Sole Proprietorship Enterprise Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of regulating the organization and conduct of sole proprietorship enterprises, protecting the lawful rights and interests of sole proprietorship enterprise investors and creditors, maintaining the social and economic order, and promoting the development of the socialist market economy.

Article 2 — For the purposes of this Law, a sole proprietorship enterprise means a business entity established within the territory of China in accordance with this Law, which is invested in by a natural person, the property of which is owned by the investor, and the investor shall bear unlimited liability for the debts of the enterprise with his or her personal property.

Article 3 — The principal place of business of a sole proprietorship enterprise shall be the domicile of the sole proprietorship enterprise.

Article 4 — A sole proprietorship enterprise shall abide by laws and administrative regulations, observe the principles of good faith, and shall not harm the public interest. The lawful rights and interests of sole

proprietorship enterprise investors and employees shall be protected by law.

Article 5 — The State shall protect the property and other lawful rights and interests of sole proprietorship enterprises in accordance with the law. A sole proprietorship enterprise shall enjoy the right to operate independently within the approved scope of business.

Article 6 — A sole proprietorship enterprise shall establish trade union organizations in accordance with the law. Trade unions shall carry out activities in accordance with the law and shall safeguard the lawful rights and interests of employees.

Chapter II — Establishment

Article 7 — To establish a sole proprietorship enterprise, the following conditions shall be met: (1) the investor is a natural person; (2) there is a lawful enterprise name; (3) there is a capital contribution declared by the investor; (4) there is a fixed place of business for production and operation and the necessary conditions for production and operation; and (5) there are necessary employees.

Article 8 — To apply for the establishment of a sole proprietorship enterprise, the investor or an agent entrusted by the investor shall submit documents such as an application for establishment, proof of the investor's identity, and proof of the place of business for production and operation to the registration authority at the place where the sole proprietorship enterprise is to be located. Where the law or administrative regulations require approval from the relevant authority for the establishment of a sole proprietorship enterprise, the relevant approval document shall also be submitted. Where an agent entrusted by the investor submits the application, a power of attorney and the agent's proof of identity shall also be submitted.

Article 9 — The registration authority shall, within 15 days of receipt of the application documents, process the registration and issue a business license to those that meet the conditions stipulated in this Law. For those that do not meet the conditions, a decision of non-registration shall be made, and a written notice shall be given stating the reasons. The date of issuance of the business license shall be the date of establishment of the sole proprietorship enterprise.

Article 10 — A sole proprietorship enterprise that establishes a branch shall apply for registration to the registration authority at the place where the branch is to be located, and obtain a business license for the branch. Upon approval and registration of a branch, the registration authority shall notify the registration authority of the sole proprietorship enterprise to which the branch belongs of the registration matters.

Article 11 — Where the registration matters of a sole proprietorship enterprise are changed, an application for registration of the change shall be made to the registration authority within 15 days of the date on which the decision on change is made. Where the law or administrative regulations provide that the change of registration matters shall be subject to approval by the relevant authority before registration of the change, the relevant approval document shall be submitted.

Article 12 — Where a sole proprietorship enterprise lawfully ceases business for reasons such as holidays or equipment maintenance, it shall report to the registration authority within 15 days of the cessation of business. Where the business license of a sole proprietorship enterprise is revoked in accordance with the law, the enterprise shall cease its business activities.

Chapter III — Investor and Business Operations

Article 13 — The investor of a sole proprietorship enterprise shall have full civil capacity. No person who is prohibited by laws or administrative regulations from engaging in profit-making activities shall apply for the establishment of a sole proprietorship enterprise as an investor.

Article 14 — The property of a sole proprietorship enterprise shall be owned by the investor, and the relevant rights of the investor may be transferred or inherited in accordance with the law.

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Article 15 — The investor of a sole proprietorship enterprise may manage the affairs of the enterprise on his or her own, or may entrust or employ another person with the capacity for civil conduct to manage the affairs of the enterprise. Where the investor entrusts or employs another person to manage the affairs of the enterprise, the investor shall conclude a written contract with the entrusted or employed person, specifying the matters entrusted and the scope of authority conferred. However, the restrictions imposed by the investor on the authority of the entrusted or employed person shall not be set up against a bona fide third party.

Article 16 — The entrusted or employed person shall perform the obligations of good faith and diligence and manage the affairs of the enterprise in accordance with the contract concluded with the investor. When managing the affairs of a sole proprietorship enterprise, the entrusted or employed person shall not commit any of the following acts: (1) taking advantage of his or her position to accept bribes or obtain other illegal income; (2) misappropriating the property of the enterprise; (3) misappropriating the funds of the enterprise for personal use or lending them to others; (4) opening an account in his or her own name or in the name of another person to deposit the funds of the enterprise; (5) providing security for others with the property of the enterprise without the consent of the investor; (6) engaging in business that competes with the enterprise without the consent of the investor; (7) entering into contracts or conducting transactions with the enterprise without the consent of the investor; (8) transferring the trademark or other intellectual property rights of the enterprise to others for use without the consent of the investor; or (9) other acts prohibited by laws and administrative regulations.

Article 17 — A sole proprietorship enterprise shall establish accounting books and conduct accounting in accordance with the law. The sole proprietorship enterprise shall participate in social insurance for its employees in accordance with the law and pay social insurance premiums for them.

Article 18 — When recruiting employees, a sole proprietorship enterprise shall conclude labor contracts with the employees in accordance with the law, ensure workplace safety, and pay wages on time and in full. The working hours, rest and leave, labor safety and health, and social insurance for employees of a sole proprietorship enterprise shall be governed by relevant laws and administrative regulations.

Article 19 — A sole proprietorship enterprise may apply for a loan or obtain credit in accordance with the law. The property rights of a sole proprietorship enterprise shall not be infringed upon, and no entity or individual may forcibly apportion property to it or forcibly raise funds from it in violation of laws or administrative regulations.

Article 20 — The investor of a sole proprietorship enterprise shall bear unlimited liability for the debts of the enterprise with his or her personal property. Where a sole proprietorship enterprise is established by an investor using family property as the capital contribution, the investor shall bear unlimited liability for the debts of the enterprise with the family property.

Article 21 — A sole proprietorship enterprise may, in accordance with the law, set up branches. The civil liability of a branch shall be borne by the sole proprietorship enterprise that set up the branch.

Chapter IV — Dissolution and Liquidation

Article 22 — A sole proprietorship enterprise shall be dissolved under any of the following circumstances: (1) the investor decides to dissolve the enterprise; (2) the investor dies or is declared dead, and there is no heir or the heir waives the right of inheritance; (3) the business license of the sole proprietorship enterprise is revoked in accordance with the law; or (4) other circumstances provided for by laws and administrative regulations.

Article 23 — Where a sole proprietorship enterprise is dissolved, the investor shall carry out liquidation on his or her own, or the creditor may apply to the people's court for the designation of a liquidator to carry out the liquidation. Where the investor carries out the liquidation on his or her own, the investor shall notify the creditors within 15 days of the date of liquidation, and where the investor is unable to notify the creditors, the

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investor shall make a public announcement. The creditors shall declare their claims to the investor within 30 days of receipt of the notice, or within 60 days of the date of the public announcement if no notice is received.

Article 24 — After a sole proprietorship enterprise is dissolved, the property of the enterprise shall be used to pay off its debts in the following order: (1) wages and social insurance premiums owed to employees; (2) taxes owed; and (3) other debts.

Article 25 — The property of a sole proprietorship enterprise that remains after the settlement of debts shall be owned by the original investor. During the liquidation, the sole proprietorship enterprise shall not carry out business activities unrelated to the liquidation. The investor of the sole proprietorship enterprise shall not transfer or conceal property before the settlement of debts in accordance with the provisions of Article 24 of this Law.

Article 26 — Where the property of a sole proprietorship enterprise is insufficient to pay off its debts during the liquidation, the investor shall pay off the debts with his or her other personal property. The liability of the investor of a sole proprietorship enterprise for the debts of the enterprise shall be extinguished if the creditor fails to demand payment from the debtor within five years of the date of dissolution of the enterprise.

Article 27 — Upon completion of the liquidation, the investor or the liquidator designated by the people's court shall prepare a liquidation report and, within 15 days, apply to the registration authority for cancellation of registration. Upon cancellation of registration, the sole proprietorship enterprise shall be terminated.

Chapter V — Legal Liability

Article 28 — Where an applicant for registration of a sole proprietorship enterprise conceals true information, practices fraud, or undertakes other illegitimate means to obtain enterprise registration, the registration authority shall order the applicant to make corrections and impose a fine. If the circumstances are serious, the business license shall be revoked.

Article 29 — Where a sole proprietorship enterprise uses a name inconsistent with the name registered with the registration authority, the registration authority shall order it to make corrections within a prescribed time limit and impose a fine.

Article 30 — Where a sole proprietorship enterprise alters, leases, or transfers its business license without authorization, the registration authority shall order it to make corrections, confiscate any illegal gains, and impose a fine. If the circumstances are serious, the business license shall be revoked. Where a sole proprietorship enterprise forges a business license, it shall be ordered to cease the illegal act, the forged business license shall be confiscated, and a fine shall be imposed. If a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 31 — Where a sole proprietorship enterprise fails to commence business for six months after its establishment without justification, or ceases business on its own for a continuous period of six months after commencement of business, its business license shall be revoked.

Article 32 — Where a sole proprietorship enterprise fails to undergo registration of a change in accordance with the provisions of this Law, the registration authority shall order it to undergo the registration of the change within a prescribed time limit. If it fails to do so within the prescribed time limit, a fine shall be imposed.

Article 33 — Where the investor of a sole proprietorship enterprise fails to notify the creditors or make a public announcement in accordance with the provisions of this Law, the registration authority shall impose a fine on the investor.

Chapter VI — Supplementary Provisions

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Article 34 — Where a foreign investor establishes a sole proprietorship enterprise within the territory of China, this Law shall apply. Where laws or administrative regulations provide otherwise, such provisions shall prevail.

Article 35 — This Law shall enter into force on January 1, 2000.

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