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Member Update

Title: Incorporation of NACMA Trade & Dispute Resolution Rules

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1 Background

The NACMA Trade Rules and Dispute Resolution Rules are only as good as your contract which incorporates them. If you don't incorporate them properly, you may not be able to rely on them

2 Managing Your Contracts

- Remember to send a written contract confirmation of any new contracts, as well as any variations to the contract, this can be by email, fax, or post (and keep a copy for your records).
- Try and get it signed by your counterparty.
- To properly incorporate NACMA Trade Rules into your contract the following should be expressly stated in your contract:
"This contract expressly incorporates the NACMA Trade Rules [or standard NACMA contract reference] and Dispute Resolution Rules in force at the time of this contract."
- The best way to ensure that you can take any disputes to NACMA arbitration is to incorporate an express arbitration agreement to resolve disputes by NACMA arbitration. The following clause is an example of the clause which should appear in your contract terms and conditions:
"Any dispute, controversy or claim arising out of, relating to or in connection with this contract, including any question regarding its existence, validity or termination, shall be resolved by arbitration in accordance with the NACMA Dispute Resolution Rules in force at the commencement of the arbitration."
- **To be clear, simply saying "All other terms as per NACMA" MAY NOT be sufficient to incorporate the NACMA Trade and Dispute Resolution Rules. To put it beyond doubt, use the sample clauses above and/or see you solicitor.**
- While the default under the Trade Rules is for the Dispute Resolution Rules current at the time the contract was entered into, the parties can agree to contract according to the version of the Rules current when the arbitration is commenced.