Regulations on the Administration of Foundations of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are enacted for the purposes of regulating the organization and activities of foundations, safeguarding the lawful rights and interests of foundations, donors, and beneficiaries, promoting public welfare undertakings, and promoting the participation of social forces in public welfare undertakings.

Article 2 — The term "foundation" as used in these Regulations refers to a non-profit legal person that is established in accordance with the provisions of these Regulations using assets donated by natural persons, legal persons, or other organizations for the purpose of engaging in public welfare undertakings. Foundations are divided into foundations that may raise funds from the public (public fundraising foundations) and foundations that may not raise funds from the public (non-public fundraising foundations).

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Article 3 — Foundations must abide by the Constitution, laws, regulations, and state policies, and shall not endanger national security or harm public interests or the lawful rights and interests of others.

Article 4 — Foundations shall carry out their activities in accordance with the purposes specified in their articles of association. The formation, change, and deregistration of foundations shall be registered in accordance with the provisions of these Regulations.

Chapter II — Establishment

Article 5 — The civil affairs department under the State Council and the civil affairs departments of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government shall be the registration and administration authorities for foundations.

Article 6 — The relevant departments of the State Council or the relevant departments of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government, and organizations authorized by the State Council or the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government, shall be the competent professional authorities for foundations.

Article 7 — To establish a foundation, an application shall be filed with the registration and administration authority upon examination and consent of the competent professional authority. The registration and administration authority shall, within 60 days from the date of receiving all the valid application documents, make a decision on approval or disapproval of the registration.

Article 8 — To establish a foundation, the following conditions shall be met: (1) being established for specific public welfare purposes; (2) a national public fundraising foundation shall have original funds of not less than RMB 8 million, a local public fundraising foundation shall have original funds of not less than RMB 4 million, and a non-public fundraising foundation shall have original funds of not less than RMB 2 million; the original funds must be monetary funds received; (3) having a standardized name, articles of association, organizational structure, and full-time staff members appropriate to its business activities; (4) having a fixed domicile; (5) having the capacity to independently assume civil liability.

Article 9 — The following documents shall be submitted for the application for establishment of a foundation: (1) an application; (2) a draft of the articles of association; (3) a capital verification certificate and a certificate of the domicile; (4) the identity certificates and curriculum vitae of the members of the board of directors; (5) the approval document of the competent professional authority.

Article 10 — The articles of association of a foundation shall specify the following matters: (1) name and domicile; (2) the purposes and business scope of public welfare activities; (3) original fund amount; (4) the composition, powers, and rules of procedure of the board of directors, the responsibilities of board members, and the qualifications for and procedures for the appointment and removal of legal representatives; (5) the duties of supervisors; (6) the management and use of assets; (7) the procedures for amendment of the articles of association; (8) the procedures for termination and the disposition of assets after termination; (9) other matters required by laws or administrative regulations.

Chapter III — Organizational Structure

Article 11 — A foundation shall establish a board of directors. The board of directors shall have 5 to 25 members. Members of the board of directors who are proximately related to each other shall not serve on the board of directors at the same time. Directors of a foundation who receive remuneration from the foundation shall not exceed one-third of the total number of directors. Supervisors and staff members who receive remuneration from the foundation shall not serve as directors.

Article 12 — The board of directors shall be the decision-making body of the foundation and shall exercise the following powers in accordance with the law: (1) formulating and amending the articles of association; (2)

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electing and removing the chairperson and vice chairpersons; (3) deciding on major business activities, including the raising, management, and use of funds; (4) examining the annual work plan and budget; (5) examining and approving internal management systems; (6) deciding on the appointment of the secretary-general and other principal responsible personnel; (7) deciding on the establishment and cancellation of internal bodies; (8) hearing and examining the work report of the secretary-general and inspecting the work of the secretary-general; (9) deciding on the division, merger, or termination of the foundation; (10) other major matters.

Article 13 — Meetings of the board of directors shall be convened by the chairperson and may be held only when more than two-thirds of the directors are present. Resolutions shall be adopted only with the consent of a majority of the directors present. Under any of the following circumstances, resolutions shall be adopted with the consent of more than two-thirds of the directors present: (1) amending the articles of association; (2) electing or removing the chairperson, vice chairpersons, or the secretary-general; (3) major fundraising or investment activities prescribed by the articles of association; (4) the division, merger, or termination of the foundation.

Article 14 — A foundation shall have a legal representative. The legal representative of a foundation shall be the chairperson of the foundation. The legal representative of the foundation shall not concurrently serve as the legal representative of any other organization.

Article 15 — The chairperson, vice chairpersons, and the secretary-general of a foundation shall not serve in the same position in a public institution, a social organization, or another foundation where they receive remuneration.

Article 16 — A foundation shall have supervisors. The number of supervisors and the rules of procedure shall be prescribed by the articles of association. Directors, close relatives of directors, and accounting personnel of the foundation shall not serve as supervisors.

Chapter IV — Property Management and Use

Article 17 — The assets of a foundation shall be managed and used in accordance with the purposes prescribed by its articles of association, and shall not be used for purposes other than public welfare. The use of the assets of a foundation shall comply with the provisions of the articles of association and the agreements with donors.

Article 18 — A foundation shall spend its assets on public welfare activities in accordance with the purposes prescribed by its articles of association. The salaries, benefits, and administrative expenses of the staff of a foundation shall not exceed the proportion prescribed by the state.

Article 19 — A foundation shall, within the scope prescribed by the articles of association, engage in activities to preserve and increase the value of its assets in accordance with the principles of legality, safety, and effectiveness.

Article 20 — A foundation shall implement the unified accounting system of the state, conduct accounting in accordance with the law, and establish and improve internal accounting supervision systems.

Chapter V — Supervision and Administration

Article 21 — The registration and administration authority shall perform the following supervision and administration duties: (1) supervising and inspecting the performance of the articles of association by foundations; (2) supervising and inspecting the activities of foundations in accordance with the law; (3) imposing administrative penalties on foundations that violate these Regulations.

Article 22 — A foundation shall, before March 31 of each year, submit to the registration and administration authority the work report for the preceding year and accept the annual inspection. The work report shall

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include the financial audit report, information on the implementation of public welfare activities, and information on the staff and salary and welfare benefits of the foundation.

Article 23 — A foundation shall accept the supervision of the donors, the public, and the society. Donors shall have the right to inquire about and reproduce materials on the use and management of the assets they have donated, and the foundation shall promptly and truthfully respond to the inquiries of donors.

Chapter VI — Legal Liability

Article 24 — Where a foundation commits any of the following acts, the registration and administration authority shall issue a warning and order it to cease its activities or make rectification; where the circumstances are serious, its registration may be revoked: (1) failing to submit the annual work report or accept the annual inspection in accordance with the provisions; (2) failing to publicly disclose information in accordance with the provisions; (3) using assets for purposes other than public welfare purposes without authorization; (4) engaging in investment activities in violation of the relevant provisions; (5) failing to undergo a change of registration in accordance with the provisions; (6) altering, leasing, or lending the registration certificate, or leasing or lending the seal of the foundation.

Article 25 — Where a foundation that has not been registered or has had its registration revoked carries out activities in the name of a foundation without authorization, the registration and administration authority shall ban it and confiscate its illegal assets; where the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 26 — Where staff members of the registration and administration authority or the competent professional authority abuse their powers, neglect their duties, or commit malpractice for personal gain, they shall be subject to sanctions in accordance with the law; where the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

Article 27 — The registration certificate of a foundation shall be formulated by the civil affairs department under the State Council.

Article 28 — The measures for the administration of foundations established by overseas organizations within the territory of China shall be separately prescribed by the State Council.

Article 29 — These Regulations shall come into force on June 1, 2004. The Measures on the Administration of Foundations promulgated by the State Council on September 23, 1988 shall be repealed simultaneously.

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