

# Miss Snow It All – Bushfire Relief Silent Auction

## Terms and Conditions of Entry

The logo for moulislegal, featuring the word "moulislegal" in a white, lowercase, sans-serif font inside a red, irregular, teardrop-shaped background.

### 1 Introduction

- 1.1 Information on how to enter the SnowAid Online Auction forms part of these conditions of entry. A bid in this Silent Online Auction (the “Auction”) is acceptance of these Terms and Conditions.

### 2 Background

- 2.1 This Silent Online Auction is not for profit. It is being conducted using the platform AirAuctioneer Pty Ltd (ABN 13 630 621 215). for the purposes of fundraising and raising awareness of the Bushfire Crisis along the East Coast of Australia.
- 2.2 All profits will be donated to the Charity Organisations.
- 2.3 Entrants acknowledge that all Items have been donated by the Suppliers and that any legal responsibility arising for those Items outside the parameters of this Auction is with the Suppliers.

### 3 Definitions

Unless specifically stated otherwise, the following words are defined as:

**Auctioneer** or **AirAuctioneer** refers to the organisation where the Auction will be listed.

**Buyer** refers to the Entrant who has made the highest bidder of the Item.

**Charity Organisations** are the following:

- (a) Australia Red Cross;
- (b) WIRES;
- (c) Wildlife Victoria; and
- (d) Wildlife Rescue South Coast.

**Entrant** refers to a person who has registered through AirAuctioneer for this Auction.

**GST** means a tax payable under the New Tax System (Goods and Services Tax) Act 1999 as amended

**Item** means any one of the objects that is offered as part of the Auction.

**Person/s** means a person of a legal entity.

**Purchase Price** means the price of the highest bidder for any one Item.

**Reserve Price** means the price for which the Promoter has listed the Item. This price will be calculated at 30% of the Item’s total value.

**Sale Proceeds** means the net amount payable to the Promoter, being the Sale Price less any other reasonable administrative expenses.

**Suppliers** means any organisation, person or legal entity that has donated an Item.

**The Promoter** means Miss Snow It All (ABN 84 631 849 402).

## **4 Start and Close Time**

- 4.1 The Silent Online Auction will run from 5pm AEDT 9 February 2020 to 11:59pm AEDT 21 February 2020.
- 4.2 Each Item will be open for bidding from 7pm AEDT Tuesday, February 11, 2020. Each Item will close for bidding at different times. These times will be listed on the AirAuctioneer site on the webpage for each respective Item.
- 4.3 It is the Entrant's sole responsibility to be aware of the relevant open or close times. The Promoter and Suppliers will not be responsible for any late, incorrect, delayed or misdirected entries. Mistakes, errors or omissions may be accepted at the Promoter's discretion.

## **5 How to Participate**

- 5.1 Entry is open only to persons who are over the age of 18 years old.
- 5.2 Entrants will register their details through the AirAuctioneer platform.
- 5.3 Entrants may bid on an Item as many times as they like through the AirAuctioneer platform. These bids will be collected and managed by the AirAuctioneer system.
- 5.4 By placing a bid an Entrant is entering into an agreement to purchase the Item at their bid price.
- 5.5 An Entrant's bid constitutes acceptance to buy the Item "as is". All descriptions and illustrations provided by the Promoter are for the guidance of Buyers only, and should not be relied upon in terms of exact visual replication.
- 5.6 The Promoter's decision in respect of all matters to do with the Auction will be final.
- 5.7 The Promoter can refuse or accept a bid in its absolute discretion.

## **6 Buyer Determination**

- 6.1 The Buyer will be determined immediately following the close of the Auction for that Item and notified soon after.
- 6.2 A further automatic notification will be issued to Buyers soon after with details concerning the procedure to collect or deliver their Item.

## 7 Item Details and their value

- 7.1 The Items and their value are items listed within the description on AirAuctioneer. That listing forms the entirety of the offered Items. Each Item has terms of use and acceptance that are limited to that Item. It is the Entrant's responsibility to read those terms before bidding. Items only include those inclusions that are specifically listed. Everything not listed and excluded is the Buyer's responsibility. The Promoter shall not be liable for any error, misstatement or omission in the description of an Item.
- 7.2 The decision of what is included or excluded is subject to the Promoter and Supplier's reasonable discretion.
- 7.3 All Items are listed in AUD
- 7.4 Where relevant, if any part of an Item includes travel, the Entrant is responsible for any travel or obligations associated with claiming or receiving the Item. It is the Buyer's responsibility to ensure they possess valid documents required for travel, including any visa requirements, passports and travel insurance.
- 7.5 The listed Item value is an estimate of fair market value and is correct at the time of its publication. The Promoter is neither responsible nor liable for any change in the value of an Item occurring between the publishing date and the date the Item is purchased. This value should not be relied on as a representation of what the Item's Purchase Price may be.
- 7.6 The Purchase Price will only be valid where it is higher than the Reserve Price and is the highest bid price. The Reserve Price must be met for a Sale to be effective. If the Purchase Price is not valid, then it will not be sold. Any dispute may be determined by the Promoter in its absolute discretion and the decision of the Promoter shall be final.
- 7.7 It is the Entrant's obligation to read the description and applicable Terms of the Item to determine what those costs might be. This includes but is not limited to postage, handling and shipping costs of the Items.
- 7.8 Unless agreed by the Promoter or clearly stated otherwise;
- 7.8.1 Items will only be shipped within Australia; and
- 7.8.2 The Buyer shall be responsible for any fees, costs, liability, or arrangements for shipping, handling and packing of goods, including any costs or responsibility that are incurred for the Buyer to send the Items outside Australia.
- 7.9 Clause 7.8 is subject to the Supplier and Promoter's sole discretion.

## 8 Payment

- 8.1 Payment for the Items will be made through Stripe. Per the AirAuctioneer User Agreement, payments processed using Stripe will be subject to the following fees:
- 8.1.1 a processing fee determined by Stripe, variable from time to time at Stripe's discretion and published on Stripe's website; and

- 8.1.2 an application fee, determined by AirAuctioneer, variable from time to time at AirAuctioneer's discretion and published on the Pricing and Features Page.
- 8.2 The fees listed in clause 8.1 may be waived at Stripe's discretion.
- 8.3 The Purchase Price must be paid to Stripe no later than 48 hours after the Item has been purchased. Delayed payments may be accepted at the Promoter's discretion.
- 8.4 If the Purchase Price is not paid by the Buyer in accordance with clause 8.1, the Promoter reserves its rights in law to take any action it deems appropriate.
- 8.5 No Item will be shipped or received by the Buyer until the full Purchase Price has been paid.
- 8.6 All Buyers are responsible for the tax considerations in their respective jurisdiction.

## 9 The Promoter's discretion

- 9.1 The Promoter reserves the right, in its absolute discretion, at any time before the Auction to refuse any bid, divide Items, withdraw any Item from the Auction or vary the Terms. If there is a dispute, then the Promoter has the sole discretion to rescind the Purchase, remove the Item from the Auction or take any action it reasonably deems necessary.
- 9.2 In the event that the Promoter cancels the Silent Auction or varies or withdraws the Items, it shall not:
  - 9.2.1 be liable to any person for any loss or damage (including loss or damage caused by any negligence) arising out of, or in connection with, such cancellation, variation or withdrawal; and
  - 9.2.2 be required to conduct the Auction or offer the Item at any other time.
- 9.3 The Promoter reserves its right, in its sole discretion, to disqualify any Entrant who the Promoter has reason to believe has breached any of these Terms, including but not limited to tampering with the Auction process, engaging in any unlawful or other improper misconduct that is calculated to jeopardise fair and proper conduct of the competition. Errors and omissions may be accepted at the Promoter's discretion.

## 10 Payment of Funds to Charities

- 10.1 The Promoter is only liable to make donations to the respective charities for the payment of the Sale Proceeds (less reasonable selling expenses incurred) if the Purchase Price has been received and cleared into the funds received by the Promoter.
- 10.2 If the full Purchase Price has been received in cleared funds by the Promoter within one month of the date of the Sale, then the Promoter shall pay the Sale Proceeds to the respective charities as soon as reasonably possible.
- 10.3 If a Buyer is unable to pay the Purchase Price within 7 days after the date of the Sale, then the Buyer must notify the Promoter. Delayed payments may be accepted at the Promoter's discretion. The Promoter reserves the discretion to:
  - 10.3.1 Rescind the Sale or refund any monies paid by the Buyer to the Buyer;

- 10.3.2 Remove the Item from the Auction; or
- 10.4 Take such steps as the Promoter shall, in its sole discretion, determine necessary to collect the Purchase Price from the Buyer.
- 10.5 If a Buyer is unable to purchase the Item then the Promoter may offer the Item to the second highest bidder in its discretion. If the second highest bidder accepts the offer, then they will become the Buyer and meet the definition of the Buyer for the purpose of these Terms.
- 10.6 Entrant's bids are not direct donations to the Charity Organisations, and therefore are not likely to be tax deductible. However, Entrant's should obtain independent financial and taxation advice prior to placing a bid in the Auction. Each Entrant's circumstances may differ.

## 11 Governing Law and Jurisdiction

- 11.1 These Terms and Conditions of Entry are governed by and shall be construed in accordance with the law of New South Wales, Australia and Entrants to this Auction submit to the non-exclusive jurisdiction of courts of that place.

## 12 Privacy

- 12.1 Upon entry into the Auction, an Entrant gives permission for the use of personal data and information by the Promoter for the purposes of this Auction only. This information will be retained in accordance with the Privacy Act 1988 (Cth).
- 12.2 The Promoter is not be liable for a breach of these obligations where the breach is attributable to AirAuctioneer. AirAuctioneer's Privacy policy is available at <https://airauctioneer.com/privacy-policy>.

## 13 General

- 13.1 These Terms and Conditions of Entry should be read in conjunction with the AirAuctioneer User Agreement available at <https://airauctioneer.com/user-agreement>.
- 13.2 All sales are final. There are no exchanges or refunds unless otherwise noted.
- 13.3 No statement made by the Promoter or the Suppliers will be deemed to be a warranty, representation or assumption of liability for the goods.
- 13.4 The delay or non-exercise of a right or power of a party does not operate as a waiver of that power or right, nor does any other single exercise of a right of power preclude any further exercise of it, or exercise of any other power or right.
- 13.5 Entrants partake in the Auction at their sole risk. With the exception of liability which cannot be excluded by law, the Promoter will not be liable for any loss or damage which is suffered (including but not limited to indirect or consequential loss) or for personal injury suffered or sustained or loss or damage to tangible property as a result of partaking in the Silent Auction, or accepting and using any goods or services won in the Silent Auction. This extends to any liability arising from the AirAuctioneer platform.

- 13.6 Once a successful bid has been made, a purchased Item shall be at the Buyer's risk in all respects, whether or not Payment has been made. Neither the Promoter nor the Suppliers shall be liable thereafter. The Buyer indemnifies the Promoter against any loss or damage of any kind, except where the Promoter has not acted with due care and skill.
- 13.7 The Promoter and companies associated with this Auction will take no responsibility for Items damaged or lost in transit.
- 13.8 Once the Item has been claimed and received by the Buyer any responsibility will lie with the relevant manufacturer or entity and not the Promoter.
- 13.9 Each Item must be taken in its complete entirety or it will be forfeited. If, for any reason a Buyer does not take the Item or an element of the Item at the time stipulated by the Promoter, then the Item or that element of the Item will be forfeited.
- 13.10 Subject to relevant Australian laws, the Promoter retains the discretion to change these Terms at any time.
- 13.11 The Promoter reserves the right to use the content of the Auction for the purpose of future promotion. The right to use granted in this clause includes a right to modify, adapt and exploit the content of this Auction for use in this Auction or any other Auction conducted by the Promoter.