Provisions of the State Council on Encouraging Investment in the Development of Hainan Island of China (the PRC)

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

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Article 1 — For the purpose of absorbing domestic and foreign investment and accelerating the development and construction of Hainan Island, these Provisions are formulated.

Article 2 — The State shall implement more flexible and open economic policies for the Hainan Special Economic Zone and grant the People's Government of Hainan Province greater autonomy.

Article 3 — The State encourages enterprises, other economic organizations or individuals inside or outside China (hereinafter referred to as investors) to invest in the development of Hainan Island and to establish various economic and social undertakings.

Article 4 — The State shall protect the lawful rights and interests of investors in accordance with the law and shall not nationalize or expropriate the assets of investors. Under special circumstances, where expropriation of investors' assets is necessary for the public interest, expropriation may be carried out in accordance with legal procedures, with corresponding compensation.

Investors must abide by the laws and regulations of China.

Article 5 — Investors may invest and operate on Hainan Island by the following means:

(1) establishing Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures, wholly foreign-owned enterprises (hereinafter referred to as foreign-invested enterprises), and other types of enterprises permitted by law. The term of operation of the various enterprises shall be agreed upon by the investing parties in the contract or approved by the relevant competent authorities;

(2) purchasing stocks, bonds and other negotiable securities;

(3) purchasing or participating in the operation of, or contracting for or leasing, enterprises;

(4) adopting other internationally accepted means of investment to invest and operate, and carrying out economic and technological cooperation and exchange.

Article 6 — State-owned land on Hainan Island shall be used with compensation.

The People's Government of Hainan Province may, in accordance with the law, grant the right to use state-owned land to investors with compensation. The term of each grant of land-use rights shall be determined according to the specific circumstances of different industries and projects, with a maximum term of 70 years; where continued use is needed after the expiry of the term, the term may be extended upon approval.

Investors may transfer, with compensation, the land-use rights they have obtained in accordance with the relevant state provisions.

Article 7 — Mineral resources on Hainan Island shall be exploited with compensation in accordance with the law. The exploitation of specific mineral resources designated by the State shall be submitted to the competent state authorities for approval, while the exploitation of other mineral resources shall be approved by the People's Government of Hainan Province. Investors shall be permitted to carry out exploration and exploitation by means of joint ventures, contractual cooperation or sole proprietorship.

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Article 8 — Investors may invest on Hainan Island, by means of joint ventures or cooperation, in the construction of infrastructure facilities such as ports, docks, airports, highways, railways, power stations, coal mines and water conservancy projects, and may also operate special-purpose facilities as sole proprietors, and may, in accordance with the relevant state provisions, invest in and operate various enterprises and service undertakings connected with the aforesaid facilities, carrying out integrated operation.

Article 9 — Subject to approval by the People's Bank of China and based on the needs of economic development, foreign banks, Chinese-foreign joint venture banks or other financial institutions may be established on Hainan Island.

Article 10 — The establishment of various economic and social undertakings by investment on Hainan Island shall be examined and approved by the People's Government of Hainan Province. However, where the scope of investment or the total amount of investment exceeds the scope of approval authorized to the People's Government of Hainan Province by the State, it shall be submitted for approval in accordance with the procedures prescribed by the State.

Article 11 — Construction materials, production equipment and management equipment imported by approved enterprises as investment, raw materials, spare parts, packaging materials and other materials imported for production and operation, as well as means of transport and office supplies for their own use, shall be examined and approved by the People's Government of Hainan Province itself.

Article 12 — Enterprises established on Hainan Island (excluding state banks and insurance companies) shall pay enterprise income tax at a rate of 15% on income derived from production and operation and on other income, and shall additionally pay a local income tax of 10% of the taxable amount. Among them:

(1) enterprises engaged in the development and operation of infrastructure facilities such as ports, docks, airports, highways, railways, power stations, coal mines and water conservancy projects, and enterprises engaged in agricultural development and operation, with a term of operation of 15 years or more, shall be exempted from income tax from the first to the fifth year counting from the year in which they begin to make profits, and shall pay income tax at a 50% reduction from the sixth to the tenth year;

(2) enterprises in productive industries such as industry and transportation, with a term of operation of 10 years or more, shall be exempted from income tax in the first and second years counting from the year in which they begin to make profits, and shall pay income tax at a 50% reduction from the third to the fifth year; among them, those confirmed as technologically advanced enterprises by the People's Government of Hainan Province shall pay income tax at a 50% reduction from the sixth to the eighth year;

(3) enterprises in productive industries such as industry and agriculture shall, after the expiry of the period of income tax reduction or exemption prescribed by the provisions, be allowed to pay enterprise income tax at a reduced rate of 10% for the year in which the output value of exported products reaches 70% or more of the output value of all products of the enterprise for that year;

(4) enterprises in service industries with a total investment exceeding USD 5 million or RMB 20 million and a term of operation of 10 years or more shall be exempted from income tax in the first year counting from the year in which they begin to make profits, and shall pay income tax at a 50% reduction in the second and third years.

Where a reduction or exemption of the local income tax levied on enterprises on Hainan Island is needed, it shall be decided by the People's Government of Hainan Province.

Article 13 — Foreign investors who have no establishment on Hainan Island but derive dividends, interest, rentals, royalties and other income from Hainan Island shall pay income tax at a rate of 10%, except where they are exempted from income tax in accordance with the law. Where a reduction or exemption of income tax is needed, it shall be decided by the People's Government of Hainan Province.

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Article 14 — Foreign-invested enterprises established on Hainan Island and enterprises in which foreign investors hold 25% or more of the shares shall all enjoy the right to import and export; other enterprises may also enjoy the right to import and export upon approval by the People's Government of Hainan Province, so as to import goods necessary for their own production and operation and to export their products.

Article 15 — Enterprises on Hainan Island that import machinery, equipment, raw materials, spare parts, means of transport and other materials necessary for their own construction and production, as well as office supplies, shall all be exempted from customs duties, product tax or value-added tax.

Enterprises on Hainan Island that import goods for sale in the Hainan market shall pay customs duties, product tax or value-added tax at a 50% reduction.

Article 16 — The State encourages enterprises on Hainan Island to export their products. Exported products of enterprises shall be exempted from export duties, and, except for crude oil, refined oil products and a small number of other products otherwise prescribed by the State, the product tax or value-added tax already paid shall be refunded.

Article 17 — Products produced by enterprises on Hainan Island and sold in the Hainan market shall, except for mineral oil, tobacco, alcoholic beverages and a small number of other products prescribed by the People's Government of Hainan Province on which product tax or value-added tax shall be paid at a 50% reduction, be exempted from product tax or value-added tax. Where such products contain imported materials and parts, customs duties, product tax or value-added tax on the imported materials and parts shall be exempted or made up in accordance with Article 15.

Products produced by enterprises and sold to other regions within the territory shall, except for products whose import is restricted by the State and which require approval in accordance with the relevant state provisions, all be freely sold, but product tax or value-added tax shall be levied in accordance with the rules; where such products contain imported materials and parts, customs duties, product tax or value-added tax on the imported materials and parts shall be made up in accordance with the rules.

Where the domestic sales of products of foreign-invested enterprises on Hainan Island conform to the provisions of the State on replacing imports with domestic products, such enterprises may apply for substitution of imports with domestic products.

Article 18 — Foreign exchange income obtained by enterprises on Hainan Island from exporting products and from engaging in other business activities may all be retained in foreign exchange and managed in accordance with the provisions of the local People's Bank of China.

Enterprises may adjust the surplus or deficiency of foreign exchange and balance their receipts and expenditures in the foreign exchange adjustment markets on Hainan Island or in other regions within the territory.

Article 19 — Profits obtained by foreign investors from enterprises established by investment on Hainan Island may be freely remitted abroad from the foreign exchange deposit accounts of the enterprises, with exemption from income tax on the remitted amount.

Where foreign investors reinvest their profits obtained from enterprises on Hainan Island within the territory for a term of not less than five years, 40% of the income tax already paid on the reinvested portion shall be refunded; where the reinvestment is used for infrastructure construction and agricultural development enterprises, product-export enterprises and technologically advanced enterprises on Hainan Island, the income tax already paid on the reinvested portion shall be refunded in full.

Profits obtained by domestic investors from enterprises on Hainan Island may be freely remitted to other regions within the territory. Income tax shall not be made up on profits remitted to other regions within the territory within ten years counting from the year in which the enterprise begins to make profits.

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Article 20 — Foreigners from countries or regions that have diplomatic relations or official trade contacts with China who come to Hainan Island to negotiate investment and trade, carry out economic and technological exchanges, visit relatives or travel, and whose stay does not exceed 15 days, may handle entry visa procedures temporarily at the Haikou or Sanya port of entry; where there is a legitimate reason to extend the period of stay on Hainan Island or to transfer to other regions within the territory, they may apply for visa extension or endorsement in accordance with the relevant provisions.

Foreigners who reside permanently on Hainan Island, who invest in the establishment of enterprises, or who participate in development and construction work, and their accompanying family members, may be issued multiple-entry visas to Hainan Island by the relevant departments of the People's Government of Hainan Province upon their application.

Article 21 — Compatriots from Hong Kong, Macao and Taiwan and overseas Chinese who hold valid passports or other valid certificates issued by the competent authorities of the State Council and their authorized organs may travel to Hainan Island and transfer to other regions within the territory, or leave the territory, without applying for visas. Taiwan compatriots may directly apply for a Taiwan Compatriot Travel Permit at the ports of Hainan Island.

Where domestic entities of Hainan Province send economic, trade and tourism institutions abroad or establish enterprises abroad, the exit of their personnel shall be examined and approved by the People's Government of Hainan Province, except where the State provides otherwise.

Article 22 — For matters not covered by these Provisions, the People's Government of Hainan Province may handle them in accordance with the relevant state provisions on special economic zones.

The implementing rules for these Provisions shall be formulated by the relevant competent authorities of the State Council jointly with the People's Government of Hainan Province.

Article 23 — These Provisions shall enter into force as of the date of promulgation.

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