七、企業改制併購

Seven, Reconstruction and merger

第一章 產權交易類法律文書

Chpater 1 law documents about equity transaction

第一節 資產收購合同

Section 1 assets acquire contract.

文書範本:『資產收購合同』

Document mode assets acquire contract

一、資產收購合同的概念與構成要素

First, conception of this assets acquire contract and its forming sectors.

- ◎毒資產收購合同的概念
- Occupation
- ◎資產收購合同的構成要素
- **©** Forming sectors
- 二、資產收購合同的相關法律規定

Second, the relevant laws and regulation about assets acquire contract.

三、資產收購合同的內容

Third, content of assets acquire contract.

四、資產收購合同的無效和復原

Fourth, invalidation and resuming of assets acquire contract.

第二節 股權轉讓合同

Section 2 share transfer contract

文書範本:『股權轉讓合同』

Document mode: share transfer contract

文書範本:【_____公司(股權轉讓方)關於股權轉讓的決議】

Document mode:____company (share transferring company) on the resolution of share transferring

文書範本:【____公司(目標公司)股東關於放棄優先購買權的宣告】

Document mode: ____ company (target company) the claim of share holder gives up prior purchase

right

一、股權轉讓合同的概念及其主要條款

First, the conception of share transfer contract and its main clauses.

二、股權轉讓相關法律問題

Second, relevant laws about share transferring

- ◎股權轉讓及股權轉讓合同的效力問題
- **©**The effectiveness of share transferring and share transferring contract.
- ◎關於部分行使優先購買權的問題
- On prior purchasing shares right.
- ◎關於股權轉讓後公司股權結構不合法律規定的問題
- **after the transferring**, the stock forming construe goes against laws.
- 三、外資股權並購合同的法律條款

Third, foreign equity of the legal provisions merger contract.

第三節 企業固有產權轉讓合同

Section 3, fixed assets transferring contract

文書範本:【北京市產權轉讓合同】

Document mode: Beijing equity transaction

文書範本:【上海市產權交易合同】

Document mode: Shanghai equity transaction

文書範本:【天津市產權交易合同】

Document mode: Tianjin equity transaction

文書範本:【關於_____(企業)國有產權轉讓的法律意見書】

Document mode: Attorney Opinion Letter on company SOE's fixed assets transaction

一、企業國有產權轉讓合同的概念

First, the conception of SOE's fixed assets transaction.

二、企業國有產權轉讓合同的主要條款

Second, main clauses of SOE's fixed assets transaction.

三、企業產權轉讓相關法律問題

Third, relevant laws about transaction equity transaction.

- ◎告國有產權轉讓可以不進場的例外情形
- © The exceptional case about SOE's fixed assets transaction not entering case.
- ◎告企業國有產權轉讓的批准程序
- © SOE's fixed assets transaction lawsuit's administration procedure.
- ◎告企業國有產權交易中股東行使優先購買權的問題
- © SOE's fixed assets transaction lawsuit about the prior purchasing right
- ◎"手拉手"進場問題
- **◎** Hand by hand entering issue.

第四節 公司合併合同

Section 4 company merger contract

文書範本:【公司合併合同】

Document mode: company merger contract

一、公司合併概述與合併程序

First, Company merger conception and procedure.

- ◎公司合併概述
- Abstract
- ◎公司合併的主要程序
- O Procedure
- 二、公司合併合同的條款

Second, articles of company merger contract.

- ◎合併合同的主要條款
- **Main articles**
- ◎合併合同的普通條款
- **©General articles**
- 三、公司合併相關法律問題

Third, relevant laws about company merger.

- ◎公司合併中債權人利益的保護問題
- **O** Creditor protection in the merger
- ◎公司合併中反對合併的股東利益保護問題
- O Protect the interest of those shareholders who oppose the merger
- ◎無效合併的問題
- **o** invalidation of merger

第五節 公司分立合同

Section 5 company separation contract

文書範本:【公司分立合同】

Document mode: company separation contract

文書範本:【 A 公司股東會決議 】

Document mode: A company's resolution of board meeting

文書範本:【 A 公司分立公告 (知會)】

Document mode: A company's separation notice

一、公司分立概述和分立程序

First, abstract and procedure of company separation.

- ◎公司分立的概述
- Abstract

- ◎公司分立的程序
- **O** Procedure
- 二、公司分立合同的條款

Second, articles of company separation contract.

三、公司分立的相關法律問題

Third, relevant laws about company separation.

- ◎公司分立中債權人利益的保護問題
- O Protect the creditors' interes during the separation
- ◎公司分立中異議股東的利益保護問題
- **O** Protect those shareholders who hold different ideas in the separation

第二章 公司設立類法律文書

Chpater 2 laws about company establish

第一節 出資協定文書範本刊出資協定

Section 1 mode; Certificate of Incorporation

一、出資的概念

First, the conception of incorporation.

二、出資協定書的主要條款

Second, the main terms of Certificate of Incorporation.

三、出資有關法律問題

Third, relevant laws about incorporation.

- ◎債權出資問題
- ©Credit incorporation
- ◎股權出資問題
- **Stock** incorporation
- ◎淨資產出資問題
- ONet assets incorporation
- ◎姓名權和名稱權的出資問題
- Right to name and right to name incorporation
- ◎勞務出資問題
- **OLabor incorporation**

第二節 中外合資經營企業合同

Section 2 contract of Sino-foreign equity joint venture

文書範本:【中外合資經營企業合同】

Document mode: contract of Sino-foreign equity joint venture

一、中外合資經營企業合同的概念

First, conception of contract of Sino-foreign equity joint venture

二、合營企業與中外合作經營企業的異同

Second, the between joint venture and Sino-foreign equity joint venture

- ◎相同之處
- ◎相異之處
- **O**Difference
- 三、合營企業合同的主要條款

Third, main articles of joint venture's contract

四、合營企業的資本制度

Fourth, the capital system of joint venture

第三節 增資合同

Section 3 increase capital contract

文書範本:【增資合同】

Document mode: capital increasing contract

一、增資概述

First, capital increasing abstract

- ◎增資的概念、意義與方式
- **(a)** The conception and meaning and means of capital increasing
- ◎有限公司與股份公司的增資程序
- O Capital increasing procedure of limited liability company and Stock Limited Company
- 二、增資合同的主要條款

Second, main terms of capital increasing contract.

三、增資有關法律問題

Third, relevant laws about capital increasing.

- ◎增資是否需要進產權交易市場
- **O** Whether capital increasing needs entering the equity transaction market.
- ◎增資是否必須進行資產評估
- **O** Whether capital increasing needs evaluation

第三章 公司治理類法律文書

Chapter 3 aws about company administrating

第一節 公司章程

Section 1 company chart

文書範本:【上市公司章程指引】

Document mode: guiding of listing company's chart

一、公司章程的概念及法律特徵

First, the conception and features in the law respect of company's chart.

- ◎公司章程的概念
- **©Conception**
- ◎公司章程的法律特徵
- **©**Features in the law respect
- 二、公司章程的性質

Second, features of company chart.

三、公司章程的作用

Third, functions of company chart.

四、公司章程内容的分類

Fourth, content classification of company chart.

五、公司章程的制定與修改

Fifth, making and modification of company chart.

- ◎有限責任公司章程的制定與修改
- Making and modification of limited liability company.
- ◎股份有限公司章程的制定與修改
- M aking and modification of stock liability company.

第二節 公司組織機構議事規則

Section 2 rules for discussion precedures

文書範本:【有限責任公司股東會議事規則】

Document mode:methods of discussion procedures for shareholders' meetings in

Limited Liability Company.

文書範本:【有限責任公司董事會議事規則】

Document mode:methods of discussion procedures for board meetings in Limited Liability Company.

文書範本:【有限責任公司監事會議事規則】

Document mode:methods of discussion procedures for security board meetings in

Limited Liability Company.

一、股東會有關法律問題

First, relevant laws about shareholders meeting.

- ◎股東會的概念和地位
- Occupation and status of shareholders meeting.
- ◎股東會的職權
- O Power and duty of shareholders meeting.
- ◎每股東會會議
- O Per shareholders meeting.
- ◎股東會制度的完善
- **OPerfect the shareholders meeting system**
- 二、董事會有關法律問題

Second, relevant laws about board meeting

- ◎董事會的概念、特點與職權
- © Conception ,feature and power and duty of board
- ◎董事會會議
- Board meeting
- ◎董事
- O Directo
- ◎獨立董事制度
- **◎** Individual board system
- 三、監事會有關法律問題

Third, relevant laws about board of supervisors.

- ◎監事會的概念與地位
- O Conception and status of relevant laws about
- ◎監事會的組成
- o forming of relevant laws about
- ◎監事或監事會的職權
- Opower and duty of supervisor and supervisor board

第四章 信託運用類法律文書

Chapter 4 laws about trust

第一節 資金信託合同

Section 1section 1capital trust contract

文書範本:【資金信託合同】

Document mode capital trust contract

一、信託的概念、特徵和分類

First, conception ,feature and classification of trust

二、信託與相關概念的區別

Second, distinguishing trust from other terms

- ◎信託與行紀的區別
- ©The difference between trust and contract of commission
- ◎信託與委託的區別
- ©The difference between trust and authorize
- ◎信託合同與第三人利益合同的比較
- **Main content of trust contract**
- 三、信託合同的主要内容

Third, main content of trust contract

四、資金信託業務與證券投資基金的區別

Fourth, the difference between capital trust and stock& fund investing

第二節 股權信託合同

Section 2 stock trust contract

文書範本:【股權信託合同】

Document mode: stock trust contract

附:【股權信託實施方案】

Attach practice articles of stock trust contract

一、股權信託和資金信託比較

First, comparison between capital trust and stock trust

二、取工持股樣式

Second, the forms of stuff's stock

第三節信託貸款合同

Section 3 trust loan contract

文書範本:【信託貸款合同】

Document mode:trust loan contract

文書範本:【信託受益權質押合同】

Document mode:trust benefit loan contract

一、信託貸款的概念

First, the conception of trust loan

二、信託貸款的法律特徵

Second, legislative feature of trust loan

三、信託貸款合同的主要條款

Third, the main articles of] document mode

四、信託貸款合同中各方的權利義務

Fourth, the obligations and rights of both sides in trust loan document mode

- ◎信託關係中委托人與受托人之間的義務和權利
- **The obligations and rights of trust and trustees in the trust**
- ◎貸款關係中受托人即貸款人與借款人之間的義務和權利
- ©The obligations and rights between accommodators and borrowers in trust loan
- ◎擔保關係中貸款人和擔保人之間的義務和權利
- The obligations and rights between Accommodators and guarantor in guarantee relationship

五、無效信託貸款合同

Fifth, invalid trust loan contract

六、貸款不能按期返還時的責任承擔

Sixth, the responsibility has to shoulder if fails to return to loan in time

第五章 土地處置類法律文書

Chapter 5 enactments about land disposing

第一節土地使用權出讓合同

Section 1 transfer of the right to the use of land contract

文書範本:【國有土地使用權出讓合同】

Transfer of the right to the use of the state-owned land

一、出讓合同的概念

First, the def of transfer contract

二、出讓合同範本的填寫要求

Second, the filling demand of transfer contract

三、出讓合同的有關法律問題

Third, relevant law issues about transfer contract

- ◎奪出讓合同的無效
- Olnvalid of the transfer contract
- ◎違約行為的構成及救濟
- **©**Forming of breach behavior and its remedies

第二節土地使用權租賃合同

Section 2 lease the right to the use of the land

文書範本:【國有土地使用權租賃合同】(宗地)

Document mode:lease the right to the use of the state-owned land

一、土地租賃合同的概念

First, the def of the leasing contract

二、土地租賃的有關法律問題

Second, relevant law issues about leasing contract

- ◎租賃的適用範圍
- Applying arrange of leasing contract
- ◎租賃期限的限制
- OLimitation of leasing period
- ◎租金的確定
- ORent fee making
- ◎與土地使用權出租合同之比較
- ©Comparing with rent contract of land using right

第三節土地使用權轉讓合同

Section 3 transfer of the right to the use of land contract

文書範本:【土地使用權轉讓合同】(宗地中的部分地塊)

Document mode: transfer of the right to the us of land contract (ground part)

一、土地轉讓合同的概念

First, the def of transfer contract

二、土地轉讓有關法律問題

Second, relevant law issues about transfer

- ◎土地轉讓合同的訂立條件
- **○Conditions of land transferring contract**
- ◎轉讓價格的確定
- **OPricing making of transferring**
- ◎轉讓合同效力的認定
- **⊘**Asserting of the effectiveness of transferring contract
- ◎轉讓合同的風險防範
- **○**Risk preventing of the transferring contract

第六章 債務處理類法律文書

Chapter 6 enactments about liabilities handling

第一節債務承擔協定

Section 1 section one agreement of shouldering liabilities

文書範本:【債務承擔協定】

Document mode: liabilities agreement

一、債務承擔的概念及分類

First, the conception of liabilities agreement

二、免責債務承擔的特點

Second, feature of responsibility relief loan

三、企業改制中的債務承擔

Third, liabilities shouldering in the process of reconstructing

- ◎企業整體改制為國有獨資公司
- **The company becomes wholly state-funded**
- ◎企業整體改制為股份制公司
- **©The company becomes Joint-stock companies**
- ◎企業部分公司制改造
- **OPartly reconstructing**
- 四、債務承擔有關法律問題

Fourth, some relevant liability shouldering

- ◎ " 徵得債權人同意 " 問題
- OBe agreed by the creditor
- ◎ " 經債務人同意 " 問題
- **⊙**Be agreed by the borrower
- ◎債務承擔與第三人代為履行的區別
- **The difference between liability shouldering and the third part help to shoulder**

第二節 債轉股協定

Section 2 debt to equity agreement

文書範本:【債轉股協定】

Document mode: debt to equity agreement

一、債轉股的概念與分類

First, the conception and classification of debt to equity agreement

二、純商業性債轉股的法律問題

Second, law issues about purely business debt to equity agreement

- ◎純商業性債轉股合同的效力
- **©**The effectiveness of purely business debt to equity agreement
- ◎純商業性債轉股合同的復原
- The restoring of purely business debt to equity agreement
- ◎純商業性債轉股對其它債權人的影響
- **⊚**Influence of purely business debt to equity to the other creditors
- ◎債轉股的利益風險
- **The profit risk of debt to equity**

第七章 人員安置類法律文書

Chapter 7 enactments about personnel arrangement

第一節 勞動合同

Section 1 labor Contract

文書範本:【勞動合同】

Document mode: labor Contract

一、勞動合同的概念

First, the conception of Labor Contract

二、簽訂勞動合同特別注意事項

Second, items should be noticed when signing labor contract

- ◎勞動者特別注意事項
- **©**Items for the worker
- ◎用人單位特別注意事項
- **OItems for the company**
- 三、勞動合同的無效及爭議解決

Third, Invalid of the Labor Contract and dispute handling

第二節 變更、解除勞動合同協定

Section 2 change and dismiss labor contract

文書範本:【變更勞動合同協定】

Document mode: change labor contract

文書範本:【解除勞動合同協定】

Document mode:dismiss labor contract

一、變更勞動合同有關法律問題

First, relevant law issues about changing the labor contract

- ◎勞動合同變更的概念與條件
- ©Conception and condition of changing the labor contract
- ◎調崗調薪問題
- **OIssues about position and salary changing**
- 二、解除勞動合同有關法律問題

Second, relevant law issues about dismissing the labor contract

- ◎解除勞動合同的概念與種類
- Conception and condition of dismissing the labor contract
- ◎經濟補償金的支付
- Compensation paying

- ◎幾類特殊人群勞動關係的解除
- **Odismissing the labor contract with some special group**

第三節 保密協定

Section 3 non-disclosure agreement

文書範本:【保密協定】

Document mode:non-disclosure agreement

一、保密協定的概念

First, the conception of non-disclosure agreement

二、保密協定的爭議解決

Second, non-disclosure agreement dispute disposing

三、簽訂保密協定的注意事項

Third, notes for the non-disclosure agreement

第四節 競業限制協定

Section 4 career selection limitation agreement

文書範本:【競業限制協定】

Document mode:career selection limitation agreement

一、競業限制的概念與分類

First, the conception and classification of career selection limitation

二、競業限制的法律規定

Second, legal provisions on career selection limitation

三、競業限制有關法律問題

Third, law issues about career selection limitation

- ◎競業限制的簽約物件
- **Signing items of competing limitation**
- ◎競業限制補償金的支付
- The signing object of career selection limitation
- ◎競業限制的欄位與期間問題
- The words and period of career selection limitation
- ◎競業限制爭議的性質
- **The nature of career selection limitation dispute**

第八章 薪酬制度類法律文書

Chpater 8 enactments about salary and payment

第一節 股票期權法律文書

Section 1 enactments about stock options

文書範本:【股份有限公司股票期權方案】

Document mode: stock options in Stock limited company

文書範本:【股票期權協定書】

Document mode: stock options agreement

文書範本:【股票期權授予知會書】

Document mode: stock options authorizing notice

文書範本:【股票期權行權知會書】

Document mode: stock options right authorizing notice

一、股票期權與職工持股排程

First, stock option and stuff stock holding Scheduling

二、股票期權方案的規範設計

Second, planning and Scheduling of stock options

- ◎實施股票期權排程應考慮的因素
- Sector should be considered in the practicing Scheduling of stock options
- ◎股權激勵受益人的確定和股票來源問題
- Stock beneficiary deciding and source of the stock
- ◎關於授予期權數量和行權價格的問題
- On the prize and time of authorizing stocks option
- ◎股票期權的行權與出售
- Practicing and sales of stock option
- ◎股票期權的變更與喪失
- **©Change and invalid of stock options**
- ◎關於業績考核評價制度
- On the effectiveness assert
- ◎股票期權收入的納稅
- **Tax paying of stock options**
- 三、目前我國股票期權排程實施難點

Third, difficult when carrying out the scheduling of stock options in our country

- ◎法律環境問題
- **OLaw environment issue**
- ◎股票期權行權後流通的法律障礙

- **©The laws obstacle after stock options circulating**
- ◎行權時機的限制問題
- **©Limitation of excel rights**
- ◎行權價格的確定問題
- **OPrice** making of excel rights

第二節 期股法律文書

Section 2 enactments about future stocks

文書範本:【期股方案】

Document mode: future stock

一、期股的概念及與股票期權的區別

First, the conception of future stock and the difference between future stock and option stock

二、北京和上海關於期股的嘗試

Second, interin in Beijing and Shanghai