Regulations on the Protection of Integrated Circuit Layout Designs of the PRC

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Chapter I — General Provisions

Article 1 — For the purpose of protecting the exclusive rights in integrated circuit layout designs, encouraging innovation in integrated circuit technology, and promoting the development of science and technology, these Regulations are formulated.

Article 2 — The protection of integrated circuit layout designs shall implement the strategies and arrangements of the Party and the State concerning intellectual property, and shall enhance China's level of creation, exploitation, protection, administration and service with respect to integrated circuit layout designs.

Article 3 — For the purposes of these Regulations, the following terms shall have the following meanings: (1) "integrated circuit" means a product, whether intermediate or final, in which at least one active element and two or more other elements, together with some or all of their interconnections, are integrated in or on a semiconductor substrate so as to perform an electronic function; (2) "integrated circuit layout design"

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(hereinafter referred to as a "layout design") means the three-dimensional configuration of at least one active element and two or more other elements, together with some or all of their interconnections, in an integrated circuit, or such a three-dimensional configuration prepared for the purpose of manufacturing an integrated circuit; (3) "holder of the right in a layout design" means a natural person, legal person or unincorporated organization that enjoys an exclusive right in a layout design in accordance with these Regulations; (4) "reproduction" means the act of repeatedly producing a layout design or an integrated circuit incorporating the layout design; (5) "commercial exploitation" means the importation, sale or other provision, for commercial purposes, of a protected layout design, an integrated circuit incorporating the layout design, or an article incorporating such an integrated circuit. Layout designs of integrated circuits integrating photonic, quantum or other functions may be protected in accordance with these Regulations.

Article 4 — A layout design created by a Chinese natural person, legal person or unincorporated organization shall enjoy the exclusive right in the layout design in accordance with these Regulations. A layout design created by a foreigner, foreign enterprise or other foreign organization shall enjoy the exclusive right in the layout design in accordance with these Regulations if the layout design is first commercially exploited within the territory of China. A layout design created by a foreigner, foreign enterprise or other foreign organization shall enjoy the exclusive right in the layout design in accordance with these Regulations if the country to which the creator belongs has concluded an agreement with China on the protection of layout designs, or if both that country and China are parties to an international treaty on the protection of layout designs.

Article 5 — An application for registration of a layout design, or the handling of other matters relating to layout designs, may be made by the applicant itself or by a patent agency established in accordance with law that is entrusted by the applicant. A foreigner, foreign enterprise or other foreign organization that has no habitual residence or business office in China and that applies for registration of a layout design or handles other matters relating to layout designs in China shall entrust a patent agency established in accordance with law to do so. A patent agency shall abide by laws and administrative regulations, shall handle applications for registration of layout designs or other matters relating to layout designs in accordance with the mandate of its principal, and shall bear the duty of confidentiality with respect to the undisclosed contents of the principal's layout designs.

Article 6 — A layout design to be protected shall be original, that is, the layout design shall be the result of the creator's own intellectual effort and, at the time of its creation, shall not be a conventional design generally recognized among creators of layout designs and manufacturers of integrated circuits. Where a protected layout design consists of conventional designs, the combination as a whole shall satisfy the conditions set forth in the preceding paragraph.

Article 7 — The protection of layout designs under these Regulations shall not extend to ideas, processes, operating methods or mathematical concepts.

Article 8 — The intellectual property administrative department of the State Council shall be responsible for the administration of matters relating to exclusive rights in layout designs throughout the country.

Article 9 — Applications for registration of layout designs and the exercise of exclusive rights in layout designs shall follow the principle of good faith. Exclusive rights in layout designs shall not be abused to the detriment of the interests of the State, the public interest or the lawful rights and interests of others. Where an exclusive right in a layout design is abused to eliminate or restrict competition, constituting a monopolistic act, the matter shall be handled in accordance with the Anti-Monopoly Law of the People's Republic of China.

Article 10 — The intellectual property administrative department of the State Council shall, in conjunction with the relevant departments, take measures to strengthen public services for layout designs and promote the exploitation of layout designs.

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Chapter II — Exclusive Rights in Layout Designs

Article 11 — The holder of the right in a layout design shall enjoy the following exclusive rights: (1) to reproduce the whole or any original part of the protected layout design; and (2) to commercially exploit the protected layout design, an integrated circuit incorporating the layout design, or an article incorporating such an integrated circuit.

Article 12 — An exclusive right in a layout design shall arise upon registration by the intellectual property administrative department of the State Council. A layout design that has not been registered shall not be protected under these Regulations.

Article 13 — The exclusive right in a layout design shall belong to the creator of the layout design, except as otherwise provided in these Regulations. Where a layout design is created under the auspices of, in accordance with the will of, and under the responsibility of a legal person or unincorporated organization, that legal person or unincorporated organization shall be the creator. Where a layout design is created by a natural person, that natural person shall be the creator.

Article 14 — Where a layout design is jointly created by two or more natural persons, legal persons or unincorporated organizations, the ownership of the exclusive right therein shall be determined by agreement among the co-creators; in the absence of an agreement or where the agreement is unclear, the exclusive right shall be enjoyed jointly by the co-creators.

Article 15 — Where a layout design is created under a commission, the ownership of the exclusive right therein shall be determined by agreement between the commissioning party and the commissioned party; in the absence of an agreement or where the agreement is unclear, the exclusive right shall be enjoyed by the commissioned party.

Article 16 — Where the circumstances specified in the second paragraph of Article 13 of these Regulations apply, the legal person or unincorporated organization shall, in accordance with the Law of the People's Republic of China on Promoting the Transformation of Scientific and Technological Achievements and the relevant State provisions, grant reasonable rewards and remuneration to the qualified personnel.

Article 17 — The term of protection of the exclusive right in a layout design shall be 10 years, calculated from the date of filing of the application for registration of the layout design or from the date of its first commercial exploitation anywhere in the world, whichever is earlier. However, whether or not it is registered or commercially exploited, a layout design shall no longer be protected under these Regulations after 15 years from the date on which its creation was completed.

Article 18 — Where the exclusive right in a layout design belongs to a natural person, upon the death of that natural person the exclusive right shall be transferred in accordance with law within the term of protection specified in these Regulations. Where the exclusive right in a layout design belongs to a legal person or unincorporated organization, upon the change or termination of that legal person or unincorporated organization, the exclusive right shall, within the term of protection specified in these Regulations, be enjoyed by the legal person or unincorporated organization that succeeds to its rights and obligations; where there is no legal person or unincorporated organization succeeding to its rights and obligations, the layout design shall no longer be protected under these Regulations.

Chapter III — Registration of Layout Designs

Article 19 — The intellectual property administrative department of the State Council shall be responsible for the registration of layout designs and shall accept applications for registration of layout designs.

Article 20 — An application for registration of a layout design shall be based on genuine creative activities and shall not be fabricated.

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Article 21 — Where a layout design for which registration is applied involves national security or major interests and requires confidentiality, the matter shall be handled in accordance with the relevant State provisions.

Article 22 — An application for registration of a layout design shall be accompanied by: (1) an application form for registration of the layout design; (2) a copy or drawing of the layout design; (3) a statement of originality of the layout design; and (4) other materials prescribed by the intellectual property administrative department of the State Council. Where the layout design has already been commercially exploited, the application for registration shall be accompanied by samples of integrated circuits incorporating the layout design.

Article 23 — The copy or drawing submitted by the applicant shall contain the necessary information of the layout design and shall be capable of clearly showing the parts of the layout design that are original.

Article 24 — The statement of originality shall specify the design areas, the design points and the corresponding functions in which the layout design is original. Where the layout design is original as a whole, this shall be specifically stated in the statement of originality.

Article 25 — The filing date shall be the date on which the intellectual property administrative department of the State Council receives the application documents for registration of the layout design specified in Article 22 of these Regulations. Where the application documents are mailed, the filing date shall be the date of the postmark.

Article 26 — Where no application for registration is filed with the intellectual property administrative department of the State Council within two years from the date of the first commercial exploitation of a layout design anywhere in the world, the intellectual property administrative department of the State Council shall no longer register the layout design.

Article 27 — The intellectual property administrative department of the State Council shall conduct a preliminary examination of an application for registration of a layout design. Where it considers that the layout design for which registration is applied clearly does not comply with the provisions of item (1) or item (2) of the first paragraph of Article 3, or of Article 7, Article 20, Article 23 or Article 24 of these Regulations, it shall notify the applicant and require the applicant to state its opinions or make corrections within a specified time limit; where the applicant fails to respond within the time limit, the application shall be deemed withdrawn. Where, after the applicant states its opinions or makes corrections, the intellectual property administrative department of the State Council still considers that the application does not comply with the provisions of these Regulations, it shall reject the application.

Article 28 — Where, upon preliminary examination, no ground for rejection is found in an application for registration of a layout design, the intellectual property administrative department of the State Council shall register the layout design, issue a certificate of registration, and publish the registration.

Article 29 — Where an applicant for registration of a layout design is dissatisfied with the decision of the intellectual property administrative department of the State Council rejecting its application for registration, it may, within three months from the date of receipt of the notification, request a review by the intellectual property administrative department of the State Council. After conducting the review, the intellectual property administrative department of the State Council shall make a decision and notify the applicant for registration of the layout design. Where the applicant for registration of the layout design is still dissatisfied with the review decision of the intellectual property administrative department of the State Council, it may institute an action in a people's court in accordance with law.

Article 30 — Where, after a layout design has been granted registration, the intellectual property administrative department of the State Council discovers that the registration does not comply with the provisions of these Regulations, it shall revoke the registration, notify the holder of the right in the layout

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design, and record and publish the revocation. Any person who discovers that a registration does not comply with the provisions of these Regulations may request the intellectual property administrative department of the State Council to revoke the registration of the layout design. The intellectual property administrative department of the State Council shall promptly examine a request for revocation of a layout-design registration and make a decision, and shall notify the requester and the holder of the right in the layout design. A decision to revoke a layout-design registration shall be recorded and published by the intellectual property administrative department of the State Council. The non-compliance with the provisions of these Regulations referred to in the preceding two paragraphs means non-compliance with the provisions of item (1) or item (2) of the first paragraph of Article 3, or of Article 4, Article 6, Article 7, Article 17, Article 20, Article 23, Article 24 or Article 26 of these Regulations. Where the holder of the right in the layout design or the requester is dissatisfied with the examination decision of the intellectual property administrative department of the State Council, it may institute an action in a people's court in accordance with law.

Article 31 — Where the registration of a layout design is revoked, the exclusive right in the layout design shall be deemed never to have existed.

Article 32 — Staff members and other relevant personnel of the intellectual property administrative department of the State Council shall bear the duty of confidentiality with respect to the undisclosed contents of layout-design registrations.

Article 33 — Where a party, owing to force majeure, misses a time limit specified in these Regulations or a time limit designated by the intellectual property administrative department of the State Council, thereby losing its rights, it may, within two months from the date of removal of the obstacle and within two years from the date of expiry of the time limit, state its reasons to the intellectual property administrative department of the State Council, accompanied by the relevant supporting documents, and request restoration of its rights. In circumstances other than those specified in the preceding paragraph, where a party, owing to other justified reasons, misses a time limit specified in these Regulations or a time limit designated by the intellectual property administrative department of the State Council, thereby losing its rights, it may, within two months from the date of receipt of the notification of the intellectual property administrative department of the State Council, state its reasons to the intellectual property administrative department of the State Council and request restoration of its rights; however, where the time limit for requesting a review is missed, the party may, within two months from the date of expiry of the time limit for requesting the review, request the intellectual property administrative department of the State Council to restore its rights. Where a party requests an extension of a time limit designated by the intellectual property administrative department of the State Council, it shall, before the expiry of the time limit, state its reasons to the intellectual property administrative department of the State Council and complete the relevant procedures. The provisions of the first and second paragraphs of this Article shall not apply to the time limits specified in Article 17 or Article 26 of these Regulations.

Chapter IV — Exercise of Exclusive Rights in Layout Designs

Article 34 — The protected layout design shall be as shown in the copy or drawing of the registered layout design, and the statement of originality may be used to interpret the originality of the layout design.

Article 35 — The holder of the right in a layout design may transfer its exclusive right or license others to use its layout design. Where a Chinese natural person, legal person or unincorporated organization transfers an exclusive right in a layout design to a foreigner, foreign enterprise or other foreign organization, it shall complete the relevant procedures in accordance with the relevant laws, administrative regulations and State provisions. To transfer an exclusive right in a layout design, the parties shall conclude a written contract and register the transfer with the intellectual property administrative department of the State Council, which shall publish the transfer. The transfer of an exclusive right in a layout design shall take effect on the date of registration. To license others to use a layout design, the parties shall conclude a written contract and file it

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for record with the intellectual property administrative department of the State Council within three months from the date on which the contract takes effect. Where an exclusive right in a layout design is pledged, the pledgor and the pledgee shall jointly complete the pledge registration with the intellectual property administrative department of the State Council, which shall publish the pledge.

Article 36 — Where the co-owners of an exclusive right in a layout design have agreed on the exercise of the right, such agreement shall prevail. In the absence of an agreement, any co-owner may use the layout design independently or license others to use it by way of a non-exclusive license; where the layout design is licensed to others for use, the royalties collected shall be distributed among the co-owners. Except in the circumstances specified in the preceding paragraph, the exercise of a jointly-owned exclusive right in a layout design shall require the consent of all the co-owners.

Article 37 — The following acts may be performed without the permission of the holder of the right in the layout design and without payment of royalties: (1) reproducing a protected layout design for private purposes or solely for the purposes of evaluation, analysis, research, teaching and the like; (2) creating an original layout design on the basis of the evaluation or analysis of a protected layout design under the preceding item; and (3) reproducing, or commercially exploiting, a layout design identical to that of others that one has independently created.

Article 38 — After a protected layout design, an integrated circuit incorporating the layout design, or an article incorporating such an integrated circuit has been placed on the market by the holder of the right in the layout design or with its permission, others may commercially exploit it again without the permission of the holder and without payment of royalties.

Article 39 — Where a state of emergency or an extraordinary circumstance arises in the State, or where it is for the purpose of the public interest, or where a people's court or an anti-monopoly law enforcement authority has determined in accordance with law that the holder of the right in a layout design has committed a monopolistic act and a remedy needs to be granted, the intellectual property administrative department of the State Council may grant a non-voluntary license to use the layout design.

Article 40 — Where the intellectual property administrative department of the State Council makes a decision to grant a non-voluntary license to use a layout design, it shall promptly notify the holder of the right in the layout design. A decision to grant a non-voluntary license to use a layout design shall, based on the grounds for the non-voluntary license, specify the scope and duration of use, and the scope shall be limited to non-commercial use for public purposes, or to the remedy required where a people's court or an anti-monopoly law enforcement authority has determined in accordance with law that the holder of the right in the layout design has committed a monopolistic act. Where the grounds for the non-voluntary license are removed and no longer recur, the intellectual property administrative department of the State Council shall, upon the request of the holder of the right in the layout design and after examination, make a decision to terminate the non-voluntary license to use the layout design.

Article 41 — A natural person, legal person or unincorporated organization that obtains a non-voluntary license to use a layout design shall not enjoy an exclusive right of use and shall have no right to permit others to use it.

Article 42 — A natural person, legal person or unincorporated organization that obtains a non-voluntary license to use a layout design shall pay the holder of the right in the layout design reasonable royalties, the amount of which shall be determined through negotiation between the parties; where the parties fail to reach an agreement, the intellectual property administrative department of the State Council shall make an administrative ruling.

Article 43 — Where the holder of the right in a layout design is dissatisfied with the decision of the intellectual property administrative department of the State Council on the non-voluntary license to use the layout design, or where the holder of the right in the layout design or the natural person, legal person or

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unincorporated organization that has obtained the non-voluntary license is dissatisfied with the administrative ruling of the intellectual property administrative department of the State Council on the royalties for the non-voluntary license to use the layout design, it may institute an action in a people's court in accordance with law.

Chapter V — Legal Liability

Article 44 — Except as otherwise provided in these Regulations, any person who, without the permission of the holder of the right in a layout design, commits any of the following acts shall immediately cease the infringing act and bear liability for damages: (1) reproducing the whole or any original part of a protected layout design; or (2) importing, selling or otherwise providing, for commercial purposes, a protected layout design, an integrated circuit incorporating the layout design, or an article incorporating such an integrated circuit.

Article 45 — Where the use of a layout design without the permission of the holder of the right in the layout design infringes the exclusive right in the layout design and a dispute arises, the dispute shall be resolved through negotiation between the parties; where the parties are unwilling to negotiate or negotiation fails, the holder of the right in the layout design or the interested party may institute an action in a people's court, or may request the intellectual property administrative department of the State Council to handle the matter. When handling the matter, where the intellectual property administrative department of the State Council determines that the infringing act is established, it may order the infringer to immediately cease the infringing act and confiscate and destroy the infringing products or articles. Where the parties are dissatisfied, they may institute an action in a people's court in accordance with law; where the infringer neither institutes an action within the time limit nor ceases the infringing act, the intellectual property administrative department of the State Council may request a people's court to enforce the matter compulsorily. Upon the request of the parties, the intellectual property administrative department of the State Council may mediate with respect to the amount of damages for infringement of the exclusive right in a layout design; where mediation fails, the parties may institute an action in a people's court in accordance with law.

Article 46 — The amount of damages for infringement of an exclusive right in a layout design shall be determined based on the actual loss suffered by the right holder as a result of the infringement or the benefits obtained by the infringer as a result of the infringement; where the loss suffered by the right holder or the benefits obtained by the infringer are difficult to determine, the amount shall be reasonably determined by reference to a multiple of the royalties for the license of the layout design. Where the exclusive right in a layout design is intentionally infringed and the circumstances are serious, the amount of damages may be determined at not less than one time and not more than five times the amount determined in accordance with the above methods. The amount of damages shall also include the reasonable expenses paid by the right holder to stop the infringing act.

Article 47 — Where a person, at the time of obtaining an integrated circuit incorporating a protected layout design or an article incorporating such an integrated circuit, does not know and has no reasonable grounds to know that it contains an unlawfully reproduced layout design, and commercially exploits it, the person shall not be deemed to have committed infringement. After the person referred to in the preceding paragraph receives explicit notice that the integrated circuit or article contains an unlawfully reproduced layout design, it may continue to commercially exploit the existing stock or orders previously placed, but shall pay the holder of the right in the layout design reasonable royalties.

Article 48 — Where a patent agency discloses the undisclosed contents of its principal's layout design, it shall be punished in accordance with Article 25 of the Regulations on Patent Agency. Where staff members and other relevant personnel of the intellectual property administrative department of the State Council disclose the undisclosed contents of layout-design registrations, they shall be given disciplinary sanctions in accordance with law; where the disclosure involves divulging State secrets or infringing trade secrets, they

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shall bear legal liability in accordance with the provisions of the relevant laws and administrative regulations.

Article 49 — Where a staff member of a State organ engaged in the administration of exclusive rights in layout designs neglects their duties, abuses their authority or commits malpractices for personal gain, they shall be given disciplinary sanctions in accordance with law; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Chapter VI — Supplementary Provisions

Article 50 — After the publication of a layout-design registration, the public may request to inspect the register of the layout design or request the intellectual property administrative department of the State Council to provide a copy of the register. The public may also request to inspect the paper copy or paper drawing of the layout design. Except where necessary for a State organ to perform its duties in accordance with law, such as in litigation or administrative handling proceedings, no person may inspect or reproduce the electronic version of the copy or drawing of a layout design.

Article 51 — Fees shall be paid in accordance with the provisions for applying for registration of a layout design and for handling other procedures.

Article 52 — The day on which any time limit specified in these Regulations begins shall not be counted in the time limit, which shall be calculated from the next day. Where a time limit is calculated in years or months, the corresponding day of the last month shall be the date of expiry of the time limit; where there is no corresponding day in that month, the last day of that month shall be the date of expiry; where the date of expiry falls on an official holiday, the first working day after the holiday shall be the date of expiry.

Article 53 — Where any country or region adopts discriminatory prohibitions, restrictions or other similar measures against the People's Republic of China with respect to the protection of integrated circuit layout designs, the People's Republic of China may take corresponding measures against the relevant country or region in light of the actual circumstances.

Article 54 — These Regulations shall come into force on October 15, 2026.

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