

Guide for Bidders & Auction Terms and Conditions

The Auction is governed by the *Guide for Bidders and Auction Terms and Conditions*. They may be amended in the build-up to the Auction and Bidders will be notified of any changes by way of notices posted on the Haier Big Hoot website (www.bighoot.co.nz) or by way of announcement made by the Auctioneer at the Auction.

Prospective Bidders should read them carefully. When registering to bid, prospective Bidders will be required to confirm that they have read and understood them.

Guide for Bidders

1. Registration

As spaces are limited and entry to the Auction will be by ticket only, prospective Bidders must register to bid at the Auction. This can be done either by following the instructions at www.bighoot.co.nz/Auction or by visiting the Child Cancer Foundation table at the Haier Big Hoot Farewell Weekend, held at the Aotea Centre, 25-27th May 2018, at which prospective Bidders can register and make further enquiries.

2. Bidding at the Auction

Bidders must be registered to bid at the Auction. Bids may be made in person or by way of phone or absentee bidding. An explanation of these bidding services can be found below:

a) Bidding in Person at the Auction

If a Bidder intends to bid on a Lot, they should bid by clearly raising their allotted auction paddle, ensuring that the Auctioneer is aware of their bid. Should there be any doubts as to price or Buyer, the attention of a member of the Auction team must be sought by the Bidder immediately.

b) Phone and Absentee Bidding

If a Bidder cannot attend the Auction in person, they can register a phone or absentee bid by completing and returning the *Absentee and Phone Bidding Form*. This will be sent to prospective Bidders after they have registered and indicated that they would like to bid using one of these methods.

Bidders will need to supply a deposit by providing valid credit or debit card details when they complete the *Absentee and Phone Bidding Form*. By completing and signing the form they will consent to the Seller charging their account should they be successful with their bidding. Payment will only be taken from their account if they are successful with their bidding. The Seller will destroy card details that relate to all unsuccessful bids and a Bidder's account will not be debited if they are unsuccessful.

The Auctioneer will treat these bids in the same manner as any other bids made in the room.

If bidding by Absentee:

- Lots will always be bought as cheaply as is consistent with other bids.
- In the event of identical bids, the earliest received will take precedence.
- Please note these services are free and strictly confidential.

If bidding by Phone:

If a Bidder is registered as a phone Bidder for a Lot, a few minutes before the Lot is offered a member of the Auction team will contact them on the phone number provided on the *Absentee and Phone Bidding Form*.

The member of the Auction team will bid when instructed to by the Bidder on the phone and not otherwise.

Phone Bidders must ensure they are available on the phone number that they have provided on the *Absentee and Phone Bidding Form*.

Every effort will be made by the Seller to make contact with the Bidder during the Auction on the phone numbers supplied by the Bidder in the *Absentee and Phone Bidding Form*. If the Seller is not able to make contact with the Bidder on the phone numbers provided, by signing the Declaration on the *Absentee and Phone Bidding Form* the Bidder gives permission to the Seller to bid up to your maximum bid as stated in this form, on your behalf.

If a Bidder wins a Lot by exceeding the bidding price stated on the *Absentee and Phone Bidding Form*, the Bidder agrees that the Seller can debit the final price plus GST at 15% from their payment card.

3. Further Information

Please refer to the *Auction Terms and Conditions* for further information.

Auction Terms and Conditions

The terms on which the Auction is held are set out below. Bidders' attention is specifically drawn to Condition 3 below, which requires them to investigate Lots prior to bidding and also to definitions of Hammer Price and Purchase Price and the requirement for the successful Bidder to pay GST at 15% plus any applicable fees in addition to their successful bid.

1. Introduction

A sale contract is made directly between the Seller and the Buyer.

2. Common Terms in these Auction Terms and Conditions

- "The Haier Big Hoot Auction", also referred to as "the Auction", is the event that is presented and managed by the Seller;
- "Bidder" is any person considering, making or attempting to make a bid, by whatever means, and includes Buyers;
- "Buyer" is the person that makes the highest bid or the winning bid accepted by the Auctioneer. The Buyer can bid in person, by telephone or instruct an agent to do so on their behalf;
- "Buyer's Expenses" are any costs or expenses due from the Buyer;
- "Conditions" means these conditions;
- "Hammer Price" is the highest bid accepted by the Auctioneer by the fall of the hammer, or in the case of a post-Auction sale, the agreed Purchase Price. Please note that this price is subject to the addition of GST at the standard rate of 15%;
- "Lot" is any item depicted within the sale for Auction on promotional materials and in particular the item described against any Lot number in the catalogue – otherwise described as the "owl", "artwork" or "item";
- "Purchase Price" is the Hammer Price plus GST at 15%;
- "Seller" is the Child Cancer Foundation; Registered charity number CC204304; Registered address: 76 Grafton Road, Grafton, Auckland. 1010.

3. Responsibilities of Bidders and the Seller in Respect of Items for Sale

(a) It is the responsibility of the Bidder to satisfy themselves as to both the condition of the Lot and the accuracy of its description. They can be inspected at the Farewell Weekend at the Aotea

Centre (25 & 26 May 2018: 1000 – 1700; 27 May 2018: 1000 – 1600) or at the Auction prior to the commencement of bidding (29 May 2018: 1730 – 1830).

(b) All Lots are offered for sale in the condition they are in at the time of the Auction on 29 May 2018. It is the Bidder's responsibility to inspect Lots prior to purchase. This term applies whether or not Bidders are in attendance at the Auction. Illustrations included in all materials (printed, digital or other) are for identification purposes only and will not convey full information as to the actual condition of Lots.

(c) Information provided to Bidders in respect of any Lot by the Seller, including any estimate, whether written or oral and including information in any catalogue, condition or other report, commentary or valuation, is not a representation of fact but rather is a statement of opinion genuinely held by the Seller. Any estimate may not be relied on as a prediction of the selling price or value of the Lot and may be revised from time to time.

(d) No representations or warranties are made by the Seller whether any Lot is subject to copyright or whether the Buyer acquires copyright in any Lot.

4. Bidding at Auction

(a) The Seller has absolute discretion to refuse admission to the Auction.

(b) Bidders are personally liable for their bid and are jointly and severally liable with their principal if bidding as agent.

(c) The Seller advises Bidders to attend the Auction if possible but will seek to carry out absentee and telephone bids that are in New Zealand dollars and that, in the Seller's opinion, are clear and received sufficiently in advance of the sale of the Lot, endeavouring to ensure that the first received of identical written bids has priority.

5. Conduct of the Auction

(a) The Auctioneer has discretion at any time to refuse any bid, withdraw any Lot, re-offer a Lot for sale (including after the fall of the hammer) if the Auctioneer believes there may be error or dispute, and take such other action as the Auctioneer reasonably thinks fit.

(b) The Auctioneer will commence and advance the bidding at levels and in increments they consider appropriate.

(c) Subject to Condition 5(a), the contract between the Buyer and the Seller is concluded on the striking of the Auctioneer's hammer, whereupon the Buyer becomes liable to pay the Purchase Price.

(d) Any post-Auction sale of Lots offered at Auction shall incorporate these Conditions as if sold in the Auction room.

6. Payment and Collection

(a) The Buyer's obligation to pay the Purchase Price arises when the Lot is knocked down to the Buyer on the fall of the Auctioneer's hammer in respect of the Lot.

(b) Unless agreed in writing with the Buyer by the Seller, the Buyer must pay all sums to the Seller in the currency in which the sale was conducted immediately upon winning the Lot and the Buyer must ensure that the funds are cleared by the 5th working day after the sale. Payment must be made to the Seller by bank transfer, bank cheque, Visa or Mastercard credit or debit cards unless otherwise agreed with the Buyer in writing by the Seller. Please note that the Seller does not accept personal cheques or American Express. If the Buyer does not pay any sums due in accordance with this clause, the Seller will have the rights to withhold the Lot.

(c) Title in a purchased Lot will not pass until the Seller has received the Purchase Price for that Lot in cleared funds. The Seller is not obliged to release a Lot to the Buyer until the title of the Lot

has passed. Any earlier release does not affect the passing of title or the Buyer's unconditional obligation to pay the Purchase Price.

(d) The Buyer is responsible for organising delivery of their purchase with the Seller's delivery partners, Mainfreight, before leaving the Auction and Lots must be arranged to be delivered within 5 days of the funds for the full Purchase Price clearing unless otherwise agreed in writing with the Seller. Delivery costs are the responsibility of the Buyer. The Buyer will be responsible for paying the daily storage cost of \$20 per day after the 5th day after the Seller has received the full Purchase Price in cleared funds. In the event of failure to take delivery of a Lot within 5 days of the full Purchase Price in cleared funds being received by the Seller, unless a written agreement has been made with the Seller prior to this date, could result in the Seller removing the Lot to a warehouse for storage at the Buyer's expense and the Lot will only be released after the Buyer has made payment in full of removal, storage, handling and any other costs incurred. Purchased Lots are at the Buyer's risk (and therefore their sole responsibility for insurance) from collection or after 5 days of the Purchase Price being received by the Seller in cleared funds.

7. Remedies for Non-Payment

If the Buyer fails to make full payment in accordance with the stated terms, the Seller is entitled to exercise one or more of the following rights or remedies (in addition to asserting any other rights or remedies available under the law):

- To charge interest at such a rate as the Seller shall reasonably decide.
- To hold the defaulting Buyer liable for the total amount due and to commence legal proceedings for its recovery along with interest, legal fees and costs to the fullest extent permitted under applicable law.
- To cancel the sale.
- To resell the Lot publicly or privately on such terms as we see fit.
- Where several amounts are owed by the Buyer to the Seller, in respect of different transactions, to apply any amount paid to discharge any amount owed in respect of any particular transaction, whether or not the Buyer so directs.
- To exercise all the rights and remedies of a person holding security over any Lot in the Seller's possession owned by the Buyer whether by way of pledge, security interest or in any other way, to the fullest extent permitted by the law.

8. General

All images and other materials produced for the Auction are the copyright of the Seller, for use at the discretion of the Seller.

9. Law and Jurisdiction

These Conditions and all aspects of all matters, transactions or disputes to which they relate or apply shall be governed by and interpreted in accordance with New Zealand law and fall within the exclusive jurisdiction of the courts of New Zealand.