

AFLPA TERMS & CONDITIONS – Silent Auction

These Conditions apply to the auction and sale by AFLPA of five (5) signed playing guernseys from the match featured on Foxtel's The Recruit which was aired on 14 September 2016 ("**Guernseys**").

1. Definitions

In these Conditions the following words and expressions shall (unless the context otherwise requires) have the following meanings:

"**Claims**" means all sums of money, debts, dues, suits, actions, causes of action, proceedings, arbitrations, claims, accounts, liabilities, losses, demands, costs, expenses, notices or any other type of claim howsoever arising out of these Conditions or anything relating to the subject matter of these Conditions.

"**Dollars**" or "**\$**" means Australian currency.

"**GST**" means a tax payable under the New Tax System (Goods and Services Tax) Act 1999 as amended.

"**Purchase Price**" means the bid price notified to AFLPA by the Buyer in writing plus any GST payable.

2. The Buyer

- a) All bids must be lodged with AFLPA in writing and in the manner detailed in any notification by AFLPA.
- b) Bids must be lodged with AFLPA prior to 11.00pm on Tuesday 21 September 2016.
- c) Only persons aged eighteen (18) and over shall be eligible to place a bid.
- d) Every bidder shall be deemed to act as principal unless prior to the entry of a bid there is a written acceptance by AFLPA that the bidder is acting on behalf of a third party and that the bidder is not personally liable.
- e) AFLPA shall determine the five (5) highest bidders acceptable to AFLPA ("**the Buyer**"). Any dispute may be determined by AFLPA at its absolute discretion and the decision of AFLPA shall be final.
- f) The reserve price on each individual Guernsey is \$50.00.

3. Buyers to satisfy themselves

- a) Guernseys are sold on an 'as is' basis.
- b) In bidding for a Guernsey, prospective Buyers agree that they have not been induced to make any bid by any representation, to the extent the representation is not misleading or deceptive, in respect of the Guernsey by AFLPA.
- c) If AFLPA is found to be liable for any loss or damage suffered, other than in circumstances where the loss or damage suffered is as a result of AFLPA (and its employees or agents) not acting with due care and skill or AFLPA (and its employees or agents) engaging in misleading or deceptive conduct the maximum liability of AFLPA to a Buyer shall be the Sale Price.
- d) AFLPA shall not be liable for any consequential or indirect loss whatsoever.

4. Contract of sale

- a) Subject to AFLPA's discretion, upon written notification from AFLPA to a bidder that AFLPA accepts a bid, a contract of sale is made between AFLPA and the Buyer under which the Buyer is obliged to pay AFLPA the Purchase Price and upon receipt of payment, AFLPA is obliged to pass over title to a Guernsey.
- b) Risk of the Guernsey will pass to the Buyer at the date on which AFLPA notifies the Buyer that they are the successful bidder for a Guernsey whether or not payment has been made.
- c) Title to the Guernsey will pass to the Buyer when the full Purchase Price has been received by AFLPA by way of cleared funds.

5. Payment by Buyer

- a) At the same time that a prospective Buyer lodges a bid he or she must give AFLPA his or her name and address and, if requested by AFLPA, banking or other suitable references or identification and an acknowledgement that they have read and agreed to be bound by these Conditions.
- b) The Purchase Price must be paid to AFLPA not later than 4.00pm on the fifth day after the date on which AFLPA notifies the Buyer that they are the successful bidder for a Guernsey.
- c) Full payment for the Guernsey must be made to AFLPA by cash, electronic funds transfer or approved credit card.
- d) The Buyer may not collect until the full Purchase Price has been received by AFLPA unless prior arrangements in writing have been made with AFLPA before the date of the Sale, provided always that ownership of the Lot will not pass to the Buyer until cleared funds in payment of the full Purchase Price have been received by AFLPA.
- e) AFLPA shall receive the Purchase Price. AFLPA reserves the right in its absolute discretion to donate some or all of the Purchase Price to the charity, Ladder.

6. **Guernsey to be posted**

AFLPA shall post the purchased Guernsey to the Buyer's nominated address. AFLPA shall not be responsible for any lost Guernsey due to a fault of the postal service. AFLPA shall ensure that the Guernsey is posted within five (5) days of receipt of full payment of the Purchase Price from the Buyer.
7. **Responsibility for Lots purchased**

The Buyer shall be responsible for any loss or damage to, or caused by, a Guernsey purchased by the Buyer from the date on which AFLPA notifies the Buyer that they are the successful bidder for a Guernsey and neither AFLPA nor its employees or agents shall be responsible for any Claim while the Lot is in its power, possession or custody, except where AFLPA (and its employees or agents) has not acted with due care and skill.
8. **Non-payment or failure to collect**

If the Purchase Price in respect of a Guernsey is not paid for in full in accordance with clause 5, AFLPA may, after a period of two weeks (during which time AFLPA will attempt to contact the Buyer), and in its absolute discretion and without prejudice to any other rights or remedies it may have, exercise one or more of the following remedies:

 - a) re-sell the Guernsey without reserve by auction, private treaty or any other means provided that 2 days prior notice is given to the Buyer who agrees not to challenge the resale price achieved in respect of the Guernsey; or
 - b) rescind the sale of that Guernsey to the Buyer.
9. **GST**

Where applicable, the Buyer shall pay GST.
10. **Governing Law and Jurisdiction**
 - a) These Conditions are governed by and shall be construed in accordance with the law of the State of Victoria.
 - b) AFLPA, the Buyer and any bidders irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of Victoria.
11. **General provisions**
 - a) The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.
 - b) These Conditions constitute the entire agreement of the parties on the subject matter. All representations, communications and prior agreements, to the extent they are not misleading or deceptive, in relation to the subject matter are merged in and superseded by these Conditions.
 - c) The parties agree that, if the whole or any part of any one or more provisions is judged invalid or unenforceable, that portion will be deemed to be deleted and will not affect the validity or enforceability of the remaining provisions.
12. **Privacy Statement**
 - a) It is necessary for AFLPA to collect personal information from bidders and buyers such as:
 - i) Your Name;
 - ii) Your Company name and ABN;
 - iii) Your residential address;
 - iv) Your business address;
 - v) Your email address;
 - vi) Your facsimile number;
 - vii) Your telephone numbers;
 - viii) Your Drivers Licence details;
 - ix) Your credit card details; and
 - x) Your bank account details.
 - b) When you provide us with your personal information, we rely on the accuracy of that information. To assist with the accuracy please contact us immediately if any of the details provided have changed. We will only use your personal information for the purpose for which you have provided it unless you otherwise consent.
 - c) We will not disclose your personal information to third parties unless you consent or where such disclosure is required or authorised by law.
 - d) We will at your request provide access to the information we hold about you for the purpose of correcting or updating that information. We will store your information in a manner that ensures security against unauthorised access, alteration or deletion at a level commensurate with its sensitivity.
 - e) We will otherwise deal with your personal information in accordance with our privacy policy.