



## **TERMS OF TRADING ("TERMS")**

Customer shall be deemed to have read and irrevocably and unconditionally agreed the Terms and the Privacy Agreement which is posted on the Website before placing any Order and/or entering into any Contract with Supplier. Customer acknowledges and agrees that these Terms may be amended from time to time and Customer shall be subject to these Terms as updated as of the relevant time of Customer entering into a Contract. Customer can access to the updated version of these Terms on the Website. Any amendment or changes to the Terms or the Privacy Agreement shall be effective immediately upon posting on the Website.

### **1. DEFINITIONS**

In these Terms and the paragraph above, the following words and expressions shall have the following meanings unless the context otherwise requires:-

1.1 **Contract** means the legally binding contract between Supplier and Customer created when an Order placed by Customer is accepted by Supplier in accordance with these Terms, including but not limited to any subscription agreement or contract signed or entered into through the Website by Customer in respect of any Order.

1.2 **Customer** means any person, firm, company or unincorporated association which orders, buys or licenses Goods from Supplier.

1.3 **Customer Services** means the customer services department at Thomson Reuters Hong Kong Limited trading as Sweet & Maxwell.

1.4 **Delivery Charges** means all charges payable by a Customer for delivery and handling of Goods.

1.5 **Goods** includes but is not limited to publications, print parts, supplements to an edition of a book, new editions of a book and supplements, electronic or online materials, disk, CD products, updating materials for Print Subscription Products purchased by Customer online through the Website or by other means from Supplier and/or any Service which are the subject of a Contract.

1.6 **Order** means any order placed by Customer either through the Website, in writing or by other means for supply of Goods by Supplier to Customer (including a Standing Order).



1.7 **Payment Due Date** means the date shown on Supplier's invoice as the due date for payment of the Goods.

1.8 **Price** defined in clause 5.1.

1.9 **Print Subscription Product** means any Goods which are ordered and paid by Customer to Supplier by way of "Annual Subscription"; "Anytime Start Subscription " and/or "Charge by Release Service" as are defined in clause 6.2.

1.10 **Service** means any service (including but not limited to online, information, advisory, consultancy, conference, seminars, training or other services) supplied by Supplier or any other service provider through Supplier which is the subject of a Contract.

1.11 **Standing Order** means a Contract to purchase either (a) all supplements to an edition of a book; (b) all new editions of a book and supplements; or (c) all titles in a series (if any) thereto each being subject to separate written documentation with Customer. Customer may terminate a Standing Order at any time by written notice to Customer Services.

1.12 **Supplier** means Thomson Reuters Hong Kong Limited trading as Sweet & Maxwell.

1.13 **Total Price** means the aggregate amount to be paid by Customer to Supplier for Goods as specified on the Supplier's invoice or the confirmation note given to Customer through the Website if such purchase is made through the Website which constitutes the Price (inclusive of any applicable value added tax) less any agreed discounts, plus Delivery Charges and any other agreed charges.

1.14 **Website** means the website [www.sweetandmaxwell.com.hk](http://www.sweetandmaxwell.com.hk) as may be amended from time to time.

## 2. ACCEPTANCE OF ORDERS

2.1 Any catalogue, mailshot, advertisement or quotation for Goods shall not constitute an offer capable of acceptance by Customer but an invitation to place an Order by Customer. Orders shall be accepted entirely at Supplier's discretion and, if accepted, are governed by these Terms.

2.2 Subject to the provisions of clause 2.4, if there are any additional, altered, substitutive



provisions found in the Contract which may be or are inconsistent or different from any provisions found in these Terms, then the provisions in the Contract shall prevail. No addition, alteration or substitution of these Terms will bind Supplier or form part of the Contract after Customer signed a relevant Contract unless expressly accepted in writing by Customer separately on request of Supplier.

2.3 Subject to clause 5.7, an Order shall be deemed to have been accepted by Supplier on the earliest of :

2.3.1 the acceptance by Supplier of payment in cleared funds for Goods;

2.3.2 dispatch of an Order confirmation, or note requesting advance payment, to Customer or any other note ("Advice Note") advising that the Order will be fulfilled once Goods to which the Advice Note relates are available; or

2.3.3 delivery of Goods to Customer or Customer's Nominee (as defined in clause 3.2), which in the case of Print Subscription Products shall mean delivery of any component part of Goods; or

2.3.4 in the case of Goods which are Services, commencement by Supplier of supply of the said Service or Supplier having provided Customer with access to the said Service.

2.4 Where Goods are or include any item of software or online subscriptions Services, database and searches Services, CD-ROM or floppy disk or other Services ("Software Services"), these Terms shall apply as varied and augmented by the appropriate software license or terms and conditions relating to such Software Services ("Service Terms"), copies of which shall be available with the relevant Software Service or on request. Where Goods are supplied to a Customer who is a bookseller, either in wholesale or retailing, on other additional and/or discretionary terms ("Trade Terms"), these Terms shall apply as varied and augmented by the Trade Terms. In the event of any inconsistency between these Terms and the Service Terms or the Trade Terms, the Trade Terms or the Service Terms (as appropriate) shall prevail. For the sake of clarity, these Terms are generic and can be supplemented by the Service Terms, the Trade Terms and/or other terms and conditions in the Contract. The Service Terms, the Trade Terms and the Contract shall prevail these Terms as appropriate.



### **3. DELIVERY OF GOODS**

3.1 Unless otherwise agreed with Customer, Supplier will deliver Goods through its distributor or direct sales at Customer's expense. Dates given for delivery are stated in good faith and for reference only but are not to be treated as a condition of the sale.

3.2 Unless otherwise agreed with Customer, Supplier will only deliver Goods which require to be physically delivered (for example books) to Hong Kong and Macau. International delivery shall only be available through prior agreement between Supplier and Customer.

3.3 Delivery to Customer shall be deemed to have taken place when Goods are placed with Customer or delivered to any person other than Customer specified by Customer in writing to take delivery on behalf of Customer in accordance with clause 3.4 ("Customer Nominee").

3.4 Where Customer requires delivery to Customer Nominee, Customer shall notify Supplier in writing of the name and address of said Customer Nominee and the reason for delivery to the same. Upon delivery of Goods to Customer Nominee, Customer Nominee will be responsible for storage of Goods, arranging onwards delivery of Goods to Customer (if applicable) and all risks thereof. Customer will still be responsible for payment of the said Goods as specified herein.

3.5 Where Goods are Services (including online Services) delivery / performance will be in accordance with the agreed commencement date and in the case of online Services will be deemed to have occurred when the said Service is made available to Customer and Customer has been so notified.

3.6 Where Customer is notified that Goods are unavailable (for whatever reason), Customer agrees that Supplier may perform the Contract for said Goods when they become available irrespective of any estimate of dates given by Supplier.

3.7 Risk in Goods shall pass to Customer on delivery.

3.8 Supplier reserves the right to make deliveries by installments in all cases and Customer shall not be entitled to treat any delayed or defective delivery in respect of one or more installments as a repudiation by Supplier of the whole of the Contract nor to defer payment for any previous installment.



3.9 Any time or date for delivery given by Supplier is given in good faith but is an estimate only and time of delivery shall not be made of the essence by notice. Supplier shall not be liable for any delay in delivery of Goods.

3.10 Where Customer trials an online Service, that trial will be subject to the relevant Service Terms which if not provided by Supplier prior to start of the trial will be located on the online Service and available on request. Access will be terminated at the end of the trial period where Customer does not take up a subscription to the online Service immediately thereafter.

#### **4. TITLE IN GOODS**

4.1 Notwithstanding delivery and the passing of risk in Goods to Customer, or any other provision of these Terms, title in Goods is intended to pass when, and shall not pass to Customer until, Supplier has received in cash or cleared funds payment in full of the Total Price and of all other sums which may be due by Customer to Supplier at the time the Total Price is so paid in full.

4.2 For the purposes of clause 4.3 and 4.4, where Goods are delivered to Customer Nominee, Customer shall (a) ensure that Customer Nominee complies with obligations owed by Customer to Supplier ; (b) procure for Supplier a right of entry and repossession of Goods against any Customer Nominee or (c) on request of Supplier exercise any such right Customer may have against Customer Nominee.

4.3 Until property in Goods passes to Customer, Customer shall keep Goods free from any lien, charge or encumbrance and Supplier may at any time require Goods to be returned to it by Customer and if such requirement is not met within three days from Supplier's request Supplier may retake possession of Goods and may enter any premises of Customer (including locked and steadfast premises) for that purpose. Customer shall hold Goods as Supplier's fiduciary agent and custodian and shall keep them separate from Customer's property and from that of third parties and properly stored, protected and insured and identified as the property of Supplier.

4.4 If Customer sells or otherwise disposes of or processes Goods prior to payment of the Total Price (or any part thereof) it shall receive and hold as trustee for Supplier the proceeds of such sale, disposal or process or other monies derived from or representing Goods (or any part thereof) (including insurance proceeds) and shall keep such proceeds or other monies



separate from any monies or property of Customer and/or third parties, and shall as soon as possible after receiving the same pay such monies to Supplier or into a separate account in trust for Supplier.

4.5 Supplier shall be entitled to sue for the Total Price notwithstanding that property in Goods has not passed to Customer.

4.6 In the event that Supplier notifies Customer to withdraw all or any of Goods supplied to Customer for re-sale purposes, Customer shall comply with the request immediately. In such circumstances, Customer shall be entitled to receive credit for any such Goods returned and accepted by Supplier according to the purchase price paid by Customer.

## **5. PRICE AND PAYMENT**

5.1 For the purposes of these Terms, Price is :-

5.1.1 for the renewal of a Print Subscription Product, the price as specified in the relevant renewal invoice to be invoiced to Customer in accordance to clause 6.2; and

5.1.2 for all other Goods (except those individually negotiated) including, for the avoidance of doubt, "Charge by Release" releases (see clause 6.2), the price quoted by Supplier or, where no price has been quoted, the price listed in Supplier's price list current at the date of delivery of Goods plus other appropriate charges and shall be specified in the relevant invoice.

5.2 Customer agrees to purchase Goods at the Price.

5.3 Rates, Prices, Discounts and Delivery Charges published in catalogues, lists, mailshots, advertisements, Trade Terms, quotations, website and other documents issued by Supplier are subject to variation at any time without prior notice. If Supplier has to convert any price or charge from one currency to another in order to process Customer's order, Supplier has absolute discretion on the exchange rate used to make the conversion.

5.4 The Total Price shall be paid in full in cash or cleared funds :

5.4.1 in advance of dispatch of the Goods; or



5.4.2 where Customer has a credit account by the Payment Due Date. Time for payment shall be of the essence.

5.5 Where Customer intends to pay for Goods (whether available or not at the time of Order) by credit card, debit card or any payment card, Customer hereby authorizes Supplier to debit the said card with the Total Price.

5.6 Customer may pay for the Order through the Website using credit cards, debit cards or other payment cards as accepted by the Supplier from time to time, and hereby accept the following:

5.6.1 Supplier will only accept the following major credit or debit cards for purchases: [MasterCard, Visa, and American Express.] Supplier reserves the right to change the type of credit or debit cards accepted at any time, at its sole discretion, without prior notice;

5.6.2 Customer confirms that it is the authorized user of the credit or debit card it uses for the payment of the Order and that the associated information entered (including but not limited to account holder name, account number, billing address) is true and accurate;

5.6.3 Customer agrees that by confirming the Order by clicking the relevant button on the Website, it is consenting to receive from the Supplier electronic confirmation and such other emails in respect of the follow up of the Order sent to the email address Customer has provided to the Supplier;

5.6.4 Customer may be required to provide further identification for additional security reference checks; and

5.6.5 Customer authorises Supplier or its affiliates or subsidiaries as Supplier shall direct to charge the Total Price to the credit or debit card.

5.7 Credit accounts are by application to Supplier, are at Supplier's sole discretion and subject to special terms notified as part of the application process. Where Customer has an existing credit account with Supplier, all Goods will be supplied subject to the credit terms granted by Supplier. Orders from Customer who does not have an agreed credit account



will only be accepted against prepayment in full.

5.8 The invoice (or receipted invoice where advance payment is made) shall be given or dispatched by Supplier to Customer on or about the date of dispatch of Goods provided that Supplier reserves the right to issue further invoices to Customer in respect of increased or other charges payable under these Terms and not ascertainable at the time of issue of the original invoice. Customers should notify Supplier of any error in any invoice within 30 days of the Payment Due Date quoting account number and relevant invoice number.

5.9 If the Total Price is not paid in full by the Payment Due Date Supplier may:-

- 5.9.1 cancel or suspend any further Goods' deliveries (or access in the case of online Services) to Customer (under any Contract);
- 5.9.2 appropriate any payment made by Customer to Goods covered by any Contract between Customer and Supplier as Supplier may think fit (notwithstanding any purported appropriation by Customer); and
- 5.9.3 charge Customer interest (both before and after any judgment) on the outstanding amount at a rate of 1.5% per month, until payment is made in full (a part of a month being treated as a full month for the purposes of calculating interest).

5.10 Customer shall reimburse Supplier (on a full indemnity basis) all costs and expenses incurred by Supplier in connection with the recovery of any money due to Supplier under the Contract.

5.11 Further, any payment made by Customer to Supplier shall be applied by Supplier to invoices, and to Goods listed in invoices, in such order or manner as Supplier shall, at its entire discretion, think fit notwithstanding any purported appropriation by Customer.

5.12 Except with the written agreement of Supplier, no deduction shall be made by Customer from any payment for Goods for or on account of any matter or thing whatsoever including, but not limited to, any set-off, compensation, counter-claim or present or future taxes.





## 6. PRINT SUBSCRIPTION PRODUCTS

6.1 For avoidance of doubt this clause 6 shall not apply to Software Services which shall, in addition to these Terms, be governed by the relevant Service Terms.

6.2 This clause 6.2 specifies additional terms that apply to Print Subscription Products and to the extent of any inconsistency between it and other clauses in the Terms, this clause shall prevail over those clauses in relation to Print Subscription Products. An Order for Print Subscription Products shall be made either by:

- 6.2.1 **Annual Subscription:** this means a subscription for Goods running from January to December in any year ("the Subscription Year"), where the subscription may be purchased
- (a) as part of the Price for a looseleaf main work; or
  - (b) during the Subscription Year, whereby Customer pays Supplier an annual sum to receive all issues/updating releases of the relevant Goods (and other elements if any) published in the Subscription Year. Customer agrees that Supplier shall continue to invoice Customer and supply the Print Subscription Products on each anniversary thereof for successive further terms of one (1) year each thereafter whereby Customer shall pay an annual sum to receive all issues/updating releases (and other elements if any) published in the further Subscription Year unless and until Customer gives notice of termination in writing to Supplier not later than 30 November of the relevant Subscription Year or not later than such date as is specified on the invoice (if any), whichever is the later. No refund shall be made by Supplier to Customer for any the Annual Subscription already paid by Customer; or by
- 6.2.2 **Anytime Start Subscription:** this means a subscription for Goods for 12 months ("the 12-month Subscription Period") starting on a specified date. Customer agrees that Supplier shall continue to invoice Customer and supply the relevant Goods on each anniversary thereof for further 12-month Subscription Periods thereafter whereby Customer shall pay Supplier an annual sum to receive all issues/updating releases (and other elements if any) published in the 12-month Subscription Period unless and until Customer gives notice of termination in writing to Supplier not later than 30 days prior to the expiry of the 12-month Subscription Period. No refund shall be made by Supplier to Customer for the Anytime Start Subscription already paid by Customer; or by



6.2.3 **Charge by Release Service:** this means a subscription for looseleaf release of Goods charged for individually on publication rather than by Annual or Anytime Start Subscription. In purchasing a Charge by Release Service Customer agrees that Customer shall purchase all future releases of the relevant Goods and Supplier shall continue to invoice Customer unless and until Customer gives notice of the termination in writing to Supplier. Irrespective, Customer shall pay all such releases so delivered within 7 days after the day of the notice of termination.

## 7. WARRANTIES AND LIMITATION OF LIABILITY

7.1 Supplier warrants that :-

7.1.1 it has the right to sell or license Goods to Customer;

7.1.2 Goods shall correspond with their description as set out in catalogues, lists, mailshots, advertisements, website and other documents issued by it, unless Customer is specifically advised by Supplier to the contrary prior to delivery of Goods (any verbal description of Goods, or any written description provided other than by Supplier as set out in this clause, shall not form part of their description for the purposes of these warranties); and

7.1.3 where Goods consist of or include Services, such Services shall be provided with reasonable care and skills.

7.2 Supplier shall bear no liability under the warranties in clause 7.1 if the Total Price has not been paid in full by the Payment Due Date or prior to delivery of Goods in accordance with clause 5.4.

7.3 Whilst reasonable care is taken to ensure the accuracy and completeness of Goods, Supplier makes no representations or warranties whatsoever (whether express or implied at common law or otherwise) about Goods and all such warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

7.4 Supplier shall not be liable to Customer by reason of any implied warranty, condition or other term, or any duty at common law (including delict), or under the express terms of the



Contract or by reason of any representation, which Customer acknowledges it has not relied on (but not excluding or limiting liability for fraudulent misrepresentation), whether caused by the negligence of Supplier, its employees or agents or service providers or otherwise, which arise out of or in connection with the supply of the Goods (including any delay in supplying or any failure to supply the Goods in accordance with the Contract or at all) or their use by Customer for:-

7.4.1 any direct loss EXCEPT to the extent of the rights of Customer under the Satisfaction Guarantee provided in clause 8.1; or

7.4.2 loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever.

7.5 In any event, and without prejudice to clause 7.4, the entire liability of Supplier under or in connection with the Contract shall not exceed the Total Price, except as expressly provided otherwise in these Terms.

7.6 Nothing in these Terms shall :

7.6.1 limit or exclude Supplier's liability for death or personal injury caused by Supplier's negligence; or

7.6.2 limit the statutory rights of Customer.

## **8. RETURNS**

8.1 Subject to clause 8.2, Supplier has the sole discretion to provide to Customer the Goods subject to a "Satisfaction Guarantee". Where Supplier provides a Satisfaction Guarantee, if the Goods are not to Customer's satisfaction, the Satisfaction Guarantee can be exercised by Customer returning Goods to Supplier provided that such Goods are returned (a) within the time period specified at the time of the Order (or if no period specified, within 30 days of date of the relevant invoice); (b) in accordance with clause 8.7; and (c) in original condition; after which Customer shall not be charged or will (if applicable) be credited for Goods and Supplier shall have no further liability to Customer.

8.2 The following Goods are specifically excluded from the Satisfaction Guarantee: (a) those printed on demand; (b) releases / issues of all Print Subscription Products; and (c) online Services.



8.3 Except for clause 8.1(c), the terms of the Satisfaction Guarantee shall apply to any damaged or defective Goods.

8.4 Where Customer claims for damaged or defective Goods billed and shipped as published (upkeep supplements, new editions, etc.), Customer shall give written notice to Customer Services within 14 days upon receipt of the Statement of Account on which the invoice first appears.

8.5 Where Customer alleges Supplier has not delivered the quantity of Goods ordered, Customer shall give written notice to Customer Services within 14 days of delivery (time being of the essence), of such shortages and if accepted Supplier shall supply such missing Goods.

8.6 Where an issue of a Print Subscription Product is not received by Customer, Customer shall on receipt of the next issue of the said product (time being of the essence) give written notice to Customer Services of the non-delivery of the previous issue. Failure to provide such notice shall be deemed conclusive evidence of Customer having received and accepted the previous issue.

8.7 All Goods being returned for whatever reason must be returned in accordance with the timescales set out above and the returns procedure set out on the relevant dispatch note. If Goods are not so returned, Supplier shall be entitled to assume Goods are satisfactory and in accordance with the Contract in all respects and accordingly Supplier reserves the right, at its sole discretion, to (a) charge Customer for the Goods or for their collection; or (b) return Goods to the Customer and charge Customer for Goods.

8.8 Unless agreed otherwise, all Goods being returned shall be at the expense and risk of Customer.

8.9 Supplier shall not in any circumstances whatsoever and however arising be liable for any indirect or consequential loss however caused.

## **9. COPYRIGHT AND PERMISSIONS**

9.1 All copyright and any other intellectual property right whatsoever in Goods or any materials derived there from (other than legal documents prepared for a particular client



from a style or precedent) are reserved to each respective copyright owner and Customer irrevocably acknowledges and agrees that supply of Goods to it by Supplier shall not serve to transfer any such rights.

9.2 No part of Goods may be reproduced in any form (including photocopying or storing it in any medium by electronic means and whether or not transiently or incidentally to some other use of Goods) without the prior written permission of Supplier.

**Warning : The doing of an unauthorised act in relation to a copyright work may result in both a civil claims for damages and criminal prosecution.**

## **10. DATA PRIVACY AND PROTECTION**

10.1 Customer acknowledges and accepts that Supplier will gather and use Customer's personal data and/or credit card information obtained in the process of Customer using the Website and/or placing any Order through the Website. Supplier agrees to maintain Customer's data privacy, in accordance with the Personal Data (Privacy) Ordinance (Cap 486 of the Laws of Hong Kong). Customer agrees that by placing an Order with Supplier, Customer agrees to be bound by the Privacy Agreement which may be amended from time to time. For more information please read the Privacy Agreement on the Website.

10.2 Supplier may send electronic mail or digital messages to Customer for the purpose of informing Customer of changes or additions to its Order.

10.3 A cookie is an element of data that a website can send to a user's browser, which may then store it on the user's computer. Customer acknowledges that when any Order is placed through the Website, cookies may then be stored on Customer's computer. Customer can set the browser to notify it when a cookie is received.

## **11. TERMINATION**

11.1 In the event of Customer committing any breach of any term or provision of the Contract (including, for the avoidance of doubt, these Terms), having a Liquidator, Provisional Liquidator, Receiver and / or Manager, Administrator, or other similar officer appointed over the whole or any part of its assets, or otherwise going into liquidation or becoming bankrupt or apparently insolvent or granting any trust deed or entering into any composition or similar arrangement with its creditors, or if any circumstances arise which, in



the sole opinion of Supplier, render any of the foregoing likely to occur then Supplier shall be entitled, without notice and without any liability whatsoever, to terminate the Contract forthwith and to exercise the rights of repossession of Goods as specified in clause 4.3 In such circumstances, Supplier shall also be entitled to cancel all Contracts or any part thereof remaining unfulfilled between Supplier and Customer and to sell to any other party or otherwise dispose of and deal with Goods.

11.2 Termination of the Contract shall not discharge any pre-existing liability of Customer to Supplier and on such termination Supplier shall be entitled to recover from Customer such loss or damage as Supplier has suffered by reason of such termination.

## **12. GENERAL**

12.1 Call recording may be used for phone communications between Customer and Supplier for training and administrative purposes. Customer acknowledges that such recordings will be made and retained.

12.2 No failure of or delay by Supplier to exercise any right, power, remedy or privilege shall operate as a waiver of the same.

12.3 Except as otherwise provided, all notices must be given in writing to Supplier at address given in these Terms and to Customer at last known address.

12.4 Where Customer is a legal person (as opposed to a natural person), the person placing the Order represents that s/he is authorised by Customer to place the said Order and to bind Customer thereby.

12.5 Should any term (or part of a term) of these Terms be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other terms or remainder of the term in question (as applicable) will not be affected thereby.

12.6 Supplier shall not be responsible for any delay or failure to fulfill any of its obligations under the Contract nor be liable for any loss or damage suffered or incurred by Customer by any of act of God, war, government or parliamentary restriction, import or export regulation, strike, lockout, trade dispute, fire, theft, flooding, breakdown of plant or premises, late or non-delivery of any supplies or any other cause whatsoever beyond the control of Supplier.



12.7 The headings and captions contained in these Terms are inserted for convenience only and do not constitute a part of the Contract.

12.8 Supplier may at its discretion alter these Terms (or any part of them) from time to time. Terms incorporating changes shall be posted to Supplier's website ("the Website Version") and the Website Version shall prevail without further notice to Customer over all other versions (including those on the back of invoices and on Supplier's stationery) and shall apply to Contracts entered into after the date of such posting.

12.9 Supplier may without the prior written consent of Customer assign any benefit or transfer, delegate or sub-contract any of its duties and obligations under the Contract, including those arising under these Terms, Service Terms or Trade Terms as appropriate.

12.10 These Terms, any Service Terms or Trade Terms (where applicable) and any Contract will be governed by the laws of Hong Kong Special Administration Region (HKSAR). The HKSAR Courts shall have non-exclusive jurisdiction to deal with any dispute, controversy or claim which has arisen or may arise out of or in connection with the supply of Goods by Supplier to Customer and / or these Terms Contract, any Service Terms or Trade Terms (where applicable) and any Contract as the case may be.