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Unidroit

International Institute for the Unification of Private Law

WORKING GROUP FOR THE PREPARATION OF
PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS

Draft Model Clause prepared by Professor E.A. Farnsworth

Rome, June 1998

1. - On the occasion of the 1st session of the Working Group for the preparation of a second, enlarged edition of the Principles of International Commercial Contracts (Rome, March 1998), it was decided to prepare a draft model clause which parties could employ to incorporate the UNIDROIT Principles, either with or without a specific domestic law, into their contract.

2. - Paragraph 2 of the Preamble of the UNIDROIT Principles of International Commercial Contracts reads as follows: “[These Principles] shall be applied when the parties have agreed that their contract be governed by them”. It is proposed to add a footnote reading as follows:

Parties wishing to provide that their agreement be governed by the Principles might use the following words, adding any desired exceptions or modifications:

“This contract shall be governed by the UNIDROIT Principles (1994) [except as to Articles ...]”

Parties wishing to provide in addition for the application of the law of a particular jurisdiction might use the following words:

“This contract shall be governed by the UNIDROIT Principles (1994) [except as to Articles...], supplemented when necessary by the law of [jurisdiction X]”.

[Reporter’s Note]

It is suggested that the footnote be kept simple and short, avoiding if possible recital of “interpretation, performance, validity” etc. Any provision for arbitration should also be avoided since there are various formulas for that already available. Also any “recommendation” should be avoided since this might give rise to a negative inference if other words are used.