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performance which the debtor, by reason of the nature of the performance or the assignment of the debtor and the assignor, could not reasonably be required to render to anyone except the assignee. (1) Subject to Articles 11:301, 11:302, 11:307 and 11:308, the debtor is bound to perform in favour of the assignee if and only if the debtor has received a notice in writing from the assignor or the assignee which reasonably identifies the claim which has been assigned and requires the debtor to give performance to the assignee. (2) However, if such notice is given by the assignee, the debtor may within a reasonable time request the assignee to provide reliable evidence of the assignment. (3) The debtor is bound to perform in favour of the assignee if and only if the performance is given without knowledge of the assignment. (4) Where the debtor has acquired knowledge of the assignment otherwise than by a notice conforming to paragraph (1), the debtor may either withhold performance from or give performance to the assignee. (5) Where the debtor gives performance to the assignor, the debtor is discharged if and only if the performance is given without knowledge of the assignment. A debtor who performs in favour of a person identified as assignee in a notice of assignment under Article 11:303 is discharged unless the debtor could not have been unaware that such person was not the person entitled to performance. A debtor who has received notice of two or more competing demands for performance may discharge liability by conforming to the law of the due place of performance, or, if the performances are due in different places, the law applicable to the claim. (1) Where the assigned claim relates to an obligation to pay money at a particular place, the assignee may require payment at any place within the same country or, if that country is a Member State of the European Union, at any place within the European Union, but the assignor is liable to the debtor for any increased costs which the debtor incurs by reason of any change in the place of performance. (2) Where the assigned claim relates to a non-monetary obligation to be performed at a particular place, the assignee may not require performance at any other place. (1) The debtor may set up against the assignee all substantive and procedural defences to the assigned claim which the debtor could have used against the assignor. (2) The debtor may also assert against the assignee all rights of set-off which would have been available against the assignor under Chapter 13 in respect of any claim against the assignor: (a) existing at the time when a notice of assignment, whether or not conforming to Article 11:303(1), reaches the debtor; or (b) closely connected with the assigned claim. A modification of the claim made by agreement between the assignor and the debtor, without the consent of the assignee, after a notice of assignment, whether or not conforming to Article 11:303(1), reaches the debtor does not affect the rights of the assignee against the debtor unless the modification is provided for in the assignment agreement or is one which is made in good faith and is of a nature to which the assignee could not reasonably object. (1) Where there are successive assignments of the same claim, the assignee whose assignment is first notified to the debtor has priority over any earlier assignee if at the time of the later assignment the assignee under that assignment neither knew nor ought to have known of the earlier assignment. (2) Subject to paragraph (1), the priority of successive assignments, whether of existing or future claims, is determined by the order in which they are made. (3) The assignee's interest in the assigned claim has priority over the interest of a creditor of the assignor who attaches that claim, whether by judicial process or otherwise, after the time the assignment has taken effect under Article 11:202. (4) In the event of the assignor's bankruptcy, the assignee's interest in the assigned claim has priority over the interest of the assignor's insolvency administrator and creditors, subject to any rules of the law applicable to the bankruptcy relating to: (a) publicity required as a condition of such priority; (b) the ranking of claims; or (c) the avoidance or ineffectiveness of transactions in the bankruptcy proceedings. (1) A third person may undertake with the agreement of the debtor and the creditor to be substituted as debtor, with the effect that the original debtor is discharged. (2) A creditor may agree in advance to a future substitution. In such a case the substitution takes effect only when the creditor is given notice by the new debtor of the agreement between the new and the original debtor. (1) The new debtor cannot invoke against the creditor any rights or defences arising from the relationship between the new debtor and the original debtor. (2) The discharge of the original debtor also extends to any security of the original debtor given to the creditor for the performance of the obligation, unless the security is over an asset which is transferred to the new debtor as part of a transaction between the original and the new debtor. (3) Upon discharge of the original debtor, a security granted by any person other than the new debtor for the performance of the obligation is released, unless that other person agrees that it should continue to be available to the creditor. (4) The new debtor may invoke against the creditor all defences which the original debtor could have invoked against the creditor. (1) A party to a contract may agree with a third person that that person is to be substituted as the contracting party. In such a case the substitution takes effect only where, as a result of the other party's assent, the first party is discharged. (2) To the extent that the substitution of the third person as a contracting party involves a transfer of rights to performance ("claims"), the provisions of Chapter 11 apply; to the extent that obligations are transferred, the provisions of Section 1 of this Chapter apply. If two parties owe each other obligations of the same kind, either party may set off that party's right to performance ("claim") against the other party's claim, if and to the extent that, at the time of set-off, the first party: (a) is entitled to effect performance; and (b) may demand the other party's performance. (1) A debtor may not set off a claim which is unascertained as to its existence or value unless the set-off will not prejudice the interests of the other party. (2) Where the claims of both parties arise from the same legal relationship it is presumed that the other party's interests will not be prejudiced. Where parties owe each other money in different currencies, each party may set off that party's claim against the other party's claim, unless the parties have agreed that the party declaring set-off is to pay exclusively in a specified currency. The right of set-off is exercised by notice to the other party. (1) Where the party giving notice of set-off has two or more claims against the other party, the notice is effective only if it identifies the claim to which it relates. (2) Where the party giving notice of set-off has to perform two or more obligations towards the other party, the rules in Article 7:109 apply with appropriate adaptations. Set-off discharges the obligations, as far as they are coextensive, as from the time of notice. Set-off cannot be effected: (a) where it is excluded by agreement; (b) against a claim to the extent that that claim is not capable of attachment; and (c) against a claim arising from a deliberate wrongful act. A right to performance of an obligation ("claim") is subject to prescription by the expiry of a period of time in accordance with these Principles. The general period of prescription is three years. (1) The period of prescription for a claim established by judgment is ten years. (2) The same applies to a claim established by an arbitral award or other instrument which is enforceable as if it were a judgment. (1) The general period of prescription begins to run from the time when the debtor has to effect performance or, in the case of a right to damages, from the time of the act which gives rise to the claim. (2) Where the debtor is under a continuing obligation to do or refrain from doing something, the general period of prescription begins to run with each breach of the obligation. (3) The period of prescription set out in Article 14:202 begins to run from the time when the judgment or arbitral award obtains the effect of res judicata, or the other instrument becomes enforceable, though not before the debtor has to effect performance. The running of the period of prescription is suspended as long as the creditor does not know of, and could not reasonably know of, (a) the identity of the debtor; or (b) the facts giving rise to the claim including, in the case of a right to damages, the type of damage. (1) The running of the period of prescription is suspended from the time when judicial proceedings on the claim are begun. (2) Suspension lasts until a decision has been made which has the effect of res judicata, or until the case has been otherwise disposed of. (3) These provisions apply, with appropriate adaptations, to arbitration proceedings and to all other proceedings initiated with the aim of obtaining an instrument which is enforceable as if it were a judgment. (1) The running of the period of prescription is suspended as long as the creditor is prevented from pursuing the claim by an impediment which is beyond the creditor's control and which the creditor could not reasonably have been expected to avoid or overcome. (2) Paragraph (1) applies only if the impediment arises, or subsists, within the last six months of the prescription period. If the parties negotiate about the claim, or about circumstances from which a claim might arise, the period of prescription does not expire before one year has passed since the last communication made in the negotiations. (1) If a person subject to an incapacity is without a representative, the period of prescription of a claim held by or against that person does not expire before one year has passed after either the incapacity has ended or a representative has been appointed. (2) The period of prescription of claims between a person subject to an incapacity and that person's representative does not expire before one year has passed after either the incapacity has ended or a new representative has been appointed. Where the creditor or debtor has died, the period of prescription of a claim held by or against the deceased's estate does not expire before one year has passed after the claim can be enforced by or against an heir, or by or against a representative of the estate. The period of prescription cannot be extended, by suspension of its running or postponement of its expiry under these Principles, to more than ten years or, in case of claims for personal injuries, to more than thirty years. This does not apply to suspension under Article 14:302. (1) If the debtor acknowledges the claim, vis-à-vis the creditor, by part payment, payment of interest, giving of security, or in any other manner, a new period of prescription begins to run. (2) The new period is the general period of prescription, regardless of whether the claim was originally subject to the general period of prescription or the ten year period under Article 14:202. In the latter case, however, this Article does not operate so as to shorten the ten year period. The ten year period of prescription laid down in Article 14:202 begins to run again with each reasonable attempt at execution undertaken by the creditor. (1) After expiry of the period of prescription the debtor is entitled to refuse performance. (2) Whatever has been performed in order to discharge a claim may not be reclaimed merely because the period of prescription had expired. The period of prescription for a right to payment of interest, and other claims of an ancillary nature, expires not later than the period for the principal claim. A claim in relation to which the period of prescription has expired may nonetheless be set off, unless the debtor has invoked prescription previously or does so within two months of notification of set-off. (1) The requirements for prescription may be modified by agreement between the parties, in particular by either shortening or lengthening the periods of prescription. (2) The period of prescription may not, however, be reduced to less than one year or extended to more than thirty years after the time of commencement set out in Article 14:203. A contract is of no effect to the extent that it is contrary to principles recognised as fundamental in the laws of the Member States of the European Union. (1) Where a contract infringes a mandatory rule of law applicable under Article 1:103 of these Principles, the effects of that infringement upon the contract are the effects, if any, expressly prescribed by that mandatory rule. (2) Where the mandatory rule does not expressly prescribe the effects of an infringement upon a contract, the contract may be declared to have full effect, to have some effect, to have no effect, or to be subject to modification. (3) A decision reached under paragraph (2) must be an appropriate and proportional response to the infringement, having regard to all relevant circumstances, including: (a) the purpose of the rule which has been infringed; (b) the category of persons for whose protection the rule exists; (c) any sanction that may be imposed under the rule infringed; (d) the seriousness of the infringement; (e) whether the infringement was intentional; and (f) the closeness of the relationship between the infringement and the contract. (1) If only part of a contract is rendered ineffective under Articles 15:101 or 15:102, the remaining part continues in effect unless, giving due consideration to all the circumstances of the case, it is unreasonable to uphold it. (2) Articles 15:104 and 15:105 apply, with appropriate adaptations, to a case of partial ineffectiveness. (1) When a contract is rendered ineffective under Articles 15:101 or 15:102, either party may claim restitution of whatever that party has supplied under the contract, provided that, where appropriate, concurrent restitution is made of whatever has been received. (2) When considering whether to grant restitution under paragraph (1), and what concurrent restitution, if any, would be appropriate, regard must be had to the factors referred to in Article 15:102(3). (3) An award of restitution may be refused to a party who knew or ought to have known of the reason for the ineffectiveness. (4) If restitution cannot be made in kind for any reason, a reasonable sum must be paid for what has been received. (1) A party to a contract which is rendered ineffective under Articles 15:101 or 15:102 may recover from the other party damages putting the first party as nearly as possible into the same position as if the contract had not been concluded, provided that the other party knew or ought to have known of the reason for the ineffectiveness. (2) When considering whether to award damages under paragraph (1), regard must be had to the factors referred to in Article 15:102(3). (3) An award of damages may be refused where the first party knew or ought to have known of the reason for the ineffectiveness. A contractual obligation may be made conditional upon the occurrence of an uncertain future event, so that the obligation takes effect only if the event occurs (suspensive condition) or comes to an end if the event occurs (resolutive condition). (1) If fulfilment of a condition is prevented by a party, contrary to duties of good faith and fair dealing or co-operation, and if fulfilment would have operated to that party's disadvantage, the condition is deemed to be fulfilled. (2) If fulfilment of a condition is brought about by a party, contrary to duties of good faith and fair dealing or co-operation, and if fulfilment operates to that party's advantage, the condition is deemed not to be fulfilled. (1) Upon fulfilment of a suspensive condition, the relevant obligation takes effect unless the parties otherwise agree. (2) Upon fulfilment of a resolutive condition, the relevant obligation comes to an end unless the parties otherwise agree. (1) Interest payable according to Article 9:508(1) is added to the outstanding capital every 12 months. (2) Paragraph (1) of this Article does not apply if the parties have provided for interest upon delay in payment.

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