



CONDITIONS OF BUSINESS

The nature of the relationship between the charity, Pilgrims Hospices, as auctioneer, Michael Hogben and bidders and the terms on which the auction is held are set out below.

Bidders' attention is specifically drawn to Conditions 3 and 4 below, which require them to investigate lots prior to bidding and which contain specific limitations and exclusions of the legal liability of the Auctioneer and Seller.

Bidders, as prospective purchasers should pay particular attention to these Conditions.

1. Introduction

(a) A sale contract is made directly between the charity, Pilgrims Hospices and the Buyer.

2. Common Terms

In these Conditions of Business:

"Snowdogs Discover Ashford Gala Auction" is the event that is owned and managed by the charity, Pilgrims Hospices.

"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 or instruct an agent to do so on their behalf.

"Buyer's Expenses" are any costs or expenses due from the Buyer.

"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 sale price;

"Purchase Price" is the Hammer Price.

"Reserve" is the (confidential) minimum Hammer Price at which the seller (Pilgrims Hospices) has agreed to sell a lot;

"Seller" is the person offering a lot for sale – Pilgrims Hospices in East Kent is a company limited by guarantee.

Registered charity number: 293968. Registered company number: 2000560.

Registered office: 56 London Road, Canterbury, Kent CT2 8JA.

3. Duties of Bidders and the charity, Pilgrims Hospices in respect of items for sale

(a) Each lot offered for sale may or may not be available for inspection by Bidders prior to the sale. It is the responsibility of the Bidder to satisfy themselves as to both the condition of the lot and the accuracy of its description.

(b) All lots are offered for sale in the condition they are in at the time of the auction on Monday 3rd December. 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 printed material and on the internet 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 charity, 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 charity. 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 charity whether any lot is subject to copyright or whether

the Buyer acquires copyright in any lot.

4. Exclusions and limitations of liability to Buyers

(a) In the light of the matters in Condition 3 above and subject to Conditions 4(a), neither the charity and/ or the seller:

(I) is liable for any errors or omissions in information provided to the charity, whether orally or in writing, whether negligent or otherwise;

(II) gives any guarantee or warranty to Bidders and any implied warranties and conditions are excluded (save in so far as such obligations cannot be excluded by law) other than the express warranties given by the charity to the Buyer in Condition 3 of the Sellers' Conditions of Business;

(III) accepts responsibility to any Bidders in respect of acts or omissions (whether negligent or otherwise) by the charity in connection with the conduct of auctions or for any matter relating to the sale of any lot.

(b) Without prejudice to Condition 4(b), any claim against the charity or the Seller by a Bidder is limited to the Purchase Price with regard to that lot. Neither the charity nor the Seller shall under any circumstances be liable for any consequential losses.

(c) None of this Condition 4 shall exclude or limit the charity liability in respect of any fraudulent misrepresentation made by the charity or the Seller, or in respect of death or personal injury caused by the negligent acts or omissions of the charity or the Seller.

5. Bidding at Auction

(a) The charity have absolute discretion to refuse admission to the auction. Bidders act as principal unless they have the charity's prior written consent to bid as agent for another party. Bidders are personally liable for their bid and are jointly and severally liable with their principal if bidding as agent.

(b) The charity advises Bidders to attend the auction if possible but will seek to carry out proxy and online bids that are in pound sterling and that in the charity's opinion, are clear and received sufficiently after the sale of the lot, endeavouring to ensure that the first received of identical written bids has priority.

6. Conduct of the Auction

(a) Unless otherwise specified, all lots are offered subject to a Reserve, which shall be no higher than the low presale estimate at the time of the auction.

(b) 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 he believes there may be error or dispute, and take such other action as he reasonably thinks fit.

(c) The auctioneer will commence and advance the bidding at levels and in increments he considers appropriate and is entitled to place a bid or series of bids on behalf of the charity up to the Reserve on the lot, without indicating he is doing so and whether or not other bids are placed.

(d) Subject to Condition 6(b), the contract between the Buyer and the charity is concluded on the striking of the auctioneer's hammer, whereupon the Buyer becomes liable to pay the Purchase Price.

(e) Any post-auction sale of lots offered at auction shall incorporate these Conditions as if sold in the auction room.

7. Payment and Collection

(a) Your obligation to pay the purchase price arises when the lot is knocked down to you on the fall of the Auctioneer's hammer in respect of the Lot.

(b) Unless agreed in writing with you by the charity, you must pay all sums to the charity in the currency in which the sale was conducted immediately upon winning the lot and you must ensure that the funds are cleared by the 5th working day after the sale. Payment must be made to the charity by credit card or debit card unless otherwise agreed with you in writing by the charity. If you do 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 charity has received the Purchase Price for that lot in cleared funds. The charity are 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 charity is responsible for organising delivery of the purchase and lots will be delivered between Thursday 6th and Friday 14th December, unless outside of east Kent or abroad. Any online bids or bids outside of the east Kent area will require an additional payment to cover the charity expenses in delivery. Any deliveries further afield and abroad we will liaise with buyers regarding delivery dates and the cost of these deliveries will need to be paid by the buyer. Please do consider this when bidding for items outside of east Kent. When making your payment,

you will be asked a preference of delivery days. We will endeavour to try and work around your preferred delivery days; however with 37 Snowdog lots to deliver and various addresses some may fall into different delivery days.

e) Sculpture size:

The Snowdogs are:

H 153 cm to top of ears

L 170 cm

W 75 cm (back)

W front including ears 78 cm

W front and back including brackets 70 cm/75 cm

Large: 44kg

The Snowpups are:

H 105 cm to top of ears

L 120 cm

W 52 cm (back)

W front including ears 51 cm

W front and back including brackets 42 cm/44 cm

Medium: 20kg

The sculptures are sold as seen and without their concrete display plinths. Each sculpture will be sold with a wheeled skateboard for new owners and these have been carefully crafted by Pilgrims Hospices volunteers. Purchased lots are at the Buyer's risk (and therefore their sole responsibility for insurance) from delivery.

8. Failure to pay for the lot

(a) If the purchase price for a lot is not paid to the charity in full in accordance with the contract, the charity will be entitled, without further notice to you, to exercise one or more of the following rights):

(1) To terminate immediately the contract for sale of the lot for your breach of contract

(2) To re-sell the lot by auction, private treaty or any other means on giving seven days written notice to you of the intention to resell

(3) To retain possession of the lot

(4) To remove and store the lot at your expense

(5) To take legal proceedings against you for any sum due to the contract for sale and/or damages for the breach of contract

(6) To be paid interest on any monies due (after as well as before judgement or order) at the annual rate of 5% per annum above the base rate of the bank of England to be calculated on a daily basis from the date upon which said monies become payable until the date of the actual payment

(7) To repossess the lot (or any part thereof) which has not become your property, and for the purpose (unless the buyer buys the lot as a consumer from the seller selling in the course of a business) you hereby grant an irrevocable licence to the seller by himself and to his servants or agents to enter upon all or any of your premises (with or without vehicles) during normal business hours to take possession of the lot or part thereof

(8) To retain possession of any other property sold to you by the seller at the sale or any other auction or by private treaty until all sums due under the contract of sale shall have been paid in full in cleared funds

(9) To retain possession of, and on three months written notice to sell, without reserve, any of your other property in the possession of the charity (including, without limitation, other goods sold to you) and to apply any monies due to you as a result of such sale in satisfaction or part satisfaction of any amounts owed to the seller or to the charity;

(10) (a) So long as such goods remain in the possession of the charity, to rescind the contract for the sale of any other goods sold to you by the seller at the sale or at any other auction or by private treaty and apply any monies

received from you in respect of such goods in part or full satisfaction of any amounts owed to the seller or to the charity by you.

(b) You agree to indemnify the charity against all legal and other costs of enforcement, all losses and other expenses and costs (including any monies payable to the charity in order to obtain the release of the lot) incurred by the seller (whether or not court proceedings will have to be issued) as a result of the charity taking steps under this clause 8 on a full indemnity basis together with interest thereon (after as well as before judgement or order) at the rate specified in clause 8.a.6 from the date upon which the seller becomes liable to pay the same until payment by you.

(c) On any re-sale of the lot under clause 8.a.2, the Seller will account to you in respect of any balance remaining from any monies received by him or on his behalf in respect of the lot, after the payment of all sums due to the charity within 28 days of receipt of such monies by him or on his behalf.

9. The sellers liability

(a) The seller will not be liable for any injury, loss or damage caused by the lot after the fall of the Auctioneer's hammer in respect of the lot.

(b) The seller will not be liable (whether in negligence, other tort, breach of contract or statutory duty or in restitution or under the Misrepresentation Act 1967, or in any other way) for any lack of conformity with, or inaccuracy of the lot or any entry or estimate in relation to the lot.

10. General

(a) All images and other materials produced for the auction are the copyright of the charity, for use at the discretion of the charity.

(b) Should any provision of these Conditions of Business be held unenforceable for any reason, the remaining provisions shall remain in full force and effect.

(c) These Conditions of Business are not assignable by any Buyer without the charity's prior written consent, but are binding on Buyers' successors, assigns and representatives. No act, omission or delay by the charity shall be deemed a waiver or release of any of its rights.

11. Law and Jurisdiction

(a) Governing Law

These Conditions of Business and all aspects of all matters, transactions or disputes to which they relate or apply shall be governed by and interpreted in accordance with English law.

(b) Jurisdiction

For the benefit of the charity, all Bidders and Sellers agree that the Courts of England are to have exclusive jurisdiction to settle all disputes arising in connection with all aspects of all matters or transactions to which these Conditions of Business relate or apply.

(c) Service of Process

All Bidders and Sellers irrevocably consent to service of process or any other documents in connection with proceedings in any court by facsimile transmission, personal service, delivery by mail or in any other manner permitted by English law, the law of the place of service or the law of the jurisdiction where proceedings are instituted, at the last address of the Buyer or Seller known to the charity or any other usual address.