

EXHIBIT B – Draft Federal Legislation Adopting the Official Version of the UETA as the Law Applicable in the Absence of Party Choice of Law.

*An Act*

To implement the United Nations Convention on the Use of Electronic Communications in International Contracts.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**Section 1. Short Title.**

This Act may be cited as “International Electronic Commerce Convention Implementation Act of 20\_\_.”

**Section 2. Findings and Purpose.**

(a) **Findings**

- (1) The ability to employ electronic media to finalize international contractual transactions is essential;
- (2) Laws that promote predictable enforcement of transactions employing electronic communications increase the value of such transaction, support responsible domestic and international commercial practice and reduce commercial risk;
- (3) The United Nations Convention on the Use of Electronic Communications in International Contracts (the “Convention”) achieves these objectives;
- (4) Because rules validating the employment of electronic media on an equal legal footing with pen and ink paper media as provided by the Convention are already embodied in the text of the Electronic Signatures in Global and National Commerce Act, and Official Version of the Uniform Electronic Transactions Act, implementation of the Convention introduces only minor changes to uniform state law in the United States.
- (5) Federal and State law bodies in the United States as well as representative of global commercial interests were leaders in the development of the Convention.
- (6) Implementation of the Convention by the United States would further the uniformity and harmonization of international commercial law.

(b) **Purpose.**

The purpose of this Act is to implement the Convention in the United States.

**Section 3. Definitions.** In this Act,

(a) “Convention” means the United Nations Convention on the Use of Electronic Communication in International Contracts.

(b) “Foreign Jurisdiction” means a jurisdiction other than the United States or a State.

(c) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(d) “UETA” or “Uniform Electronic Transactions Act,” means the Official Text of the Uniform Electronic Transactions Act, prepared and published by the Uniform Law Commission.

**Section 4. Scope.** This Act applies only to international transactions employing electronic communications within the scope of the Convention and to which the Convention applies (“transaction”).

#### **Section 5. Implementation of the Convention in the United States**

(a) **Transactions that Choose the Convention as Applicable Law.** A transaction in which the parties expressly state that it is governed by the Convention shall be governed by the text of the Convention as the applicable law.

(b) **Transactions that Choose the Law of a Foreign Jurisdiction as the Applicable Law.** A transaction in which the parties expressly state that it is governed by the law of a Foreign Jurisdiction shall be governed by the law of the Foreign Jurisdiction, including the Convention as there implemented.

(c) **Transactions that do not Choose Applicable Law.** A transaction in which the parties have not chosen the applicable law to govern the transaction shall be governed by the UETA. Notwithstanding the foregoing sentence, no limitation on party autonomy imposed under the UETA shall be given effect with respect to an electronic communication that would otherwise be governed by the Convention.

**Section 6. Undertakings that Choose State Law as the Applicable Law.** A transaction that expressly states that it is governed by the law of a State shall be governed by the law of that State and not by the Convention.

**Section 7. Effective Date and Preservation of Prior Rights.** This Act shall take effect on the date on which the Convention enters into force with respect to the United States. This Act applies to undertakings issued on and after the effective date of this Act. This Act does not apply to a transaction, event, obligation or duty arising out of or associated with an undertaking that was issued before the effective date of this Act.