

“EVEREST ICE CREAM CONSUMER” PROMOTION

TERMS AND CONDITIONS

1. Information on how to enter and the prizes form part of these Terms and Conditions. Participation in this promotion is deemed acceptance of these Terms and Conditions.
2. The Promoter is Everest Ice Cream Australia Pty Ltd t/as Everest Foods (ABN 19 621 429 874) of 14 Plateau Road, Reservoir VIC 3073, telephone: 03 9643 6500.
3. Entry is open to residents of NSW, QLD, WA, TAS, SA and VIC aged 18 years or over.
4. Employees (and their immediate families) of the Promoter and agencies associated with this promotion are ineligible to enter. Immediate family means any of the following: spouse, ex-spouse, de-facto spouse, child or step-child (whether natural or by adoption), parent, step-parent, grandparent, step-grandparent, uncle, aunt, niece, nephew, brother, sister, step-brother, step-sister or 1st cousin.
5. Promotion commences on 07/01/2019 and closes at 11:59pm AEDT on 03/03/2019 (“**Promotional Period**”). All times referred to herein are AEDT, as applicable in VIC.
6. To enter, individuals must complete one (1) of the following during the Promotional Period:
 - **Facebook:** upload a photograph of themselves with an Everest ice cream to their Facebook account, tag their location and include the hashtag #askforeverest; or
 - **Instagram:** upload a photograph of themselves with an Everest ice cream to their Instagram account, tag their location and include the hashtag #askforeverest.
7. Only entries that contain the hashtag #askforeverest and have an Everest ice cream in the photograph will be eligible. Entrant’s Facebook settings for the photograph must be set to public in order to be eligible. Entrant’s Instagram profile must be set to public in order to be eligible. Uploaded files must be submitted in accordance with Facebook and Instagram’s requirements.
8. Only one (1) entry is permitted per person.
9. The Promoter reserves the right, at any time, to verify the validity of entries and entrants (including an entrant’s identity, age and place of residence) and reserves the right, in its sole discretion, to disqualify any individual who the Promoter has reason to believe has breached any of these Terms and Conditions, tampered with the entry process or engaged in any unlawful or other improper misconduct calculated to jeopardise fair and proper conduct of the promotion. Errors and omissions may be accepted at the Promoter’s discretion. Failure by the Promoter to enforce any of its rights at any stage does not constitute a waiver of those rights. The Promoter’s legal rights to recover damages or other compensation from such an offender are reserved.
10. Incomplete or indecipherable entries will be deemed invalid.
11. If there is a dispute as to the identity of an entrant, the Promoter reserves the right, in its sole discretion, to determine the identity of the entrant.
12. There will be one (1) draw for the entries received each week of the Promotional Period (each a “**Weekly Draw**”), and one (1) draw from the entries received throughout the entire Promotional Period (the “**Major Prize Draw**”). Entries into each Weekly Draw will open and close each week (i.e. Monday to Sunday) based on VIC local time, with a total of eight (8) Weekly Draws. Non-winning entries in each Weekly Draw will NOT be entered into any subsequent Weekly Draw(s), however all entries (including the Weekly Draw winners) will be entered into the Major Draw.

13. All draws will take place at Bastion EBA 14-18 Cremorne Street, Cremorne VIC 3121 at 4pm on the dates specified in the table below. The Promoter may draw additional reserve entries in each draw and record them in order in case an invalid entry or ineligible entrant is drawn. Winners will be notified in writing within two (2) business days of the relevant draw and the Major Prize Draw winner will also have their name published on the Promoter's Facebook page www.facebook.com/EverestIceCreamAus/ from 12/03/2019.

Draw	Draw date
Weekly Draw 1	14/01/2019
Weekly Draw 2	21/01/2019
Weekly Draw 3	29/01/2019
Weekly Draw 4	04/02/2019
Weekly Draw 5	11/02/2019
Weekly Draw 6	18/02/2019
Weekly Draw 7	25/02/2019
Weekly Draw 8	04/03/2019
Major Prize Draw	08/03/2019

14. The Promoter's decision is final and no correspondence will be entered into.
15. The first valid entry drawn in each Weekly Draw will each win a \$300 EFTPOS Gift Card.
16. The first valid entry drawn in the Major Prize Draw will win the Major Prize of a \$5,000 EFTPOS Gift Card.
17. Any ancillary costs associated with redeeming the Gift Card are not included. Any unused balance of the Gift Card will not be awarded as cash. Redemption of the Gift Card is subject to any terms and conditions of the issuer including those specified on the Gift Card.
18. Subject to the unclaimed prize draw clause, if for any reason a winner does not take / redeem a/the prize at/by the time stipulated by the Promoter, then the prize be forfeited.
19. If any prize is unavailable, the Promoter, in its discretion, reserves the right to substitute the prize with a prize to the equal value and/or specification, subject to any written directions from a regulatory authority.
20. Total prize pool value is \$7,400. Prizes, or any unused portion of a prize, are not transferable or exchangeable and cannot be taken as cash.
21. A draw for any unclaimed prizes may take place on 11/06/2019 at the same time and place as the original draw, subject to any directions from a regulatory authority. Winners, if any, will be notified in writing within two (2) business days of the draw and the Major Prize winner (if awarded in the unclaimed prize draw) will also have their name published on the Promoter's Facebook page www.facebook.com/EverestIceCreamAus/ from 12/06/2019.
22. Entrants agree that they are fully responsible for any materials they submit via the promotion including but not limited to comments, recordings and images ("Content"). The Promoter shall not be liable in any way for such Content to the full extent permitted by law. The Promoter may remove or decline to publish any Content without notice for any reason whatsoever. Entrants warrant and agree that:
- they will not submit any Content that is unlawful or fraudulent, or that the Promoter may deem in breach of any intellectual property, privacy, publicity or other rights, defamatory, obscene, derogatory, pornographic, sexually inappropriate, violent, abusive, harassing, threatening, objectionable with respect to race, religion, origin or gender, not suitable for children aged under 15, or otherwise unsuitable for publication;
 - their Content shall not contain viruses or cause injury or harm to any person or entity;
 - they will obtain prior consent from any person or from the owner(s) of any property that appears in their Content;

- (d) they will obtain full prior consent from any person who has jointly created or has any rights in the Content to the uses contemplated by these Terms and Conditions, and the Content does not infringe the rights of any third party;
- (e) they consent to any use of the Content which may otherwise infringe the Content creator's/creators' moral rights pursuant to the *Copyright Act 1968* (Cth) and warrant that they have the full authority to grant these rights; and
- (f) they will comply with all applicable laws and regulations, including without limitation, those governing copyright, content, defamation, privacy, publicity and the access or use of others' computer or communication systems.

Without limiting any other terms herein, the entrant agrees to indemnify the Promoter for any breach of the above terms.

- 23. As a condition of entering this promotion, each entrant licenses and grants the Promoter, its affiliates and sub-licensees a non-exclusive, royalty-free, perpetual, worldwide, irrevocable, and sub-licensable right to use, reproduce, modify, adapt, publish and display their entry (which shall include Content) for any purpose, including but not limited to future promotional, marketing or publicity purposes, in any media, without compensation, restriction on use, attribution or liability.
- 24. Entrants consent to the Promoter using their name, likeness, image and/or voice in the event they are a winner (including photograph, film and/or recording of the same) in any media for an unlimited period without remuneration for the purpose of promoting this promotion (including any outcome), and promoting any products manufactured, distributed and/or supplied by the Promoter.
- 25. If this promotion is interfered with in any way or is not capable of being conducted as reasonably anticipated due to any reason beyond the reasonable control of the Promoter, including but not limited to technical difficulties, unauthorised intervention or fraud, the Promoter reserves the right, in its sole discretion, to the fullest extent permitted by law: (a) to disqualify any entrant; or (b) subject to any written directions from a regulatory authority, to modify, suspend, terminate or cancel the promotion, as appropriate.
- 26. 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, as well as any other implied warranties under the ASIC Act or similar consumer protection laws in the States and Territories of Australia (**Non-Excludable Guarantees**). Except for any liability that cannot by law be excluded, including the Non-Excludable Guarantees, the Promoter (including its respective officers, employees and agents) excludes all liability (including negligence), for any personal injury; or any loss or damage (including loss of opportunity); whether direct, indirect, special or consequential, arising in any way out of the promotion.
- 27. Except for any liability that cannot by law be excluded, including the Non-Excludable Guarantees, the Promoter (including its respective officers, employees and agents) is not responsible for and excludes all liability (including negligence), for any personal injury; or any loss or damage (including loss of opportunity); whether direct, indirect, special or consequential, arising in any way out of: (a) any technical difficulties or equipment malfunction (whether or not under the Promoter's control); (b) any theft, unauthorised access or third party interference; (c) any entry or prize claim that is late, lost, altered, damaged or misdirected (whether or not after their receipt by the Promoter) due to any reason beyond the reasonable control of the Promoter; (d) any variation in prize value to that stated in these Terms and Conditions; (e) any tax liability incurred by a winner or entrant; or (f) use of a prize.
- 28. The Promoter collects personal information ("**PI**") in order to conduct the promotion and may, for this purpose, disclose such PI to third parties, including but not limited to agents, contractors, service providers, prize suppliers and, as required, to Australian regulatory authorities. Entry is conditional on providing this PI. The Promoter will also use and handle PI as set out in its Privacy Policy, which can be viewed at www.everest-icecream.com.au/privacy-policy-1. In addition to any use that may be outlined in the Promoter's Privacy Policy, the Promoter may,

for an indefinite period, unless otherwise advised, use the PI for promotional, marketing, publicity, research and profiling purposes, including sending electronic messages or telephoning the entrant. The Privacy Policy also contains information about how entrants may opt out, access, update or correct their PI, how entrants may complain about a breach of the Australian Privacy Principles or any other applicable law and how those complaints will be dealt with. All entries become the property of the Promoter. The Promoter will not disclose PI to any entity outside of Australia.

29. Entry and continued participation in the promotion is dependent on entrants following and acting in accordance with the Facebook Statement of Rights and Responsibilities (which can be viewed at www.facebook.com/terms.php) and Instagram Rules (which can be viewed at <http://instagram.com/about/legal/terms>).
30. This promotion is in no way sponsored, endorsed or administered by, or associated with, Facebook or Instagram. Entrants understand that they are providing their information to the Promoter and not to Facebook or Instagram. The information an entrant provides will only be used for the purposes outlined in these Terms and Conditions. Any questions, comments or complaints about this promotion must be directed to the Promoter and not to Facebook or Instagram. Facebook and Instagram will not be liable for any loss or damage or personal injury which is suffered or sustained by an entrant, as a result of participating in the promotion (including taking/use of a prize), except for any liability which cannot be excluded by law.

NSW Permit No. LTPS/18/30403

SA Permit No. T18/2265