



NEW YORK FINE WINE STORAGE

39 Westmoreland Avenue

White Plains, NY 10606

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New York Fine Wine Storage, Inc. (“NYFWS”) was created in response to the overwhelming demand for a high-quality, temperature-controlled, sophisticated wine storage facility in the New York Metropolitan area. We have gone to great lengths to create a safe and secure environment for your wine investment. The NYFWS warehouse is equipped with fifty tons of refrigeration to maintain ideal temperature levels, and those vital temperature levels are further protected by a temperature-sensitive alarm system. In addition, we have installed a back-up generator to serve the refrigeration system in the event of electricity failure. Because the security of your wine is of the utmost importance to us, our 15,000 square foot warehouse is armed with a state-of-the-art security system, which is monitored twenty-four hours a day, seven days a week. NYFWS personnel must accompany all visitors while on warehouse premises.

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39 Westmoreland Avenue
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NEW YORK FINE WINE STORAGE AGREEMENT

Following are the terms and conditions of the New York Fine Wine Storage Agreement (the “Standard Plan”) by and between New York Fine Wine Storage, Inc. (“NYFWS”) and the undersigned client (“Client”) governing the storage of any and all bottles, cases or boxes of wine or other items that Client has caused to be in NYFWS custody (the “Property”):

1. Hours of Operation

- (a) Monday through Friday from 9:00a.m. until 5:00p.m.
- (b) Saturdays by appointment only.
- (c) Any Client wishing to examine or retrieve any Property from the NYFWS warehouse (the “Warehouse”) must schedule an appointment with NYFWS personnel at least forty-eight (48) hours in advance.

2. Inventory

(a) NYFWS will provide Client a receipt of the number of cases and/or boxes of wine placed into its Warehouse (the “Acknowledgment of Delivery”) within ten (10) business days after receiving such Property for storage; this Acknowledgment of Delivery will be emailed and/or mailed to the respective addresses provided at the signature line below, unless a different address and/or method for Client correspondence is indicated in writing and delivered to NYFWS. The Acknowledgment of Delivery will not set forth a description of the wine contained within the cases and/or boxes received. If there is any discrepancy between the Acknowledgement of Delivery and the inventory physically located within the Warehouse, the physical inventory will govern any and all determinations based on wine inventory.

(b) NYFWS will prepare a detailed inventory that sets forth the full description of and uniquely identifies the Property received (the “Detailed Inventory”). Unless specifically requested in writing, NYFWS will not open any cases that appear to be original wooden cases (“OWC”) or original carton (“OC”). All OWC and OC will have an inventory charge of \$4.00 per case. NYFWS will open all cases that do not appear to be OWC or OC (“Mixed Cases”). All Mixed Cases will have an inventory charge of \$10.00 per case. The number of days by which NYFWS will prepare the Detailed Inventory will vary depending on the Property to be inventoried.

(c) The Detailed Inventory, as may be revised from time to time by additions or withdrawals to the Property by the Client, will be the determinative written inventory of the actual wine stored by Client with NYFWS.

(d) A complete Detailed Inventory, including any revisions to such Inventory as provided in section 2(c), will be provided to Client twice annually, specifically on April 1st and October 1st of each year, by email and/or mail at the respective addresses provided at the signature line below, unless a

different address and/or method for Client correspondence is indicated in writing and delivered to NYFWS.

(e) Each OWC, each OC and each of the bottles in a Mixed Case received by NYFWS will have a sticker affixed to the outside of the case, the outside of the carton or on each bottle (as applicable) that sets forth the full description of the wine contained therein, Client's NYFWS identification number, the date the sticker was printed and a bar code identifying such product contained therein. This full description of the wine on each such sticker will be used as the description in the Detailed Inventory.

(f) If Client believes there are inaccuracies or discrepancies in any Detailed Inventory provided hereunder, Client must notify NYFWS within thirty (30) days of receiving the Detailed Inventory in question. Failure to timely notify NYFWS of any inventory inaccuracies or discrepancies will result in the waiver of any claim Client may have based on such Detailed Inventory.

(g) Except as provided herein or expressly authorized by Client, Client's wine boxes or cases shall not be opened by NYFWS. In the event that NYFWS, in its sole discretion, believes it necessary to determine the ownership, nature or condition of the wine in a box or case, or believes a box or case containing Client's wine is damaged or otherwise requires replacement, NYFWS may repackage the wine into substantially similar boxes or cases at the expense of Client. If, at any time, NYFWS, in its sole discretion, determines that any of Client's wine is not appropriate for storage or has deteriorated to such an extent that it cannot be stored safely, NYFWS shall require Client to remove such wine within five (5) days' notice thereof. If Client fails to comply, NYFWS shall have the right to isolate Client's wine from other wines in storage, and shall further have the right to remove such wines from the Warehouse after ninety (90) days' notice thereof. Client expressly acknowledges that neither NYFWS nor any entity with whom NYFWS contracts to provide pick up or delivery services is a common carrier and NYFWS and any such entity may therefore refuse to transport Client's wine in its sole discretion.

(h) Nothing contained in any Acknowledgment of Delivery or any Detailed Inventory provided hereunder shall constitute or be deemed to constitute a representation or warranty by NYFWS or Client as to authenticity, quality, condition, merchantability, fitness for a particular purpose, correctness of description, size, rarity, importance, provenance or previous storage conditions of any Property. Nor shall any statement set forth in this Agreement, or in any other notice or document provided hereunder, be deemed to constitute such a warranty or representation.

3. Billing

(a) The Standard Plan charges \$3.50 per 9 liters per month.

(b) In addition to the storage fee referenced in section 3(a), the Standard Plan includes a charge of two and a half percent (2.5%) of the aggregate value of Client's Property stored with NYFWS per calendar year ("Aggregate Value"), such Aggregate Value to be determined as follows:

1. The Aggregate Value shall be for the Property set forth in the Detailed Inventory.
2. With respect to that portion of the Property, if any, that Client has purchased from Zachys Wine and Liquor Store Inc., Zachys Wine Auctions Inc., or Zachys Asia, Limited (collectively, "Strategic Partners"), the cash value ("Cash Value") of the wine will be equal to the purchase price Client paid for the wine.
3. For Property that does not have a Cash Value, the value shall be the amount supplied by Client at the time the Property is placed in the Warehouse ("Stated

Value”). At Client’s request, and for an additional fee, NYFWS (rather than Client) will provide a Stated Value for the Property (“NYFWS Stated Value”) at the time the Property is placed in the Warehouse. The fee for NYFWS to provide this service shall be based on the quantity and type of wine in the Property.

4. The Aggregate Value shall be the sum of the Cash Value, Stated Value and NYFWS Stated Value (as applicable) of all of the Property.
5. For each case or box that Client purchases from a Strategic Partner and stores in the NYFWS Warehouse in addition to the Property set forth in the Detailed Inventory on which the Cash Value component of the Aggregate Value was determined, the Detailed Inventory shall be modified to include each such additional case or box. The modified Detailed Inventory shall be provided to the Client by email or mail at the respective addresses set forth below, unless a different address and/or method for Client correspondence is indicated in writing and delivered to NYFWS. A further charge of 2.5% of the Cash Value of Client’s additional inventory will then be billed to Client on a pro-rata basis for the remaining months of the billing cycle from the time Client’s additional wines are received in storage.
6. For each case or box Client stores in the NYFWS Warehouse in addition to the Property set forth in the original Detailed Inventory on which the Stated Value or NYFWS Stated Value (as applicable) of the Aggregate Cash Value was determined, the Client shall either supply NYFWS with a Stated Value or request NYFWS to provide a Stated Value. The Detailed Inventory will be modified by including each additional case or box and provided to Client by email or mail at the respective addresses set forth below, unless a different address and/or method for Client correspondence is indicated in writing and delivered to NYFWS. A further charge of 2.5% of the Stated Value and NYFWS Stated Value (as applicable) of Client’s additional inventory will then be billed to Client on a pro-rata basis for the remaining months of the billing cycle from the time Client’s additional wines are received in storage.
7. At Client’s request, for an additional fee, NYFWS will review the Cash Value, Stated Value and NYFWS Stated Value (as applicable), of the Property set forth in the most recent Detailed Inventory to update such values as necessary in light of the then current market conditions (“Updated Value”). The fee for such review will vary depending upon the quantity and type of wine in the Property. It is Client’s responsibility to ensure that the Cash Value, Stated Value and NYFWS Stated Value (as applicable) of Client’s Property as set forth in the Detailed Inventory are current.
8. Each subsequent annual 2.5% charge will be based on the Aggregate Value of Client’s Property included in Client’s most recent Detailed Inventory.

(c) Under the Standard Plan, Client’s Property is protected against only breakage, theft and fire while stored with NYFWS.

1. In the event of any loss greater than \$500.00 and less than \$25,000.00, NYFWS will pay to Client the Updated Value. If no Updated Value has been prepared by NYFWS, then NYFWS will pay to Client the lesser of (i) the Stated Value or

Cash Value (as applicable) of such Property set forth in the most recent Detailed Inventory or (ii) the actual cash value of Client's damaged or lost Property at the time of the loss ("Actual Cash Value"), which shall be determined by NYFWS in its sole and complete discretion and shall be final and conclusive.

2. In the event of any loss greater than \$25,000.00, NYFWS will pay (subject to a deductible in the amount of \$500.00) to Client the Updated Value. If no Updated Value has been prepared by NYFWS, then NYFWS will pay (subject to a deductible in the amount of \$500.00) to Client the lesser of (i) the Stated Value or Cash Value (as applicable) of such Property set forth in the most recent Detailed Inventory or (ii) the value of Client's damaged or lost Property at the time of the loss as determined by the insurer (the "Insurance Adjuster Value"). To the extent Client disagrees with the amount of the Insurance Adjuster Value, Client may challenge such amount (in the name of NYFWS as insured), but at its own cost and expense and subject to sections 8 and 9 of this Agreement.

Basic Storage Plan

CLIENT HAS BEEN ADVISED THAT NYFWS OFFERS BASIC STORAGE SERVICES ("BASIC PLAN") UNDER WHICH CLIENT HAS THE OPTION OF STORING CLIENT'S PROPERTY WITH NO PROTECTION AGAINST ANY LOSS OR DAMAGE, OTHER THAN DAMAGE CAUSED BY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ON THE PART OF NYFWS, IN WHICH EVENT DAMAGES ARE LIMITED PURSUANT TO THE STANDARD PROTECTION WAIVER ("WAIVER") ATTACHED HERETO. SHOULD CLIENT ELECT TO FOREGO THE PROTECTION OFFERED BY THE STANDARD PLAN HEREIN, CLIENT MUST SIGN THE ATTACHED WAIVER. THE BASIC PLAN DOES NOT INCLUDE THE 2.5% CHARGE THAT IS OTHERWISE INCURRED UNDER SECTION 3(b) OF THIS AGREEMENT. BY SIGNING BELOW, CLIENT ACKNOWLEDGES THAT CLIENT DECLINES THE PROTECTION OFFERED UNDER THE STANDARD PLAN, THAT CLIENT HAS DULY EXECUTED THE WAIVER AND THAT CLIENT AGREES TO THE BASIC PLAN.

I have read the above provision and hereby decline the protections offered by the Standard Plan and accept the terms and conditions of the Basic Plan:

Client Signature

Date

4. Handling In-Out Charge

(a) If all of the bottles in an individual case or box are the same ("Solid Case"), a charge of \$4.00 per Solid Case will be charged for the handling of such Solid Cases coming in and going out of the Warehouse. If the wines in a case or box are of a mixed variety ("Mixed Case"), a charge of \$10.00 per Mixed Case will be charged for the handling of such Mixed Cases coming in and going out of the Warehouse. This per-case or per-box charge does not include handling in the event of the removal of less than a full case or box (i.e., the removal of fewer than all of the bottles in a case or box). The charge for such bottle handling is \$35.00 per Solid Case or Mixed Case regardless of how many bottles are removed from a Solid Case or Mixed Case.

(b) Forty-eight (48) hours' notice is required to schedule an appointment for any and all inspections, retrievals or withdrawals of any Property from the Warehouse.

(c) Any Client account outstanding more than thirty (30) days will be placed on hold, and any Property stored in the Warehouse pursuant to this Agreement will not be made available until all outstanding balances have been satisfied.

(d) NYFWS claims a lien against any and all Property picked up, delivered and/or stored hereunder, and on the proceeds of any sale thereof, which lien is based on: (i) all storage and other service charges incurred for services rendered hereunder, and (ii) any and all costs and expenses incurred in the maintenance of the Property and its sale pursuant to law. Any Property for which storage or other charges remain outstanding for ninety (90) days after notice thereof may be sold by NYFWS. The proceeds of such sale shall be applied to (i) any indebtedness owing to NYFWS, and (ii) any costs and expenses incurred by NYFWS with respect to the Property, the sale of the Property, the rendering of any services, and any efforts to collect the indebtedness. Any excess proceeds shall be remitted to the Client.

5. Transportation

This Agreement does not cover the transportation of Client's Property to or from the Warehouse. NYFWS can assist in organizing both the pick up and delivery of Client's Property in accordance with current delivery policies. For more information about transportation services, please inquire directly with NYFWS.

6. Terms and Conditions of Payment

(a) All payments are due within fifteen (15) days of invoicing.

(b) NYFWS reserves the right to deny any services, including, but not limited to, withdrawal, removal or additional deposits of Property, under the terms of this Agreement if all outstanding invoices are not paid at the time any additional service is requested.

(c) Monthly storage charges are payable in advance, in six-month increments, on April 1st and October 1st of each year. Upon the receipt of any Property during the course of the year, the charge will be pro-rated only for the number of months remaining in the current half-year period. Thereafter, storage charges will be due semi-annually. If Client removes wines during the course of the year, a pro-rated credit will be issued to Client. If Client has remaining Property in storage with NYFWS, then the credit will be applied to the next billing cycle. If Client has no remaining Property stored with NYFWS, then NYFWS will refund the balance to Client.

(d) Included in the semi-annual billings will be a current Detailed Inventory. If Client believes there are any inaccuracies or discrepancies in any Detailed Inventory provided with these semi-annual bills, Client must notify NYFWS within thirty (30) days of receiving the Detailed Inventory in question. Failure to notify NYFWS of any inventory inaccuracies or discrepancies within thirty (30) days will result in the waiver of any claim Client may have based on such Detailed Inventory.

(e) Any additional charges for services rendered as provided in this Agreement will be billed upon rendering of such services. Payment will be due as provided in the invoice for such services.

7. Dispute Resolution

(a) This Agreement shall be governed by the laws of the State of New York.

(b) The parties hereby irrevocably consent to the exclusive jurisdiction of the State and County of New York, waive any objection to personal jurisdiction, and waive any right to a bench or jury trial in favor of arbitration pursuant to this section.

(c) Should any dispute, claim or controversy arise under or in connection with this Agreement or the breach, termination, enforcement, interpretation or validation thereof (the “Dispute”), the parties will attempt in good faith to negotiate toward the resolution of the Dispute prior to arbitration, such negotiations being initiated by the aggrieved party providing written notice by letter setting forth the subject of the Dispute, to which the opposing party will respond in kind stating its position with regard to the Dispute.

(d) If the parties cannot resolve the Dispute through negotiation and must proceed to arbitration pursuant to this section, Client hereby agrees that no claim may be brought by Client against NYFWS regarding any Dispute (including the determination of the scope or applicability of this agreement to arbitrate) unless Client provides to NYFWS written notice of its demand to arbitrate (the “Arbitration Demand”) within sixty (60) days after such Dispute arises, which Arbitration Demand shall contain a statement setting forth the nature of the Dispute, the amount involved, if any, and the remedy or remedies sought.

(e) The Dispute as set forth in the Arbitration Demand shall be determined by arbitration in the State and County of New York, before one arbitrator, and shall be administered by JAMS, pursuant to its Streamlined Arbitration Rules and Procedures (the “JAMS Rules”), except as set forth herein.

(f) As provided by Rule 26 of the JAMS Rules, the parties agree that Client shall be liable for and shall pay all of the JAMS fees and expenses.

(g) Should the parties proceed to arbitration, the Exchange of Information contemplated by Rule 13 of the JAMS Rules is hereby limited to the discovery of this Agreement and any modifications or amendments thereto, documents evidencing any charges incurred pursuant to this Agreement, documents evidencing Client payments made for storage or other services rendered hereunder, and all inventories prepared hereunder, unless the parties agree to an otherwise-limited scope of discovery after the commencement of arbitration.

(h) The arbitrator shall not award damages in excess of the prevailing party’s actual damages and shall not, in any event, award punitive, exemplary or similar damages.

(i) Client shall be responsible for the attorneys’ and other professional fees and disbursements incurred by NYFWS in connection with the arbitration, whether or not NYFWS is the prevailing party.

(j) Judgment on any arbitration award hereunder may be entered in any court in the State and County of New York having jurisdiction.

(k) Any notices hereunder shall be in writing and shall be deemed given if delivered either personally, by overnight delivery or sent by certified or registered mail, postage prepaid, to Client at its address set forth below.

8. Indemnity

Client hereby indemnifies NYFWS, its officers, directors, employees, agents, affiliates and assigns (together, the “Indemnified”) against any claims, damages, costs, fines, penalties, liabilities, attorneys’

and other professional fees and disbursements incurred by or asserted against the Indemnified by a third party, including any amounts incurred or paid in settlement or any judgment of any action, suit or proceeding brought by a third party, which arises under or in connection with the performance by or duties of NYFWS under this Agreement and any amendment or modification thereto, except to the extent that such liability is directly and exclusively the result of gross negligence or willful misconduct on the part of NYFWS (collectively, the "Indemnity Obligations"). Client's Indemnity Obligations under this Agreement shall survive any termination of the services provided by NYFWS pursuant to this Agreement and any modification or amendment thereto. Client further agrees to tender any payments due to the Indemnified and/or the Indemnified's attorneys, under or in respect of Client's Indemnity Obligations, within ten (10) business days following written notice to the Client or Client's counsel by the Indemnified that such payment is due therefor.

9. Miscellaneous

(a) This Agreement, and any subsequent modifications or amendments thereto, represents the entire agreement between the parties concerning the subject matter hereof, and supersedes any and all prior agreements, either oral or written, concerning the subject matter hereof, which prior agreements, if any, are hereby cancelled. Any oral statements made by NYFWS, whether made prior or subsequent to the execution of this Agreement, shall neither constitute a representation or warranty of any kind nor be relied upon by Client in any way. NYFWS reserves the right to change the terms of this Agreement upon thirty (30) days' written notice. This Agreement may not otherwise be amended or terminated orally, but only upon thirty (30) days' written notice.

(b) This Agreement may be executed in counterparts, and when so executed each counterpart shall be deemed to be an original, and said counterparts together shall constitute one and the same instrument. This Agreement may be executed and then delivered by email or facsimile, and upon such delivery the signature thereon shall be deemed to have the same effect as if the original signature had been delivered to the other party.

(c) With respect to Client's acceptance of the terms and conditions of the Standard Plan (but not the Basic Plan), Client may indicate such acceptance by emailing NYFWS at the following email address: info@nyfws.com. Such emailed acceptance shall (i) state "I have read and agree to all the terms and conditions set forth in the Standard Plan"; and (ii) provide the information set forth in the Acknowledgment section of this Agreement (but not Client's credit card information).

ACKNOWLEDGMENT

I have read and agree to all the terms and conditions set forth herein:

_____	_____
Client Name	Date

Client Address	
_____	_____
Print Client Name	Client Telephone Number

Client Email	

If Client wishes to automatically charge monthly storage fees to a credit card, please complete the information below:

Credit Card #

_____-_____
Exp (Mo/Yr)

Mastercard/Visa/Amex

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STANDARD WAIVER OF PROTECTION

I hereby confirm that I assume all risk of loss and damage with respect to the Property, as defined under the Standard Storage Agreement, that I have caused to be stored with New York Fine Wine Storage, Inc. (“NYFWS”). I further confirm that I have been offered the right to obtain protection for risk of loss for the Property through the NYFWS Standard Storage Agreement, but I have declined to accept such protection.

I agree that NYFWS will not be responsible, and I hereby release NYFWS from any liability, for any and all loss or damage to the Property while such Property is stored at NYFWS, except for any gross negligence or willful misconduct on the part of NYFWS and, in such event, any damages I may recover are limited as follows:

All Property is stored entirely at the risk of Client. NYFWS shall not be liable for any loss or damage to Client’s Property, except for damage caused by gross negligence or willful misconduct on the part of NYFWS; in such event, the liability of NYFWS shall not exceed \$100.00 per individual case or box of wine and \$1,000.00 in the aggregate for all damage.

I also agree that, in the event that I obtain insurance coverage for the Property, I will notify the carrier providing such insurance coverage of all of the terms of this Waiver, and I will confirm with the carrier that such insurance coverage includes the waiver of any right of subrogation by the insurance provider against NYFWS, its agents, employees and contractors for any loss or damage to the Property while it is in NYFWS custody. I hereby agree to indemnify and hold harmless NYFWS against any claim and all costs related thereto by any insurance carrier claiming through me by right of subrogation or otherwise in the event of any loss or damage to the Property.

This Waiver will remain in full force and effect while the Property is in NYFWS custody, unless and until it is terminated by a written agreement signed by NYFWS.

Client Signature

Date

Print Client Name