

## Kmart Giveaway 2 Competition Terms & Conditions

### Schedule

<b>Promotion</b>	Kmart Giveaway 2 Competition
<b>Promoter</b>	Nine Entertainment Co. Pty Ltd ABN 59 122 205 065 of 1 Denison Street, North Sydney, NSW 2060
<b>Promotional Period</b>	<b>Start Date:</b> 7am AEDT on 19/11/22.
	<b>End Date:</b> 9pm AEDT on 20/11/22.
<b>Eligible entrants</b>	Permanent residents of Australia aged 18 years and over who are not ineligible to enter the Promotion under clause 2 of the Terms and Conditions ( <b>Entrants</b> )
<b>Entry Method</b>	<p>To enter, Entrants must complete the following steps during the Promotional Period:</p> <ol style="list-style-type: none"> <li>1. Visit <a href="http://todayshow.com.au">todayshow.com.au</a>.</li> <li>2. Locate and fill out the entry form including full name, address, email and phone number</li> <li>3. Nominate someone who deserves to be gifted a \$500 Kmart gift card this Christmas, providing their name, phone number, email address and your reason for nominating them in 25 words or less.</li> <li>4. Submit completed form.</li> </ol> <p>By providing nominated person details, Entrants warrant the nominated person consents to the Entrant providing these details to the Promoter and for the Promoter to contact them about this Promotion.</p>
<b>Maximum Entries</b>	Limit one (1) entry per Entrant each day of the Promotional Period. For the sake of clarity, an individual can be nominated multiple times by different Entrants but each Entrant may only enter once per day.
<b>Winner Determination</b>	<p>Game of skill. Chance plays no part in determining the Winners.</p> <p>Judging will take place by the Promoter at 1 Denison Street, North Sydney, NSW 2060 on 21/11/22 from 9am AEDT. The Winners will be the nominated persons of the twenty (20) Entrants who have submitted the best entries based on creative merit. The Promoter reserves the right to select additional reserve entries that it determines to be the next best, and record them in order of merit, in case of an invalid entry or ineligible Entrant.</p>
<b>Number of Winners</b>	20
<b>Winner Notification</b>	The Winners will be notified by telephone and email.
<b>Prize/s</b>	Each Prize is a \$500 Kmart Gift Card. Gift cards are valid for three years instore from date of issue.
<b>Total Prize Pool</b>	AUD\$10,000.

<b>Prize Supplier/s</b>	Kmart Australia
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## Terms and Conditions

### Entry into the Promotion

- 1 The Schedule above and all other entry instructions and prize information published by the Promoter form part of these Terms and Conditions. Each Entrant agrees and acknowledges that they have read these Terms and Conditions (and Schedule) and that entry into the Promotion constitutes acceptance of these Terms and Conditions (and Schedule). All capitalised terms used in these Terms and Conditions have the meaning given in the Schedule, unless stated or as the context otherwise provides.
- 2 Entry is not open to:
- a) directors, management, employees, officers and contractors of:
    - i. the Promoter,
    - ii. the Prize Supplier/s,
    - iii. any related bodies corporate of the Promoter, and the Prize Supplier/s, and
    - iv. the agencies and companies associated with the Promoter or the Promotion; and
  - b) a spouse, de facto spouse, partner, guardian, parent, child or sibling (whether natural or by marriage or adoption) of any person set out in clause 2a).
- 3 Entries must be received by the Promoter during the Promotional Period. All entries are deemed to be received at the time of receipt by the Promoter, not the time of transmission by the Entrant. Records of the Promoter and its agencies are final and conclusive as to the time of receipt.
- 4 Entrants may submit entries up to the Maximum Entries. If multiple entries are permitted, each entry must be submitted separately and each answer to the promotional question (if applicable) must be unique.
- 5 Any and all entries that are made using any automated entry means, computer entry service or any other mechanical or electronic means that allows an individual to automatically enter repeatedly are invalid and will be rejected by the Promoter.
- 6 Entry into the Promotion via social media, promotional website or email is free. However, any costs associated with accessing the relevant social media platform, promotional website or email service are the responsibility of each Entrant and dependent on the internet service provider used.
- 7 All entries to the Promotion may be subject to verification by the Promoter. Entrants must, within seven (7) days of being asked and at the Promoter's cost, allow the Promoter to inspect and copy any documents that the Promoter may request establishing eligibility to enter the Promotion, including but not limited to receipts, evidence of age, residence and identity. The Promoter may decide in its sole discretion which documents are considered suitable for establishing eligibility to enter or win. If a Winner cannot provide suitable proof of eligibility to the Promoter's satisfaction, they forfeit their Prize in whole and no substitute or compensation will be offered.
- 8 The Promoter may, at its absolute discretion, declare any or all entries made by an Entrant to be invalid if the Entrant:
- a) fails to establish their entitlement to win the Promotion to the Promoter's satisfaction; or
  - b) fails to produce items as required by these Terms and Conditions or produces items that appear to be illegible, stolen, forged, reconstructed, altered, incomplete or tampered with in any way; or
  - c) appears, to the Promoter, to have tampered with, or benefited from tampering with, the entry process; or
  - d) has submitted an entry that is not in accordance with these Terms and Conditions; or
  - e) has, in the opinion of the Promoter, engaged in conduct in entering the Promotion which is fraudulent, misleading, deceptive or generally damaging to the goodwill or reputation of the Promotion or Promoter.

### Entry material

- 9 Entries must be submitted in accordance with the Entry Method and must not be: incomplete; incomprehensible; unlawful or capable of violating any law or giving rise to a civil action; obscene; defamatory or libellous; threatening or harassing; pornographic or contain nudity; hateful; offensive; incite or be capable of encouraging conduct that would be considered a criminal offence; and in violation of the terms and conditions of the relevant social media platform used to enter the Promotion.
- 10 Entrants warrant that their entry is their own original work, it is not copied in any manner from any other work, and it does not infringe the copyright, moral rights, trade mark rights or any other rights of any third party.
- 11 All entries immediately become and remain the property of the Promoter. The Promoter reserves the right to use, reproduce, distribute, prepare derivative works of and display the entry material (and authorise others to do the same) for the purposes of conducting and promoting the

Promotion, awarding the Prize and advertising and marketing the Promoter or the Promotion and/or future promotions on all media now known or later devised, in perpetuity.

12 By entering the Promotion, Entrants consent to any use of their entry by the Promoter which may otherwise infringe an Entrant's moral rights in the entry material, including (without limitation), exercising any of the rights in the entry material without identifying the Entrant, and using the entry material in any way that the Promoter sees fit, even if it results in derogatory treatment of the entry material (as defined in the *Copyright Act 1968* (Cth)).

13 Each Entrant warrants that:

- a) they have the full power and capacity to grant the rights, warranties and consents set out in these Terms and Conditions;
- b) they will fully indemnify the Promoter against any loss or damage suffered by the Promoter:
  - i. if any of the warranties given by the Entrant are false;
  - ii. as a result of any breach of clauses 9 and 10 of these Terms and Conditions by the Entrant; and
- c) they have express consent from each person appearing in the entry material (or if a person appearing in the entry material is under the age of 18 from that person's parent or legal guardian) and the owner of any private property (including any items, objects or real property) appearing in the entry material.

## Winners

14 The Number of Winners will be determined from all valid and eligible entries received during the Promotional Period in accordance with the Winner Determination. The Winner/s will receive the Prize/s.

15 The Winner/s will be notified in accordance with the Winner Notification.

16 All reasonable attempts will be made to contact the Winner/s. If a Prize is forfeited for any reason, that Prize will be awarded to the next best entry.

## General prize terms

17 All Prize values are correct and based on the recommended retail value at the Start Date of the Promotion.

18 If a Prize or any part of a Prize is unavailable for any reason, the Promoter will, in its absolute discretion, substitute the Prize with another item of no lesser retail value.

19 Unless expressly stated as being included in the Prize/s, all other costs and expenses associated with taking the Prize/s become the responsibility of Winner/s, including but not limited to all incidental and ancillary costs incurred by Winner/s as a direct or indirect result of taking the Prize.

20 Prizes cannot be refunded or exchanged and, except as expressly permitted by these Terms and Conditions, cannot be taken as a monetary payment.

21 Prizes may be transferred at the Promoter's sole discretion. If the Promoter exercises its discretion to allow a Winner to transfer their Prize, the transfer will be on the condition that the transferee accepts these Terms and Conditions and the Promoter may require such acceptance in writing at its absolute discretion.

22 Prizes may not, without the prior written consent of the Prize Supplier/s and the Promoter, be resold or offered for resale at a premium (including via online auction sites) or used for advertising, promotion or other commercial purposes (including competitions and trade promotions) or to enhance the demand for other goods or services. If a Prize is sold or used in breach of this condition, the Promoter or the Prize Supplier/s may, at their absolute discretion, withdraw the Prize. Where a Prize has been withdrawn in accordance with this clause, no refund, substitute or compensation will be offered.

23 Winner/s should seek independent financial advice at the Winner's sole expense regarding any tax implications relating to the Prize/s or acceptance of the Prize/s.

24 Prizes cannot be used in conjunction with any other discounts or special offers.

25 Each Prize will be awarded to the person nominated by the Entrant in the winning entry as determined in accordance with the Winner Determination.

26 Each Prize will be awarded in the Promoter's sole discretion. The Promoter may invalidate any prize claim where the Winner has breached these Terms and Conditions or otherwise failed to comply with any requirement under these Terms and Conditions.

27 It is a condition of accepting the Prize/s that the Winner/s must sign a legal release or releases in a form determined by the Promoter and/or Prize Supplier/s in their absolute discretion.

28 Voucher prizes are only valid for the period as advised by the Promoter or Prize Supplier/s and can only be redeemed in accordance with the Prize Supplier's terms and conditions.

## Publicity

- 29 By accepting a Prize, Winner/s agree that:
- a) if requested by the Promoter, the Winner/s will:
    - i. provide comments about the Promotion and/or a photo or audio-visual clip of themselves; and
    - ii. participate in any promotional activity in connection with the Promotion or the Prize;
  - b) the Promoter may use their name, image, comments, photographs or audio-visual clips (**Materials**) for publicity and promotional purposes in any form of media, without reference or compensation to the Winner/s or any other person;
  - c) the Promoter may use, reproduce, edit and communicate to the public the Materials at any time in any form of media;
  - d) the Promoter may license, authorise or otherwise transfer the rights in the Materials to others to do the same; and
  - e) the Winner/s unconditionally and irrevocably consent to any act or omission that would otherwise infringe any of their moral rights in the Materials and waive all moral rights in the Materials.

### Use of social media

- 30 The following terms apply to the extent that the Promotion is conducted on, advertised or promoted on a social media platform owned by a third party (**Platform Operator**):
- a) each Entrant acknowledges and agrees that the Promotion is in no way sponsored, endorsed or administered by, or associated with, any Platform Operator.
  - b) each Entrant releases each Platform Operator and its associated companies from all liabilities arising in respect of the Promotion;
  - c) to the extent relevant to the Promotion, the Promoter agrees and each Entrant must agree to adhere to the prevailing terms and conditions of each Platform Operator;
  - d) Entrants understand that they are providing their information to the Promoter and not to the Platform Operator;
  - e) Entrants are solely responsible and liable for any content or information they transmit to other users of the Platform Operator; and
  - f) any questions, comments or complaints about the Promotion must be directed to the Promoter not the Platform Operator.

### Limitation of liability

- 31 Nothing in these Terms and Conditions limits, excludes or modifies or purports to limit, exclude or modify the statutory consumer guarantees as provided under the *Competition and Consumer Act 2010*, as well as any other implied warranties under the *Australian Securities and Investments Commission Act 2001* or similar State and Territory consumer protection laws (**Non-Excludable Guarantees**). Except for any liability that cannot by law be excluded, including the Non-Excludable Guarantees, the Promoter, its associated agencies and companies and those agencies and companies associated with or involved in the Promotion (including each of their respective directors, officers, employees, servants, contractors and agents past and present) exclude all liability (including negligence), for any personal injury or death; or any loss or damage; whether direct, indirect, special or consequential (including loss of opportunity and loss of profit), arising in any way out of the Promotion or the Prize/s.
- 32 Except for any liability that cannot by law be excluded, including the Non-Excludable Guarantees, the Promoter, its associated agencies and companies and those agencies and companies associated with or involved in the Promotion (including each of their respective directors, officers, employees, servants, contractors and agents past and present) is not responsible for and excludes all liability (including negligence), for any personal injury or death; or any loss or damage; whether direct, indirect, special or consequential (including loss of opportunity and loss of profit), arising in any way out of:
- a) any technical difficulties or equipment malfunction (whether under the Promoter's control);
  - b) any incorrect or inaccurate information, caused either by users, by any of the equipment or programming associated with or used in connection with the Promotion, or by any technical error that may occur in the course of the Promotion;
  - c) any delays or failures in any telecommunications services or equipment;
  - d) any error, omission, interruption, deletion, defect, delay in operation or transmission, theft, destruction, unauthorised access or third party interference;
  - e) any entry or prize claim that is late, lost, incomplete, incorrectly submitted, delayed, illegible, corrupted, altered, damaged or misdirected (whether after their receipt by the Promoter) due to any reason beyond the reasonable control of the Promoter;
  - f) any variation in Prize value to that stated in these Terms and Conditions;
  - g) any tax liability incurred by a Winner or Entrant;

- h) if a Prize or any part of a Prize is unavailable for any reason; or
- i) use of the Prize/s.

33 If a Prize is to be delivered directly to a Winner by a third party supplier, the Promoter accepts no responsibility or liability for any delay or failure by the third party to deliver the Prize, any loss or damage to the Prize, any delay or failure relating to the Prize itself or failure by the third party supplier to meet any obligations in these Terms and Conditions or otherwise.

## General

- 34 The Promoter reserves the right to take any action necessary in its sole discretion at any time, as appropriate.
- 35 If there is a dispute concerning the conduct of the Promotion, the decision of the Promoter is final and binding on each Entrant and no correspondence will be entered into.
- 36 Prize/s and participation in this Promotion may be subject to additional terms and conditions imposed by third parties. Entrants and Winners must comply with any such additional terms and conditions. The Promoter does not accept any responsibility and is not liable for any additional conditions imposed on the taking of a Prize or participation in the Promotion. The terms and conditions which apply to a Prize at the time it is issued to a Winner will prevail over these Terms and Conditions, to the extent of any inconsistency.
- 37 If for any reason any aspect of this Promotion is not capable of running as planned, including, without limitation, by reason of computer virus, communications network failure, bugs, tampering, unauthorised intervention, fraud, technical failure, acts of God, civil unrest, strike, war, act of terrorism or any other cause beyond the control of the Promoter, the Promoter reserves the right in its sole discretion to cancel, terminate, modify or suspend the Promotion and invalidate any affected entries, or suspend or modify a Prize, as appropriate.
- 38 Any attempt to cause damage to any website or the information on any website associated with this Promotion or to otherwise undermine the fair and legitimate operation of this Promotion may be a violation of criminal and civil laws. The Promoter and the Prize Supplier/s reserve the right to seek damages in the fullest extent permitted by law if any such attempt is made, whether that attempt results in any such damage, interference or undermining.
- 39 These Terms and Conditions are governed by the laws of New South Wales.
- 40 Failure by the Promoter to enforce any of its rights at any stage does not constitute a waiver of those rights.
- 41 These Terms and Conditions and the Schedule constitute the entire terms and conditions between each Entrant and the Promoter with respect to the Promotion. The Promoter may alter, modify, or amend these Terms and Conditions and the Schedule, as appropriate.

## Privacy

- 42 The Promoter is bound by the Australian Privacy Principles in the *Privacy Act 1998*. The Promoter will collect Entrants' personal information in connection with this Promotion and will use and handle the personal information in accordance with these Terms and Conditions and the Promoter's Privacy Policy at <https://nine.com.au/privacy>. The Promoter's Privacy Policy contains information regarding:
- a) how Entrants may access or correct any of their personal information collected by the Promoter; and
  - b) how Entrants may lodge a complaint with the Promoter for a breach of any Australian Privacy Principle (**APP**) or APP code, and how the Promoter will action such complaint.