

TERMS AND CONDITIONS OF SALE

Purchase Terms for

Investment Opportunity at Noccalula Falls Park

107 Irby Blvd., Gadsden, AL 35904

Thursday, September 22, 2022, at 11:00 am CT

- ❖ Target Auction & Land Co., Inc. (hereinafter referred to as “Auction Company”/ “Auctioneer”)
- ❖ Dana C. Little and Linda K. Little (hereinafter referred to as “Seller”)
- ❖ A Commercial/Residential Home located at 107 Irby Blvd, Gadsden, AL 35904 with Etowah County Tax Parcel Identification Number 10-09-32-1-000-014.000 (hereinafter referred to as “Property”)

THE PROPERTY IS BEING SOLD AS IS, WHERE IS WITH ALL FAULTS AND WITH NO CONTINGENCIES.

A TWELVE PERCENT (12%) 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 through an online auction selling at absolute auction to the highest bidder. Online bidding opens September 12 and concludes with the live auction on Thursday, September 22, 2022, at 11:00 am CT.
- B. Online bidder registration is required for this auction to place bid(s).
- C. A twelve percent (12%) buyer’s premium will be added to the high bid to determine the total contract price paid by the winning bidder (“Purchaser”).
- D. The Contract for Sale & Purchase (“Sales Contract”) shall be executed on auction day immediately after being declared the winning bidder.
- E. This is a CONTINGENCY-FREE SALE with a ten percent (10%) down payment based on the total contract price for the Property which is due no later than 4:00 pm CT on Friday, September 23, 2022. The remaining balance is due at closing on or before Monday, October 24, 2022.
- F. The down payment will be held in a non-interest-bearing escrow account by Target Auction Company. Wire instructions will be provided.
- G. This sale is not contingent upon the Purchaser’s ability to obtain financing.
- H. No credit cards will be accepted.
- I. If for any reason the Purchaser fails or refuses to execute the Sales Contract and/or deposit the required down payment funds immediately after being confirmed the Purchaser as outlined herein, the Seller reserves the right to declare the bidder’s rights forfeited and may resell the property. Seller reserves the right to seek specific performance.
- J. 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.
- K. 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.
- L. 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.
- M. 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.
- N. 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 the Auction Company nor the Seller make any representations or warranty of any kind regarding the Property.
- O. Possession of the Property will be at closing.
- P. 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).

Purchaser Initials _____

Seller Initials _____

2. PROPERTY DISCLOSURES

- A. Seller will convey all mineral, gas, or oil rights applicable to the Property owned by Seller, if any.
- B. Portion(s) of the Property may or may not be located in a flood zone.
- C. It is the Purchaser’s responsibility to verify with any governing agency any requirements, guidelines, permits, or regulations pertaining to the Property or its use thereof.
- D. No guaranty or representation is made regarding any individual part of the property’s ability to pass a perc test.
- E. Only real estate will be conveyed. No personal property will be conveyed with the Property.
- F. Any existing window treatments and/or built-in appliances will be conveyed with the Property.
- G. Any fence lines may or may not represent boundary lines.
- H. The Property has not been surveyed for the Auction. The Property will be conveyed by existing legal description. Should the Purchaser or Purchaser’s lender desire any survey work, it will be at Purchaser’s option and expense, and will not affect the closing. If an updated survey shows a greater or lesser amount of acreage, the Sales Contract will not be adjusted.
- I. The home was built prior to 1978, both the Seller and Purchaser will be required to sign a Lead Based Paint Disclosure. Both the Lead Based Paint Disclosure and the EPA’s booklet, “Protect Your Family from Lead in Your Home” are available for review online. Any inspections deemed necessary by Purchaser will need to be completed prior to bidding.
- J. The Property is currently zoned: B-1 Neighborhood Business District.

3. 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 be added here:

- A. *The back corner bedroom has a couple of settling cracks at the window.*
- B. *The two pianos in the home will remain with the home.*

4. CLOSING

- A. **Closing must be completed on or before Monday, October 24, 2022. This is the closing deadline.** Closing will be completed by Williams, Driskill, Huffstutler & King, LLC located at 2100 Club Dr., #150, Gadsden, AL 35901, contact person: Mickie Kerr mickie@williamsattorney@law.com 256-442-0201. 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 confirmed by wire transfer or by cashier’s check (from U.S. bank) PRIOR to closing and sent to Williams, Driskill, Huffstutler & King, LLC. Wire instructions will be provided.
- C. **Seller** will pay for the preparation of the deed, title exam/commitment, and any municipality assessments. Ad valorem taxes will be prorated to the closing date.
- D. **Purchaser** will pay all other closing cost, including but not limited to survey fees (paid auction day), recording fees, attorney’s fees, wiring fees, loan/financing fees, if any, etc. Ad valorem taxes prorated to the closing date.
Title Insurance is available at the Purchaser’s option and expense through Williams, Driskill, Huffstutler & King, LLC.

5. WIRE TRANSFERS

A transaction fee will apply to all incoming and outgoing 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 closing/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

Purchaser Initials _____

Seller Initials _____

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.

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, disability, sexual orientation or any other factor protected by federal, state or local law.

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 understands 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 understands same; these terms are made a part of the CONTRACT FOR SALE AND PURCHASE.

Executed by Purchaser on September 22, 2022

Executed by Seller on September 22, 2022

PURCHASER:

SELLER:

BY: _____

BY: _____

DANA C. LITTLE

BY: _____

BY: _____

LINDA K. LITTLE

Purchaser Initials _____

Seller Initials _____