

**TERMS AND CONDITIONS OF SALE**

*Purchase Terms for*

Online Auction

Waterfront Home on Weiss Lake in Cedar Bluff, AL

Thursday, September 9th, 2021, at 11:00 am CT

- ❖ TARGET AUCTION & LAND COMPANY, INC. (hereinafter referred to as “Auction Company”/”Auctioneer”)
- ❖ J. D. Gunter (deceased) and Eloise C. Gunter (hereinafter referred to as “Seller”)
- ❖ 5325 Lakeside Lane, Cedar Bluff, Cherokee County, AL 35959 - Parcel ID# 10-09-32-0-000-001.010 (home) and three lots with Parcel ID# 10-09-32-0-000-001.013, 10-09-32-0-000-001.008 & 10-09-32-0-000-001.030 (hereinafter referred to as “Property”)

**THE PROPERTY IS BEING SOLD AS-IS AND WITH NO CONTINGENCIES.**

**A TEN PERCENT (10%) BUYER’S PREMIUM WILL BE ADDED TO THE HIGH BID PRICE TO DETERMINE THE TOTAL CONTRACT PRICE.**

**1. TERMS OF SALE**

- A. The Property will be offered at online auction with a reserve, subject to Seller approval. Bidding opens August 30, 2021, and concludes September 9, 2021, at 11:00 am CT subject to a 3-minute auto-extend. This will continue until no other bids are placed.
- B. No advance registration amount is required to bid.
- C. The Contract for Sale & Purchase (“Sales Contract”) shall be executed on auction day immediately after being declared the winning bidder.
- D. A ten percent (10%) buyer’s premium will be added to the high bid price to determine the total contract price paid by the winning bidder (“Purchaser”).
- E. This is a CASH SALE with ten percent (10%) down payment based on the total contract price for the Property which is due by Friday, September 10, 2021 at 4:00 pm CT. The remaining balance is due at closing within 30 days. The down payment will be held in a non-interest-bearing escrow account by Target Auction & Land Co., Inc. Wire instructions will be provided.
- F. This sale is not contingent upon the Purchaser’s ability to obtain financing.
- G. No credit cards will be accepted.
- H. If for any reason the Purchaser fails or refuses to execute the Sales Contract and/or deposit the required funds immediately after being confirmed the Purchaser as outlined herein, the Seller will declare the Purchaser in default and reserves the right to declare the bidder’s rights forfeited and may resell the property. Seller reserves the right to seek specific performance. Purchaser also agrees to forfeit the registration amount which shall become a non-refundable, non-compliance fee.
- I. No changes to the Sales Contract or the Terms and Conditions of Sale will be permitted. The fully-executed Sales Contract (together with all related Exhibits thereto) shall control and constitute the entire agreement between Purchaser and Seller.
- J. By submitting a bid and/or executing the Sales Contract in the name of a business entity or corporation, the individual doing so has the authority and enters into a guaranty agreement whereby he/she personally guarantees payment of the bid amount.
- K. In the event of a conflict with the Sales Contract and the Terms and Conditions of Sale, the Terms and Conditions shall control the provision in conflict.
- L. All documents will be in English. If an interpreter or translator is deemed necessary to translate any documents or information, it is the Purchaser’s sole responsibility. All currency will be in U.S. dollars.
- M. The Property is selling AS IS, WHERE IS WITH ALL FAULTS AND WITH NO CONTINGENCIES. It is the Purchaser’s sole responsibility to be satisfied with the Property and verify any information deemed important PRIOR to bidding. All information is believed to be correct. However, neither Auction Company nor Seller makes any representations or warranty of any kind regarding the Property.

**2. PROPERTY DISCLOSURES**

- A. Portions of the property are located within the jurisdiction of Alabama Power shoreline easement. The portion of the Property located within this jurisdiction will be subject to any Alabama Power or
- B. Portion(s) of the Property may or may not be located in a flood zone. It is the Purchaser’s responsibility to verify with any governing agency regarding requirements, guidelines, permits or regulations for any portion of the Property within its jurisdiction.
- C. No guaranty or representation is made regarding any individual part of the property’s ability to pass a perc test.
- D. Seller will convey all mineral, gas, or oil rights applicable to the Property owned by Seller, if any.

Purchaser Initials \_\_\_\_\_

Seller Initials \_\_\_\_\_

- E. The Property is selling subject to all matters contained in the Title Commitment as well as any other documents of record including but not limited to the Protective Covenants and Restrictions for River Bend Estates, Phase II and any Addendums as outlined in Title Commitment (posted online for review). There is a Homeowners Association, however, at this time no fees are being collected.
- F. Property will be conveyed by Warranty Deed free and clear of all liens and encumbrances subject to the terms and conditions relating to such liens and encumbrances contained in the Sales Contract and the Title Commitment (posted online for review).
- G. Possession of Property will be at closing.
- H. The property is being sold unfurnished and no personal property, furnishing, or equipment will be conveyed with the real estate.
- I. Any existing built-in appliances and refrigerator in the kitchen will be conveyed with the Property.
- J. Any existing window treatments will be conveyed with the Property.
- K. The boathouse is equipped with an electric lift. However, there is no power no power to the boathouse. Seller operated the electric lift by a generator that will not be conveyed with the Property.
- L. The built-in oven in the kitchen is not functioning (9/07/21).

**3. CLOSING**

- A. **Closing must be completed on or before Tuesday, October 12<sup>th</sup>, 2021. This is the closing deadline.** Closing will be completed by Shumaker & Associates located at 270 E Main Street, Centre, AL 35960. Contact: Al Shumaker, phone 256-927-5581, email ashumaker@tds.net. **It is the Purchaser’s responsibility to contact the closing agent and schedule closing.**
- B. The proceeds due from the Purchaser at closing shall be by cashier’s check (from U.S. bank) or confirmed wire transfer sent to Shumaker & Associates Escrow Account (wire instructions will be provided).
- C. *Seller* will pay for preparation of the deed, title exam/commitment, and any municipal assessments. Ad valorem taxes and HOA Dues will be prorated to closing date.
- D. *Purchaser* will pay all other closing cost, including but not limited to survey fees, recording fees, attorney’s fees, wiring fees, loan/financing fees, if any, etc., and ad valorem taxes and HOA Dues will be prorated to the closing date. Title Insurance is available at the Purchaser’s option and expense through Shumaker & Associates.

**4. UPDATES and CORRECTIONS**

It is the sole responsibility of the Purchaser to check for any updates or corrections prior to the end time of the auction.

**Any updates, revisions, additions, deletions, or corrections to these Terms and Conditions of Sale will added here:**

- A. The built-in oven in the kitchen is not functioning (added to Property Disclosures as Item L) 9/07/21.

**5. WIRE TRANSFERS**

A transaction fee will apply to all funds transferred via wire.

**6. DEFAULT**

- A. It is agreed by all parties that in the event the Purchaser fails to close and pay the balance when due, Seller and Auction Company reserve all rights allowed by law and the Sales Contract, including a suit for damages, specific performance or cancellation of the transaction, with the Seller to retain the down payment. In the event of any breach of the terms of this agreement by Purchaser, the Seller will declare the Purchaser in default and Purchaser agrees that the escrow agent is expressly authorized and instructed to disburse the down payment without the requirement of any further approval or agreement from the Seller or Purchaser. Any action taken after Purchaser’s default shall be solely at the Seller’s option with all costs incurred by Seller being paid by the Purchaser. If any legal action is required to enforce this agreement, or to collect any fees or costs earned or advanced pursuant thereto, the Seller or Auction Company shall be entitled to recover any and all costs of such action, including, but not limited to, the expenses and court costs of the action and a reasonable attorney’s fee.
- B. Closing/escrow agent shall disburse the Purchaser’s down payment to the Seller after the receipt of Seller’s written certification that the Purchaser’s Sales Contract has been terminated by reason of said Purchaser’s failure to cure a default in performance of Purchaser’s obligations herein. Closing/escrow agent may act in reliance upon any writing, instrument, or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statements or assertions contained in such writing or instrument and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. Closing/escrow agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any written instructions delivered to it, nor as to the identity, authority, or rights of any person executing the same. The duties of closing/escrow agent shall be limited to the safekeeping of the down payment and the disbursement of same in accordance with the written instructions described above. Closing/escrow agent undertakes to perform only such duties as are expressly set forth hereto, and no implied duties or obligations shall be read into this agreement against closing/escrow agent.

Purchaser Initials \_\_\_\_\_

Seller Initials \_\_\_\_\_

**7. AUCTIONEER’S AGENCY DISCLOSURE**

The Auctioneer is acting exclusively as the agent for the Seller in this transaction and is to be paid a fee by the Seller pursuant to a separate written agreement between Seller and the Auction Company. The Auctioneer is not acting as an Agent in this transaction for the Purchaser. Any third party Buyer Broker is not a Subagent of Auction Company.

**8. EQUAL OPPORTUNITY CLAUSE**

All bidding is open to the public. The Property is available to Purchaser(s) without regard to race, color, religion, sex, familial status, national origin, or physical handicap.

**9. SIGNATURES and COUNTERPARTS**

Electronic signatures and facsimiles shall serve as valid authority for this document and all documents pertaining thereto may be executed in counterparts, each of which is deemed an original and together constitute one document.

**10. ACKNOWLEDGEMENT**

Purchaser acknowledges that he/she has read and understood the (1) Real Estate Online Bidding Terms, and (2) these Terms and Conditions of Sale.

**By signing below, each Purchaser and Seller acknowledge that this ‘Exhibit A’ consists of three pages, has read and understood same; these terms are made a part of the CONTRACT FOR SALE AND PURCHASE.**

**Executed by Purchaser on September 9th, 2021**

**Executed by Seller on September 9th, 2021**

**PURCHASER:**

**SELLER:**

\_\_\_\_\_  
**PURCHASER**

\_\_\_\_\_  
**ELOISE C. GUNTER**

\_\_\_\_\_  
**PURCHASER**

Purchaser Initials \_\_\_\_\_

Seller Initials \_\_\_\_\_