

**TERMS AND CONDITIONS OF SALE**

10 Lots in Shangri-La Subdivision

Boaz, Marshall County, AL 35957

Online Bidding Begins May 25th. Live Auction Saturday, June 8th, 2019 at 10:00 am (CT) at the Boaz Public Library (Mastin Room).

**TARGET AUCTION & LAND COMPANY, INC.** (“Auction Company”/“Auctioneer”) has a contract with **Reedy Morris Estate** (Hereinafter referred to as the “Seller”), to offer at auction 10 Lots in the Shangri-La Subdivision (“Property”) located in Boaz, AL 35957, selling at Absolute Auction to the Highest Bidder(s) with no minimums and no reserves.

***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 CONTRACT PRICE**

The 10 lots will be offered individually.

The Auctioneer and Seller reserve the right to sell the property in any manner they so desire. Individual purchases are to be considered as singular transactions and are not contingent upon the sale of any other properties. The Property will be selling for division of heirs. Any heir has the right to bid and buy under the same terms as any other bidder.

**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 at the conclusion of the auction (for a live winning bidder) or by 4:00 pm CT on Monday, June 10th (for an online winning bidder). The remaining balance due at closing within 30 days. The Contract for Sale & Purchase (“Sales Contract”) shall be executed on auction day immediately after being declared the winning bidder (“Purchaser”). This sale is not contingent upon the Purchaser’s ability to obtain financing. No credit cards will be accepted.
- B. A 10% Buyer’s Premium will be added to the final bid to determine the Total Contract Price paid by the Purchaser.
- C. Any person bidding on behalf of another person or entity must have a valid, legally enforceable, unexpired, Power of Attorney approved by Auctioneer before the being approved to place bids.
- D. 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 s/he personally guarantees payment of the bid amount.
- E. 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, the Seller reserves the right to declare the bidder’s rights forfeited and may resell the property.
- F. No personal property will be conveyed with the real estate. However, the lake fountain/aerator will be given to the Purchaser of Lot #6. Presently, the power for the fountain/aerator is connected to Lot #6.
- G. Possession of property will be at closing.
- H. The down payment will be held in a non-interest bearing Escrow Account by Target Auction Company.
- I. No advance registration fee is required to bid on the lots.
- J. The down payment will be forfeited should Purchaser not perform as outlined herein.
- K. SURVEY: The property is a recorded subdivision and will be conveyed by the 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 Sales Contract price will not be adjusted.

**2. PROPERTY DISCLOSURES**

- A. The Property is selling subject to all matters contained in the Title Commitment (which is available for review) including all restrictions, zoning, rights-of-way, easements of record, riparian rights, and any other items of record.
- B. Seller will convey all mineral, gas or oil rights applicable to the Property owned by Seller, if any.
- C. The property is selling “AS IS, WHERE IS”.
- D. An existing boathouse and pier are located on Lot #6 and will be allowed to remain. The restrictive covenants state no improvements to be constructed in the lake; however, these improvements will be grandfathered in.

- E. An existing pier is located on Lot #7 and will be allowed to remain. The restrictive covenants state no improvements to be constructed in the lake; however, this improvement will be grandfathered in.
- F. Lot #21 has an irrigation system with the water supply coming from another lot. The water supply to the irrigation system will be shut off.
- G. **Out Parcel 3 and Out Parcel 4 will be offered and sold as one lot.** Out Parcel 3 and Out Parcel 4 are not depicted as Lots on the Plat of Shangrila II subdivision recorded in Plat Book 8, page 115 of the county probate records, and though no set back and/or set in lines are depicted on said Plat, said Out Parcels are subject to building set back and/or set in lines and other ordinances or regulations as may now or hereafter determined by the City of Boaz, Alabama. Those Out Parcels are also subject to the building and other restrictions contained in the applicable Restrictive Covenants of the Subdivision. Neither the Seller nor the auction company, nor any of their respective agents or employees make any representation that a residence or other improvement could be constructed on either or both of those Out Parcels, and such matters will be reflected as exceptions from coverage on any title insurance policy to be issued.
- H. Lot #18 will be sold subject to a 15’ easement along the southern and eastern boundary lines to allow ingress and egress for mowing, maintaining, and improving the dam parcel.
- I. The Purchasers of the lakefront lots (6, 7, 8, 10, 14, and 18) will be deeded an equal 1/14 undivided interest in: (1) the 1.98± acre out parcel where the dam is located, (2) any remaining interest owned by the Seller in the lake, and (3) the 15’ easement on lot #18 as referenced in item “H” above. These interests will remain with the lot and cannot be severed and can only be conveyed to a third party with conveyance of a lakefront lot.

**3. PROPERTY INFORMATION**

- A. The Property will be conveyed by Special Warranty Deed free and clear of all liens and encumbrances subject to any liens and encumbrances contained in the Sales Contract and the Title Commitment.
- B. The Property is selling “AS IS, WHERE IS” and the SALES 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 Property and the immediate surroundings, and to be satisfied as to its condition prior to bidding; 2) review all Property information; 3) independently verify any information deemed important including, but not limited to, 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, income, 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.
- D. Purchaser and/or Purchaser’s Agent/Broker shall bear the responsibility to confirm all information relevant to the Property prior to bidding.

**5. BIDDER REGISTRATION & BIDDING DETAILS**

- A. *ONLINE Bidding Requirements:*
  - 1. Bidder must complete the required online registration found on the Property’s bid page on [www.targetauction.com](http://www.targetauction.com).
  - 2. Bidder must be approved by Auction Company.
- B. *LIVE Bidding Requirements:*

Bidder must register onsite auction day to obtain a bidder number.
- C. The Purchaser must pay the required TEN PERCENT (10%) down payment (based on Total Contract Price) to Target Auction Escrow Account immediately (for live bidders) and by 4:00 p.m., Monday, June 10<sup>th</sup> (for online bidders). Deposits will be deposited into Target Auction Company’s Escrow Account.
- D. Any bid/offer made by a bidder either online or at the live auction shall be binding on the bidder.

- E. The Purchaser shall execute and return to Auction Company a completed Sales Contract on auction day, together with all related Exhibits for such Property. The fully-executed Sales Contract (together with all related Exhibits thereto, including this Exhibit) shall control all Terms and Conditions of Sale and constitute the entire agreement between Purchaser and Seller. 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.
- F. **MaxBids** that are placed on the online bidding platform are private; however they can be seen by Auctioneer.

**6. CLOSING**

- A. **Closing shall be scheduled on or before Monday, July 8th, 2019.** The balance of the Total Contract Price is due at closing. The closing will be completed by [Shannon Mitchell, Attorney at Law located at 140 North Main Street, Boaz, AL 35957, contact Shannon Mitchell, 256-593-7130 or shannon@jshannonmitchell.com](#). It is the Purchaser’s responsibility to schedule your closing. **Deadline to close is on or before Monday, July 8th, 2019.** [Shannon Mitchell, Attorney at Law](#) will act as closing agent and will issue the owner’s and lender’s title insurance policies.
- B. The proceeds due from the Purchaser at closing shall be delivered to [Shannon Mitchell, Attorney at Law](#).
- C. **Seller** will pay for preparation of the deed, title exam/commitment and prorated taxes. **Purchaser** will be required to pay all other closing cost, including but not limited to, title insurance policy, survey fees, recording fees, attorney’s fees, wiring fees 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 agent’s fees, commission, or any expense money that is due Auctioneer. It is the Purchaser’s responsibility to inquire in advance of loan application/commitment with lender about any fee restriction to the 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 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, escrow agent is expressly authorized and instructed to disburse the Down Payment without the requirement of any further writing or agreement of the Seller and/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. This agreement shall be interpreted under the laws of the State of Alabama and the venue and jurisdiction for any action filed in relation to this agreement shall be in the state courts sitting in Marshall County, Alabama.

**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, income, 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, Escrow Agent, 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 supersede 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. Auction Company may, at its discretion, change or modify any part of the Sales Contract or terms of sale at any time prior to execution of Sales 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 SELLER 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 COMPANY IS ACTING AS SELLING AGENT ONLY.

**13. SIGNATURES**

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

**14. COUNTERPARTS**

This contract may be executed in counterparts, each of which is deemed an original and together constitute one document.

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

**Executed by Purchaser(s) on June 8th, 2019**

**Executed by Seller(s) on June 8th, 2019**

\_\_\_\_\_  
**Purchaser**

**SELLER:**  
**REEDY MORRIS ESTATE**

\_\_\_\_\_  
**Purchaser**

**BY:** \_\_\_\_\_  
**GERALD R. ROWE, JR.**  
**ITS: Personal Representative**