

Hainan Free Trade Port Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of building a high-standard Hainan Free Trade Port with Chinese characteristics, promoting the formation of a new pattern of reform and opening up at a higher level, establishing a new open economic system, and promoting the stable, sound and sustainable development of the socialist market economy.

Article 2 — The State shall establish the Hainan Free Trade Port across the whole island of Hainan, and shall establish, step by step and stage by stage, the policy and institutional framework of a free trade port, so as to realize the free and convenient flow of trade, investment, cross-border funds, personnel entry and exit and transport, and the safe and orderly flow of data.

This Law shall apply to the construction and administration of the Hainan Free Trade Port. Matters not provided for in this Law shall be governed by other relevant laws and regulations.

Article 3 — In building the Hainan Free Trade Port, the Chinese characteristics shall be reflected, international experience shall be drawn upon, reform and innovation shall be advanced and risk prevention strengthened in light of Hainan's strategic positioning and by leveraging Hainan's advantages, the new development philosophy of innovative, coordinated, green, open and shared development shall be applied, high-quality development shall be pursued, a holistic approach to national security and a people-centered approach shall be adhered to, so as to achieve economic prosperity, social civility, a livable ecology and the well-being of the people.

Article 4 — The construction of the Hainan Free Trade Port shall focus on trade and investment liberalization and facilitation, be supported by the free, orderly, safe and convenient cross-border flow of all types of factors of production and a modern industrial system, and be safeguarded by special tax arrangements, an efficient social governance system and a complete rule-of-law system, so as to continuously improve a law-based, internationalized and convenient business environment and a fair, unified and efficient market environment.

Article 5 — The Hainan Free Trade Port shall implement the strictest ecological environment protection system, uphold the principle of giving priority to ecology and pursuing green development, innovate the systems and mechanisms of ecological civilization, and build a national ecological civilization pilot zone.

Article 6 — The State shall establish a leadership mechanism for the construction of the Hainan Free Trade Port to coordinate major policies and major matters concerning its construction. The development and reform, finance, commerce, financial regulation, customs, taxation and other departments of the State Council shall, in accordance with the division of duties, guide and promote the relevant work of the construction of the Hainan Free Trade Port.

The State shall establish an administrative management system suited to the construction of the Hainan Free Trade Port and innovate regulatory models.

Hainan Province shall earnestly perform its responsibilities, strengthen organizational leadership, and make every effort to advance all aspects of the construction of the Hainan Free Trade Port.

Article 7 — The State shall support the construction and development of the Hainan Free Trade Port and support Hainan Province in exercising its autonomy in reform in accordance with the requirements of the central authorities and the provisions of law. The State Council and its relevant departments shall, in light of the actual needs of the construction of the Hainan Free Trade Port, promptly authorize or entrust, in accordance with law, the People's Government of Hainan Province and its relevant departments to exercise the relevant administrative powers.

Article 8 — The Hainan Free Trade Port shall build a systematic, complete, scientific, standardized and efficiently operated governance system, promote the reform of government institutions and the transformation of government functions, standardize government service standards, strengthen the mechanisms for preventing and resolving social conflicts, improve the level of intelligent social governance, and improve the social governance system featuring joint contribution, joint governance and shared benefits.

The State shall advance the reform and innovation of the administrative divisions of the Hainan Free Trade Port and optimize the setup and structural system of administrative divisions.

Article 9 — The State shall support the Hainan Free Trade Port in proactively adapting to the development of international economic and trade rules and the new trends of reform of the global economic governance system, and in actively carrying out international exchanges and cooperation.

Article 10 — The People's Congress of Hainan Province and its Standing Committee may, in accordance with this Law, in light of the specific circumstances and actual needs of the construction of the Hainan Free Trade Port, and in compliance with the provisions of the Constitution and the basic principles of laws and administrative regulations, formulate regulations on trade, investment and related administrative activities (hereinafter referred to as the Hainan Free Trade Port regulations), which shall be implemented within the Hainan Free Trade Port.

The Hainan Free Trade Port regulations shall be filed with the Standing Committee of the National People's Congress and the State Council for the record; where adaptations are made to the provisions of laws or administrative regulations, the circumstances of and reasons for such adaptations shall be explained.

Where the Hainan Free Trade Port regulations involve matters that, in accordance with law, shall be governed by laws enacted by the National People's Congress and its Standing Committee or by administrative regulations formulated by the State Council, they shall take effect only after approval by the Standing Committee of the National People's Congress or the State Council, respectively.

Chapter II — Trade Liberalization and Facilitation

Article 11 — The State shall establish and improve a special customs supervision area system for the Hainan Free Trade Port operating as a whole-island customs-closure area. On the basis of lawful and effective supervision, a management system for trade in goods featuring free entry and exit and safety and convenience shall be established, and the management measures for trade in services shall be optimized, so as to realize trade liberalization and facilitation.

Article 12 — The Hainan Free Trade Port shall build port infrastructure to high standards and strengthen the management and control of port public health security, biosecurity at the border, food safety and commodity quality and safety.

Article 13 — Goods and articles may freely enter and leave between overseas and the Hainan Free Trade Port, subject to customs supervision in accordance with law, except for those included in the lists of goods and articles whose import and export are prohibited or restricted in the Hainan Free Trade Port.

The lists prescribed in the preceding paragraph shall be formulated by the commerce department of the State Council jointly with the relevant departments of the State Council and Hainan Province.

Article 14 — Where goods enter other areas within the territory of China (hereinafter referred to as the mainland) from the Hainan Free Trade Port, the relevant procedures shall in principle be handled in accordance with the provisions on imports. Articles entering the mainland from the Hainan Free Trade Port shall be subject to supervision in accordance with the provisions. Import administration shall be simplified for means of transport proceeding from the Hainan Free Trade Port to the mainland.

Goods, articles and means of transport entering the Hainan Free Trade Port from the mainland shall be administered in accordance with the provisions on domestic circulation.

The specific measures for the entry and exit of goods, articles and means of transport between the Hainan Free Trade Port and the mainland shall be formulated by the relevant departments of the State Council jointly with Hainan Province.

Article 15 — All types of market entities shall freely carry out trade in goods and related activities within the Hainan Free Trade Port in accordance with law, and customs shall exercise low-intervention and highly efficient supervision.

On the premise of complying with the requirements of environmental protection, work safety and the like, no storage period shall be imposed on imported and exported goods in the Hainan Free Trade Port, and the place of storage of goods may be freely chosen.

Article 16 — The Hainan Free Trade Port shall implement customs-clearance facilitation policies and simplify the procedures and formalities for the movement of goods. Except for goods that require inspection and quarantine or are subject to license management in accordance with law, goods entering the Hainan Free Trade Port shall be released directly by customs in accordance with the relevant provisions, so as to provide market entities with convenient customs-clearance services.

Article 17 — The Hainan Free Trade Port shall implement a negative-list management system for cross-border trade in services and implement a supporting system for fund payment and transfer. Cross-border trade in services outside the list shall be administered under the principle of consistency between domestic and foreign treatment.

The negative list for cross-border trade in services of the Hainan Free Trade Port shall be formulated by the commerce department of the State Council jointly with the relevant departments of the State Council and Hainan Province.

Chapter III — Investment Liberalization and Facilitation

Article 18 — The Hainan Free Trade Port shall implement policies of investment liberalization and facilitation, comprehensively apply a minimalist investment approval system, improve the systems for investment promotion and investment protection, strengthen the protection of property rights, safeguard fair competition, and create an open, transparent and predictable investment environment.

The Hainan Free Trade Port shall fully open up investment access, except in areas where the State exercises access administration such as those involving national security, social stability, ecological protection red lines and major public interests.

Article 19 — The Hainan Free Trade Port shall apply, to foreign investment, the management system of pre-establishment national treatment plus a negative list. The negative list for foreign investment access specifically applicable to the Hainan Free Trade Port shall be formulated by the relevant departments of the State Council jointly with Hainan Province and shall be published after approval by the State Council.

Article 20 — The State shall relax market access in the Hainan Free Trade Port. The special list (special measures) for relaxing market access in the Hainan Free Trade Port shall be formulated by the relevant departments of the State Council jointly with Hainan Province.

The Hainan Free Trade Port shall implement investment facilitation measures focused on process supervision, and shall progressively implement a system whereby market access is granted upon commitment. The specific measures shall be formulated by Hainan Province jointly with the relevant departments of the State Council.

Article 21 — The Hainan Free Trade Port shall, under the principles of convenience, efficiency and transparency, simplify procedures, improve work efficiency, optimize government services, and establish systems to facilitate the establishment, operation and deregistration of market entities, and shall optimize bankruptcy procedures. The specific measures shall be formulated by the People's Congress of Hainan Province and its Standing Committee.

Article 22 — The State shall protect, in accordance with law, the investments, returns and other lawful rights and interests of natural persons, legal persons and unincorporated organizations within the Hainan Free Trade Port, and strengthen the protection of small and medium-sized investors.

Article 23 — The State shall protect, in accordance with law, the intellectual property rights of natural persons, legal persons and unincorporated organizations within the Hainan Free Trade Port, promote the

improvement of the capacity for the creation, exploitation, management and servicing of intellectual property, establish and improve mechanisms such as classified credit supervision and punishment for dishonesty in the field of intellectual property, and strictly pursue legal liability for intellectual property infringements in accordance with law.

Article 24 — The Hainan Free Trade Port shall establish a unified, open and orderly competitive market system, strengthen the fundamental position of competition policy, implement the fair competition review system, strengthen and improve law enforcement against monopoly and unfair competition, and protect fair market competition.

All types of market entities in the Hainan Free Trade Port shall enjoy equal treatment in accordance with law with respect to access permits, business operation, access to factors of production, standard-setting and preferential policies, among others. The specific measures shall be formulated by the People's Congress of Hainan Province and its Standing Committee.

Chapter IV — Fiscal and Taxation Systems

Article 25 — During the stage of development and construction of the Hainan Free Trade Port, the central finance shall, in light of the actual conditions and changes in the tax system, grant appropriate fiscal support to the Hainan Free Trade Port. Hainan Province shall be encouraged to issue local government bonds within the quota approved by the State Council to support the construction of projects of the Hainan Free Trade Port. Hainan Province shall establish an investment fund for the construction of the Hainan Free Trade Port that is government-guided and operated in a market-oriented manner.

Article 26 — The Hainan Free Trade Port may, in light of its development needs, autonomously reduce, exempt or defer the collection of government funds other than those of an ecological-compensation nature.

Article 27 — A tax system suitable to the needs of the Hainan Free Trade Port shall be established in accordance with the principles of a simple and scientific tax-type structure, fully optimized tax-system elements, a significantly reduced tax burden, clear attribution of revenue, and a basically balanced fiscal budget, in line with the direction of the national tax system reform.

When the whole island operates under customs closure, taxes and charges such as value-added tax, consumption tax, vehicle purchase tax, urban maintenance and construction tax and education surcharge shall be consolidated and simplified, and a sales tax shall be levied at the retail stage of goods and services; after the whole island operates under customs closure, the tax system shall be further simplified.

The finance department of the State Council shall, jointly with the relevant departments of the State Council and Hainan Province, promptly put forward specific plans for simplifying the tax system.

Article 28 — After the whole island operates under customs closure and the tax system is consolidated and simplified, the Hainan Free Trade Port shall apply catalog management to imported dutiable goods, and goods outside the catalog entering the Hainan Free Trade Port shall be exempted from import duties. The catalog of imported dutiable goods shall be formulated by the finance department of the State Council jointly with the relevant departments of the State Council and Hainan Province.

Before the whole island operates under customs closure and the tax system is consolidated and simplified, import duties, import-stage value-added tax and consumption tax shall be exempted for certain imported goods.

Export duties shall be levied on dutiable export goods leaving the country from the Hainan Free Trade Port.

Article 29 — Where goods enter the mainland from the Hainan Free Trade Port, they shall in principle be subject to taxation as imports; however, goods produced by enterprises in encouraged industries that contain no imported materials or parts, or whose imported materials or parts have undergone processing in the Hainan Free Trade Port with value added reaching a certain proportion, shall be exempted from customs

duties. The specific measures shall be formulated by the relevant departments of the State Council jointly with Hainan Province.

Where goods enter the Hainan Free Trade Port from the mainland, the value-added tax and consumption tax already collected shall be refunded in accordance with the relevant provisions of the State Council.

Before the whole island operates under customs closure and the tax system is consolidated and simplified, departing passengers who purchase duty-free articles and take delivery of them upon departure shall be exempted from import duties, import-stage value-added tax and consumption tax in accordance with the relevant provisions. After the whole island operates under customs closure and the tax system is consolidated and simplified, the measures for tax administration of articles entering and leaving between the Hainan Free Trade Port and the mainland shall be formulated by the relevant departments of the State Council jointly with Hainan Province.

Article 30 — Preferential enterprise income tax treatment shall be applied to eligible enterprises registered in the Hainan Free Trade Port, and preferential individual income tax treatment shall be applied to eligible individuals within the Hainan Free Trade Port.

Article 31 — The Hainan Free Trade Port shall establish an optimized, efficient and unified tax collection and administration service system, raise the level of scientific, information-based, internationalized and people-oriented tax collection and administration services, actively participate in international tax collection and administration cooperation, improve the quality and efficiency of tax collection and administration services, and protect the lawful rights and interests of taxpayers.

Chapter V — Ecological Environment Protection

Article 32 — The Hainan Free Trade Port shall improve the systems for ecological environment assessment and monitoring, formulate the ecological environment access list, prevent pollution and protect the ecological environment; and shall improve the property rights system and the paid-use system for natural resource assets, so as to promote the economical and efficient use of resources.

Article 33 — The Hainan Free Trade Port shall advance the construction of the territorial spatial planning system, implement differentiated use control of natural ecological space, strictly observe ecological protection red lines, build a protected-area system with national parks as the mainstay, and promote green urbanization and the construction of beautiful villages.

The Hainan Free Trade Port shall strictly protect the marine ecological environment, and establish and improve a regional linkage mechanism for ecosystem protection and restoration and pollution prevention and control that coordinates land and sea.

Article 34 — The Hainan Free Trade Port shall implement a strict access administration system for inbound and outbound environmental safety, strengthen the building of inspection and quarantine capacity, prevent the invasion of alien species, prohibit the importation of overseas solid waste; improve the capacity for the treatment and disposal of medical waste and other hazardous wastes, enhance the capacity for emergency preparedness and response to sudden ecological environment incidents, and strengthen the prevention and control of ecological risks.

Article 35 — The Hainan Free Trade Port shall promote the establishment of a sustainable ecological protection compensation mechanism that is government-led, with participation of enterprises and society and market-oriented operation, establish a mechanism for realizing the value of ecological products, encourage the use of market mechanisms to advance ecological environment protection, and achieve sustainable development.

Article 36 — The Hainan Free Trade Port shall implement the environmental protection target responsibility system and the assessment and evaluation system. In the annual assessment conducted by a local people's

government at or above the county level of the departments responsible for environmental supervision and administration under the people's government at the same level and their responsible persons, and of the people's governments at lower levels and their responsible persons, a one-vote veto system shall be applied based on the completion of environmental protection targets.

In areas that fail to complete environmental protection targets, the approval of environmental impact assessment documents for construction projects that would add to the total discharge of key pollutants in such areas shall be suspended for one year; the principal responsible persons of the local people's governments and the departments responsible for environmental supervision and administration that bear responsibility shall not be promoted, appointed or transferred to important posts within one year, and shall be subject to disciplinary action in accordance with law.

Article 37 — The Hainan Free Trade Port shall implement a lifelong accountability system for damage to the ecological environment. The principal responsible persons, directly responsible persons in charge and other directly responsible persons of local people's governments and relevant departments who act against the requirements of scientific development and cause serious damage to the ecological environment shall be strictly held accountable.

Chapter VI — Industrial Development and Talent Support

Article 38 — The State shall support the Hainan Free Trade Port in building an open, ecological and service-oriented industrial system, and shall actively develop key industries such as tourism, modern services, high-tech industries and high-efficiency agriculture with tropical characteristics.

Article 39 — The Hainan Free Trade Port shall advance the construction of an international tourism consumption center, promote the deep integration of tourism with culture, sports, health care, elderly care and wellness, and cultivate new tourism formats and models.

Article 40 — The Hainan Free Trade Port shall deepen the opening up of the modern services sector to both domestic and foreign investors, build an international shipping hub, promote the integrated development of ports, industries and cities, improve marine service infrastructure, and build a globally competitive marine service system.

High-level overseas universities and vocational institutions may establish schools in the fields of science, engineering, agriculture and medicine in the Hainan Free Trade Port.

Article 41 — The State shall support the Hainan Free Trade Port in building major scientific research infrastructure and platform facilities, and in establishing a management system for scientific and technological innovation and an international scientific and technological cooperation mechanism that conform to the laws of scientific research.

Article 42 — The Hainan Free Trade Port shall establish, in accordance with law, a safe, orderly, free and convenient data-flow management system, protect in accordance with law the data-related rights and interests of individuals and organizations, orderly expand the opening up of communication resources and businesses, expand the opening up of the data field, and promote the development of the digital economy with data as a key factor.

The State shall support the Hainan Free Trade Port in exploring and implementing regional institutional arrangements for international cross-border data flows.

Article 43 — The Hainan Free Trade Port shall implement highly free, convenient and open transport policies, establish a more open shipping system and ship administration system, build the "China Yangpu Port" as a port of registry, and implement a special ship registration system; and shall relax airspace control and route restrictions, optimize the allocation of traffic rights resources, and improve the level of transport facilitation and service support.

Article 44 — The Hainan Free Trade Port shall deepen the reform of the systems and mechanisms for talent development, innovate the mechanisms for talent cultivation and support, and establish scientific and reasonable mechanisms for the introduction, recognition, use and remuneration guarantee of talent.

Article 45 — The Hainan Free Trade Port shall establish an efficient and convenient entry and exit administration system, progressively implement visa-free entry policies applicable to a wider scope, extend the visa-free stay period, optimize entry and exit inspection administration, and provide convenient entry and exit clearance.

Article 46 — The Hainan Free Trade Port shall implement more open policies on talent and residence, implement more relaxed policies on the temporary exit and entry of persons and convenient work visa policies, apply negative-list management to work permits for foreigners, and further improve the residence system.

Article 47 — The Hainan Free Trade Port shall relax the restrictions on overseas personnel taking professional qualification examinations, and shall implement a unilateral recognition list system for the recognition of eligible overseas professional qualifications.

Chapter VII — Comprehensive Measures

Article 48 — The State Council may, in light of the needs of the construction of the Hainan Free Trade Port, authorize the People's Government of Hainan Province to examine and approve the conversion of agricultural land into construction land and land expropriation matters that would otherwise be subject to approval by the State Council; and authorize the People's Government of Hainan Province to examine and approve, in accordance with the conditions prescribed by the State, the adjustment of the layout of cultivated land, permanent basic farmland, forest land and construction land across the province, on the premise of not exceeding such important indicators as the ecological protection red lines, the area of permanent basic farmland, the retained amounts of cultivated land and forest land and the total scale of construction land as specified in the territorial spatial planning of Hainan Province, and of ensuring that the quality is not lowered.

The Hainan Free Trade Port shall actively advance the integrated and coordinated development of urban and rural areas and reclamation areas and new models of construction land use for small towns, and promote the capitalization of land in agricultural reclamation areas.

The demand for the use of the sea for major national projects in the Hainan Free Trade Port shall be safeguarded in accordance with law.

Article 49 — The construction of the Hainan Free Trade Port shall effectively protect cultivated land, strengthen land administration, and establish a system for intensive and economical land use, evaluation standards and a system for revitalizing and disposing of existing construction land. Idle land shall be fully utilized; where land whose use right was obtained by way of transfer for development has not been completed within one year after the completion date agreed upon in the transfer contract, a land idle fee calculated as a certain proportion of the current value of the transferred land shall be levied each year before completion. The specific measures shall be formulated by Hainan Province.

Article 50 — The Hainan Free Trade Port shall uphold the principle of finance serving the real economy, advance financial reform and innovation, and take the lead in implementing the policies for the opening up of the financial industry.

Article 51 — The Hainan Free Trade Port shall establish a cross-border capital flow management system suited to the needs of high-level trade and investment liberalization and facilitation, open the capital account in stages, progressively advance full convertibility under the external debt of non-financial enterprises, promote the facilitation of cross-border trade settlement, and orderly advance the free and convenient flow of funds between the Hainan Free Trade Port and overseas.

Article 52 — Financial institutions approved within the Hainan Free Trade Port may conduct offshore financial business through designated accounts or in specific areas.

Article 53 — The Hainan Free Trade Port shall strengthen the construction and application of the social credit system and build mechanisms for incentivizing trustworthiness and punishing dishonesty.

Article 54 — The State shall support the exploration of judicial system reform suited to the Hainan Free Trade Port. The Hainan Free Trade Port shall establish a diversified commercial dispute resolution mechanism, improve the centralized adjudication mechanism for international commercial dispute cases, and support the resolution of disputes through arbitration, mediation and other non-litigation means.

Article 55 — The Hainan Free Trade Port shall establish a risk early-warning, prevention and control system to prevent and defuse major risks.

Customs shall be responsible for the routine supervision of ports and other customs supervision areas, and shall investigate and suppress smuggling and carry out follow-up supervision in accordance with law. The coast guard agencies shall be responsible for investigating and handling smuggling violations at sea. The People's Government of Hainan Province shall be responsible for the comprehensive anti-smuggling administration of the whole province, strengthen the management and control of areas without customs checkpoints, and establish a joint anti-smuggling prevention and control mechanism with other regions. Persons, goods, articles and means of transport, among others, shall all enter and leave through ports between overseas and the Hainan Free Trade Port and between the Hainan Free Trade Port and the mainland.

The foreign investment security review system shall be implemented in the Hainan Free Trade Port in accordance with law, and security reviews shall be conducted on foreign investment that affects or may affect national security.

The Hainan Free Trade Port shall establish and improve a financial risk prevention and control system, implement the graded protection system for network security, establish a risk prevention and control system for personnel movement, and establish monitoring, early-warning, prevention, control and treatment mechanisms for infectious diseases and public health emergencies, so as to safeguard order and security in the fields of finance, networks and data, personnel movement and public health, among others.

Chapter VIII — Supplementary Provisions

Article 56 — With respect to matters provided for in this Law, after the entry into force of this Law and before the whole island of the Hainan Free Trade Port operates under customs closure, the State Council and its relevant departments and Hainan Province may, in accordance with the principles prescribed in this Law and the division of duties, formulate transitional specific measures to advance the construction of the Hainan Free Trade Port.

Article 57 — This Law shall come into force on the date of promulgation.

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