



## HOW TO HIRE MY FIRST EMPLOYEE IN CHINA

### MAIN LEGAL STEPS TO FOLLOW TO HIRE A FIRST EMPLOYEE

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Just as China's economy is developing rapidly, so is its labor protection system. Steps to follow when hiring your first Chinese employee:

- 1) Sign labor contract directly or via a recognized HR agent in China, if direct hiring is prohibited by law.
- 2) Do filing with the labor bureau and pay social insurance and housing fund. It can be done either by the company or an agent on behalf of the company.
- 3) Prepare pay slip every month.
- 4) Compute individual income tax and file with local tax bureau.

### DESIGN AND CONTENTS OF AN EMPLOYMENT CONTRACT

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See Sample Enclosed.

### CAN SOMEBODY DO BUSINESS FOR ME AND NOT BE AN EMPLOYEE?

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Foreign companies can engage a local individual for carrying out its activities in China. The local individual will stay on the payroll of the local employment agency and will be remunerated for his services by the local agency. The local agency can charge back the service fee to the foreign entity.

劳动合同编号: \_\_\_\_\_

Labor Contract No.: \_\_\_\_\_

某某 ( 上海 ) 有限公司  
劳动合同书

**Labor Contract of Some  
(Shanghai) Co., Ltd.**

甲方: 某某(上海)有限公司 (以下称“甲方”) **Party A: Some (Shanghai) Co., Ltd.**  
(hereinafter referred to as “Party A”)

通讯地址: \_\_\_\_\_ **Mailing address: \_\_\_\_\_**

法定代表人或委托代理人: \_\_\_\_\_ **Legal representative or authorized agent: \_\_\_\_\_**

乙方: \_\_\_\_\_ (以下称“乙方”) **Party B: \_\_\_\_\_ (hereinafter referred to as  
“Party B”)**

身份证号码: \_\_\_\_\_ **ID Card No.: \_\_\_\_\_**

家庭住址: \_\_\_\_\_ **Home address: \_\_\_\_\_**

户籍地址: \_\_\_\_\_ **Permanent residence address: \_\_\_\_\_**

联系方式: \_\_\_\_\_ (固定电话) \_\_\_\_\_ (移动电话) **Tel: \_\_\_\_\_ (fixed-line telephone) \_\_\_\_\_ (Mobile)**

紧急联系人: \_\_\_\_\_ 联系电话: \_\_\_\_\_ **Urgent contact: \_\_\_\_\_ Tel: \_\_\_\_\_**

甲乙双方就劳动关系的建立及其权利义务等事宜,根据《中华人民共和国劳动合同法》及有关的劳动法律、法规、行政规章和企业依法制定的规章制度,遵循自愿、平等、协商一致的原则,一致同意订立本劳动合同(以下简称合同),共同信守合同所列各条款。

Both Party A and Party B conclude the Labor Contract (hereinafter referred to as "the Contract") regarding the establishment of the labor relationship and the rights and obligations thereof, etc through consensus according to the Labor Contract Law of the People's Republic of China, relevant labor laws, regulations, administrative rules and the rules and regulations formulated by the enterprise according to law on the basis of voluntariness, equity and consensus for joint compliance of the following listed various terms.

## 第一章 合同的类型与期限

## Chapter 1 Type and Term of Contract

第一条 甲、乙双方选择合同类型为( )。

Article 1 Both Party A and Party B choose the following ( ) type of contract.

A. 固定期限,自\_\_\_\_年\_\_\_\_月\_\_\_\_日起至\_\_\_\_年\_\_\_\_月\_\_\_\_日止,共\_\_\_\_个月,合同期满后,双方同意继续履行的,合同自动顺延\_\_\_\_年,达到无固定期限合同条件的,自动转为无固定期限合同;双方如需重新约定劳动合同期限的,在合同到期前的三十天内订立。

A. Fixed term, from \_\_\_\_\_(dd/mm/yy) to \_\_\_\_\_(dd/mm/yy) totaling \_\_\_months. Upon expiration of the Contract, where both parties agree to continue to perform the Contract, the Contract shall automatically be extended for \_\_\_\_\_years. Where the open term labor contract conditions are met, the Contract shall automatically be transferred to open term labor contract. Where both parties needs to reagree the labor contract term, they shall fix such contract term 30 days prior to expiration of the Contract.

B. 无固定期限,自\_\_\_\_年\_\_\_\_月\_\_\_\_日起至合同第三十五条约定的终止情形出现时即行终止。

B. Open term. From \_\_\_\_\_(dd/mm/yy) to the termination circumstances agreed in Article 35 hereof occur.

C. 以完成一定的工作任务为期限:自\_\_\_\_年\_\_\_\_月\_\_\_\_日起至\_\_\_\_工作任务完成时即行终止。

C. The term that sets the completion of a specific task: from \_\_\_\_\_(dd/mm/yy) to completion of \_\_\_\_\_task.

第二条 若乙方开始工作时间与约定时间不一致的,以实际到岗之日为合同起始时间,建立劳动关系。

Article 2 If the time for Party B to start work is inconsistent with the agreed time, the actual date for reporting to duty shall be deemed as the contract starting time to establish the labor relationship.

**第二章 试用期****Chapter 2 Probation Period**

**第三条** 甲乙双方约定试用期自\_\_\_\_年\_\_\_\_月\_\_\_\_日起至\_\_\_\_年\_\_\_\_月\_\_\_\_日止，共\_\_\_\_个月，试用期工资为：\_\_\_\_\_。

Article 3 The probation period agreed by both Party A and Party B shall start from\_\_\_\_(dd/mm/yy) to\_\_\_\_(dd/mm/yy) totaling \_\_\_\_\_months. The salary for the probation period shall be in sum of \_\_\_\_\_.

**第四条** 录用条件见公司该职位说明书。

Article 4 The recruitment requirements shall see the Job Description of the Company

**第三章 工作内容与工作地点****Chapter 3 Work Contents and Work Place**

**第五条** 甲方聘用乙方从事\_\_\_\_\_工作，详见“职责描述”；

Article 5 Party A employs Party B to conduct \_\_\_\_\_work, see “Job Descriptions” for details.

**第六条** 乙方的工作地点为\_\_。

Article 6 Party B’s work place shall be \_\_\_\_\_.

**第七条** 乙方应认真履行甲方制定的岗位职责，按时、按质、按量完成其本职工作；未经甲方允许，乙方不得在其他单位兼职。

Article 7 Party B shall carefully perform the job responsibilities made by Party A and complete its own work timely with full quantity and quality. Without the consent of Party A, Party B shall not work part-time in other companies.

**第八条** 甲方因生产和工作需要，依据乙方的专业、特长、工作能力和表现，需调整乙方工作岗位及其工作报酬的，原则上应协商一致，但以下情况除外：

Article 8 Where Party A needs to adjust Party B’s operating post and its working compensation according to Party B’s profession, speciality, working ability and performance due to production and work needs, both parties shall reach consensus through negotiation in principle. However, the following circumstances shall be excluded:

A. 甲方因生产经营服务需要，产业、产品结构调整及工艺规程、组织机构设置等情况发生变化需调动乙方工作岗位时，乙方应予接受；

A. Where Party A needs to adjust Party B’s working post due to change in such circumstances as production and operation service needs, industrial and product structure adjustment, technological procedure and organizational settings, etc; Party B shall accept such adjustment;

B. 甲方确因生产经营服务需要，可以临时安排乙方从事其他岗位工作，工作期限由双方协商确定；

B. Party A can temporarily arrange Party B to work on other post due to production and business operation service needs with the working period confirmed by both parties through negotiation;

C. 乙方因技能、自身客观条件等因素达不到生产服务、工作质量、产量等指标，不能胜任工作的。

C. Where Party B fails to reach such factors as the production service, work quality and quantity, etc and thus is considered being incompetent due to its own skills and its own objective conditions, etc.

#### 第四章 工作时间与休息时间

#### Chapter IV Working Time and Rest Time

第九条 乙方所在岗位执行下述工时制度 ( )。

Article 9 Party B's working position shall implement the following work schedules ( )

- A. 标准工时制。
- B. 不定时工时制。
- C. 综合计算工时制。

- A. Standard working hours system
- B. Irregular working hours system
- C. Integrated computation working hours system

第十条 甲方执行应按国家法律所规定的休假制度，乙方的公休假、年休假、探亲假、婚丧假等假期待遇，均按国家、上海市有关法律、法规、规章、政策和甲方依法制定的规章执行。

Article 10 Party A shall implement the holiday system provided according to national laws; Party B's such holidays as sabbatical leave, annual leave, family leave and marriage and funeral leave, etc shall implement relevant laws, regulations, rules, policies of the State and Shanghai and Party A's rules and regulations formulated according to law.

第十一条 甲方因工作需要安排乙方延长工作时间或节假日加班加点的，乙方应服从甲方统一安排;甲方按规定支付加班加点的报酬，以保证乙方合法权益。

Article 11 Where Party A arranges Party B to extend the working time or work overtime during holidays due to work needs, Party B shall subject to Party A's unified arrangement. Party A shall pay the remuneration for the overtime work according to provisions to ensure Party B's legal rights and interests.

第十二条 乙方加班须征得甲方确认同意，否则不视为加班。

Article 12 Party B shall get Party A's confirmation and consent for its overtime work. Otherwise, it shall not be deemed as working overtime.

#### 第五章 规章制度与劳动纪律

#### Chapter V Rules and Regulations and Labor Discipline

第十三条 乙方自觉遵守国家的法律、法规、规章和社会公德、职业道德，维护甲方的声誉和利益。

Article 13 Party B shall consciously abide by national laws, rules, regulations, social morality and professional ethics to maintain Party A's reputation and interest.

第十四条 甲方依法建立和完善各项规章制度，甲方应将制定、变更的规章制度及时进行或者告知员工，乙方应严格遵守。

Article 14 Party A shall establish and perfect various rules and regulations according to law. In addition, it shall timely inform the rules and regulations made and

changed by Party A to the employees and Party B shall strictly abide by such rules and regulations.

**第十五条** 乙方不得从事其他任何与甲方利益冲突的第二职业或活动，并保守甲方的商业秘密和知识产权。

Article 15 Party B shall not engage in any other secondary occupation or activities that may have interest conflict with Party A and shall also strictly keep Party A's business secrets and intellectual property confidential.

**第十六条** 乙方违反甲方劳动纪律、规章制度和员工手册的，甲方有权按国家和本单位的规定对乙方给予纪律处分或经济处罚，直至通知解除本合同。

Article 16 Where Party B violates Party A's labor discipline, rules and regulations and employee manual, Party A is entitled to give Party B disciplinary sanction or economic punishment according to the provisions of the State and the Company until termination of the Contract.

## 第六章 劳动报酬

## Chapter VI Labor Remuneration

**第十七条** 甲方实行先工作后付薪的方式，乙方在正常出勤并付出正常劳动后，有权获得相应得劳动报酬，乙方所在岗位执行下述工资计发形式（\_\_\_\_\_）。

Article 17 Party A shall implement payment after work. Party B is entitled to obtain corresponding labor remuneration after normal attendance and work. Party B's position shall implement the following means for payment of salary(\_\_\_\_\_):

A. 计时形式：乙方的月基本工资（若非特别说明，均为税前应发工资）为：\_\_\_\_\_, 职位津贴为\_\_\_\_\_元，岗位津贴为\_\_\_\_\_元，其中岗位津贴根据实际工作小时按比例计发。乙方的工资中包含了法定应由用人单位为员工提供的福利，即使甲方为在工资单中明确罗列该费用。

A. Hourly wage. Party B's basic monthly salary (except otherwise provided, the salary refers to salary payable before tax) shall be in sum of \_\_\_\_\_; post allowance shall be in sum of RMB\_\_\_\_\_; and the job subsidies shall be in sum of RMB\_\_\_\_\_; among which, the job subsidies shall be paid according to the actual working time in proportion. Party B's salary includes the material benefits provided by the employer to the employee according to law and Party A shall specifically indicate such expenses in the payroll.

B. 计件形式：乙方的劳动定额为\_\_\_\_\_, 计件单价为\_\_\_\_\_。

B. Piece wage: Party B's labor quota shall be \_\_\_\_\_ with the unit price for each pieces in sum of \_\_\_\_\_.

C. 其他工资形式：\_\_\_\_\_。

C. Other wage form: \_\_\_\_\_

**第十八条** 甲方工资计算周期为上月 21 日至本月 20 日，并于次月 5 日前以人民币形式支付乙方当月工资，遇双休日顺延两

Article 18 The counting period for Party A's salary shall be from 21<sup>st</sup> the last month to 20<sup>th</sup> this month and shall pay Party B's salary for the same month in RMB

Ltd.

个工作日，遇国定假日提前两个工作日。

prior to 5<sup>th</sup> the following month. The payment shall be postponed for 2 working days when meeting two-day weekend and advance 2 working days when meeting national holidays.

**第十九条** 甲方有权根据其生产经营状况、乙方工作岗位的变更和依法制定的劳动报酬分配办法调整乙方的工资待遇。甲方实行变岗变薪的工资制度，乙方表示确认。

Article 19 Party A is entitled to adjust Party B's salary according to its production and operation status, the change of Party B's position and the labor remuneration distribution methods made by Party B according to law. Party A shall implement a salary system of position and salary change and Party B shall confirm such above system.

**第二十条** 甲方安排乙方延长工作时间或休息日、法定休假日工作的，应依法安排乙方补休或支付相应劳动报酬。

Article 20 Party A arrange Party B to extend the working time or work on holidays and legal holidays, it shall arrange Party B to take deferred holidays or pay corresponding labor remuneration according to law.

## 第七章 社会保险和福利待遇

## Chapter VII Social Insurance and Welfare Benefits

**第二十一条** 甲方根据国家和上海市有关规定为乙方参加购买下述社会保险（\_\_\_\_\_），乙方个人缴纳部分由乙方自行承担并由甲方在工资发放时代扣代缴。

Article 21 Party A shall buy the following social insurance (\_\_\_\_\_) for Party B according to relevant provisions of the State and Shanghai. Party B's personal payment shall be borne by Party B itself and Party A shall withhold and remit tax at the time of issuance of salary.

A. 城镇社会保险

A. Urban social insurance

B. 小城镇社会保险

B. Small town social insurance

C. 外来从业人员综合保险

C. Comprehensive insurance for foreign employees

D. 其他\_\_\_\_\_。

D. Others\_\_\_\_\_.

**第二十二条** 乙方患病或非因工负伤的医疗期及其病假工资和医疗待遇按照国家和上海市有关规定执行和甲方依法制定的规章执行。

Article 22 The medical treatment period for Party B's illness or non-work-related injury as well as the sick pay and medical treatment shall implement relevant provisions of the State and Shanghai and the rules and regulations made by Party A according to law.

**第二十三条** 乙方患职业病或因工负伤的待遇，均按国家、上海市有关法律、法规、规章、政策和甲方依法制定的规章执行。

Article 23 Party B shall have the right of benefit for occupation disease or work-related injury according to relevant laws, regulations, rules and policies of the State and Shanghai as well as the rules and regulations made by Party A according to law.

**第二十四条** 若因甲方的经济效益发生变化，其内部的各种福利待遇（不含国家规定甲方必须为乙方缴纳的社会保险金部分）也随之变化。

Article 24 If Party A's economic benefit changes, its various internal benefits (excluding the social insurance that shall be paid by Party A for Party B according to national provisions) shall also be changed accordingly.

## **第八章 劳动保护、劳动条件和职业危害防护**

## **Chapter VIII Labor Protection, Working Conditions and Protection against Occupational Hazards**

**第二十五条** 甲方建立健全生产工艺流程、操作规程、工作规范和劳动安全卫生制度及其标准。甲方对可能产生职业病危害的岗位，对乙方履行告知义务，并做好劳动过程中职业危害的预防工作，乙方应严格遵守相关操作流程与安全制度。

Article 25 Party A shall establish and perfect the production technology process, operating instruction, job specification and work safety and hygiene system and standard. Party A shall inform Party B about the position that may have occupational hazards and shall make the revention work for occupational hazards during the labor process. Party B shall strictly abide by relevant operating instruction and safety system.

**第二十六条** 甲方为乙方提供符合国家规定的劳动条件及安全卫生的工作环境，并依照企业生产经营特点及有关规定为乙方提供劳动防护用品，乙方应严格按要求穿戴劳防用品。

Article 26 Party A shall provide the labor conditions and safety and healthy working environments that can meet national provisions and shall provide labor protection articles for Party B according to the enterprise production and operation characteristics and relevant provisions. Party B shall wear the articles for labor protection strictly according to requirements.

**第二十七条** 甲方对乙方进行职业技术、安全卫生、规章制度等必要的教育与培训，乙方应认真参加甲方组织的各项必要的教育培训。

Article 27 Party A shall conduct neccessay education and training for Party B in occupational technology, safety and health and rules and regulations, etc. Party B shall carefully participate in various necessary educational training organized by Party A.

## **第九章 劳动合同的变更、解除和终止**

## **Chapter IX Change, Dissolution and Termination of the Labor Contract**

**第二十八条** 订立合同所依据的法律、行政法规、规章发生变化，合同应变更相关内容。

Article 28 Where the laws, administrative rules and regulations based on which the contract is established changes, the relevant contents in the Contract shall be changed accordingly.

**第二十九条** 订立合同所依据的客观情况发生重大变化，致使合同无法履行的，经协商同意，可以变更合同相关内容或解除。

Article 29 The objective economic circumstance, on which the labor contract is based, has altered significantly, and thus cause the Contract fails to be performed. Under this circumstance, relevant contents hereof can be changed or dissolved through negotiation

and consensus.

**第三十条** 乙方在试用期内被证明不符合甲方用人标准或录用条件的。

Article 30 Party B is proved to be unqualified for Party A's employment standards or conditions during the probation period.

**第三十一条** 乙方有下列情形之一的，甲方可立即解除合同，辞退乙方：

Article 31 In any one of the following circumstances, Party A can immediately terminate the Contract and dismiss Party B:

A. 因乙方未能在 30 天内提供其被录用的相关资料，致使甲方无法办理录用及社会保险缴纳手续的。

A. Where Party A fails to handle the employment and social insurance payment formalities due to Party B's failure in provision of relevant materials for its employment within 30 days;

B. 乙方被查**实在**应聘时向甲方提供的其个人资料是虚假的，包括但不限于：离职证明、身份证明、户籍证明、学历证明、体检证明等是虚假或伪造的；应聘前患有精神病、传染性疾病及其它严重影响工作的疾病而在应聘时未声明的；应聘前曾受到其它单位记过、留厂察看、开除或除名等严重处分、或者有吸毒等劣迹而在应聘时未声明的；应聘前曾被劳动教养、拘役或者依法追究刑事责任而在应聘时未声明的等。

B. Party B is found to provide false personal materials to Party A at the time of employment, including but not limited to false or forged employment separation certificate, identification certificate, household register certificate, education background certificate and physical examination certificate, etc; suffers from mental disease, infectious disease and other serious disease that may affect work before employment but fails to declare at the time of employment; suffers from such severe punishments as demerit recording, staying in factory for investigation, dismissal or removing sb's name from the rolls, etc by other companies before employment or has such notorious record as taking drugs, but fails to be declared at the time of employment; and is undergone education through labor, under criminal detention or investigated criminal liability according to law before employment but fails to be declared at the time of employment, etc.

C. 严重违反甲方的劳动纪律、员工手册或规章制度。

C. Seriously violate Party A's labor discipline, employee manual or regulatory systems.

D. 一年内无正当理由两次不服从合理的工作安排，经公司批评教育仍不服从的。

D. Fail to obey reasonable work arrangement twice within 1 year without justified cause and still to disobey through the company's criticism and education.

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|--|--|
| E. 严重失职、营私舞弊给甲方利益造成 5000 元（含）以上重大损害的。  | E. Cause significant damage with a sum above RMB5000 (including RMB5000) to Party A's interest due to gross neglect of duty and malpractice.   |
| F. 乙方是驾驶员的，因其自身原因，其营运服务的证、照被吊扣或失效 15 天（含）以上的或因乙方发生同等以上（含同等）行车（客伤）死亡事故或次责以上（含次责）特大行车（客伤）事故或物损三万元以上的，甲方可以随时解除合同。 | F. In the circumstance that Party B is a driver and its certificate for operation services is suspended or invalidated for more than 15 days (including 15 days) due to its own reasons; or Party B has equivalent (including equal) traffic (passenger injury) fatalities or heavy traffic (passenger) accidents with secondary responsibilities or above or has material damage with a sum above RMB30000, Party A can terminate the Contract at any time. |
| G. 乙方系特种作业人员的，因其自身原因违章作业或造成物损 5 千元以上事故的，除给予经济处罚或处分外，甲方还可以随时解除合同。   | G. In the circumstance that Party B is a special type operator and it works against job regulation or cause an accident with the material damage of above RMB5000 due to its own reasons, Party A can terminate the Contract at any time, except the economic punishment or discipline.  |
| H. 乙方同时与其他用人单位建立劳动关系，对完成甲方的工作任务造成严重影响达损失 5000 元以上的，或者经甲方提出，拒不改正的。  | H. Party B establishes the labor relationship with other employer at the same time and thus cause serious effect and losses of more than RMB5000 for completion of Party A's work task; or Party B fails to correct after being proposed by Party A.   |
| I. 乙方被依法追究刑事责任、劳动教养、公安机关收容教育的。   | I. Party B is investigated criminal liability according to law, undergone education through labor and is under detention education by the public security bureau.  |
| J. 乙方向甲方辞职或者经协商被甲方解除聘用的。   | J. Party B resigns from Party A or is relieved from employment by Party A through negotiation.   |
| K. 乙方以欺诈、胁迫的手段或者乘人之危，使甲方在违背真实意思的情况下订立或者变更合同的。  | K. Party B forces Party A to conclude or alter the employment contract against Party A's true will by means of deception, coercion or taking advantage of Party A's difficulties;  |
| L. 法律法规规定的其他情形。  | L. Other circumstances provided in laws or statutes.   |

**第三十二条** 乙方有下列情形之一的甲方可以解除合同，辞退乙方，但应提前三十日以书面形式通知乙方：

- A. 乙方患病或非因工负伤，医疗期满后不能从事原工作，也不能从事甲方另行安排的其它工作的。
- B. 乙方不能胜任本职工作，经过培训或者调整工作岗位后，仍不能胜任工作的，并拒不服从甲方的工作安排和劳动管理的。
- C. 甲方因兼并、分立、合资、转（改）制、企业转产、技术革新、经营方式调整、防治污染搬迁等客观情况发生重大变化或乙方的生产、工作岗位消失，致使合同无法履行的。
- D. 甲方的生产经营发生严重困难的。
- E. 依据合同第二十九条规定不能就变更合同达成协议的。

**第三十三条** 凡有下列情形之一的，乙方可以解除合同：

- A. 在试用期内提前三天以上向甲方提出辞职。
- B. 甲方违反合同规定，未足额及时支付乙方劳动报酬的。
- C. 甲方违反合同规定，未依法缴纳社会保险的。

Article 32 In one of the following circumstance, Party A can terminate the Contract and dismiss Party B. However, it shall inform Party B in written 30 days in advance.

- A. where Party B is unable to take up his original work or any new work arranged by the Party A after the completion of his medical treatment for illness or injury not suffered at work;
- B. where Party B is unqualified for his work and remains unqualified even after receiving a training or an adjustment to any other work post; and refuses to obey Party A's work arrangement and labor management.
- C. Party A's objective circumstances significantly changed due to merger, division, joint venture, conversion (restructuring), enterprise production change, technical improvement, business practice adjustment and removal of pollution prevention and control or Party B's production and work post disappear and thus cause non-performance of Contract;
- D. Party A faces serious difficulties in production and business operation.
- E. Agreement fails to be reached regarding change of contract according to the provisions of Article 29 hereof.

Article 33 In any one of the following circumstances, Party B can terminate the Contract:

- A. Submit the resignation to Party A for at least more than 3 days within the probation period;
- B. Party A violates the contract provisions and fails to timely pay Party B the labor remuneration timely in full.
- C. Party A violates the provisions hereof and fails to pay the social insurance according to law.

Ltd.

- |                                 |  |
|---------------------------------|--|
| D. 甲方违反合同规定, 未提供相应劳动保护和劳动条件的。   | D. Party A violates the contract provisions and fails to provide corresponding labor protection and working conditions.        |
| E. 甲方的规章制度违反法律、法规的规定, 损害劳动者权益的。 | E. Party A's rules and regulations violate the provisions of laws and regulations and damage the labor's rights and interests. |
| F. 甲方强令冒险作业、违章指挥强迫乙方劳动的。        | F. Party A compels Party B to work at risk and force Party B to work through illegal command.                                  |
| G. 乙方提前三十天向甲方提出辞职。              | G. Party B submits the resignation to Party A 30 days in advance.  |

**第三十四条** 乙方有下列情形之一的, 甲方不得依照合同第二十九条的规定解除合同:

Article 34 In one of the following circumstances, Party A shall not terminate the Contract according to the provisions of Article 29 hereof:

- |  |   |
|--|---|
| A. 从事接触职业病危害作业的劳动者未进行离岗前职业健康检查, 或者疑似职业病患者在诊断或者医学观察期间的。 | A. Any worker that conducts operations exposing him to occupational disease hazards has not gone through an occupational health check before leaving his post, or is suspected of having an occupational disease and is under diagnoses or medical observation; |
| B. 在本单位患职业病或者因工负伤并被确认丧失或者部分丧失劳动能力的。                    | B. To be confirmed to have totally or partially lost the ability to work due to occupational diseases or injuries suffered at work in the Company;  |
| C. 患病或者非因工负伤, 在规定的医疗期内的。                               | C. to be receiving medical treatment for diseases or injuries within the prescribed period of time;   |
| D. 女职工在孕期、产期、哺乳期内的。                                    | D. to be a female staff member or worker during pregnant, puerperal, or breast-feeding period;  |
| E. 在本单位连续工作满十五年, 且距法定退休年龄不足五年的。                        | E. Has been working for the Employer continuously for not less than 15 years and is less than 5 years away from his legal retirement age  |
| F. 法律法规规定的其他情形。  | F. Other circumstances as prescribed by laws or administrative regulations.   |

**第三十五条** 甲方濒临破产进行法定整顿期间或者生产经营发生严重困难, 经向工会或

Article 35 If Party A faces bankruptcy during the statutory streamlining period or the serious difficulties

者全体职工说明情况，听取工会或者职工的意见，并向劳动行政部门报告后，可以解除本合同。

in production and business operation, it shall specify the situation to the trade union or all the staff and listen to the opinions thereof. After being reported to labour administration department, Party A can terminate the Contract.

**第三十六条** 有下列情形之一的，合同自行终止：

Article 36 In any one of the following circumstances, the Contract can automatically terminate:

- A. 合同期满且双方不能就相同劳动条件的续签达成一致的。
- B. 当事人约定的终止条件出现，如已确认乙方完成了某一项工作任务的。
- C. 甲方破产、解散、被吊销营业执照、责令关闭或者被撤销的。
- D. 乙方享受基本养老保险待遇、退休、宣告失踪、宣告死亡的。
- E. 乙方暂时无法履行合同的义务，但仍有继续履行条件和可能的，包括但不限于乙方涉嫌违法犯罪，被公安、国家安全或者司法机关限制人身自由的、乙方因非公司派遣的脱产学习与进修、执行有关部门的公益性任务等原因而不能正常履行本合同超过 15 天的。
- F. 乙方应征入伍或者履行国家规定的其他法定义务的。
- G. 法律法规规定的其他情形。

A. The Contract expires and both parties fail to reach consensus regarding renewal of the same working conditions.

B. The terminal conditions agreed by the parties occur, for example, Party B is confirmed to have completed some work task.

C. Party A goes bankruptcy, be dissolved, be revoked the business license; be ordered to close down or reversed.

D. Party B enjoys enjoy the basic old-age insurance treatments, is retired, is declared loss or death.

E. Party B fails to temporarily perform the contract obligations, but with the condition and possibility of further performance, including but not limited to that as Party B is alleged illegal crime; Party B is limited the personal freedom by the public security bureau, national security or judicial organs and Party B fails to normally perform the Contract for more than 15 days due to such reasons as off-job learning and further education not arranged by the Company and implementation of the public welfare task of relevant departments, etc.

F. Party B is drafted into army or perform other legal liability provided by the State.

G. Other circumstances as prescribed by laws or administrative regulations.

**第三十七条** 合同期满或者当事人约定的合同终止条件出现，乙方有合同第三十四条所规定情形之一的，同时不属于三十一条约定的，合同顺延至相应情形消失。

Article 37 The Contract expires or the contract termination condition agreed by the parties occur; and Party B has any one of the circumstances provided in Article 34 hereof, but not belong to the provisions of

Article 31; the Contract shall be postponed to disappear of corresponding circumstances.

## 第十章 经济补偿与赔偿

## Chapter X Economic Compensation and Indemnity

**第三十八条** 乙方未提前三十天向甲方提出辞职或有其他擅自离职情形的,将在乙方办完工作交接后支付乙方的应发工资。

Article 38 Where Party B fails to submit the resignation to Party A 30 days in advance or has other unauthorized departure, Party A shall pay Party B the salary payable after Party B complete handing over of the work.

**第三十九条** 除按合同三十一规定解除合同之外的,凡属劳动合同法规定应给予经济补偿金的,甲方应按法律规定的标准支付经济补偿金给乙方。

Article 39 Except termination of contract according to the provisions of Article 31 hereof, Party A shall pay the economic compensation to Party B as per the standards provided by law if the labor contract law provides that it shall give the economic compensation to Party B.

**第四十条** 乙方欠付甲方任何款项,或者乙方违反合同约定的条件解除劳动合同,给甲方造成任何经济损失,依照法律法规约定和合同约定应承担赔偿责任的,甲方有权从乙方的工资、奖金及津贴、补贴等(包括并不限于此)中做相应的扣除,但该扣除不得违反法律法规的规定,不够扣除的,甲方仍然有权就剩余部分向乙方追偿。

Article 40 Where Party B owes any amount to Party A; or Party B violates the conditions agreed herein and terminate the labor contract and thus cause any economic losses to Party A; and it shall bear the liability for compensation according to laws and regulations and the provisions hereof; Party A is entitled to conduct corresponding deductions from Party B's salary, bonus and allowances as well as subsidy, etc (including but not limited to this). However, such deductions shall not violate the provisions of laws and regulations. Where such amount is not enough for deductions, Party A is still entitled to recover the outstanding part from Party B.

## 第十一章 培训服务期与竞业限制

## Chapter XI. Training Service Period and Non-competition

**第四十一条** 乙方在合同期间接受甲方提供的出资专项技术培训,双方可签订《培训/教育协议》,约定具体服务期、赔偿标准并执行。约定服务期的,乙方若违反本条约定提前解除合同的,应偿付甲方培训费用,对已履行部份服务期的,按照服务期尚未履行部分所应分摊的培训费用偿付。

Article 41 Party B accepts the capital specific technology training provided by Party A during the contract period. Both parties can conclude the Training/Education Agreement agreeing the specific service period and compensation standard and then implement such agreement. If Party B violates the provisions hereof and terminates the Contract ahead of the service period agreed herein, it shall pay the training expenses to Party A. If part of the service period has been performed, Party B shall pay the training expenses shared for the non-performing parts

during the service period.

**第四十二条** 乙方应当保守甲方的商业秘密，商业秘密系指不为公众所知悉，能为甲方带来经济利益，具有实用性并经甲方采取保密措施的技术秘密和经营信息。包括但不限于下述内容：

- A. 技术信息。技术信息的范围一般包括技术方案、工程设计、电路设计、制造方法、配方、工艺流程、技术指标、计算机软件、数据库、试验结果、图纸、样品样机、模型模具、操作手册、技术文档、涉及商业秘密的业务函电等等。
- B. 经营信息。经营信息的范围一般包括客户名单、营销计划、采购资料、定价政策、不公开的财务资源、劳动报酬、进货渠道、产销政策、招投标中的标的及标书内容等。
- C. 公司依照法律规定和有关协议约定对外应承担保密义务的事项等。

Article 42 Party B shall keep Party A's business secret confidential. Business secrets means the technical secrets and the business information that are not known to the public; can bring economic benefits for Party A; has the practicability and has been taken the confidential measures by Party A. including but not limited to the following contents:

- A. Technical information. The scope of technical information generally includes technical proposal, engineering design, circuit design, manufacturing methods, formula, technology process, technical indicator, computer software, database, testing results, drawings, mockup and sample, model and mould, operation manual, technical documents and the business correspondence involving the business secrets, etc.
- B. Business information. The scope of business generally includes the customer list, marketing plan, purchasing materials, pricing policy and private financial resources, labor remuneration, inbound channel, production and marketing policy and subject matter and contents of bidding documents in the tender, etc.
- C. The matters that shall be borne with the confidential obligations, etc for the outside according to legal provisions and the provisions of relevant agreements.

**第四十三条** 乙方的竞业限制期限自\_\_\_\_年\_\_\_\_月\_\_\_\_日起至\_\_\_\_年\_\_\_\_月\_\_\_\_日。竞业限制的范围为\_\_\_\_，地域为\_\_\_\_。在竞业限制期间甲方给予乙方一定经济补偿，具体标准为\_\_\_\_，支付方式为\_\_\_\_。若乙方违反第四十一条规定的，应支付违约金\_\_\_\_元人民币。如果违约金不足以弥补甲方所受的实际损失的，甲方保留向乙方追偿实际损失的权利。

Article 43 Party B's non-competition period shall be from \_\_\_\_\_(dd/mm/yy) to \_\_\_\_\_(dd/mm/yy). The scope of non-competition shall be \_\_\_\_\_ in the territory of \_\_\_\_\_. During the non-competition period, Party A shall give certain economic compensation to Party B with the specific standard of \_\_\_\_\_ and the means of payment in \_\_\_\_\_. If Party B violates the provisions of Article 41, it shall pay the penal sum in the amount of RMB\_\_\_\_\_. If the penal sum is not enough to cover the actual losses that are suffered by Party A, Party A shall reserve the right to recover such actual losses

from Party B.

## 第十二章 劳动争议处理

## Chapter XII. Settlement of Labor Disputes

**第四十四条** 甲、乙双方因履行合同而发生的劳动争议，甲乙双方应当协商解决。经协商不能达成一致的，争议方可以向甲方所在地的劳动争议仲裁委员会申请仲裁，对仲裁不服的，可自收到仲裁裁决书之日起 15 日内，向甲方所在地的人民法院提起诉讼。

**Article 44** The labor disputes occurred due to performance of the contract between both parties shall be settled by both parties through negotiation; failing which, the Controversial Party can apply for arbitration before the labor dispute arbitration committee where Party A has its domicile for arbitration. If unsatisfied with the arbitration, the unsatisfying party can file an action before the people's court where Party A has its domicile within 15 days as of the day of receipt of the Arbitration Award.

## 第十三章 其他规定

## Chapter Other provisions

**第四十五条** 甲方的规章制度（包括但不限于员工手册、职位说明书、岗位技能表、培训协议、保密协议、安全准则等）均属合同的主要附件，其效力与合同条款同等。

**Article 45** Party A's rules and regulations (including but not limited to the employee manual, position description, job qualification sheet, training agreement, confidential agreement and safety criterion, etc) shall constitute the main attachments hereto bearing equal effect with the articles hereof, etc.

**第四十六条** 合同如与法律、法规相抵触的，或者因法律、法规的变更而不一致的，以现行有效的法律、法规为准。合同未尽事宜，双方另有约定的，从约定；双方没有约定的从法律、法规和规章制度。

**Article 46** If the Contract is inconsistent with the laws and regulations or inconsistent due to change of laws and regulations, the current effective laws and regulations shall prevail. Any matters not included herein shall be agreed by both parties; failing which, such matters shall subject to the laws, rules and regulatory systems.

**第四十七条** 合同生效前双方签订的任何《劳动合同》自合同签订之日起自动失效，其他之前签订的相关协议文本（包括但不限于《保密协议》、《培训协议》、《竞业限制协议》的规定与合同不一致的，以合同为准。

**Article 47** Any Labor Contract concluded by both parties before effectiveness of the Contract shall automatically invalidate as of the day of signature hereof. Where provisions of relevant agreement concluded (including but not limited to the Confidential Agreement, Training Agreement and Non-competition Agreement) before is inconsistent with the Contract, the Contract shall prevail.

**第四十八条** 甲乙双方同意在本合同执行过程中，双方可以采取以下方式向对方发出通知，并视为送达：

**Article 48** Both Party A and Party B agree that during the contract implementation process, both parties can take the following way to send each other a notice which shall be deemed as service:

A. 若为专人派送（包括特快专递方式派

A. If sent through courier on board (including

送)，以收件之日期为准。如乙方地址变更必须及时通知甲方，否则甲方发送达至乙方登记地址后即为通知生效；

sending through express mail service), the date of receipt shall prevail. If Party B's address changes, it shall timely inform Party A. Otherwise, the notice shall be deemed as effective after it is sent by Party A to Party B's registered address.

B. 以挂号邮件递送时，按邮局出具收据之日起十个工作日为准；

B. If sent in registered mail, the notice shall be deemed as being served 10 working days as of the date of issuance of receipt by the post office.

C. 以电子邮件方式传送时，应以接手人收到邮件后系统显示的时间为准；

C. If sent in email, the notice shall be deemed as being served at the time shown in the system after the undertaker receiving the email.

**第四十九条** 乙方同意，在其处于联系障碍状态（包括但不限于乙方因病住院、丧失人身自由等情形）时，委托合同首部的“紧急状态联系人”作为乙方的受委托人，该受委托人享有接受和解与调解，代领、签收相关文书的权限。

Article 49 Party B agrees that when it is in a state of contact obstacles (including but not limited to Party B's hospitalization due to illness and loss of personal freedom, etc), it entrust the "emergency contact" in the forefront of the Contract as the trustee of Party B who shall enjoy the right of acceptance of reconciliation and mediation as well as collection and signature of relevant documents.

**第五十条** 甲、乙双方另行约定条款：

Article 50 Both Party A and Party B agrees additionally that;

A. \_\_\_\_\_。  
B. \_\_\_\_\_。  
C. \_\_\_\_\_。

A. \_\_\_\_\_。  
B. \_\_\_\_\_。  
C. \_\_\_\_\_。

**第五十一条** 合同一式两份，甲方执一份，乙方执一份，经双方签字（或盖章）后生效。

Article 51 The Contract is made in duplicate with Party A and Party B each holding one original. The Contract shall take effect after being signed (or stamped) by both parties.

甲方：（签字盖章）  
乙方：（签字或盖章）

**Party A: (Signature or Seal)**  
**Party B: (Signature or Seal):**

签订日期：            签订日期：

**Date of Conclusion:            Date of Conclusion:**

签订地点：            签订地点：

**Place of Conclusion:            Place of Conclusion:**

劳 动 合 同 变 更 书

**Change of Labor Contract**

经甲乙双方平等自愿、协商同意，对本合同作以下变更：

**Both Party A and Party B make the following changes to the Contract on the basis of equality, voluntariness, negotiation and consensus.**

甲方（盖章）

乙方（签字或盖章）

Party A (Seal)

Party B (Signature or Seal)

年 月 日

年 月 日

Date:

Date: