

LIV-EX MEMBERSHIP TERMS**1. Introduction**

- 1.1 We are Liv-ex Limited, a company registered in England (company number 3874907). Our business is based in England and our registered office is at Battersea Studios 2, 82 Silverthorne Road, London SW8 3HE, England. Our VAT registration number is GB 751 8508 21.
- 1.2 We run Liv-ex, the Fine Wine Market for professional buyers and sellers of fine wine, which, amongst other things, provides:
 - 1.2.1 independent fine wine price information and research, including the industry benchmark Liv-ex 100 Fine Wine Index (the “Liv-ex fine wine information”);
 - 1.2.2 an internet and phone-based trading and settlement platform for fine wine merchants and professionals (the “wine exchange”); and
 - 1.2.3 a specialist storage and transport solution for the fine wine trade.
- 1.3 Many of the Liv-ex services are provided via our web site, currently found at www.liv-ex.com, which is administered from our offices in England.
- 1.4 These terms and conditions set out our commitment to you and your commitment to us in respect of the Liv-ex services and your use of the site. If you are in the fine wine trade and you wish to use the Liv-ex services then we require you to accept these terms and conditions as part of the membership process.

2. Exchange Committee

- 2.1 The Exchange Committee oversees the site and the Liv-Ex services (including the wine exchange) and, amongst other things, controls membership of the site, deals with disputes and ensures members comply with these terms and conditions.
- 2.2 The Exchange Committee meets on a regular basis and consists of five persons: two of our employees; one representative from each of two members of the site; and a chairman appointed by the other four Exchange Committee members.
- 2.3 The quorum for the transaction of Exchange Committee business is three and questions to be decided by the Exchange Committee are decided by a majority of votes, with each member of the Exchange Committee entitled to a single vote.

3. Variation of these terms and conditions

We may amend these terms and conditions at any time with the approval of the Exchange Committee by posting the amendments on the site and notifying you by email of the amendments. Unless we inform you otherwise, an amendment will take effect seven days after the date that we post it on the site. Your use of the site after the date an amendment takes effect will be subject to these terms and conditions as amended by that amendment. If an amendment is not acceptable to you, you may terminate your agreement with us by notifying us by email or in writing prior to the date the amendment takes effect.

MEMBERSHIP

4. Liv-ex membership

- 4.1 To access most parts of the site and to use the Liv-ex services you must first register with us as a Liv-ex member.
- 4.2 There are two types of membership:
 - 4.2.1 membership that gives you access to our fine wine price information and research, including the industry benchmark Liv-ex 100 Fine Wine Index (“data member”); and
 - 4.2.2 membership that allows you to buy and sell wine using the wine exchange (“trading member”).
- 4.3 You cannot be a trading member unless you are also a data member and there are separate membership registration processes for each type of membership. There are also different levels of membership within each type of membership.
- 4.4 As part of the membership registration process you will be asked to provide information such as your organisation name, business address, company registration number, VAT number (if applicable), AWRS registration number (if applicable) and contact details (including a business email address).
- 4.5 The person that completes the membership registration process on your behalf will be asked to confirm that you accept and agree to be bound by these terms and conditions. You may not use the Liv-ex services if you do not accept these terms and conditions.
- 4.6 By completing the membership registration process:
 - 4.6.1 you represent and warrant to us that: (i) you are subscribing to use the site and the Liv-ex services in the course of your business; (ii) you are in the fine wine trade; and (iii) all of the information that you have provided as part of the registration process is complete, accurate and up to date; and
 - 4.6.2 the person that completes the registration process on your behalf represents and warrants to us that he/she: (i) is authorised to act for you for the purposes of making your membership application; and (ii) has the capacity to understand and accept these terms and conditions on your behalf.
- 4.7 The Exchange Committee may suspend or terminate part or the whole of your membership entitlement or your status as a member in the event that you breach, or it determines in its absolute discretion that you have or will soon breach, any provision of these terms and conditions or any contract of sale between you and us for the sale or purchase of wine through the wine exchange. The Exchange Committee may make details of any such suspension or termination publicly available on the site. The lifting of any suspension is entirely at the Exchange Committee's discretion.
- 4.8 Your membership is subject to periodic renewal. At each membership renewal date you will be asked to sign that you continue to agree to our terms and

conditions, and that all the information we hold on your company is complete and up to date.

5. **Additional trading member application terms**

- 5.1 The Exchange Committee decides upon trading member applications.
- 5.2 In order to become a trading member, you must meet certain minimum requirements set by the Exchange Committee before the Exchange Committee will consider your trading member application. The Exchange Committee's acceptance or non-acceptance of you as a trading member is completely at its discretion. The Exchange Committee or its representatives may approach third parties for the purpose of obtaining references regarding your suitability to be a trading member.
- 5.3 In the event that the Exchange Committee refuses your trading member application you may not make a further application for membership for at least one year.
- 5.4 You must notify us of any change to the information you provide or in your circumstances that means you no longer meet the minimum requirements set by the Exchange Committee for becoming a trading member as soon as possible after the change occurs.

6. **Authorised users**

- 6.1 Authorised users are persons that are authorised by you and us to access and use the Liv-ex services on your behalf. Only authorised users may use the Liv-ex services.
- 6.2 You are responsible for ensuring that your authorised users comply with these terms and conditions and you are responsible and liable to us for all the acts and omissions of your authorised users.
- 6.3 The person that completes the membership application process on your behalf will be your primary point of contact in respect of the Liv-ex services and will be set up as your first authorised user.
- 6.4 You must have at least one authorised user at all times. You may request at any time that additional authorised users are set up to access and use the Liv-ex services on your behalf. You may also request at any time that we change the identity of, or remove, any of your authorised users.
- 6.5 A person cannot be an authorised user for the wine exchange without also being an authorised user for the Liv-ex fine wine information.
- 6.6 A person can be an authorised user solely for the Liv-ex fine wine information.

7. **Security**

- 7.1 Each time we set up an authorised user to access and use the Liv-ex services on your behalf we will send them a username and password that allows them access

to and use of the Liv-ex services (“authorised user ID”). Authorised users may change their authorised user ID at any time using the authorised user ID change facility found on the site.

- 7.2 You are responsible for all consequences arising from the use or misuse of the authorised user IDs. In particular, you acknowledge and agree that instructions and actions transmitted via the site or given by telephone will be deemed to have originated from you if an authorised user ID has been used or if the relevant caller has correctly answered any agreed security questions.
- 7.3 You must ensure that authorised user IDs are kept secret at all times and not disclosed to any unauthorised person. You must inform us immediately if you become aware or suspect that some or all of an authorised user ID is known by any person other than the relevant authorised user so that we can take appropriate action to prevent the misuse of such information.
- 7.4 We may record any telephone calls between us and you in order to ensure accuracy, provide verification of any details or instructions provided by you and maintain the quality of our service.

8. **Membership fees**

- 8.1 We charge you membership fees for your initial membership period starting from the date on which we first admit you as a member and for each membership renewal period.
- 8.2 We offer a variety of membership packages and the membership fees we charge you for each membership period will depend upon the package you have subscribed to for that period.
- 8.3 Details of our current membership packages and the membership fees for each one can be found on the site or obtained from us on request. We may from time to time change the membership packages we offer and the membership fees we charge.
- 8.4 For each membership period, we will invoice you, and you must pay, the total membership fees in full in advance. For your initial membership period, you must pay us the total membership fees before we will provide you with access to the Liv-ex fine wine information.
- 8.5 Membership fees are non-refundable.

LIV-EX SERVICES RELATING ONLY TO DATA MEMBERS
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9. **Licensed property**

- 9.1 The main Liv-ex service we provide to data members is access to and use of the Liv-ex fine wine information, which includes access to and use of Liv-ex data (including price data), valuations, indices, product codes, charts, assessments and analyses found on the site or otherwise provided by us to you from time to time.

- 9.2 The Liv-ex fine wine information, the Liv-ex brands, the Liv-ex web-site and all of its content (the "Liv-ex property") are our valuable property. You acknowledges that as between us and you, as a data member, all rights, including all intellectual property rights (as defined below), subsisting in the Liv-ex property from time to time belong and shall continue to belong to us, and you shall have no rights in or to the Liv-ex property other than the right to use it in accordance with these terms and conditions. You agree that all goodwill which arises from your use of the Liv-ex property shall belong and accrue automatically to us. For the purposes of these terms and conditions, "intellectual property rights" means patents, rights in inventions, copyrights, design rights, trade marks, service marks, rights to restrain unfair competition, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world.
- 9.3 Subject to these terms and conditions, we grant to you, as a data member, a non-exclusive, non-transferable, revocable licence to use the Liv-ex property for the term of your data membership solely for the purpose of carrying out the following activities:
- 9.3.1 Internal Analysis – the use of the Liv-ex property to undertake internal activities such as; keeping up-to-date generally about the price of fine wines and the fine wine market, buying and selling wine through the wine exchange as a trading member, stock valuation, trading opportunity alerts, trade analysis and market comparison. Storage of the Liv-ex property beyond that necessary to carry out an immediate task is prohibited.
- 9.3.2 Professional Services – the use of the Liv-ex property to deliver professional services to your customers such as; private reserves valuation, trade opportunity alerts, trading services and cellar management services. Only the most recent price points may be used and storage of the Liv-ex property beyond that necessary to carry out an immediate task is prohibited, with the exception of written reports to customers, for which an electronic copy in PDF form can be retained for audit purposes.
- 9.3.3 Historic Pricing – if you have subscribed to a membership level that includes access to historic data, you are also entitled to access historic market pricing data feeds and to store and maintain the Liv-ex data in a secure database whilst you continue to have a valid membership that includes access to historic data.
- 9.4 Your licence from us does not give you any right to sub-license, distribute, sell or otherwise make the Liv-ex property available to third parties (save as otherwise expressly set out in the Professional Services section above) without our written permission.
- 9.5 You shall:
- 9.5.1 not use the Liv-ex property for any illegal, deceptive, misleading or unethical purpose or otherwise in any manner which may be detrimental to the reputation of the Liv-ex property or any person;
- 9.5.2 not do anything or omit to do anything, which may diminish our rights in the Liv-ex property or which may bring the Liv-ex property into disrepute;

- 9.5.3 not use the Liv-ex property for financial product bench-marking purposes or for valuation of any financial product. You require a separate valuation licence from us if you wish to use the Liv-ex property for these purposes. Please contact us for further details;
- 9.5.4 not use the Liv-ex property to create or inform the creation of another product intended to or which has the outcome of competing with our Fine Wine Market or the wine information services we offer (or any part of them); and
- 9.5.5 ensure that any use of the Liv-ex property or part thereof, shall be accompanied by a reference to us being the source of the Liv-ex property in accordance with our brand guidelines.
- 9.6 The Liv-ex property is supplied by us on an “as is” and “as available” basis. You acknowledge and accept that the Liv-ex property is created through subjective analysis of available data which may be open to other interpretations, and as such does not constitute a precise scientific determination. It is not and should not be relied on as being investment advice. To the extent permitted by applicable law, we are not liable to you or to any third party for any inaccuracies, errors or omissions contained in the Liv-ex property, nor for any loss or damage, whether direct, indirect or consequential, suffered by you or by any third party in respect of any reliance you or a third party place on any Liv-ex property; and to the extent permitted by law we expressly exclude all warranties, conditions and representations, express or implied, in this regard.
- 9.7 We retain full editorial control over the Liv-ex fine wine information and we may change the content and format of the information without notice.

LIV-EX SERVICES RELATING ONLY TO TRADING MEMBERS

10. Trading member only clauses

Clauses 11 to 29 of these terms and conditions apply only to trading members.

11. The wine exchange

- 11.1 The main Liv-ex service we provide to trading members is the wine exchange, through which trading members may buy and sell still, sparkling and fortified wine, and spirits.
- 11.2 Where a trading member posts on the Exchange that it wants to sell (or buy) wine and a different trading member posts on the Exchange that it wants to buy (or sell) that wine at the price at which it is offered, the wine exchange operates so that we purchase the wine from the trading member who wants to sell it and we sell the wine to the trading member who wants to buy it. The terms and conditions upon which these transactions take place are set out below.
- 11.3 The wine exchange is an electronic trading and settlement platform that, as a trading member, you are entitled to use remotely either via the site or using application program interfaces (APIs) provided by us. Most trading members use the electronic platform directly themselves and the procedure set out in these terms and conditions for carrying out transactions using the platform are based

on direct use of the platform by trading members. However, you can also phone us about wine that you wish to buy or sell using the platform and we can carry out that transaction for and on your behalf using the site and the platform and following the same transaction procedure.

12. Logistics

- 12.1 As part of each transaction carried out using the wine exchange we provide to you, via the logistics division of the Liv-ex business, storage, warehousing and (in some cases) transportation services. We may also provide you with other storage, warehousing and transportation services on an ad hoc basis, as agreed between you and us from time to time.
- 12.2 The warehousing operation consists of a number of authorised warehouses and consolidation hubs. A list of current authorised warehouses and consolidation hubs can be found in the “Working with Logistics” document, which is available on request from your Liv-ex exchange manager.
- 12.3 At the time you first become a trading member we will open a storage account for you, which shows up-to-date information on the wine that you (or your clients) own that we store for you at our authorised warehouses. Your storage account will be maintained at all times, and will be updated on a transaction by transaction basis for each transaction you carry out using the wine exchange.
- 12.4 Wine listed in your storage account may be allocated into sub-accounts at your request, or directly by you, using the Vine application. Whilst we provide the sub-account facility for your benefit to help you run your business, please note that the sub-account information may be incomplete, out of date or inaccurate and should not be relied upon by you. We are not responsible or liable to you for any inaccuracies in the sub-account information and you should check that the sub-account information is correct before relying on it or using it for any purpose.
- 12.5 We will also have our own storage account in our capacity as a buyer and seller of wine for each transaction completed using the wine exchange, which will be updated on a transaction by transaction basis for each transaction carried out using the wine exchange.
- 12.6 Liv-ex is a member of the United Kingdom Warehouse Association (UKWA), Membership No 00050746. When we provide storage and warehousing services to you (whether as part of a transaction carried out using the wine exchange or otherwise) we shall do so under and subject to UKWA's standard [contract conditions for logistics](#) and the provisions of clause 12.7.
- 12.7 In respect of each bottle of wine or spirits that we store or keep for you in one of our warehouses, unless you expressly ask us not to in respect of that bottle before we start storing or keeping that bottle for you:
 - 12.7.1 we will insure that bottle of wine or spirits for its full replacement value in case of loss, damage or destruction whilst it is under our control;
 - 12.7.2 we will charge you for the cost of that insurance; and

- 12.7.3 we will, at our discretion and in full and final settlement of our liabilities to you, replace or pay you the full replacement value of that bottle of wine or spirits should it be lost, damaged or destroyed whilst we are storing or keeping it for you. The full replacement value of the bottle shall be as determined by us and our insurer, based upon a formula we have agreed with the insurer for determining replacement values.
- 12.8 Please note that if you expressly ask us not to insure the bottle of wine whilst we store or warehouse it for you then we will only be liable to you for loss, damage or destruction of the wine up to the limits of our liability set out in UKWA's standard contract conditions for logistics.
- 12.9 You may remove wine listed in your storage account from the authorised warehouses at any time in accordance with UKWA's standard contract conditions for logistics.
- 12.10 Liv-ex is also a member of the British Internal Freight Association (BIFA), Membership No 2639. When we provide transportation services to you (whether as part of a transaction carried out using the wine exchange or otherwise) we shall do so under and subject to BIFA's [standard trading conditions](#) and the provisions of clause 12.11.
- 12.11 In respect of each bottle of wine or spirits that we transport for you, unless you expressly ask us not to in respect of that bottle of wine before we start the transportation:
- 12.11.1 we will insure that bottle for its full replacement value in case of loss, damage or destruction whilst it is under our control;
- 12.11.2 we will charge you for the cost of that insurance; and
- 12.11.3 we will, at our discretion and in full and final settlement of our liabilities to you, replace or pay you the full replacement value of that bottle of wine should it be lost, damaged or destroyed whilst we are transporting it for you. The full replacement value of the bottle shall be as determined by us and our insurer, based upon a formula we have agreed with the insurer for determining replacement values.
- 12.12 Please note that if you expressly ask us not to insure the bottle of wine whilst we transport it for you then we will only be liable to you for loss, damage or destruction of the wine up to the limits of our liability set out in BIFA's standard trading conditions.

SELLING WINE USING THE WINE EXCHANGE

13. **Making an offer to sell wine**
- 13.1 You may offer to sell wine through the wine exchange in accordance with the site or API procedures for making an offer to sell wine, which can be found in the [help or developers](#) section of the site.
- 13.2 You acknowledge and agree that each offer you make to sell wine through the wine exchange is a firm and unconditional offer to sell, which, until withdrawn

or amended by you in accordance with clause 13.4, may be accepted by us at any time.

- 13.3 The currency in which you offer wine for sale must be pounds sterling unless agreed otherwise by us.
- 13.4 You may amend, vary or withdraw an offer to sell in accordance with the site procedures for amending, varying or withdrawing offers, which can be found in the [help](#) section of the site. Any amendment, variation or withdrawal you make will be deemed to take effect from the time when it is posted on the site.
- 13.5 In relation to each offer you make to sell wine through the wine exchange you warrant and represent to us that:
 - 13.5.1 all information provided by you in relation to the offer, including the description and condition of the wine offered for sale, is accurate, complete and up-to-date;
 - 13.5.2 the wine offered for sale meets the [standard trade rules](#) (please see clause 27.1 below for details of the standard trade rules), unless the wine is offered for sale as a special item or en primeur;
 - 13.5.3 the wine offered for sale is fit for human consumption;
 - 13.5.4 you will not sell the wine offered for sale to anyone other than us and the wine is available for delivery to us in accordance with these terms and conditions should we choose to accept your offer;
 - 13.5.5 you are selling the wine offered for sale in the course of your business as a wine merchant and you hold all necessary licences to offer for sale and sell wine through the wine exchange;
 - 13.5.6 where you are a UK registered merchant selling duty paid stock you have an AWRS registration number that must be provided to us before any duty paid wine is offered for sale;
 - 13.5.7 your offer and your sale of the wine to us does not, and will not, breach any applicable law, statute or regulation;
 - 13.5.8 you are the legitimate owner of the wine offered for sale or you are authorised to offer the wine for sale and sell the wine by the true owner; and
 - 13.5.9 you are able to legally and legitimately transfer to us title to the wine offered for sale free from all charges, liens and other third party rights and encumbrances.
- 13.6 You must not seek to directly or indirectly manipulate the price we pay for the wine you offer for sale through the wine exchange.
14. **Accepting your offer to sell**
 - 14.1 If we receive a bid from another trading member to buy the wine you have offered for sale at the price at which you offered that wine for sale then we will notify you by email that we accept your offer to sell and we will remove your

offer to sell from the wine exchange. Please note that we rely on the warranties and representations you give us in clause 13.5 when accepting your offer. A legally binding contract of sale for that wine is made between you and us at the time that we send you an email notifying you that we accept your offer to sell, irrespective of whether you receive that email.

14.2 Each contract of sale is a separate agreement between you and us and incorporates these terms and conditions. A contract of sale consists of your offer to sell posted on the site, our email notifying you that we accept your offer to sell and these terms and conditions, to the exclusion of all other terms and conditions (including any terms and conditions which you may purport to apply under any purchase or sales order, confirmation of order, invoice or similar document), and supersedes all prior agreements, arrangements, statements and understandings in respect of the same.

14.3 Notwithstanding any other provision of these terms and conditions or any contract of sale, we may cancel a contract of sale before it has been fulfilled without incurring any liability to you where:

14.3.1 both you and we agree in writing that the contract of sale should be cancelled; or

14.3.2 we find that the bid from the trading member to buy the wine you have offered for sale has been made in error.

15. **Transaction fee**

We will charge you a transaction fee for each contract of sale made between you and us where you are the seller. Details of how we calculate the transaction fee can be found on the site or obtained from us on request.

16. **Delivery, title and risk**

16.1 In relation to each contract of sale, you must deliver the wine at your own cost to one of the authorised warehouses or consolidation hubs within 14 days of the date that contract of sale is made, unless you have stated in your offer to sell that you will deliver later, in which case you must deliver the wine on or before the date you have stated you will deliver it. Where you choose to deliver your wine to one of the consolidation hubs, we will transport it to one of our authorised warehouses at our own cost.

16.2 You are responsible for complying with any export and import requirements which may apply in respect of any wine you deliver to us. Any costs, charges or fines payable in respect of inaccurate or incomplete documentation will be payable by you.

16.3 Title to the wine passes to us at the time the contract of sale is made and risk in the wine passes to us once the wine has been delivered to an authorised warehouse or consolidation hub and the authorised representative at the warehouse or consolidation hub has signed a proof of delivery note for the wine.

17. **Conformity of delivered wine**

- 17.1 We will not be deemed to have accepted that the wine you sell to us conforms with the terms of your offer until the time that the trading member to which we sell on the wine accepts that the wine conforms with the terms of the contract of sale we have made with it. We will notify you promptly if, before we accept the wine, we decide that the wine does not conform with the terms of your offer.
- 17.2 Where we notify you that the wine does not conform with the terms of your offer, you must deliver to us replacement wine that does conform with your offer within 14 days of the date that the contract of sale is made. We will keep the non-conforming wine until we receive replacement wine that does conform to the terms of your offer (whether from you or through the purchase of replacement wine in accordance with clause 17.3).
- 17.3 If we do not receive the wine within 14 days of the date that the contract of sale is made (whether as a result of the wine not conforming to the contract of sale or otherwise) then we may:
- 17.3.1 purchase replacement wine on the wine exchange at the best available offer and charge you for the full purchase price of the replacement wine together with an additional transaction fee in respect of the replacement wine contract of sale; and/or
- 17.3.2 suspend your right to use the wine exchange and/or suspend your membership, which entitles you to use the site and the Liv-ex services under your terms of membership, until all outstanding wine you have sold to us has been delivered.
18. **Payment**
- 18.1 In relation to each contract of sale:
- 18.1.1 you must issue to us an invoice for, and we shall be liable to pay you, an amount equal to the sale price; and
- 18.1.2 we will issue to you an invoice for, and you shall be liable to pay us, our transaction fee.
- 18.2 We will charge you and you must reimburse us for any duty, value added tax and/or other sales taxes and/or any customs, import or export duties we are liable to pay on any wine we purchase from you.
- 18.3 You will only invoice us for the wine and we will invoice you for our transaction fee in respect of the contract of sale once you have been notified by us that the wine you have sold to us has been listed in our storage account.
- 18.4 You must pay us for our transaction fee and any amounts we charge you under clause 18.2 in accordance with clauses 32 and 33.
- 18.5 We will pay you for the wine in accordance with clauses 32 and 33, and not in accordance with the terms on your invoice.

BUYING WINE USING THE WINE EXCHANGE

19. Placing a bid to buy wine

- 19.1 You may bid to buy wine through the wine exchange in accordance with the site or API procedures for placing a bid to buy wine, which can be found in the [help or developers](#) section of the site.
- 19.2 You acknowledge and agree that each bid you place to buy wine through the wine exchange is a firm and unconditional bid to buy, which, until withdrawn or amended by you in accordance with clause 19.4, may be accepted by us at any time.
- 19.3 The currency in which you bid to buy wine must be pounds sterling unless agreed otherwise by us.
- 19.4 You may amend, vary or withdraw a bid to buy in accordance with the site procedures for amending, varying or withdrawing bids, which can be found in the [help](#) section of the site. An amendment, variation or withdrawal you make will be deemed to take effect from the time when it is posted on the site.
- 19.5 In relation to each bid you make to buy wine through the wine exchange you warrant and represent to us that:
 - 19.5.1 all information provided by you in relation to the bid is accurate, complete and up-to-date;
 - 19.5.2 you are bidding to buy wine that meets the [standard trade rules](#) (please see clause 27.1 below for details of the standard trade rules), unless you are bidding to buy wine as a special item or en primeur;
 - 19.5.3 you are buying the wine you have bid to buy in the course of your business as a wine merchant and you hold all necessary licences to bid to buy and to buy wine through the wine exchange;
 - 19.5.4 your bid and your purchase of the wine from us does not, and will not, breach any applicable law, statute or regulation; and
 - 19.5.5 you have the necessary funds to be able to buy the wine you have bid to buy.

20. **Accepting your bid to buy**

- 20.1 If we receive an offer from another trading member to sell the wine you have bid to buy at the price at which you have bid to buy that wine then we will notify you by email that we accept your bid to buy and we will remove your bid from the wine exchange. Please note that we rely on the warranties and representations you give us in clause 19.5 when accepting your bid. A legally binding contract of sale for that wine is made between you and us at the time that we send you an email notifying you that we accept your bid to buy, irrespective of whether you receive that email.
- 20.2 Each contract of sale is a separate agreement between you and us and incorporates these terms and conditions. A contract of sale consists of your bid to buy posted on the site, our email notifying you that we accept your bid to buy and these terms and conditions, to the exclusion of all other terms and conditions (including any terms and conditions which you may purport to apply under any

purchase or sales order, confirmation of order, invoice or similar document), and supersedes all prior agreements, arrangements, statements and understandings in respect of the same.

20.3 Notwithstanding any other provision of these terms and conditions or any contract of sale, we may cancel a contract of sale before it has been fulfilled without incurring any liability to you where:

20.3.1 both you and we agree in writing that the contract of sale should be cancelled; or

20.3.2 we find that the offer from the trading member to sell the wine you have bid to buy has been made in error.

20.4 In relation to each contract of sale, we warrant to you that:

20.4.1 we will supply you with wine that meets the description and condition of the wine you have bid to buy at the price at which you have bid to buy that wine;

20.4.2 we will supply you with wine that meets the [standard trade rules](#) (please see clause 27.1 below for details of the standard trade rules), unless the wine you have bid to buy is a special item or en primeur;

20.4.3 we will supply you with wine that is fit for human consumption; and

20.4.4 we have and will have at all relevant times full legal and beneficial title to the wine we supply to you, free from all charges, liens and other third party rights and encumbrances.

20.5 In relation to each contract of sale, the warranties stated in clause 20.4 are in lieu of all other conditions, warranties or other terms concerning the supply or purported supply of, failure to supply or delay in supplying the wine that is the subject of that contract of sale which might but for this clause 20.5 be implied or incorporated into that contract of sale by statute, common law or otherwise, all of which are excluded to the extent permitted by law.

21. **Transaction fee**

We will charge you a transaction fee for each contract of sale made between you and us where you are the buyer. Details of how we calculate the transaction fee can be found on the site or obtained from us on request.

22. **Delivery, title and risk**

22.1 In relation to each contract of sale, we will be deemed to have delivered the wine to you at the time we add the wine to your storage account and notify you that we have done so. We will add the wine to your storage account within one month of the date of the contract of sale, provided that before this date we have received the conforming wine from the seller and full payment for the wine from you.

22.2 Title to the wine passes to you at the time we receive from you full payment in cleared funds for:

- 22.2.1 the wine; and
- 22.2.2 all other related sums which are or which become due to us from you on any account.
- 22.3 Until title to the wine passes to you you shall:
 - 22.3.1 hold the wine on a fiduciary basis as our bailee; and
 - 22.3.2 maintain the wine in satisfactory condition.
- 22.4 You grant us, our agents and employees an irrevocable licence at any time to enter any premises where the wine is or may be stored in order to inspect it, or, where your right to possession has terminated, to recover the wine.
- 22.5 Risk in the wine passes to you at the time we notify you that we have added the wine to your storage account.
- 22.6 You will be responsible for complying with any export and subsequent import requirements which may apply in respect of any wine you purchase from us.

23. **Conformity of wine**

- 23.1 In relation to each contract of sale you are responsible for verifying that the wine we sell to you conforms with the terms of that contract as soon as possible after the wine is added to your storage account.
- 23.2 At your request and your cost we will take a photograph of the wine and provide you via the site with a copy of the photograph of the wine we sell you.
- 23.3 If you find that the wine does not conform with the terms of the contract of sale then you must notify us of this fact by email or post within 14 days of the date the wine is added to your storage account. If we do not receive notification from you within this period then you will be deemed to have accepted that the wine conforms with the terms of the contract of sale.
- 23.4 If you notify us that the wine does not conform with the terms of the contract of sale then you must provide us with reasonable evidence supporting your claim and, where you have removed the wine from the authorised warehouses, promptly return the wine to us. Unless we dispute your claim, we will, at our discretion and by way of full and final settlement of all our obligations and liabilities under our contract of sale with you for that wine, either:
 - 23.4.1 refund any monies you have paid to us for the non-conforming wine; or
 - 23.4.2 replace the non-conforming wine with wine that conforms to the terms of the contract of sale.

24. **Payment**

- 24.1 In relation to each contract of sale we will charge you, and you shall be liable to pay to us, an invoiced amount equal to:

24.1.1 your bid price; and

24.1.2 our transaction fee.

24.2 You are responsible for paying any duty, value added tax and/or other sales taxes and/or any customs, import or export duties and/or any other miscellaneous charges that may be incurred on any wine you purchase from us. We will charge you and you must reimburse us for any duty, value added tax and/or other sales taxes and/or any customs, import or export duties we are liable to pay on any wine we sell to you.

24.3 We will invoice you for the full amount once the wine we have sold to you has been added to our storage account and verified by us.

24.4 You must pay us for the wine, our transaction fee and any amounts we charge you under clause 24.2 in accordance with clauses 32 and 33.

24.5 If you buy wine on the wine exchange and you fail to pay us for the wine in full by the due date for payment or you notify us that you are unable or unwilling to pay for the wine then we may sell that wine on the wine exchange at the best available bid price. Where there is no bid for the wine we may offer the wine for auction with a reserve at 50% of the current “market price”. If there is any shortfall between the price you are liable to pay us for the wine and the price at which we sell the wine, you will be liable to pay us the shortfall in full.

SPECIAL TRANSACTIONS

25. **Applicability of terms and conditions to special transactions**

25.1 Although most of the provisions of these terms and conditions relating to the buying and selling of wine through the wine exchange apply to wine sold as a special item, en primeur or at auction, because of the special nature of these transactions the standard provisions of these terms and conditions are amended as set out in:

25.1.1 clause 26 for wine sold en primeur;

25.1.2 clause 27 for wine sold as a special item; and

25.1.3 clause 28 for wine sold at auction.

26. **En primeur**

26.1 You must be authorised by us to sell wine en primeur before you may offer for sale or sell wine en primeur through the wine exchange. Our acceptance or non-acceptance of your application to sell wine en primeur is completely at our discretion. We will require you to provide a bank guarantee or an insurance bond in our favour and at your cost equal in amount to the amount of any wine you wish to be paid for, and valid until the end of June two years following the initial en primeur offering. Where the administrative costs of a guarantee or bond are prohibitive, we will also accept cash margin equal to 100% of the amount of any wine you wish to be paid for.

- 26.2 In relation to each contract of sale for wine sold en primeur made between us and you where you are the seller you must deliver that wine to an authorised warehouse or consolidation hub as soon as the wine is available, and at the very latest by the end of May two years following the initial en primeur offering by the chateau/grower/property producing the wine (the “deadline”) or failing that within 60 days of the bottled wine being ready for collection at the chateau/domain/property.
- 26.3 If you notify us that you are unable to deliver wine sold en primeur by the deadline or we have not received the wine before the deadline, we reserve the right to call upon the bank guarantee/insurance bond, or use the cash margin deposit, and purchase the wine on the exchange at the best available offer.
- 26.4 Where the cost of purchasing the wine under clause 26.3 exceeds the amount we receive from calling on the bank guarantee/insurance bond, or using the cash margin deposit, you will be liable to pay us the difference in full.
- 26.5 In addition, where we do not receive any wine before the deadline or the agreed delivery date (if later), then your right to sell wine en primeur through the wine exchange will be suspended until all such wine has been received by us.
- 26.6 In relation to each contract of sale for wine sold en primeur made between us and you where you are the buyer you acknowledge, understand and agree that:
- 26.6.1 the wine will be made available to you by the end of June two years following the initial en primeur offering by the chateau/grower/property producing the wine, or if later, as soon as it is available;
- 26.6.2 the risks involved in purchasing wine en primeur are generally greater than in purchasing other types of wine; and
- 26.6.3 in the event that you buy en primeur wine in a bottle or pack size that is at the time of bottling not made available by the chateau/grower/property producing the wine then we reserve the right to deliver the wine in a different bottle or pack size, providing the overall quantity of wine we supply to you is the same; and
- 26.6.4 the limits and exclusions of liability set out in clause 41 apply to that contract of sale.

27. **The Standard Trade Rules and Special Items**

- 27.1 The basis of the wine exchange is that trading members are offering to sell wine or bidding to buy wine that meets the standard trade rules. The standard trade rules are that:
- 27.1.1 the wine will be delivered under bond to an authorised warehouse or consolidation hub;
- 27.1.2 the wine is in its original packaging, with original labels, corks and capsules;
- 27.1.3 the wine is in "good condition", meaning that the wine level in each bottle is at the base of the neck or better, consistent across the case, the wine colour is acceptable, there are no signs of leakage or pushed out corks, the labels are clean, undamaged and properly

attached to the bottle, the capsules are not ripped or wrinkled and have not been damaged or tampered with, and the packaging is in good condition;

27.1.4 the wine does not carry strip labels for, and has not been re-imported from, the United States of America, Asia or other non-European regions; and

27.1.5 the wine does not carry additional merchant labels on the bottles.

27.2 Determining which wine does or does not comply with the standard trade rules rests entirely at our discretion.

27.3 If you wish to offer to sell or bid to buy wine through the wine exchange that does not meet the [standard trade rules](#) and is not sold en primeur then you must offer that wine as a special item. Details of how you offer to sell or buy wine as a special item can be found in the [help](#) section of the site.

28. Auctions

Through the wine exchange you may advertise for bids on wine you wish to sell without setting a fixed price at which you will sell that wine or you may make bids for wine offered for sale in this manner. Details of how this auction process works can be found in the [help](#) section of the site.

29. Counterfeit wine

Where we receive wine that we suspect to be counterfeit, we reserve the right to send any such wine to the producer, the local agent, or another recognized expert for verification. Any wine that is confirmed as counterfeit will be held by us or the relevant authorities while the suspected fraud is investigated. The seller will be responsible for replacing the counterfeit wine with wine conforming to the contract of sale.

ACCOUNTING

30. Trading limits

30.1 At the time you become a member we will set up a trading account with a buying limit for you, which is the maximum net exposure to us (including all contracts of sale) we will allow you to have at any time. We may increase or decrease your buying limit from time to time. If we increase or decrease your buying limit it will be reflected immediately in your trading account details. We will also set a selling limit for you. This is the maximum amount of undelivered wine we will allow you to sell at any time.

30.2 We will keep a running total of your exposure by crediting to your trading account any amounts we are liable to pay you in respect of wine you sell to us through the wine exchange that has been receipted in our storage account and verified by us, and debiting from your account any amounts you are liable to pay us under these terms and conditions, including, but not limited to, any amounts you are liable to pay us in respect of wine we sell to you through the wine exchange and our transaction fees. Please note that we will only credit your

trading account with the value of wine that you sell to us once the wine has been receipted in our storage account and verified by us.

- 30.3 You must keep within your trading limits at all times. We will not allow you to buy wine using the wine exchange or use the Liv-ex services if you are above your buying limit. We will not allow you to sell wine using the wine exchange if you are above your selling limit. We will notify you if you exceed either of your trading limits. If you exceed your buying limit then you must either sell some wine via the wine exchange or pay some of the monies you owe us so that your total exposure is reduced below your buying limit. If you exceed your selling limit then you must deliver to us sold wine of sufficient value that has been receipted in our storage account and verified by us so that your total exposure is reduced below your selling limit.
- 30.4 Please note that your trading limits are not the same as your credit limit. Please see clause 33 for details about your credit limit.
- 30.5 We reserve the right to suspend your trading limits if any amount you owe us under these terms and conditions remains outstanding after its due date.

31. ***Margin requirements***

- 31.1 *If you wish to increase either or both of your trading limits above the amount otherwise set by us under clause 30, we may consider your request for a higher limit and, if granted, require you to provide cash margin in an amount equivalent to twenty per cent (20%) of the agreed increased trading limit(s).*
- 31.2 *Margin payments must be remitted by electronic funds transfer to our designated general client trust account (the “**trust account**”) which will be maintained by us with a bank in the UK.*
- 31.3 All margin paid by you into the trust account may be pooled with margin payments made by other members, but will at all times be under our control and (pending application in accordance with these terms and conditions) will be held on trust and segregated from our assets.
- 31.4 We confirm that we have no beneficial interest in the funds from time to time standing to the credit of the trust account (save as otherwise set out in this clause 31) and shall not exercise any right of set-off, counterclaim, defence, cross collateralisation or anything analogous thereto against such funds. As a result of the trust created by us in favour of you over your cash margin in the trust account, these funds shall be deemed to be the property of you, the beneficiary.
- 31.5 No interest will be payable to you (or any other member) in respect of any monies held in the trust account. Interest (if any) accruing on the trust account will be transferred to us for our own account.
- 31.6 All right, title and interest in and to any margin payment made under this clause shall vest in us free and clear of any liens, claims, charges or encumbrances or any other interest of you or any other person. Nothing in this clause is intended to create or does create any security interest in favour of us in any cash transferred by you to us under the terms of this clause.

- 31.7 No amount in respect of margin shall be repayable to you if you have any outstanding delivery or payment obligations to us (whether or not due). Subject to that, you may at any time by written notice ask us to repay to you all or part of the margin balance held in respect of your account. We agree to pay you all or part of your margin balance (as applicable) within 5 business days of receipt of your written notice. Following such repayment your trading limit will be reduced accordingly.
- 31.8 If you do not perform your obligations to us when due under and in accordance with these terms and conditions, we shall be entitled to apply all or part of the margin balance in or towards discharge of your liabilities to us (of whatever nature, including all transaction fees, costs, expenses or other losses incurred by us, and whether before or after judgement).

32. **Invoicing and payment**

- 32.1 We operate weekly payment periods. Each payment period finishes on a Friday. A table setting out the payment periods for the year and the normal payment dates is available on the site.
- 32.2 Subject to clause 32.5, the full amount set out in each invoice that we issue to you in a payment period is due from and payable by you within 7 days of the end of that payment period.
- 32.3 Subject to clauses 32.5 and 32.6.2, the full amount set out in each invoice that you issue to us in accordance with these terms and conditions in a payment period is due from and payable by us within 7 days of the end of that payment period.
- 32.4 At the end of each payment period we will send to you by email a statement showing the total amount of money due from you for that payment period that has not been paid and the total amount of money due from us for that payment period that has not been paid.

Standard Payment (netting off)

- 32.5 Unless otherwise agreed by us with you in writing, your statement will also show a net position of the difference between the amount of money due from you and the amount of money due from us. If the statement shows that the total amount of money due from you is:
- 32.5.1 greater than the total amount of money due from us then you must pay to us a sum equal to the difference so that we receive in cleared funds that amount within 7 days of the end of the payment period. You must pay that sum even if you dispute its amount on the understanding that if it is resolved that the sum is too great we will rectify our mistake by promptly making an appropriate payment to you; or
- 32.5.2 less than the total amount of money due from us then we will pay to you a sum equal to the difference within 7 days of the end of the payment period.

Non-standard payment (payment without netting off)

- 32.6 Where we have expressly agreed with you in writing not to net off your account:
- 32.6.1 you must pay to us a sum equal to the total amount of money the statement shows you owe us so that we receive in cleared funds that amount within 7 days of the end of the payment period. You must pay the amount even if you dispute it on the understanding that if it is resolved that the amount is too great we will rectify our mistake by promptly making an appropriate payment to you; and
- 32.6.2 at the end of the payment period, providing we have received in cleared funds payment from you for the total amount of money you owe us for a payment period we will pay to you a sum equal to the total amount of money due from us within 14 days of the end of the payment period.

Application of payments

- 32.7 All payments received will be applied to the oldest overdue invoices first. Where no invoices are overdue, on receipt of a remittance advice from you, we can apply payments received according to your instructions.
33. **Credit limit**
- 33.1 At the time you become a trading member of the site, where we can get appropriate insurance cover, we may set up a credit limit for you, which is the maximum total amount, in monetary terms, of wine that we have sold to you under contracts of sale for which we have not been paid that we will transfer to your storage account. We may increase or decrease your credit limit from time to time. If we increase or decrease your credit limit we will notify you of your new limit and the new limit will take effect on the date of the notification.
- 33.2 We will keep a running total, in monetary terms, of wine that we have transferred to your storage account for which we have not been paid.
- 33.3 You must keep within your credit limit at all times. We will not transfer to your storage account, nor release to you, any wine that you buy from us if you are already above your credit limit or if the transfer or release would mean that the total amount, in monetary terms, of wine that we have transferred or released to you for which we have not been paid exceeds your credit limit. We will notify you if you exceed your credit limit. If you exceed your credit limit then you must pay some of the monies you owe us so that your total exposure in respect of wine that we have transferred or released to you is reduced below your credit limit.

34. **Payments**

- 34.1 All payments made by you or us will be made in pounds sterling unless otherwise agreed.
- 34.2 We will make all payments by electronic transfer to a nominated bank account in the name of your company.
- 34.3 You must make all payments due to us by electronic transfer, without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

- 34.4 Please note that in respect of each sum you owe us you are obliged to ensure that we receive in cleared funds a sum equal to the total amount you owe us. This means that it is your responsibility to cover any bank charges applied by your bank in respect of the payment and to ensure that the amount that reaches our bank account net of bank charges is equal to the total amount you owe us.
- 34.5 When making payments to you we will cover the charges applied by our bank, but you will be responsible for any charges applied by your bank.
- 34.6 If you fail to pay us any sum due to us when due:
- 34.6.1 we may charge you interest on such sum from the due date for payment at the annual rate of 5 per cent above the base lending rate from time to time of National Westminster Bank plc, accruing on a daily basis until payment is made (whether before or after any judgment); and
- 34.6.2 where you are a trading member:
- (a) we will not transfer to your storage account, nor release to you, any wine that you buy from us, even if you are below your credit limit, until such time as you pay the overdue amounts to us in full; and
 - (b) we may sell on the wine exchange at the best available bid price, any wine, paid for or otherwise, that has not yet been physically released to you. This shall include both physical stocks of wine and en primeur wine not yet delivered. Any proceeds of the sale shall be remitted to you after deduction for all our expenses (including an administration charge) and all outstanding amounts due to us.

THE SITE AND THE LIV-EX SERVICES

35. Availability of the site and the Liv-ex services

- 35.1 Subject to the other provisions of these terms and conditions, we will use reasonable endeavours to ensure that the site and the online aspects of the Liv-ex services (such as the online wine exchange and Wine Matcher) are available at all times.
- 35.2 Notwithstanding clause 35.1, there will be times when the site and those services are unavailable. Such unavailability may be planned (for example, where we are carrying out planned maintenance or upgrades) or unplanned (for example, where there is a hardware or software failure). Where possible, we will try to give you reasonable notice of any such unavailability and we will use reasonable endeavours to ensure that disruption resulting from any unavailability is kept to a minimum.
- 35.3 You acknowledge and accept that you will not be able to use the site and the Liv-ex services when they are unavailable. We will try to keep unavailability to a minimum, but we accept no liability for any loss or damage you may suffer as a result of the site and/or the Liv-ex services being unavailable. We reserve the

right to add to or change the site at any time without notice or explanation and without incurring any liability to you.

- 35.4 Notwithstanding any other provision of these terms and conditions or any contract of sale, where there is a problem with the wine exchange that results in one or more contracts of sale being made with you at prices that are clearly under or over market value for the wine being sold then we reserve the right, at our absolute discretion, to cancel those contracts of sale before they are fulfilled without incurring any liability to you.

36. Your use of the Site and other Liv-ex services

- 36.1 You are responsible for providing suitable internet access, computers, mobile devices and telephones to access and use the site and the Liv-ex services and for any telecommunications costs you incur in connection with your use. Please note that the quality of your computers or mobile devices and the quality of your connection will affect your use of the site and the Liv-ex services (for example, the site may seem slow if you have a poor connection).

- 36.2 You should also check that your computers have suitable protection, such as virus protection. We are not responsible for any computer virus or bug that affects your computers, mobile devices or data as a result of your use of the site or the Liv-ex services or the downloading of any materials from the site.

- 36.3 You agree to use the site and the Liv-ex services for lawful purposes only and in a manner which is consistent with any and all applicable laws and regulations in the country in which you are established or access the site. Your use of the site must not infringe the rights of, or restrict or inhibit the use and enjoyment of the site by, any third party. You agree not to import or transfer to the site either directly or indirectly any information or other content which is or may be:

36.3.1 inaccurate, misleading, defamatory, obscene, abusive or offensive;

36.3.2 in breach of any intellectual property right, privacy, publicity or any other rights of any third party; or

36.3.3 damaging to the software or performance of the site.

- 36.4 You must not use the site to send unsolicited or unauthorised advertising such as "junk mail" or "spam".

- 36.5 You must not engage in any other conduct which, in our sole discretion, is considered inappropriate, unauthorised or objectionable.

- 36.6 You must not disclose or publicise your identity to other members of the site.

37. Links

Where we provide hypertext links to other web sites or contacts, we do so for information purposes only and such links do not constitute an endorsement or recommendation by us of any products or services in such sites. You use such links entirely at your own risk and we accept no responsibility for the content or use of such

web sites or for the information contained on such sites (including any web site through which you may have gained access to the site). You may not create a link to the site, nor frame it without our written permission.

38. **Site Content**

- 38.1 Information posted on the site is either posted by us or by members. We are not responsible for information posted by members.
- 38.2 Although we take pride in the site and aim to keep it up to date, please note that information we post may, at times, be incomplete, out of date or inaccurate. If you wish to rely on any information we post then we recommend that first you confirm with us that the information you wish to rely on is correct. The content of the site is subject to change at any time.
- 38.3 Upon becoming a member, you grant to us a non-exclusive, royalty-free, irrevocable and world-wide licence to use any images, information, logos, marks, text, graphics, and any other content that you provide to us and/or upload or otherwise add to the site in connection with the Liv-ex services. Such use will include modifying such content and publicly displaying it on the site or using as part of the Liv-ex fine wine information. We may use this content both whilst you are a member and following the end of your membership. You warrant and represent to us that (i) you have the right to grant to us the rights and licences granted (or purported to be granted) under this clause; and (ii) the exercise of any of the rights or licences granted (or purported to be granted) to us under this clause neither infringes nor will infringe the rights (including the intellectual property rights) of any third party.
- 38.4 You agree not to use the mark LIV-EX or any other trade marks owned by us, or imply any association with or endorsement by Liv-ex except as specifically permitted under these terms and conditions.
- 38.5 We own or are licensed to use all copyright, trade marks and other intellectual property rights in and/or relating to the site and the Liv-ex services. You may use those intellectual property rights only as set out in these terms and conditions. You may not distribute, disseminate, show in public or create any derivative works of any materials that are not yours that you find on, or copy or download from, the site.
- 38.6 In particular, you must not use any robot, spider, scraper, site search/retrieval application or other manual or automatic device to retrieve, index, "scrape," "data mine" or in any way gather content or materials, including but not limited to the Liv-ex fine wine information, from the site or reproduce or circumvent the navigational structure or presentation of the site. You agree to comply with any robot exclusion headers on the site.

DISPUTES, LIABILITY AND TERMINATION

39. **Disputes**

- 39.1 If you and we cannot resolve any dispute between us in relation to these terms and conditions or any contract of sale between you and us for the sale or purchase

of wine then either you or we may refer the dispute for resolution by the Exchange Committee.

- 39.2 The Exchange Committee will conduct any dispute resolution proceedings as it sees fit. The decision of the Exchange Committee in respect of a dispute will be final and binding on you and us and, except in the event of manifest error, not subject to appeal.
- 39.3 The fees incurred by you, us and the Exchange Committee in connection with the conduct of any dispute resolution proceedings will be borne by us and you in the proportions determined by the Exchange Committee.
- 39.4 The provisions of this clause 39 will not prevent either you or us taking action through the courts where either you or we reasonably determine that such action is appropriate to protect our/your (as applicable) legitimate interests.

40. **Indemnity**

You shall indemnify us against all costs, damages, losses and expenses we incur as a result of your failure to comply with any of your obligations under:

- 40.1 these terms and conditions; and
- 40.2 any contract of sale between you and us for the sale or purchase of wine through the wine exchange.

41. **Our liability to you**

- 41.1 Nothing in these terms and conditions or any contract of sale between you and us for the sale or purchase of wine through the wine exchange shall exclude or limit our liability for:

41.1.1 death or personal injury arising from our negligence;

41.1.2 fraud or fraudulent misrepresentation; or

41.1.3 any other liability that cannot be limited or excluded by law.

- 41.2 Subject to clause 41.1, we will not be liable to you under any statute or in contract, tort or otherwise for any indirect or consequential loss or damage which arises out of or in relation to these terms and conditions or any contract of sale between you and us for the sale or purchase of wine through the wine exchange.

- 41.3 Subject to clauses 41.1, 41.4 and 41.5, our total aggregate liability to you under or in connection with these terms and conditions, the site, the wine exchange and the other Liv-ex services (whether such liability arises under any statute or in contract, tort or otherwise) shall be limited in each calendar year to the annual membership fee payable by you for that year.

- 41.4 Subject to clause 41.1, our total aggregate liability to you under or in connection with any contract of sale between you and us for the sale of wine by you to us through the wine exchange (whether such liability arises under any statute or in

contract, tort or otherwise) shall be limited to the price payable by us for that wine under that contract of sale.

- 41.5 Subject to clause 41.1, our total aggregate liability to you under or in connection with any contract of sale between you and us for the sale of wine by us to you through the wine exchange (whether such liability arises under any statute or in contract, tort or otherwise) shall be limited to the price payable by you for that wine under that contract of sale.

42. Termination

- 42.1 Either party may terminate your membership, which entitles you to use the site and the Liv-ex services under your terms of membership, without cause and at any time by giving the other party one month's written notice of termination either by email or by post.
- 42.2 We may terminate your membership, which entitles you to use the site and the Liv-ex services under your terms of membership, with immediate effect by giving you notice of termination by email or post if:
- 42.2.1 you commit any material or repeated breach of these terms and conditions or any contract of sale and either that breach is not capable of remedy, or, if capable of remedy, you fail to remedy the breach within 14 days from the date we notify you of it;
- 42.2.2 insolvency or winding-up proceedings are instituted by or against you; a receiver, liquidator or administrator is appointed for you; a substantial part of your assets is the object of attachment, sequestration or other type of comparable proceeding; you are unable or admit in writing your inability to pay your debts as they fall due; or you take or suffer any similar action in any country in which you are resident; or
- 42.2.3 you make an arrangement or composition with your creditors; you commit an act of bankruptcy; a receiving order is made against you; or you take or suffer any similar action in any country in which you are resident.
- 42.3 We may also suspend your membership, which entitles you to use the site and the Liv-ex services under your terms of membership, or any part of it with immediate effect if you commit any breach of these terms and conditions or any contract of sale.
- 42.4 If your membership is terminated:
- 42.4.1 we will not enter into any new contracts of sale with you after termination;
- 42.4.2 we and you must honour all contracts of sale between you and us for the sale or purchase of wine through the wine exchange that are concluded prior to the date of termination;
- 42.4.3 all rights and licences granted to you by us under these terms and conditions will automatically terminate on termination; and

42.4.4 you must destroy or return to us (at our option) all copies of the Liv-ex property then in your possession, custody or control and, in the case of destruction, certify to us that you have done so.

42.5 Clauses 3, 4.5, 4.6, 4.7, 6.2, 7.2, 7.3, 8, 12.3 12.6, 12.7, 12.10, 12.11, 13.5, 14 to 24, 26, 27, 29, 30, 31, 32, 33, 34 to 41, 42.4, 42.5, 43, 44 and 46 of these terms and conditions shall survive termination and shall continue to apply as shall any other provision which by its nature is intended to survive termination.

MISCELLANEOUS

43. Data Protection

43.1 We are registered under the Data Protection Act 1998. We are data controllers of the information we collect about you and your authorised users in connection with your membership and use of the site and the Liv-ex services. The information we collect is made up from the details you and others give to us during your relationship with us and includes information you give us during your application for membership, information from your subsequent communications and instructions, and other information we gain from providing you with the site and the Liv-ex services. We will use this information for the following purposes:

43.1.1 to provide you with the site and the Liv-ex services and to carry out our obligations under these terms and conditions and any contract of sale;

43.1.2 to comply with legal and regulatory requirements;

43.1.3 to carry out credit checks, to detect, investigate and prevent fraud and to trace debtors;

43.1.4 for internal analysis and research; and

43.1.5 to contact you by post, email or phone or other permitted means with details of additional products and services which may be of interest to you. You can tell us at any time if you would prefer not to receive such direct marketing.

43.2 We may disclose your personal information to:

43.2.1 our agents and service providers for the purposes set out in clause 43.1;

43.2.2 credit reference agencies, the police, Government departments and agencies for the purposes set out in clause 43.1.3; and

43.2.3 any person for the purposes set out in clause 43.1.2.

43.3 We will take appropriate steps to help prevent the loss, misuse or unauthorised disclosure of the information we collect about you and will try, with your help, to keep such information accurate and up to date.

43.4 You have the right to ask for a copy of the information we hold about you (for which a small fee may be charged). If you find at any time that any of the information we hold about you is incorrect then you should notify us and we will correct the inaccuracy.

43.5 Before you or a third party on your behalf gives us any personal information about your authorised users you must inform them that you are giving the personal information to us and that it will be used in the manner and for the purposes described above and you must obtain their informed consent to such use.

44. **Multiple language versions**

Where these terms and conditions have been prepared in languages other than English, this is for reference purposes only. In the event of any differences between the English version and the non-English version, the English version shall prevail.

45. **Assignment**

You must not assign or dispose of any of your rights or obligations under these terms and conditions or any contract of sale between you and us for the sale or purchase of wine through the wine exchange without our prior written consent.

46. **General**

46.1 We will not be liable to you for any breach of our obligations under these terms and conditions or any contract of sale to the extent that the breach is due to circumstances beyond our reasonable control.

46.2 If at any time any provision of these terms and conditions or any contract of sale is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair the legality, validity or enforceability in that jurisdiction of any other provision of these terms and conditions or any contract of sale, or the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of these terms and conditions or any contract of sale.

46.3 No delay or failure on the part of you or us in exercising or enforcing any right or remedy under these terms and conditions or any contract of sale between you and us for the sale or purchase of wine through the wine exchange will be deemed to be a waiver of any such right or remedy, nor will that failure operate to bar the exercise or enforcement of such right or remedy at any future time.

46.4 Nothing in these terms and conditions or any contract of sale and no action taken by you or us under these terms and conditions or any contract of sale shall constitute, or be deemed to constitute, between you and us a partnership, association, joint venture or other cooperative entity or arrangement.

46.5 These terms and conditions, together with the details of your membership application and any section of the site referred to in these terms and conditions, contain the entire agreement and understanding between you and us in relation to their subject matter, and supersede all prior agreements, arrangements, statements and understandings in respect of the same.

46.6 All rights and remedies available to us for breach of these terms and conditions or any contract of sale are cumulative and may be exercised concurrently or

separately and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

46.7 These terms and conditions and each contract of sale between you and us in respect of the sale or purchase of wine through the wine exchange are governed by and will be construed in accordance with the laws of England and Wales and you and we hereby submit to the non-exclusive jurisdiction of the courts of England and Wales in respect of the same.

46.8 Liv-ex Ltd does not and will not knowingly support or deal with any business involved in slavery and human trafficking. By signing our trading terms you confirm to us that you agree with our values and ethics, and that where your organisation is governed by the Modern Slavery Act 2015 you have put in place appropriate policies and due diligence procedures to ensure that there is no modern slavery or human trafficking in your supply chains or in any part of your business.

47. **Contacting us**

If you are in any doubt as to the accuracy and currency of any information posted on or downloaded from the site, or if you require any further information or have any other query please contact us at www.liv-ex.com.