



## TERMS OF USE

European Whisky Auctions B.V. (EWA) offers an online auction platform (the Platform) where you can discover, purchase, and sell rare, exclusive, and collectible whisky. Users who utilize the platform are required to accept and adhere to the rules set forth in these Terms of Use.

The Terms of Use comprise three parts:

1. General Terms and Conditions
2. Additional Terms for Sellers on the Platform
3. Additional Terms for Buyers on the Platform

Furthermore, the Terms of Use include an appendix that constitutes an integral part of these conditions:

1. Appendix A contains a glossary of all capitalized words in these General Terms and Conditions.

VERSION MARCH 2024

# General Terms and Conditions

## Article 1: Applicability

1. These conditions apply to all activities of EWA. By creating a Platform account, the User agrees to these General Terms and Conditions.
2. The applicability of any general terms and conditions of the User, by whatever name, is hereby expressly rejected.
3. If any provision of these General Terms and Conditions is void or is annulled, the remaining provisions of these General Terms and Conditions shall remain in full force and effect.
4. If EWA, on its own initiative, deviates from the General Terms and Conditions in favor of the User, the User cannot derive any rights from this.

## Article 2: Minimum age restrictions

1. You must be of legal age in your country or jurisdiction to be active on the Platform. In the Netherlands, this is 18 years of age, but it may differ in your country.

## Article 3: Availability

1. The availability of the Platform is limited to certain countries. The current list is available on our website.

## Article 4: Errors, inaccuracies and omissions

1. It is possible that information on our website contains errors such as typographical errors, inaccurately reproduced information, or missing information. EWA reserves the right to correct these errors without notification.
2. EWA is not obligated to correct errors if it does not deem it necessary, unless legally required to do so.
3. In the event a Lot contains incorrect information or if information is missing, the bottle as presented in the photos shall prevail.
4. EWA is entitled to cancel a purchase if errors and/or omissions are discovered after the closing of an Online Auction, without the need for compensation.

## Article 5: Confidentiality

1. Your data will be processed and stored confidentially by EWA and/or the Payment Partner and will not be provided to third parties, unless competent authorities legally obligate EWA to do so.

2. In EWA's Privacy Policy, you can find which data EWA processes, how and why it is processed, and what your rights are. The Privacy Statement of EWA contains an overview of all external data processors.
3. You have the right to request access to your data stored by EWA. Requests for access must be made in writing.
4. EWA does not sell personal information to third parties.

## Article 6: EWA as intermediary

EWA auctions the Lot on your behalf as your intermediary, and the following applies.

1. You are the lawful owner of the Lot or you act as an authorized intermediary for a principal.
2. You sell the Lot with full ownership and guaranteed free from all liens, burdens, encumbrances, or claims of third parties.
3. You guarantee that the Lot is authentic.
4. If the Lot is sold, the payout to the Seller will not be processed until the highest bidder has paid EWA.
5. Offering the Lot on EWA's Platform does not make EWA the owner of the Lot.

## Article 7: Platform account registration

1. Using EWA's Platform requires a Platform account.
2. The Platform account automatically grants the User rights as a Buyer.
3. Payment for registration is processed by EWA's Payment Partner. This registration is, among other things, intended to establish the identity of the User.
4. The Platform account can be expanded with Seller rights at any time desired. No additional costs are associated with this.

## Article 8: Reservation of ownership and rights

1. The intellectual property rights relating to the Platform, the service, the database, and the information, including but not limited to, the intellectual property rights on texts written by EWA or otherwise, images, design, product photos, software, audiovisual material, and other materials, are owned by EWA, or its licensors, as far as it does not concern user material.
2. It is expressly not allowed to copy the service, the website, the user material, and/or information and/or other data, to make it public, to use it for direct or indirect commercial purposes, or to use it for any purpose other than those mentioned in these terms of use, unless EWA or the respective rights holder has given explicit and written permission for this.

## Article 9: Liability and indemnification

1. The Seller and Buyer accept that EWA acts as an intermediary as intended in Article 5. EWA is not liable and/or responsible for the offered lot.
2. EWA accepts no liability for material and/or financial damage and/or other disadvantages resulting from a culpable failure to fulfil the agreement to provide the service, including, but not limited to, damage resulting from or related to the use of the Platform.
3. EWA accepts no liability for damage resulting from circumstances outside its service. EWA is not a party to, and therefore cannot be held liable for, damage resulting from any agreements between buyer and provider or other users.
4. You indemnify EWA against all third-party claims related to your use of the Platform, EWA's services, and/or a violation of these General Terms and Conditions.

## Article 10: Availability and interruption

1. EWA does not guarantee that the Platform will always be accessible without interruptions or malfunctions. Interruptions may occur, among others but not exclusively, due to disruptions in the internet or telephony connection, by faults in the web servers, by viruses, DDoS attacks, and/or errors/defects.
2. EWA is therefore in no way liable or obligated to compensate for any damage resulting from the (temporary) unavailability or (intermediate) failure of the Platform.
3. If the Platform (temporarily) fails on the Closing Day of an auction, the auction will be extended by at least the duration of the outage, to give Sellers the opportunity to receive bids they would otherwise miss, and Buyers the opportunity to still place a Bid on the desired Lot.
4. EWA is entitled, without prior notification, to make procedural and technical changes and/or improvements to the Platform and/or service. If possible, this will be avoided during an active auction.
5. EWA is entitled, without prior notification and without thereby becoming liable for damages, to (temporarily) take the Platform out of use and/or limit its use if deemed necessary.

## Article 11: Changes to the Terms

1. EWA may change or supplement the terms at any time. EWA will notify you at least 7 (seven) days before the changed and/or supplemented General Terms and Conditions are posted on the Platform and become effective.
2. The change will be presented via a notification on your User account. To continue using the platform, the terms must be accepted.
3. If you do not wish to accept the changed and/or supplemented General Terms and Conditions, you are still obligated to adhere to any Sales Contracts made under the old General Terms and Conditions.

## Article 12: Applicable law and competent court

4. The provision of services by EWA and the (use of the) Platform are governed by Dutch law.
5. Disputes to which these Terms of Use apply will be settled by the competent court in Groningen, the Netherlands.

# Additional terms for sellers

These Additional Terms for Sellers (Seller Terms) form an integral part of the Terms of Use of EWA. These Seller Terms describe your rights and obligations under the Sales Contract that you enter into with Buyers of your lots.

## Article 13: Registering as a Seller

1. To be able to sell Lots, you must have a Platform account as referred to in Article 7 of these Terms of Use.
2. From the Platform account, you can create a Seller account. This is not associated with any additional costs.
3. Seller accounts on the Platform are exclusively reserved for the sale of whisky and whisky-related items.
4. EWA may request you to identify yourself. This can be done, for example, by providing a copy of your ID, bank account number, etc.

## Article 14: Business Seller

1. A Seller may register as a Business Seller. To do this, the Seller must provide a valid VAT ID and Chamber of Commerce number in their User account.
2. Lots from Business Sellers will be marked as such.
3. Business Sellers are subject to the statutory EU right of retention for Buyers.
4. If a Buyer exercises their right of retention, the Seller must take back the relevant bottle(s) and return any payment from EWA.

## Article 15: European Whisky Auctions Fees

1. EWA charges a fee for the use of the Platform. The fee consists of or may consist of the following components:
  - a. A Listing fee for placing a lot. For this fee, the Lot can be offered three times. Afterward, the listing fee is due again.
  - b. A Service fee for processing the lot. This is charged once per lot.
  - c. A Reserve price fee if the Lot is provided with an optional reserve price.
  - d. A Seller fee upon the successful sale of the Lot.
2. The total fee to EWA will be deducted from the payout to the Seller.
3. VAT is applicable to the fee to EWA.
4. The EWA website contains an overview of the current rates.

## Article 16: Offering Lots for Auction

Anyone registered as a Seller can offer and register Lots on the Platform. Certain rules apply to offering Lots.

1. Anyone registered as a Seller can offer and register Lots on the Platform. Certain rules apply to offering Lots.
2. Offering Lots does not automatically lead to placement in one of the auctions on our Platform. EWA has the right to refuse Lots if they deem them unsuitable. Correspondence can be made about this.
3. EWA has the right to refuse Lots without giving reasons. This can occur, for example, in the case of whisky bottles that are readily available through regular sales channels such as liquor stores and/or specialty shops. Bottles can also be refused if there is any doubt whatsoever about the authenticity of the bottle.
4. You guarantee that you are entitled to offer and sell the Lot. By offering a Lot, you guarantee that you:
  - a. Do not violate any laws and regulations.
  - b. Do not infringe on the rights of third parties.
  - c. Do not act in a manner that is generally fraudulent.
  - d. Do not act in a manner that is unlawful or fraudulent towards EWA or the Buyer of the Lot in particular.
  - e. The offering of the Lot is a genuine and authentic transaction.
5. EWA determines the ranking of Lots in the Auction. Correspondence about this is not possible.
6. EWA has the right to schedule a Lot differently. That is, the Lot can be scheduled for an auction other than the next one. EWA may deem this necessary if multiple similar whiskies are offered.

## Article 17: Reserve price

1. The Seller is entitled to set a Reserve Price on a Lot.
2. If the Reserve Price is not met at the close of the auction, the Seller has no obligation to deliver.
3. There is a minimum of €100 (expected Hammer Price) for setting a Reserve Price.
4. EWA is entitled to refuse a Reserve Price if they consider it unrealistic for the particular Lot.
5. Costs are associated with setting a Reserve Price.
6. During an Online Auction, the Seller can adjust the Reserve Price (downward) through their User account.
7. Adjustment of the Reserve Price can be made to one bid step above the then highest bid.

## Article 18: Delivery of goods for auction

1. The Seller is responsible for delivering the goods to be auctioned.
2. Goods can be sent to, and (by appointment) dropped off at the office of EWA.
3. When sending goods, the Seller remains responsible for what happens to the package during transport. EWA cannot be held accountable for this.

## Article 19: Withdrawing lots

1. Even after acceptance and scheduling, as a Seller, you have the right to withdraw a Lot until it becomes visible in the auction. After this point, the terms of the Lot cannot be changed, and you are obligated to adhere to these Seller Terms.
2. If EWA decides to remove a Lot from an Online Auction because it violates these Seller Terms, you are fully liable for any resulting damage.
3. If you decide that a Lot should be removed from an Online Auction, you must provide evidence of why the particular lot needs to be removed. The assessment of this evidence is up to EWA. If EWA decides the evidence is sufficient, the removal of the Lot will be considered.
4. Lots cannot be withdrawn on the Closing Day of an Online Auction.
5. Fees may be charged if a Lot is removed from an Online Auction.

## Article 20: Cancelling an offered item from stock

1. Offered bottles are not always scheduled for an Online Auction but may be part of the stock for a future Online Auction.
2. The Seller has the right to withdraw an offered bottle from this stock. No Lot will then be created.
3. Fees may be charged for withdrawing a bottle from the auction stock (cancellation).
4. If EWA needs to return the cancelled item to the Seller, the costs and risk of transport are entirely for the Seller.
5. Returning a cancelled item is done with Transport Insurance unless the Seller explicitly indicates not wanting to use this insurance. The Seller must be able to provide proof of purchase if rights need to be exercised in the event of damage.

## Article 21: Online auction

After the opening of the Online Auction, Buyers can bid on the Lot.

1. If the Lot is not provided with a Reserve Price, then the Lot is always sold.
2. If a set Reserve Price is not met at the end of an Online Auction, the Lot is not sold in principle. In consultation, EWA can mediate with the highest bidder to still realize a Sale.
3. It is not allowed to bid on your own Lots. It is also not allowed to have someone else connected to you bid on your Lots with the aim of achieving a higher Hammer Price. In case of violation, EWA can close your account.



4. Lots offered on the Platform are exclusively offered here and not on other channels, including marketplaces, webshops, or other online platforms.

## Article 22: Payment

1. The Purchase Price will be paid out (after deduction of the Fee to EWA as mentioned in Article 15).
2. Payment is made only after receipt of payment by the Buyer.
3. The Seller must enter their bank details for payment in their account.

## Article 23: Default

4. If you have not acted in accordance with the General Terms and Conditions of EWA, EWA reserves the right not to pay you for the relevant Lot. In these cases, you agree and acknowledge that you lose the right to file a claim against EWA for such payments.
5. In case of violation of its General Terms and Conditions, EWA always has the right, at its sole discretion, to:
  - a. Suspend, withhold, or offset your payout or refund.
  - b. Temporarily or permanently exclude your participation on the EWA Platform.

# Additional Terms for Buyers

These Additional Terms for Buyers (Buyer Terms) form an integral part of the Terms of Use of EWA. These Buyer Terms describe your rights and obligations under the Sales Contract that you enter into with Sellers of lots.

## Article 24: Registering as a Buyer

1. To be able to purchase Lots, you must have a Platform account.
2. Registration involves a one-time non-refundable fee. Through this transaction, EWA's Payment Partner is able to verify the identity of the Seller. See the EWA website for current rates.
3. EWA may ask you to identify yourself. This could be done, for example, by providing a copy of your ID, bank account number, etc.

## Article 25: Buyer

1. You are the Buyer if your Bid is the highest at the end of the auction and the possible Reserve price has been met.
2. If the Seller has set a Reserve price (also known as a minimum price) for the Lot and the highest Bid is lower than the Reserve price, then the Seller has no obligation to deliver.
3. You are obligated to pay if your Bid is the highest at the end of the auction and the possible Reserve price has been met.

## Article 26: Bidding during an Online Auction

1. Buyers can place a Bid on a Lot of their choice.
2. The Bid is registered as a Maximum bid. The bidding system of EWA bids as economically as possible for the Buyer according to fixed bidding steps.
3. If a Bid is placed that is equal to an existing Maximum bid, then the Maximum bid takes precedence.
4. The Maximum bid can be increased in the meantime, without this bringing about a new Registered bid.
5. After the closing of the auction, the Registered bid is considered the Hammer price and thereby the purchase price.

## Article 27: Closing of an Online Auction

1. The auction will close on the Closing evening from 20:00 hours.
2. The auction definitively closes if no Bid has been placed on any Lot of the total Online Auction for 10 minutes.
3. If the auction has not closed after two hours, the following applies:

- a. After 22:00 hours, the extension time after placing a Bid is shortened to 5 minutes.
- b. After 23:00 hours, the extension time after placing a Bid is shortened to 2 minutes.

## Article 28: European Whisky Auctions Fee

1. EWA charges a fee for the use of the Platform. The fee consists of or may consist of the following components:
  - a. A Buyer fee upon the successful purchase of the Lot.
2. The total fee to EWA is invoiced to the Buyer together with the Hammer price for the relevant Lot.
3. The EWA website contains an overview of the current rates.
4. VAT is applicable to the fee to EWA.
5. VAT is applicable to the Hammer price of a lot if the Seller is a Business seller. These lots are marked.

## Article 29: Paying for lots

1. Winning a Lot brings with it a purchase obligation for the Buyer.
2. EWA sends a Payment instruction for all won Lots to the Buyer.
3. The full Purchase Price as stated on the Payment instruction must be paid within three (3) days after the issuance of the Payment instruction.
4. The Buyer is responsible and liable for all additional costs (such as bank fees), taxes, (import) duties, and other due levies.
5. The Buyer guarantees that the purchase is legitimate and not part of a sham transaction aimed at laundering money.
6. Payment can be made via bank transfer and various online payment methods.
7. If the Buyer pays with a non-EU or business credit card, EWA is entitled to charge costs for this.
8. EWA is entitled to charge a late payment fee for late payments. This fee amounts to 4% of the outstanding amount.

## Article 30: Delivery of lots

1. Purchased bottles must be collected by appointment at the office of EWA.
2. If the Buyer does not want to use the pickup option but wants the purchased items to be shipped, the following conditions apply:
  - a. Shipping of the purchased items must be requested via the User account.
  - b. Should EWA receive a request for the shipment of goods, EWA will issue an invoice for the due shipping costs to the requester within a period of five business days following the receipt of the request. The shipment of the goods

will then occur within five business days following the receipt of the payment of the aforementioned invoice.

- c. EWA has a Transport Insurance. The premium for this Insurance is automatically added to the shipping invoice unless the Buyer explicitly chooses not to apply this Transport Insurance to the shipment.
- d. The premium for the insurance is calculated over the Hammer price and the Buyer's fee. The minimum premium is €5 (including VAT). The current rate can be found on the website.
- e. If the Buyer chooses to ship without using EWA's Transport Insurance, then the Buyer fully assumes the risk of transport. In case of loss, damage, theft, delay, or other events, EWA cannot be held liable for compensating any damage.
- f. If the Buyer chooses to ship without using EWA's Transport Insurance and there is an incident, then EWA has no obligation to resolve.
- g. The Transport Insurance covers the following events:
  - a. Loss of the package.
  - b. Theft of the package.
  - c. Damage (excluding leakage, see clause g.) to the contents of the package.
  - h. Leakage from bottles is excluded from coverage.
3. EWA shall not be liable for any actions by customs authorities resulting in the detention, return, or destruction of a shipment. It is the Buyer's obligation to verify prior to purchase whether the import of whisky or whisky-related products is permitted within the jurisdiction of the destination.
4. EWA always ships a package with a Track & Trace code. This is also made available to the Buyer.
5. EWA has the right to consider the signature of receipt and/or Track & Trace delivery confirmation at the delivery location as evidence that the items have been successfully delivered.

## Article 31: Storage

1. EWA offers the possibility to store purchased bottles at EWA.
2. Storage is free for the period of 10 weeks. This includes at least two auction runs.
3. 10 days after the closing of an Online Auction, bottles are assumed to go into Storage. The free period of 10 weeks starts from 1 day after the closing of the respective auction.
4. After the free storage period, a Storage fee is due for the respective bottle(s).
5. The Storage fee is charged for the duration of one calendar year, starting from the moment the free period expires.
6. Two weeks before the end of the storage period, the Buyer receives an email notification indicating that the period is ending and will be automatically extended by a year if the bottles are not collected or shipped. The Buyer then receives a new Storage invoice.
7. The Storage fee is calculated based on the Hammer price plus the Buyer's fee. This is also the insured amount for the respective bottle. The minimum storage fee is €5.

8. If the Buyer ships bottles from (paid) Storage, no Transport Insurance is due. The package is then automatically insured.

## Article 32: Default

1. You are in default if you do not fulfill your (payment) obligations to EWA. In such a case, EWA can send you a notice of default and dissolve the purchase.
2. If you do not fulfill your obligations to EWA, EWA may decide to take legal steps against you to enforce her rights.
3. In the event of dissolution (see clause 1), EWA has no obligation to deliver the won items.
4. EWA is entitled to recover the fees missed by EWA (both the Seller's fee and the Buyer's fee) from you.
5. EWA has the right, at its sole discretion, to:
  - a. Charge a compensation for damages.
  - b. Temporarily or permanently exclude your participation on the EWA Platform in case of violation of its General Terms and Conditions.

## Article 33: Right of withdrawal

1. Private Sellers do not act in the capacity of Business Sellers on our Platform, and therefore, the Right of Withdrawal does not apply to them.
2. The Right of Withdrawal does apply to Sellers acting from a Business Account (Business Seller).

## APPENDIX A

# Glossary

## Account

A combination of a username (valid e-mail address) and password that gives you access to the protected environment (your dashboard) of European Whisky Auctions.

## Agent

Intermediary who offers services and mediates between seller and buyer. European Whisky Auctions acts as such an agent between the seller and buyer of whisky bottles, and as such is not part of the Contract of Sale.

## Auction

The sale by auction of lots through a specifically designed part of the website and according to the specific rules as described in these Terms and Conditions.

## Auction Service

An optional service from European Whisky Auctions whereby we take over the work involved in selling whisky via the platform. There are costs associated with this service.

## Bid

Proposal to take over the lot at a specified price. This does not necessarily have to be the purchase price, as a higher bid can always be placed until the lot is closed.

## Business seller

The natural or legal person who has a Chamber of Commerce number and uses the Service. The business seller should consider amounts to be inclusive of VAT.

## Buyer

The natural or legal person who has created an Account and uses the Service as a bidder.

## Buyer fee

The commission payable on the Hammer Price.

## Buyer terms

The buyer terms regulate specific issues for buyers of whisky. The buyer terms are an integral part of our terms and conditions.

## Contract of Sale

An agreement whereby the seller agrees to supply one or more bottles of whisky and the buyer agrees to pay a purchase price for it.

## Closing day

The day on which a current auction closes.

## EWA

European Whisky Auctions B.V. Whisky auctioneers from the Netherlands. Registered at the Chamber of Commerce under registration number 78311799.

## Filling level

The filling level of a bottle to indicate the amount of whisky.

## Hammer price

The percentage the buyer pays over the hammer price of a lot.

## Lot

One or more objects (whisky bottle(s)) submitted by a seller for auction.

## Minimum price

The lowest price wanted by a seller for a lot. See also Reserve price.

## Online auction

The sale by auction of lots through a specifically designed part of the website and according to the specific rules as described in the terms and conditions.

## Payment instruction

The instruction the buyer receives when he has the highest bid at the end of the auction. The instruction includes an explanation of how the total amount is made up and how it can be paid.

## Payment partner

See Payment provider.

## Payment provider

A payment service provider (PSP) offers online services for accepting electronic payments by a variety of payment methods including credit card and bank-based payments such as iDEAL.

## Package

The lot which is packed and ready for shipping.

## Platform

The entire online operating system of European Whisky Auctions.

## Platform account

See Account.

## Private seller

The natural person who has created an account and uses the service to sell whisky.

## PSP

Payment Service Provider, see Payment provider.

## Purchase price

The hammer price including all additional commissions and shipping costs (total amount to be paid).

## Reserve price

The minimum price that a seller is willing to accept from the buyer.

## Right of Return

The possibility for the consumer to withdraw from the agreement within the cooling-off period.

## Seller account

An Account on the platform to sell whisky and whisky-related items.

## Seller commission

The percentage fee paid by the seller to European Whisky Auctions over the hammer price of a lot.

## Seller fee

See Seller commission.

## Seller terms

The seller terms regulate specific matters for sellers of whisky. The seller terms form an integral part of our terms and conditions.



## Service

The comprehensive service of European Whisky Auctions as described in the Terms and Conditions.

## Shipping costs

The cost of sending a package. These costs may vary and are determined by the seller.

## Storage

Possibility to keep bought lots in storage with European Whisky Auctions. Storage is free of charge for a period of 10 weeks. For longer storage periods an annual storage fee will be billed.

## Stripe

Payment partner of European Whisky Auctions. For more information, visit the Stripe website at <https://stripe.com>.

## Track & Trace-code

A shipping code issued by the parcel delivery service. Both buyer and seller can track the package with this code.