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Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas

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Chapter I: General Provisions

Article 1 These Regulations are formulated in order to reform the system of using the State-owned land in the urban areas, rationally develop, utilize and manage the land, strengthen land administration and promote urban construction and economic development.

Article 2 The State, in accordance with the principle of the ownership being separated from the right to the use of the land, implements the system whereby the right to the use of the State-owned land in the urban areas may be assigned and transferred, with the exclusion of the underground resources, the objects buried underground, and the public works.

The term "State-owned land in the urban areas" as used in the preceding paragraph refers to the land owned by the whole people (hereafter referred to as "the land") within the limits of cities, county sites, administrative towns and industrial and mining areas.

Article 3 Any company, enterprise, other organization and individual within or outside the People's Republic of China may, unless otherwise provided by law, obtain the right to the use of the land and engage in land development, utilization and management in accordance with the provisions of these Regulations.

Article 4 Users of the land who have obtained the right to the use of the land in accordance with these Regulations may, within the term of land use, transfer, lease, or mortgage the right to the use of the land or use it for other economic activities, and their lawful rights and interests shall be protected by the laws of the State.

Article 5 Users of the land shall, in their activities to develop, utilize and manage the land, abide by the laws and regulations of the state and may not jeopardize the interests of the society and the public.

Article 6 The land administrative departments under the people's governments at or above the county level shall conduct supervision and inspection, according to law, over the assignment, transfer, lease, mortgage and termination of the right to the use of the land.

Article 7 The registration of the assignment, transfer, lease, mortgage and termination of the right to the use of the land and the registration of the above-ground buildings and other attached objects shall be handled by the land administration department and housing administration departments of the government in accordance with the law and the pertinent regulations of the State Council.

The registration documents shall be made available for public reference.

Chapter II: The Assignment of the Right to the Use of the Land

Article 8 The assignment of the right to the use of the land refers to the act of the State as the owner of the land who, within the term of a certain number of years, assigns the right to the use of the land to land users, who shall in turn pay fees for the assignment thereof to the State.

An assignment contract shall be signed for assigning the right to the use of the land.

Article 9 People's governments at the municipal and county levels shall be in charge of assigning the right to the use of land, which shall be effected in a planned, step-by-step way.

Article 10 The land administration departments under the people's governments at the municipal and county levels shall, in conjunction with the administrative departments for urban planning and construction and the housing administration departments, draw up a plan concerning the size and location, the purposes, the term, and other conditions with respect to the assigning of the right to the use of the land. The plan shall be submitted for approval in accordance with the limits of authority for approval as stipulated by the State Council and shall then be implemented by the land administration departments.

Article 11 The contract for assigning the right to the use of the land shall be signed by and between the land administration departments under the people's governments at the municipal and county levels (hereinafter referred to as "the assigning party") and the land users in accordance with the principle of equality, voluntariness and compensation for use.

Article 12 The maximum term with respect to the assigned right to the use of the land shall be determined respectively in the light of the purposes listed below:

- (1) 70 years for residential purposes;
- (2) 50 years for industrial purposes;
- (3) 50 years for the purposes of education, science, culture, public health and physical education;
- (4) 40 years for commercial, tourist and recreational purposes; and
- (5) 50 years for comprehensive utilization or other purposes.

Article 13 The assignment of the right to the use of the land may be carried out by the following means:

- (1) by reaching an agreement through consultations;
- (2) by invitation to bid; or
- (3) by auction.

The specific procedures and steps for assigning the right to the use of the land by the means stipulated in the preceding paragraphs shall be formulated by the people's government of the relevant province, autonomous region, or municipality directly under the Central Government.

Article 14 The land user shall, within 60 days of the signing of the contract for the assignment of the right to the use of the land, pay the total amount of the assignment fee thereof, failing which, the assigning party shall have the right to terminate the contract and may claim compensation for breach of contract.

Article 15 The assigning party shall, in compliance with the stipulations of the contract, provide the right to the use of the land thus assigned, failing which, the land user shall have the right to terminate the contract and may claim compensation for breach of contract.

Article 16 After paying the total amount of the fee for the assignment of the right to the use of the land, the land user shall, in accordance with the relevant provisions, go through the registration thereof, obtain the certificate for land use and accordingly the right to the use of the land.

Article 17 The land user shall, in conformity with the stipulations of the contract for the assignment of the right to the use of land and the requirements of city planning, develop, utilize and manage the land.

Should any land user fail to develop and utilize the land in accordance with the period of time specified in the contract and the conditions therein, the land administration departments under the people's governments at the municipal and county levels shall make corrections and, in light of the seriousness of the case, give such penalties as a warning, a fine or, in an extreme case, withdrawing the right to the use of the land without compensation.

Article 18 If the land user needs to alter the purposes of land use as stipulated in the contract for assigning the right to the use of land, he shall obtain the consent of the assigning party and the approval of the land administration department and the urban planning department and shall, in accordance with the relevant provisions in this Chapter, sign a new contract for assigning the right to the use of the land, readjust the amount of the assignment fee thereof, and undertake registration anew.

Chapter III: The Transfer of the Right to the Use of the Land

Article 19 The transfer of the right to the use of the land refers to the land user's act of re-assigning the right to the use of the land, including the sale, exchange, and donation thereof.

If the land has not been developed and utilized in accordance with the period of time specified in the contract and the conditions therein, the right to the use thereof may not be transferred.

Article 20 A transfer contract shall be signed for the transfer of the right to the use of the land.

Article 21 With the transfer of the right to the use of the land, the rights and obligations specified in the contract for assigning the right to the use of the land and in the registration documents shall be transferred accordingly.

Article 22 The land user who has acquired the right to the use of the land by means of the transfer thereof shall have a term of use which is the remainder of the term specified in the contract for assigning the right to the use of the land minus the number of the years in which the original land user has used the land.

Article 23 With the transfer of the right to the use of the land, the ownership of the above-ground buildings and other attached objects shall be transferred accordingly.

Article 24 The owners or joint owners of the above-ground buildings and other attached objects shall have the right to the use of the land within the limits of use of the said buildings and objects.

With the transfer of the ownership of the above-ground buildings and other attached objects by the land users, the right to the use of the land within the limits of use of the said buildings and objects shall be transferred accordingly, with the exception of the movables.

Article 25 With respect to the transfer of the right to the use of the land and of the ownership of the above-ground buildings and other attached objects, registration for the transfer shall be undertaken in accordance with the relevant provisions.

Divided transfer of the right to the use of the land and of the ownership of the above-ground buildings and other attached objects shall be subject to the approval of the land administration department and the housing administration departments under the people's governments at the municipal and county levels, and registration for the divided transfer shall be undertaken in accordance with the relevant provisions.

Article 26 When the transfer of the right to the use of the land is priced at a level obviously lower than the prevailing market price, the people's governments at the municipal and county levels shall have the priority of the purchase thereof.

When the market price for the transfer of the right to the use of the land rises to an unreasonable extent, the people's governments at the municipal and county levels may take necessary measures to cope with it.

Article 27 If, after the transfer of the right to the use of the land, necessity arises for altering the purposes of land use as stipulated in the contract for assigning the right to the use of the land, it shall be handled in accordance with the provisions in Article 18 of these Regulations.

Chapter IV: The Lease of the Right to the Use of the Land

Article 28 The lease of the right to the use of the land refers to the act of the land user as the lessor to lease the right to the use of the land together with the above-ground buildings and other attached objects to the lessee for use who shall in turn pay lease rentals to the lessor.

If the land has not been developed and utilized in accordance with the period of time specified in the contract and the conditions therein, the right to the use thereof may not be leased.

Article 29 A lease contract shall be signed for leasing the right to the use of the land by and between the lessor and the lessee.

The lease contract shall not run counter to the laws and regulations of the State or the stipulations of the contract for assigning the right to the use of the land.

Article 30 After leasing the right to the use of the land, the lessee must continue to perform the contract for assigning the right to the use of the land.

Article 31 With respect to the lease of the right to the use of the land together with the above-ground buildings and other attached objects, the lessee shall undertake registration in accordance with the relevant provisions.

Chapter V: The Mortgage of the Right to the Use of the Land

Article 32 The right to the use of the land may be mortgaged.

Article 33 With the mortgage of the right to the use of the land, the above-ground buildings and other attached objects thereon shall be mortgaged accordingly.

With the above-ground buildings and other attached objects, the right to the use of the land within the limits of use of the said buildings and objects shall be mortgaged accordingly.

Article 34 A mortgage contract shall be signed for mortgaging the right to the use of the land by and between the mortgator and the mortgagee.

The mortgage contract shall not run counter to the laws and regulations of the State or the stipulations of the contract for assigning the right to the use of the land.

Article 35 With respect to the mortgage of the right to the use of the land together with the above-ground buildings and other attached objects, registration for the mortgage shall be undertaken in accordance with the relevant provisions.

Article 36 If the mortgator fails to fulfil liabilities within the prescribed period of time or declares dissolution or bankruptcy within the term of the mortgage contract, the mortgagee shall have the right to dispose of the mortgaged property in accordance with the laws and regulations of the State and the stipulations of the mortgage contract.

With respect to the right to the use of the land and the ownership of the above-ground buildings and other attached objects acquired as a result of the disposal of the mortgaged property, transfer registration shall be undertaken in accordance with the relevant provisions.

Article 37 The mortgagee shall have the priority of compensation with respect to the receipts resulting from the disposal of the mortgaged property.

Article 38 If the mortgage is eliminated as a result of the liquidation of liabilities or for other reasons, procedures shall be undertaken to nullify the mortgage registration.

Chapter VI: The Termination of the Right to the Use of the Land

Article 39 The right to the use of the land terminate for such reasons as the expiration of the term of use as stipulated in the contract for assigning the right to the use of the land, the withdrawal of the right before the expiration, or the loss of the land.

Article 40 Upon expiration of the term of use, the right to the use of the land and the ownership of the above-ground buildings and other attached objects thereon shall be acquired by the State without compensation. The land user shall surrender the certificate for land use and undertake procedures to nullify the registration.

Article 41 Upon expiration of the term of use, the land user may apply for its renewal. Where such a renewal is necessary, a new contract shall be signed in accordance with the provisions in Chapter II of these Regulations and the land user shall pay the fee for the assignment of the right to the use of the land and undertake registration:

Article 42 The State shall not withdraw before the expiration of the term of use the right to the use of the land which the land user acquired in accordance with the law. Under special circumstances, the State may, based on the requirements of social public interests, withdraw the right before the expiration of the term of use in line with the relevant legal procedures and shall, based on the number of years in which the land user has used the land and actual state of affairs with respect to the development and utilization of the land, offer corresponding compensation.

Chapter VII: The Allocated Right to the Use of the Land

Article 43 The allocated right to the use of the land refers to the right to the use of the land which the land user acquires in accordance with the law, by various means, and without compensation.

The land user referred to in the preceding paragraph shall pay tax for the use of the land in accordance

with the provisions of the Interim Regulations of the People's Republic of China Concerning the Tax for the Use of the Land in the Urban Areas.

Article 44 The allocated right to the use of the land may not be transferred, leased, or mortgaged, with the exception of cases as specified in Article 45 of these Regulations.

Article 45 On condition that the following requirements are satisfied, the allocated right to the use of the land and the ownership of the above-ground buildings and other attached objects may, subject to the approval of the land administration departments and the housing administration departments under the people's governments at the municipal and county levels, be transferred, leased or mortgaged:

- (1) the land users are companies, enterprises, or other economic organizations, or individuals;
- (2) a certificate for the use of state-owned land has been obtained;
- (3) possessing legitimate certificates of property rights to the above-ground buildings and other attached objects; and
- (4) a contract for assigning the right to the use of land is signed in accordance with the provisions in Chapter II of these Regulations and the land user makes up for the payment of the assignment fee to the local municipal or county people's government or uses the profits resulting from the transfer, lease or mortgage to pay the assignment fee.

The transfer, lease or mortgage of the allocated right to the use of the land referred to in the preceding paragraphs shall be handled respectively in accordance with the provisions in Chapters III, IV and V of these Regulations.

Article 46 Any units or individuals that transfers, lease or mortgage the allocated right to the use of the land without authorization shall have their illegal incomes thus secured confiscated by the land administration departments under the people's governments at the municipal and county levels and shall be fined in accordance with the seriousness of the case.

Article 47 If the land user who has acquired the allocated right to the use of the land without compensation stops the use thereof as a result of moving to another site, dissolution, disbandment, or bankruptcy or for other reasons, the municipal or county people's government shall withdraw the allocated right to the use of the land without compensation and may assign it in accordance with the relevant provisions of these Regulations.

The municipal or county people's government may, based on the needs of urban construction and development and the requirements of urban planning, withdraw the allocated right to the use of the land without compensation and may assign it in accordance with the relevant provisions of these Regulations.

When the allocated right to the use of the land is withdrawn without compensation, the municipal or county people's government shall, in the light of the actual state of affairs, give due compensation for the above-ground buildings and other attached objects thereon.

Chapter VIII: Supplementary Provisions

Article 48 The right to the use of the land may be inherited if it is acquired by individuals in accordance with the provisions of these Regulations

Article 49 The land user shall pay tax in accordance with the provisions of the tax laws and regulations of the State.

Article 50 Fees collected by assigning the right to the use of the land in accordance with these Regulations shall be included in the fiscal budget and managed as a special fund, which shall be used mainly for urban construction and land development. The specific measures for the use and management of the fund shall be separately prescribed by the Ministry of Finance.

Article 51 The people's governments of various provinces, autonomous regions and municipalities directly under the Central Government shall, in accordance with the provisions of these Regulations and with the actual state of affairs in their respective localities, select as their pilot testing grounds some of the cities or towns where conditions are relatively ripe.

Article 52 The State Administration for Land Uses shall be responsible for the interpretation of

these Regulations; the measures for the implementation thereof shall be formulated by the people's government of the provinces, autonomous regions and municipalities directly under the Central Government.

Article 53 These Regulations shall go into effect as of the date of promulgation.