



**EXHIBIT "B"**

**Terms & Conditions**

The Elizabeth L. Phillips Estate  
17.92 acres & Home  
Cedar Bluff, Cherokee County, AL

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 "B", 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 listing agreement with the Elizabeth L. Phillips Estate, J. Shane Givens, Executor (Seller), **TO OFFER AT AUCTION**, 17.92 acres located at 12297 Al Highway #35 Cedar Bluff, Cherokee County, AL.

All property, real and personal, is selling "**AS IS, WHERE 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 conditions 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 Seller 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. For compliance with Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, interested purchasers have had ten a (10) day inspection period prior to the auction for assessment of possible lead-based paint hazards, if applicable.

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. We require all bidders to register and obtain a bidder number in order to participate in the bidding process.

The Seller has the right, at their sole discretion; to add or withdraw all or any portion of the property before the auction on Saturday, February 10<sup>th</sup> at 10:00 AM. **This property is Selling Subject to Owner Confirmation, reserving the right to hold all offers open until Monday, February 12<sup>th</sup> @ 5:00 PM.**

**RESERVATIONS & RESTRICTIONS:** The real estate will be sold subject to any and all Restrictions, Public Utilities, Encroachments, Zoning Ordinances, Easements, Protective Covenants as attached to the sales contract, Cherokee County Regulations, any Existing Right of Ways, and all other matters now of record, **specifically the 3 easements of record as shown on below mentioned survey.** All personal property and equipment are reserved and will be sold at the conclusion of the auction.

**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 10% 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 10% 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". The 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:** All the property has been surveyed for this auction by Baker Land Surveying, LLC and a survey fee of **\$3,500** will be due and collected today. This fee includes surveying, staking, improvement & easement location, legal description and recording fees. The

accuracy of the survey is the sole liability of the surveyor and the Purchaser, and the Purchaser does hereby release the Seller and Dempsey Auction Co 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 to be conducted at the office of J. Shane Givens, 1615 W. Main St, Suite A, Centre, AL, 256.927.7490. We encourage you to contact Ms. Erika Smith in Mr. Givens' office to schedule your closing.

**CLOSING COSTS:** The Seller will provide a Limited Warranty Deed at closing, guaranteeing Good and Marketable Title. 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 the Purchaser's expense.**

**POSSESSION:** Purchaser(s) will be granted possession of real estate at closing, on or before March 10, 2024.

**TAXES:** The 2024 property taxes to be prorated as of closing. Any additional taxes assessed resulting from the change of use by the purchaser 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. **No** third-party broker is a sub-agent of the auctioneer.

**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 guarantee 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.

**METHOD of SALE:** Dempsey Auction Company reserves the right to offer the property any way we see fit to obtain the SELLER the most money.

In accordance with Alabama Disclosure / RECAD Law, Dempsey Auction Company is the "Listing Agent and Selling Agent of the Seller," and our fiduciary duties of loyalty and faithfulness are owed to the Seller.

**NOTE:** This auction is being recorded by audio 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 "B."

February 10, 2024

Date

Purchaser

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

February 10, 2024

Date

Seller

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

February 10, 2024

Date

Broker, Dempsey Auction Company