Contract No. ／合同编号：

|  |
| --- |
| **说明：**为做好中方用人单位聘用外国专家依法合规在华工作，中国国际人才交流中心请有关商法领域专家律师编制《聘用合同》参考样本，供有关单位与外国专家签订劳动合同时参考，各单位可根据实际情况对该样本合同相关条款内容进行相应调整。 **本合同样本仅供参考。** |

**[NAME OF THE EMPLOYER]**

［聘用方名称］

AND

及

**[NAME OF THE EMPLOYEE]**

［雇员名称］

**EMPLOYMENT CONTRACT**

聘用合同

**Employment Contract**

聘用合同

This Employment Contract (this "Contract") made and effective in City, Province, the PRC as of the day of , 20 , is entered into between:

本聘用合同（下称“本合同”) 由以下双方于20\_\_\_年\_\_\_月\_\_\_日在中国\_\_\_\_省\_\_\_\_市签订并生效：

1. (the "Employer"); and

（下称“聘用方”) ；与

1. ­ ，a citizen of ­with passport no. (the "Employee", the Employer and the Employee individually referred to as one "Party" and collectively as the "Parties"),

­ ， ­ 国/地区公民，护照号码为 ­ （下称“雇员”,“ 聘用方”和“雇员”单独称为“一方”，合称“双方”) ，

for the purposes and for the reasons as set forth below:

基于以下目的及考虑订立：

**WHEREAS**, immediately preceding the execution of this Contract, the Employee held the position of ­ with [*insert name of institution*]; and

**鉴于，**雇员于签订本合同之前于［机构名称］担任 ­ 职务；及

**WHEREAS**, the Employer intends to employ the Employee for the provision of services as set forth below (the "Service") on a [full time / part time] basis;

**鉴于，** 聘用方拟聘用雇员［全职/兼职］提供本合同下述之服务（下称“服务”）：

**NOW THEREFORE**, the Parties agree as follows:

有鉴于此，双方达成以下协议：

1. **Employment / 聘用**
   1. The term of employment is [five] years on a [full time / part time] basis, commencing on ­ , 20 and ending on ­ , 20 .

[全职／兼职]聘用期限为[五]年，自 20 年 月 日始自20 年 月 日止。

* 1. *Probation*. The probation period is [six] months, commencing on the date of employment.

*试用期*。试用期期限为[六]个月，自聘用之日起算。

1. **Remuneration / 报酬**
   1. In consideration for the employment, the Employee will receive a remuneration of:

作为聘用的对价，雇员会获得以下报酬：

* + 1. a monthly salary of RMB , before tax and subject to such normal statutory deductions as required by PRC law;

月薪人民币 元（税前，扣除中国法下通常扣除项之前）

* + 1. a discretionary annual bonus of RMB, payable upon the Employee's meeting all the performance metrics pursuant to this Contract.

可选择性年度分红人民币 元，在雇员满足本合同项下所有绩效标准时支付。

* 1. *Benefits.* The Employee will be eligible for commercial insurance benefits and social welfare in accordance with PRC law.

*福利待遇。*雇员可获得中国法下的社保及商业保险保障。

* 1. *Vacation*. The Employee shall be entitled to paid annual leaves of days per annum, calculated from January 1st to December 31st in a calendar year. For the dates of employment not comprising of a full year in a calendar year, the paid annual leave will be calculated on a pro-rata basis.

*年假。*雇员每年享有带薪年假 天， 每年按1月1日至12月31日计算。如雇员的雇佣期限在月历年度中不满一年，带薪年假按比例折算。

* 1. The reasonable expenses arising out of employment, including travel expenses for travel between the PRC and the home country of the Employee, shall be reimbursed by the Employer assuming the same have been authorized prior to being incurred and with the provision of appropriate receipts.

因雇用产生的合理费用，包括雇员在中国与其母国之间的差旅费用，应由聘用方补偿，前提是差旅行程已获聘用方批准并提供适当的收据。

1. **Title and Job Description / 职务及工作要求**
   1. During the period of employment, the Employee will hold the position of . The employee agrees that he/she will at all times faithfully, industriously, and to the best of his/her skill, ability, experience and talents, perform all of the duties required of his/her positions.

雇员同意其将始终如一地尽职尽责，并尽其所能、能力、经验和才能，履行其职位所需的所有职责。

* 1. The Employee shall be based in City, Province, the PRC. The venue of work for the Employee is subject to change from time to time in accordance with the Employer's requirements.

雇员的工作地点位于中国 省 市。雇员的工作地点可能会根据聘用方的要求变更。

* 1. The Employee is required to perform the following duties and undertake the following responsibilities in a diligent and professional manner:

(a) ;

(b) ;

(c) ; and

(d) any other duties as may arise from time to time and as may be assigned to the Employee.

雇员必须以勤奋和专业的方式履行以下职责并承担以下责任：

(a) ;

(b) ;

(c) ; 以及

(d) 可能不时分配给员工的任何其他职责。

* 1.  In carrying out the duties and responsibilities, the Employee shall comply with the Employment Law of the PRC, the Labor Contract Law of the PRC, other relevant PRC laws and regulations, all Employer policies, procedures, rules and regulations, both written and oral, as are announced by the Employer from time to time. The Employer policies, procedures, rules and regulations are incorporated in this Contract by reference. Both Parties agree that the Employee, if working on a full-time basis (as the case may be), enters into a labor relationship with the Employer under Chinese laws. It is also understood and agreed by the Employee that his/her assignment, duties and responsibilities and reporting arrangements may be changed by the Employer in its sole discretion without causing termination of this Contract.

雇员在履行职责时， 应遵守《中华人民共和国劳动法》、《中华人民共和国劳动合同法》、其他中国法律和法规，聘用方宣布的所有书面和口头的政策、程序、规则和法规。聘用方的政策、程序、规则和条例视为通过援引方式纳入本合同。双方同意，如雇员为全职工作（视具体情形而定），其与聘用方构成中国法下的劳动关系。雇员还应理解并同意，聘用方可自行决定更改雇员职责和工作汇报安排而不会导致本合同的终止。

1. **Performance Review / 绩效考核**

## The Employee will be provided with a written performance appraisal [once] per annum. The Employer will review the said appraisal at which time all aspects of the assessment can be fully discussed.

雇员将每年进行[一次]书面绩效考核。聘用方将审核上述考核结果，双方可以对评估的所有方面进行全面讨论。

1. **Tax / 税务**

## The Employee acknowledges that the Employer may withhold any withholding taxes in accordance with applicable PRC laws, regulations and any tax treaties to which the PRC is a party.

雇员认可聘用方可以根据适用的中国法律、法规和中国加入的任何税收协定预扣任何预提税。

## The Employee is responsible for paying taxes and filing tax returns in his/her home country and any other jurisdiction(s) where he/she owns tax obligations in relation to his/her income and remuneration received from the Employer. The Employee agrees to hold the Employer harmless for any damages, fines or penalties derived from or in connection with the Employee's breach of any tax obligations.

雇员有责任在其母国、以及其就聘用方支付的报酬负有纳税义务的任何其他司法管辖区缴纳税款并提交纳税申报表。雇员同意使聘用方免于因雇员违反任何税收义务而产生或与之相关的任何损害赔偿、罚款或处罚之损害。

## **Representation and Warranties / 陈述与保证**

* 1. The Employee warrants that, where this Contract contemplates a full-time employment, prior to the conclusion of this Contract, he/she has legally and effectively terminated all other employment relationship and related contractual arrangements (including without limitation labor contract, engagement agreement, non-compete agreement, and agreement on service period) with other employers, companies, or educational or research institutions, and that there is no outstanding amount, fee, obligation or liabilities in any form, unless otherwise notified and consented to the Employer.

如本合同规定雇员任全职工作， 雇员保证其在订立本合同之前，已合法有效地终止了所有与其他聘用方、公司、教育或研究机构的其他雇佣关系和相关合同安排（包括但不限于劳动合同、聘用协议、不竞争协议、服务期限协议），并且没有任何形式的未偿还金额、费用、义务或负债， 除非雇员另行告知聘用方并征得聘用方同意。

* 1. The Employee warrants that, where this Contract contemplates a part-time employment, he/has informed of his/her other employer(s) and obtained all consents, authorizations, permits necessary for his/her part-time employment with the Employer. The Employee further warrants that, his/her part-time employment with the Employer has no actual or potential conflict of interests with his/her other employers, or any research grants or funding he/she received prior to the conclusion of this Contract or receives during his/her part-time employment with the Employer.

如本合同规定雇员任兼职工作，雇员保证其已告知其他相关聘用方，并获得了与在聘用方担任兼职工作所需的所有同意、授权和许可。雇员进一步保证， 无论在本合同订立之前、在兼职期间收到任何研究资助或资金时，其在聘用方的兼职工作与其他聘用方没有实际或潜在的利益冲突。

* 1. The Employee warrants that all documents, materials and certificates in relation to the Employee's educational and professional qualification and working experience, etc. that was provided by the Employee to the Employer for the purpose of the Employee's employment application are true, valid and not misleading.

雇员保证雇员为申请聘用方的职位，向聘用方提供的与雇员的教育、专业资格和工作经验等有关的所有文件、材料和证书均真实、有效且无误导性。

1. **Intellectual Property Rights / 知识产权**
   1. During the term of the employment, the Employee agrees to make a full written disclosure to the Employer of all intellectual property rights which it discovers, makes, develops or improves, or assists in discovering, making, developing or improving, during the Employee's performance of his/her duties under this Contract, irrespective of whether they were so discovered, made, developed or improved during normal working hours or using materials, resources or facilities such as capital, equipment, parts, raw materials and technical data, etc. of the Employer.

雇员同意向聘用方书面披露其在履行本合同期间发现、制造、发展或改进，或协助发现、制造、发展或改善的所有知识产权，不论其是在正常工作时间内发现、制造、开发或改进的，还是使用聘用方的物质、资源或设施（如资本、设备、零件、原材 料、技术数据等）发现、制造、发展或改进的。

* 1. Any intellectual property rights created by the Employee during his/her employment with the Employee shall be owned by the Employer, except the moral rights to the works created by the Employee and those resulting from permissible consulting activities without use of the Employer facilities, personnel and funding.

雇员在任职期间所创造的任何知识产权，应由聘用方所有，但雇员对创作的作品享有的署名权以及获得允许的咨询活动且未使用聘用方的设施、人员和资金产而生的知识产权除外。

* 1. To the extent not prohibited by the laws, the Employee hereby irrevocably and exclusively assigns to the Employer any and all intellectual property rights, which the Employee discovers, makes, develops or improves, or assists in discovering, making, developing or improving, while employed by the Employer (whether or not created during normal working hours, using the Employer's materials, resources or facilities or on the Employer's premises).

在法律未禁止的范围内，雇员在此不可撤销地将聘用期间发现、制造、发展或改进，或协助发现、制造、发展或改进的全部知识产权转让给聘用方（无论是否在正常工作时间内，或是否使用聘用方的物质、资源或设施或在聘用方的场地内创建）。

* 1. The Employee agrees to use his/her best efforts to protect the intellectual property rights of the Employer. The Employee shall do all things during and after the termination of his employment which may be necessary or desirable for obtaining appropriate forms of protection for such rights and for fully vesting such rights in the Employer or its designee(s).

雇员同意尽其最大的努力保护聘用方的知识产权。雇员应在其解雇期间以及聘用合同终止后，应进行一切必要、可取的行为，对聘用方的知识产权进行适当形式的保护，并将此类权利完全归属于聘用方或聘用方指定的人员。

## **Default Liabilities / 违约责任**

* 1. If either party fails to perform all or any of its obligations hereunder or otherwise violates this Contract, the defaulting party shall, according to the relevant laws and regulations, compensate the non-defaulting party for all direct losses and damages incurred thereby, excluding any indirect, consequential or incidental losses or damages. This clause shall not prevent either party from seeking any other remedies according to PRC law.

如果任何一方未能履行本合同项下的义务， 或以其他方式违反了本合同，则违约方应根据相关法律法规向守约方赔偿由此造成的所有直接损失和损害，但不包括间接或偶然的损失或损害。本条款不得阻止任何一方根据中国法律寻求任何其他补救措施。

## **Termination / 终止**

* 1. The Employer may terminate this Contract and the Employee's employment at any time, without prior notice or payment in lieu of notice for sufficient cause:

聘用方可以因下列原因随时终止本合同及与雇员的劳动关系，而无需事先通知或以付款的方式代替通知：

1. the Employee was charged for or is found to have committed any criminal offenses, either in the PRC or outside of the PRC, prior to or during his/her employment with the Employer;

在被聘用方聘用之前或聘用期间，该雇员在中国境内或境外被指控犯有刑事罪名或因任何刑事罪名定罪；

1. the relevant information, documents and certificates provided by the Employee to the Employer in relation to the Employee's qualification and working experience etc. are untrue, invalid or misleading;

雇员向聘用方提供的与雇员的资格和工作经验等有关的信息、文件和证明不真实，无效或具有误导性；

1. the Employee is prohibited from being employed by the Employer or appointed for the position under this Contract according to the relevant laws, regulations or the Employer's internal rules and regulations, or in the event of a part-time employment according to the requirements of the Employee's other employer(s) or the research grants or funding received by the Employee;

根据有关法律、法规或聘用方的内部规章制度，或者根据其他聘用方的要求或雇员收到的研究资助或资金要求，雇员被禁止依据本合同的条款和条件受雇于聘用方或担任本合同所列明之职务；

1. there exists agreement and/or contract according to which the Employee is restricted from working for the Employer; or

存在限制雇员不得为聘用方工作的协议和/或合同；

## there exists any conflict of interest with the Employee's existing or previous employment, research grants or funding where the full disclosure has not been made to all relevant persons, companies and educational or research institutions and where the full consent, acknowledgement, authorization and permit thereto has not been legally and effectively obtained.

存在与雇员当前或之前工作 、获得的研究资助或资金相关的利益冲突，该等利益冲突未向所有相关人员、公司、教育或研究机构进行全面披露，且该等利益冲突尚未合法有效第获得全部必要的同意、认可、授权和许可。

## The Employer may at any time terminate this Contract and the Employee's employment by giving not less than [thirty days'] prior written notice to the Employee.

聘用方可以在至少提前[三十天]事先书面通知雇员的情况下，随时终止本合同和雇员的劳动关系。

## The Employee may at any time terminate this Contract and the Employee's employment by giving not less than [thirty days'] prior written notice to the Employer.

雇员可以在至少提前[三十天]事先书面通知聘用方的情况下，随时终止本合同和雇员的劳动关系。

## The Employee agrees to return any property of the Employer at the time of termination or expiry of this Contract.

雇员同意在本合同终止或期满时归还属于聘用方的任何财产。

## *Renewal.* This Contract may be renewed for a term of years upon expiry of this Contract, subject to the execution of a renewal contract, dependent upon the satisfactory performance of the Employee.

*续期。*根据雇员的表现情况，本合同可在期限届满后续期 年，以签订的续期合同为准。

1. **Release /责任免除**
   1. The Employee releases the Employer and its employees, officers and agents from any and all damages, demands, claims, causes of action, suits, grievances and administrative actions, whether internal or external, relating whatsoever for matters arising out of his/her employment with the Employer.

雇员免除聘用方，聘用方的雇员、高级管理人员、代理人就与其任职工作有关的任何事宜，受任何赔偿金索赔、要求、索偿、诉讼请求，诉讼、申诉和行政行为的损害， 不论该等要求来源于内部还是外部。

1. **Governing Law and Settlement of Disputes / 准据法及纠纷解决**
   1. The validity, interpretation and implementation of this Contract shall be governed by the laws of the PRC.

本合同的效力、解释和执行，应依据中华人民共和国法律进行。

* 1. Any dispute between the Parties arising from this Contract may be submitted to the labor disputes mediation commission for mediation or be submitted directly to the labor arbitration commission at the location where the Employer is registered for arbitration.

因本合同引起的当事方之间的任何争议，均可提交劳动争议调解委员会进行调解， 或直接提交给聘用方注册进行仲裁的所在地的劳动仲裁委员会。

1. **Miscellaneous /其他事项**
   1. This Contract and any amendments hereto shall take effect upon execution by both Parties, subject to any governmental approval that is legally required to make this Contract or any amendments hereto become effective.

本合同及其任何修订在双方签署后生效，但如需要进行政府批准以使本合同或其任何修订生效者，从其要求。

* 1. Any matters not referred to herein shall be dealt with in accordance with the relevant provisions of PRC law. If no relevant provision is available, both Parties may negotiate a supplemental agreement as an attachment hereto with the same legal effect as the Contract. If, at any time, a provision of this Contract is in conflict with any mandatory provision of PRC law then such mandatory provision of PRC law shall prevail to the extent of the inconsistency.

本合同未提及的任何事项，应按照中华人民共和国法律的有关规定处理。如果没有相关规定， 双方可以协商签订补充协议， 其法律效力与本合同相同。如果在任何时候本合同的规定与中国法律的任何强制性规定相抵触，则 不一致之处以中国法律的强制性规定为准。

* 1. If the current laws, regulations and rules applicable to this Contract are revised or supplemented by new laws, regulations and rules, then the new laws, regulations and rules shall apply where there is conflict between this Contract and the new laws, regulations and rules.

如果适用于本合同的法律、法规和规则被新的法律、法规和规则修改或补充，则在本合同与新的法律、法规和规则之间存在冲突的情况下，应适用新的法律、法规和规则。

* 1. *Severability.* The invalidity of an y provision of this Contract shall not affect the validity of any other provision hereof, and any such invalid provision shall be replaced by a valid provision reflecting the closest intention of the Parties at the time of signing this Contract.

合同可分性。本合同任何条款的无效均不影响本合同其他条款的有效性，任何无效条款均应由反映当事方在签署本合同时最接近意图的有效条款所取代 。

* 1. The failure to exercise or delay in exercising a right or remedy provided by this Contract or by law does not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. No single or partial exercise of a right or remedy provided by this Contract or by law shall prevent a further exercise of the right or remedy or the exercise of another right or remedy.

未行使或延迟行使本合同或法律规定的权利或补救措施，并不构成对权利或补救措施的放弃或对任何其他权利或补救措施的放弃。 任何单独或部分行使本合同或法律规定的权利或补救措施均不得阻止进一步行使该权利或补救措施或另一权利或补救措施。

* 1. The rights and remedies of the Parties under this Contract are not exclusive of the rights or remedies provided by law.

本合同双方的权利和救济并不排除法律规定的权利或救济。

* 1. This Contract shall be signed in an English and Chinese bilingual version in three (3) originals with the Employer holding two (2) copies and the Employee holding one (1) copy. Both English and Chinese shall have equal force in its interpretation.

本合同以中英文双语签署，共三(3)份正本，聘用方持有两(2)份，雇员持有一(1)份。英文和中文文本具有同等效力。

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**IN WITNESS** whereof this Contract has been duly executed the day and year first above written.

本合同已于前述日期正式签署，以资证明。

**Employer ／聘用方：** **Employee / 雇员：**

**[*name of Employee*] ／［*雇员姓名*］**

[*affix official seal of the Employer*] /［加盖公章］

[*name of authorized representative &*

*capacity*] ／［授权代表姓名及职务］ Date / 日期: , 20

[capacity] /［职务］

Date / 日期: , 20