

[Cursory Translation]

Second Agreement Concerning Amendment to the Agreement on Trade in Services of the Mainland and Hong Kong Closer Economic Partnership Arrangement

To further enhance the level of the Agreement on Trade in Services of the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter referred to as the “Agreement on Trade in Services”), to deepen the liberalisation of trade in services between the Mainland^① and the Hong Kong Special Administrative Region (hereinafter referred to as the “two sides”), as well as to strengthen the bilateral economic and trade exchanges and cooperation, the two sides decided to, on the basis of the Agreement Concerning Amendment to the Agreement on Trade in Services of the Mainland and Hong Kong Closer Economic Partnership Arrangement (hereinafter referred to as the “Amendment Agreement”) signed on 21 November 2019 in the Hong Kong Special Administrative Region (hereinafter referred to as “Hong Kong”), further amend the Agreement on Trade in Services signed on 27 November 2015 in Hong Kong, as follows:

^① The “Mainland” refers to the entire customs territory of China.

1. The further amendments to the main text of the Agreement on Trade in Services are as follows:

- (i) A new Article 7 (Domestic Regulation) is added to Chapter 3 (Obligations and Disciplines) and its content is as follows:

“Article 7

Domestic Regulation

1. The two sides reiterate the observance of their respective commitments under Article VI of the *WTO General Agreement on Trade in Services*.

2. The commitments on domestic regulation for trade in services undertaken by each side under the *WTO General Agreement on Trade in Services* are incorporated into and shall form part of this Agreement.

3. The commitments referred to in paragraph 2 include:

- (i) in the case of the Mainland, the commitments contained in the WTO document *GATS/SC/135/Suppl.1*;
- (ii) in the case of Hong Kong, the commitments contained in the WTO document *GATS/SC/39/Suppl.4*; and
- (iii) the commitments on domestic regulation for trade in services to be undertaken by each side under the *WTO General Agreement on Trade in Services* in the future.”

- (ii) The following are added to Article 12 (Investment Facilitation) of Chapter 7 (Investment Facilitation) of the Agreement on Trade in Services:

“3. Support is given to Hong Kong-invested enterprises registered in the nine Pearl River Delta municipalities of the Guangdong-Hong Kong-Macao Greater Bay Area to choose Hong Kong or the Macao Special Administrative Region (hereinafter referred to as “Macao”) as the seat of arbitration.

4. Support is given to Hong Kong-invested enterprises registered in the pilot municipalities of the Guangdong-Hong Kong-Macao Greater Bay Area to adopt Hong Kong law or Macao law as the applicable law in their contracts, on the condition that all mandatory provisions of the laws of the state are not violated and the social and public interests are not damaged.”

- (iii) Article 7 to Article 14 of Chapter 3 to Chapter 8 of the Agreement on Trade in Services are renumbered as Article 8 to Article 15 respectively. After such renumbering, “Article 9” referred to in Paragraph 1(i) of Article 13 (Investment Facilitation) is amended to “Article 10”.

2. To further increase the openness of services sectors of the Mainland to Hong Kong on the basis of the Agreement on Trade in Services and the Amendment Agreement, Table 1 (Reserved

Restrictive Measures under Commercial Presence (Negative List)) of Annex 1 (The Mainland's Specific Commitments on Liberalisation of Trade in Services for Hong Kong) to the Agreement on Trade in Services is shortened and amended. The further amendments are detailed in Table 1 of the Annex to this Agreement. In respect of the cross-border services, the Mainland introduced new liberalisation measures for Hong Kong. The further amendments to Table 2 (Liberalisation Measures under Cross-border Services (Positive List)) of Annex 1 to the Agreement on Trade in Services are detailed in Table 2 of the Annex to this Agreement. Table 1 and Table 2 of the Annex to this Agreement replace Table 1 and Table 2 of Annex 1 to the Agreement on Trade in Services as amended by the Amendment Agreement respectively.

3. The amendments to Annex 3 (Definition of "Service Supplier" and Related Requirements) to the Agreement on Trade in Services are as follows:

- (i) A new Footnote 2 is added after "engage in substantive business operations in Hong Kong." in Article 3.1.2. and its content is as follows:
"2 For Hong Kong service suppliers that are non-profit making entities providing education services, the requirement of engaging in substantive business operations does not apply."
- (ii) The original Footnote 2 to Footnote 5 are renumbered as Footnote 3 to Footnote 6 respectively.

- (iii) The first and second paragraphs of Article 3.1.2.(2) (Years of operation required) are amended to:

“A Hong Kong service supplier should be incorporated or established in Hong Kong, and have engaged in substantive business operations³. In this context:

A Hong Kong service supplier providing construction and related engineering services should be incorporated or established in Hong Kong, and have engaged in substantive business operations for 5 years or more;”

Footnote 3 as renumbered in accordance with paragraph (ii) of this Article is retained.

- (iv) The third paragraph of Article 3.1.2.(2) (Years of operation required) is deleted.

- (v) Article 6.1.1.(3) is amended to:

“Latest annual report or audited financial statement of the Hong Kong service supplier (if the requirement under Article 3 of this Annex on the years of substantive business operations is applicable, the documents and information for the corresponding years should be provided);”

- (vi) Article 6.1.1.(5) is amended to:

“Copy of the latest Profits Tax Return, Notice of Assessment and Demand for Tax in respect of the Hong Kong service supplier; in the event of loss, the Hong Kong service supplier should provide supporting

document(s) from the relevant department of the Government of the Hong Kong Special Administrative Region attesting to the loss (if the requirement under Article 3 of this Annex on the years of substantive business operations is applicable, the documents and information for the corresponding years should be provided);”

- (vii) A new Article 9 is added and its content is as follows:
- “9. A Hong Kong service supplier may submit the documents and information, and copies of the identification documents of natural persons, as required under Articles 6 and 7 of this Annex through electronic means as specified by the TID and the Mainland’s examining authorities.”

4. For clarity and avoidance of doubt, the provisions of the Agreement on Trade in Services not amended by this Agreement are still valid and shall continue to be implemented, and the other provisions shall continue to be implemented in accordance with the original provisions until the implementation of this Agreement.

This Agreement shall come into effect on the day of signature by the representatives of the two sides, and shall be implemented on 1 March 2025. This Agreement is signed in duplicate in the Chinese language. The Annex to this Agreement forms an integral part of this Agreement.

This Agreement is signed on 9 October 2024 in Hong Kong.

Deputy China International
Trade Representative
Ministry of Commerce
People's Republic of China

Financial Secretary
Hong Kong Special
Administrative Region of the
People's Republic of China

(Signature)

(Signature)