

# AUSTRALIAN WORKING STOCK DOG AUCTION

## TERMS AND CONDITIONS FOR BUYERS

Last updated: 12<sup>th</sup> April 2024

### 1. INTRODUCTION

- 1.1. These auctions are operated by Australian Working Stock Dog Auction Pty Ltd (“us”, “we”, “Auctioneer”), and are governed by these Terms and Conditions (“Terms”).
- 1.2. These Terms set forth the legal obligations and rights of all Buyers, as well as the Auctioneer.
- 1.3. By registering for, participating in, or taking part in an Auction run by us (“Auction”), you agree to be bound by these Terms.
- 1.4. Please read these Terms carefully before participating in any Auctions. Your participation indicates acceptance of these Terms and any amendments made hereafter.
- 1.5. We reserve the right to modify these Terms at any time, with changes becoming effective immediately upon publication on our website or notification to Buyers.

### 2. DEFINITIONS

In these Terms, the following definitions apply:

**Auction:** Refers to any Auction for working stock dogs, run by us in accordance with these Terms.

**Auctioneer, us or we:** Refers to Australian Working Stock Dog Auction Pty Ltd as well as any individual or entity responsible for conducting the Auction by calling for bids and declaring Dogs as sold. The Auctioneer facilitates the Auction process, ensuring adherence to these terms and conditions.

**Bid Extension:** A feature in timed online Auctions that extends the closing time for a Dog when a bid is placed within a specified timeframe before the scheduled close, ensuring that late bids do not unfairly disadvantage other Bidders. Further details are provided in the “Bid Extension” clause.

**Bidder:** An individual or entity that participates in the Auction by placing bids on Dogs. Bidders must register and comply with the auction's eligibility criteria.

**Bidder Registration Form:** A document required for Auction participation, which collects the Bidder's name and contact information. This form is a prerequisite for bidding and must be obtained from and submitted to the Auctioneer.

**Buyer:** The person or entity that places the winning bid on a Dog, thereby agreeing to purchase the Dog under the terms of the Auction. The Buyer is responsible for meeting all payment and collection requirements as stipulated herein.

**Buyer's Premium:** An additional fee charged to the Buyer, calculated as a percentage of the final sale price. This fee is payable on top of the winning bid amount, at a rate specified by the Auctioneer in advertising materials or as displayed at the Auction location.

**Highest Bidder:** The Participant who has placed the highest bid on a Dog at the conclusion of the Auction, subject to any reserve price. The Highest Bidder becomes the Buyer, contingent upon meeting all Auction terms.

**Lot:** Refers to any item or group of items offered for sale as a single unit during the Auction. Each Dog is identified and described by the Auctioneer and is subject to the Auction terms.

**Participant:** Any party that is participating in an Auction, whether as a Bidder, Buyer or Seller.

**Seller:** The individual or entity offering the Dog for sale through the Auction. The Seller is responsible for the accuracy of the Dog description and compliance with the Auction terms and conditions.

**Terms:** These terms and conditions.

**Timed Online Auctions:** Auctions conducted entirely online over a set period, allowing Bidders to participate at their convenience. These auctions feature a Bid Extension mechanism, ensuring fair closing opportunities for all interested Bidders.

### **3. ELIGIBILITY AND PARTICIPATION**

- 3.1. Participation in the Auctions is open to individuals and entities that meet specific eligibility criteria. All Buyers must ensure their compliance with these criteria prior to participating in any Auction activity.
- 3.2. To place bids, Buyers must complete a Bidder Registration Form, providing accurate name and contact information. This form is essential for eligibility and must be submitted to the Auctioneer before any bidding activity can commence.
- 3.3. It is a condition of participating in our Auctions that all Bidders provide the Auctioneer with information that is correct and complete. Failure to do so may result in the Bidder's account being suspended.
- 3.4. The Bidder will be held responsible for the security of their log in details (including username and password). The Bidder is responsible for any bids placed via the Bidder's account. Under no circumstances will unauthorised use or access of the Bidder's account reduce the Bidder's liability regarding the Auction.
- 3.5. Once a bid is placed by Bidder, it cannot be withdrawn.
- 3.6. Once a maximum bid has been set, it cannot be reduced or withdrawn.
- 3.7. The Auctioneer reserves the right to suspend a Bidder's account for any reason including: non-payments; information provided by the Bidder being untrue, misleading, inaccurate or incomplete; or the Bidder having engaged in any form of suspected or actual bid manipulation.
- 3.8. All Buyers acknowledge, agree, and warrant to the Auctioneer that to the best of their knowledge, in relation to any Dog that they wish to buy via one of our Auctions:
  - 3.8.1. The Buyer is a primary producer, or person engaged or employed by a primary producer; and
  - 3.8.2. The Dog is proposed to be kept on rural land; and
  - 3.8.3. The Dog is going to be used as a working dog, for the primary purpose of droving, tending, or working stock.

### **4. TIMED ONLINE AUCTIONS**

- 4.1. Auctions are conducted as Timed Online Auctions, allowing for a flexible and accessible bidding process. Bidders can participate from any location, providing a convenient and efficient way to bid on working stock Dogs. Each Auction has a specified start and end time, with the ability to place bids at any time during this period.

### **5. BIDDING PROCESS**

- 5.1. To place a bid, Bidders must be registered and have their login details secure. Each bid is binding and indicates the Bidder's intent to purchase the Dog at the bid price. Bids cannot be withdrawn once placed.
- 5.2. The Auction features a set opening bid and bidding increments to structure the bidding process. The final sale price does not include GST, which will be added if the Seller is GST registered.

### **6. OPENING AND CLOSING BIDS**

- 6.1. All Dogs will open bidding at \$500 exclusive of GST. The opening bid is not a reflection of the reserve price.
- 6.2. All bids will be in increments of \$100 exclusive of GST.
- 6.3. The final sale price will not include GST. GST will be added to the final sale price if the Seller is GST registered.

## **7. OPENING AND CLOSURE OF BIDDING**

- 7.1. Bidding activities commence on Friday at 6:00 PM Australian Eastern Standard Time (AEST). This marks the start of the auction period, allowing registered Bidders to place their bids on available Dogs. Bidding will close the following Thursday at 6:00 PM Australian Eastern Standard Time (AEST).
- 7.2. The Auction closes at the pre-announced time, subject to Bid Extensions. The Highest Bidder for each Dog, at the close of the Auction, is deemed the winning Bidder, obligated to purchase the Dog at the final bid price.

## **8. BID EXTENSION**

- 8.1. To ensure fairness and give all Bidders an equal opportunity, we implement a Bid Extension system. If a bid is placed before the scheduled close of the Auction, the closing time will be extended by an additional two minutes. This mechanism prevents last-second bidding from unfairly disadvantaging other Bidders.

## **9. TECHNICAL ISSUES**

- 9.1. The Auctioneer is not responsible for any bids not received, processed or accepted due to technical difficulties. Technical difficulties may include, but are not limited to website server issues, internet connection issues, internet signal strength and incorrect login credentials. By participating in an Auction, all Buyers acknowledge that the internet can be an unstable and sometimes insecure environment and that at times the website and its services may be unavailable.
- 9.2. In the event of significant technical problems affecting the Auction's integrity, the Auctioneer reserves the right to extend, reopen, or cancel and reschedule the Auction (including cancelling any transactions that have already taken place).
- 9.3. Neither the Auctioneer nor the Seller shall be deemed liable for any loss of profits or damages arising from issues with the website or the online Auction platform.

## **10. RESERVES**

- 10.1 Sellers may set a reserve price, but are not obliged to do so.
- 10.2 If the Seller elects not to set a reserve price, they will be obliged to accept the highest bid.
- 10.3 The reserve price may not be increased once bidding has opened.
- 10.4 The reserve price may be lowered or removed at any time during the Auction process, if the Auctioneer is notified in writing via email.
- 10.5 Any published reserve prices will be shown exclusive of GST (unless otherwise specified in writing).

## **11 PASSED IN LOTS**

- 11.1 In the event that a Lot does not sell by the close of bidding, the Auctioneer holds exclusive selling right from the date of nomination, until 7 days after close of bidding.
- 11.2 If the Lot is sold to any party within 7 days of close of bidding, the Auctioneer is entitled to the sales commission agreed to at Nomination.

11.3 In the event that a Lot has not made its reserve price at close of bidding, the successful underbidder has first right of refusal to purchase the Dog at its reserve price.

## **12 AUCTIONEER RIGHTS**

12.1 The Auctioneer reserves the following rights:

- 12.1.1 not to offer for sale any Dog or part of any Dog described in the catalogue.
- 12.1.2 to withdraw any Dog or Dogs from sale.
- 12.1.3 to refuse to accept a bid from any person.
- 12.1.4 to bid on behalf of any prospective Buyer with or without disclosure.
- 12.1.5 in the event that any Dog is not sold at the Auction, to offer to sell the same Dog immediately after the Auction by private sale but otherwise subject to these Terms.
- 12.1.6 to suspend any account for reasons including, but not limited to, non-payment, provision of inaccurate or incomplete information, or engagement in actual or suspected bid manipulation.

12.2 The Auctioneer may exercise any of the rights set out above in its own discretion and without giving any reason.

## **13 ENQUIRIES AND INSPECTION OF LOTS**

13.1 Each Lot must be listed with detailed information, including breed, age, training level, and health status. We strongly encourage Bidders to thoroughly review all available information and videos to assess the suitability of each Dog.

13.2 It is the Buyer's responsibility to research every Dog the Buyer intends to bid on.

13.3 The Auctioneer strongly recommends that potential Bidders contact Sellers prior to Auction, to gather as much information as possible about a Dog, and their potential suitability.

13.4 The Auctioneer strongly encourages potential Bidders to arrange to inspect a Dog in person whenever possible.

## **14 ERRORS AND MISDESCRIPTION**

14.1 Buyers accept any Dogs that they purchase as is.

14.2 Buyers purchase any Dogs at their own risk. If the Buyer chooses to bid on a Dog without having inspected it in person, the Buyer accepts all risks related to this.

14.3 The Auctioneer does not accept responsibility for any inaccuracies or misdescriptions in the listing of Dogs. There is no warranty, guarantee, or endorsement, either expressed or implied, regarding the accuracy of descriptions contained herein.

14.4 No warranty, express or implied, is provided based on verbal statements made by the Auctioneer at any point.

14.5 The Auctioneer shall not be liable for any compensation to the Buyer for any defects, faults, errors in descriptions, or omissions, including any missing parts or quantities of a lot.

14.6 It is the Buyer's responsibility to undertake due diligence and to thoroughly inspect and verify the authenticity and condition of a Dog prior to bidding, accepting it with all existing conditions, whether obvious or hidden.

14.7 Any dispute regarding the quality, source, health, description or anything related to the Dog, including any claim, is to be handled directly between the Parties. As soon as such a dispute arises,

the Parties must notify the Auctioneer. At no time is the Auctioneer to be involved in any claim or dispute.

14.8 Unless otherwise required by law, no refunds will be provided for any Dog purchased.

## **15 PAYMENT, FEES AND COMMISSION**

15.1 Buyers do not need to pay any fee to the Auctioneer in order to participate in the Auction, (aside from payment of the purchase price for any Lot that the Buyer purchases).

15.2 Invoices will be issued via email immediately following the completion of the auction.

15.3 At the completion of the Auction, or at any time thereafter specified by the Auctioneer (up to a maximum of 24 hours), the Buyer shall pay to the Auctioneer the full purchase price for the Lot including any applicable sales tax, any other government tax and/or any applicable Buyer's Premium.

15.4 Payment is to be made via Electronic Funds Transfer.

15.5 All buyers acknowledge that payment must be made in full before collection or delivery of the Dog.

15.6 Proof of payment must be provided to the Auctioneer before the Dog is to leave the Seller's possession or control.

15.7 The Buyer shall not be entitled to request the collection or delivery of the Lot until the purchase price has been paid in full.

15.8 The Auctioneer and the Seller reserve the right to restrict access to the Lot until the Lot has been paid for in full.

## **16 DELIVERY AND TRANSFER OF OWNERSHIP**

16.1 Any transaction between Participants for the Sale and Purchase of a Lot, is a private contract between the Buyer and the Seller, and the Auctioneer is not a party to that contract.

16.2 The Dog will remain with the Seller at the nominated location for the duration of the sale.

16.3 The successful Buyer is required to collect the Dog from the Seller's property, or make transport arrangements at the Buyer's own expense.

16.4 Collection and/or transport is to be arranged directly between the Seller and the successful Buyer.

16.5 The successful Buyer must collect the Dog or have proof of transport booked and paid for within 14 days of sale, unless otherwise agreed in writing with the Seller.

16.6 Unless otherwise agreed in writing between the Buyer and Seller, if the Buyer has not collected the Dog, or provided proof of transport booked within the 14 day period, the Dog may be sold elsewhere, and any money paid by the Buyer is forfeited.

16.7 Ownership of the Dog officially transfers to the Buyer upon the completion of payment and receipt of the Dog by the Buyer. The Seller is required to provide the Buyer with all necessary documentation related to the Dog, including pedigree papers (if applicable), vaccination records, and any other relevant health or registration documents. The Seller must do all things necessary to ensure clear transfer of ownership is effected.

16.8 Both the Buyer and Seller are responsible for ensuring that the transfer and transportation of the Dog comply with all relevant local, state, and federal regulations governing the sale and transport of livestock. This includes adherence to health and safety standards, as well as any specific requirements for working stock Dogs.

16.9 The risk associated with the Dog transfers from the Seller to the Buyer once the Dog has been collected by the Buyer or the Buyer's agent. Until collection, the Dog remains the responsibility of the Seller.

## **17 DISPUTES WITH THE AUCTIONEER**

17.1 In the event that any Participants have a dispute with the Auctioneer, they agree to provide written notice to the Auctioneer detailing the dispute and including any supporting evidence. If, after 30 days, they are not satisfied with the Auctioneer's response, then the Participants must attend mediation, with each party responsible for its own costs.

17.2 Participants may not commence any court proceedings against the Auctioneer unless they have undertaken the process set out in this clause.

## **18 DISPUTES BETWEEN PARTICIPANTS**

18.1 In the first instance, Participants should attempt to resolve any disputes between themselves, via a telephone call or in person conversation.

18.2 If any dispute cannot be resolved via telephone or in person conversation between Participants:

- 18.2.1 Either party may submit a formal complaint to the Auctioneer in writing via email.
- 18.2.2 The other party may then respond to the complaint in writing via email.
- 18.2.3 The written submissions will be considered and discussed by two officers of the Auctioneer, who may also consult an independent working stock Dog industry expert, as chosen by the Auctioneer.
- 18.2.4 The Auctioneer may make a determination in its absolute discretion, and its decision will be final and binding on the Participants. In reaching this determination, the Auctioneer will consider if either Participant has operated against its obligations under these Terms, against the best interests of each other, or against the best interests of the Auctioneer and/or the wider working stock Dog community.
- 18.2.5 The dispute resolution process will operate under a 'strike' policy against a Participant's profile.
- 18.2.6 The Auctioneer reserves the right to suspend or cancel a Participant's profile with the Auctioneer if they are found to have committed one or more strikes.

## **19 GOVERNING LAWS**

19.1 These Terms and the Auctions are governed by the laws of Queensland, Australia, unless otherwise required by law.

19.2 All Participants agree to comply with the laws of Queensland, Australia, in relation to their participation in the Auction.

19.3 In addition, any transaction between Participants which occurs as a result of an Auction, will be governed by the laws of the state or territory where the transaction takes place. In most cases, this will be the state or territory where the Seller is located.

## **20 COMPLIANCE WITH LAWS**

20.1 All Buyers acknowledge and agree that it is their responsibility to inform themselves of their obligations under all applicable laws and regulations relating to the buying and selling of dogs, including the laws of Queensland, the Commonwealth, and the state or territory where they are located.

20.2 All Participants warrant to each other and to the Auctioneer that they will comply with all of their legal obligations under any applicable state or territory laws as well as any applicable

Commonwealth laws.

20.3 All Participants respectively indemnify the Auctioneer and keep the Auctioneer indemnified against loss, liability, claim or penalty that may arise as a result of that Participant's failure to comply with their legal obligations and/or these Terms.

## 21 INTELLECTUAL PROPERTY

21.1 All custom graphics, icons, logos and service names on our website or accessed via our Auctions are our registered trademarks, copyright, trade or service marks.

21.2 All other trademarks or service marks within our website or our Auctions are the property of their respective owners. Nothing in these Terms grants you any right to use any trademark, service mark, logo, and/or our name or anything you access through our Auctions.

21.3 Participants agree and acknowledge that we retain all right, title and interest in our website and our Auctions, including but not limited to the inventions and intellectual property rights contained or embodied within our Auctions.

21.4 Participants are solely responsible for obtaining written permission before re-using any copyrighted material that is available on our website or via our Auctions. Any unauthorised use of the material appearing on our website or via our Auctions may violate copyright, trademark and other applicable laws and could result in criminal or civil penalties.

## 22 PRIVACY

22.1 We will comply with the *Privacy Act 1988* (Cth) and the *Australian Privacy Principles* (APPs) in relation to any personal information that Participants provide to us. Please refer to our full privacy policy on our website for details of how we collect, store and use personal information.

22.2 We reserve the right to disclose a Buyer's name and contact information to other Participants for the purpose of discussing the buying or selling of a Dog in connection with an Auction.

22.3 We reserve the right to disclose any Buyer's name and any other Personal Information to any law enforcement authority or other competent authority or to any person for the purpose of legal proceedings, prosecution, investigation or any breach or alleged breach of the law or these Terms.

## 23 GENERAL WARRANTIES

23.1 As a Buyer you warrant and represent that:

23.1.1 you will not use our website or our Auctions for any illicit, unlawful, fraudulent, offensive or otherwise illegal activities;

23.1.2 you will comply with these Terms and all applicable laws at all times;

23.1.3 the information you provide to us and/or to other Participants in connection with your participation in an Auction is true, correct, up to date and not false or misleading.

## 24 DISCLAIMER

24.1 The Auctioneer provides the Auctions and all related services, websites and platforms on an "as is" basis, expressly disclaiming any guarantees regarding their safety, suitability or fitness for a particular purpose, the safety or behaviour of any Dogs and the conduct of any Participants. The Auctioneer cannot oversee or control interactions amongst Participants or the actions of Dogs involved.

24.2 Any information that Bidders receive about a Dog is information that has been submitted by a Seller. The Auctioneer has no way to verify this information, and it is up to Bidders to conduct their own due diligence to verify the information independently before bidding on any Dog.

24.3 The Auctioneer provides descriptions and information about each Dog as a service to Bidders. All Dogs are sold "as is" with no guarantee or warranty, express or implied, regarding their condition,

quality, fitness for a particular purpose, or conformity to any description. It is the responsibility of the Buyer to assess the condition and suitability of the Dog prior to bidding.

24.4 While the Auctioneer endeavours to ensure the accuracy of Dog descriptions and information provided in Auction materials, we accept no liability for any errors or omissions. Bidders are encouraged to verify all information and, where possible, inspect Dogs in person.

24.5 Participation in the Auction is at the Buyer's own risk. The Auctioneer is not liable for any injuries, damages, or losses incurred as a result of participating in the Auction or from the use of purchased Dogs. Buyers agree to indemnify and hold the Auctioneer harmless from any claims arising out of participation in the Auction.

24.6 The Auctioneer is not responsible for any technical failures, internet disruptions, or any other issues that may prevent access to the Auction or affect bidding activity. In the event of significant technical problems, the Auctioneer reserves the right to extend, postpone, or cancel the auction as deemed necessary.

24.7 The Auctioneer's liability to any Participant shall be limited to the amount of the fees paid by the respective party to the Auctioneer. Under no circumstances shall the Auctioneer be liable for any indirect, consequential, or punitive damages.

## **25 ACKNOWLEDGEMENT OF RISK**

25.1 Buyers fully acknowledge and accept the inherent risks associated with interacting with Dogs, which may exhibit aggressive or unpredictable behaviours, especially if their previous circumstances are unknown or if they are transferred to a new environment.

25.2 Buyers acknowledge and accept the inherent risks involved in interactions within the Auction environment, particularly with unknown Sellers. Such risks include, but are not limited to, the potential for misunderstandings, disagreements, or disputes during in-person meetings, property visits, or while conducting transactions with unfamiliar Sellers. There exists the possibility of incidents leading to personal injury or property damage, as well as exposure to financial risks such as fraud, misrepresentation, or non-payment. Buyers are advised to exercise caution, employ reasonable safety measures, and undertake due diligence to mitigate these risks during their engagement with the Auction and its Participants.

## **26 RELEASE**

26.1 Buyers hereby release the Auctioneer from any and all claims, losses, damages, or liabilities that may arise from the participation in the Auction, the conduct of other Participants, or the behaviour of any Dog. This release encompasses any incidents or accidents that may occur during and after the Auction process.

## **27 INDEMNITY**

27.1 Buyers agree to indemnify, defend, and hold harmless the Auctioneer from any losses, liabilities, damages, claims, or expenses, including but not limited to legal fees, arising directly or indirectly from their participation in the Auction or any breaches of these Terms. This indemnification includes, but is not limited to, any claims made by third parties in relation to the Buyer's actions or inactions during the Auction.

## **28 TERMINATION**

28.1 As a Buyer, you agree that we may, in our sole discretion, terminate or suspend your access to our website or Auctions with or without notice and for any reason, including, without limitation:

28.1.1 your breach of these Terms;

28.1.2 any suspected misleading or deceptive, fraudulent, abusive or illegal activity you engage in, or benefit from, in relation to your use of our website or participation in the Auction; and



28.1.3 your providing false or misleading information when you register with us.

28.2 Upon such termination or suspension of your account, regardless of the reasons, your right to access and use our website and the Auctions immediately ceases and we may immediately deactivate your account and delete all your content and other information. We do not provide any refunds for breach of these Terms and upon any termination or suspension of your account and any outstanding fees and payments become immediately due and payable.

28.3 In the event of a termination under this clause, we will not be liable to you for:

28.3.1 any refund of any fees; and

28.3.2 any claims or damages made by you arising out of any termination or suspension or any other actions taken by us in connection with such termination or suspension.

28.4 If you want to cancel your registration with us, you must inform us in writing by email (via the contact details on our website) so that we can deactivate your account/terminate your account.

28.5 We reserve the right to disclose your name and any other Personal Information to any law enforcement authority or other competent authority or to any person for the purpose of legal proceedings, prosecution, investigation or any breach or alleged breach of the law or these Terms.

## **29 AMENDMENTS AND UPDATES**

29.1 These Terms may be updated or amended from time to time. Updated Terms will be published on our website and will come into effect from the time that they are published.

29.2 The date that these Terms were last updated is published on the top of these Terms.

29.3 All Buyers should review the latest version of these Terms before participating in an Auction.

29.4 By participating in an Auction, Buyers accept the latest version of these Terms, as published at the time of Auction.

## **30 CONTACT US**

The Auctioneer may be contacted about these Terms at:

Phone: 0408 784 031

Email: [admin@workingstockdogauction.com.au](mailto:admin@workingstockdogauction.com.au)