CONTENTS

Table of Cases xiii
Table of Legislation xxix

PART I INTRODUCTION

1. Introductory Remarks 3

2. General Aspects of Set-Off
   A. Notion and Denomination 2.02
   B. Set-Off and Agreement 2.09
   C. The Operation of Set-Off 2.17
   D. The Function of Set-Off 2.61
   E. Main Issues and Problems 2.67

PART II JURISDICTION AND APPLICABLE LAW

3. Jurisdiction Issues
   A. Jurisdiction Over Claims in Court Proceedings 3.03
   B. Jurisdiction Over Claims in Arbitration 3.40

4. Applicable Law
   A. General Aspects 4.02
   B. Rome I Regulation (2008) 4.20
   C. The Rome Convention of 1980 4.38
   D. Non-Mandatory General Principles 4.41
   E. Applicable Law in Cases of Insolvency 4.65

PART III SET-OFF BETWEEN SOLVENT PARTIES

Introduction 105
### Contents

5. General Aspects of Set-Off Between Solvent Parties Under English Law  
   A. The Various Types of Set-Off Under English Law 5.01  
   B. Independent (Statutory) Set-Off 5.09  
   C. Transaction Set-Off 5.19  
   D. Banker's Right to Combine Accounts 5.49  
   E. Contractual Extensions or Restrictions on Set-Off 5.55  

6. General Aspects of Set-Off Between Solvent Parties Under Civil Law  
   A. The Various Types of Set-Off Under Civil Law 6.01  
   B. General Principles of Set-Off 6.93  

7. The Requirement of Mutuality  
   A. The Requirement of Mutuality Under English Law 7.02  
   B. The Requirement of Mutuality Under Civil Law 7.36  

8. Claims Arising From the Same Contract or Different Contracts  
   A. The Civilian Traditions and General Principles 8.02  
   B. English Law 8.25  

9. The Requirement That Claims Be of the Same Kind  
   A. The General Principle of Fungibility (‘Same Kind’) 9.02  
   B. Money Claims in Different Currencies Under Civil Law 9.06  
   C. Restrictions on Set-Off Between Foreign Currencies Under Civil Law 9.20  
   D. Claims in Different Currencies Under English Law 9.25  

10. The Requirement of Maturation and Enforceability  
    A. Maturation and Enforceability Under English Law 10.04  
    B. Maturation and Ascertainment Under Civilian Traditions and General Principles 10.25  
    C. Enforceability and Limitation Period Under Civil Law 10.43  
    D. General Principles 10.68  

11. Statutory Exclusion of Set-Off  
    A. Exclusion in Contract of Bailment (Deposit) 11.03  
    B. Exclusion for Claims Grounded on Deliberate Wrongful Act 11.14
### Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>C. Exclusion for Claims Not Capable of Attachment</td>
<td>11.17</td>
</tr>
<tr>
<td>D. Exclusion of Set-Off Against Claim of Public Entities</td>
<td>11.20</td>
</tr>
<tr>
<td><strong>PART IV SET-OFF AGAINST INSOLVENT PARTIES</strong></td>
<td></td>
</tr>
<tr>
<td>12. Insolvency Set-Off Under English Law</td>
<td></td>
</tr>
<tr>
<td>A. General Aspects</td>
<td>12.01</td>
</tr>
<tr>
<td>B. Insolvency Proceedings</td>
<td>12.03</td>
</tr>
<tr>
<td>C. The Justification of Insolvency Set-Off</td>
<td>12.13</td>
</tr>
<tr>
<td>D. Insolvency Set-Off in Practice</td>
<td>12.19</td>
</tr>
<tr>
<td>E. Which Claims and Cross-Claims Are Included</td>
<td>12.47</td>
</tr>
<tr>
<td>F. Timing and Cut-Off Points</td>
<td>12.89</td>
</tr>
<tr>
<td>13. Insolvency Set-Off Under Civil Law</td>
<td></td>
</tr>
<tr>
<td>A. Availability of Set-Off and How It Operates</td>
<td>13.05</td>
</tr>
<tr>
<td>B. Cut-Off Date</td>
<td>13.18</td>
</tr>
<tr>
<td>C. Requirements of Set-Off</td>
<td>13.29</td>
</tr>
<tr>
<td>D. Contractual Exclusion and Mandatory Nature of Set-Off</td>
<td>13.42</td>
</tr>
<tr>
<td><strong>PART V CONCLUSION</strong></td>
<td></td>
</tr>
<tr>
<td>14. Conclusion</td>
<td>359</td>
</tr>
</tbody>
</table>

**Appendix 1:** Provisions on Jurisdiction  
**Appendix 2:** Provisions on Choice of Law  
**Appendix 3:** Provisions on Substantive Requirements  
**Appendix 4:** Provisions of the General Principles  
**Appendix 5:** Provisions on UK Insolvency Set-Off  

**Index**  
411