



EXHIBIT "A"
TERMS AND CONDITIONS
"NICKEL'S COVE ON THE COOSA RIVER"
Cherokee County Alabama
Saturday, July 22, 2023, 10 AM

These "Terms and Conditions" supersede all other printed and oral statements and will be attached to and become a part of the Real Estate Sales Contract as Exhibit "A", which will prevail over this document and any other agreement between the Buyer and Seller.

CONDITIONS OF SALE: Dempsey Auction Company (Auctioneer/Broker) has entered into a contract with Mr. Scott Witherow (Seller), TO OFFER AT PUBLIC AUCTION, 68+/- Recreational Lots on the Coosa River & Ball Play Creek, located on County Road 182, Cedar Bluff, Cherokee County, AL.

All property, real and personal, is selling "AS IS, WHERE IS" and being conveyed by Seller as provided for below. It is offered for sale and sold "AS IS and WITH ALL FAULTS IF ANY" without representation or warranty of any kind as to their condition. No warranties, either statutory or otherwise, expressed, or implied, including those as to the fitness for a particular use or purpose, habitability, merchantability, or environmental condition including, but not limited to any hazardous substances, hazardous waste, petroleum or petroleum by-products, concerning the property are given by the Auctioneer or Seller. Neither the Auction Company nor the Auctioneer makes any representation concerning the property whatsoever. All bidders acknowledge and agree by their participation in the Auction that he/she has inspected the Property and is not relying on any warranty or representation of the Seller, Auctioneer, or any agent thereof.

We require all bidders register and obtain a bid number in order to participate in the bidding process. All decisions of the Auctioneer will be final, including the increments of bidding, disputes among bidders, or any other issues that might arise before, during, or after the auction.

The Seller has the right, at their discretion; to add or withdraw all or any portion of the property before the auction on Saturday, July 22, 2023, at 10:00 am. **This is an OWNER CONFIRMATION AUCTION, reserving the right to hold all offers open until Monday, July 24th, 2023 @ 5:00 pm.**

RESERVATIONS & RESTRICTIONS: All Personal Property & Equipment Reserved. The real estate will be sold subject to any and all restrictions, public utilities, encroachments, zoning ordinances, easements, Cherokee County, Alabama regulations, Alabama Power Shoreline Management guidelines and regulations, any protective covenants, existing rights of way, all other matters now of record and by Recorded Survey Plat. **Tract 25 is "NOT FOR SALE" in this auction. Tract 25 will serve as the "COMMON LOT" for Nickel's Cove on the Coosa River. Selling all property "as is" and with all faults, if any.**

Selling Cabins on Tracts A & B fully furnished. Both Cabins have existing Septic Disposal Systems installed prior to Dempsey Auction Company contracting to sell this property. We have no knowledge of the legality or compliance of either system, and the purchaser does hereby release Dempsey Auction Company and their agents/representatives from all matters concerning the Septic Sewerage Disposal System.

PAYMENT: A 10% Buyer's Premium on Real Estate will be added to the Bid Price on all real estate today to arrive at the final purchase price. The purchaser will be required to sign the Real Estate Sales Contract and pay a non-refundable earnest money deposit equal to 20% of the final purchase price immediately following the Auction. This deposit will be held in a non-interest-bearing escrow account under the control of Dempsey Auction Co. No disbursements will be made from this escrow account until closing or otherwise in accordance with this agreement. In the event the purchaser fails to close and pay his/her balance when due, the deposit may be retained by the Seller and Auctioneer as liquidated damages in addition to any other remedies available to the Seller and Auctioneer.

ONLINE PURCHASER'S PAYMENT: At the close of the auction, successful online bidders will be emailed a sales contract package to execute and return to Dempsey Auction Co. Successful online bidders will deposit 20% of the Contract Price plus a project development fee as earnest money in the form of cashier's check or bank wire transfer with Dempsey Auction Co within 24 hours of receipt of the contract package. The entirety of the remaining balance is due at closing as stipulated in the "Terms and Conditions". Purchaser shall be responsible for all wire transfer fees. Successful online high bidders not executing and returning their contract with earnest money deposit within 24 hours of receipt will be considered in default and subject to an Administrative Fee (as defined below). **All Administrative Fees are non-refundable.**

TECHNICAL SOFTWARE ISSUES: NEITHER THE COMPANY PROVIDING THE SOFTWARE NOR THE AUCTION COMPANY SHALL BE HELD RESPONSIBLE FOR A MISSED BID OR THE FAILURE OF THE SOFTWARE TO FUNCTION PROPERLY FOR ANY REASON. Dempsey Auction Company is providing online bidding as a service to Bidder. Bidder acknowledges and understands that this service may or may not function correctly the day of the auction. Under no circumstances shall Bidder have any kind of claim against Dempsey Auction Company or anyone else if the internet service fails to work correctly. Dempsey Auction Company will not be responsible for any missed bids from any source.

DEFAULT: In the event a winning online bidder fails to submit the signed "Sales Contract" and deposit earnest money as provided in the pre-stipulated Terms and Conditions, the winning online bidder will be charged an administrative fee of \$2,500 on the credit card provided at auction registration. Additional default remedies are reserved by Dempsey Auction Co and the Sellers as provided in the Terms and Conditions & Sales Contract.

SURVEY: The Property has been surveyed for this auction by Baker Land Surveying, LLC, Alabama registered Land Surveyor. The survey has been recorded in **Plat Book 15 Pages 62 and 63** in the Probate Office of Cherokee County Alabama. **A survey/development & recording fee of \$350.00 Per Tract will be charged and paid upon execution of the sales contract.** The accuracy of the survey is the sole liability of the surveyor and the Purchaser, and the Purchaser does hereby release Dempsey Auction Company and Seller from all liability in all matters concerning the survey.

CLOSING: Closing shall take place within 30 days of auction, in accordance with the Real Estate Sales Contract, or on a date mutually agreed upon by the Seller and Purchaser(s) in writing. The closing attorney is Mr. Chad Hopper, Buttram, Hawkins & Hopper, 440 W Main Street, Centre, Alabama, 35960. **Phone: 256-927-5764.** We encourage you to contact Chad or his paralegal, Maryjane Tidwell at this office as soon as possible to discuss and schedule your closing.

CLOSING COSTS: The Seller will provide a Limited Warranty Deed at closing and pay his share of the pro-rated property tax. If the Seller is unable to convey clear title to the property, the Purchaser(s) Earnest money deposit will be returned.

All other costs including, but not limited to, Attorney's Closing Fees, Recording and Handling Fees, Deed Transfer Taxes, Title Search, Title Insurance, Loan Origination Fees, etc., will be at the Purchaser's expense.

POSSESSION: Purchaser(s) will be granted possession of real estate at closing, on or before August 22, 2023.

TAXES: The Real Estate property taxes will be prorated to the date of closing. If any additional taxes are assessed resulting from the change of use by the purchaser, they will be the responsibility of the purchaser.

AGENCY: In accordance with the Alabama Disclosure Law / RECAD, Dempsey Auction Company is acting as agent for the seller only in this transaction and is to be paid a fee pursuant to a separate written agreement between seller and the auctioneer. The auctioneer is not acting as an agent for the purchaser in this transaction. Any third-party broker is not a sub-agent of the auctioneer.

METHOD of SALE: Selling all lots **"By the Dollar"**. Dempsey Auction Company reserves the right to offer the property any way we see fit to obtain the seller the most money for their property.

BUYER'S NOTE: Dempsey Auction Company and the Seller reserve the right to amend any terms or conditions of the auction by announcing such amendments prior to or during the auction. All information published, announced or contained herein was derived from sources believed to be correct; however, it is not guaranteed by the Seller or the Auctioneer. The Auctioneer makes no warranty or guarantees as to the correctness and completeness of any information. Personal on-site inspection of the property is strongly recommended. The failure of any bidder to inspect, or to be fully informed as to the condition of the property, will not constitute grounds for any claim or demand for adjustment or withdrawal of bid, offer, or earnest money after its opening tender. Any and all announcements made from the auction stand take precedence over all other verbal, printed, announced, and/or distributed information.

Dempsey Auction Company is the "Agent for the Seller" only in this transaction and our fiduciary duties of loyalty and faithfulness are owed to the Seller.

NOTE: This auction is being recorded by audio & video, in its entirety for legal purposes.

I have received, read, understand, and agree to the information in these "Terms and Conditions" which will become a part of the sales contract and will hereafter be Exhibit "A".

July 22, 2023

Date

Purchaser

I certify that I provided the Registered Bidder named above a copy of "Terms & Conditions."

July 22, 2023

Date

Broker, Dempsey Auction Company

I certify that I provided the Seller named below a copy of "Terms & Conditions."

July 22, 2023

Date

Seller