Regulations of the People’s Republic of China on Direct Selling

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Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purpose of regulating direct selling activities, strengthening supervision over direct selling activities, preventing fraud, and protecting the lawful rights and

interests of consumers and public interests.

Article 2 — Direct selling activities conducted within the territory of the People's Republic of China shall comply with these Regulations.

The scope of products for direct selling shall be determined and announced by the competent commerce department under the State Council in conjunction with the administrative department for industry and commerce under the State Council in light of the development of the direct selling industry and the needs of consumers.

Article 3 — For the purposes of these Regulations, "direct selling" means the mode of distribution whereby a direct selling enterprise recruits direct sellers and the direct sellers sell products directly to final consumers (hereinafter referred to as consumers) outside fixed business premises.

For the purposes of these Regulations, "direct selling enterprise" means an enterprise that sells products by way of direct selling upon approval in accordance with these Regulations.

For the purposes of these Regulations, "direct seller" means a person who sells products directly to consumers outside fixed business premises.

Article 4 — An enterprise established within the territory of the People's Republic of China (hereinafter referred to as an enterprise) may, in accordance with these Regulations, apply to become a direct selling enterprise that sells, by way of direct selling, products manufactured by the enterprise itself and products manufactured by its parent company or its controlling company.

A direct selling enterprise may acquire trading rights and distribution rights in accordance with law.

Article 5 — In conducting direct selling activities, a direct selling enterprise and its direct sellers shall not engage in deceptive or misleading publicity or sales promotion.

Article 6 — The competent commerce department and the administrative department for industry and commerce under the State Council shall, according to the division of their duties and in accordance with these Regulations, be responsible for exercising supervision and administration over direct selling enterprises, direct sellers and their direct selling activities.

Chapter II — Establishment and Change of Direct Selling Enterprises and Their Branches

Article 7 — To apply to become a direct selling enterprise, the following conditions shall be met:

(1) the investor has good commercial reputation and has no record of major illegal business operations in the five consecutive years prior to the application; a foreign investor shall also have three or more years of experience in conducting direct selling activities outside China;

(2) the actually paid-in registered capital is not less than 80 million yuan;

(3) the security deposit has been paid in full to a designated bank in accordance with these Regulations; and

(4) an information reporting and disclosure system has been established in accordance with the provisions.

Article 8 — To apply to become a direct selling enterprise, an application form shall be filled in and the following application documents and materials shall be submitted:

(1) the certifying materials showing compliance with the conditions prescribed in Article 7 of these Regulations;

(2) the articles of association of the enterprise; where the enterprise is a Chinese-foreign equity joint venture or cooperative joint venture, the contract of the joint venture or cooperative enterprise shall also be provided;

(3) the market plan report, including the plan for the service outlets in the areas where direct selling activities are to be conducted, which is formulated in accordance with Article 10 of these Regulations and approved by the people's government at or above the county level in the locality;

(4) the product descriptions conforming to national standards;

(5) the sample of the sales contract to be concluded with direct sellers;

(6) the capital verification report issued by an accounting firm; and

(7) the agreement between the enterprise and the designated bank consenting to the use of the security deposit in accordance with these Regulations.

Article 9 — An applicant shall file an application with the competent commerce department under the State Council through the competent commerce department of the province, autonomous region or municipality directly under the Central Government where it is located. The competent commerce department of the province, autonomous region or municipality directly under the Central Government shall, within seven days from the date of receipt of the application documents and materials, submit the application documents and materials to the competent commerce department under the State Council. The competent commerce department under the State Council shall, within 90 days from the date of receipt of all the application documents and materials, and after soliciting the opinions of the administrative department for industry and commerce under the State Council, make a decision on whether to grant approval. Where approval is granted, the competent commerce department under the State Council shall issue a direct selling business permit.

An applicant holding the direct selling business permit issued by the competent commerce department under the State Council shall apply to the administrative department for industry and commerce for registration of change in accordance with law.

In examining and issuing the direct selling business permit, the competent commerce department under the State Council shall take into account such factors as national security, public interests and the development of the direct selling industry.

Article 10 — A direct selling enterprise conducting direct selling activities shall establish branches in the provinces, autonomous regions and municipalities directly under the Central Government where it intends to conduct direct selling activities, and such branches shall be responsible for the direct selling business within their respective administrative areas (hereinafter referred to as branches).

A direct selling enterprise shall establish service outlets in the areas where it conducts direct selling activities, so as to facilitate and satisfy the needs of consumers and direct sellers to learn about product prices, the exchange and return of goods and other services provided by the enterprise in accordance with law. The establishment of service outlets shall meet the requirements of the local people's government at or above the county level.

A direct selling enterprise applying to establish branches shall provide the certifying documents and materials showing compliance with the conditions prescribed in the preceding paragraph, and shall file an application in accordance with the procedures prescribed in the first paragraph of Article 9 of these Regulations. After approval is obtained, it shall undergo registration with the administrative department for industry and commerce in accordance with law.

Article 11 — Where a major change occurs to any of the matters listed in items (1), (2), (3), (5), (6) and (7) of Article 8 of these Regulations, a direct selling enterprise shall report it to the competent commerce department under the State Council for approval in accordance with the procedures prescribed in the first paragraph of Article 9 of these Regulations.

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Article 12 — The competent commerce department under the State Council shall announce the list of direct selling enterprises and their branches on the government website and update it in a timely manner.

Chapter III — Recruitment and Training of Direct Sellers

Article 13 — A direct selling enterprise and its branches may recruit direct sellers. No unit or individual other than a direct selling enterprise and its branches may recruit direct sellers.

The lawful sales activities of direct sellers shall not be investigated and dealt with as unlicensed business operations.

Article 14 — A direct selling enterprise and its branches shall not publish advertisements publicizing the sales remuneration of direct sellers, and shall not make the payment of fees or the purchase of goods a condition for becoming a direct seller.

Article 15 — A direct selling enterprise and its branches shall not recruit the following persons as direct sellers:

(1) persons under the age of 18;

(2) persons without capacity for civil conduct or with limited capacity for civil conduct;

(3) full-time students at school;

(4) teachers, medical personnel, civil servants and active military personnel;

(5) regular employees of the direct selling enterprise;

(6) overseas personnel; and

(7) persons who are not allowed to hold part-time jobs under the provisions of laws and administrative regulations.

Article 16 — When recruiting a direct seller, a direct selling enterprise and its branches shall conclude a sales contract with the direct seller, and shall ensure that the direct seller conducts direct selling activities only in the areas within the administrative area of the province, autonomous region or municipality directly under the Central Government where one of its branches is located and where service outlets have been established. A person who has not concluded a sales contract with a direct selling enterprise or its branch shall not engage in direct selling activities in any manner.

Article 17 — A direct seller may rescind the sales contract at any time within 60 days from the date of conclusion of the sales contract; after 60 days, a direct seller rescinding the sales contract shall notify the direct selling enterprise 15 days in advance.

Article 18 — A direct selling enterprise shall provide business training and examinations for the direct sellers it intends to recruit, and shall issue a direct seller certificate to those who pass the examination. Without obtaining a direct seller certificate, no person may engage in direct selling activities.

A direct selling enterprise shall not charge any fees for the business training and examinations of direct sellers.

No unit or individual other than a direct selling enterprise may organize business training for direct sellers in any name.

Article 19 — Persons giving lectures at the business training for direct sellers shall be regular employees of the direct selling enterprise and shall meet the following conditions:

(1) having worked in the enterprise for one year or more;

(2) having a bachelor's degree or above in higher education and the relevant professional knowledge of law and marketing;

(3) having no record of criminal punishment for intentional crimes; and

(4) having no record of major illegal business operations.

A direct selling enterprise shall issue a direct selling trainer certificate to the lecturers who meet the conditions prescribed in the preceding paragraph, and shall submit the list of persons who have obtained direct selling trainer certificates to the competent commerce department under the State Council for the record. The competent commerce department under the State Council shall announce the list of persons who have obtained direct selling trainer certificates on the government website.

Overseas personnel shall not engage in the business training of direct sellers.

Article 20 — The direct seller certificates and direct selling trainer certificates issued by a direct selling enterprise shall be printed in the format prescribed by the competent commerce department under the State Council.

Article 21 — A direct selling enterprise shall be responsible for the legality of the business training for direct sellers, the order of the training and the safety of the training premises.

A direct selling enterprise and its direct selling trainers shall be responsible for the legality of the content of the lectures given at the business training for direct sellers.

The specific measures for the administration of the business training for direct sellers shall be separately formulated by the competent commerce department under the State Council and the administrative department for industry and commerce under the State Council in conjunction with the relevant departments.

Chapter IV — Direct Selling Activities

Article 22 — When selling products to consumers, a direct seller shall comply with the following provisions:

(1) presenting the direct seller certificate and the sales contract;

(2) not entering the residence of a consumer to force the sale of products without the consent of the consumer; where the consumer requests the direct seller to stop the sales activities, the direct seller shall stop immediately and leave the residence of the consumer;

(3) before concluding a transaction, introducing in detail to the consumer the return system of the enterprise; and

(4) after concluding a transaction, providing the consumer with an invoice and a sales voucher issued by the direct selling enterprise containing the return system, the address and telephone number of the local service outlet of the direct selling enterprise and other contents.

Article 23 — A direct selling enterprise shall mark the prices on the products for direct selling, and such prices shall be consistent with the product prices displayed at the service outlets. A direct seller shall sell products to consumers at the marked prices.

Article 24 — A direct selling enterprise shall pay the remuneration of direct sellers at least on a monthly basis. The remuneration paid by a direct selling enterprise to a direct seller shall be calculated only on the basis of the income of the direct seller from directly selling products to consumers, and the total amount of remuneration (including commissions, bonuses, rewards in various forms and other economic benefits) shall not exceed 30 percent of the income of the direct seller from directly selling products to consumers.

Article 25 — A direct selling enterprise shall establish and implement a complete system for the exchange and return of goods.

Within 30 days from the date of purchase of the products for direct selling, where the products have not been unsealed, a consumer may, by presenting the invoice or sales voucher issued by the direct selling enterprise, apply to the direct selling enterprise and its branches, the local service outlet or the direct seller who sold the products for the exchange or return of the goods; the direct selling enterprise and its branches, the local service outlet and the direct seller shall, within seven days from the date on which the consumer files the request for exchange or return, handle the exchange or return in accordance with the price indicated on the invoice or sales voucher.

Within 30 days from the date of purchase of the products for direct selling, where the products have not been unsealed, a direct seller may, by presenting the invoice or sales voucher issued by the direct selling enterprise, apply to the direct selling enterprise and its branches or the local service outlet for the exchange or return of the goods; the direct selling enterprise and its branches and the local service outlet shall, within seven days from the date on which the direct seller files the request for exchange or return, handle the exchange or return in accordance with the price indicated on the invoice or sales voucher.

Where the circumstances do not fall within the two preceding paragraphs and a consumer or direct seller requests the exchange or return of goods, the direct selling enterprise and its branches, the local service outlet and the direct seller shall handle the exchange or return in accordance with the provisions of the relevant laws and regulations or the agreement in the contract.

Article 26 — Where a dispute arises between a direct selling enterprise and a direct seller, or between a direct selling enterprise and its direct sellers on the one hand and a consumer on the other, over the exchange or return of goods, the former shall bear the burden of proof.

Article 27 — A direct selling enterprise shall bear joint and several liability for the direct selling activities of its direct sellers, unless it can prove that the direct selling activities of a direct seller are unrelated to the enterprise.

Article 28 — A direct selling enterprise shall, in accordance with the provisions of the competent commerce department under the State Council and the administrative department for industry and commerce under the State Council, establish and implement a complete information reporting and disclosure system.

The content, methods and relevant requirements of the information reporting and disclosure of a direct selling enterprise shall be separately prescribed by the competent commerce department under the State Council and the administrative department for industry and commerce under the State Council.

Chapter V — Security Deposit

Article 29 — A direct selling enterprise shall open a special account with a bank jointly designated by the competent commerce department under the State Council and the administrative department for industry and commerce under the State Council, and deposit a security deposit therein.

The amount of the security deposit shall be 20 million yuan at the time of the establishment of the direct selling enterprise; after the direct selling enterprise commences operations, the security deposit shall be adjusted on a monthly basis, and its amount shall be maintained at the level of 15 percent of the sales income from the products for direct selling in the preceding month of the direct selling enterprise, but the maximum amount shall not exceed 100 million yuan and the minimum amount shall not be less than 20 million yuan. The interest on the security deposit shall belong to the direct selling enterprise.

Article 30 — Under any of the following circumstances, the competent commerce department under the State Council and the administrative department for industry and commerce under the State Council may jointly decide to use the security deposit:

(1) the direct selling enterprise fails, without justifiable reasons, to pay remuneration to direct sellers, or fails to pay the refunds for returned goods to direct sellers or consumers;

(2) the direct selling enterprise undergoes suspension of business, merger, dissolution, transfer or bankruptcy, and is unable to pay remuneration to direct sellers or unable to pay the refunds for returned goods to direct sellers and consumers; or

(3) losses are caused to consumers due to problems with the products for direct selling, and compensation shall be made in accordance with law, but the direct selling enterprise refuses to make compensation without justifiable reasons or is unable to make compensation.

Article 31 — After the security deposit is used in accordance with Article 30 of these Regulations, the direct selling enterprise shall, within one month, replenish the amount of the security deposit to the level prescribed in the second paragraph of Article 29 of these Regulations.

Article 32 — A direct selling enterprise shall not use the security deposit as an external guarantee or use it to pay off debts in violation of these Regulations.

Article 33 — Where a direct selling enterprise no longer engages in direct selling activities, it may, by presenting the voucher issued by the competent commerce department under the State Council and the administrative department for industry and commerce under the State Council, withdraw the security deposit from the bank.

Article 34 — The competent commerce department under the State Council and the administrative department for industry and commerce under the State Council shall be jointly responsible for the routine supervision and administration of the security deposit.

The specific measures for the administration of the deposit and use of the security deposit shall be separately formulated by the competent commerce department under the State Council and the administrative department for industry and commerce under the State Council in conjunction with the relevant departments.

Chapter VI — Supervision and Administration

Article 35 — The administrative department for industry and commerce shall be responsible for exercising routine supervision and administration over direct selling enterprises, direct sellers and their direct selling activities. The administrative department for industry and commerce may take the following measures to conduct on-site inspections:

(1) entering the relevant enterprises to conduct inspections;

(2) requiring the relevant enterprises to provide the relevant documents, materials and certifying materials;

(3) questioning the parties concerned, interested parties and other relevant persons, and requiring them to provide the relevant materials;

(4) consulting, copying, sealing up and seizing the materials and illegal property of the relevant enterprises relating to direct selling activities; and

(5) inspecting the direct selling trainer certificates, direct seller certificates and other certificates of the relevant persons.

When the administrative department for industry and commerce conducts an on-site inspection in accordance with the preceding paragraph, the inspectors shall be no fewer than two persons and shall present their lawful certificates; the sealing up or seizure shall be subject to the approval of the principal person in charge of the administrative department for industry and commerce at or above the county level.

Article 36 — Where, in exercising routine supervision and administration, the administrative department for industry and commerce discovers that a relevant enterprise is suspected of violating these Regulations, it may, with the approval of the principal person in charge of the administrative department for industry and

commerce at or above the county level, order the enterprise to temporarily suspend the relevant business operations.

Article 37 — The administrative department for industry and commerce shall set up and announce a reporting telephone number, accept reports and complaints of violations of these Regulations, and promptly conduct investigation and handling.

The administrative department for industry and commerce shall keep the identity of informants confidential; informants who render meritorious service in reporting shall be rewarded in accordance with the relevant provisions of the State.

Chapter VII — Legal Liability

Article 38 — Where the relevant departments and their staff members exercising supervision and administration over direct selling enterprises, direct sellers and their direct selling activities grant a permit to an application that does not meet the conditions prescribed by these Regulations, or fail to perform their supervision and administration duties in accordance with these Regulations, the directly responsible persons in charge and other directly responsible persons shall be given administrative sanctions in accordance with law; where a crime is constituted, criminal liability shall be investigated in accordance with law. A permit granted to an application that does not meet the conditions prescribed by these Regulations shall be revoked by the relevant department that made the permit decision.

Article 39 — Where anyone, in violation of Articles 9 and 10 of these Regulations, engages in direct selling activities without approval, the administrative department for industry and commerce shall order corrections, confiscate the products for direct selling and the illegal sales income, and impose a fine of not less than 50,000 yuan but not more than 300,000 yuan; where the circumstances are serious, a fine of not less than 300,000 yuan but not more than 500,000 yuan shall be imposed and the activities shall be banned in accordance with law; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 40 — Where an applicant obtains the permit set forth in Articles 9 and 10 of these Regulations by fraud, bribery or other means, the administrative department for industry and commerce shall confiscate the products for direct selling and the illegal sales income and impose a fine of not less than 50,000 yuan but not more than 300,000 yuan, the competent commerce department under the State Council shall revoke the corresponding permit, and the applicant shall not file another application; where the circumstances are serious, a fine of not less than 300,000 yuan but not more than 500,000 yuan shall be imposed and the activities shall be banned in accordance with law; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 41 — Where a direct selling enterprise violates Article 11 of these Regulations, the administrative department for industry and commerce shall order corrections and impose a fine of not less than 30,000 yuan but not more than 300,000 yuan; where the enterprise no longer meets the conditions for the direct selling business permit, the competent commerce department under the State Council shall revoke its direct selling business permit.

Article 42 — Where a direct selling enterprise, in violation of the provisions, conducts direct selling business activities beyond the scope of products for direct selling, the administrative department for industry and commerce shall order corrections, confiscate the products for direct selling and the illegal sales income, and impose a fine of not less than 50,000 yuan but not more than 300,000 yuan; where the circumstances are serious, a fine of not less than 300,000 yuan but not more than 500,000 yuan shall be imposed, and the administrative department for industry and commerce shall revoke the business license of the branch of the direct selling enterprise that committed the illegal business activities, or the competent commerce department under the State Council shall revoke the direct selling business permit of the direct selling

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enterprise.

Article 43 — Where a direct selling enterprise and its direct sellers, in violation of these Regulations, engage in deceptive or misleading publicity and sales promotion, the administrative department for industry and commerce shall impose a fine of not less than 30,000 yuan but not more than 100,000 yuan on the direct selling enterprise; where the circumstances are serious, a fine of not less than 100,000 yuan but not more than 300,000 yuan shall be imposed, and the administrative department for industry and commerce shall revoke the business license of the branch of the direct selling enterprise that committed the illegal business activities, or the competent commerce department under the State Council shall revoke the direct selling business permit of the direct selling enterprise. A fine of not more than 50,000 yuan shall be imposed on the direct seller by the administrative department for industry and commerce; where the circumstances are serious, the direct selling enterprise shall be ordered to revoke the qualification of the direct seller.

Article 44 — Where a direct selling enterprise and its branches recruit direct sellers in violation of these Regulations, the administrative department for industry and commerce shall order corrections and impose a fine of not less than 30,000 yuan but not more than 100,000 yuan; where the circumstances are serious, a fine of not less than 100,000 yuan but not more than 300,000 yuan shall be imposed, and the administrative department for industry and commerce shall revoke the business license of the branch of the direct selling enterprise that committed the illegal business activities, or the competent commerce department under the State Council shall revoke the direct selling business permit of the direct selling enterprise.

Article 45 — Where anyone, in violation of these Regulations, engages in direct selling activities without obtaining a direct seller certificate, the administrative department for industry and commerce shall order corrections, confiscate the products for direct selling and the illegal sales income, and may impose a fine of not more than 20,000 yuan; where the circumstances are serious, a fine of not less than 20,000 yuan but not more than 200,000 yuan shall be imposed.

Article 46 — Where a direct selling enterprise conducts business training for direct sellers in violation of these Regulations, the administrative department for industry and commerce shall order corrections, confiscate the illegal gains and impose a fine of not less than 30,000 yuan but not more than 100,000 yuan; where the circumstances are serious, a fine of not less than 100,000 yuan but not more than 300,000 yuan shall be imposed, and the administrative department for industry and commerce shall revoke the business license of the branch of the direct selling enterprise that committed the illegal business activities, or the competent commerce department under the State Council shall revoke the direct selling business permit of the direct selling enterprise; a fine of not more than 50,000 yuan shall be imposed on the lecturers by the administrative department for industry and commerce, and where a lecturer is a direct selling trainer, the direct selling enterprise shall be ordered to revoke the direct selling trainer qualification of the lecturer.

Where a unit or individual other than a direct selling enterprise organizes business training for direct sellers, the administrative department for industry and commerce shall order corrections, confiscate the illegal gains and impose a fine of not less than 20,000 yuan but not more than 200,000 yuan.

Article 47 — Where a direct seller violates Article 22 of these Regulations, the administrative department for industry and commerce shall confiscate the illegal sales income and may impose a fine of not more than 50,000 yuan; where the circumstances are serious, the direct selling enterprise shall be ordered to revoke the qualification of the direct seller, and a fine of not less than 10,000 yuan but not more than 100,000 yuan shall be imposed on the direct selling enterprise.

Article 48 — Where a direct selling enterprise violates Article 23 of these Regulations, it shall be dealt with in accordance with the relevant provisions of the Price Law.

Article 49 — Where a direct selling enterprise violates Articles 24 and 25 of these Regulations, the administrative department for industry and commerce shall order corrections and impose a fine of not less than 50,000 yuan but not more than 300,000 yuan; where the circumstances are serious, a fine of not less

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than 300,000 yuan but not more than 500,000 yuan shall be imposed, and the administrative department for industry and commerce shall revoke the business license of the branch of the direct selling enterprise that committed the illegal business activities, or the competent commerce department under the State Council shall revoke the direct selling business permit of the direct selling enterprise.

Article 50 — Where a direct selling enterprise fails to conduct information reporting and disclosure in accordance with the relevant provisions, the administrative department for industry and commerce shall order it to make corrections within a prescribed time limit and impose a fine of not more than 100,000 yuan; where the circumstances are serious, a fine of not less than 100,000 yuan but not more than 300,000 yuan shall be imposed; where the enterprise refuses to make corrections, the competent commerce department under the State Council shall revoke its direct selling business permit.

Article 51 — Where a direct selling enterprise violates the relevant provisions of Chapter V of these Regulations, the administrative department for industry and commerce shall order it to make corrections within a prescribed time limit and impose a fine of not more than 100,000 yuan; where the enterprise refuses to make corrections, a fine of not less than 100,000 yuan but not more than 300,000 yuan shall be imposed, and the competent commerce department under the State Council shall revoke its direct selling business permit.

Article 52 — Where an illegal act in violation of these Regulations also violates the Regulations on the Prohibition of Pyramid Selling, penalties shall be imposed in accordance with the relevant provisions of the Regulations on the Prohibition of Pyramid Selling.

Chapter VIII — Supplementary Provisions

Article 53 — Where a direct selling enterprise intends to establish a direct selling enterprise association or other social organization, it shall obtain the approval of the competent commerce department under the State Council and apply for registration in accordance with law by presenting the approval document.

Article 54 — Where investors from the Hong Kong Special Administrative Region, the Macao Special Administrative Region or the Taiwan region invest within the mainland to establish a direct selling enterprise and conduct direct selling activities, they shall be handled with reference to the provisions of these Regulations concerning foreign investors.

Article 55 — These Regulations shall become effective as of December 1, 2005.

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