



ADVERTISING TERMS

1. Definitions

- 1.1 In these Terms, unless the context otherwise requires, the following words have the following meanings:
- 1.2 **Advertiser** means any entity who asks Elders to publish an Advertisement on the Website;
- 1.3 **Advertisement** means words and/or images that an Advertiser asks Elders to publish on the Website in order to publicise the Advertiser's goods and/or services;
- 1.4 **Agreement** has the meaning set out in clause 4.1 of these Terms;
- 1.5 **Business Day** means a day other than a Saturday, Sunday or public holiday in each of the places in which an act needs to occur or, if used in a context where no act needs to occur, in the State of South Australia;
- 1.6 **Invoice** has the meaning set out in clause 3.3 of these Terms;
- 1.7 **Elders** means Elders Rural Services Australia Limited ACN 004 045 121;
- 1.8 **Price List** has the meaning set out in clause 3.1 of these Terms;
- 1.9 **Terms** means these Advertising Terms; and
- 1.10 **Website** means the website located at: www.eldersliveauctions.com.au.

2. Interpretation

- 2.1 In these Terms, unless the context otherwise requires:
- 2.2 words in the singular include the plural and vice versa;
- 2.3 if a word or phrase is defined its other grammatical forms have the corresponding meanings;
- 2.4 "includes" means includes without limitation;
- 2.5 if the date on or by which an act must be done under this agreement is not a Business Day, that act must be done on or by the next Business Day; and
- 2.6 where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

3. Advertising

- 3.1 Elders may, from time to time, notify potential Advertisers that Elders is able to publish Advertisements on the Website at the price and for the length of time specified in the notice ("**Price List**").
- 3.2 An Advertiser may request Elders to publish an Advertisement on the Website in accordance with the Price List.
- 3.3 If an Advertiser makes such a request, Elders:
 - (a) may notify the Advertiser of the further information that Elders requires the Advertiser to provide in order to publish the Advertisement on the Website; and
 - (b) shall issue an invoice to the Advertiser for publishing the Advertisement on the Website ("**Invoice**").
- 3.4 Elders is not obliged to publish an Advertisement on the Website until:
 - (a) Elders has received payment in full from the Advertiser of the price shown on the Invoice to which the Advertisement relates; and
 - (b) the Advertiser has provided Elders with all information that Elders has requested the Advertiser to provide in relation to the Advertisement.

4. Entire Agreement

- 4.1 The Terms, any Price List and the Invoice together constitute the entire agreement between the Advertiser and Elders in relation to their subject matter ("**Agreement**"). In the event of any inconsistency between those documents, then, in the following list, the terms of an earlier document apply in precedence to the terms of a later document to the extent necessary to resolve that inconsistency:
 - (a) the Invoice;
 - (b) these Terms; and
 - (c) the Price List.
- 4.2 The Agreement may only be amended with Elders' written consent.

5. Elders' discretion

- 5.1 Elders may, in its absolute discretion, amend these Terms at any time. Any such amendments will take effect immediately but will not, unless Elders notifies the Advertiser to the contrary, apply to an Agreement formed prior to the amendment being made.
- 5.2 Elders may, at its absolute discretion, do any of the following:
 - (a) refuse to publish an Advertisement;
 - (b) cease publishing an Advertisement;
 - (c) label an Advertisement;
 - (d) amend an Advertisement;
 - (e) reposition an Advertisement on the Website; or
 - (f) do any other thing in relation to an Advertisement if Elders considers that the Advertisement, or its publication, would:
 - (i) be unlawful;
 - (ii) be in breach of any contract;
 - (iii) be in breach of any duty;
 - (iv) be defamatory;
 - (v) be offensive; or
 - (vi) would be likely to lead to legal proceedings of any kind.

6. Advertiser's warranties

- 6.1 The Advertiser warrants that:
- 6.2 it is capable of entering into the Agreement;
- 6.3 it is the owner of all copyright material subsisting in the Advertisement, or is otherwise authorised by the relevant copyright holder to use any copyright material in the Advertisement;
- 6.4 the Advertisement does not infringe the rights of any third party; and
- 6.5 the Advertisement is not unlawful, defamatory or offensive.

7. Advertiser's indemnity

- 7.1 The Advertiser indemnifies Elders against any and all Liabilities (including legal costs on a full indemnity basis) which Elders pays, suffers, incurs or is liable for, arising out of, or incidental to, a breach by the Advertiser of any of its obligations under the Agreement, any legislation, or the common law.
- 7.2 The indemnity described in clause 7.1 is a continuing obligation, separate and independent from the other obligations of the Advertiser and Elders, and survives termination, completion or expiration of the Agreement.
- 7.3 Elders is not obliged to incur expense or make any payment before enforcing the indemnity described in clause 7.1.
- 7.4 The making of a claim under the indemnity described in clause 7.1 in respect of a particular event does not preclude Elders from subsequently making further claims under that indemnity in respect of any further loss arising out of the same event for which it has not previously been indemnified.



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8. Limitation of liability

- 8.1 Elders makes no representation or warranty of any kind, including in relation to:
- (a) the continued operation of the Website;
 - (b) the positioning or appearance of the Advertisement on the Website;
 - (c) the publication of the Advertisement on a particular date or time; or
 - (d) the total quantity or characteristics of users of the Website.
- 8.2 Advertisers acknowledge that the operation of the Website may be suspended or cancelled at any time for any reason.

9. Miscellaneous

- 9.1 **(References to documents)** A reference to a document or legislation includes a reference to that document or legislation as varied, amended, novated or replaced from time to time.
- 9.2 **(Waiver)** Elders waives a right under the Agreement only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it was given.
- 9.3 **(Severance)** If any part of the Agreement is void, illegal or unenforceable, it is to be severed from the Agreement to the extent to which such severance can occur without affecting the remaining provisions.
- 9.4 **(Contra proferentum)** No rule of construction applies to the disadvantage of Elders only because Elders put forward the Agreement or any portion of it.
- 9.5 **(Assignment)** The Advertiser may assign its benefits or novate its benefits and obligations under the Agreement to a third party only with the prior written consent of Elders.
- 9.6 **(Governing law)** The Agreement is governed by the laws of South Australia. Elders and the Advertiser irrevocably submit to the jurisdiction of the courts of South Australia and to the Adelaide registry of the Federal Court of Australia to determine disputes arising from or in connection with the Agreement.
- 9.7 **(Disposal of materials)** The Advertiser authorises Elders to dispose of any materials supplied to Elders in connection with an Advertisement following its publication. Elders is not obliged to retain any such material or return it to the Advertiser.
- 9.8 **(No partnership or agency)** Nothing in the Agreement creates any agency, trust, fiduciary relationship, or joint venture between the parties.