

CONTENTS*

Prologue	1
The UNIDROIT Principles of International Commercial Contracts 2016	3
PREAMBLE (<i>Purpose of the Principles</i>).....	3
CHAPTER 1: GENERAL PROVISIONS	23
ARTICLE 1.1 (<i>Freedom of contract</i>).....	23
ARTICLE 1.2 (<i>No form required</i>).....	29
ARTICLE 1.3 (<i>Binding character of contract</i>)	32
ARTICLE 1.4 (<i>Mandatory rules</i>).....	35
ARTICLE 1.5 (<i>Exclusion or modification by the parties</i>) ...	39
ARTICLE 1.6 (<i>Interpretation and supplementation of the Principles</i>)	41
ARTICLE 1.7 (<i>Good faith and fair dealing</i>).....	46
ARTICLE 1.8 (<i>Inconsistent behaviour</i>)	50
ARTICLE 1.9 (<i>Usages and practices</i>)	54
ARTICLE 1.10 (<i>Notice</i>)	60
ARTICLE 1.11 (<i>Definitions</i>).....	64
ARTICLE 1.12 (<i>Computation of time set by parties</i>).....	66
CHAPTER 2: FORMATION AND AUTHORITY OF AGENTS	69
SECTION 1: Formation	69
ARTICLE 2.1.1 (<i>Manner of formation</i>)	69
ARTICLE 2.1.2 (<i>Definition of offer</i>).....	72
ARTICLE 2.1.3 (<i>Withdrawal of offer</i>)	74
ARTICLE 2.1.4 (<i>Revocation of offer</i>)	76

* Official version of the contents of the UNIDROIT Principles of International Commercial Contracts, in UNIDROIT Principles of International Commercial Contracts 2016, pp. xlv-llii, Rome, 2017, published by International Institute for the Unification of Private Law (UNIDROIT).

ARTICLE 2.1.5 (<i>Rejection of offer</i>)	79
ARTICLE 2.1.6 (<i>Mode of acceptance</i>)	80
ARTICLE 2.1.7 (<i>Time of acceptance</i>).....	83
ARTICLE 2.1.8 (<i>Acceptance within a fixed period of time</i>)	85
ARTICLE 2.1.9 (<i>Late acceptance. Delay in transmission</i>).....	86
ARTICLE 2.1.10 (<i>Withdrawal of acceptance</i>).....	88
ARTICLE 2.1.11 (<i>Modified acceptance</i>)	89
ARTICLE 2.1.12 (<i>Writings in confirmation</i>)	92
ARTICLE 2.1.13 (<i>Conclusion of contract dependent on agreement on specific matters or in a particular form</i>)	95
ARTICLE 2.1.14 (<i>Contract with terms deliberately left open</i>)	98
ARTICLE 2.1.15 (<i>Negotiations in bad faith</i>).....	105
ARTICLE 2.1.16 (<i>Duty of confidentiality</i>).....	110
ARTICLE 2.1.17 (<i>Merger clauses</i>).....	114
ARTICLE 2.1.18 (<i>Modification in a particular form</i>)	117
ARTICLE 2.1.19 (<i>Contracting under standard terms</i>)	121
ARTICLE 2.1.20 (<i>Surprising terms</i>).....	128
ARTICLE 2.1.21 (<i>Conflict between standard terms and non-standard terms</i>)	133
ARTICLE 2.1.22 (<i>Battle of forms</i>).....	136
SECTION 2: Authority of agents.....	140
ARTICLE 2.2.1 (<i>Scope of the Section</i>)	140
ARTICLE 2.2.2 (<i>Establishment and scope of the authority of the agent</i>)	142
ARTICLE 2.2.3 (<i>Agency disclosed</i>)	144
ARTICLE 2.2.4 (<i>Agency undisclosed</i>)	147
ARTICLE 2.2.5 (<i>Agent acting without or exceeding its authority</i>)	149
ARTICLE 2.2.6 (<i>Liability of agent acting without or exceeding its authority</i>)	152
ARTICLE 2.2.7 (<i>Conflict of interests</i>)	154
ARTICLE 2.2.8 (<i>Sub-agency</i>).....	156
ARTICLE 2.2.9 (<i>Ratification</i>).....	158
ARTICLE 2.2.10 (<i>Termination of authority</i>)	161

CHAPTER 3: VALIDITY	165
SECTION 1: General provisions	165
ARTICLE 3.1.1 (<i>Matters not covered</i>)	165
ARTICLE 3.1.2 (<i>Validity of mere agreement</i>)	166
ARTICLE 3.1.3 (<i>Initial impossibility</i>)	168
ARTICLE 3.1.4 (<i>Mandatory character of the provisions</i>).....	171
SECTION 2: Grounds for avoidance	173
ARTICLE 3.2.1 (<i>Definition of mistake</i>)	173
ARTICLE 3.2.2 (<i>Relevant mistake</i>)	175
ARTICLE 3.2.3 (<i>Error in expression or transmission</i>)	180
ARTICLE 3.2.4 (<i>Remedies for non-performance</i>)	182
ARTICLE 3.2.5 (<i>Fraud</i>)	184
ARTICLE 3.2.6 (<i>Threat</i>).....	188
ARTICLE 3.2.7 (<i>Gross disparity</i>).....	190
ARTICLE 3.2.8 (<i>Third persons</i>)	196
ARTICLE 3.2.9 (<i>Confirmation</i>)	198
ARTICLE 3.2.10 (<i>Loss of right to avoid</i>)	201
ARTICLE 3.2.11 (<i>Notice of avoidance</i>).....	204
ARTICLE 3.2.12 (<i>Time limits</i>).....	205
ARTICLE 3.2.13 (<i>Partial avoidance</i>).....	208
ARTICLE 3.2.14 (<i>Retroactive effect of avoidance</i>)	209
ARTICLE 3.2.15 (<i>Restitution</i>)	210
ARTICLE 3.2.16 (<i>Damages</i>)	214
ARTICLE 3.2.17 (<i>Unilateral declarations</i>)	215
SECTION 3: Illegality	216
ARTICLE 3.3.1 (<i>Contracts infringing mandatory rules</i>)...	216
ARTICLE 3.3.2 (<i>Restitution</i>)	221
CHAPTER 4: INTERPRETATION	225
ARTICLE 4.1 (<i>Intention of the parties</i>)	225
ARTICLE 4.2 (<i>Interpretation of statements and other conduct</i>).....	229
ARTICLE 4.3 (<i>Relevant circumstances</i>).....	232
ARTICLE 4.4 (<i>Reference to contract or statement as a whole</i>).....	238

ARTICLE 4.5 (<i>All terms to be given effect</i>)	241
ARTICLE 4.6 (<i>Contra proferentem rule</i>)	243
ARTICLE 4.7 (<i>Linguistic discrepancies</i>).....	246
ARTICLE 4.8 (<i>Supplying an omitted term</i>)	248
CHAPTER 5: CONTENT, THIRD PARTY RIGHTS	
AND CONDITIONS.....	253
SECTION 1: Content	253
ARTICLE 5.1.1 (<i>Express and implied obligations</i>)	253
ARTICLE 5.1.2 (<i>Implied obligations</i>)	254
ARTICLE 5.1.3 (<i>Co-operation between the parties</i>)	256
ARTICLE 5.1.4 (<i>Duty to achieve a specific result.</i>	
<i>Duty of best efforts</i>)	260
ARTICLE 5.1.5 (<i>Determination of kind of</i>	
<i>duty involved</i>)	263
ARTICLE 5.1.6 (<i>Determination of quality</i>	
<i>of performance</i>)	265
ARTICLE 5.1.7 (<i>Price determination</i>).....	267
ARTICLE 5.1.8 (<i>Termination of a contract for</i>	
<i>an indefinite period</i>)	271
ARTICLE 5.1.9 (<i>Release by agreement</i>).....	275
SECTION 2: Third party rights.....	277
ARTICLE 5.2.1 (<i>Contracts in favour of third parties</i>)	277
ARTICLE 5.2.2 (<i>Third party identifiable</i>)	280
ARTICLE 5.2.3 (<i>Exclusion and limitation clauses</i>).....	282
ARTICLE 5.2.4 (<i>Defences</i>).....	283
ARTICLE 5.2.5 (<i>Revocation</i>).....	285
ARTICLE 5.2.6 (<i>Renunciation</i>)	287
SECTION 3: Conditions	288
ARTICLE 5.3.1 (<i>Types of condition</i>)	288
ARTICLE 5.3.2 (<i>Effect of conditions</i>)	291
ARTICLE 5.3.3 (<i>Interference with conditions</i>).....	292
ARTICLE 5.3.4 (<i>Duty to preserve rights</i>).....	294
ARTICLE 5.3.5 (<i>Restitution in case of fulfilment</i>	
<i>of a resolutive condition</i>)	296

CHAPTER 6: PERFORMANCE	299
SECTION 1: Performance in general.....	299
ARTICLE 6.1.1 (<i>Time of performance</i>)	299
ARTICLE 6.1.2 (<i>Performance at one time or in instalments</i>)	301
ARTICLE 6.1.3 (<i>Partial performance</i>)	303
ARTICLE 6.1.4 (<i>Order of performance</i>)	306
ARTICLE 6.1.5 (<i>Earlier performance</i>).....	309
ARTICLE 6.1.6 (<i>Place of performance</i>)	311
ARTICLE 6.1.7 (<i>Payment by cheque or other instrument</i>)	316
ARTICLE 6.1.8 (<i>Payment by funds transfer</i>).....	318
ARTICLE 6.1.9 (<i>Currency of payment</i>)	321
ARTICLE 6.1.10 (<i>Currency not expressed</i>).....	325
ARTICLE 6.1.11 (<i>Costs of performance</i>)	326
ARTICLE 6.1.12 (<i>Imputation of payments</i>)	327
ARTICLE 6.1.13 (<i>Imputation of non-monetary obligations</i>)	331
ARTICLE 6.1.14 (<i>Application for public permission</i>)	332
ARTICLE 6.1.15 (<i>Procedure in applying for permission</i>).....	337
ARTICLE 6.1.16 (<i>Permission neither granted nor refused</i>)	339
ARTICLE 6.1.17 (<i>Permission refused</i>)	341
SECTION 2: Hardship.....	344
ARTICLE 6.2.1 (<i>Contract to be observed</i>)	344
ARTICLE 6.2.2 (<i>Definition of hardship</i>)	348
ARTICLE 6.2.3 (<i>Effects of hardship</i>)	355
CHAPTER 7: NON-PERFORMANCE	363
SECTION 1: Non-performance in general.....	363
ARTICLE 7.1.1 (<i>Non-performance defined</i>)	363
ARTICLE 7.1.2 (<i>Interference by the other party</i>).....	365
ARTICLE 7.1.3 (<i>Withholding performance</i>)	368
ARTICLE 7.1.4 (<i>Cure by non-performing party</i>)	372
ARTICLE 7.1.5 (<i>Additional period for performance</i>)	379

ARTICLE 7.1.6 (<i>Exemption clauses</i>).....	383
ARTICLE 7.1.7 (<i>Force majeure</i>).....	387
SECTION 2: Right to performance	393
ARTICLE 7.2.1 (<i>Performance of monetary obligation</i>)	393
ARTICLE 7.2.2 (<i>Performance of non-monetary obligation</i>).....	396
ARTICLE 7.2.3 (<i>Repair and replacement of defective performance</i>).....	404
ARTICLE 7.2.4 (<i>Judicial penalty</i>).....	407
ARTICLE 7.2.5 (<i>Change of remedy</i>)	410
SECTION 3: Termination	413
ARTICLE 7.3.1 (<i>Right to terminate the contract</i>)	413
ARTICLE 7.3.2 (<i>Notice of termination</i>)	420
ARTICLE 7.3.3 (<i>Anticipatory non-performance</i>).....	424
ARTICLE 7.3.4 (<i>Adequate assurance of due performance</i>).....	426
ARTICLE 7.3.5 (<i>Effects of termination in general</i>).....	428
ARTICLE 7.3.6 (<i>Restitution with respect to contracts to be performed at one time</i>)	433
ARTICLE 7.3.7 (<i>Restitution with respect to long-term contracts</i>).....	438
SECTION 4: Damages	442
ARTICLE 7.4.1 (<i>Right to damages</i>).....	442
ARTICLE 7.4.2 (<i>Full compensation</i>).....	446
ARTICLE 7.4.3 (<i>Certainty of harm</i>).....	451
ARTICLE 7.4.4 (<i>Foreseeability of harm</i>).....	454
ARTICLE 7.4.5 (<i>Proof of harm in case of replacement transaction</i>)	458
ARTICLE 7.4.6 (<i>Proof of harm by current price</i>)	461
ARTICLE 7.4.7 (<i>Harm due in part to aggrieved party</i>)	465
ARTICLE 7.4.8 (<i>Mitigation of harm</i>)	469
ARTICLE 7.4.9 (<i>Interest for failure to pay money</i>).....	473
ARTICLE 7.4.10 (<i>Interest on damages</i>)	477
ARTICLE 7.4.11 (<i>Manner of monetary redress</i>).....	480

ARTICLE 7.4.12 (<i>Currency in which to assess damages</i>)	481
ARTICLE 7.4.13 (<i>Agreed payment for non-performance</i>).....	483
CHAPTER 8: SET-OFF	489
ARTICLE 8.1 (<i>Conditions of set-off</i>)	489
ARTICLE 8.2 (<i>Foreign currency set-off</i>).....	494
ARTICLE 8.3 (<i>Set-off by notice</i>).....	496
ARTICLE 8.4 (<i>Content of notice</i>)	497
ARTICLE 8.5 (<i>Effect of set-off</i>)	499
CHAPTER 9: ASSIGNMENT OF RIGHTS, TRANSFER OF OBLIGATIONS, ASSIGNMENT OF CONTRACTS ...	501
SECTION 1: Assignment of rights.....	501
ARTICLE 9.1.1 (<i>Definitions</i>).....	501
ARTICLE 9.1.2 (<i>Exclusions</i>)	503
ARTICLE 9.1.3 (<i>Assignability of non-monetary rights</i>) ...	504
ARTICLE 9.1.4 (<i>Partial assignment</i>)	506
ARTICLE 9.1.5 (<i>Future rights</i>)	508
ARTICLE 9.1.6 (<i>Rights assigned without individual specification</i>)	509
ARTICLE 9.1.7 (<i>Agreement between assignor and assignee sufficient</i>)	510
ARTICLE 9.1.8 (<i>Obligor’s additional costs</i>).....	512
ARTICLE 9.1.9 (<i>Non-assignment clauses</i>)	513
ARTICLE 9.1.10 (<i>Notice to the obligor</i>)	517
ARTICLE 9.1.11 (<i>Successive assignments</i>)	520
ARTICLE 9.1.12 (<i>Adequate proof of assignment</i>)	522
ARTICLE 9.1.13 (<i>Defences and rights of set-off</i>).....	525
ARTICLE 9.1.14 (<i>Rights related to the right assigned</i>) ...	527
ARTICLE 9.1.15 (<i>Undertakings of the assignor</i>)	529
SECTION 2: Transfer of obligations.....	532
ARTICLE 9.2.1 (<i>Modes of transfer</i>)	532
ARTICLE 9.2.2. (<i>Exclusion</i>).....	536
ARTICLE 9.2.3 (<i>Requirement of obligee’s consent to transfer</i>).....	537
ARTICLE 9.2.4 (<i>Advance consent of obligee</i>).....	539

ARTICLE 9.2.5 (<i>Discharge of original obligor</i>)	540
ARTICLE 9.2.6 (<i>Third party performance</i>)	543
ARTICLE 9.2.7 (<i>Defences and rights of set-off</i>)	544
ARTICLE 9.2.8 (<i>Rights related to the obligation transferred</i>)	546
SECTION 3: Assignment of contracts	548
ARTICLE 9.3.1 (<i>Definitions</i>)	548
ARTICLE 9.3.2 (<i>Exclusion</i>)	549
ARTICLE 9.3.3 (<i>Requirement of consent of the other party</i>)	550
ARTICLE 9.3.4 (<i>Advance consent of the other party</i>)	553
ARTICLE 9.3.5 (<i>Discharge of the assignor</i>)	555
ARTICLE 9.3.6 (<i>Defences and rights of set-off</i>)	557
ARTICLE 9.3.7 (<i>Rights transferred with the contract</i>)	558
CHAPTER 10: LIMITATION PERIODS	561
ARTICLE 10.1 (<i>Scope of the Chapter</i>)	561
ARTICLE 10.2 (<i>Limitation periods</i>)	563
ARTICLE 10.3 (<i>Modification of limitation periods by the parties</i>)	567
ARTICLE 10.4 (<i>New limitation period by acknowledgement</i>)	570
ARTICLE 10.5 (<i>Suspension by judicial proceedings</i>)	574
ARTICLE 10.6 (<i>Suspension by arbitral proceedings</i>)	577
ARTICLE 10.7 (<i>Alternative dispute resolution</i>)	581
ARTICLE 10.8 (<i>Suspension in case of force majeure, death or incapacity</i>)	583
ARTICLE 10.9 (<i>Effects of expiration of limitation period</i>)	586
ARTICLE 10.10 (<i>Right of set-off</i>)	589
ARTICLE 10.11 (<i>Restitution</i>)	590
CHAPTER 11: PLURALITY OF OBLIGORS AND OF OBLIGEES	591
SECTION 1: Plurality of obligors	591
ARTICLE 11.1.1 (<i>Definitions</i>)	591

ARTICLE 11.1.2 (<i>Presumption of joint and several obligations</i>)	594
ARTICLE 11.1.3 (<i>Obligee’s rights against joint and several obligors</i>).....	595
ARTICLE 11.1.4 (<i>Availability of defences and rights of set-off</i>)	596
ARTICLE 11.1.5 (<i>Effect of performance or set-off</i>)	598
ARTICLE 11.1.6 (<i>Effect of release or settlement</i>)	599
ARTICLE 11.1.7 (<i>Effect of expiration or suspension of limitation period</i>)	601
ARTICLE 11.1.8 (<i>Effect of judgment</i>)	602
ARTICLE 11.1.9 (<i>Apportionment among joint and several obligors</i>).....	604
ARTICLE 11.1.10 (<i>Extent of contributory claim</i>).....	605
ARTICLE 11.1.11 (<i>Rights of the obligee</i>).....	607
ARTICLE 11.1.12 (<i>Defences in contributory claims</i>).....	609
ARTICLE 11.1.13 (<i>Inability to recover</i>).....	612
SECTION 2: Plurality of obligees	613
ARTICLE 11.2.1 (<i>Definitions</i>).....	613
ARTICLE 11.2.2 (<i>Effects of joint and several claims</i>)	617
ARTICLE 11.2.3 (<i>Availability of defences against joint and several obligees</i>)	618
ARTICLE 11.2.4 (<i>Allocation between joint and several obligees</i>).....	622