

# 国际商务合同 模板手册

凌芳 编著

买卖与销售

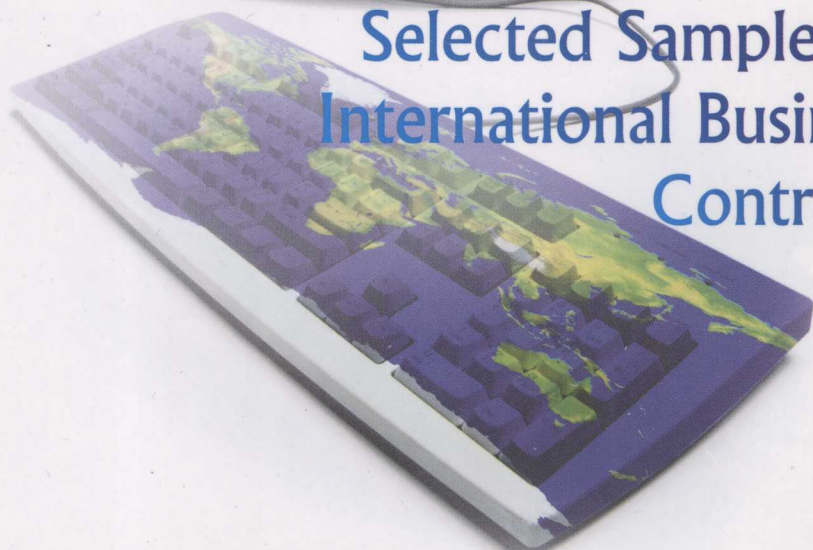
代理和经销

投资与合作

知识产权与技术



Selected Samples of  
International Business  
Contracts



廣東省出版集團  
廣東人民出版社

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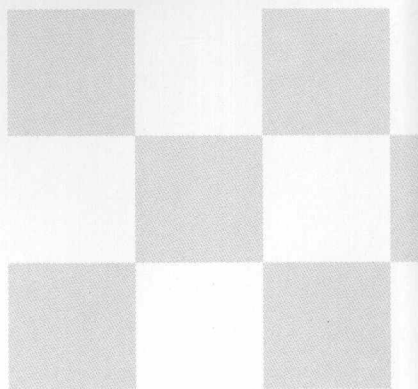
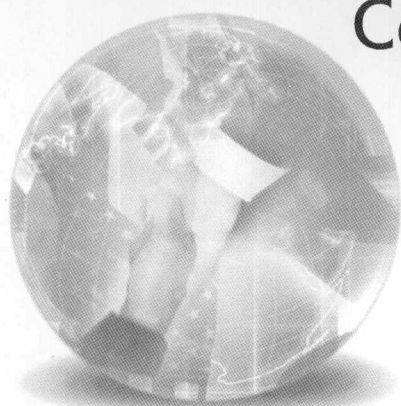
# Selected Samples of International Business Contracts

买卖与销售

代理和经销

投资与合作

知识产权与技术





## 前言

21 世纪全球经济一体化与社会信息化给我们带来了巨大的挑战和机遇。随着改革开放的不断深入,尤其是加入 WTO 后,中国企业对国际商务人才的需求量也日益增长。

近几年来,商业英语方面的书籍品种繁多,让人眼花缭乱。为了使读者能迅速、准确地掌握国际商务交往中的必备知识,我们编著了这本《国际商务合同模板手册》供读者使用。

本书主要具有以下几个特点:

◎ 实用性强。本书以实用性为准则,以读者在实践中能学以致用为目的,联系我国实际情况,系统地精选出数十篇各类商务合同实例,在精心讲解其中实用短语的同时,给出范例以供理解,让读者更好地掌握其内容。本书中所有的合同中英对照,并就本类型合同的注意事项给出提示,务必使读者方便实用。

◎ 内容详尽,涉及面广。本书从商贸工作中挑选出大量常用的合同实例,可满足不同层次、不同背景读者的需要。

◎ 章节划分合理。本书按合同的范围来划分章节,系统地讲述了有关雇佣、代理和经销、买卖与销售、不动产及租赁、投资与合作、知识技术产权、金融担保、公司管理等各种常用的合同,不仅有利于不同读者对相关合同的查询,更方便读者选择性地学习和查询。

本书以系统、实用为特色,内容精辟,语言简练、通俗易懂,方便查阅,可供大专院校和有关企业的实用培训使用,同时也适用于想了解 and 增强对外业务联系和交流能力的社会读者。在本书的写作过程中,作者参阅了大量近年国内外出版的与商务英语相关的专业书籍,再此,谨向有关作者致以真诚的谢意。

由于时间仓促,水平有限,书中如有谬误和疏漏,真诚希望读者批评指正。

编者

2007 年 10 月





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# 第一章 雇 佣



西方将设立劳动关系的合同称为 Agreement/ Contract for Employment 或 Employment Agreement/Contract (“雇佣合同/协议”), 劳动关系当事人分别称为 “employer” (“雇主”) “employee” (“雇员”)。我国将设立劳动关系的合同称为 “劳动合同”, 英文为 Labor Contract。劳动关系当事人双方称为 “用人单位” (employer) 和 “劳动者” (worker)。社会生活中, 劳动合同是与人们最息息相关的合同之一。在我国, 劳动与社会保障部和各地劳动与社会保障局的制式劳动合同广为使用。在三资企业集中的地方还使用当地劳动管理部门制定的外商投资企业劳动合同。国内劳动合同一般由合同当事人 (parties to the contract)、合同期限 (term of contract)、工作内容 (job descriptions)、劳动报酬 (remuneration)、工作时间与休息休假 (working hours, rest and leave)、福利与保险 (welfare and insurance)、劳动保护与劳动条件 (labor protection and labor conditions)、劳动纪律 (disciplines)、合同变更 (alteration and modification)、合同终止 (termination)、合同续定 (renewal)、合同解除 (rescission)、违约责任 (default)、其他约定 (other provisions)、劳动争议处理 (settlement of labor disputes)、劳动合同鉴定 (certification of labor contract) 等条款组成。



## 一、关于雇员发明的协议 (Employee Invention Agreement)



### Employee Invention Agreement

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which being hereby acknowledged, and **in consideration of** the undersigned being employed by \_\_\_\_\_ (the Company), the undersigned hereby agrees, acknowledges and represents as follows:

1. That the undersigned, during the course of employment, shall promptly disclose in writing to the company all inventions, discoveries, improvements, developments and innovations whether patentable or not, conceived in whole or in part by the undersigned or through assistance of the undersigned, and whether conceived or developed during working hours or not, which:

a) Result from any work performed on behalf of Company, or pursuant to a suggested research project by the Company, or

b) Relate **in any manner** to the existing or contemplated business of the Company, or

c) Result from the use of the Company's time, material, employees or facilities.

2. The undersigned hereby **assigns to** the Company, its successors and assigns, all of the right, title and interest to the said inventions.

3. The undersigned shall, **as requested**, execute specific assignments to any such invention and execute, acknowledge, and deliver any additional documents required to obtain letters patent in any jurisdiction and shall, at the Company's request and expenses, assist in the defense and prosecution of such letters patent or other registrations as may be required by the Company. This provision shall survive any termination of employment with the Company.

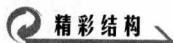
Dated \_\_\_\_\_ (day) \_\_\_\_\_ (month), \_\_\_\_\_ (year).

IN WITNESS WHEREOF I have hereunto set my hand and seal on the day and year first above written.

(SIGNED, SEALED AND DELIVERED)

In the presence of : \_\_\_\_\_

WITNESS: \_\_\_\_\_



精彩结构

◎ **in consideration of** 考虑到



We will not ship the goods in consideration of the absence of definite instructions from our clients.

考虑到没有得到我们顾客的明确指示，我们将不会运货。

◎ **in any manner** 以任何形式

Neither of the parties hereto shall at any time during the continuance hereof deal with any of the shares of the Joint Company owned by the said party whether by sale, pledge, gift or otherwise in any manner inconsistent with the carrying out of its obligations hereunder.

本合同任何一方都不得在本合同有效期间采用出售、抵押、赠送或其他与履行本合同规定的义务不一致的方式，处理其拥有的合营公司的任何股份。

◎ **assign to** 指定（把时间、地点等），分配，（把财产、权利等）让与

The two governments assigned a day for the next negotiation.

两国政府确定了下一轮谈判的日期。

◎ **as requested** 按照要求

As requested, we enclose a range of pamphlets together with our price lists for your reference.

按照要求，我们附上一套小册子连同价格单，以供考虑。

**中文版**

**关于雇员发明的协议**

从善意及价值考虑，在此确认协议的签署。鉴于本协议签署人已被\_\_\_\_\_（公司名）雇用，所有签署人同意、认可并且声明如下：

1. 在雇佣期内，本协议的签署人应该及时书面汇报所取得的所有发明、发现、改良、发展和技术革新成果，而不论这些成果能否取得专利，全部还是部分由员工做出，或仅是在签署员工的帮助下做出，或者是否是在工作时间内做出。这些成果只需要满足如下条件：

- a) 这些成果是在与公司有关的工作中或是由公司所建议的研究项目中得出的，或
- b) 这些成果以任何形式与公司现存或者未来的业务有关，或
- c) 这些成果的取得占用了公司的工作时间、原材料、人力和设施。

2. 本协议签署后，签署人便已将该发明的所有权利、名称和收益让渡给公司或者公司的继承者和转让者所有。

3. 本协议的签署人有义务按公司要求完成对任何该类发明的某一具体工作，并且有义务为该发明获得任何形式的专利而起草、确认和递交各类附加司法材料。同时，也有义务应公司要求协助申请和保护该发明的专利权和本公司所要求的其他注册权利（费用由公司支付）。本协议的规定在员工离职后仍然有效。

本协议生效日期：\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日

在见证下，本人在前述签署日期签字并盖章。

（签字、盖章并交付）

到场人员：\_\_\_\_\_

见证人：\_\_\_\_\_



## 雇员发明法

又称“职务发明法”。国际上尚无统一的立法，一般由各国独自确定调整发明人与雇主之间的权利义务关系的制度。在中国，职务发明是指执行本单位的任务或者主要是利用本单位的物质条件所完成的发明创造。执行本单位的任务所作出的发明创造包括：1. 在本职工作中做出的发明创造；2. 履行本单位支付的本职工作之外的任务所做出的发明创造；3. 退休、退休或者调动工作后一年内做出的，与其在原单位承担的本职工作或者分配的任务有关的发明创造。利用本单位的物质条件是指利用本单位的资金、设备、零部件、原材料、或者不向外公开的技术资料等。凡职务发明的专利申请权由单位享有，申请被批准后，专利权归单位所有或持有。发明人或设计人不享有专利权，但可以在专利证书上享有发明人或设计人的署名权。专利权所有单位或持有单位应当对职务发明人或设计人给予奖励；专利实施后，应当根据其推广应用的范围和取得的经济效益，对职务发明人或设计人给予奖励。

## 二、员工竞业禁止协议

### (Employee Non-solicitation Agreement)



English  
Version

#### Employee Non-solicitation Agreement

This Non-Solicitation Agreement dated \_\_\_\_\_ (Date) is made between \_\_\_\_\_ (Employee) and \_\_\_\_\_ (Company) whereas \_\_\_\_\_ (Company) has offered to employ \_\_\_\_\_ (Employee) in its \_\_\_\_\_ (Location) office; and whereas \_\_\_\_\_ (Company) will be revealing to employee existing pricing structures to customers, marketing strategies, overall pricing and service strategies for new business and existing business, and putting employee **in contact with** \_\_\_\_\_ (Company) 's existing customers in order to develop \_\_\_\_\_ (Company) 's goodwill and customer relations so that the employee can **promote** \_\_\_\_\_ (Company) 's **interests and objectives**; now therefore in consideration of the **mutual benefits** and premises made herein, the hiring of the employee by \_\_\_\_\_ (Company), as well as the salary paid from time to time for the employee's services, \_\_\_\_\_ (Company) and the employee agree with each other as follows:

The employee understands that \_\_\_\_\_ (Company) is a profit corporation which must work in a competitive environment and is entitled to limit reasonably an employee's unfair competition following the end of the employee's employment. As a result, the employee agrees as follows:

Employee agrees that for a period of \_\_\_\_\_ months after resignation or



termination with or without cause that he/she will not directly or indirectly solicit business from any client or customer of \_\_\_\_\_ (Company), whether potential or otherwise, with whom he/she had dealings during his/her employment with \_\_\_\_\_ (Company);

The employee agrees that for a period of \_\_\_\_\_ months after resignation or termination with or without cause that he/she will not directly or indirectly entice, encourage or otherwise ask current \_\_\_\_\_ (Company) employees to leave their current employment to work with or for another business that competes with \_\_\_\_\_ (Company);

Employee agrees that for a period of \_\_\_\_\_ months after resignation or termination of employment with or without cause that he/she will not be employed or associated with any competitive business or enterprise which has a former employee of \_\_\_\_\_ (Company) who **is subject to** a similar restriction which has not expired where he/she being so employed or associated with that person may cause substantial damage to the business interests of \_\_\_\_\_ (Company). This clause does not prevent the employee from working with a competitor of \_\_\_\_\_ (Company) except in the circumstances described.

The employee acknowledges and confirms the scope of this undertaking in respect of its area, time and subject matter is no more than what is reasonably required to protect \_\_\_\_\_ (Company); and

This agreement in no way relieves the employee of any fiduciary obligations the employee owes to \_\_\_\_\_ (Company).

This agreement shall be governed by the laws of \_\_\_\_\_ (city/ province) and the laws of \_\_\_\_\_ (country) applicable therein.

Any claim or dispute arising out of or related to this agreement or its interpretation shall be brought in a court of competent jurisdiction sitting within the Province of \_\_\_\_\_.

The employee acknowledges that he/she has been invited to obtain independent legal advice as to the terms of this agreement.

The terms of this agreement are severable. The invalidity of one clause does not invalidate the agreement.

Employee \_\_\_\_\_

date: \_\_\_\_\_

Company \_\_\_\_\_

date: \_\_\_\_\_

## 精彩结构

### ◎ in contact with 与……有联系

The Seller shall keep in close contact with the agent or the Buyer.  
卖方应与买方的运输代理或买方保持密切联系。





◎ promote 促进

Nowadays, Valentine's Day has become a good chance for stores to promote the sales of their goods.

情人节现在成了商店推销商品的好时机。

◎ mutual benefits 共同的利益

Both countries are bound by traditional economic and trade ties based on equality and mutual benefit.

建立在平等互利基础上的两国传统经贸关系把我们联系在一起。

◎ be subject to 服从于

The schedule is subject to change without notice.

时间表随时可能改变，不另行通知。

中文版

员工竞业禁止协议

本协议由\_\_\_\_\_（员工）和\_\_\_\_\_（公司）于\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日签署。鉴于公司将向员工透露现有客户的定价结构、市场策略、以及对新业务和现有业务的所有价格和服务战略，使员工和公司现有的客户建立联系，以便扩大公司的声誉和拓展客户关系，从而有助于实现公司的利益和目标；因此，考虑到双方的利益和公司员工的聘用以及薪金的支付等前提条件，公司和员工一致同意如下：

员工了解公司是在竞争环境中生存的营利性企业，公司有权合理限制员工在受雇期间的不正当的竞争行为。基于此，员工同意如下：

无论有无原因，员工同意在辞职或与公司终止合同后\_\_\_\_\_个月（竞业禁止期间）内，不直接或间接从公司的客户处获取业务，不论是潜在的业务与否，也不论在其受雇于公司期间与何人交易；

无论有无原因，员工同意在辞职或与公司终止合同后\_\_\_\_\_个月（竞业禁止期间）内，不直接或间接诱使、鼓励或以其他方式要求公司现任员工离开公司与公司的竞争对手合作，或为竞争对手工作；

无论有无原因，员工同意在辞职或与公司终止合同后\_\_\_\_\_个月（竞业禁止期间）内，不直接或间接为下述雇主工作：任何公司的竞争对手；或任何雇佣了公司的前雇员，且该雇员同样受本协议有效期间的限制，如果受雇于该家公司或与该前雇员合作可能会给公司的商业利益带来严重损害。除上述情况，本条款不限制员工为公司的竞争对手工作。

员工承认并确定与本协议所作承诺相关的范围、期间和内容仅为合理保护公司之目的；和无论如何，本协议不能免除员工对公司负有的诚信义务。

本协议应遵守\_\_\_\_\_（国家）或该国\_\_\_\_\_省现行法律的规定。因本协议或其解释引起的、或与本协议及其解释有关的任何索赔或争议应提交\_\_\_\_\_省法院解决。

员工在此承认他/她有权就本协议之条款取得任何独立的法律意见，公司对此表示欢迎。

本协议之条款可以分割。本协议任何一款无效不影响整个协议的效力。

员工：\_\_\_\_\_ 公司：\_\_\_\_\_

日期：\_\_\_\_\_ 日期：\_\_\_\_\_



## 竞业禁止

竞业禁止也称竞业限制。它的主要内容是指公司的职员（尤其是高级职员）在其任职期间不得兼职于竞争公司或兼营竞争性业务，在其离职后的特定时期和地区内也不得从业于竞争公司或进行竞争性营业活动。

竞业禁止的真正目的是为了保护商业秘密，维护企业的经营利益。因此从主体上讲，竞业禁止的对象应该是接触、知悉、掌握商业秘密的员工，通常指企业的高级技术人员、高级管理人员、关键岗位的技术工人、市场计划与营销人员等。

为了有效保护双方的利益，企业与员工签订竞业禁止合同应遵循三条原则：第一，竞业禁止只能是限制员工的择业权，而不能是剥夺其就业权；第二，企业在限制员工的择业权时应给予劳动者合理的补偿；第三，竞业禁止上限为2年。

## 三、员工保密协议 (Employee Non-disclosure Agreement)



English  
Version

### Employee Non-disclosure Agreement

FOR GOOD CONSIDERATION, and in consideration of being employed by \_\_\_\_\_ (Company), the undersigned employee hereby agrees and acknowledges:

1. That during the course of my employ there may be disclosed to me certain trade secrets of the Company; said trade secrets consisting but not necessarily limited to:

a) Technical information: Methods, processes, formulae, compositions, systems, techniques, inventions, machines, computer programs and research projects.

b) Business information: Customer lists, pricing data, sources of supply, financial data and marketing, production, or merchandising systems or plans.

2. I agree that I shall not during, or at any time after the termination of my employment with the Company, use for myself or others, or **disclose or divulge to** others including future employees, any trade secrets, confidential information, or any other proprietary data of the Company **in violation of** this agreement.

3. That upon the termination of my employment from the Company:

a) I shall return to the Company all documents and property of the Company, including but not necessarily limited to: drawings, blueprints, reports, manuals, correspondence, customer lists, computer programs, and all other materials and all copies thereof relating in any way to the Company's



business, or in any way obtained by me during the course of employ. I further agree that I shall not retain copies, notes or abstracts of the foregoing.

b) The Company may notify any future or prospective employer or third party of the existence of this agreement, and shall be entitled to full injunctive relief for any breach.

c) This agreement shall be binding upon me and my personal representatives and successors in interest, and shall **inure to** the benefit of the Company, its successors and assigns.

Signed this on the date of \_\_\_\_\_

Employee \_\_\_\_\_ Company \_\_\_\_\_

### 精彩结构

#### ◎ disclose/ divulge to 泄漏

The director disclosed to the reporter that the two countries had met together secretly several times before they arrived at the peaceful agreement.

主管向记者透露，这两个国家在达成和平协议前已经秘密接触多次了。

#### ◎ in violation of 违背，妨碍

Banks are prohibited from putting funds in the stock market in violation of regulations.

银行资金被禁止违规流入股市。

#### ◎ inure to 有助于

The agreement inures to the benefit of the employees.

这协定对雇员的权益有利。

### 中文版

#### 员工保密协议

鉴于互相理解、自愿和责任上的考虑，并鉴于被（公司）雇佣，我（签署本协议的员工）在此同意并承认：

1. 在我受雇期间可能知晓公司的有关商业秘密，上述商业秘密包括但不限于：

a) 技术信息：方法、程序、公式、成分、系统、技巧、发明、设计、计算机程序和研究项目。

b) 商业信息：客户名单、价格资料、供应来源、财务数据和市场、生产或销售体系或计划。

2. 我同意在我受雇期间，或与公司终止雇佣关系后的任何时间，不得违背本协议的规定，将任何商业秘密、保密信息、或其他公司所有的资料为自己或他人使用，或披露给他人包括公司将来的雇员。

3. 一旦我终止与公司的雇佣关系：

a) 我应当归还所有公司所有的文件和财产，包括但不限于：图纸、设计图、报告、手册、信件、客户名单、计算机程序和任何与公司业务有关的，或在雇佣期间取得的所有其他



材料及复印件。此外，我同意我不得保留上述资料的复印件、笔记或摘录。

b) 公司可以通知任何将来的或潜在的雇员或第三方本协议的存在，并有权全部免除任何违约行为的禁止令。

c) 本协议对我及我的代表和利益继承人有效，并对公司及其继承人、受让人有效。

本协议签署于（年 月 日）

雇员\_\_\_\_\_ 公司\_\_\_\_\_



### 忠实的义务

一般认为受雇人对雇佣人具有依附性，受雇人必须遵从雇佣人的命令与指挥，因此也就在合同上产生了受雇人忠于雇佣人的义务。受雇人不能在为雇佣人提供劳务的同时，又为与雇佣人具有经济竞争关系的第三人服务，这是有违忠实性义务的，此时雇佣人可解除合同关系；另外，因雇佣人指挥不当造成损失的，受雇人不承担赔偿责任；如果受雇人明知雇佣人决策不当会造成损失而不告知雇佣人，则受雇人也要承担相应赔偿责任；如果受雇人遵照执行违法命令的，受雇人与雇佣人都要承担违法责任。

## 四、商业顾问协议 (Business Consultant Agreement)



### Business Consultant Agreement

This agreement dated \_\_\_\_\_ is made by and between \_\_\_\_\_, whose address is \_\_\_\_\_, referred to as "Company", and \_\_\_\_\_, whose address is \_\_\_\_\_, referred to as "Consultant".

1. Consultation Services. The company hereby employs the consultant to perform the following services **in accordance with** the terms and conditions set forth in this agreement: The consultant will **consult with** the officers and employees of the company concerning matters relating to the management and organization of the company, their financial policies, the terms and conditions of employment, and generally any matter arising out of the business affairs of the company.

2. Terms of Agreement. This agreement will begin \_\_\_\_\_ and will end \_\_\_\_\_. Either party may cancel this agreement on thirty (30) days notice to the other party in writing, by certified mail or personal delivery.

3. Time Devoted by Consultant. It is anticipated the consultant will spend approximately \_\_\_\_\_ in **fulfilling its obligations** under this contract. The particular amount of time may vary from day to day or week to week. However,