

**REAL PROPERTY PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

BY AND AMONG

EWING FAMILY FARMS, L.C.

(“SELLER”)

AND

_____,

a(n) _____

(“BUYER”)

DATED _____, 2024

(“EFFECTIVE DATE”)

DESCRIPTION OF THE PROPERTY

That certain property located in Wayne County, Iowa, described in Exhibit “A” attached hereto, with such precise legal description(s) to be provided by Seller and supplemented hereto.

**REAL PROPERTY PURCHASE AND SALE AGREEMENT,
AND JOINT ESCROW INSTRUCTIONS**

THIS REAL PROPERTY PURCHASE AND SALE AGREEMENT, AND JOINT ESCROW INSTRUCTIONS (“Agreement”) is dated and effective as of the Effective Date by and among the Seller and the Buyer. Each of Buyer and Seller, respectively, is referred to herein as a “Party” and, collectively, as the “Parties.”

RECITALS

Subject to the terms and conditions of this Agreement, Seller desires to sell and Buyer desires to purchase the Property (as hereinafter defined).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises hereinafter set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I
KEY TERMS**

1.1. Key Terms. For purposes of this Agreement, the following key terms shall have the meanings set forth below:

<u>Term</u>	<u>Definition</u>
<u>Escrow Agent</u> :	Brown, Winick, Graves, Gross and Baskerville, P.L.C.
<u>Purchase Price</u> :	\$[●]
<u>Deposit</u> :	10% of Purchase Price
<u>Target Closing Date</u> :	August 9, 2024
<u>Designated Seller Representatives</u> :	Jeff Hoyer – Sold@SullivanAuctioneers.com
<u>Seller Notice Address</u> :	Ewing Family Farms, L.C. Attn: Todd Ewing 2521 Washington Street Pella, IA 50219 (202) 274-1506 with a required copy to: Sullivan Auctioneers, a BigIron Company Attn: Jeff Hoyer

	1066 E. US Hwy. 136 PO Box 111 Hamilton, IL 62341-0111 Telephone No. ((319) 759-4320 E-mail: Sold@SullivanAuctioneers.com
<u>Buyer Notice Address:</u>	_____ _____ _____ Attn: _____ Phone: _____ Email: _____ with a required copy to: _____ _____ _____ Attn: _____ Phone: _____ Email: _____
<u>Escrow Agent Notice Address:</u>	Brown, Winick, Graves, Gross, and Baskerville, P.L.C. Attn: Paul D. Hietbrink 616 Franklin Place Pella, Iowa 50219 Telephone No. (641) 628-4513 Email: paul.hietbrink@brownwinick.com

ARTICLE II

PURCHASE AND SALE OF THE PROPERTY; PURCHASE PRICE

2.1 Agreement to Sell and Purchase.

- (a) Seller agrees to sell, convey, transfer, and assign to Buyer, and Buyer agrees to purchase and accept from Seller the real property in Wayne County, Iowa, as more particularly described in Exhibit “A”, attached hereto and hereby incorporated by reference, with such precise legal description(s) to be provided by Seller and supplemented hereto, together with all easements and appurtenances, including, without limitation, those relating to water and mineral rights and water systems, subject to any and all covenants, conditions, restrictions, and zoning (the “Property”).
- (b) This Agreement is for the purchase and sale of all of the Property, and nothing herein shall or shall be construed as granting any right to Buyer to

purchase anything less or more than all of the Property, and Seller shall be under no obligation, express or implied, to sell anything less or more than all of the Property.

2.2 Purchase Price. Subject to the adjustments and apportionments as hereinafter set forth, the Purchase Price shall be paid through the Escrow Agent to Seller on the Target Closing Date by wire transfer of immediately available federal funds and otherwise in accordance with the terms and conditions of this Agreement. The Deposit shall be credited toward the payment of the Purchase Price at the Closing.

2.3 Bidding. Buyer hereby acknowledges and agrees that all lines, boundaries, dimensions and descriptions are approximations only based upon the best information available and are subject to possible variations, with any such related sketches potentially not being drawn to scale and photographs not depicting the current condition of the property, and therefore acknowledges and agrees, without any reliance on Seller, the Designated Seller Representative, or their respective employees, agents, or assigns, its sole responsibility for evaluating the Property.

ARTICLE III DEPOSIT

3.1 Opening of Escrow; Deposit. On the Effective Date, Buyer shall deposit the Deposit in the form of cash or check in an escrow account with the Escrow Agent. If Buyer fails to timely deliver the Deposit to the Escrow Agent, this Agreement shall terminate automatically effective as of 12:01 a.m. Central Time on the next business day and Buyer shall pay Seller damages equal to the amount of the Deposit, which, in light of the difficulty of predicting with certainty the likely damages for Buyer's breach under this Section 3.1, Buyer and Seller agree and acknowledge that the amount set forth in this Section 3.1 is a reasonable provision for liquidated damages and not a penalty. Seller and Buyer hereby instruct Escrow Agent to place the Deposit into an account with no penalty for early withdrawal and to hold and disburse the Deposit pursuant to this Agreement. The Deposit shall be nonrefundable except as otherwise provided in this Agreement. The Deposit shall be applied to the Purchase Price if the Closing occurs. In the event that the Closing does not occur, the Deposit shall be disbursed as provided herein. This provision shall survive the expiration or earlier termination of this Agreement. Further, by their execution hereof, the Parties hereby authorize the Escrow Agent, in the Escrow Agent's sole and absolute discretion, to file an action of interpleader in the appropriate court of competent jurisdiction and deposit the Deposit with such court, to hold the same until a final determination has been made.

3.2 No Financing Contingency. Buyer obtaining financing for the purchase of the Property is not a contingency of this Agreement. If Buyer does not obtain financing and, as a result, Buyer is unable to purchase the Property in accordance with the terms of this Agreement, such failure shall be a material default of Buyer, Seller shall be entitled to the Deposit and Seller shall have any and all other remedies, at law or in equity, as provided herein.

ARTICLE IV

TITLE & SURVEY

4.1 Title. Seller, at its expense, shall promptly obtain an abstract of title for the Property continued up to the Effective Date and deliver it to Buyer for examination by Buyer's attorney. It shall show merchantable title in Seller in or conformity with this Agreement, Iowa law and the Title Standards of the Iowa State Bar Association. Subject to Section 5.1 below, if Closing is delayed due to Seller's inability to provide marketable title, this Agreement shall continue in force and effect until either Party rescinds the Agreement after giving ten days written notice to the other Party. The abstract shall become the property of the Buyer when the Purchase Price is paid in full and the sale of the Property is closed.

4.2 Survey. Seller shall order and obtain an updated and current survey of the Property by a surveyor or engineer licensed in the State of Iowa. Any tracts included within the Property will be sold by the acre with gross surveyed acres being the multiplier for said tracts. In the event the survey is not completed on or prior to the Effective Date, the parties shall make all commercially reasonable efforts to adjust the Purchase Price at Closing, as required.

ARTICLE V CLOSING

5.1 Closing; Closing Date. The Closing shall occur on the Target Closing Date in accordance with the terms and conditions of this Agreement in escrow through the Escrow Agent. Seller, in its sole and absolute discretion, shall be entitled to adjust the Target Closing Date. Buyer acknowledges and agrees that TIME SHALL BE OF THE ESSENCE with respect to the performance by Buyer of its obligations to purchase the Property, pay the Purchase Price and otherwise consummate the transactions contemplated in this Agreement on the Target Closing Date. For the purposes of this Agreement, any date to which the Seller elects to reschedule the Closing pursuant to the terms of this Agreement, shall be deemed the "Target Closing Date" hereunder.

5.2 Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer or Escrow Agent, as applicable, each of the following items, each duly executed and acknowledged to the extent appropriate:

- (a) A Warranty Deed ("Deed") in recordable form conveying to Buyer the Property;
- (b) The Farm Lease Assignment duly executed by Seller;
- (c) A non-foreign person affidavit sworn to by Seller as required by Section 1445 of the Code;
- (d) A Closing Statement; and

- (e) Such other documents reasonably necessary or otherwise reasonably required by the Escrow Agent to consummate the transactions contemplated by this Agreement.

5.3 Buyer's Deliveries. At the Closing, Buyer shall deliver or cause to be delivered to Seller or Escrow Agent, as applicable, each of the following items, each duly executed and acknowledged to the extent appropriate:

- (a) Immediately available federal funds sufficient to pay the Purchase Price (less the Deposit, and subject to apportionments and adjustments as set forth herein) and Buyer's share of all escrow costs and closing expenses. Proceeds due from Buyer shall be delivered to Escrow Agent in good funds in a timely manner to allow Closing by the closing time on the Target Closing Date;
- (b) The Farm Lease Assignment duly executed by Buyer;
- (c) The Closing Statement; and
- (d) Such other documents reasonably necessary or otherwise reasonably required by the Escrow Agent to consummate the transactions contemplated by this Agreement.

5.4 Costs and Prorations.

- (a) Taxes. Seller shall pay, with regard to the Property, (i) all real estate taxes that are due and payable as of the date of the Target Closing or constitute a lien against the Property, including any unpaid real estate taxes for any prior years, and (ii) shall credit to Buyer at closing a prorated share, based upon the date of Closing, of the real estate taxes for the fiscal year in which possession is given to the Buyer due and payable in the subsequent fiscal year.
- (b) Utilities. To the extent that Seller is responsible for the payment of utilities with respect to the Property, final readings and final billings for utilities will be made if possible as of the Target Closing Date, in which event no proration shall be made at the Closing with respect to utility bills; otherwise a proration shall be made based upon the parties' reasonable good faith estimate. Seller shall receive the entire advantage of any discounts for any prepayment by Seller prior to the Closing of any taxes, water or sewer charges, utility expenses or similar charges.

- (c) Farm Lease Rent. All rents or other income from the Farm Lease, which such amounts shall be agreed to by the Parties prior to Closing and based upon the 2024 rent, shall be prorated as of the Target Closing Date (the “Farm Lease Rent Proration”), or adjusted according to Designated Seller Representatives’ advertising, if any. For purposes of clarity, to the extent applicable, calculation of the Farm Lease Rent Proration shall be specifically limited to the extent the Farm Lease governs the Property.

5.5 Closing Statement. On or before the date that is ten (5) days prior to the Target Closing Date, Buyer and Seller shall cooperate with each other and with the Escrow Agent to produce a schedule of prorations and closing costs that is as complete and accurate as reasonably possible (the “Closing Statement”). If any of the aforesaid prorations cannot be calculated accurately on the Target Closing Date, then they shall be estimated to the extent possible as of the Closing and shall be deemed final at Closing.

5.6 Closing Costs.

- (a) Buyer’s Costs. Buyer shall pay the following costs and expenses in connection with the transactions contemplated by this Agreement:

- i. All fees for title review;
- ii. All fees for recording the Deed and associated transfer documents;
- iii. Any and all costs associated with any financing Buyer may obtain to consummate the acquisition of the Property; and
- iv. Any and all costs incurred by Buyer in connection with the preparation, review and negotiation of this Agreement and the transactions and the Closing contemplated by this Agreement, including the cost of appraisals, architectural, engineering, credit and environmental reports, and any attorneys’ or consultancy fees.

- (b) Seller’s Costs. Seller shall pay the following costs and expenses in connection with the transactions contemplated by this Agreement:

- i. All fees for abstracting;
- ii. All fees due and payable to Sullivan Auctioneers, a BigIron Company;

- iii. Any transfer tax due and payable pursuant to Iowa Code Chapter 428A; and
 - iv. Any and all costs incurred by Seller in connection with the preparation, review, and negotiation of this Agreement and the transactions and the Closing contemplated by this Agreement, including any attorneys' or consultancy fees.
- (c) Legal Fees. Buyer and the Seller shall each pay their own legal fees related to the preparation of this Agreement and all documents required to settle the transaction contemplated hereby.

ARTICLE VI

CONDITIONS PRECEDENT TO CLOSING

6.1 Conditions Precedent for Buyer to Close. Notwithstanding anything to the contrary contained herein, the obligation of Buyer to consummate the Closing and pay the Purchase Price in accordance with this Agreement is expressly conditioned upon the fulfillment by and as of the time of the Closing of each of the conditions listed below, provided that Buyer, at its election, evidenced by notice delivered to Seller at or prior to the Closing, may waive all or any of such conditions.

- (a) Seller shall have performed and observed, in all material respects, all covenants and agreements set forth herein to be performed and observed by Seller as of the Target Closing Date.
- (b) Seller's representations and warranties set forth in Section 7.1 shall be true and correct in all material respects as if made on the Target Closing Date; provided, however, to the extent the facts and circumstances underlying such representations and warranties may have changed as of the Target Closing Date, Seller shall have the right to update its representations and warranties as of the Target Closing Date and Buyer shall be obligated to consummate the transactions contemplated by this Agreement on the Target Closing Date to the extent such changes cannot reasonably be expected, individually or in the aggregate, to materially impact this Agreement and the transactions contemplated hereunder.
- (c) On or before the Target Closing Date, Buyer's title review pursuant to Section 4.1 above shall show merchantable title to the Property in Seller in or conformity with this Agreement, Iowa law and the Title Standards of the Iowa State Bar Association.

- (d) Seller shall have delivered the Seller closing deliverables required for Closing to Escrow Agent or Buyer, as applicable, in accordance with Section 5.2.

6.2 Conditions Precedent for Seller to Close. Notwithstanding anything to the contrary contained herein, the obligation of Seller to consummate the Closing in accordance with this Agreement is expressly conditioned upon the fulfillment by and as of the time of the Closing of each of the conditions listed below, provided that Seller, at its election, evidenced by notice delivered to Buyer at or prior to the Closing, may waive all or any of such conditions.

- (a) Buyer shall have performed and observed, in all material respects, all covenants and agreements set forth herein to be performed and observed by Buyer as of the Target Closing Date.
- (b) Buyer's representations and warranties set forth in Section 7.2 shall be true and correct in all material respects as if made on the Target Closing Date subject to changes that: (i) are caused by the acts or omissions of Seller or its agents or affiliates; or (ii) cannot reasonably be expected, in the aggregate, to have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby.
- (c) Buyer shall have paid the full balance of the Purchase Price in accordance with Section 2.2 and all other amounts due under this Agreement and Escrow Agent shall be in possession of written authorization from Buyer to disburse such funds at the direction of Seller at Closing.
- (d) Buyer shall have delivered the Buyer closing deliverables required for Closing to Escrow Agent or Seller, as applicable, in accordance with Section 5.3.

6.3 Failure of Conditions to Closing.

- (a) If Buyer is unable to timely satisfy (and Seller has not waived in writing) the conditions precedent to Seller's obligation to effect the Closing, then such failure shall constitute a default hereunder, in which case, Seller shall have the right to terminate this Agreement by notice thereof to Buyer in accordance with the terms of this Agreement. If this Agreement is so terminated, then Seller shall be entitled to receive the Deposit and thereafter, neither party shall have any further obligations hereunder, except those expressly stated to survive the termination hereof.
- (b) If Seller is unable to timely satisfy the conditions precedent to Buyer's obligation to effect the Closing (and Buyer has not waived the same in

writing), and, in either case, such failure of condition precedent is not the result of Buyer's default hereunder, then Buyer or Seller shall be entitled to terminate this Agreement by notice thereof to the other party in accordance with the terms of this Agreement. If this Agreement is so terminated, then Buyer shall be entitled to receive the Deposit and thereafter neither party shall have any further obligations hereunder, except those expressly stated to survive the termination hereof.

6.4 Acknowledgment re: Contingencies. Buyer acknowledges and agrees that its obligation to perform under this Agreement is not contingent upon Buyer's ability to obtain any (i) governmental or quasi-governmental approval of changes or modifications in use or zoning, or (ii) modification of any existing land use restriction, or (iii) consents to assignments of any service contracts or other agreements that Buyer requests, or (iv) any debt or equity financing for acquisition of the Property.

ARTICLE VII REPRESENTATIONS AND WARRANTIES

7.1 Seller's Representations and Warranties.

(a) Except as expressly set forth in this Section 7.1, Seller has not made and does not make any representations or warranties, including any representations or warranties as to the physical and environmental condition, leases, rents, income, expenses, zoning or other matters with respect to the Property. Subject to Seller's knowledge, Seller represents and warrants, , except as provided herein, as of the Effective Date and as of the Target Closing Date:

- i. Due Formation. Seller is duly organized and validly existing under the laws of its jurisdiction of formation, and is in good standing in any jurisdiction where the failure to be in good standing will have a material adverse impact on its ability to perform its obligations under this Agreement.
- ii. Due Authority. Seller has full power and authority to enter into and perform this Agreement in accordance with its terms. Seller's execution, delivery and performance of this Agreement have been duly authorized, and all the documents executed by Seller that are to be delivered to Buyer at the Closing will be duly authorized.
- iii. Valid Agreement. This Agreement is a valid and binding obligation upon Seller, enforceable against Seller in

accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.

- iv. Not a Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.
- v. Leases. Except for that certain Farm Lease dated January 16, 2019, by and between Seller, as landlord, and Terry Lain Farms, Inc., Justin Lain, Tyler Lain, and Kenton Lain, as Tenant (the "Farm Lease"), the Property is not subject to any leases, tenancies, rental agreements, hunting or grazing permits, licenses, or other contracts, claims, or rights of any kind. The Parties will agree to a form assignment document whereby Seller will assign and Buyer will assume all rights of Seller as landlord under the Farm Lease, specifically limited to the extent the Farm Lease governs the Property (the "Farm Lease Assignment"), which shall be executed and delivered at Closing.

7.2 Buyer's Representations and Warranties. Buyer represents and warrants that, as of the Effective Date and as of the Target Closing Date:

- (a) Due Formation. To the extent applicable, Buyer is duly organized and validly existing under the laws of its jurisdiction of formation, and is in good standing in any jurisdiction where the failure to be in good standing will have a material adverse impact on its ability to perform its obligations under this Agreement.
- (b) Due Authority. Buyer has full power and authority to enter into and perform this Agreement in accordance with its terms. All requisite action has been taken by Buyer in connection with this Agreement or shall have been taken on or prior to the Target Closing Date. Buyer's execution, delivery and performance of this Agreement have been duly authorized.
- (c) Valid Agreement. This Agreement is a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.
- (d) No Litigation. There are no actions, lawsuits, litigation or proceedings pending or, to the knowledge of Buyer, threatened against or affecting

Buyer in any court or before any governmental authority that, if determined adversely to Buyer, would materially and adversely affect Buyer's ability to perform its obligations under this Agreement;

- (e) No Conflicts. To the extent applicable, the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby do not and will not: (i) result in a violation of Buyer's organizational documents; (ii) result in a violation or breach of any law applicable to Buyer; or (c) require the consent of any third party under or result in a breach of any contract to which Buyer is a party;
- (f) Independent Investigation; No Reliance. Buyer is a knowledgeable, experienced, and sophisticated buyer of land and property used in agriculture and is relying solely on its own expertise and that of Buyer's advisors and consultants in purchasing the Property. Except for the express representations and warranties of Seller found in Section 7.1 Buyer is acquiring the Property on an "AS IS, WHERE IS" basis, without any representation or warranty of any kind or nature whatsoever, express or implied, and Buyer acknowledges that no such representations or warranties have been made except as set forth in writing herein. In deciding whether to acquire the Property, Buyer is relying solely on Buyer's investigation of the Property;
- (g) Sufficient Funds. Buyer has sufficient funds available to pay all amounts to be paid by Buyer in connection with this Agreement and the transactions contemplated by this Agreement, including Buyer's costs and expenses and the Purchase Price, in each case on the terms and conditions contained in this Agreement, and there is not, nor will there be, any restriction on the use of such cash for such purpose;
- (h) No Bankruptcy. No bankruptcy, insolvency, reorganization or similar action or proceeding, whether voluntary or involuntary, is pending, or, to Buyer's knowledge, has been threatened in writing, against Buyer; and
- (i) Broker. Except to the extent a broker acting on behalf of Buyer has entered and executed a co-broker agreement with the Designated Seller Representatives set forth in Section 1.1 prior to the auction of the Property giving rise to this Agreement, Buyer has not dealt or negotiated with, or engaged on its own behalf or for its benefit, any broker in connection with this Agreement or the transactions contemplated hereby.

ARTICLE VIII

CONFIDENTIALITY, AS-IS, RISK OF LOSS

8.1 Confidentiality. Buyer hereby agrees to maintain in confidence all of Seller's Confidential Information and agrees that Seller's Confidential Information shall not be disclosed to third parties except (a) to Buyer's partners, members, managers, employees, advisors, consultants, attorneys, accountants, prospective and actual investors, and lenders, so long as any such persons to whom disclosure is made shall also agree to keep all such information confidential in accordance with the terms hereof, and (b) as required by Law. In the event of a disclosure required by law, Buyer shall notify Seller of such required disclosure, to the extent not prohibited by law, shall exercise all commercially reasonable efforts to preserve the confidentiality of the Confidential Information, including reasonably cooperating with Seller (at Seller's sole expense) to obtain an appropriate order or other reliable assurance that confidential treatment will be accorded such Confidential Information and shall disclose only that portion of the Confidential Information that Buyer is legally required to disclose (subject to Seller's right to contest such disclosure). In the event of a termination of this Agreement, Buyer shall promptly return all Confidential Information to Seller. The provisions of this Section shall survive the Closing or any termination of this Agreement.

For purposes of this Agreement, "Confidential Information" shall mean all documents, studies, reports, test results, brochures, offering materials, photographs, leases, lease guarantees, rent rolls, surveys, title reports and commitments, legal documents, financial information, appraisals, computer output, and other materials and information relating to the Property and all analyses, compilations, forecasts, projections and other documents prepared based upon such materials and information, and any and all proposals made in connection with a potential sale of any of the Property (including any proposals involving a price for the Property), whether the same are in electronic, pictorial, written or other form.. "Confidential Information" shall not include any information that (1) is in a recipient's possession before the Effective Date (and not obtained from a disclosing Party or a Party acting on any disclosing Party's behalf), (2) is or becomes generally available to the public other than as a result of disclosure by the receiving Party or its agent, representative, or affiliate in breach of this Agreement, (3) is independently developed by the receiving Party without reference to any information that is provided to the receiving Party by or on behalf of the disclosing Party, or (4) is or becomes available to the receiving Party from a source that is not, to the receiving Party's knowledge, bound by a duty of confidentiality to the disclosing Party.

8.2 AS-IS, WHERE-IS. Except as expressly set forth in this Agreement to the contrary, Buyer is expressly purchasing the Property in its existing condition "AS-IS, WHERE-IS, AND WITH ALL FAULTS" with respect to all facts, circumstances, conditions and defects, and Seller has no obligation to determine or correct any such facts, circumstances, conditions or defects or to compensate Buyer for same. Buyer is relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel, and officers.

8.3 Seller Release. Buyer shall rely solely upon Buyer's own knowledge of the Property based on its investigation of the Property and Buyer agrees that it shall, subject to the

express warranties, representations and conditions contained in this Agreement, assume the risk that adverse matters, including defects and adverse physical and environmental conditions may not have been revealed by Buyer's examination. Except as expressly set forth in this Agreement to the contrary, Buyer releases Seller and its respective successors and assigns from and against any and all claims that Buyer has or may have arising from or related to any matter or thing related to or in connection with the Property. This release shall be given full force and effect according to each of its express terms and provisions, including those relating to unknown and unsuspected claims, damages and causes of action. To the extent required to be operative, the disclaimers and warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation or order.

8.4 Risk of Loss. Except as otherwise specifically set forth herein, all risk of loss and destruction of the Property and improvements, and all Property expenses and insurance, shall be borne by Seller until the Target Closing Date. If any condemnation proceedings are brought or threatened respecting any portion of the Property or any damage or destruction of all or a portion of the Property occurs, Seller shall immediately notify Buyer, which notice shall specify the type and extent of such condemnation or damage. Within thirty (30) business days after receipt of such notice, Buyer shall have the option to either (i) terminate this Agreement upon written notice to Seller, and to then receive the Deposit, from Escrow Agent and have no further liability hereunder or (ii) proceed to Target Closing Date, in which case Buyer shall be entitled to receive and Seller shall assign to Buyer, all of the condemnation awards, damages, and proceeds resulting from such condemnation, and/or all insurance proceeds and if part or all of the Property is condemned, Buyer shall have the right to deal with the condemning authority, bring any action in Seller's name, and take such other action(s) as Buyer shall deem appropriate, in Buyer's sole discretion.

ARTICLE IX DEFAULT; REMEDIES

9.1 Default. Seller or Buyer shall be deemed to be in default hereunder upon the occurrence of any of the following and the failure to cure the same within thirty (30) days written notification of such default by the non-defaulting party:

- (a) Warranties and Representations. Discovery by the non-defaulting Party that any of the defaulting Party's representations or warranties are untrue or incorrect in any material respect;
- (b) Failure of Delivery. A Party's failure to provide to the Escrow Agent on or before the Target Closing Date all of the instruments, documents and/or cash to close as required by this Agreement; or
- (c) Failure to Comply with Other Terms and Obligations. A Party's failure to comply with any of the terms and obligations contained in this Agreement, and/or any other document or agreement between the Parties.

9.2 Remedies.

- (a) Buyer's Remedies. If Seller shall be in default under the terms of this Agreement or any supplemental agreement ("Seller's Default"), Buyer, at its sole option and discretion, shall be entitled to terminate and rescind this Agreement and recover the Deposit.
- (b) Seller's Remedies. If Buyer refuses or neglects to consummate this Agreement on or before the Target Closing Date or otherwise be in default under the terms of this Agreement, Seller may declare the Deposit paid by Buyer to the Escrow Agent be forfeited to Seller, and bring an action against Buyer to recover all reasonable costs and expenses that Seller incurs in addition to the Deposit based on the assumption that this Agreement would be consummated. Seller shall also be entitled to all other rights and remedies available under the laws of the State of Iowa, including, without limitation, specific performance of this Agreement.

ARTICLE X BROKERAGE COMMISSIONS

10.1 Buyer's Broker. Except to the extent a broker acting on behalf of Buyer has entered and executed a co-broker agreement with the Designated Seller Representatives set forth in Section 1.1 prior to the auction of the Property giving rise to this Agreement, Buyer hereby agrees to indemnify, defend and hold harmless Seller, and any successors or assigns of the foregoing, from any and all claims, demands, causes of action, losses, costs and expenses (including reasonable attorneys' fees, court costs and disbursements) arising from any claim for commission, fees or other compensation or reimbursement for expenses made by any broker engaged by or claiming to have dealt with Buyer in connection with this Agreement or the transactions contemplated hereby. Buyer agrees to pay any Buyer broker in accordance with the terms of a separate agreement between Buyer and Buyer broker.

10.2 Seller's Broker. Except for Designated Seller Representatives set forth in Section 1.1, Seller hereby agrees to indemnify, defend and hold harmless Buyer, and any successors or assigns of the foregoing, harmless from and against any and all claims, demands, causes of action, losses, costs and expenses (including reasonable attorneys' fees, court costs and disbursements) arising from any claim for commission, fees or other compensation or reimbursement for expenses made by any broker engaged by or claiming to have dealt with Seller in connection with this Agreement or the transactions contemplated hereby.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Entire Agreement and Amendment. This Agreement constitutes the entire agreement among the Parties hereto with respect to the transactions contemplated herein, and it supersedes all prior discussions, understandings or agreements among the Parties. All exhibits and schedules attached hereto are a part of this Agreement and are incorporated herein by reference. This Agreement may not be amended or modified by any act or conduct of the Parties or orally in any respect unless the amendment or modification is reduced to writing and executed by the Parties.

11.2 Binding on Successors and Assigns. Subject to Section 11.3, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

11.3 Assignment. No Party may assign its rights hereunder or delegate the performance of its duties, obligations and undertakings hereunder without the express written consent of the party to this Agreement holding the benefit of such duties, obligations and undertakings.

11.4 Waiver. The excuse or waiver of the performance by a Party of any obligation of the other Party under this Agreement shall only be effective if evidenced by a written statement signed by the Party so excusing or waiving. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Buyer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

11.5 Governing Law. This Agreement shall be enforced and construed in accordance with the laws of the State of Iowa, without reference to the conflict of law rules of the State. Venue for any legal action or proceedings commenced by a party shall be in the State of Iowa located in Polk County, Iowa.

11.6 Waiver of Jury Trial. THE PARTIES HEREBY INTENTIONALLY, KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR ANY OTHER LITIGATION PROCEDURE BASED UPON, OR ARISING OUT OF THIS AGREEMENT. IN EXTENSION OF THE FOREGOING, THE PARTIES SPECIFICALLY CONSENT TO TRIAL BEFORE A COURT RESPECTING ANY SUCH MATTER. NEITHER OF THE PARTIES WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

11.7 Costs and Attorney's Fees. If either Party brings or commences a legal proceeding to enforce any of the terms of this Agreement, the prevailing Party in such action shall have the right to recover reasonable attorneys' fees and all other associated costs from the other Party, to be fixed by the court in the same action. The term "legal proceedings" shall include appeals from

a lower court judgment and bankruptcy proceedings. The “prevailing party” means the party who substantially obtains the relief sought.

11.8 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision or persons or circumstances other than those to which it is invalid and unenforceable, shall not be affected thereby, and such term or provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

11.9 Time of the Essence. Time is of the essence of this Agreement; however the specified times for performance of the parties and the actions to be taken by Escrow Agent shall be extended or modified as reasonably necessary in order to accomplish the purposes and intentions of this Agreement. If any deadline falls on a Saturday, Sunday or nationally recognized holiday, the deadline shall be the next business day.

11.10 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, acts of God, enemy or hostile governmental action, civil commotion, fire or other casualty beyond the control of the party obligated to perform (each, a “Force Majeure Event”) shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

11.11 Counterparts; Signatures. The Parties may sign this Agreement in multiple identical counterparts, all of which taken together shall constitute one and the same agreement. Further, the parties shall treat a copy of an original signature to this Agreement that they transmit electronically for all purposes as an original signature. The Parties shall consider a copy of the signed Agreement for all purposes as an original of the Agreement to the maximum extent permitted by law, and no Party shall have any obligation to retain a version of this Agreement that contains original signatures in order to enforce this Agreement, or for any other purpose.

11.12 Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be given by (i) established express delivery service which maintains delivery records, (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the parties at the addresses set forth in Section 1.1, or at such other address as the parties may designate by written notice in the above manner. Notices and other communications may also be given by electronic mail, provided the notice or other communication is concurrently given by one of the above methods. Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of failure to provide a reasonable means for accomplishing delivery. Either party may, by giving notice pursuant hereto, change the information set forth above.

11.13 Special Provisions. Notwithstanding any of the foregoing, the Parties further agree to the following special terms and conditions:

- (a) USDA Farm Service Agency. Following Closing, it shall be Buyer's sole obligation to issue any and all notices, documents or communications needed in connection with the receipt of any government program benefits associated with the Property. Additionally, following Closing, Buyer agrees (i) to report to the appropriate county Farm Service Agency ("FSA"), submitting the Deed in order to determine and receive (a) the allotted based acres, and final tillable acres, as determined by the FSA; and (ii) follow all requirements of conservation plans and practices required by the FSA to maintain eligibility in the Conservation Reserve Program ("CRP"), and shall accept and assume any and all responsibility and liability for any action which may jeopardize eligibility within the CRP or actions that would require repayment of any CRP payments or benefits. Buyer further agrees to indemnify and hold harmless the Seller for any recovery sought by the FSA due to actions of Buyer, which would violate the requirements of CRP or any affiliated statutes or regulations.
- (b) Buyer Responsibilities. Following Closing, Buyer shall be solely responsible for any and all maintenance activities necessitated or elected in connection with the Property, including, but not limited to, erecting and maintaining any fencing required pursuant to applicable law; constructing, installing, or creating entrances and rights of ingress and egress; site clean-up; and any and all costs and expenses incurred in connection therewith.
- (c) Respective Septic Inspection Requirements. The Parties hereby agree and acknowledge that, to the extent applicable, Seller, pursuant to Iowa Code 455B.172(11), is exempt from any time of transfer inspection obligations required pursuant to Iowa Code 455B.172 and any other associated laws or regulations, and Buyer shall be solely responsible, at its sole cost and expense, for any future inspections, upgrades, repairs, maintenance, or other actions pursued or effectuated in connection with the Property's septic system(s), including any associated compliance with Iowa or Wayne County's associated laws or regulations.
- (d) Announcements. Any announcements issued by Seller, the Designated Seller Representative, or any of their respective employees, agents, or assigns as of the day of auction shall take precedence over any previously issued announcements or advertising.

[Signature Page Follows]

IN WITNESS WHEREOF the parties have caused this Agreement to be signed as of the Effective Date.

SELLER

Ewing Family Farms, L.C.

By: Todd Ewing
Its: Manager

BUYER



By:
Its:

EXHIBIT "A"
DESCRIPTION OF THE PROPERTY

A Parcel of land in the NE $\frac{1}{4}$ of Section 16, T-70N, R-20W of the 5th P.M., Wayne County, Iowa, more particularly described as follows:

Beginning at the Lead Plug at the E $\frac{1}{4}$ Corner of said Section 16, Thence S88°40'55"W 2051.09 feet along the south line of the NE $\frac{1}{4}$ of said Section 16, Thence N01°19'00"W 375.52 feet, Thence S88°40'55"W 571.48 feet to the west line of the NE $\frac{1}{4}$ of said Section 16, Thence N00°00'15"E 2306.14 feet to the N $\frac{1}{4}$ Corner of said Section 16, Thence N89°25'05"E 1304.08 feet to the NW Corner NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 16, Thence N89°24'16"E 1312.38 feet to the NE Corner of said Section 16, Thence S00°18'00"E 2648.16 feet to the Point of Beginning, Containing 155.53 acres, more or less, including 8.42 acres of existing right-of-way easement.