

REAL ESTATE

PRELIMINARY TERMS AND CONDITIONS OF SALE

Online & Live Auction: 1.1± Acre Free-Standing Commercial Restaurant Building
5060 Academy Lane, Bessemer, Jefferson County, Alabama
Ends Thursday, September 27th at 10:00 am (CT), 2018

TARGET AUCTION & LAND COMPANY, INC. ("Auction Company"/"Auctioneer") has a contract with **Academy Real Estate LLC**, (Hereinafter referred to as the "Seller"), to offer at auction 1.1± Acre Free-Standing Commercial Restaurant Building ("Property") located at **5060 Academy Lane, Bessemer, Jefferson County, Alabama 35022**. The property will be selling at or above a high bid amount of \$600,000.

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

A 10% BUYER'S PREMIUM WILL BE ADDED TO THE WINNING BID TO DETERMINE THE TOTAL PURCHASE PRICE.

1) TERMS OF SALE

- A. This is a CASH SALE with a TEN PERCENT (10%) down payment based on the Total Contract Price for the Property due on auction day for Live/Onsite bidders and by end of next business day for Remote/Online bidders. The successful bidder's registration fee will be applied toward the required deposit. The balance remaining is due at closing within 30 days. This sale is not contingent upon Purchaser's ability to obtain financing. No credit cards will be accepted. Driver's License or State Identification must be presented upon acceptance of checks.
- B. Any person bidding on behalf of another person or entity must have a valid, legally enforceable, unexpired, Power of Attorney approved by Seller before the auction.
- C. By submitting a bid in the name of a business entity or corporation, the individual submitting the bid has the authority to bid and enters into a guaranty agreement whereby he or she personally guarantees payment of the bid amount.
- D. **LIVE/ONSITE REGISTRATION FEE:** A certified or cashier's check made payable to Target Auction Escrow Account in the amount of **\$10,000.00** is required to bid live (in person). The Registration Fee will be returned after the auction if not declared the successful bidder.
- E. **REMOTE/ONLINE REGISTRATION FEE:** A wire transfer to Target Auction Escrow Account in the amount of **\$10,000.00**. Wire instructions available upon request. The Registration Fee will be returned promptly if not declared the successful bidder.
- F. A 10% Buyer's Premium will be added to the final bid to determine the total contract price paid by the purchaser.
- G. If for any reason the high bidder fails or refuses to execute the Contract for Sale & Purchase ("Sales Contract") and/or deposit the required funds immediately after being confirmed the high bidder, the Seller reserves the right to declare the bidder's rights forfeited and may resell the property and retain the registration fee.
- H. The existing Furniture, Fixtures & Equipment will be sold with the real estate. See posted inventory.
- I. Possession of property will be at closing.
- J. SURVEY: The property has not been surveyed for the Auction and will be selling by existing legal description. Should purchaser desire any survey work, it will be at purchaser's option and expense, and will not affect the closing. If a survey shows a greater or lesser amount of acreage, the contract price will not be adjusted.

2) PROPERTY DISCLOSURES

- A) The property is selling subject to all restrictions, rights-of-way and easements of record.
- B) This property is selling subject to all matters contained in the title commitment which is available for review prior to the auction event.
- C) Seller will convey all mineral, gas or oil rights applicable to the Property owned by Seller, if any.
- D) The property is selling "AS IS, WHERE IS".
- E) The property has covenants and restrictions in place which expire August 2019. See posted Title Commitment.

3) PROPERTY INFORMATION

- A) The 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 Contract for Sale and Purchase and the Title Commitment.
- B) The Property is selling "AS IS" subject to, and any CONTRACT IS NOT CONTINGENT upon, any state of facts an updated survey or personal inspection of the Property may reveal, any existing or proposed rights-of-way, prior reservation or conveyances, restrictive or protective covenants, easements, encroachments, rights or claims of parties in possession, zoning, building codes,

permits, governmental agencies regulations, environmental conditions (including but not limited to wetlands, riparian, or littoral rights), flood zones, zoning or subdivision regulations, hazardous materials, water rights or water access, mineral rights or reservations, leases or tenancies, and subject to all title exceptions as set forth in the Title Commitment.

4) PROPERTY INSPECTION

- A) It is the purchaser’s sole responsibility, before bidding, to: 1) inspect the real property and the immediate surroundings, and to be satisfied as to their condition prior to bidding; 2) review all property information; 3) independently verify any information they deem important including information available in public records; and 4) inquire of public officials as to the applicability of and compliance with land use laws, zoning, building codes, health, sanitary, safety and fire codes, any environmental laws and regulations, and any other local, state or federal laws and regulations.
- B) All information contained in any and all promotional materials, including, but not limited to, square footages, acreage, dimensions, zoning, maps, taxes, etc., was provided by the Seller and is believed to be correct; however, neither the Seller nor the Auction Company makes any guarantee or warranty as to the accuracy or completeness of such information. Neither the Seller nor the Auctioneer is required to update any information.
- C) Any work performed by a potential bidder or on behalf of a potential bidder is solely at the expense and responsibility of the potential bidder.

Purchaser and/or Purchaser’s Agent/Broker shall bear the responsibility to confirm all information relevant to the property prior to bidding and/or for verifying all acreage and square footage amounts through public records.

5) BIDDER REGISTRATION

- A. **Live/Onsite:** To register to bid at the auction, you must sign in at the registration table to obtain a bidder number. A certified or cashier’s check made payable to Target Auction Escrow Account in the amount of **\$10,000.00 is required to bid live (in person)**. The bid/offer made by the Bidder on auction day shall be binding on the Bidder. The confirmed Bidder (the “Purchaser”) shall pay the required Earnest Money Deposit to Target Auction Escrow Account on auction day and shall execute and deliver a completed Contract for Sale and Purchase (the “Sales Contract”), together with all related Exhibits for such Property at the Auction. The fully-executed Sales Contract (together with all related Exhibits thereto) shall control all terms and conditions of the sale and constitute the entire agreement between Purchaser and Seller. In the event of any conflict between these Terms and Conditions of Sale and Terms and Conditions of such Sales Contract, the Terms and Conditions of the Sales Contract shall prevail. **NO CHANGES TO THE TERMS OF THE SALES CONTRACT WILL BE PERMITTED. PURCHASER WILL BE REQUIRED TO ENTER INTO THE SALES CONTRACT “AS IS” ON AUCTION DAY.**
- B. **Remote/Online:** To register for online bidding, the bidder must (1) complete the required online registration found on the property’s page on www.targetauction.com, (2) wire the required funds to Target Auction Escrow Account and (3) be approved by Target Auction Company. **The funds required for online bidding are: \$10,000.00.** Wire Instructions available upon request. The bid/offer made by the Bidder on auction day shall be binding on the Bidder. The Winning Bidder (the “Purchaser”) shall pay and wire the required TEN PERCENT (10%) Earnest Money Deposit, based on Total Contract Price, to Target Auction Escrow Account by the end of next business day and shall execute and deliver to Target Auction a completed Contract To Sell and Purchase (the “Contract”) on Auction Day, together with all related Exhibits for such Property. The fully executed Contract (together with all related Exhibits thereto) shall control all Terms and Conditions of Sale and constitute the entire agreement between Purchaser and Seller. In the event of any conflict between these Terms and Conditions of Sale and Terms and Conditions of such Contract, the Terms and Conditions of the Contract shall prevail. **NO CHANGES TO THE TERMS OF THE CONTRACT WILL BE PERMITTED. PURCHASER WILL BE REQUIRED TO ENTER INTO THE CONTRACT “AS IS” ON AUCTION DAY. MaxBids** that are placed on the online bidding platform are private; however they can be seen by Auctioneer.
- C. Auctioneer reserves the right to bid on behalf of the Seller (on all reserve auctions) up to the reserve amount. Seller has the right to modify the reserve at any time.

6) CLOSING

- A) **Closing shall be scheduled on or before Monday, October 29th, 2018.** Target Auction Company shall deposit, in their Escrow Account, the down payment until closing of the property. Closing will be completed by Maynard Cooper & Gale located at 1901 Sixth Avenue North, Suite 2400, Birmingham, Alabama 35203. Contact Baker Findley 205-254-1119 bfindley@maynardcooper.com. Wire instructions will be provided. **It is the Purchaser’s responsibility to schedule your closing. Deadline to close is on or before Monday, October 29th, 2018.**
- B) The proceeds due from the Purchaser at closing shall be in U.S. cash, locally drawn bank, certified or cashier’s check or confirmed wire transfer sent to Maynard Cooper & Gale. Wire instructions will be provided.
- C) Seller will pay for preparation of the deed, title opinion/commitment, and prorated taxes. Purchaser will be required to pay all other closing cost including but not limited to survey fees, recording fees, attorney’s fees, title insurance and loan/financing fees if any, etc. All taxes will be prorated to day of closing.

D) If Purchaser is obtaining a loan to finance the property purchase, purchaser agrees not to use any lender that restricts the selling agents fee’s, commission, or any expense money that is due Target Auction Co. It is the Purchaser’s responsibility to inquire in advance of loan application / commitment with lender about any fee restriction to Seller’s agent. This sale is not contingent upon Purchaser’s ability to obtain financing.

7) DEFAULT

It is agreed by all parties that in the event the Purchaser fails to close and pay his/her balance when due, Seller and Auction Company reserves 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 Earnest Money Deposit. 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 attorneys fee.

8) 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.

9) DISCLAIMER

- A) Personal on-site inspection of the property is recommended and bidders are advised to independently verify all information they deem important. This property is being sold “as is, where is” and “with all faults”. The seller, auctioneer, and/or auction company have not made, do not make and will not make, and hereby disclaim any representation or warranty, whether expressed or implied or statutory, whether oral or written, with respect to the property, including, without limitation, any warranty as to their value, condition, suitability, merchantability, marketability, operability, tenant ability, habitability, zoning or subdivision regulations, mineral rights, environmental condition, soil condition, sink holes or percolation, compliance with any building code, safety and health codes, or other governmental agency rules or regulations, or fitness for a particular use or purpose. No guarantees are given as to the availability of utilities or accesses or the permitted or allowable uses on the property.
- B) Neither the Seller, its Attorneys, any Broker, nor the Auction Company shall be liable for any relief including damages, rescission, reformation, allowance or adjustments based on the failure of the property, including, but not limited to, amount of square feet, acreage, zoning, and environmental or hazardous conditions to conform to any specific standard or expectation, or any third party documents or information.

10) EQUAL OPPORTUNITY CLAUSE

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

11) AUCTIONEER’S NOTE

- A) All decisions of the Auctioneer are final as to the methods of bidding, disputes among bidders, increments of bidding and any other matters that may arise before, during, or after the auction. Auctioneer reserves the right to deny any person to participate in the Auction or expel anyone from the Auction whom attempts to disrupt the Auction.
- B) All announcements made Auction Day supercede any prior oral or written statements. The Seller reserves the right to add to or delete all or a portion of the Property prior to commencement of the bidding, by gavel of Auctioneer, for that Lot or portion of the Property, before or at the Auction. Target Auction may at its discretion, change or modify any part of the sales contract or terms of sale at any time prior to contract without further notice to any bidder or Purchaser.

12) LIABILITY

ALL PERSONS WHO ATTEND THE SALE OR VIEW PROPERTIES DO SO AT THEIR OWN RISK. NEITHER THE SELLERS AND/OR TARGET AUCTION COMPANY NOR ANY OTHER PERSON CONNECTED WITH THE SALE ASSUME ANY LIABILITY LEGAL OR OTHERWISE, FOR ANY ACCIDENTS, WHICH MAY OCCUR. TARGET AUCTION CO. IS ACTING AS SELLING AGENTS ONLY.

13) SIGNATURES

Electronic Signatures and Facsimiles shall serve as valid authority for this document and all documents pertaining thereto.

By signing below, Purchaser(s) and Seller(s) acknowledge this ‘Exhibit A’ consists of three pages, has read and understood same and is made a part of the CONTRACT FOR SALE AND PURCHASE.

Executed by Purchaser(s) on _____, 2018

Executed by Seller(s) on _____, 2018

Academy Real Estate LLC. Managing Member