【律通翻译】——几种常见法律英语句式

本文旨在就英译中法律文件中经常遇到的句式进行解析,具体如下:

1. Otherwise 的翻译

Otherwise 在法律英语中的用法主要有三种:

(1) 与 unless 引导的句子连用,引导让步状语从句;例如:

Unless otherwise agreed in writing by the Board of Directors (as defined below) of the Company (including the affirmative vote of the director appointed by CDH), no proceeds from the sale of the Purchased Shares shall be applied to the purchase of any securities.

除非公司董事会(定义见下文)另行书面同意(包括 CDH 委任董事投赞成票同意),不得将出售认购股获得的款项用于购买任何证券。

(2) 放置在连词 or 之后; 例如:

For purpose of this Agreement, "Associate" means, in relation to an individual, his spouse, his child, step-child, parent, step-parent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, or any person acting under his instructions (pursuant to an agreement or arrangement, formal or otherwise) and any person or entity controlled by him.

在本协议中,"关联人",就个人而言,指该人的配偶、子女、继子女、父母、继父母、兄弟姐妹、岳父(公公)、岳母(婆婆)、女婿、儿媳、夫或妻的兄弟、夫或妻的姐妹,或(根据正式或其他协议或安排)依照其指示行事的任何人,以及受其控制的任何人或实体。

在此例句中, or otherwise 翻译成"或其他……", 修饰的是前面的名词 agreement or arrangement。

需要注意的是, or otherwise 中的 otherwise 不作定语, 因此后面不能加名词。 or otherwise 后面如果是动词(包括动词分词),则 or otherwise 一般做状语,可以理解或翻译成"以其他方(形)式"。例如:

As long as the Investors hold any shares of the Company, none of the BVI Companies or the management shall, without the prior written consent of the Investors or their permitted assigns, sell, assign, transfer, pledge, hypothecate, mortgage, encumber or otherwise dispose through one or a series of transactions any shares of the Company to any person on or prior to a Qualified Initial Public Offering (as such term is defined in the Shareholders Agreement).

只要投资方持有公司的任何股份,未经投资方或其允许受让人的事先书面许可,在进行符合条件的首次公开募股(定义见股东协议)当日或之前,任何BVI公司或管理层不得通过一笔或一系列交易向任何人转让、出售、让与或以其他方式处置公司的任何股份,或在其上设定质押、抵押、担保或权利负担。

(3) 与 than 连用,就是 otherwise than 引导的条件状语。otherwise than 的意思是"除……外"。另外, otherwise than 这一短语一般只能用在否定句中。

例如:

No Contract or any part hereof shall be revoked otherwise than by another Contract executed in accordance with Section 5.

合同或其任何部分均不得撤销,除非根据第5条签订新合同予以撤换。

从上面的例句可以看出,otherwise than 总是作副词,用来修饰前面的动词,后面主要是接一种方式,所以,该句型通常都是:

动词+otherwise than + by。

2. Subject to 句式的翻译

Subject 在普通日常英语中作名词的情况居多,可以翻译为"主题",但是在法律英语中,subject 常常与 to 连用,构成 subject to 句型,构成条件状语(通常前置),可以翻译成"依据……""受限于(受制于)……""在符合……情况下""除……另有规定外"或"以……为准"。subject to 是形容词,后面直接加名词,而且最常见的是加 agreement,section,contract 等。例如:

Subject to subsection (3), the Commission shall have jurisdiction to inquire into, hear and determine the claims specified in the Schedule.

除第(3)款另有规定外,仲裁委员会具备查讯、聆讯及裁决附表内指明的 索赔的司法管辖权。

Subject to unanimous approval of the Board, the Parties may file an application with the Approval Authorities for extending the Joint Venture Term at least six months prior to the expiry of the Joint Venture Term.

在董事会一致同意的前提下,各方可在合作期限届满之前至少6个月向审批机构申请延长合作期限。

3. Provided that 句式的翻译

"Provided that"是一个普通英文中很少使用的古旧词,但是在法律文书中广泛适用。其用法与"if"或"but"非常类似,汉语中的意思相当于"倘若/如果"或者"但"。一般用法有两种情况:

(1) 如果放在句首,则引导的是一个条件分句,与"if""when"或"where" 引导的法律条件句没有本质上的差异; 例如:

Provided that Party B fails to do such cleaning, any costs incurring from such cleaning by Party A shall be covered by Party B.

如果乙方未进行此类清洗工作,则因甲方完成清洗产生的任何费用应由乙方承担。

(2) 如果该短语之前存在一个主句,则表示的是一个与之前的陈述相反的例外,相当于"with the exception of...",译成"但"或者"但是"。例如:

The Licensee shall not be entitled to take any proceedings in any of the aforesaid matters: provided, however, that the Licensor may, at its own discretion and cost, prosecute or otherwise stop or prevent such actual or threatened infringement in the name of both the Licensor and the Licensee or either of them.

被许可方无权就上述任何行为起诉,但许可方可自行决定并自付费用,以许可方和被许可方双方名义或任何一方名义,对实际发生的或威胁发生的侵权行为提起诉讼,或以其他方式阻止或防止该等侵权行为。

4. Notwithstanding 句式的翻译

Notwithstanding 在普通英语中使用极为罕见,但是在法律英语中的使用却是司空见惯。它的翻译与 although, though, even if 使用并没有太大区别,基本上都可以翻译成"尽管", "即使",表示一种让步,但是它引导的并不是让步状语从句,而只是一个名词性短语。例如:

If Party A places an order within the time designated in this offer, the price for the goods will remain firm notwithstanding any variation in the costs of producing the goods.

如果甲方在要约指定的时间内下发订单,货物的价格保持不变,即使生产成本发生变化亦应如此。

Notwithstanding subsection (3), a magistrate may require the police officer, usher or other officer who served a summons to attend before him and give evidence on oath as to its service.

尽管有第(3)款规定,裁判官仍可要求送达传票的警务人员、传达员或其他人员向其宣誓证明。

5. SAVE /EXCEPT 句式的翻译

在法律英语中, save 是一个与 except (for) 相同的介词,汉语翻译为"除……外",不管 save 还是 except (for),之后都可以跟一个名词性短语,也可以跟一个从句或者另一个介词短语。

例如:

Save as is provided in this Ordinance, no claim within the jurisdiction of the Commission shall be actionable in any court.

除非本条例另有规定,否则,凡属仲裁委员会司法管辖权范围内的申索,均 不得向任何法庭提起诉讼。

"Selling Expenses" means all underwriting discounts, selling concessions and stock transfer taxes applicable to the sale of Registrable Securities, and fees and disbursements of counsel for any Holder, except for the fees and disbursements of the Selling Holder Counsel and paid by the Company as provided in Subsection 2.6.

"销售费用"指对可登记证券出售适用的所有承销折扣、销售佣金和股份转让税,及任何持有人的律师费用和支出,但第 2.6 款中约定的、应由公司承担的出售股东律师的费用和支出除外。

Unless otherwise expressly specified in the Contract, the Owner shall have no authority to relieve the Contractor of any of his obligations under the Contract. 除非合同明确规,发包方无权免除合同规定的承包人的任何义务。

备注: save/except as (is) provided /stipulated 与 unless otherwise provided/stipulated 功能相同,可相互替代。

最后,希望大家能够共同进步,共同努力,一起壮大我们的律通!!

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服务内容:

书面翻译:各类法律文件、法规、合同、协议、移民资料、公证文件、银行金融、保险、劳动人事、工程医药、化工机械等。

口译/同传:考察陪同、旅游陪同、会展陪同、商务谈判、各类会议交传和同声传译。

翻译语种:英语、韩语、日语、德语、法语、西班牙语、阿拉伯语、越南语、瑞典语、柬埔寨语、意大利语等90多个语种。

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