the seller is unable to identify the producer of the defective product or the supplier from whom the product was purchased, the seller shall bear liability for compensation.

Article 36 — Where a defect of a product causes personal injury or property damage to another person, the injured person may claim compensation from the producer of the product or from the seller of the product. Where the liability falls on the producer of the product and compensation is made by the seller, the seller shall have the right to recover from the producer. Where the liability falls on the seller of the product and compensation is made by the producer, the producer shall have the right to recover from the seller.

Article 37 — Where a defect of a product causes personal injury to another person, the person liable shall compensate for medical expenses, nursing expenses during treatment, reduced income due to lost working time, and other such expenses; where disability is caused, the person liable shall also pay compensation for self-help devices, living allowances, disability compensation, living expenses for the dependents supported by the disabled person, and other such expenses; where death is caused, the person liable shall also pay funeral expenses, death compensation, living expenses for the dependents supported by the deceased during his or her lifetime, and other such expenses. Where a defect of a product causes property damage to another person, the person liable shall restore the property to its original condition or pay compensation at the market price. Where the injured person suffers other significant losses, the person liable shall also compensate for the losses.

Article 38 — Claims for compensation for damage caused by a defect of a product shall be filed within 10 years from the date the defective product causing damage was delivered to the first consumer, unless the safe use period indicated on the product has not yet expired.

Article 39 — "Defect" as used in this Law means an unreasonable danger existing in a product that endangers personal or property safety of others; where there are national standards or industrial standards for safeguarding human health and personal and property safety, "defect" means nonconformity with such standards.

Article 40 — Where a dispute arises over product quality, the parties concerned may apply for arbitration or bring a lawsuit in a people's court in accordance with law. The arbitration institution or the people's court may entrust a product quality inspection body specified in Article 19 of this Law to inspect the product quality.

Chapter V — Penalty Provisions

Article 41 — Where a product that does not meet the national standards or industrial standards for safeguarding human health or personal and property safety is produced or sold, the market supervision and administration department shall order the cessation of production and sale, confiscate the illegally produced or sold products, and impose a fine of not less than the equivalent value but not more than three times the equivalent value of the illegally produced or sold products (including products already sold and not yet sold, hereinafter the same); if there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the business license shall be revoked; where a crime is constituted, criminal liability shall be investigated in accordance with law.

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Article 42 — Where any adulteration or mixing of impurities, passing off a fake as a genuine, passing off a substandard product as a quality product, or passing off a non-conforming product as a conforming product is committed in the course of production or sale, the market supervision and administration department shall order the cessation of production or sale, confiscate the illegally produced or sold products, and impose a fine of not less than 50 percent and not more than three times the equivalent value of the illegally produced or sold products; if there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the business license shall be revoked; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 43 — Where a product that has been officially eliminated by the State is produced, or a product that has been officially eliminated and stopped by the State is sold, the market supervision and administration department shall order the cessation of production or sale, confiscate the illegally produced or sold products, and impose a fine of not more than the equivalent value of the illegally produced or sold products; if there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the business license shall be revoked.

Article 44 — Where a product that has expired or deteriorated is sold, the market supervision and administration department shall order the cessation of sale, confiscate the illegally sold products, and impose a fine of not more than two times the equivalent value of the illegally sold products; if there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the business license shall be revoked; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 45 — Where the place of origin of a product is forged, or the name or address of another person's factory is forged or fraudulently used, or a quality mark such as a certification mark is forged or fraudulently used, the market supervision and administration department shall order it to make corrections, confiscate the illegally produced or sold products, and impose a fine of not more than the equivalent value of the illegally produced or sold products; if there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the business license shall be revoked.

Article 46 — Where the product mark does not conform to the provisions of Article 27 of this Law, the market supervision and administration department shall order it to make corrections; if the package product mark does not conform to the provisions of subparagraph (4) or (5) of Article 27, and the circumstances are serious, the market supervision and administration department shall order the cessation of production or sale and impose a fine of not more than 30 percent of the equivalent value of the illegally produced or sold products; if there are illegal gains, the illegal gains shall also be confiscated.

Article 47 — Where a person refuses to accept the supervision and random inspection of product quality, the market supervision and administration department shall give a warning and order the person to make corrections; if the person refuses to make corrections, the person shall be ordered to suspend business for rectification; where the circumstances are particularly serious, the business license shall be revoked.

Article 48 — Where a producer or seller forges, conceals, transfers, or destroys the relevant contracts, invoices, account books, and other materials in the course of supervision and random inspection, the market supervision and administration department shall order it to make corrections and may impose a fine.

Article 49 — Where the producer or seller of a product is required to bear civil liability for compensation and to pay a fine in accordance with this Chapter, its property is insufficient to pay both the compensation and the fine, and it has not assumed civil liability for compensation, it shall first assume civil liability for compensation.

Article 50 — Where an employing entity transports, keeps, or stores products that it knows or should have known to be prohibited from production or sale by this Law, or provides convenient conditions such as production technology or production premises for products produced or sold in violation of the provisions of this Law, the market supervision and administration department shall confiscate all the income derived from

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transportation, storage, custody, or provision of convenient conditions for producing or selling the products, and impose a fine of not less than 50 percent and not more than three times the illegal income; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 51 — Where a service operator uses in a commercial service any product that is prohibited from being sold under Articles 41 to 45 of this Law and that it knows or should have known to be prohibited, it shall be punished in accordance with the provisions on the punishment of sellers of illegal products.

Article 52 — Where a seller of a product conceals, transfers, or sells off products sealed up or seized by the market supervision and administration department, the market supervision and administration department shall impose a fine of not less than the equivalent value of the concealed, transferred, or sold off products but not more than three times the equivalent value; if there are illegal gains, the illegal gains shall be confiscated.

Article 53 — Where a product quality inspection body or certification body forges an inspection result or issues false certification, the market supervision and administration department shall order it to make corrections and impose a fine of not less than RMB 50,000 and not more than RMB 100,000 on the entity, and a fine of not less than RMB 10,000 and not more than RMB 50,000 on the directly responsible person in charge and other directly responsible persons; if there are illegal gains, the illegal gains shall be confiscated; where the circumstances are serious, the qualification for inspection or certification shall be revoked; where a crime is constituted, criminal liability shall be investigated in accordance with law. Where a product quality inspection body or certification body issues false inspection results or certifications, causing losses to consumers, it shall bear joint and several liability with the producer and seller of the product for compensation; where major losses are caused, the qualification for inspection or certification shall be revoked.

Article 54 — Where a social organization or social intermediary institution recommends a product to consumers or makes a guarantee on the quality of a product, thus causing losses to consumers, it shall bear joint and several liability with the producer and seller of the product.

Article 55 — Where the product quality of producers and sellers is supervised and randomly inspected in accordance with the provisions of this Law and the sample inspection is found to be substandard, the market supervision and administration department that conducted the supervision and random inspection shall order the producer or seller to make corrections within a specified time limit. If the producer or seller fails to make corrections within the time limit, the matter shall be announced by the market supervision and administration department of the people's government at or above the provincial level; if the product quality is still substandard through a subsequent random inspection by the market supervision and administration department of the State Council, the business license shall be revoked.

Article 56 — The market supervision and administration department shall announce to the public the penalties imposed on producers and sellers for illegal acts.

Article 57 — Where a functionary of a people's government or any other state organ commits any of the following acts, he or she shall be given an administrative sanction in accordance with law; where a crime is constituted, criminal liability shall be investigated in accordance with law: (1) shielding or conniving at any act in violation of the provisions of this Law in the production or sale of products; (2) divulging trade secrets of an enterprise that have come to his or her knowledge in the performance of official duties; (3) failing to perform duties of supervision and administration of product quality as prescribed by law, or committing any other illegal acts.

Article 58 — Where a functionary of a market supervision and administration department abuses his or her power, neglects his or her duties, or engages in malpractices for personal gain, thus constituting a crime, criminal liability shall be investigated in accordance with law; where no crime is constituted, an administrative sanction shall be given in accordance with law.

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Article 59 — Where a party is dissatisfied with an administrative penalty, it may apply for administrative reconsideration or bring an administrative lawsuit in a people's court within 15 days from the date of receiving the notice of the decision on the penalty. Where the party fails to apply for reconsideration, nor brings a lawsuit in a people's court, nor performs the decision on the penalty within the prescribed time limit, the administrative organ that made the decision on the penalty shall apply to the people's court for compulsory enforcement.

Chapter VI — Supplementary Provisions

Article 60 — Where military products are found to have quality problems, the provisions of the relevant laws and regulations of the State Council and the Central Military Commission shall apply.

Article 61 — Where the product quality supervision and administration department or any other relevant department investigates and deals with cases in accordance with the provisions of this Law, the relevant provisions of the State Council on the division of authority between the administrative departments for industry and commerce and the product quality supervision departments shall apply.

Article 62 — This Law shall come into force on September 1, 1993.

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