

AGREEMENT TO PURCHASE

Date: **November 1, 2021**

I/We the undersigned Buyer(s) ("Buyer") offer to purchase Tract(s) \_\_\_\_\_, being approx. \_\_\_\_\_ (±) acres of land in Defiance County, Ohio and/or DeKalb County, Indiana, as identified by reference to the same tract number(s) in the attached **Exhibit A**, together with the improvements and permanent fixtures, if any, presently existing on said land (the "Property") (excluding propane tanks unless otherwise provided), and being one or more 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"), in cooperation with Harvest Farm Management ("Cooperating Broker"), on behalf of the Estate of Ray Wagler ("Seller"). This offer incorporates the terms and conditions set forth herein, the aerial auction tract map(s) 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.** Concurrently with this offer, Buyer shall deliver to Auction Company the sum of \$ \_\_\_\_\_ (the "Earnest Money"), to be held in escrow, delivered to the closing agent at or prior to closing, and applied to the purchase price at closing.
- TAXES AND ASSESSMENTS.** "Seller's Taxes" refers to: (a) real estate taxes assessed against any tax parcel that includes any part of the Property for the calendar year **2021** (due in **2022**), and all prior years; and (b) any drainage or other special assessments attributed to any such tax parcel and last payable without a penalty on or before the closing date. Any unpaid Seller's Taxes shall be withheld from Seller's proceeds at closing and paid directly to the county; *provided, however*, any portion of Seller's Taxes not payable at the time of closing shall be estimated based on 100% of the amount last billed for a calendar year and the amount thus estimated (as adjusted for any tax parcel split) 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 due after closing to the extent attributed to the Property.
- 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. Prior to closing, Seller shall furnish an updated commitment dated after the date of this Agreement ("Updated Title Commitment") for the issuance of a standard coverage ALTA owner's title insurance policy insuring fee simple title in the name of Buyer free and clear of any material encumbrances other than Permitted Exceptions. If Buyer or Buyer's lender elects to purchase title insurance: (a) all title insurance costs shall be charged to Buyer; (b) Seller shall cooperate in good faith with respect to the satisfaction of requirements of the title company that are reasonable and customary, but Seller shall have no obligation with respect to any requirement pertaining to Buyer (or the proposed insured) and/or any matter that constitutes a Permitted Exception; and (c) Buyer's obligation to acquire the Property at closing shall not be contingent upon the satisfaction of any special title insurance requirements of Buyer or any other condition except the condition that Seller is able to convey title in accordance with the requirements of this Agreement (subject to the Permitted Exceptions).
- 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 liens); (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 liens) referenced or shown in the preliminary title insurance schedules described in Addendum A.
- CLOSING.** Closing shall be held on or before December 1, 2021 or as soon as possible after said date upon completion of the survey, if applicable, the Updated Title Commitment and Seller's closing documents; *provided, however*, in any event the closing shall be completed **not later than December 31, 2021**. 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. Seller shall pay for all utilities until possession is delivered.
- THE PROPERTY IS SOLD "AS IS, WHERE IS", WITHOUT ANY WARRANTY OF ANY KIND AS TO ITS CHARACTER OR CONDITION OR ITS SUITABILITY FOR ANY PARTICULAR USE OR PURPOSE.**
- 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**.
- 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.** Auction Company, Cooperating Broker and their respective agents represent only Seller and not Buyer. This Agreement shall bind and benefit 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 of this Agreement shall be read and construed together as a harmonious whole and, unless otherwise provided or required by the express terms of this Agreement, shall survive closing. This Agreement may be executed in multiple counterparts, all of which together shall constitute the same instrument. 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 **November 1, 2021**.

Printed Name(s) of Buyer(s): \_\_\_\_\_

Signature(s) of Buyer(s): \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Deed to: \_\_\_\_\_ Lender/Contact: \_\_\_\_\_

EARNEST MONEY in the amt. of \$ \_\_\_\_\_ received by: \_\_\_\_\_ on \_\_\_\_\_, 2021

ACCEPTED BY SELLER on this **1st** day of **November**, 2021:

Sign: \_\_\_\_\_  
(Theresa Wagler, Personal Representative)

# EXHIBIT A

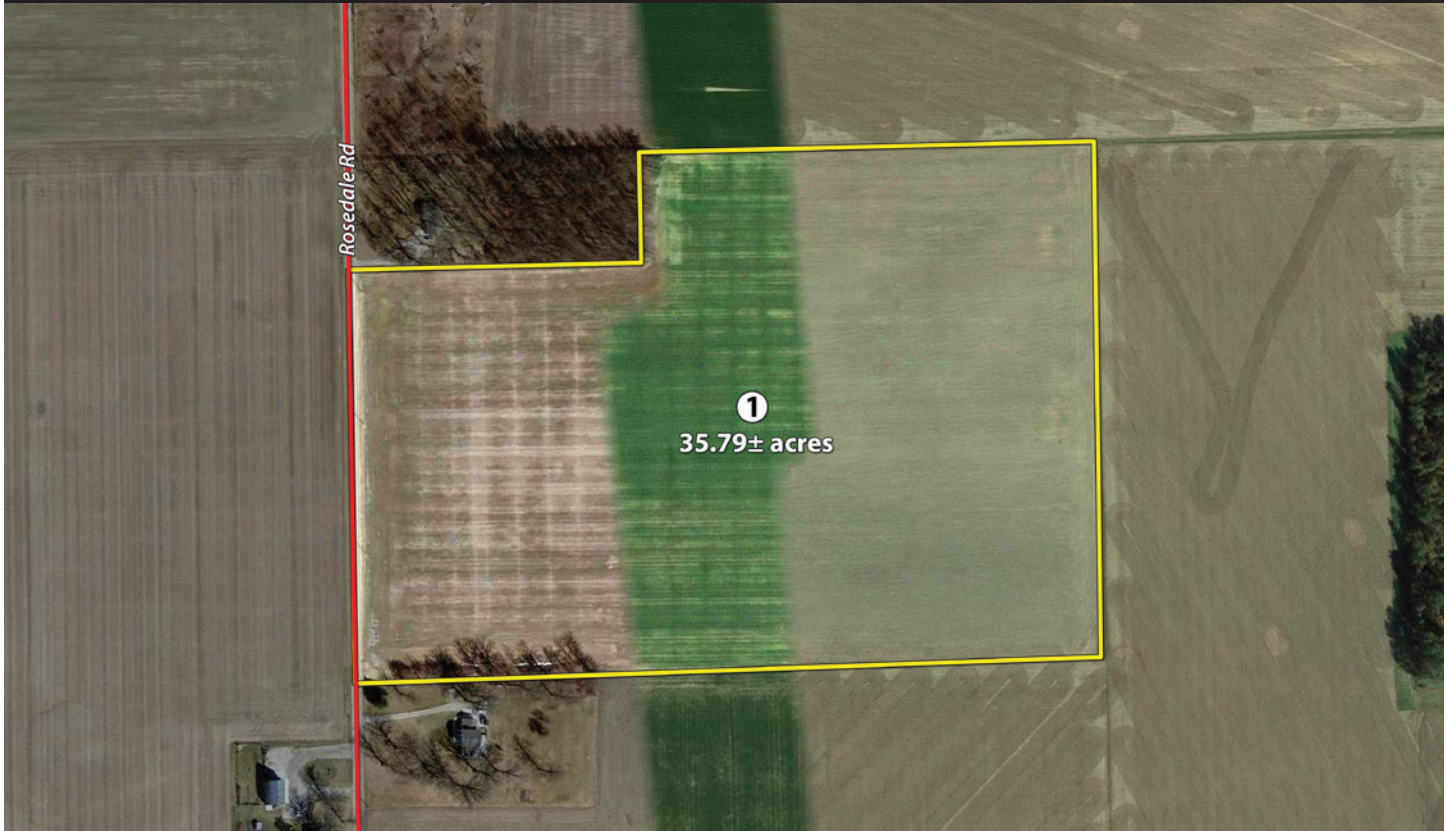
## Revised Auction Tract Map

Buyer(s): \_\_\_\_\_

Seller: \_\_\_\_\_

Auction Date: November 1, 2021

Pt. NW4 SW4 Sec. 19-T4N-R2E (Mark Twp.) in Defiance County, Ohio



Pt. E2 Sec. 20-T4N-R2E (Mark Twp.) in Defiance County, Ohio



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.



# EXHIBIT A

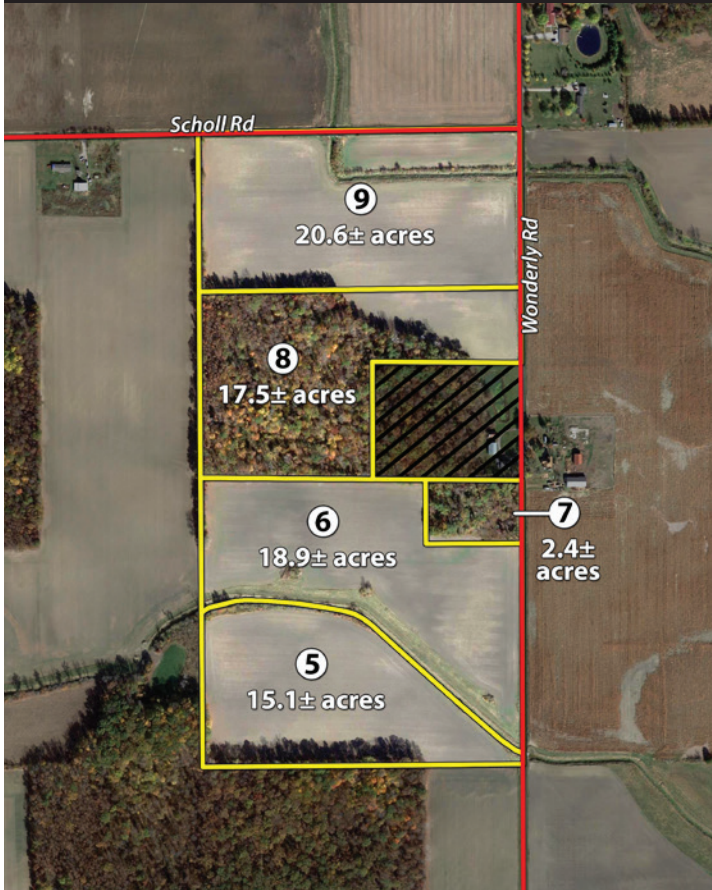
## Revised Auction Tract Map

Buyer(s): \_\_\_\_\_

Seller: \_\_\_\_\_

Auction Date: November 1, 2021

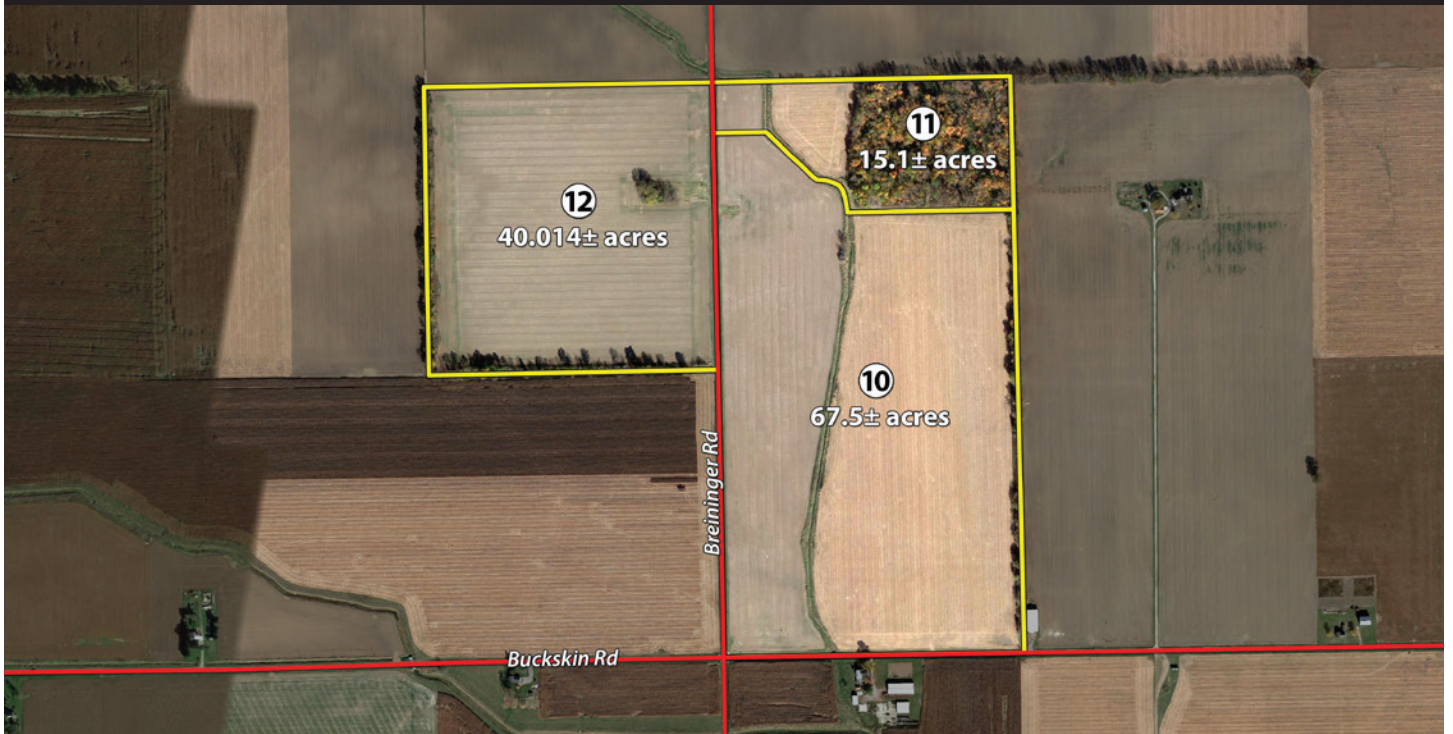
Pt. E2 NE4 Sec. 17-T4N-R2E (Mark Twp.) in Defiance County, Ohio



Pt. W2 NW4 Sec. 6-T4N-R2E (Mark Twp.) in Defiance County, Ohio



W2 SW4 Sec. 5 & NE4 SE4 Sec. 6 of T4N-R2E (Mark Twp.) in Defiance Co., Ohio



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.



# EXHIBIT A

## Revised Auction Tract Map

Buyer(s): \_\_\_\_\_

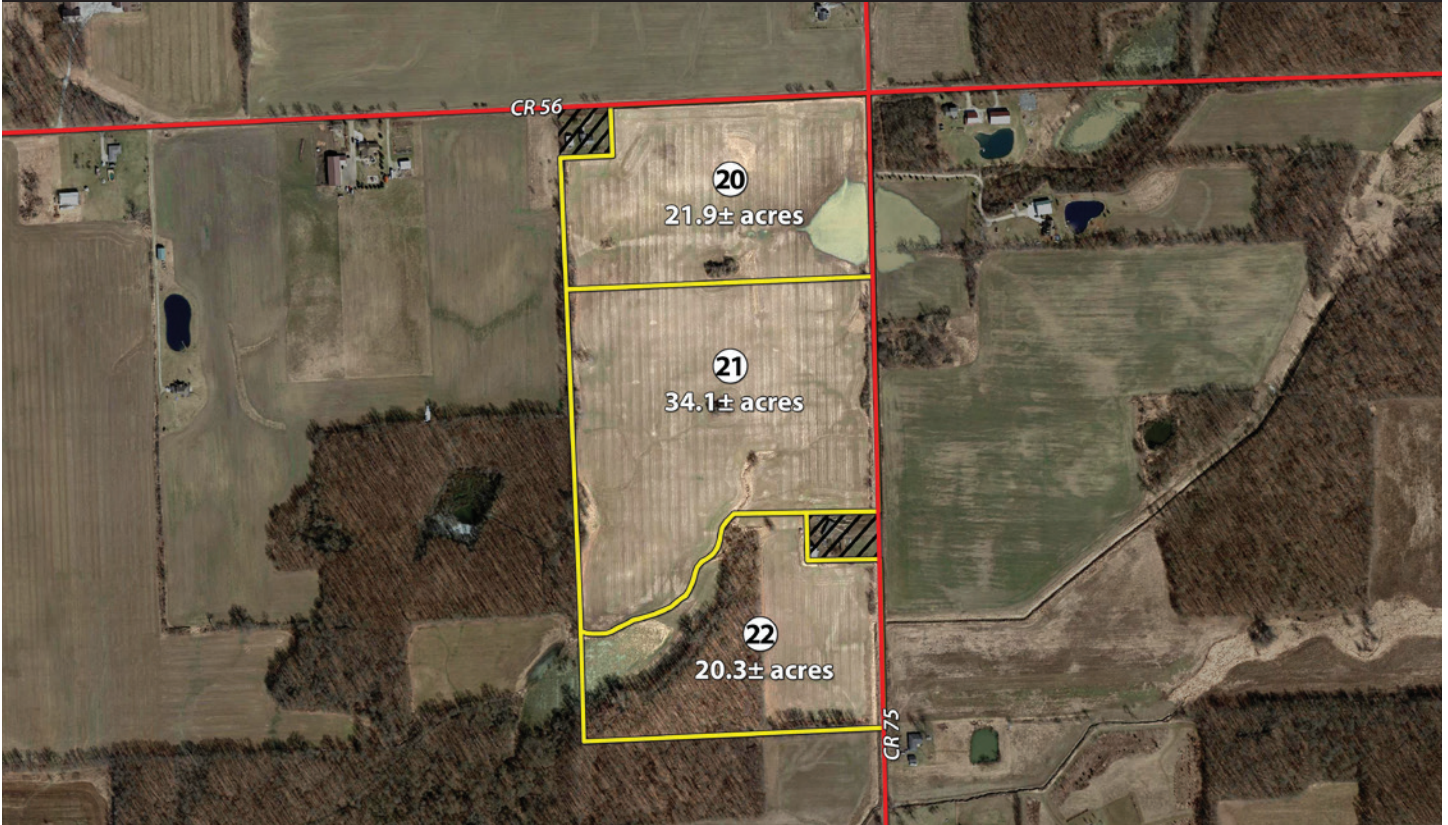
Seller: \_\_\_\_\_

Auction Date: November 1, 2021

Pt. S2 SW4 Sec. 2-T4N-R1E (Hickville Twp.) in Defiance County, Ohio



Pt. E2 NE4 Sec. 18-T33N-R15E (Newville Twp.) in DeKalb County, Indiana



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.

I/We have read this Addendum and agree to these auction conditions.

Buyer(s): \_\_\_\_\_

Seller: \_\_\_\_\_

## ADDENDUM A

### SCHRADER REAL ESTATE AND AUCTION COMPANY, INC.

Auction Marketing Specialists Nationwide

*In cooperation with Harvest Farm Management*

**Date:** October 20, 2021

**Owner:** Estate of Ray Wagler

**Sale Manager:** Jerry Ehle

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC. and HARVEST FARM MANAGEMENT welcome you to bid YOUR price on the real estate offered at this auction.

#### **PART A - BIDDING PROCEDURES TO KEEP IN MIND:**

1. All bidding is open to the public. You will need to raise your hand or call out your bid as the auctioneer asks for bids. It is easy! Don't be bashful! This is a one-time opportunity. Watch the auctioneer and his bid assistants. They will take your bid and will assist you with any questions.
2. The auction tracts are identified by number in the aerial tract maps which are included in your Bidder's Packet as **Exhibit A**. You may bid on any tract or combination of tracts or the entire property. Bidding will remain open on individual tracts and combinations until the close of the auction.
3. Bidding will be on a lump sum basis. Minimum bids are at the auctioneer's discretion.
4. Bids are not contingent on financing, so be sure you have arranged financing, if needed, and are able to pay cash at closing.
5. The Personal Representative is present and we anticipate that the top bid(s) at the close of the auction will be accepted. The final bid(s), however, are subject to the Seller's acceptance or rejection.

#### **PART B - TERMS OF SALE OUTLINED:**

6. 10% of the purchase price is due as an earnest money deposit at the close of auction. A cashier's check or a personal or corporate check immediately negotiable is satisfactory for the earnest money. The balance of the purchase price is due in cash at closing.
7. 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 December 1, 2021. In any event, the closing shall be completed **not later than December 31, 2021.**

8. The closing agent's fee to administer the closing will be shared equally (50:50) between Buyer and Seller. Seller will pay the Ohio real estate conveyance fee and any county transfer taxes. Buyer will pay all costs of any loan obtained by Buyer.
9. Seller will pay the real estate taxes for the calendar year 2021 due in 2022 (or the estimated amount thereof) at the time of closing in accordance with the Agreement to Purchase. Buyer will then assume and pay all real estate taxes and assessments, including drainage assessments, if any, that become due after closing.
10. The Ohio tracts have been taxed at a reduced Current Agricultural Use Value (CAUV). Buyer will be responsible for the payment of any CAUV recoupment taxes if Buyer converts the property to a non-agricultural use or if the property otherwise fails to qualify for CAUV due to any act or omission of Buyer or due to the CAUV minimum acre requirements.
11. Preliminary title insurance schedules have been prepared by Midland Title for Tracts 1-19 and by Trademark Title for Tracts 20-22. Printed copies are available to review in the auction display area, along with copies of the recorded documents listed as exceptions.
12. The closings shall be administered by Midland Title for Tracts 1-19 and by Trademark Title for Tracts 20-22. With respect to any purchase that includes tracts in both Ohio and Indiana: (a) the closing shall be administered as two mutually-contingent closings, one for the Ohio tract(s) and one for the Indiana tract(s); (b) the allocation of the purchase price between the two closings shall be determined by the Seller; and (c) neither closing agent shall disburse or finally deliver any funds or documents until both closing agents have confirmed receipt of all required funds and documents.
13. At closing, Seller will furnish the deed and Updated Title Commitment in accordance with the terms of Section 5 of the Agreement to Purchase. If Buyer elects to purchase title insurance, the cost of any title insurance shall be charged to Buyer.
14. Buyer agrees to accept title and acquire the property subject to all easements and all other "Permitted Exceptions" as defined in Section 6 of the Agreement to Purchase, including but not limited to all easements and other exceptions listed in the preliminary title insurance schedules.
15. Possession shall be delivered at closing except that possession of the cropland shall be delivered subject to the remaining rights (if any) of the current farm tenant for the 2021 crop year. Seller is retaining all rights to the 2021 farm rent.
16. As an update to the marketing materials, a new survey will be obtained for each closing consisting of a survey drawing (prepared before or after the auction) and a new legal description (prepared after the auction). The survey shall be ordered by an agent of the Seller and shall be sufficient for the purpose of recording the conveyance, but the type of survey shall otherwise be determined solely by the Seller. Any survey of adjacent tracts purchased in combination will be for the perimeter only.



17. The cost of the surveys obtained in accordance with this Addendum A and all related pre-auction survey work (as allocated between the respective closings) shall be shared equally (50:50) by Seller and Buyer at each closing.
18. At each closing, 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, except with respect to Tract 4 or any combination that includes Tract 4.
19. As shown in Exhibit A, the acre estimates have been revised for purposes of the auction as follows:

	Advertised (±)	Revised (±)		Advertised (±)	Revised (±)		Advertised (±)	Revised (±)
Tr. 1:	36.5	<b>35.79</b>	Tr. 8:	17	<b>17.5</b>	Tr. 16:	8.5	<b>8.6</b>
Tr. 2:	61	<b>61.1</b>	Tr. 9:	20	<b>20.6</b>	Tr. 17:	7.5	<b>7.6</b>
Tr. 3:	46.5	<b>46.6</b>	Tr. 10:	65	<b>67.5</b>	Tr. 18:	21	<b>21</b>
Tr. 4:	2.5	<b>2.8</b>	Tr. 11:	15	<b>15.1</b>	Tr. 19:	54	<b>54.7</b>
Tr. 5:	15	<b>15.1</b>	Tr. 12:	40	<b>40.014</b>	Tr. 20:	21.5	<b>21.9</b>
Tr. 6:	19	<b>18.9</b>	Tr. 13:	42	<b>42.2</b>	Tr. 21:	33.5	<b>34.1</b>
Tr. 7:	2.5	<b>2.4</b>	Tr. 14:	4.5	<b>4.6</b>	Tr. 22:	20	<b>20.3</b>
			Tr. 15:	25.5	<b>25.1</b>	<b>Total:</b>	578	<b>583.504</b>

20. The acres shown in Exhibit A for Tracts 1 and 12 are based on the pre-auction acre estimates provided by the surveyor for those tracts. Otherwise, the acres shown in Exhibit A have been estimated based on: (a) the pre-auction acre totals provided by the surveyor for each group of contiguous tracts; and (b) an approximate, provisional allocation between the individual tracts. No warranty or authoritative representation is made as to the number of gross acres, tillable acres or wooded acres included with any tract or set of tracts.
21. Advertised road frontages are approximate. No warranty or authoritative representation is made as to the length of any road frontage.
22. Boundary lines and auction tract maps depicted in Exhibit A and the auction marketing materials are approximations provided for identification and illustration purposes only. Certain flag markers on site prior to the auction were placed by auction personnel to indicate approximate locations. Such maps and markers are not provided as survey products and are not intended to depict or establish authoritative boundaries or locations.
23. 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. Upon such termination, the earnest money will be returned to Buyer and the property may be re-sold free 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.
24. **Tract 2:** There is an old piece of farm equipment in or near the woods of Tract 2. Seller reserves a right of entry for up to 30 days after closing to remove such farm equipment.

25. **Tract 4:** The lead-based paint disclosure form for the home on Tract 4 is posted and shall be signed by the Buyer of Tract 4 at the end of the auction. Advertised building dimensions are approximate and have been estimated based on property tax information. No warranty or authoritative representation is made as to the size or dimensions of any structure.
26. **Tract 4:** Posted for your review are copies of: (a) an Application to Operate a Sewage Treatment System recently filed by Seller with the Defiance County General Health District; and (b) a letter from the Health District showing that the system is covered by a valid operation permit, subject to compliance with permit requirements regarding pumping, maintenance and inspections prior to June 30, 2025.
27. **Tracts 5, 8 & 11:** Tract 5 (if sold apart from Tract 6), Tract 8 (if sold apart from Tract 9) and Tract 11 (if sold apart from Tract 10) may be used only for agricultural and personal recreational purposes due to nonconformance with local requirements regarding lot frontage and/or width to depth ratio. If an applicable tract is sold apart from the adjoining tract as described above, Buyer agrees to accept the deed with a provision confirming that the applicable tract will be used for agricultural and personal recreational purposes only. Such provision will be in a form that will be accepted by the appropriate local officials for purposes of the exemption under Ohio Revised Code 711.133(C).
28. **Tract 11:** Tract 11 does not have a ditch crossing for vehicular access from the road to the east part of Tract 11.
29. **Tracts 18 & 19:** There is a community watershed tile washout affecting Tracts 18 & 19.
30. Seller shall have no obligation before or after closing for any repair or improvement, including without limitation any tile repair or any ditch crossing improvement.
31. The auction tracts and potential tract divisions have not been pre-approved by the local planning authorities. Each Buyer assumes responsibility for satisfying the requirements of the local authorities in connection with any future use, improvement or development of the purchased tract(s), including any requirement for lot or plat approval or any other approval or permit from the plan commission, planning department, building department and/or health department. Seller shall have no obligation before or after closing with respect to any permit or approval that Buyer may need in connection with any prospective use or improvement. Buyer's obligation to acquire the purchased tract(s) is not contingent upon obtaining any such permit or approval.
32. Information booklets have been provided to prospective buyers in printed form and/or via download from the auction website and are available for further review in the auction information area. The information booklets include information obtained or derived from third-party sources, including soil maps, topography maps, wetlands maps, USDA/FSA information and maps, county GIS maps and tax parcel data. Such information has been provided subject to (and not as a substitute for) a prospective buyer's independent investigation and verification. Although believed to be from reliable sources, the Auction Company and Harvest Farm Management disclaim any warranty or liability for the information provided.



33. Your bids are to be based solely upon your inspection. All property is sold "AS IS" without any warranty. Without limiting the foregoing provisions, the Seller, the Auction Company, Harvest Farm Management 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.
34. At the close of the auction, each high bidder shall execute a purchase contract in the form provided in each Bidder's Packet, consisting of the Agreement to Purchase, Exhibit A and this Addendum A. The terms of these documents are non-negotiable.
35. 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. Deeds shall be recorded in the order designated by the Seller.
36. Schrader Real Estate and Auction Company, Inc., Harvest Farm Management and their agents and representatives are exclusively the agents of the Seller. The Ohio agency disclosure forms are available for your review in the auction display area, including the Consumer Guide to Agency Relationships (to be signed by each Buyer) and the Agency Disclosure Statement (to be signed by each Buyer and by 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.



# AGENCY DISCLOSURE STATEMENT

The real estate agent who is providing you with this form is required to do so by Ohio law. You will not be bound to pay the agent or the agent's brokerage by merely signing this form. Instead, the purpose of this form is to confirm that you have been advised of the role of the agent(s) in the transaction proposed below. (For purposes of this form, the term "seller" includes a landlord and the term "buyer" includes a tenant.)

Property Address: \_\_\_\_\_

Buyer(s): \_\_\_\_\_

Seller(s): \_\_\_\_\_

## I. TRANSACTION INVOLVING TWO AGENTS IN TWO DIFFERENT BROKERAGES

The buyer will be represented by \_\_\_\_\_, and \_\_\_\_\_.  
AGENT(S) BROKERAGE

The seller will be represented by \_\_\_\_\_, and \_\_\_\_\_.  
AGENT(S) BROKERAGE

## II. TRANSACTION INVOLVING TWO AGENTS IN THE SAME BROKERAGE

If two agents in the real estate brokerage \_\_\_\_\_ represent both the buyer and the seller, check the following relationship that will apply:

- Agent(s) \_\_\_\_\_ work(s) for the buyer and Agent(s) \_\_\_\_\_ work(s) for the seller. Unless personally involved in the transaction, the principal broker and managers will be "dual agents," which is further explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information.
- Every agent in the brokerage represents every "client" of the brokerage. Therefore, agents \_\_\_\_\_ and \_\_\_\_\_ will be working for both the buyer and seller as "dual agents." Dual agency is explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information. Unless indicated below, neither the agent(s) nor the brokerage acting as a dual agent in this transaction has a personal, family or business relationship with either the buyer or seller. *If such a relationship does exist, explain:* \_\_\_\_\_

## III. TRANSACTION INVOLVING ONLY ONE REAL ESTATE AGENT

Agent(s) \_\_\_\_\_ and real estate brokerage \_\_\_\_\_ will

- be "dual agents" representing both parties in this transaction in a neutral capacity. Dual agency is further explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information. Unless indicated below, neither the agent(s) nor the brokerage acting as a dual agent in this transaction has a personal, family or business relationship with either the buyer or seller. *If such a relationship does exist, explain:* \_\_\_\_\_
- represent only the (check one)  seller or  buyer in this transaction as a client. The other party is not represented and agrees to represent his/her own best interest. Any information provided the agent may be disclosed to the agent's client.

## CONSENT

I (we) consent to the above relationships as we enter into this real estate transaction. If there is a dual agency in this transaction, I (we) acknowledge reading the information regarding dual agency explained on the back of this form.

BUYER/TENANT \_\_\_\_\_ DATE \_\_\_\_\_

SELLER/LANDLORD \_\_\_\_\_ DATE \_\_\_\_\_

BUYER/TENANT \_\_\_\_\_ DATE \_\_\_\_\_

SELLER/LANDLORD \_\_\_\_\_ DATE \_\_\_\_\_



# DUAL AGENCY

Ohio law permits a real estate agent and brokerage to represent both the seller and buyer in a real estate transaction as long as this is disclosed to both parties and they both agree. This is known as dual agency. As a dual agent, a real estate agent and brokerage represent two clients whose interests are, or at times could be, different or adverse. For this reason, the dual agent(s) may not be able to advocate on behalf of the client to the same extent the agent may have if the agent represented only one client.

**As a dual agent, the agent(s) and brokerage shall:**

- Treat both clients honestly;
- Disclose latent (not readily observable) material defects to the purchaser, if known by the agent(s) or brokerage;
- Provide information regarding lenders, inspectors and other professionals, if requested;
- Provide market information available from a property listing service or public records, if requested;
- Prepare and present all offers and counteroffers at the direction of the parties;
- Assist both parties in completing the steps necessary to fulfill the terms of any contract, if requested.

**As a dual agent, the agent(s) and brokerage shall not:**

- Disclose information that is confidential, or that would have an adverse effect on one party's position in the transaction, unless such disclosure is authorized by the client or required by law;
- Advocate or negotiate on behalf of either the buyer or seller;
- Suggest or recommend specific terms, including price, or disclose the terms or price a buyer is willing to offer or that a seller is willing to accept;
- Engage in conduct that is contrary to the instructions of either party and may not act in a biased manner on behalf of one party.

**Compensation:** Unless agreed otherwise, the brokerage will be compensated per the agency agreement.

**Management Level Licensees:** Generally, the principal broker and managers in a brokerage also represent the interests of any buyer or seller represented by an agent affiliated with that brokerage. Therefore, if both buyer and seller are represented by agents in the same brokerage, the principal broker and manager are dual agents. There are two exceptions to this. The first is where the principal broker or manager is personally representing one of the parties. The second is where the principal broker or manager is selling or buying his own real estate. These exceptions only apply if there is another principal broker or manager to supervise the other agent involved in the transaction.

**Responsibilities of the Parties:** The duties of the agent and brokerage in a real estate transaction do not relieve the buyer and seller from the responsibility to protect their own interests. The buyer and seller are advised to carefully read all agreements to assure that they adequately express their understanding of the transaction. The agent and brokerage are qualified to advise on real estate matters. **IF LEGAL OR TAX ADVICE IS DESIRED, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.**

**Consent:** By signing on the reverse side, you acknowledge that you have read and understand this form and are giving your voluntary, informed consent to the agency relationship disclosed. If you do not agree to the agent(s) and/or brokerage acting as a dual agent, you are not required to consent to this agreement and you may either request a separate agent in the brokerage to be appointed to represent your interests or you may terminate your agency relationship and obtain representation from another brokerage.

Any questions regarding the role or responsibilities of the brokerage or its agents should be directed to: attorney or to:



**Department  
of Commerce**

Division of Real Estate  
& Professional Licensing

Ohio Department of Commerce  
Division of Real Estate & Professional Licensing  
77 S. High Street, 20<sup>th</sup> Floor  
Columbus, OH 43215-6133  
(614) 466-4100



*(Split Agency & Dual Agency – Model Policy)*

## CONSUMER GUIDE TO AGENCY RELATIONSHIPS

### Schrader Real Estate and Auction Company, Inc.



We are pleased you have selected **Schrader Real Estate and Auction Company, Inc.** to help you with your real estate needs. Whether you are selling, buying or leasing real estate, **Schrader Real Estate and Auction Company, Inc.** can provide you with expertise and assistance. Because this may be the largest financial transaction you will enter into, it is important to understand the role of the agents and brokers with whom you are working. Below is some information that explains the various services that agents can offer and their options for working with you.

For more information on agency law in Ohio, contact the Ohio Division of Real Estate & Professional Licensing at (614) 466-4100, or online at [www.com.ohio.gov/real](http://www.com.ohio.gov/real).

#### **Representing the Sellers**

Most sellers of real estate choose to list their home for sale with a real estate brokerage. When they do so, they sign a listing agreement that authorizes the brokerage and the listing agent to represent their interests. As the seller's agent, the brokerage and listing agent must: follow the seller's lawful instructions, be loyal to the seller, promote the seller's best interests, disclose material facts to the seller, maintain confidential information, act with reasonable skill and care, and account for any money they handle in the transaction. In rare circumstances, a listing broker may offer "subagency" to other brokerages, which would also represent the seller's interests and owe the seller these same duties.

**AUCTION SALES:** Notwithstanding any other provision, **Schrader Real Estate and Auction Company, Inc.** and its agents and associates will represent only the seller in connection with the sale of real estate at an auction conducted by this firm.

#### **Representing Buyers**

When purchasing real estate, buyers usually choose to work with a real estate agent as well. Often the buyers want to be represented in the transaction. This is referred to as buyer's agency. A brokerage and agent that agree to represent a buyer's interest in a transaction must: follow the buyer's lawful instructions, be loyal to the buyer, promote the buyer's best interests, disclose material facts to the buyer, maintain confidential information, and account for any money they handle in the transaction.

#### **Dual Agency**

Occasionally, the same agent and brokerage that represent the seller also represent the buyer. This is referred to as dual agency. When a brokerage and its agents become "dual agents," they must maintain a neutral position between the buyer and the seller. They may not advocate the position of one client over the best interests of the other client, or disclose any personal or confidential information to the other party without written consent.



## **Representing Both the Buyer & Seller**

On occasion, the buyer and seller will each be represented by two different agents from the same brokerage. In this case, the agents may each represent the best interest of their respective clients. Or, depending on company policy, the agents may both act as dual agents and remain neutral in the transaction. When either of the above occurs, the brokerage will be considered a dual agent. As a dual agent, the brokerage and its managers will maintain a neutral position and cannot advocate for the position of one client over another. The brokerage will also protect the confidentiality of all parties.

## **Working With Schrader Real Estate and Auction Company, Inc.**

**AUCTION SALES:** Notwithstanding any other provision, **Schrader Real Estate and Auction Company, Inc.** and its agents and associates will represent only the seller in connection with the sale of real estate at an auction conducted by this firm.

**Schrader Real Estate and Auction Company, Inc.** does offer representation to both buyers and sellers. Therefore, the potential exists for one agent to represent a buyer who wishes to purchase property listed with another agent in our company. If this occurs, each agent will represent their own client, but **Schrader Real Estate and Auction Company, Inc.** and its managers will act as a dual agent.

This means the brokerage and its managers will maintain a neutral position and not take any actions that will favor one side over the other. **Schrader Real Estate and Auction Company, Inc.** will still supervise both agents to assure that their respective clients are being fully represented and will protect the parties' confidential information.

In the event that both the buyer and seller are represented by the same agent, the agent and **Schrader Real Estate and Auction Company, Inc.** will act as a dual agent but only if both parties agree. As a dual agent, they will treat both parties honestly, prepare and present offers at the direction of the parties, and help the parties fulfill the terms of any contract. They will not, however, disclose any confidential information that would place one party at an advantage over the other or advocate or negotiate to the detriment of either party.

If dual agency occurs, you will be asked to consent to that in writing. If you do not agree to your agent acting as a dual agent, you can ask that another agent in our company be assigned to represent you or you can seek representation from another brokerage.

As a buyer, you may also choose to represent yourself on properties **Schrader Real Estate and Auction Company, Inc.** has listed. In that instance, **Schrader Real Estate and Auction Company, Inc.** will represent the seller and you would represent your own best interests. Because the listing agent has a duty of full disclosure to the seller, you should not share any information with the listing agent that you would not want the seller to know.

## **Working With Other Brokerages**

When **Schrader Real Estate and Auction Company, Inc.** lists property for sale, it also cooperates with, and offers compensation to, other brokerages that represent buyers. **Schrader Real Estate and Auction Company, Inc.** does reserve the right, in some instances, to vary the compensation it offers to other brokerages.

As a seller, you should understand that just because **Schrader Real Estate and Auction Company, Inc.** shares a fee with a brokerage representing the buyer, it does not mean that you will be represented by that

brokerage. Instead, that company will be looking out for the buyer and **Schrader Real Estate and Auction Company, Inc.** will be representing your interests.

When acting as a buyer's agent, **Schrader Real Estate and Auction Company, Inc.** also accepts compensation offered by the listing broker. If the property is not listed with any broker, or the listing broker does not offer compensation, we will attempt to negotiate for a seller-paid fee.

**Fair Housing Statement**

It is illegal, pursuant to the Ohio Fair Housing Law, division (H) of Section 4112.02 of the Revised Code and the Federal Fair Housing Law, 42 U.S.C.A. 3601, as amended, 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 as defined in Section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so 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. (Effective: 9/28/11)

We hope you find this information to be helpful to you as you begin your real estate transaction. When you are ready to enter into a transaction, you will be given an Agency Disclosure Statement that specifically identifies the role of the agents and brokerages. Please ask questions if there is anything you do not understand.

Because it is important that you have this information, Ohio law requires that we ask you to sign below to acknowledge receipt of this pamphlet. Your signature will not obligate you to work with our company if you do not choose to do so.

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Date)

Revised: 9/2011