Seed Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of protecting and rationally utilizing germplasm resources, standardizing the selection of varieties and the production, operation and use of seeds, safeguarding the lawful rights and interests of variety breeders, seed producers, seed operators and seed users, improving seed quality, promoting the seed industry, developing the commercialized seed sector, and promoting the development of agriculture and forestry.

Article 2 — This Law shall apply to activities involving the selection of varieties and the production, operation, use and management of seeds within the territory of the People's Republic of China. For the purposes of this Law, "seeds" means the planting or sowing materials of crops and forest trees, including grains, fruits, roots, stems, shoots, leaves, flowers, and other such materials, whether produced sexually or asexually.

Article 3 — The agricultural and forestry departments of the State Council shall be respectively in charge of the administration of crop seeds and forest tree seeds nationwide. The agricultural and forestry departments of the local people's governments at or above the county level shall be respectively in charge of the administration of crop seeds and forest tree seeds within their respective administrative areas.

Article 4 — The State shall support the development of the seed industry, protect germplasm resources, support scientific research on seed breeding, encourage the integration of variety breeding with production and operations, and support seed producers and operators in establishing seed production bases.

Article 5 — The people's governments at or above the county level shall, in accordance with the principles of adapting measures to local conditions and protecting the ecology, formulate seed industry development plans and incorporate them into the national economic and social development plans.

Article 6 — The State shall establish a seed reserve system to meet the needs of seed supply in the event of disasters and other emergencies, and ensure the security of agricultural and forestry production.

Chapter II — Protection of Germplasm Resources

Article 7 — The State shall enjoy sovereignty over germplasm resources. No entity or individual may provide germplasm resources to overseas parties without the approval of the agricultural or forestry department of the State Council. The list of germplasm resources that may not be provided to overseas parties shall be published by the agricultural and forestry departments of the State Council.

Article 8 — The State shall provide protection for germplasm resources in accordance with law. No entity or individual may seize or destroy germplasm resources without authorization. Where germplasm resources need to be collected or felled for scientific research, teaching, or other special purposes, approval shall be obtained from the agricultural or forestry department.

Article 9 — The agricultural and forestry departments of the State Council shall establish germplasm resource banks, germplasm resource protection zones, or germplasm resource protection sites. The agricultural and forestry departments of the people's governments of provinces, autonomous regions and municipalities directly under the central government may establish germplasm resource banks, protection zones, or protection sites as needed.

Article 10 — The State shall, in accordance with law, protect the lawful rights and interests of entities and individuals that discover, collect, protect, identify, register, or conserve germplasm resources. Entities and individuals that possess germplasm resources shall have the obligation to protect them and shall not open or use them without authorization.

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Chapter III — Variety Selection, Examination and Approval

Article 11 — The State shall encourage and support the selection of varieties and the innovation of breeding techniques and methods. The units and individuals that make remarkable achievements in the selection of varieties shall be rewarded by the people's governments at or above the county level.

Article 12 — A national crop variety examination and approval committee and a national forest tree variety examination and approval committee shall be established and shall be responsible for the examination and approval of crop varieties and forest tree varieties, respectively. The agricultural and forestry departments of the State Council shall separately determine the standards for the main crops and main forest trees and publish the same.

Article 13 — Crop varieties and forest tree varieties that have passed the national examination and approval may be promoted within a suitable ecological zone nationwide. Crop varieties and forest tree varieties that have passed the provincial examination and approval may be promoted within a suitable ecological zone of the respective province, autonomous region or municipality directly under the central government.

Article 14 — A genetically modified plant variety shall pass the national examination and approval and obtain a safety certificate for agricultural genetically modified organisms before it may be promoted, and it shall also comply with the relevant regulations on the safety administration of agricultural genetically modified organisms.

Article 15 — The variety examination and approval committee shall make its examination and approval public and be subject to supervision. Any unit or individual may raise an objection to the examination and approval results within a certain period after the announcement of the examination and approval.

Article 16 — Where a variety fails to pass the examination and approval, the variety examination and approval committee shall state the reasons and notify the applicant in writing. Where the applicant is dissatisfied with the examination and approval result, it may apply for reconsideration within the prescribed time period.

Chapter IV — New Plant Variety Protection

Article 17 — The State shall implement a new plant variety protection system, granting new plant variety rights to new plant varieties that are novel, distinct, uniform, and stable. New plant variety rights shall be protected by law. The specific measures for the protection of new plant varieties shall be separately formulated by the State Council.

Article 18 — The owner of a new plant variety right shall enjoy the exclusive right to the authorized variety. Without the permission of the owner of the new plant variety right, no entity or individual may produce, propagate, or sell the propagating materials of the authorized variety for commercial purposes, or repeatedly use the propagating materials of the authorized variety in the production of propagating materials of another variety.

Article 19 — The use of an authorized variety for the following purposes may be carried out without the permission of or payment of royalties to the owner of the new plant variety right: (1) using the authorized variety for breeding and other scientific research activities; and (2) farmers propagating the propagating materials of the authorized variety for their own use.

Article 20 — The term of protection of a new plant variety right shall be 20 years for vines, forest trees, fruit trees, and ornamental trees, and 15 years for other plants, calculated from the date of grant of the right.

Chapter V — Seed Production

Article 21 — Seed production shall comply with the following conditions: (1) possessing propagation materials of varieties that have passed the examination and approval or have been registered; (2)

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possessing propagation facilities and equipment suitable for seed production; (3) possessing premises suitable for seed production; and (4) possessing professional technical personnel suitable for seed production.

Article 22 — The production of seeds of main crops and main forest trees shall implement a licensing system. An application for a seed production license shall be filed with the agricultural or forestry department of the local people's government at or above the county level. The seed production license shall specify the producer, place of production, variety, period of validity, and other relevant matters.

Article 23 — Seed producers shall establish seed production files specifying the place of production, production environment, preceding crop, parent seed source and quality, technical personnel, field inspection and quarantine records, and other relevant contents.

Article 24 — Seed producers shall comply with seed production technical operating procedures to ensure seed quality. The production of genetically modified plant seeds shall comply with the relevant regulations on the safety administration of agricultural genetically modified organisms.

Chapter VI — Seed Business Operation

Article 25 — Seed business operations shall comply with the following conditions: (1) possessing facilities and equipment suitable for seed processing, packaging, and storage; (2) possessing premises suitable for seed business operations; and (3) possessing professional seed inspection and processing technical personnel.

Article 26 — The business operation of seeds of main crops and main forest trees shall implement a licensing system. An application for a seed business operation license shall be filed with the agricultural or forestry department. Where the seed business operation license implements a combination of selection, propagation and promotion, the examination and issuance thereof shall be handled in accordance with the provisions of the agricultural and forestry departments of the State Council.

Article 27 — The seed business operator shall have a clear understanding of the characteristics and main cultivation measures of the seeds it operates and provide seed users with seed quality certification and seed variety briefings.

Article 28 — Seed business operators shall establish seed business operation files specifying the seed source, processing, storage, transport, quality testing, and sales tracking records.

Article 29 — The seeds sold by seed business operators shall comply with the relevant national or trade standards and shall be accompanied by labels. The contents of the labels shall be consistent with the actual seeds sold. Labels shall indicate the seed category, variety name, variety examination and approval number, place of origin, quality indicators, seed business operation license number, quarantine certificate number, and other relevant particulars.

Article 30 — Seed business operators shall not engage in any of the following acts: (1) selling counterfeit or inferior seeds; (2) selling seeds of varieties that should not be promoted or sold; or (3) selling seeds without labels or with labels that do not conform to the provisions.

Chapter VII — Seed Quality

Article 31 — The agricultural and forestry departments shall be responsible for the supervision and administration of seed quality. Seed quality inspection institutions shall have the corresponding testing conditions and capabilities and shall pass the qualification accreditation of the relevant departments before undertaking the inspection of seed quality.

Article 32 — The agricultural and forestry departments may entrust seed quality inspection institutions with the inspection of seed quality. The seed quality inspection institution undertaking the inspection shall be

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responsible for the inspection results. Seed quality inspection institutions and inspectors shall be objective and impartial in their inspection of seed quality.

Article 33 — Where a seed producer or operator is dissatisfied with the seed quality inspection result, it may apply for reinspection to the seed quality inspection institution at the next higher level within the prescribed time period.

Article 34 — Where seed quality problems cause losses to seed users, the seed producer or operator shall compensate for the losses. The amount of compensation shall include the purchase price of the seeds, the necessary input expenses, and the loss of obtainable benefits.

Chapter VIII — Seed Import and Export

Article 35 — The import and export of seeds shall be subject to the examination and approval of the agricultural or forestry department of the State Council. Where the import and export of seeds is subject to quarantine, the importer or exporter shall undergo quarantine formalities in accordance with the relevant laws and administrative regulations on the quarantine of imported and exported animals and plants.

Article 36 — The import of seeds shall comply with the national seed industry development policies and the needs of agricultural and forestry production. The import of genetically modified plant seeds shall comply with the relevant regulations on the safety administration of agricultural genetically modified organisms.

Article 37 — The export of seeds of germplasm resources listed by the State as not to be exported, or the export of seeds shall be subject to the approval of the agricultural and forestry departments of the State Council.

Article 38 — Seeds imported for trial planting shall be planted only within the areas designated for trial planting and shall not be sold. The seeds harvested from trial planting may not be used as seeds for commercial production.

Chapter IX — Legal Liability

Article 39 — Where anyone produces or operates seeds without a seed production license or a seed business operation license in violation of the provisions of this Law, the agricultural or forestry department of the people's government at or above the county level shall order it to make correction, confiscate the seeds and the illegal gains and impose a fine; where the circumstances are serious, the seed production license or the seed business operation license shall be revoked.

Article 40 — Where anyone produces or operates counterfeit or inferior seeds, the agricultural or forestry department of the people's government at or above the county level shall order the cessation of production or operation, confiscate the seeds and the illegal gains, and revoke the seed production license or the seed business operation license; a fine shall also be imposed. Where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 41 — Where anyone commits any of the following acts, the agricultural or forestry department of the people's government at or above the county level shall order it to make correction, confiscate the seeds and the illegal gains and impose a fine: (1) operating seeds of varieties that should not be promoted or sold; (2) selling seeds without labels or with labels that do not conform to the provisions; or (3) forging or altering seed labels or experimenting with seeds not in conformity with the labels.

Article 42 — Where anyone illegally provides or exports germplasm resources, the agricultural or forestry department shall confiscate the germplasm resources and the illegal gains and impose a fine.

Article 43 — Where a seed quality inspection institution issues a false inspection certificate, it shall bear liability for compensation for the losses caused thereby; the agricultural or forestry department shall order it to make correction and impose a fine; where the circumstances are serious, its qualification shall be

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revoked.

Article 44 — Where a staff member of the agricultural or forestry department engages in abuse of power, neglect of duty, or malpractice for personal gain, administrative sanctions shall be imposed; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Chapter X — Supplementary Provisions

Article 45 — The meanings of the following terms used in this Law are: "Germplasm resources" means the basic sources for the selection of new varieties, including the propagating materials of cultivated varieties of various crops and forest trees and the propagating materials of various wild plants, as well as the various plants artificially created using the above propagating materials. "Variety" means a group of plants of a cultivated plant that have been artificially selected and bred, have specific economic characteristics and relatively uniform main biological traits, and are adapted to cultivation in certain ecological and economic conditions. "Main crops" means crops such as rice, wheat, corn, cotton, and soybeans, as separately determined by the agricultural department of the State Council, and crops determined by the agricultural departments of the people's governments of provinces, autonomous regions, and municipalities directly under the central government. "Main forest trees" shall be determined and published by the forestry department of the State Council.

Article 46 — The management of forage grass seeds, tobacco seeds, and Chinese herbal medicine seeds and the management of edible fungus strains shall be provided for with reference to this Law.

Article 47 — This Law shall come into force as of December 1, 2000. The Seed Management Regulations of the People's Republic of China promulgated by the State Council on March 13, 1989 shall be repealed simultaneously.

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