



winecommex.com
Global online wine exchange

Terms and Conditions

1. Background

World Commodities Exchange (Proprietary) Limited (WCE) operates winecommex.com, an online trading platform for agricultural produce, based in Cape Town, South Africa.

2. Term Acceptance

- 2.1 In order to use winecommex.com traders must register by completing the relevant Trader Application in accordance with paragraph 6.
- 2.2 all users of winecommex.com accept and agree to be bound by these Terms and Conditions as amended from time to time, notwithstanding any failure to complete the relevant Trader Application

3. Services

winecommex.com provides the following online services:

- 3.1 Registration and grading of traders
- 3.2 Bid and Offer Auction
- 3.3 Direct Sales
- 3.4 Reverse Auction
- 3.5 Service Provider options.

4. Access

- 4.1 winecommex.com website will operate 24 hours a day, 7 and days a week or any other times determined by winecommex.com at its sole discretion. winecommex.com does not warrant that its system will be error free or uninterrupted.
- 4.2 Users require an Internet connection or GSM connection, and the appropriate device, being a personal computer or cell phone.
- 4.3 winecommex.com support will operate during Business hours (08h00 to 17h00), Monday to Friday, or any other times determined by winecommex.com at its sole discretion.

5. Support

- 5.1 Support to all traders using winecommex.com is available at support@winecommex.com.

6. Registration

- 6.1 Traders (Sellers, buyers, and service providers) must register to use winecommex.com by completing the trader registration form available at www.winecommex.com.
- 6.2 winecommex.com may accept or reject an application at its sole discretion, or may request additional information in order to facilitate application approval.
- 6.3 Traders will be graded initially according to market status, credit record and trading credibility, and allocated a user name and password access details.
- 6.4 Traders' grading status will be dynamically affected through the quality of their trading conduct. All trader grading will be at the sole discretion of winecommex.com.

7. Acknowledgments, Representations and Warranties

- 7.1 The trader warrants that any information it provides to winecommex.com from time to time is true and correct.
- 7.2 The trader warrants to winecommex.com that it has the legal capacity to trade items through winecommex.com.
- 7.3 The trader irrevocably authorizes winecommex.com to conduct any enquiries relating to the trader including credit-worthiness through credit agencies.
- 7.4 The trader agrees that it will use winecommex.com and its trading platform in accordance with this agreement and any directions issued by winecommex.com from time to time.
- 7.5 The trader acknowledges that winecommex.com may issue directions or notices from time to time via electronic medium such as e-mail or postings on its web site, and that the trader will comply with these directions.
- 7.6 The trader acknowledges that as facilitator of any trade transaction between traders, winecommex.com cannot provide warranties for any items traded.
- 7.7 The trader warrants that all information pertaining to an item traded on winecommex.com:
 - 7.7.1 is accurate and comprehensive, and he's not fraudulent, misleading or deceptive.
 - 7.7.2 is legal and does not breach any relevant law, and does not infringe on any other parties intellectual property or other rights.
 - 7.7.3 does not contain any destructive electronic agent such as computer virus or Trojan.

8. Login Details

- 8.1 winecommex.com will, after application approval, allocate a user name and password to the authorized trader.
- 8.2 The trader is responsible for use and safekeeping of its login details, and may at its sole discretion delegate use thereof to its employees Sub-user Accounts may be opened upon written instructions by the trader to winecommex.com.
- 8.3 Subject to paragraph 10, the trader will be responsible for any loss incurred or suffered as a result of misuse, theft or loss of trader Login details.

9. Use of Login details

- 9.1 winecommex.com will issue the trader all Login details, including user name, password and any sub-account logins requested by the trader, in accordance with the terms set out in this agreement.
- 9.2 The trader indemnifies winecommex.com against any loss incurred in connection with any Login details provided by winecommex.com.
- 9.3 Login Details may be cancelled by winecommex.com at anytime, and at its sole discretion, without notice or liability to the trader.
- 9.4 winecommex.com is entitled to act on any transactions effected by the authorized trader, or effected by winecommex.com staff on behalf of a trader.

- 9.5 Traders acknowledge that any Login details provided in 9.1, may be used to purchase and receive items traded on the winecommex.com trading system, and to gain access to administrative details pertaining to specific trader accounts.
10. Responsibility for transactions
- 10.1 If an authorised trader loses any login details, or suspects the wrongful use thereof, the trader must notify winecommex.com immediately in writing. winecommex.com may block account access upon trader notification via telephone, but written notification must follow.
- 10.2 The trader will not be responsible for any loss incurred after written notification to winecommex.com as per 10.1 above, and acknowledgement of receipt thereof by winecommex.com.
- 10.3 The trader will not be responsible for any loss incurred through proven error or fraudulent activity by winecommex.com employees.

11. Improper Use

- 11.1 Authorized traders may not use any data or information obtained from winecommex.com, its web site or trading platform for spamming or direct marketing purposes.
- 11.2 Authorized traders undertake that they will not use their initial introduction to other traders, achieved by way of the winecommex website, as a means of circumventing the trading platform, in order to transact directly with each other and so avoid payment of the winecommex fee structure. Authorized traders acknowledge that all introductions remain the intellectual property of Winecommex.com and that any future business to be transacted by the introduced parties, as a result of their introduction to each other on the Fiscommex.com trading platform, should be conducted over the winecommex.com trading platform. Should the introduced parties circumvent the trading platform and conduct business with each other, then the parties acknowledge that these transactions will be subject to the fee structure as laid out by winecommex.com and will be due for payment to winecommex.com on completion of the transaction. winecommex.com reserves all its rights in this regard.

12. Trading Security

- 12.1 winecommex.com warrants that its trading system and technology complies with the appropriate security standards and banking protocols required by South African Law, for the conduct of commercial transactions over the internet.
- 12.2 Notwithstanding the care exercised by winecommex.com in the registration and grading of its traders, as a trade facilitator winecommex.com cannot be held accountable for the quality, legality, safety or nature of any product, transaction or trader appearing on its trading system.

13. Sales

- 13.1 Title to any items sold on winecommex.com passes directly from Seller to winecommex.com on a consignment basis only, and then to Buyer, only at the moment of collection and product verification by buyer employee or agent. winecommex.com acts merely as a facilitator of the transaction.
- 13.2 Failure of Buyer verification and collection does not lead to title in the goods passing to winecommex.com.
- 13.3 Items may be sold using winecommex.com using only one of the following ways:
- 13.3.1 Bid and Offer Auction – Sellers list relevant details on winecommex.com such as description, quantity, grade, state, availability date, auction period and reserve price. Buyers may then bid for the product, and bid results will be submitted to Seller at pre-

- determined intervals. Event notification to traders may take place via selected electronic mediums, such as cell phone, email or fax.
- 13.3.2 Fixed Price Sale – Seller list goods as per 13.3.1 above, but at a fixed price with no option for buyer bidding.
 - 13.3.3 Reverse Auction – Buyers may list open bids for desired product details and price, and Sellers then undertake to fulfill transaction requirements.
 - 13.4 A Seller may not use winecommex.com to sell:
 - 13.4.1 any illegal, encumbered or stolen item;
 - 13.4.2 any item which does not correspond with its listed description;
 - 13.4.3 any item which is unfit or unsuitable for consumption;
 - 13.4.4 any item which has not been handled, transported, packed or stored in accordance with guidelines as set out by the South African Bureau of Standards (SABS), or any other statutory international guideline or standard applicable within the context of the sale. All Sellers warrant that goods listed for trading comply with the above requirements.
 - 13.5 Sellers may not engage in any activity designed to mislead or unfairly influence the market price of their product lot as listed on winecommex.com.
 - 13.6 Any part Lot remaining after allocation of bids to Buyers, will remain the property of the Seller.
 - 13.7 A Seller may not withdraw a lot once it is part of an auction process, or until expiry of such auction process.
 - 13.8 winecommex.com reserves the right in special circumstances to cancel a sale or withdraw a lot.
 - 13.9 A Bidder will be deemed to be a principal, and shall be personally responsible for that bid, unless the bidder is nominated as the sub-user or representative of a registered buyer.
 - 13.10 A bid is only made when it is recorded by winecommex.com. To the extent permitted by Law, winecommex.com accepts no responsibility for failing to record bids.
 - 13.11 A Seller may at any time make a counter offer to a bid, which if accepted will complete the sale transaction.
 - 13.12 A Seller may at any time during the bid process accept a bid. Revised Lot quantity will reflect immediately on winecommex.com.
 - 13.13 The identities of Traders will at no stage be made known on winecommex.com.

14. Fees and Charges

Traders will be responsible for payment of the following fees (excluding VAT where applicable) to winecommex.com:

- 14.1 Seller Commission: 2% of Sale Price, deducted by winecommex.com from sale price prior to settlement with Seller; plus
- 14.2 Buyer Commission: 2% of Sale Price added to sale price and settled by Buyer in advance; plus where applicable
- 14.3 Credit or Debit Card transactions will incur the following additional bank commissions: Seller - 2%; Buyer - 1%

15. Payment

- 15.1 Buyer pays sale amount to winecommex.com including any winecommex.com Buyer fees and commissions upon successful Bid acceptance by Seller. Unless this is a card transaction (immediate confirmation), this payment must be received in a specified winecommex.com account (see 15.10) within the prescribed period (60 minutes – local deal; 24 Hours – International deal), or the Sale will time-out. Sale amount is received, confirmed and held in winecommex.com trust account.
- 15.2 winecommex.com notifies Seller that payment has been made to winecommex.com by Buyer.

- 15.3 After conclusion of the verification procedure by Buyer's employee/agent, winecommex.com transfers Sale Amount less winecommex.com fees and commission, into Sellers Account, and notifies Seller of transfer. These funds will reflect in Sellers account within the currently accepted normal banking transfer periods.
- 15.4 If Buyer's employee/agent disputes Lot attributes (quantity, quality etc.), funds will be refunded to Buyer within 36 hours after investigating the merits of the dispute.
- 15.5 In the event of a dispute as in 15.4 above, winecommex.com reserves the right to dispatch a winecommex.com nominated assessor, to arbitrate on the dispute. The cost of such an assessor will be deducted equally from Buyer and Seller. In South Africa this charge will be R500, and in International territories will be the actual cost of the assessor.
- 15.6 In the event of a dispute as in 15.5 above, unless settlement between Buyer and Seller can be reached, Seller may place lot on sale again.
- 15.7 All bids are exclusive of Value Added Tax (VAT), and these taxes are shown separately in the transaction.
- 15.8 All winecommex.com fees and commissions exclude VAT.
- 15.9 winecommex.com may set off any amounts owed by trader to winecommex.com, against any amount owed by winecommex.com to trader.
- 15.10 Payment via Internet transfer (EFT) must be made into a specified winecommex.com account.

Specified winecommex.com accounts are:

First National BankVineyard BranchCode: 204209
Account: 62098891974
SWIFT Code: FIRNZAJJ

16. Freight Services

- 16.1 Various options with regard to forwarding and freight services will be available to Buyer and Seller on winecommex.com. Buyer or Seller will select any advertised option, and will be responsible for their choice, and for any contract with a Service Provider at the rates specified by Service Provider on winecommex.com.
- 16.2 Collection and Delivery points for goods are specified by Trader, and winecommex.com cannot be held liable for any failure on the part of Service Provider.
- 16.3 Responsibility for product in transit will rest with the Service Provider, as agent for the Trader. All Service Providers listed on winecommex.com will be in possession of valid transit insurance.

17. Insurance

- 17.1 All Service Providers (Freight, storage, processing etc.) must be in possession of a valid Goods in Transit Insurance Policy in order to be listed on winecommex.com.
- 17.2 All Sellers must be in possession of a valid Public Liability Insurance. In the event this is not the case, winecommex.com reserves the right to take out such policy and to charge the trader for the premiums relating the insurance.

18. Revision of winecommex.com

- 18.1 winecommex.com reserves the right to revise and/or amend its trading system at any time, without incurring liability to any trader. winecommex.com will use its best efforts to notify Traders of any such revisions and/or amendments.
- 18.2 winecommex.com reserves the right to revise and/or amend its Terms and Conditions (including Pricing) at any time, without incurring liability to any trader. winecommex.com will use its best efforts to notify Traders of any such revisions and/or amendments. At all times the updated and applicable Terms and Conditions will be posted on www.winecommex.com.
- 19. Rights of winecommex.com in dispute resolution
- 19.1 winecommex.com reserves the right, at its discretion, to de-list, or refuse listing of any Lot or Bid.
- 19.2 In the event of any dispute, winecommex.com will be the sole arbitrator, and its decision will be final.
- 19.3 During the course of any arbitration, any assessor nominated by winecommex.com will decide whether the goods match their description on winecommex.com as listed by the Seller. The assessors decision will be final, and the costs of the assessment will be deducted equally from Buyer and Seller. In South Africa this charge will be R500, and in International territories will be the actual cost of the assessor.
- 19.4 Disputes will affect the grading of traders at fault, which will reflect to other traders in future transactions. The identity of all traders will remain unknown.

20. Liability

- 20.1 All parties using winecommex.com do so at their own risk and, to the maximum extent permitted by Law, winecommex.com shall not be liable for any direct, indirect or consequential damage, loss or injury suffered or incurred by any person (including a user) arising from any cause whatsoever (including the negligence of winecommex.com).
- 20.2 To the maximum extent permitted by Law winecommex.com is not liable to any user for any malfunction or breakdown in the winecommex.com system, or for any non-transmission or loss of data by the winecommex.com system, whether caused or contributed to by any negligent or other act or omission also winecommex.com or its employees, contractors or agents or of any registered user.

21. Release and indemnities

- 21.1 To the extent that the trader does not comply with all applicable laws all these terms and conditions, each user releases and discharges winecommex.com from all claims, actions, costs and damages which, but for this paragraph, the user or anyone else may have had against winecommex.com.
- 21.2 Each user indemnifies winecommex.com and holds winecommex.com forever harmless from and against all direct or indirect actions, claims, demands, proceedings, costs, damages, expenses, losses and liabilities brought or recovered against or incurred, suffered for sustained by winecommex.com arising out of or in any way connected with any act, omission, breach, default, non-observance or nonperformance of the user under or in connection with winecommex.com or these terms and conditions or any claim made against winecommex.com by a an end consumer in relation to any item which was sold through winecommex.com.

22. Termination

- 22.1 winecommex.com may, at its absolute discretion, terminate immediately the registration of any registered user.
- 22.2 Upon termination of the registration, all rights of the registered user under these terms and conditions cease, but the user remains liable for any unpaid fees (whether or not invoiced), for any debt, liability or obligation incurred in relation to any sale, and for any claims arising from failure to comply with winecommex.com terms and conditions.

23. Privacy

- 23.1 The user consents to winecommex.com collecting personal information about the user, the user's employees and agents, whether from the user or third parties (such as trade referees), for the purposes associated with providing the user with services. winecommex.com may use the personal information in accordance with winecommex.com privacy policy which is available on request.
- 23.2 winecommex.com privacy policy sets out the extent of people's right to access the personal information held by winecommex.com and the applicable conditions.
- 23.3 winecommex.com may disclose personal information to third parties retained to provide services to winecommex.com in association with providing the services as described in these terms and conditions.
- 23.4 If the user does not provide certain personal information, winecommex.com may be unable to provide the user with services. The user warrants that any personal information the user provides winecommex.com is accurate, complete and provided in compliance with the Privacy Act and indemnifies winecommex.com against any loss or damage suffered as a result of the user's breach of this clause.

24. General

- 24.1 Nothing contained in these terms and conditions shall create a partnership, agency or joint venture relationship between winecommex.com and the user, nor shall the user hold winecommex.com out as its partner, agent or joint-venture party.
- 24.2 These terms and conditions shall be governed by and construed in accordance with the law of the Western Cape, South Africa.
- 24.3 These terms and conditions and the traders application set out the entire agreement between the parties.
- 24.4 In this agreement unless the context requires otherwise the singular includes the plural and vice versa.
- 24.5 If any part of these terms and conditions are held invalid, unenforceable or illegal, that part is treated as deleted and the remaining terms continue in full force.
- 24.6 All references to money in these terms and conditions are in South African Rands.
- 24.7 The users acknowledge that World Commodities Exchange (Pty) Ltd. is the absolute beneficial owner of winecommex.com and of the copyright and all other rights in the nature of copyright and all other intellectual property rights, in winecommex.com, the structure and layout of the web site, the information it contains, its associated documentation and these terms and conditions.

25. Glossary of terms

Auction the automated auction system on winecommex.com website

Bid and Offer Auction the bid and offer auction facility of the winecommex.com system.

Buyer a User who's Application to become a buyer is accepted by WCE or who otherwise offers to buy product using winecommex.com.

Collection Point a physical venue specified by Seller, for the collection of Items sold on winecommex.com.

Direct Sale any sale of Items negotiated by a Seller with a Buyer and transacted through the winecommex.com direct sale facility.

Delivery Point a physical venue specified by Buyer, for the delivery of Items bought on winecommex.com.

Fixed Price Sales the fixed price sales made using the winecommex.com system.

Item an item which is traded on winecommex.com.

Lot any sale unit or group of sale units containing Items which are the same (e.g. the same description, state, size and quality, etc). A lot consists of a number of sale units and can be split and sold by sale unit.

Minimum Bid Quantity the minimum quantity in sale units a Seller is willing to sell per transaction.

Minimum Bid Price the minimum price for any lot as specified by Seller.

Net Bid Price Means the Bid price, less the cost of transport to the Buyer nominated Delivery Point. If the Buyer opts to arrange transport himself

(or through a Service Provider), the net bid price equals the bid price.

Password the password of the User and of each authorised representative of the User.

Product an item which is traded on winecommex.com.

Registered User a Seller or Buyer who has completed an Application that has been accepted by WCE.

Reserve Price the minimum price (nominated by the Seller) at which the Seller will sell (a complete or partial lot) at the conclusion of the auction if the Seller does not receive a higher bid.

Reverse Auction the reverse auction facility of the winecommex.com system.

User Name the unique number allocated to a User in relation to the winecommex.com

Internet trading system operated by WCE.

WCE World Commodities Exchange (Pty) Ltd, its employees and agents.

winecommex.com the internet trading system operated by World Commodities Exchange (Pty) Ltd.

Wish List the facility on winecommex.com that enables a Buyer to submit multiple Item requests, so that the Buyer will be notified when these specified items become available on winecommex.com

Sub-User a person authorised by a User to use winecommex.com on the User's behalf, using the User's account and at the User's risk.

Seller a User who's Application to become a Seller is accepted by WCE or who otherwise offers to sell product using winecommex.com.

Trader a User who's Application to become a Buyer, Seller or Service Provider is accepted by WCE or who otherwise offers to buy, sell or provide services or product using winecommex.com.

User users of winecommex.com notwithstanding any failure to complete a relevant Trader Registration form.