

DRAFT

AGREEMENT TO PURCHASE REAL ESTATE AT PUBLIC AUCTION

THIS AGREEMENT TO PURCHASE REAL ESTATE AT PUBLIC AUCTION ("Contract"), made and entered into as of this 19th day of November, 2011, by and between the _____

_____ hereinafter referred to as "Seller" and _____ ("Buyer"), as a bidder on the Property (as hereinafter defined) at the Auction this date, is made subject to the following terms, covenants and conditions:

1. **PROPERTY.** Seller agrees to sell and Buyer agrees to purchase the real estate designated in the auction brochure as Tracts(s) _____, the same being part of the real estate described on the attached Exhibit A, containing approximately _____ acres, together with all buildings, permanent improvements, fixtures attached thereto (unless otherwise EXCLUDED), all privileges and appurtenances pertaining thereto, including non-exclusive easement rights for purposes of ingress and egress, and utilities services to and from said property and the public road, leases, rents, and security deposits, all of the above hereinafter collectively called "Property." Buyer hereby acknowledges and understands that the Property is being sold on an "as is, where is" basis.

Buyer further acknowledges that this Contract is not contingent upon financing and that failure to close this transaction between December 20, 2011 and January 20, 2012, at a time and place designated by Seller, unless extended by mutual consent by Buyer and Seller, will constitute a breach of this agreement on the part of the Buyer. Upon such breach, Buyer shall forfeit to Seller the Earnest Money (as hereinafter defined).

2. **PURCHASE PRICE.**

BID PRICE: Buyer hereby submits a bid of \$ _____ (the "Bid Price") for the Property.

BUYER'S PREMIUM AND PURCHASE PRICE: A 3% Buyer's Premium is added to the "Bid Price" to determine the total contract "Purchase Price". The total contract "Purchase Price" is \$ _____. Seller accepts said total contract "Purchase Price" to be paid by Buyer for the Property.

If a new survey is used to provide the legal description for the Property and if the acreage in said surveyed description varies more than 1.0 acre from the acreage stated for the Property herein, then the Purchase Price shall be adjusted pro rata in accordance with the acreage disclosed by the survey.

EARNEST MONEY: Buyer hereby tenders \$ _____ payable to Schrader Real Estate & Auction Co., Inc. Earnest Money to be held in escrow upon acceptance for delivery to Seller at the time of closing or as otherwise provided herein (the "Earnest Money"). The balance of the Purchase Price shall be paid by Buyer to Seller at closing in cash or other form of payment acceptable to Seller.

3. **TITLE.** Seller has provided prior to the bidding at the auction a preliminary certificate of title for Buyer to review. Buyer will be purchasing the property free and clear of liens and in its current status as reflected in said preliminary certificate of title posted at the auction. Cost of Owner's Title Insurance Commitment ("Title Commitment") to be paid by Seller, with such Title Commitment to be in the customary form showing title to the Property in the name of Seller, subject to the following permitted exceptions: (i) rights or claims of parties in possession not shown by the public records; (ii) easements or claims of easements not shown by the public records; (iii) encroachments, overlaps, boundary line disputes or other matters which would be disclosed by an accurate survey or inspection of the Property; (iv) any lien or right of lien for services, labor or material heretofore or hereinafter furnished, imposed by law and not shown by the public record; (v) taxes or special assessments which are not shown as existing liens; (vi) any water, mineral or other rights already granted or reserved by other parties, including but not limited to any mineral leases; (vii) the rights of any current tenants in possession of the Property; (viii) any encroachments, easements, party walls or other facts which are not shown by the public records but which would be disclosed by an accurate survey or by an inspection of the land; and, (ix) such easements, covenants, restrictions, conditions and other matters, if any, identified in the Title Commitment.
4. **SURVEY.** If Seller elects, and said election shall be within its sole discretion, to obtain a new survey of the property in order to facilitate the transfer of the property, Seller and Buyer shall each pay one-half the cost of said survey. If Buyer does not serve written objection to the survey upon Seller within five days after Buyer's receipt of said survey, said failure shall be deemed an election by the Buyer to proceed to closing in accordance with the new survey. If Buyer does serve written objection to the survey within said five day period and if said objection relates to a material and substantial issue, then Seller may: 1) make reasonable effort to remedy the objection raised by the Buyer; or 2) terminate the purchase agreement and return the earnest money to the Buyer.
5. **CLOSING.** The closing shall take place between December 20, 2011 and January 20, 2012, at a time and place designated by Seller, that designation to be made not later than December 13, 2012. Concurrently with the closing, Buyer shall pay to Seller the Purchase Price, less the Earnest Money plus or minus other items as required by this Contract as provided for herein.

Upon full receipt of the entire Purchase Price by Seller, Seller shall deliver to Buyer a Warranty deed in order to convey to purchaser a good title to the premises, free and clear of all liens and incumbrances except as set forth elsewhere in this agreement.

Seller's Initials

Buyer's Initials

If any buildings or improvements are damaged or destroyed prior to the delivery of the deed, Buyer shall have the option: a) to receive the proceeds of any insurance payable in connection therewith and then go forward with the purchase of the premises as herein provided; or b) terminate this agreement.

Buyer shall pay the Closing Fee charged by closing agent, if any. Additional cost for a mortgage closing will also be paid by the Buyer.

6. **POSSESSION.** The possession of the property shall be delivered to Buyer at closing subject to any farm tenants' rights through February 28, 2012.
7. **WARRANTIES.** Buyer acknowledges that a full inspection of the Property and all related information was made including this Contract, and that Buyer is satisfied in all respects with the condition of the Property and all matters pertaining thereto. Buyer accepts the Property "as is" and in its present condition with Buyer assuming risk thereof. Buyer understands that Seller makes no warranty or representation of any kind, either express or implied or arising by operation of law, as to the condition, quality, serviceability or merchantability of fitness for a particular purpose of the Property or any portion thereof, and in no event shall Seller be liable for consequential damages. Buyer acknowledges that Seller has not agreed to perform any work on or about the Property as a condition of Buyer's purchase of the same. Buyer understands that by entering into this Contract and agreeing to accept the Property and pertinent structures in an "as is" condition, that Buyer is buying the Property subject to any and all recorded easements, leases, covenants and restrictions of record.
8. **INSURANCE.** All of the Seller's property insurance shall be canceled as of the date of closing.
9. **REAL ESTATE TAXES AND ASSESSMENTS.**
 - A. Buyer will receive credit at Closing for all real estate taxes, if any, on the Property for the year 2011, said taxes to be collected in 2012, and the amount of such credit will be based on 100% of the most recent tax bill for the Property. Buyer will pay all real estate taxes on the Property that become due after Closing.
 - B. Any special assessments applicable to the Property for improvements previously made to benefit the Property shall be paid by Seller. Buyer will assume and agree to pay all special assessments for improvements which are completed after the date of this Purchase Agreement.
10. **SALES EXPENSES.** Seller and Buyer agree that all sales expenses are to be paid in cash prior to or at the closing.
 - A. **SELLER'S EXPENSES:** Seller agrees to pay all costs of releasing existing loans, if any, and recording the releases; any applicable state and county transfer tax; one-half the cost of any survey; the cost of Owner's title insurance policy premium; preparation of deed and Seller's affidavit; the professional fee to the broker in this transaction; and any other expenses stipulated to be paid by Seller under other provisions of this contract.
 - B. **BUYER'S EXPENSES:** Buyer agrees to pay all expenses incident to any loan (e.g., loan commitment fees, preparation of note, mortgage, and other loan documents, recording fees, title examinations, cost of any lender's title insurance policy premium, prepayable interest, credit reports); the closing fee charged by closing agent, if any; one-half the cost of any survey; copies of documents pertaining to restrictions, easements, or conditions affecting the Property; and expenses stipulated to be paid by Buyer under other provisions of this contract.
11. **DEFAULT.** If Buyer breaches this Agreement and is in default: (a) Seller may seek specific performance or any other remedy provided by law or equity; or (b) Seller may treat this Agreement as being terminated and receive the Earnest Money as liquidated damages. If Seller successfully enforces specific performance of this Agreement against the Buyer or collects damages from the Buyer due to Buyer's default (by means of a judgment, settlement or by retention of the Earnest Money), then Seller agrees to pay the Auction Company one-half of the amount collected (less reasonable expenses, court costs, and attorney fees) in payment for Broker's services, provided, however, the amount paid to Broker shall not exceed the fee that could have been paid had this transaction closed.

If Seller breaches this Agreement and is in default, then the Earnest Money shall be returned to Buyer. In addition, if Seller is in default, the Buyer may seek specific performance or any other remedy provided by law or equity against the Seller. In the event of Seller default, Seller shall be obligated to pay the Auction Company the entire fee that would have been paid had this transaction closed.
12. **ENTIRE AGREEMENT.** This Contract embodies the entire agreement and understanding of Buyer and Seller with respect to the transactions contemplated hereby and merges in, supersedes and cancels all prior written or oral commitments, arrangements or understandings with respect thereto. There are no restrictions, agreements, promises, warranties, covenants or undertakings with respect to the transactions contemplated hereby other than those expressly set forth in this Contract.
13. **HEIRS, SUCCESSORS AND ASSIGNS.** This Contract shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and permitted assigns, provided, however, that Buyer may not assign its rights or obligations hereunder without the prior written consent of the Seller.
14. **TIME IS OF THE ESSENCE.** The time for performance of the obligations of the parties is of the essence of this Contract.

Seller's Initials

Buyer's Initials

15. **JURISDICTION.** This Contract shall be constructed in accordance with the laws of the State of Illinois. Any provision of this Contract which is unenforceable or invalid or the inclusion of which would effect the validity, legality, or enforcement of this Contract shall be of no effect, but all the remaining provisions of this Contract shall remain in full force and effect.
16. **TERMINATION OF BID OFFER.** This bid offer is irrevocable until 12:00 midnight on the 19th day of November, 2011. Unless accepted by Seller by midnight on the 19th day of November, 2011 and delivered or mailed to Buyer postmarked on the 21st day of November, 2011, this offer to purchase shall be null and void and all parties hereto shall stand relieved and released of any and all liability or obligations hereunder. A copy of the accepted offer to purchase shall be deemed delivered if faxed to the fax number provided by Buyer to auction company or emailed to the email address provided by Buyer to auction company..
17. **1031 EXCHANGE.**
- A. If Seller elects to avail itself of the terms afforded by Internal Revenue Code Section 1031 for a like kind tax exchange, the following shall apply:
- Buyer agrees that Seller may assign its rights under this contract, in whole or in part, to a qualified intermediary, and that Buyer shall remit and transfer the net proceeds due Seller under this contract at closing into an escrow account which shall be designated by Seller.
- Buyer agrees to cooperate with Seller in accomplishing such exchange, provided that such exchange does not cause a delay in the date of closing or create any actual or potential liability or obligations on Buyer, which are in addition to Buyer's obligations under the other provision of this contract.
- All costs and expenses associated with Seller's exchange, including but not limited to all costs of such escrow, shall be paid by and be the sole responsibility of Seller.
- B. If Buyer elects to avail itself of the terms afforded by Internal Revenue Code Section 1031 for a like kind tax deferred exchange, the following shall apply:
- Seller agrees that Buyer may assign its rights under this contract to a qualified intermediary and that the purchase price may be paid to Seller in whole or in part from an escrow account which has been established by Buyer with a qualified intermediary to facilitate Buyer's exchange.
- Seller agrees to cooperate with Buyer in accomplishing such exchange, provided that such exchange does not cause a delay in the date of closing or create any actual or potential liability or obligation on Seller, which are in addition to Seller's obligations under the other provision of this contract. All cost and expenses associated with Buyer's exchange, including but not limited to all costs of such escrow, shall be paid by and be the sole responsibility of Buyer.
18. **ENVIRONMENTAL.** The Buyer acknowledges that the Seller has not made, will not make and hereby disclaims any and all representations and warranties concerning the environmental condition of the property. Buyer acknowledges that, if applicable, it has reviewed any environmental disclosure documents prior to bidding and that the information provided and in the form provided is acceptable to the Buyer.
19. **SELLING AGENT.** This agreement is solely between Buyer and Seller. The auctioneer(s)/broker(s)/ sales agent(s) shall not be liable for any existing or arising defects or deficiencies in the Property, improvements or other appurtenant structure thereon, nor for any information provided to the Buyer from sources deemed reliable. The Buyer acknowledges that it has conducted its own independent investigations, inspections, inquiries and due diligence concerning the Property. Schrader Real Estate & Auction Company, Inc. and their representatives are exclusively the agents for the Seller.
20. **SALES FEE.** Seller and Buyer warrant and represent each to the other that Schrader Real Estate & Auction Company, Inc. is the only broker involved with the sale of the Property and that the commission shall be paid by the Seller. In the event that any other broker or other parties are entitled to commission, fee or other compensation relating to the sale of the Property as a result of Buyer's dealings with such broker or other party, Buyer shall pay the same and hereby agrees to indemnify and hold Seller and Auction Company harmless from the payment of any such commission, fee or compensation which obligation of Buyer shall survive closing.
21. **FAIR HOUSING STATEMENT.** It is illegal, pursuant to the State Fair Housing Law and the Federal Fair Housing Law, 42 U.S.C.A. 3601, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, ancestry, handicap or national origin; or to discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services.
- It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes.
22. **ADDENDA AND EXHIBITS.** The following addenda and exhibits are attached to this Agreement and are made a part hereof.
- Exhibit A – Auction Tract Map
 - Exhibit B – Auction Announcements

Seller's Initials

Buyer's Initials

23. **EXECUTION; AUTHORITY.** The individual(s) signing this Contract on behalf of Buyer represent and warrant that either: (a) he or she is (or they are) the same person(s) named as Buyer on Page 1 of this Contract; OR (b) he or she has (or they have) full authority to execute this Contract on behalf of the Buyer named on Page 1 of this Contract.
24. **CONVEYANCE INSTRUCTIONS.** The Property shall be conveyed to (and Buyer hereby directs Seller to execute and deliver the deed to) the party(ies) identified below Buyer's signature under "Exact name(s) to appear on deed" (the "Deed Grantee"). If the Deed Grantee is different than the party executing this Contract as Buyer, then: **(a)** if requested by Seller, Buyer will, prior to closing, execute and deliver an appropriate instrument prepared or approved by Seller assigning Buyer's rights to acquire the Property to the Deed Grantee; and **(b)** the Buyer shall nevertheless be bound by all of the terms of the Contract unless Seller hereafter agrees in writing to release Buyer from this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract in two counterparts, each of which shall be deemed an original instrument.

SELLER:

BUYER:

(Signature)

(Signature)

Date: _____

Date: November 19, 2011

(Signature)

(Signature)

Date: _____

Date: November 19, 2011

Address: _____

Phone #: _____

Fax #: _____

E-mail Address: _____

Financed by: _____

Exact names to appear on deed:

Form of ownership:
(check one)

Tenants in common _____

Joint tenancy _____

Sole ownership _____

Other _____

Seller's Initials

Buyer's Initials