Provisions on Administrative Penalties for Illegal Price Acts of China (the PRC)

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Approved by the State Council on July 10, 1999; promulgated by the State Development Planning Commission on August 1, 1999; first revised in accordance with the Decision of the State Council on Amending the Provisions on Administrative Penalties for Illegal Price Acts of February 21, 2006; second revised in accordance with the Decision of the State Council on Amending the Provisions on Administrative Penalties for Illegal Price Acts of January 13, 2008; third revised in accordance with the Decision of the State Council on Amending the Provisions on Administrative Penalties for Illegal Price Acts of December 4, 2010

Article 1 — These Provisions are formulated in accordance with the relevant provisions of the Price Law of the People's Republic of China (hereinafter the Price Law) for the purpose of punishing illegal price acts in accordance with law, maintaining normal price order, and protecting the lawful rights and interests of consumers and business operators.

Article 2 — The price authorities of the people's governments at or above the county level shall, in accordance with law, supervise and inspect price activities and decide on administrative penalties for illegal price acts.

Article 3 — Administrative penalties for illegal price acts shall be decided by the price authority of the local people's government at the place where the illegal price act occurs; where the price authority under the State Council provides that the penalty shall be decided by a price authority at a higher level, such provisions shall prevail.

Article 4 — Where a business operator, in violation of Article 14 of the Price Law, commits any of the following acts, it shall be ordered to make corrections, the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains shall be imposed in addition; where there are no illegal gains, a fine of not less than RMB 100,000 but not more than RMB 1,000,000 shall be imposed; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification, or its business license shall be revoked by the administration for industry and commerce: (1) except for reducing prices in accordance with law to dispose of fresh and perishable goods, seasonal goods, overstocked goods and the like, dumping goods at prices below cost in order to squeeze out competitors or monopolize the market, thereby disturbing the normal production and operation order and harming the interests of the State or the lawful rights and interests of other business operators; or (2) providing identical goods or services while applying price discrimination against other business operators with equal transaction conditions.

Article 5 — Where business operators, in violation of Article 14 of the Price Law, collude with one another to manipulate market prices, causing commodity prices to rise substantially, they shall be ordered to make corrections, the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains shall be imposed in addition; where there are no illegal gains, a fine of not less than RMB 100,000 but not more than RMB 1,000,000 shall be imposed, and where the circumstances are relatively serious, a fine of not less than RMB 1,000,000 but not more than RMB 5,000,000 shall be imposed; where the circumstances are serious, the business operators shall be ordered to suspend business for rectification, or their business licenses shall be revoked by the administration for industry and commerce. Where, apart from the circumstances prescribed in the preceding paragraph, business operators collude with one another to manipulate market prices, harming the lawful rights and interests of other business operators or consumers, they shall be punished in accordance with Article 4 of these Provisions. Where an industry association or other unit organizes business operators to collude with one another to manipulate market prices, the

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business operators shall be punished in accordance with the provisions of the preceding two paragraphs; the industry association or other unit may be fined not more than RMB 500,000, and where the circumstances are serious, its registration shall be cancelled and its license revoked in accordance with law by the registration administration organ.

Article 6 — Where a business operator, in violation of Article 14 of the Price Law, commits any of the following acts that drive commodity prices to rise excessively fast or excessively high, it shall be ordered to make corrections, the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains shall be imposed in addition; where there are no illegal gains, a fine of not less than RMB 50,000 but not more than RMB 500,000 shall be imposed, and where the circumstances are relatively serious, a fine of not less than RMB 500,000 but not more than RMB 3,000,000 shall be imposed; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification, or its business license shall be revoked by the administration for industry and commerce: (1) fabricating or spreading information about price increases, thereby disturbing the market price order; (2) except for production for self-use, hoarding in large quantities commodities that are in tight market supply and whose prices fluctuate abnormally beyond the normal storage quantity or storage cycle, and continuing to hoard them after being admonished by the price authority; or (3) using other means to bid up prices and drive commodity prices to rise excessively fast or excessively high. Where an industry association or a unit providing services for commodity trading commits an illegal act prescribed in the preceding paragraph, it may be fined not more than RMB 500,000; where the circumstances are serious, its registration shall be cancelled and its license revoked in accordance with law by the registration administration organ. Where a unit other than those prescribed in the preceding two paragraphs spreads false information about price increases, disturbing the market price order, and the matter shall in accordance with law be investigated and punished by another competent organ, the price authority may make a recommendation for punishment in accordance with law, and the relevant competent organ shall impose punishment in accordance with law.

Article 7 — Where a business operator, in violation of Article 14 of the Price Law, uses false or misleading price means to lure consumers or other business operators into trading with it, it shall be ordered to make corrections, the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains shall be imposed in addition; where there are no illegal gains, a fine of not less than RMB 50,000 but not more than RMB 500,000 shall be imposed; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification, or its business license shall be revoked by the administration for industry and commerce.

Article 8 — Where a business operator, in violation of Article 14 of the Price Law, sells or purchases goods or provides services by such means as raising or lowering the grade so as to raise or lower prices in a disguised form, it shall be ordered to make corrections, the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains shall be imposed in addition; where there are no illegal gains, a fine of not less than RMB 20,000 but not more than RMB 200,000 shall be imposed; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification, or its business license shall be revoked by the administration for industry and commerce.

Article 9 — Where a business operator fails to implement government guidance prices or government-set prices and commits any of the following acts, it shall be ordered to make corrections, the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains shall be imposed in addition; where there are no illegal gains, a fine of not less than RMB 50,000 but not more than RMB 500,000 shall be imposed, and where the circumstances are relatively serious, a fine of not less than RMB 500,000 but not more than RMB 2,000,000 shall be imposed; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification: (1) setting prices beyond the floating range of government guidance prices; (2) setting prices higher or lower than government-set prices; (3) setting, without authorization, prices of goods or services falling within the scope of government guidance prices or

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government-set prices; (4) implementing government guidance prices or government-set prices earlier or later than prescribed; (5) setting up fee items or setting fee standards on its own; (6) raising fee standards in a disguised form by such means as splitting fee items, collecting fees repeatedly, or expanding the scope of fee collection; (7) continuing to collect fee items expressly cancelled by the government; (8) collecting fees in disguised form in the form of deposits, mortgages and the like in violation of the provisions; (9) forcing or coercing services in a disguised form and collecting fees; (10) collecting fees without providing services in accordance with the provisions; or (11) committing other acts of failing to implement government guidance prices or government-set prices.

Article 10 — Where a business operator fails to implement the statutory price intervention measures or emergency measures and commits any of the following acts, it shall be ordered to make corrections, the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains shall be imposed in addition; where there are no illegal gains, a fine of not less than RMB 100,000 but not more than RMB 1,000,000 shall be imposed, and where the circumstances are relatively serious, a fine of not less than RMB 1,000,000 but not more than RMB 5,000,000 shall be imposed; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification: (1) failing to implement the system of declaration of price increases or filing for record of price adjustments; (2) exceeding the prescribed ranges of price differentials or profit margins; (3) failing to implement the prescribed price ceilings or minimum protective prices; (4) failing to implement measures for centralizing pricing authority; (5) failing to implement measures for freezing prices; or (6) committing other acts of failing to implement the statutory price intervention measures or emergency measures.

Article 11 — Where, in the provisions of Articles 4 and 7 to 9 of these Provisions, the business operator is an individual, a fine of not more than RMB 100,000 may be imposed for its illegal price act with no illegal gains. Where, in the provisions of Articles 5, 6 and 10 of these Provisions, the business operator is an individual, its illegal price act with no illegal gains shall be punished in accordance with the preceding paragraph; where the circumstances are serious, a fine of not less than RMB 100,000 but not more than RMB 500,000 shall be imposed.

Article 12 — Where a business operator obtains exorbitant profits in violation of the provisions of laws and regulations, it shall be ordered to make corrections and the illegal gains shall be confiscated, and a fine of not more than five times the illegal gains may be imposed in addition; where the circumstances are serious, the business operator shall be ordered to suspend business for rectification, or its business license shall be revoked by the administration for industry and commerce.

Article 13 — Where a business operator violates the provisions on clearly marking prices and commits any of the following acts, it shall be ordered to make corrections and the illegal gains shall be confiscated, and a fine of not more than RMB 5,000 may be imposed in addition: (1) failing to mark prices; (2) failing to clearly mark prices in accordance with the prescribed content and manner; (3) selling goods at prices higher than the marked prices or collecting fees not marked; or (4) committing other acts in violation of the provisions on clearly marking prices.

Article 14 — Where a party refuses to provide the materials required for price supervision and inspection or provides false materials, it shall be ordered to make corrections and a warning shall be given; where it fails to make corrections within the time limit, a fine of not more than RMB 100,000 may be imposed, and disciplinary sanctions shall be imposed on the directly responsible persons in charge and other directly responsible persons.

Article 15 — Where, in the course of price supervision and inspection, the government price authority discovers that the illegal act of a business operator simultaneously has the following three circumstances, it may, in accordance with item (3) of Article 34 of the Price Law, order the suspension of the relevant business: (1) the illegal act involves complex or serious circumstances and may be subject to a relatively heavy penalty after investigation; (2) the illegal act will continue if the relevant business is not suspended; or

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(3) failure to suspend the relevant business may affect the determination of the facts of the illegal act, and other measures are insufficient to ensure such determination. When the government price authority conducts price supervision and inspection, the law enforcement personnel shall be not fewer than two persons and shall present their certificates to the business operator or the relevant persons.

Article 16 — Where the illegal gains prescribed in Articles 4 to 13 of these Provisions are the overpaid amounts of consumers or other business operators as prescribed in Article 41 of the Price Law, the business operator shall be ordered to refund the overpaid amounts within a prescribed time limit. Where it is difficult to locate the consumers or other business operators who overpaid, the business operator shall be ordered to make a public announcement to locate them. Where a business operator refuses to refund the overpaid amounts to consumers or other business operators in accordance with the preceding paragraph, or fails to refund them upon expiry of the time limit, the overpaid amounts shall be confiscated by the government price authority; where consumers or other business operators demand refund, the business operator shall bear civil liability in accordance with law.

Article 17 — Where a business operator has any of the circumstances listed in Article 27 of the Administrative Penalty Law of the People's Republic of China, it shall be given a lighter or mitigated punishment in accordance with law. A business operator shall be given a heavier punishment under any of the following circumstances: (1) the illegal price act is serious or has relatively large social impact; (2) it has repeatedly committed the act despite repeated investigations; (3) it forges, alters, transfers or destroys evidence; (4) it transfers funds or goods related to the illegal price act; (5) it refuses to refund the overpaid amounts to consumers or other business operators in accordance with paragraph 1 of Article 16 of these Provisions; or (6) other illegal price acts for which heavier punishment should be imposed.

Article 18 — Where a fine in these Provisions is calculated on the basis of illegal gains, and the illegal gains cannot be determined, the penalty shall be imposed in accordance with the provisions on cases where there are no illegal gains.

Article 19 — Where an illegal price act listed in these Provisions seriously disturbs the market order and constitutes a crime, criminal responsibility shall be investigated in accordance with law.

Article 20 — Where a business operator refuses to accept a penalty decision made by the government price authority, it shall first apply for administrative reconsideration in accordance with law; where it refuses to accept the administrative reconsideration decision, it may file an action in the people's court in accordance with law.

Article 21 — Where a fine is not paid within the time limit, an additional fine of 3 percent of the fine amount shall be imposed for each day of delay; where illegal gains are not paid within the time limit, an additional fine of 0.2 percent of the amount of illegal gains shall be imposed for each day of delay.

Article 22 — Where any unit or individual commits an illegal price act listed in these Provisions, the circumstances are serious, and the unit or individual refuses to make corrections, the government price authority may, in addition to imposing penalties in accordance with these Provisions, publicly announce the illegal price act until it is corrected.

Article 23 — Where the relevant laws provide otherwise with respect to the penalties for the acts listed in Article 14 of the Price Law and the organs imposing penalties, such provisions of the relevant laws may be followed.

Article 24 — Where price law enforcement personnel divulge State secrets or the trade secrets of business operators, or abuse their powers, neglect their duties or engage in malpractices for personal gain, and the act constitutes a crime, criminal responsibility shall be investigated in accordance with law; where the act does not constitute a crime, a sanction shall be imposed in accordance with law.

Article 25 — These Provisions shall be implemented as of the date of promulgation.

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