

AGREEMENT TO PURCHASE

To: **Estate of Todd Weinberg** ("Seller")

Date: **December 14, 2020**

I/We the undersigned Buyer(s) ("Buyer") offer to purchase Tract(s) _____, being approx. _____ (±) acres of land in Kalamazoo County, Michigan, as identified by reference to the same tract number(s) in the attached **Exhibit A** (the "Property"), and being one or both of the tracts put up for bids at the public auction conducted on this date by Schrader Real Estate and Auction Company, Inc. ("Auction Company"). This offer incorporates the terms and conditions set forth herein, the Auction Tract Map attached as **Exhibit A** and the auction announcements attached as **Addendum A** (collectively, this "Agreement").

- PURCHASE PRICE.** The purchase price is \$ _____, to be paid via wired funds at closing (plus expenses charged to Buyer, less applied Earnest Money and any other credits due Buyer, as provided in this Agreement). The purchase price shall be adjusted at closing if and only if an adjustment is applicable in accordance with the terms of Addendum A.
- EARNEST MONEY.** Buyer shall deliver to Auction Company an earnest money deposit in the amount of \$ _____ ("Earnest Money") **on or before Tuesday, December 15, 2020**, to be held in escrow and applied to the purchase price at closing.
- TAXES AND ASSESSMENTS.** "Seller's Taxes" refers to: (a) 2020 winter real estate taxes (due in Dec. 2020 - Feb. 2021) and any prior unpaid taxes; and (b) any special assessments payable prior to and/or payable with said winter tax installment. Any unpaid Seller's Taxes shall be withheld from Seller's proceeds at closing and paid directly to the appropriate tax collection office; *provided, however*, any portion of Seller's Taxes that is not ascertainable and payable at the time of closing shall be estimated based on 100% of the amount last billed for the same period and the amount thus estimated shall be paid via credit against the sums due from Buyer at closing, with no further settlement or adjustment after closing. Buyer shall then pay all real estate taxes and assessments when due after closing.
- SURVEY.** A new survey shall be obtained if and only if obtained in accordance with the provisions of Addendum A.
- DEED; TITLE INSURANCE.** The Property shall be conveyed by **Personal Representative's Deed** (subject to the Permitted Exceptions), to be furnished at Seller's expense. Seller shall furnish a commitment, updated to a date after the Auction and prior to closing, for the issuance of a standard owner's title insurance policy in the amount of the purchase price insuring marketable title to the Property in Buyer's name, subject to standard exceptions, conditions and requirements and subject to the Permitted Exceptions (the "Final Title Commitment"). At closing, Seller shall pay for the cost of issuing a standard owner's title insurance policy in accordance with the Final Title Commitment.
- PERMITTED EXCEPTIONS.** Buyer agrees to accept title, title insurance and any survey subject to and notwithstanding any of the following matters (collectively, the "Permitted Exceptions"): (a) existing roads, utilities and drains; (b) any visible or apparent use; (c) any variation between a deeded boundary line and a fence line, field line, ditch line or other visible or apparent occupancy or occupancy line; (d) any easement, condition, restriction or other matter of record (except a mortgage, lien or land contract); (e) any outstanding right or severance as to minerals; (f) any recorded oil and gas lease, active or not; (g) a lien for property taxes or assessments not yet payable; (h) any matter disclosed in this Agreement; and/or (i) any matter (except a mortgage, lien or land contract) disclosed or referenced in the preliminary title insurance schedules described in Addendum A. Buyer is not required to assume or take title subject to any mortgage or land contract.
- CLOSING.** Closing shall be held **on or before January 14, 2021** (or as soon as possible after said date upon completion of the survey, if applicable, the Final Title Commitment and Seller's closing documents). The closing shall be held at and/or administered through the office of **Patrick Abstract and Title Office, Inc., 128 W. Main St., Centreville, MI (Tel: 269-467-9885)**, or otherwise as mutually agreed. If Seller is unable to convey the Property in conformance with the requirements of this Agreement, either party may terminate this Agreement by written notice to the other and, in the event of such termination by either party, Buyer shall receive the Earnest Money as Buyer's sole and exclusive remedy; *provided, however*, prior to any such termination by Buyer, Buyer must give Seller sufficient written notice of the nonconformity to enable Seller to cure the nonconformity and Seller shall have the right to extend the closing date for up to 30 days after receiving such notice in order to cure such nonconformity.
- RISK OF LOSS.** The Property shall be conveyed at closing in substantially its present condition, normal wear and tear excepted. Seller assumes the risk of loss and damage until closing. Seller's insurance may be canceled as of the closing date.
- POSSESSION.** Possession shall be delivered in accordance with Addendum A.
- THE PROPERTY IS SOLD "AS IS, WHERE IS". ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE PROPERTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. IN NO EVENT SHALL SELLER OR AUCTION COMPANY BE LIABLE FOR CONSEQUENTIAL DAMAGES.**
- REMEDIES.** If the Earnest Money is not effectively paid in accordance with this Agreement **or** if this sale fails to close due to Buyer's default (each a "Buyer Default"), Seller shall have the right to recover 10% of the purchase price as liquidated damages **and** the right to give notice terminating Buyer's right to acquire the Property (without prejudice to the right to recover liquidated damages). Upon such termination, Seller shall have the absolute and unconditional right to re-sell the Property free and clear of any right or claim of Buyer. Buyer agrees that 10% of the purchase price is fairly proportionate to the amount of Seller's damages due to a Buyer Default, which damages would otherwise be uncertain and difficult to ascertain. If such liquidated damages are adjudicated as unenforceable, Seller may recover actual damages plus attorney fees and expenses. If this sale fails to close due to Seller's default: (a) Buyer shall have the right to demand and receive a refund of the Earnest Money and, upon such demand and receipt, this Agreement shall be terminated in all respects; or (b) at any time prior to such termination, Buyer may elect instead to seek specific performance. If this sale fails to close, the Earnest Money shall be retained in escrow pending disbursement instructions: (i) signed by both parties (or by one party authorizing disbursement to the other); or (ii) in a final court order. In the event of a Buyer Default, Buyer agrees to sign and deliver a release of the Earnest Money for payment of the liquidated damages due Seller and, if Buyer fails to do so, Seller shall have the right to recover (in addition to any other recovery) attorney's fees and other expenses thereafter incurred by Seller in seeking to enforce any right or remedy. In a lawsuit to enforce a right or remedy under this Agreement, the prevailing party shall recover attorneys' fees and expenses and **ANY RIGHT TO A TRIAL BY JURY IS WAIVED.**
- AGENCY.** Auction Company and its affiliated agents represent only Seller, not Buyer. This Agreement is between Buyer and Seller. Auction Company and its agents and representatives shall not be liable for any defect or deficiency in any land, improvements, fixtures or equipment.
- 1031 EXCHANGE.** Each party shall reasonably cooperate if another party intends to structure the transfer or acquisition of the Property as part of an exchange under 26 U.S.C. § 1031 ("Exchange"). This Agreement may be assigned for purposes of an Exchange, but the assignor shall not be released from any obligation. A party is not required to assume or incur any additional obligation in connection with another party's Exchange.
- GENERAL PROVISIONS.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives and successors. This Agreement constitutes the entire agreement between Buyer and Seller regarding the Property. Neither party is relying upon any other statement or promise and neither shall be bound by any purported oral modification or waiver. Time is of the essence. All terms and conditions of this Agreement (including Addendum A) shall survive the closing. This Agreement to Purchase and Addendum A shall be read and construed together as a harmonious whole. This Agreement may be executed in multiple counterparts, all of which together shall constitute the same instrument and, for such purposes, the electronic transmission of a signed counterpart via email, fax or a commonly-used electronic signature service such as DocuSign® shall have the same effect as the delivery of an original signature.
- ACCEPTANCE DEADLINE.** This offer shall be deemed automatically withdrawn and the Earnest Money shall be returned to Buyer if this offer is not accepted by Seller in writing on or before 11:59 pm on **Tuesday, December 15, 2020**.

Printed Name(s) of Buyer(s): _____

Signature(s) of Buyer(s): _____

Address: _____ Phone: _____

Deed to: _____ Lender/Contact: _____

ACCEPTED BY SELLER on December _____, 2020:

Sign: _____
(Joanna Weinberg, signing as Personal Representative of
the Estate of Todd Weinberg)

EARNEST MONEY in the amt. of \$ _____
was received by the Auction Company on December _____, 2020.

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC.,

By: _____

Print: _____

EXHIBIT A

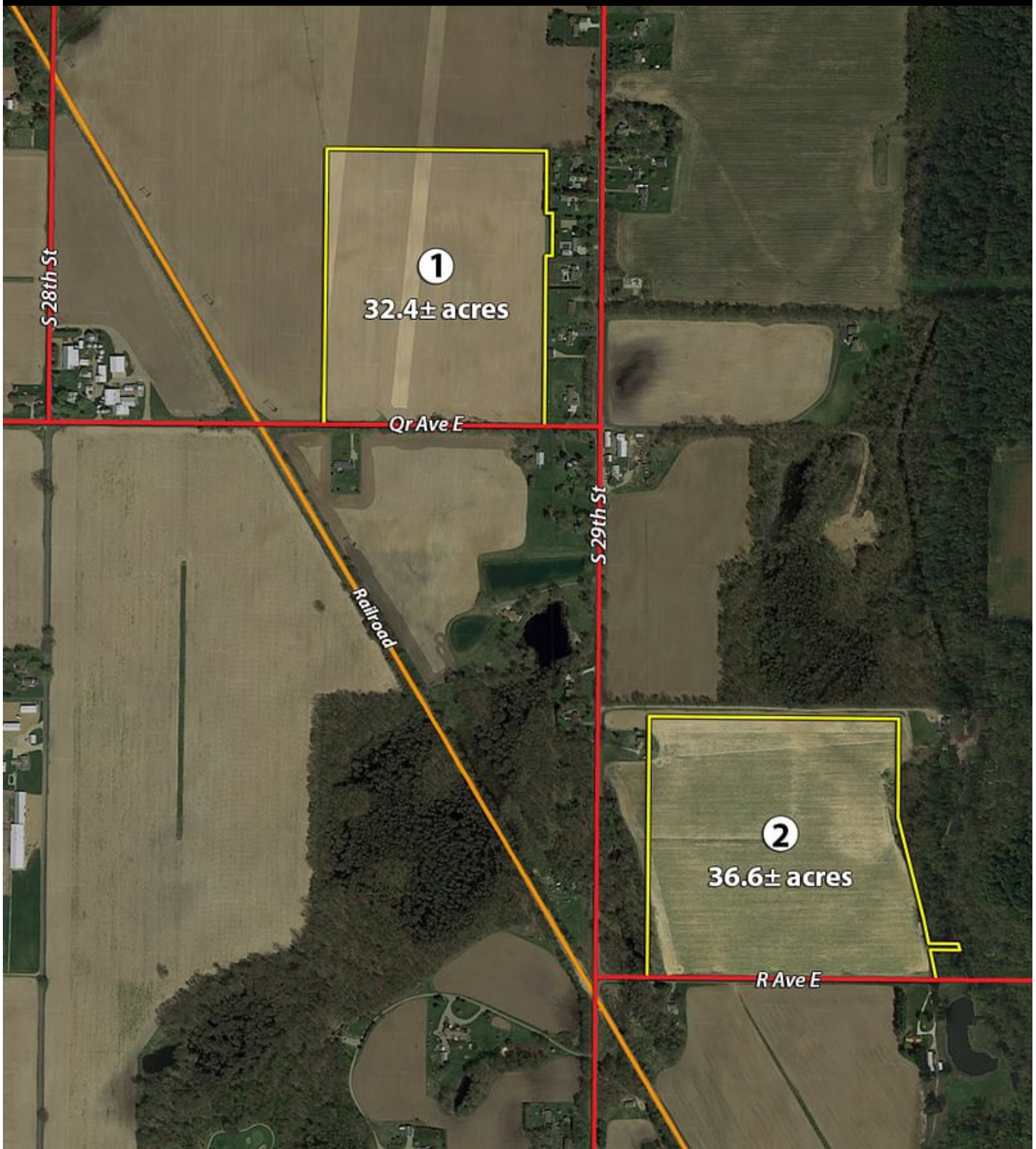
Auction Tract Map

Buyer(s): _____

Seller: _____

Auction Date: 12/14/2020

Pt. Sec. 21-T3S-R10W (Pavilion Twp.) in Kalamazoo County, State of Michigan



Boundary lines and/or acreages depicted in the marketing materials and auction tract maps, including this Exhibit A, are approximations and are provided for identification and illustration purposes only. They are not provided or intended as survey products or as authoritative representations of property boundaries and/or acreages.

Buyer(s): _____

Seller: _____

ADDENDUM A

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC.

Auction Marketing Specialists Nationwide

Date: December 14, 2020

Owner: Estate of Todd Weinberg

Sale Managers: Ed Boyer and Ted Boyer

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC. welcomes you to bid
YOUR price on the real estate offered at this auction.

PART A - BIDDING PROCEDURES TO KEEP IN MIND:

1. Bidding is open to registered bidders who have made arrangements with the Auction Company to bid online or via telephone. The auction will be conducted by and at the direction of the auctioneer calling for bids via live simulcast.
2. The terms of sale are contained in the Agreement to Purchase, Exhibit A and this Addendum A, all of which have been posted to the auction website and included in the Bidder's Packets distributed via email prior to the auction.
3. You may bid on either tract or the entire property. Bidding will remain open on the individual tracts and the entire property until the close of the auction.
4. Bidding will be on a lump sum basis. Minimum bids are at the auctioneer's discretion.
5. Bids are not contingent on financing, so be sure you have arranged financing, if needed, and are able to pay cash at closing.
6. The final bid(s) are subject to the Seller's acceptance or rejection. The final bid(s) may be accepted on the evening of the auction or any time the following day.

PART B - TERMS OF SALE OUTLINED:

7. Buyer shall deliver an earnest money deposit to Auction Company in the amount of 10% of the purchase price. The earnest money may be delivered by check or wire transfer, but it must be received by Auction Company **on or before Tuesday, December 15, 2020.**
8. The balance of the purchase price is due in cash at closing.
9. The closing will be scheduled in accordance with the Agreement to Purchase in your Bidder's Packet. The targeted closing period is on or before January 14, 2021. Delivery of title and possession will be effective upon completion of the closing.

10. The closing agent's fee to administer the closing will be shared equally (50:50) between Buyer and Seller. Buyer will pay all costs of any loan obtained by Buyer.
11. The 2020 winter taxes (due in Dec. 2020 – Feb. 2021) will be paid by Seller at the time of closing (if not sooner) in accordance with the Agreement to Purchase. Buyer will then assume and pay all real estate taxes and assessments due after closing.
12. Seller will furnish the deed and owner's title insurance at Seller's expense in accordance with the terms of Section 5 of the Agreement to Purchase.
13. Preliminary title insurance schedules dated November 3, 2020 have been prepared by Patrick Abstract and Title Office and posted to the auction website, along with copies of the recorded documents listed as exceptions.
14. Buyer agrees to accept the title and acquire the purchased tract(s) subject to all easements and other "Permitted Exceptions" as defined in Section 6 of the Agreement to Purchase.
15. The property is to be conveyed to Buyer free and clear of the mortgages and land contract referenced in the preliminary title insurance schedules. The mortgages are to be released in connection with the Tract 1 closing. The land contract is to be satisfied in connection with the Tract 2 closing (as evidenced by the recording of a deed from the contract seller).
16. It is expected that the property will be conveyed using existing legal descriptions, without obtaining a new survey. A new survey shall be obtained if and only if: (a) the official(s) responsible for recording the deed will not accept the conveyance for recording without a new survey; or (b) Seller elects to obtain a new survey for any other reason in Seller's sole discretion.
17. If a new survey is obtained, the survey shall be ordered by the Auction Company and shall be sufficient for the purpose of recording the conveyance, but the type of survey shall otherwise be determined solely by the Seller.
18. The cost of any survey obtained in accordance with this Addendum A shall be shared equally (50:50) by Seller and Buyer.
19. If a new survey is obtained for any closing in accordance with the provisions of this Addendum A, the purchase price shall be adjusted proportionately to reflect the difference, if any, between the acre estimates shown in Exhibit A and the gross acres shown in the survey.
20. The acres shown in Exhibit A have been estimated based on the approximate total acres shown in the property tax records and existing legal descriptions. No warranty or authoritative representation is made as to the number of gross acres or tillable acres included with either tract.
21. The auction tract maps depicted in Exhibit A and the auction marketing materials are approximations provided for identification and illustration purposes only. They are not

provided as survey products and are not intended to depict or establish authoritative boundaries or locations.

22. If a dispute arises prior to closing as to the location of any boundary, the Auction Company may (but need not) terminate the purchase contract by giving written notice of termination to Buyer, but only with the Seller's consent. In the event of such termination, the earnest money shall be refunded to Buyer and the property may be re-sold free and clear of any claim of Buyer. In lieu of consenting to such termination, Seller may elect instead to enforce the purchase contract according to its terms.
23. The sale of Tract 2 includes the irrigation system currently located on Tract 2, including the Valley 4-tower center pivot, water pump and intake pipe. The Buyer of Tract 2 will be responsible for making any necessary adjustments to the pivot if it crosses, overhangs and/or sprays over any boundary line.
24. Seller will have no obligation to grant any particular division rights under Public Act 591.
25. Property taxes may be subject to recapture and adjustment if the property has been taxed as qualified agricultural property and does not remain as such. Buyer shall be responsible for payment of any recapture tax that becomes due because of an act or omission of Buyer (such as a change in use or failure to file an affidavit with the register of deeds and assessor regarding continuation of the qualified use).
26. Your bids are to be based solely upon your inspection. All property is sold "AS IS" without any warranty. Without limiting the foregoing provisions, Seller and Auction Company and their respective agents and representatives make no warranty or authoritative representation as to: (a) zoning matters; (b) whether or not the property qualifies for any particular use; (c) the availability or location of utilities; (d) the availability of any building permit, driveway permit, septic permit or any other permit; or (e) the accuracy of any materials or information prepared or provided by any third party regarding the auction and/or the property.
27. At the close of the auction, each high bidder shall execute a purchase contract consisting of the Agreement to Purchase, Exhibit A and this Addendum A. The terms of these documents are non-negotiable.
28. You will be closing on the tract or combination of tracts on which you are the successful bidder in the manner in which you bid at the auction.
29. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Seller.

Thank you for your interest in this offering. If you have any questions, please feel free to talk to one of our representatives.

ANY ANNOUNCEMENTS MADE BY THE AUCTIONEER
TAKE PRECEDENCE OVER THIS PRINTED MATERIAL.