Harper's Club
FINE WINES & SPIRITS

TERMS AND CONDITIONS OF SERVICE

These Terms and Conditions of Service ("**Terms**") apply to all services provided by Harper's Club, LLC, a private wine retailer and advisory services company ("**Company**"), to any individual or entity ("**Client**") that receives a service agreement, quote or invoice from the Company. These Terms are incorporated by reference into all service agreements, quotes and invoices and form a binding agreement between the Client and the Company. By engaging the Company's services, submitting payment, or otherwise accepting a service agreement, quote or invoice, the Client agrees to be bound by these Terms.

The Company may update or modify these Terms at any time by providing notice through updated versions incorporated by reference in or attached to future service agreements, quotes or invoices. Client should review these Terms carefully before engaging services. Continued engagement constitutes acceptance of any updated Terms.

1. Scope of Services

1.1. Services Provided

The Company offers wine advisory services, including but not limited to:

- Annual physical inventories
- Inventory setup, organization, and labeling
- Data upload to collection management software
- Purchasing, drinking, and divestment plans
- Wine-related events
- Transportation and logistical support

The scope of services for each engagement will be set out in the applicable service agreement, quote or invoice. All services will be performed with reasonable care and in accordance with industry standards.

1.2. Limitations and Assumption of Risk

The Company does not guarantee any financial results or outcomes, including the appreciation of wine collections. The Client is solely responsible for decisions based on the Company's advice, and Client fully assumes any and all risks of loss should Client engage in speculative purchases related to this agreement. The Company is not liable for any loss, damage, or theft of wine inventory, except where caused by gross negligence or willful misconduct. The Company is not liable for and has no responsibility for any effects of or actions taken by any person upon or after consumption of any of the wine or alcoholic beverages that may be the subject of this agreement.

1.3. Modifications

The Company may modify services so long as they do not materially reduce the agreed scope. The Client may request modifications, subject to Company approval and possible fee adjustments. All modifications must be confirmed in writing.

2. Client Responsibilities

2.1. Cooperation and Access

The Client must provide timely access to necessary information, resources, and premises to enable the Company to perform the services. The Client will designate a point of contact and ensure safe working conditions.

2.2. Accuracy of Information

The Client warrants that all information provided by client regarding the products subject to this agreement is true, complete, and accurate. The Company is not responsible for any errors in services resulting from inaccurate or incomplete information.

2.3. Legal Compliance

The Client agrees to comply with all applicable laws, including those governing the purchase, storage, and consumption of wine. The Client agrees to indemnify, defend, and hold the Company and its employees, owners, and agents harmless from any liability arising from Client's non-compliance.

3. Fees and Payment

3.1. Fees

Fees are set forth in the applicable service agreement, quote or invoice. The Client is responsible for all taxes and applicable charges. The Company may revise its fees with 30 days' prior written notice. Client may be required to prepay fees or provide a deposit for certain engagements, at the Company's discretion, as set out in any service agreement.

3.2. Payment Terms

Invoices are payable within fifteen (15) days of the invoice date unless otherwise stated. Acceptable payment methods will be listed on the invoice. Disputed invoices must be challenged in writing within ten (10) days. The undisputed portion must still be paid on time.

3.3. Late Payments

Overdue payments may be subject to interest at 1.5% per month (or the maximum rate allowed by law). The Company reserves the right to suspend services or terminate the engagement for nonpayment. The Client is responsible for all collection costs.

4. Term and Termination

4.1. Term

These Terms apply for the duration of the business relationship and remain in effect for all service agreements, quotes and invoices unless replaced or superseded.

4.2. Termination

Either party may terminate services with 30 days' written notice in the event of material breach. The Client may terminate for convenience at any time by notifying the Company in writing. Upon termination, the Client must pay for all services provided up to the termination date.

4.3. Effect of Termination

Upon termination:

- Services will cease
- All outstanding balances must be paid
- Confidential information must be returned or securely destroyed
- Terms intended to survive (e.g., confidentiality, IP rights, limitation of liability, dispute resolution) will remain in effect

5. Confidentiality and Data Protection

5.1. Confidential Information

Each party agrees to keep the other's non-public information confidential. "**Confidential Information**" includes all non-public, proprietary, or otherwise protected information disclosed by either party to the other party, whether disclosed orally or disclosed or accessed in written, electronic, or other form, and includes, but is not limited to, information relating to such party's technology, customers, business plans, marketing strategies, investment strategies, divestment strategies, financial information, and other proprietary information. Confidential Information excludes information that: (a) is or becomes publicly known through no breach of this Agreement; (b) is rightfully received from a third party without restriction; or (c) is independently developed without reference to the other party's Confidential Information.

5.1.1. **Obligations of Confidentiality.** The Receiving Party shall protect the Disclosing Party's Confidential Information with the same degree of care it uses to protect its own Confidential Information of similar nature, but no less than a reasonable degree of care. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose other than to carry out its obligations under the Agreement. The Receiving Party shall limit access to the Disclosing Party's Confidential Information to its employees, agents, or subcontractors who have a need to know such Confidential Information for purposes of the Agreement and who are bound by confidentiality obligations no less protective than those contained herein. HC will take extra precautions to ensure that Client's Confidential Information is not disclosed.

5.1.2. **Permitted Disclosures.** Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so by law, regulation, or court order, provided that the Receiving Party gives the Disclosing Party prior written notice of such required disclosure (to the extent legally permitted) and reasonably cooperates with the Disclosing Party, at the Disclosing Party's expense, in any effort to obtain a protective order or other remedy to prevent or limit such disclosure. Additionally, the Receiving Party may disclose Confidential Information to its legal counsel and independent accountants, provided that such professionals are bound by confidentiality obligations.

5.1.3. **Duration of Confidentiality Obligations.** The obligations of confidentiality under this Section **Error! Reference source not found.** shall survive termination of the Agreement and shall continue for a period of two (2) years from the date of termination. This extended duration ensures continued protection of Confidential Information even after the Agreement concludes.

5.2. Data Protection

The Company will comply with any applicable data protection laws and use reasonable safeguards to protect personal data. The Company will process data solely to perform services and will delete or return data upon Client's request at the end of the engagement.

6. Intellectual Property

6.1. Company Materials

The Company retains all rights, title, and interest in and to any reports, templates, tools, methodologies, software, or other proprietary materials provided to the Client in connection with the services ("**Company Materials**"). These materials are protected by copyright and other intellectual property laws.

6.2. Client Data

The Client retains all rights, title, and interest in and to any data or information supplied by the Client, including but not limited to information regarding the Client's wine collection ("**Client Data**"). The Client Data remains the sole property of the Client.

The Company is granted a limited, non-exclusive license to use the Client Data solely for the purpose of performing the services under this Agreement. The Client is granted a limited, non-exclusive, non-transferable license to use the Company Materials solely for personal use in connection with the services.

6.3. Third-party Software

Any data uploaded to or managed within third-party software platforms (e.g., collection management software) remains the property of the Client, subject to the terms and conditions of the respective platform.

7. Disclaimer of Warranty

The Company makes no warranty whatsoever with respect to the services, including on any products acquired under or in connection with this agreement, any (a) warranty of merchantability; (b) warranty of fitness for a particular purpose; (c) warranty of title; or (d) warranty against infringement of intellectual property rights of a third party; whether express or implied by law, course of dealing, course of performance, usage of trade, or otherwise.

8. Limitation of Liability

8.1. No Expectation or Consequential Damages

In no event shall the Company be liable to the Client or to any third party for any loss of use, loss of revenue or profit, loss of data, or diminution in value, or for any expectation, consequential, incidental, indirect, exemplary, special, or punitive damages whether arising out of breach of contract, tort (including negligence), or otherwise, regardless of whether such damages were foreseeable and whether or not service provider has been advised of the possibility of such damages, and notwithstanding the failure of any agreed or other remedy of its essential purpose.

8.2. Limitation of Aggregate Liability

In no event shall the Company's aggregate liability arising out of or related to this agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed the amount paid by the Client in the six (6) months preceding the event giving rise to the claim.

9. Dispute Resolution

9.1. Informal Resolution

In the event that any dispute arises under this agreement, Parties will attempt to resolve disputes through good faith negotiation within 30 days of written notice.

9.2. Mediation

If unresolved, the dispute shall first be submitted to non-binding mediation in California. If the parties are unable to agree upon a mediator, a mediator shall be appointed by Judicial

Arbitration Mediation Services (JAMS). The parties shall equally share the cost of such mediation.

9.3. Arbitration

Any dispute, claim or controversy arising out of this Agreement or the breach, termination, enforcement, interpretation or validity of any provision thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by binding arbitration pursuant to Judicial Arbitration Mediation Services Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. The arbitrator is hereby expressly granted the authority to decide his/her jurisdiction hereunder. The Parties shall maintain the confidential nature of the arbitration proceeding and the award, including the hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with any court application for a provisional remedy or to enter judgment on the award, or unless otherwise required by law or judicial decision. This clause shall not preclude the parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. THE PARTIES UNDERSTAND AND ACKNOWLEDGE THAT, BY AGREEING TO BINDING ARBITRATION, THEY EACH WAIVE THE RIGHT TO SUBMIT THE DISPUTE FOR DETERMINATION BY A COURT AND THEREBY ALSO WAIVE THEIR RIGHT TO A JURY OR COURT TRIAL.

10. Governing Law

This Agreement and all matters and disputes arising out of or related to this Agreement are governed by and construed in accordance with the laws of the State of California, without giving effect to any choice or conflict of law provision or rule thereof. Any dispute arising from or related to this Agreement must be resolved by binding arbitration in accordance with Section 16 below, and any such arbitration will take place in San Francisco, California, the Parties hereby waiving any claim or defense that either forum is not convenient or proper. Each Party hereby agrees that any such arbitration will have in personam jurisdiction over it.

11. FORCE MAJEURE

Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the Party's control, including, but not limited to, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, epidemic, pandemic, or explosion; (c) war, invasion, hostilities, terrorist threats or acts, riot or other civil unrest; (d) order or action by any governmental authority or requirements of law; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; or (i) other events beyond the Party's control. Subject to the foregoing, nothing herein shall excuse Customer from the obligation to pay HC for Products actually received by Customer.

12. Miscellaneous

12.1. No Assignment

Client may not assign rights or obligations without the Company's written consent.

12.2. Severability

If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

12.3. Amendments

These Terms and Conditions may be amended by Harpers Club in its discretion, from time to time. Changes shall be in writing and provided to Client. Continuing to use the Services following revision of these Terms and Conditions shall constitute acceptance of the revised Terms.

12.4. Entire Agreement

These Terms, along with HC's Terms and Conditions of Sale, privacy policy, and any service agreement, quote, invoice or agreement between the parties, represent the full agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and any other agreement, including any service agreement, quote, or invoice between the parties, these Terms shall govern, unless such service agreement, quote, or invoice between the parties expressly states that the terms and conditions of such service agreement, quote, or invoice between the parties shall control.