Provisions on the Administration of Foreign-Invested Urban Planning Service Enterprises of the PRC

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Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the relevant laws and regulations on foreign-invested enterprises and the Urban and Rural Planning Law of the People's Republic of China, for the purpose of further opening the urban planning service sector to foreign investment, regulating the examination, approval, and administration of foreign-invested urban planning service enterprises, and promoting the healthy development of the urban planning industry.

Article 2 — For the purposes of these Provisions, a "foreign-invested urban planning service enterprise" refers to a Sino-foreign equity joint venture, Sino-foreign cooperative joint venture, or wholly foreign-owned enterprise established within the territory of the People's Republic of China by foreign investors in accordance with the law to engage in urban planning services. Foreign urban planning service providers that have not established enterprises within the territory of China but wish to provide urban planning services shall apply for a Foreign Enterprise Urban Planning Service Permit.

Article 3 — Foreign investors establishing foreign-invested urban planning service enterprises in China shall comply with the provisions of the state on foreign investment access and the relevant laws and regulations

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on urban and rural planning. The state shall encourage foreign-invested urban planning service enterprises that introduce advanced international urban planning concepts, technologies, and management experience.

Article 4 — The Ministry of Housing and Urban-Rural Development shall be in charge of the qualification administration and professional supervision of foreign-invested urban planning service enterprises nationwide. The Ministry of Commerce shall be in charge of the examination and approval of the establishment of foreign-invested urban planning service enterprises.

Chapter II — Establishment Conditions

Article 5 — Foreign investors establishing a foreign-invested urban planning service enterprise shall meet the following conditions: (1) the foreign investor shall be an enterprise or professional institution legally engaged in urban planning services in its home country; (2) the foreign investor shall have a good business reputation and sound financial standing; (3) the foreign investor shall have experience in urban planning services and possess advanced urban planning technology and management experience; and (4) other conditions prescribed by the relevant state authorities.

Article 6 — A foreign-invested urban planning service enterprise shall meet the following qualification requirements: (1) the proportion of registered urban planners shall comply with the relevant state regulations on urban planning service qualifications; (2) the enterprise shall possess technical equipment and work premises commensurate with its qualification level; (3) the enterprise shall establish a sound quality management system and technical management system; and (4) other conditions prescribed by the relevant state authorities.

Article 7 — Where a wholly foreign-owned urban planning service enterprise is established, the foreign investor shall have obtained urban planning service qualifications in its home country and shall have technical personnel who have obtained urban planning qualifications in China. The enterprise shall comply with the relevant state regulations on qualifications for urban planning service enterprises.

Article 8 — Where a Sino-foreign joint venture or cooperative urban planning service enterprise is established, the Chinese party shall have obtained the required urban planning service qualifications, and the foreign party shall be an enterprise legally engaged in urban planning services in its home country.

Chapter III — Examination and Approval

Article 9 — Investors applying to establish a foreign-invested urban planning service enterprise shall submit their application to the Ministry of Commerce or its authorized local commerce authorities through the local commerce authority at the place of the proposed enterprise, together with the application materials and the preliminary examination opinion of the urban planning authority.

Article 10 — The application materials shall include: (1) an application for establishment of a foreign-invested enterprise; (2) the contract and articles of association; (3) certification documents of the legal status and creditworthiness of the investors; (4) certification documents of the investors' urban planning service qualifications; (5) resumes and qualification certificates of the proposed senior management personnel and technical personnel; and (6) other materials required by the examination and approval authority.

Article 11 — The commerce authority shall decide whether to approve the establishment within the prescribed time limit from the date of receipt of all the required application materials. Where approval is granted, an Approval Certificate for a Foreign-Invested Enterprise shall be issued. Where approval is not granted, the reasons shall be stated in writing.

Article 12 — Within 30 days from the date of receipt of the Approval Certificate, the investors shall apply for registration with the administration for industry and commerce and obtain a business license. After obtaining the business license, the enterprise shall apply to the urban planning authority for urban planning service qualification certification.

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Chapter IV — Operation and Management

Article 13 — A foreign-invested urban planning service enterprise shall conduct its business operations within the approved scope of business and in accordance with its qualification level and shall not undertake urban planning service projects beyond its qualification level.

Article 14 — A foreign-invested urban planning service enterprise shall comply with Chinese laws, regulations, and technical standards and specifications in undertaking urban planning services. The urban planning deliverables produced shall comply with the provisions of Chinese laws, regulations, and technical standards.

Article 15 — A foreign-invested urban planning service enterprise shall establish a sound quality management system, strengthen technical management, and ensure the quality of urban planning deliverables.

Article 16 — A foreign-invested urban planning service enterprise shall comply with the provisions of the state on confidentiality. The enterprise shall not disclose or illegally provide to any foreign entity or individual any confidential materials concerning urban planning obtained in the course of its operations.

Article 17 — A foreign-invested urban planning service enterprise shall submit annual operation reports to the urban planning authority and the commerce authority, reporting its urban planning service operations, financial status, and other relevant information.

Article 18 — Where a foreign-invested urban planning service enterprise violates the provisions of these Provisions, the urban planning authority and the commerce authority shall order it to make corrections within a prescribed period and impose penalties in accordance with the law. Where the circumstances are serious, the qualification certificate or the Approval Certificate may be revoked in accordance with the law.

Chapter V — Supplementary Provisions

Article 19 — The establishment of urban planning service enterprises within the mainland by investors from Hong Kong Special Administrative Region, Macao Special Administrative Region, and Taiwan Region shall be handled with reference to these Provisions. Specific preferential arrangements under the Closer Economic Partnership Arrangement (CEPA) shall be followed where applicable.

Article 20 — Foreign-invested urban planning service enterprises established before the promulgation of these Provisions shall go through the relevant formalities in accordance with the provisions of these Provisions within the prescribed period.

Article 21 — The Ministry of Housing and Urban-Rural Development and the Ministry of Commerce shall be responsible for the interpretation of these Provisions.

Article 22 — These Provisions shall come into force on May 1, 2003.

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