Special Administrative Measures (Negative List) for Foreign Investment Access

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Part I — Overview and Application

Article 1 — The Special Administrative Measures (Negative List) for Foreign Investment Access (2021 Edition) (hereinafter referred to as the "Negative List") is formulated in accordance with the Foreign Investment Law of the People's Republic of China and relevant laws and regulations for the purpose of further opening up and promoting foreign investment.

Article 2 — The Negative List uniformly lists the special administrative measures for foreign investment access, such as equity requirements and senior management requirements. Sectors not listed in the Negative List shall be subject to the principle of national treatment for foreign investment access, with no restrictions on foreign investment access.

Article 3 — The Negative List applies to foreign investors' investment activities within the territory of the People's Republic of China, including: (1) establishment of foreign-invested enterprises solely or jointly with other investors within the territory of China; (2) acquisition of shares, equities, property shares, or other similar rights and interests of enterprises within the territory of China; and (3) investment in new projects solely or jointly with other investors within the territory of China.

Article 4 — Where foreign investors invest in sectors listed in the Negative List but for which no special administrative measures for access are specified, national treatment shall apply. Where special administrative measures for access are specified, foreign investors shall comply with the specified

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requirements. Where foreign investors invest in sectors listed in the Negative List as prohibited, they shall not invest.

Article 5 — Foreign investors, foreign-invested enterprises, and relevant parties shall, in addition to complying with the Negative List, also comply with the provisions of relevant laws and regulations on the conditions and requirements for access to the relevant sectors.

Article 6 — The Negative List shall apply to the entire territory of the People's Republic of China. With regard to the special administrative measures for foreign investment access implemented in pilot free trade zones and other special areas, the Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones shall apply.

Part II — Prohibited Sectors

Article 7 — Foreign investment is prohibited in the following sectors: (1) development and application of human stem cells, gene diagnosis and treatment technologies; (2) humanities and social science research institutions; (3) compulsory education institutions and religious education institutions; (4) news agencies (including branch offices); (5) publication of books, newspapers, and periodicals; (6) publication of audio-visual products and electronic publications; (7) radio stations, television stations, radio and television transmission coverage networks (including transmitting stations, relay stations, satellite uplink stations, satellite transceiver stations, microwave stations, monitoring stations, cable radio and television transmission coverage networks); (8) production, distribution, importation, and broadcasting of radio and television programs, films, and television dramas; (9) film production companies, distribution companies, cinema line companies, and film importation companies; (10) internet news and information services, online publishing services, online audio-visual program services, internet cultural operations (except music), and internet public release of information services; (11) survey, exploration, mining, and beneficiation of rare earth, radioactive minerals, and tungsten; (12) production of tobacco products, wholesale of tobacco products and other tobacco monopoly products; (13) development of traditional Chinese medicine decoction pieces involving steaming, frying, roasting, and calcining technologies, and production of confidential prescription products of proprietary Chinese medicines; (14) ivory carving, tiger bone processing, and production of bodiless lacquer ware, Xuan paper, and ink stick; and (15) legal services concerning Chinese legal affairs (except provision of information on the impact of the Chinese legal environment).

Article 8 — Foreign investment is prohibited in the following sectors unless otherwise agreed: (1) air traffic control; (2) postal services, domestic express delivery services for letters; and (3) social surveys.

Part III — Restricted Sectors

Article 9 — Agriculture, Forestry, Animal Husbandry, and Fishery: (1) The breeding of new crop varieties and seed production shall be limited to joint ventures or cooperation, with the Chinese party holding a controlling interest. (2) The ratio of foreign investment in fishing in the sea areas under China's jurisdiction and inland waters shall not exceed 49 percent.

Article 10 — Mining: The ratio of foreign investment in petroleum and natural gas extraction shall be limited to joint ventures or cooperation. The ratio of foreign investment in the exploration and development of oil, natural gas, coal bed methane, and other cooperative resources shall be limited to joint ventures or cooperation.

Article 11 — Manufacturing: (1) The ratio of foreign investment in the manufacturing of complete automobiles, special-purpose vehicles, and new energy vehicles shall not be subject to restrictions. (2) The ratio of foreign investment in the manufacturing of satellite television broadcast ground receiving facilities and key components shall not exceed 49 percent.

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Article 12 — Production and Supply of Electricity, Heat, Gas, and Water: The ratio of foreign investment in the construction and operation of nuclear power plants shall be limited to joint ventures or cooperation, with the Chinese party holding a controlling interest. The construction and operation of urban water supply and drainage networks with a population of more than 500,000 shall be limited to joint ventures or cooperation, with the Chinese party holding a controlling interest.

Article 13 — Wholesale and Retail Trade: The ratio of foreign investment in the wholesale, retail, and franchise of tobacco and related products shall be subject to the special administrative measures. Foreign investors shall not engage in the wholesale, retail, or franchise of tobacco products or other tobacco monopoly products as their main business.

Article 14 — Transport, Warehousing, and Postal Services: (1) The ratio of foreign investment in domestic water transport companies shall not exceed 49 percent. (2) The ratio of foreign investment in public air transport companies shall not exceed 25 percent, and the ratio of foreign investment by a single foreign investor and its affiliated enterprises shall not exceed 25 percent. The legal representative of a public air transport company shall be a Chinese citizen. (3) The ratio of foreign investment in general aviation companies shall be limited to joint ventures or cooperation. The ratio of foreign investment in agriculture, forestry, and fishery general aviation companies shall be limited to joint ventures or cooperation. (4) The ratio of foreign investment in civil airports shall be relatively controlled by the Chinese party. The ratio of foreign investment in air traffic control shall not exceed 49 percent.

Article 15 — Information Transmission, Software, and Information Technology Services: (1) The ratio of foreign investment in telecommunications companies shall not exceed 50 percent for value-added telecommunications services (except e-commerce, domestic multi-party communications, storage and forwarding, and call centers) and 49 percent for basic telecommunications services. (2) The ratio of foreign investment in internet access service facilities shall not exceed 50 percent.

Article 16 — Finance: (1) The ratio of foreign investment in securities companies shall not exceed 51 percent. The ratio of foreign investment in securities investment fund management companies shall not exceed 51 percent. (2) The ratio of foreign investment in futures companies shall not exceed 51 percent. (3) The ratio of foreign investment in life insurance companies shall not exceed 51 percent. The ratio of foreign investment in insurance intermediary institutions shall be subject to the relevant provisions.

Article 17 — Leasing and Business Services: (1) Foreign investors shall not invest in legal services concerning Chinese legal affairs, and shall not become partners of domestic law firms. (2) The ratio of foreign investment in market surveys shall not exceed 67 percent. Market surveys shall be limited to joint ventures or cooperation, with the Chinese party holding a controlling interest. However, market surveys in radio and television ratings shall be limited to joint ventures or cooperation with the Chinese party holding a controlling interest.

Article 18 — Scientific Research and Technical Services: The ratio of foreign investment in surveying and mapping companies shall not exceed 49 percent. Surveying and mapping shall be limited to joint ventures or cooperation with the Chinese party holding a controlling interest.

Article 19 — Education: Pre-school, general high school, and higher education institutions shall be limited to Sino-foreign cooperative education, with the principal person in charge or the president being a Chinese citizen and having domicile within the territory of China.

Article 20 — Health and Social Work: Medical institutions shall be limited to joint ventures or cooperation.

Article 21 — Culture, Sports, and Entertainment: (1) Performance agencies shall be limited to joint ventures or cooperation, with the Chinese party holding a controlling interest. (2) Entertainment venues shall be limited to joint ventures or cooperation, with the Chinese party holding a controlling interest. (3) The ratio of foreign investment in broadcasting and television program production companies shall not exceed 49

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percent. The ratio of foreign investment in film production companies shall not exceed 49 percent.

Part IV — Free Trade Zone Exceptions

Article 22 — In pilot free trade zones, foreign investment shall be governed by the Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones. Where the measures applicable in pilot free trade zones are more liberal, such measures shall prevail.

Article 23 — The Negative List shall come into effect on January 1, 2022. The Special Administrative Measures (Negative List) for Foreign Investment Access (2020 Edition) issued by the National Development and Reform Commission and the Ministry of Commerce on June 23, 2020, shall be repealed simultaneously.

Disclaimer: This translation is provided for informational purposes only and is not an official translation. While every effort has been made to ensure accuracy, only the original Chinese text shall have legal effect. Foreign investors should consult the most current version of the Negative List before making investment decisions. Dan Young Business Consultancy makes no warranty as to the accuracy or completeness of this translation and shall not be liable for any reliance placed upon it. For official legal purposes, please consult the original Chinese text or seek professional legal advice.