

## Auction Terms and Conditions

All bidders and participants of this sale agree that they have read and fully understand these terms and agree to be bound by the terms and conditions contained herein.

**General Information:** United Country M. Edwards Realty & Land, Monty Edwards and Shawn Terrel, Broker and Auctioneer (known herein as “Broker/Auctioneer”) has been contracted by Lexie and Kelley Fennell, to offer for sale at public auction the property known as the **Fennell Livestock Feeding and Irrigated Farming Operation**, (the “Property”), consisting of **3,004 +/- acres** in Lamb County, Texas. The Property will be offered at a live Multi-Parcel Auction in individual tracts, combinations of tracts, and in its entirety. There will be a **five percent (5%) Buyer’s Premium** added to the winning bid price to arrive at the total contract price to be paid by the successful Bidder.

**Auction Date/Time and Location:** The live Auction will be held on **Thursday, July 14<sup>th</sup> @ 10:00 AM at the Bailey County Civic Center, 2206 W American Blvd, Muleshoe, TX 79347**. The Civic Center phone number is (806) 272-4051 and the Property is located approximately 20 miles west by Earth, Texas.

**Property Inspection:** It is the sole responsibility of the Bidder to:

- a) Perform all inspections (legal, environmental, economic or otherwise) of the Property and to be satisfied as to its condition prior to bidding.
- b) Review all property information and materials while performing due diligence on the property.
- c) Independently verify any and all information the bidder deems important including information made available through public records.
- d) Inquire of public officials as to the applicability of and compliance with land use and environmental laws, zoning, building, health & safety codes and ordinances and any other local, state or federal laws and regulations.

All information contained in the auction brochure and all promotional materials, including, but not limited to, photographs, directions, acreage, square footage, dimensions, zoning, maps used for promotion, environmental conditions, taxes, etc., was provided by or on behalf of the Seller and is believed to be correct; however, neither the Seller nor the Broker/Auctioneer makes any promise, representation, guarantee, or warranty as to the accuracy or completeness of such information. There is no obligation on the part of Seller or Broker/Auctioneer to update any information. The Bidder shall be responsible for verifying all acreage and square footage amounts through public records.

**Previews:** Broker/Auctioneer strongly recommends that prospective Bidder(s) personally inspect the Property prior to the Auction. To schedule a time to visit the Property or to perform an inspection, the Bidder and/or Bidder’s Broker should contact the auction company by calling (806) 786-5426.

**Bidder Registration:** To participate at the Auction, a prospective Bidder must first register for the event. The Bidder Registration and Release Form is available and can be obtained on the auction website or from the Broker/Auctioneer upon request. Bidder must submit proof of financial ability to purchase the Property consisting of pre-qualification for financing or ability to pay cash in the amount of **not less than \$250,000.00**. The Bidder Registration and Release Form should be submitted to Broker/Auctioneer on or by **Tuesday, July 12<sup>th</sup> at 5:00pm (CST)**. Broker/Auctioneer will notify the Bidder of their bid status **within 24 hours** after receipt and verification of the abovementioned information. Seller reserves right to waive proof of financial capability at time of Auction for individuals that are known to Seller.

**Bid Acceptance, Contract Execution and Closing:**

- 1) Upon being declared the successful high-bidder, the Bidder will be required to pay a Down Payment (Deposit) in the amount equal to **ten percent (10%)** of the total contract price (which includes the buyer's premium). The Down Payment (Deposit): **a)** must be paid in U.S. Funds only; **b)** paid by a wire transfer, cashier's check, or a personal/company check (with Sellers approval); and **c)** shall be held by the Closing Agent pending completion of necessary closing procedures, after which the Bidder shall be granted possession of the Property subject to any special conditions previously announced regarding the home and existing crops, and matters contained in the Title Commitment and the Auction Sales Contract.
- 2) The Bidder shall immediately execute and deliver a fully completed Real Estate Auction Sales Contract together with all related Addenda for the Property purchased at the Auction. The fully executed Real Estate Auction Sales Contract shall control all terms and conditions of the sale and constitute the entire agreement between Buyer and Seller. In the event of any conflict between these Terms and Conditions of Sale and the Terms and Conditions of such Real Estate Auction Sales Contract; the Terms and Conditions of the Real Estate Auction Sales Contract shall prevail. **NO CHANGES TO THE TERMS AND CONDITIONS OF THE REAL ESTATE AUCTION SALES CONTRACT WILL BE PERMITTED. BUYER WILL BE REQUIRED TO EXECUTE THE REAL ESTATE AUCTION SALES CONTRACT "AS PRESENTED" ON THE AUCTION DATE. THIS SALE IS NOT CONTINGENT ON THE BUYER'S ABILITY TO OBTAIN FINANCING.**
- 3) Any person bidding on behalf on another person or entity must have a valid, legally enforceable, unexpired, recordable Power of Attorney approved by Seller prior to the Auction. If a Bidder is bidding on behalf of a corporation, the Bidder shall be individually bound until the Bidder presents a corporate resolution prior to closing.
- 4) If for any reason the Bidder fails or refuses to deposit the required down payment funds; (on the Auction Date, or on the first legal banking day following the Auction Date, or to execute the Real Estate Auction Sales Contract immediately after being confirmed as the winning Bidder); the Seller, at the Seller's sole discretion, reserves the right to declare the Bidder's rights forfeited and may re-sell the Property, or may seek damages from said Bidder for losses incurred by Seller for Bidder's failure to act in accordance with the terms and conditions as specified herein.
- 5) Closing will be scheduled on or before **Monday, August 15<sup>th</sup>, 2022.**

**Buyer's Broker Guidelines:** Upon the Closing of the transaction contemplated herein, Broker/Auctioneer shall be paid a commission pursuant to a separate written agreement between Broker/Auctioneer and Seller. If a Buyer's Broker is properly registered with the Broker/Auctioneer in accordance with the guidelines specified within the Buyer's Broker Registration Form, then at closing, the Buyer's Broker shall be paid a commission of **two percent (2%)** of the high bid amount as shown on the Real Estate Auction Sales Contract. If for any reason whatsoever (including the default of any party hereto), the Closing hereunder does not occur, then no commission shall be due and payable to Buyer's Broker. To qualify for a commission, the Buyer's Broker must register the prospect, using the Buyer's Broker Registration Form provided by the Broker/Auctioneer. There will be no exceptions to the guidelines and no oral registrations will be accepted. No Broker will be recognized or compensated that is participating as a principal, buyer or partner in the purchase.

**Survey:** In the event any purchased tract requires a survey to determine the legal description, the cost of the survey will be paid by the seller. If the same buyer or entity purchases two (2) or more adjoining tracts and no survey is required to separate said tracts, then no survey will be provided by the seller. Any survey of adjacent tracts purchased in a combination will be for the perimeter only. Any additional survey desired by the buyer will be at the buyer's sole discretion and cost. In the event said survey identifies a variance between the advertised acres and surveyed acres, the purchase price will be adjusted on a per acre basis.

**Disclaimer:**

- 1) Personal on-site inspection of the Property is recommended and the bidders are advised to independently verify all information they deem important. This Property is being sold **“AS-IS”, “WHERE-IS” and with “ALL-FAULTS”**. The Seller and Broker/Auctioneer have not made, do not make and will not make, and hereby disclaim any representation or warranty, whether expressed or implied or statutory, whether oral or written, with respect to the Property, including, without limitation, any warranty as to its value, condition, acreage, square footage, suitability, merchantability, marketability, operability, zoning or subdivision regulations, mineral rights, wind rights, water rights, environmental condition or fitness for a particular use or purpose. No Guarantees are given as to the availability of utilities or accesses, or the permitted or allowable uses of the Property.
- 2) Neither the Seller, its attorneys, any broker, nor the Broker/Auctioneer, shall be liable for any relief including damages, rescission, reformation, allowance or adjustments based on the failure of the Property, including, but not limited to, amount of acreage, square footage, zoning, and environmental condition to conform to any specific standard or expectation, or to any third-party documents or information.

**Agency Disclosure:** The Broker and Broker/Auctioneer are acting exclusively as the agent for Seller in this transaction and is to be paid a fee by Seller pursuant to a separate written agreement between Seller and Broker/Auctioneer. The Broker/Auctioneer is not acting as agent in this transaction for the Buyer. Any third-party broker is not a subagent of Broker/Auctioneer.

**Equal Opportunity:** All bidding is open to the public which meets the Sellers registration qualifications and approval. The Property is available to qualified Bidders without regard to a prospective Bidders race, color, national origin, religion, sex, familial status, or physical handicap.

**Miscellaneous:**

- 1) All decisions of the Broker/Auctioneer are final as to the methods of bidding, disputes among bidders, increments of bidding, tie bids, and any other matters that may arise before, during, or after the Auction. Seller reserves the right to deny any person admittance to the Auction or expel anyone from the Auction who attempts to disrupt the Auction.
- 2) Property in whole or part is subject to sale prior to auction day.
- 3) Bidders are given notice that the Auction may be video/audio recorded and photographed.
- 4) Broker/Auctioneer reserves the right to accept or reject offsite bidding via the internet, by telephone or by written bid.
- 5) All announcements made Auction Day supersede any prior oral or written statements. The Seller reserves the right to announce additional Terms and Conditions of the sale prior to or during the Auction.
- 6) Monty Edwards, Broker of Record (TX#515752) and Shawn Terrel, Auctioneer (TX#17087).
- 7) In compliance with TDLR rule 67.100(c)(1), notice is hereby provided that this auction is covered by a Recovery Fund administered by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, and the phone is (512) 463-2906. Any complaints may be directed to the TDLR at the same address.

**BROKER AND AUCTIONEER FOR THIS AUCTION ARE SELLING AGENTS ONLY AND MAKE NO REPRESENTATIONS CONCERNING THE PROPERTY WHATSOEVER.**

**Accepted and Agreed by:**

\_\_\_\_\_  
Bidder Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Company

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date