

## AGREEMENT TO PURCHASE

This Agreement to Purchase (this “**Agreement to Purchase**”) is dated March 24, 2016 and is entered into by and between Ronald L. Fode and Robin M. Fode, as their respective interests appear with respect to the Property (collectively, “**Seller**”), and the undersigned Buyer. For purposes of this Agreement, “**Buyer**” refers to the individual(s) and/or entity(ies), whether one or more, signing as Buyer(s) on the signature page of this Agreement to Purchase (the “**Signature Page**”).

### RECITALS

A. The following documents are incorporated herein as integral parts of the parties’ agreement to purchase and together with this Agreement to Purchase are collectively referred to herein as this “**Agreement**”: (a) the aerial auction tract map and tract descriptions attached hereto as Exhibit A (“**Exhibit A**”); (b) the auction announcements attached as Exhibit B (“**Exhibit B**”); (c) the form of assignment of Potato Farming Lease attached as Exhibit C (“**Exhibit C**”); and, if the Property consists of Auction Tract 4, the Irrigation Water Agreement attached as Exhibit D (“**Exhibit D**”); and, if the property consists of Auction Tract 1,2,or 3, the Irrigation Water Agreement attached as Exhibit E (“**Exhibit E**”)

B. This Agreement is executed in connection with a public auction conducted on this date (the “**Auction**”) by Chuck Yarbro Auctioneers, Inc. and Rafter Y Auction Co., LLC dba Chuck Yarbro Auctioneers, in cooperation with Schrader Real Estate and Auction Company, Inc., on behalf of Seller with respect to real estate located in Grant County in the State of Washington offered in four (4) separate tracts, each of which is depicted and identified by tract number in Exhibit A. For purposes of this Agreement, the term “**Auction Company-Broker**” refers to said Chuck Yarbro Auctioneers, Inc., Rafter Y Auction Co., LLC dba Chuck Yarbro Auctioneers, and Schrader Real Estate and Auction Company, Inc., individually and collectively.

C. Buyer is executing this Agreement as the high bidder at the Auction with respect to the particular auction tract(s) designated by the tract number(s) written on the Signature Page and identified by the same tract number(s) in Exhibit A (the “**Purchased Tract(s)**”).

NOW, THEREFORE, in consideration of the foregoing premises and the provisions of this Agreement, the parties agree as follows:

### AGREEMENT

1. **Subject of Agreement; Property.** In accordance with and subject to the terms of this Agreement, Buyer agrees to purchase from Seller and Seller agrees to sell to Buyer the Real Estate and Irrigation Equipment described below (collectively, the “**Property**”).
2. **Real Estate.** The Property to be acquired pursuant to this Agreement includes all of the real estate comprising the Purchased Tract(s), including the land and any improvements and permanent fixtures presently existing on the land, together with any and all water rights appurtenant thereto (collectively, the “**Real Estate**”). Seller is not reserving any ownership or rights with respect to minerals. However, no promise, warranty or representation is made as to the existence, extent or value of any minerals and/or the Seller’s interest therein.
3. **Irrigation Equipment.** Except as otherwise provided in the Mini-Lease Agreement described in Exhibit B with respect to the “mini-circles” on parts of Tracts 1 and 2, the Property to be acquired pursuant to this Agreement includes the center pivot irrigation system(s) currently located on the Purchased Tract(s), including any related equipment (such as power units, gear heads, pumps and/or well-related equipment) currently located on the Purchased Tract(s) and used in the operation of such irrigation system(s) (collectively, the “**Irrigation Equipment**”).
4. **Purchase Price; Buyer’s Premium.** The total purchase price for the Property (the “**Purchase Price**”) is written on the Signature Page and consists of the amount of Buyer’s bid (the “**Bid Amount**”) plus a Buyer’s Premium equal to four percent (4.0%) of the Bid Amount. If a new survey of all or any part of the Real Estate is procured in accordance with the terms of this Agreement, the Purchase Price shall be subject to adjustment based on the number of acres shown in such survey if and only if (and only to the extent that) such an adjustment is applicable in accordance with the terms of Exhibit B. Prior to the Closing, Buyer shall deliver to the Escrow Agent funds in the amount of the Purchase Price, plus expenses charged to Buyer as provided in this Agreement, less previously-delivered Earnest Money and any other credits due Buyer as provided in this Agreement, which shall include immediately available funds delivered by confirmed wire transfer to an account designated by the Closing Agent (“**Good Funds**”). .
5. **Earnest Money.** Concurrently with the execution of this Agreement, Buyer is delivering or has delivered to the Law Office of Steven H. Sackmann, 455 E. Hemlock St., Othello WA (the “**Escrow Agent**” and/or “**Closing Agent**”) an earnest money deposit in the amount written on the Signature Page (the “**Earnest Money**”), being an

amount equal to at least twenty percent (20%) of the Purchase Price, to be held in escrow and applied to the Purchase Price at Closing. If the Earnest Money is returned to Buyer pursuant to the terms of this Agreement, the Earnest Money (and any interest due under Section 38 below) shall be sent to Buyer's address shown on the Signature Page unless Buyer has clearly communicated instructions for an alternate method of delivery. No interest shall be due on the Earnest Money except as provided in Section 38 below.

6. **Conveyance Requirements.** Seller covenants and warrants that Seller is able to: (a) convey the Property in substantially its present condition (except as otherwise provided in Section 20 below); and (b) convey to Buyer fee simple title with respect to the Property free and clear of any lien (except the lien for current, non-delinquent Taxes), but subject to the Permitted Exceptions, as defined below (the "**Conveyance Requirements**"). For purposes of this Agreement, Seller shall be deemed to have marketable title if Seller is able to convey the Property in conformance with the Conveyance Requirements.

7. **Preliminary Title Evidence.** Buyer acknowledges by Buyer's signature below that the preliminary title insurance schedules prepared by Stewart Title Company as further described in Exhibit B (the "**Preliminary Title Evidence**") has been reviewed by Buyer and was reviewed by Buyer as a prospective bidder prior to the Auction and also has been made available for review at the Auction site prior to and during bidding.

8. **Final Title Commitment; Owner's Title Insurance Policy.** Buyer has the right to receive, as a condition to Buyer's obligation to acquire the Property at Closing, and at Seller's expense, an updated commitment for the issuance of a standard owner's title insurance policy with respect to the Real Estate in the name of Buyer for the amount of the Purchase Price updated to a date after the Auction and prior to Closing (the "**Final Title Commitment**"). Buyer agrees to accept the Final Title Commitment furnished by Seller notwithstanding: (a) standard exceptions, conditions and requirements; (b) any exception, condition or requirement that can and will be satisfied and/or removed at or prior to Closing; (c) any specific or general exception pertaining to minerals and/or mineral rights; and/or (d) any matter listed, described or revealed in the Final Title Commitment that constitutes a Permitted Exception. At Closing, Seller shall pay for the cost of issuing a standard owner's title insurance policy in accordance with the Final Title Commitment.

9. **Delivery of Title.** The Real Estate shall be conveyed to Buyer by warranty deed (subject to the Permitted Exceptions), to be furnished by Seller at Seller's expense and executed and delivered at Closing. The Irrigation Equipment shall be transferred to Buyer pursuant to a bill of sale with a disclaimer of all warranties except standard warranties of title, to be furnished by Seller at Seller's expense and executed and delivered at Closing. If it is necessary to allocate the purchase price at Closing between the real estate and personal property, both parties agree to use an allocation provided by Seller for purposes of the Closing.

10. **Assumed Contracts.** Seller has entered into certain agreements and contracts with third parties pertaining to the Property and Seller warrants that Seller's interest thereunder is assignable to Buyer. The interest of Seller under the leases and/or contracts described as follows (collectively the "Assumed Contracts") shall be assigned to and assumed by Buyer at Closing, but only to the extent pertaining and/or attributable to the Property conveyed to Buyer: (a) the Potato Farming Lease with Odessa Farming LLC dated October 30, 2013, as further described in Exhibit B and Exhibit C; (b) if the Property includes Auction Tracts 1 and/or 4, the Grower's Contract dated December 19, 2015 and first and last right of refusal on 2016 hay cuttings in favor of Bogaard Hay Company, as further described in Exhibit B; and (c) any existing and subsisting oil, gas and/or mineral lease affecting the Property. At Closing, Seller and Buyer shall execute and deliver one or more instruments pursuant to which all of Seller's rights and obligations under the Assumed Contracts shall be assigned to and assumed by Buyer without representation or warranty; *provided, however*, the assignment and assumption of the Assumed Contracts shall be effective as of the Closing in any event, with or without the execution of a separate instrument of assignment and assumption; *provided, further*, with respect to the Potato Farming Lease, the instrument of assignment and assumption shall be substantially in the form of the attached Exhibit C and subject to the terms and limitations contained therein. Except as otherwise provided in Exhibit B and Exhibit C, payments made or due under the Assumed Contracts shall be estimated as of and prorated to the date of Closing. Seller and Buyer shall mutually cooperate with respect to the satisfaction of any notification requirements or other requirements in connection with the assignment and assumption of the Assumed Contracts. Buyer acknowledges by Buyer's signature below that the Assumed Contracts were made available to Buyer and that Buyer has read and understands the Assumed Contracts.

11. **Permitted Exceptions.** As between Buyer and Seller, Buyer agrees to accept the title, deed, title insurance and any survey subject to and notwithstanding the following matters (each a "**Permitted Exception**" and collectively the "**Permitted Exceptions**"): (a) existing roads, public utilities and drains; (b) visible or apparent uses and easements; (c) any variation between a deeded boundary line and a fence line, field line, ditch line, irrigation circle or other visible occupancy line; (d) any lien for current, non-delinquent Taxes; (e) local ordinances and zoning laws; (f) existing ownership and/or rights of others with respect to minerals and/or mineral leases; (g) existing water rights and restrictions;

(h) easements, conditions, restrictions, reservations and/or other matters (except liens) appearing of record, including but not limited to matters appearing of record and disclosed, identified or listed as exceptions in the Preliminary Title Evidence; (i) the Assumed Contracts; (j) any covenants, conditions, restrictions and/or easements, if any, affecting title, which are apparent or may appear in the public record, including without limitation those shown on any recorded plat or survey; (k) the new agreements, covenants and easements listed in paragraph 35 of Exhibit B; and (l) any other matter disclosed in this Agreement, including Exhibit B.

12. **Survey.** A new survey of all or part of the Real Estate shall be obtained prior to closing if and only if: (a) the conveyance of the Real Estate will involve the creation of a new parcel which cannot be conveyed using existing legal description(s) or using existing legal description(s) with newly-surveyed exception(s); or (b) without a new survey the conveyance will not be accepted for recording by the official(s) responsible for recording the conveyance; or (c) a new survey is otherwise deemed necessary or appropriate in Seller's sole discretion. If a new post-auction survey is obtained: (i) the survey shall be ordered by the Auction Company-Broker; (ii) the survey shall be sufficient for the purpose of recording the conveyance, but the type of survey shall otherwise be determined solely by Seller; and (iii) the survey costs shall be shared equally (50:50) by Seller and Buyer. Any survey of adjacent tracts purchased in combination will be for the perimeter only and will not show interior tract boundaries.

13. **Conditions to Closing.** Buyer's obligation to purchase and acquire the Property at Closing is not contingent upon the Buyer's ability to obtain financing or the satisfaction of any other condition except the condition that Seller is able to convey the Property in conformance with the Conveyance Requirements. If Seller, acting in good faith, is unable to convey the Property in conformance with the Conveyance Requirements: (a) such inability shall constitute a failure of said condition, but not a Seller default; and (b) either party may terminate this Agreement prior to Closing by written notice to the other; *provided, however*, prior to any such termination by Buyer, Buyer must give Seller sufficient written notice of the nonconformity to enable Seller to cure such nonconformity and Seller shall have the right to extend the date of Closing up to 30 days in order to cure such nonconformity. In the event of termination by either party pursuant to this Section, Buyer shall be entitled to the return of the Earnest Money as Buyer's sole and exclusive remedy.

14. **Closing.** As used herein, the term "**Closing**" refers to the final delivery and exchange of documents and funds in connection with the consummation of the sale and purchase of the Property in accordance with the terms of this Agreement, including the delivery of title to Buyer and the delivery of the Purchase Price to Seller. Subject to the terms and conditions of this Agreement, the Closing shall be held on or before April 25, 2016 or as soon as possible after said date upon completion of the survey (if applicable), the Final Title Commitment and Seller's closing documents; *provided, however*, if for any reason the Closing does not occur on or before April 25, 2016 then, subject only to the condition that Seller is able to convey the Property in conformance with the Conveyance Requirements, Buyer shall be obligated to close on a date approved by the Closing Agent and specified in a written notice from Seller or Seller's agent to Buyer or Buyer's agent which date must be: (a) at least 10 days after the effective date of such notice; and (b) at least 10 days after completion of the survey, if applicable, and the Final Title Commitment. The Closing shall be held at and/or administered through the Law Office of Steven H. Sackmann, 455 E. Hemlock St., Othello WA.

15. **Seller's Expenses.** The following items shall be charged to Seller and paid out of the sale proceeds that would otherwise be delivered to Seller at Closing: (a) all costs of releasing existing liens, if any, and recording the releases; (b) one-half of the fee charged by the Closing Agent to administer a cash closing; (c) one-half of the cost of the survey(s), if any, procured in accordance with this Agreement; (d) the cost of the owner's title insurance; (e) the cost of preparing Seller's transfer documents, including the deed and any applicable bill of sale and/or instruments of assignment; (f) real estate transfer fees (excise tax) that Seller is required to pay under state or local law in connection with the conveyance of the Property except Buyer shall pay any use tax on personal property included in the purchase; (g) the professional fees due Auction Company-Broker in connection with this transaction; (h) any expense stipulated to be paid by Seller under any other provision of this Agreement; and (i) any expense normally charged to a seller at closing and not specifically charged to Buyer in this Agreement.

16. **Buyer's Expenses.** The following items shall be charged to Buyer and paid out of the Good Funds delivered by Buyer to the Closing Agent prior to Closing: (a) any expense incident to a loan obtained by Buyer which is not otherwise paid by Buyer outside of Closing; (b) one-half of the fee charged by the Closing Agent to administer a cash closing (and 100% of any additional closing fees due to any loan); (c) one-half of the cost of the survey(s), if any, procured in accordance with this Agreement; (d) any expense stipulated to be paid by Buyer under any other provision of this Agreement; and (e) any expense normally charged to a buyer at closing and not specifically charged to Seller in this Agreement.

17. **Taxes and Assessments.** As used herein, the term "**Taxes**" refers to, collectively, ad valorem property taxes and special assessments, if any, that are assessed against and attributable to the Property and any related penalties

and interest. “**Seller’s Taxes**” refers to the Taxes assessed against and attributable to the Property for the first part of the calendar year in which the Closing occurs, prorated on a calendar year basis to the date of Closing, and all prior years. Any unpaid Seller’s Taxes shall be withheld from Seller’s proceeds at Closing and paid directly to the appropriate tax collection office; *provided, however*, any portion of Seller’s Taxes that is not payable at the time of Closing shall be estimated based on 100% of the amount last billed for a calendar year (and prorated to the date of Closing, as provided above) and the amount thus estimated shall be paid via credit against the sums due from Buyer at Closing. Buyer shall then pay all Taxes billed after Closing. **ANY ESTIMATED TAX CREDIT SHALL NOT BE SUBJECT TO ADJUSTMENT AFTER CLOSING EVEN THOUGH SUCH CREDIT MAY BE MORE OR LESS THAN THE ACTUAL AMOUNT DUE ONCE THE TAX RATES, ASSESSMENTS AND/OR PARCEL SPLITS ARE FINALIZED. SELLER, AUCTION COMPANY-BROKER AND CLOSING AGENT SHALL HAVE NO RESPONSIBILITY FOR ANY TAXES AFTER CLOSING.**

18. **Tax Parcel Split.** If the conveyance of the Property involves a tax parcel split, any applicable tax credit shall be allocated between the newly-created parcels based on parcel split information provided by the appropriate property tax official; *provided, however*, if such parcel split information is not provided by such tax official, any applicable tax credit shall be allocated equitably between the newly-created parcels based on an estimated parcel split using the most current assessment data available. If any Taxes are billed after Closing in a manner that does not reflect the parcel split, Buyer shall cooperate with the other owner(s) of land from the same parent parcel to facilitate the timely payment of such Taxes, to be allocated in the same proportions used to allocate the tax credit at Closing.

19. **Delivery of Possession.** Possession of the Property shall be delivered to Buyer in accordance with and subject to the terms and conditions of Exhibit B.

20. **Risk of Loss.** The Property shall be conveyed at Closing in substantially its present condition and Seller assumes the risk of loss and damage until Closing; *provided, however*, Buyer shall be obligated to acquire the Property notwithstanding the occurrence of any of the following prior to Closing: (a) normal use, wear and tear; (b) loss or damage that is repaired prior to Closing; and (c) loss covered by Seller’s insurance if Seller agrees to assign to Buyer all insurance proceeds covering such loss.

21. **Condition of Property; Acknowledgment of Buyer.** Buyer is responsible for having completed all desired inspections of and investigations with respect to the Property prior to bidding at the Auction. Buyer acknowledges and represents to Seller that Buyer has either completed all such inspections and investigations or has knowingly and willingly elected to purchase the Property without having completed such inspections and investigations. In either case, Buyer assumes all risks and agrees to purchase and acquire the Property in its “as is” condition. Buyer acknowledges that Seller has not agreed to perform any work on or about the Property, before or after Closing, as a condition of this Agreement.

22. **THE PROPERTY IS SOLD “AS IS”. ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE PROPERTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. IN NO EVENT SHALL SELLER, AUCTION COMPANY-BROKER OR THEIR RESPECTIVE AGENTS AND REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL DAMAGES.** Without limiting the foregoing provisions, Seller, Auction Company-Broker and their respective agents, employees and representatives disclaim any and here by make no representation or warranty with regard to water rights, acreages, zoning matters, location or availability of utilities, availability of building or other permits, whether or not the Real Estate qualifies for any specific use or purpose and/or the accuracy of any third party reports or materials provided in connection with the Auction or this Agreement.

23. **Remedies; Buyer Default.** If the purchase and sale discussed herein fails to close due to nonpayment or dishonor of any check delivered for the Earnest Money and/or the failure of this transaction to close due to nonperformance, breach and/or default with respect to the Buyer’s obligation(s) under this Agreement (“**Buyer Default**”), the following provisions shall apply:

(a) Seller shall have the right to demand and recover liquidated damages in an amount equal to twenty (20%) of the Purchase Price. Upon Seller’s demand and receipt of such liquidated damages, this Agreement shall be completely terminated in all respects. Buyer acknowledges and agrees that, in the event of a Buyer Default, it would be impractical and extremely difficult to calculate the damages which Seller may suffer and that the liquidated damages amount provided above is a reasonable estimate of the total net economic detriment that Seller would suffer due to a Buyer Default. If this liquidated damages provision is adjudicated as unenforceable, all other remedies shall be available to Seller, in equity or at law, including the right to recover actual damages, plus attorney fees.

(b) The Earnest Money shall be applied towards any sums that Seller is entitled to recover from Buyer and, upon Seller’s demand, Buyer shall execute and deliver to the Escrow Agent an instrument authorizing the payment

of such funds to Seller up to the amount due Seller. If Buyer fails to execute and deliver such authorization, the funds shall remain in escrow until properly adjudicated and Seller shall have the right to recover from Buyer, in addition to any other recovery, all expenses, including reasonable attorney fees, incurred by Seller in seeking to enforce any right or remedy.

(c) Without limiting the foregoing provisions, Seller shall have the right to: (i) terminate Buyer's right to acquire the Property under this Agreement without prejudice to Seller's right to recover damages (including liquidated damages as provided above) by giving notice of such termination to Buyer; or (ii) terminate this Agreement in all respects by giving notice of such termination to Buyer.

24. **Remedies; Seller Default.** If the purchase and sale discussed herein fails to close due to nonperformance, breach and/or default with respect to the Seller's obligation(s) under this Agreement ("**Seller Default**"); provided, however, if Seller acting in good faith is unable to convey the Property in accordance with the Conveyance Requirements, such inability shall constitute a failure of a condition under Section 13, above, and not a Seller Default, the following shall apply: (a) Buyer shall have the right to demand and receive a full refund of the Earnest Money; (b) upon such demand and Buyer's receipt of the Earnest Money, this Agreement shall be completely terminated in all respects at such time; and (c) at Buyer's option, at any time prior to such termination, Buyer may elect instead to seek specific performance of Seller's obligations.

25. **Remedies; General.** Notwithstanding any other provision, if this transaction fails to close, the Escrow Agent is authorized to hold the Earnest Money until it receives either: (a) written disbursement instructions signed by Buyer and Seller; (b) a written release signed by one party authorizing disbursement to the other party; or (c) a final court order specifying the manner in which the Earnest Money is to be disbursed. In the event of a lawsuit between the parties seeking any remedy or relief in connection with this Agreement and/or the Property, the prevailing party in such lawsuit shall be entitled to recover its reasonable attorneys' fees and expenses. **TO THE FULL EXTENT PERMITTED BY LAW, BUYER AND SELLER HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY OF ANY ISSUE TRIABLE BY A JURY (TO THE EXTENT THAT SUCH RIGHT NOW OR HEREAFTER EXISTS) WITH REGARD TO THIS AGREEMENT AND/OR THE SALE AND PURCHASE OF THE PROPERTY AND/OR ANY CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH.**

26. **1031 Exchange.** Either party shall reasonably cooperate if the other party intends to structure the transfer or acquisition of all or any part of the Property as part of an exchange under §1031 of the Internal Revenue Code. The rights of a party may be assigned to a qualified intermediary or exchange accommodation titleholder for this purpose, but the assignor shall not be released from any obligation under this Agreement. No party shall be required to acquire title to any other property, assume any additional liabilities or obligations or incur any additional expense as a result of another party's exchange.

27. **Notices.** Except as otherwise provided in this Agreement, a notice given to Buyer or Seller under this Agreement shall be in writing and either delivered in person or sent via US Certified Mail return receipt requested or via overnight delivery by a nationally-recognized commercial courier regularly providing proof of delivery (such as FedEx or UPS) to the party's notification address as provided below. If email address(es) is/are provided with a party's notification address, a legible PDF copy of any notice to such party shall also be sent to the email address(es) provided. A notice shall be effective as of the first business day after the notice has been sent in accordance with this paragraph. Each party has the right to change its notification address (by giving notice of such change to all other parties), the parties' notification addresses are as follows:

If to Seller: C/o Chuck Yarbrow, Jr., 213 S. Beech St., Moses Lake, WA 98837

With legible PDF copies to: [fodefarms@yahoo.com](mailto:fodefarms@yahoo.com); [steve@sackmannlaw.com](mailto:steve@sackmannlaw.com);  
[chuckjr@yarrow.com](mailto:chuckjr@yarrow.com); [kevin@schraderauction.com](mailto:kevin@schraderauction.com); and [Lindseyw@jdsalaw.com](mailto:Lindseyw@jdsalaw.com)

If to Buyer: The Buyer's address provided on the Signature Page.

28. **Agency Disclosure.** Auction Company-Broker and their respective agents, employees and representatives are acting solely on behalf of and exclusively as the agents for Seller. Seller and Buyer acknowledge prior receipt of the pamphlet entitled "The Law of Real Estate Agency."

Steven H. Sackmann has represented Ron and Robin Fode in the past and Fode Land Company, LLC and is acting solely on behalf of and exclusively as agents for Seller. Any buyer which has been or is currently being represented by Steven H. Sackmann shall waive any conflict by executing Notice of Potential Conflict of Interest at closing.

29. **Sales Fee.** The commission due Auction Company-Broker shall be paid by Seller pursuant to a separate agreement. If a broker representing Buyer has been duly registered and recognized as a participating broker pursuant to applicable broker participation terms provided by Auction Company-Broker for purposes of this Auction, such broker shall be compensated at Closing in accordance with such broker participation terms provided by Auction Company-Broker. If any other broker or other person claims to be entitled to any commission, fee or other compensation relating to the sale of the Property as a result of Buyer's dealings with such other broker or person, Buyer shall indemnify and hold harmless Seller and Auction Company-Broker from and against such claim. This obligation of Buyer shall survive Closing.

30. **Execution Authority.** If Buyer is a limited liability company, corporation, partnership, trust, estate or any other entity other than an individual or group of individuals ("**Entity**"), as identified on the Signature Page as a buyer or co-buyer or as a partner, member, manager or fiduciary of a buyer or co-buyer, such Entity and each individual and/or Entity purporting to sign this Agreement on behalf of such Entity jointly and severally represent and warrant that: (a) such Entity has full power and authority to execute this Agreement; (b) all action has been taken and all approvals and consents have been obtained which may be required to properly authorize the execution of this Agreement on behalf of such Entity; (c) the individual(s) purporting to sign this Agreement on behalf of such Entity has/have full power and authority to execute this Agreement on behalf of (and as the binding act of) such Entity; and (d) this Agreement has been properly executed on behalf of (and as the binding act of) such Entity.

31. **Successors and Assigns.** The terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; *provided, however*, that no assignment by Buyer (other than an assignment to a qualified intermediary or accommodation titleholder in connection with a 1031 exchange) shall be valid unless approved in writing by Seller and, in any case, Buyer shall not be released from Buyer's obligations by reason of any assignment but shall absolutely and unconditionally guaranty payment and performance by the assignee.

32. **Miscellaneous Provisions.** Time is of the essence of this Agreement. This Agreement contains the entire agreement of the parties and supersedes any statement, promise or representation made or purportedly made prior to this Agreement by either party and/or their respective agents. Neither party is relying upon any statement or promise that is not set forth in this Agreement. Neither party shall be bound by any purported oral modification or waiver. This Agreement may be executed in multiple counterparts, all of which together shall constitute one and the same instrument. Execution of this Agreement or any counterpart includes, without limitation, execution and delivery via email and/or fax.

33. **Offer.** Buyer's high bid constitutes an offer to purchase the Property in accordance with the terms of this Agreement (this "**Offer**").

34. **Tracts 1-3; Seller's Acceptance.** If the Property consists of any of Auction Tracts 1, 2 and/or 3: (a) this Offer shall constitute the binding agreement of the parties if this Offer is provisionally accepted by Seller as provided in Section 36 below *and* finally accepted by Seller as provided in Section 37 below; (b) if this Offer is provisionally accepted, the parties shall be bound by the provisions of Sections 35 and 38 below, effective immediately as of such provisional acceptance; and (c) for good and valuable consideration (including but not limited to the provisions of Sections 35 and 38 below), Buyer agrees that, upon Seller's provisional acceptance, this Offer shall remain open and unrevocable until the final acceptance deadline specified in Section 37 below.

35. **Tracts 1-3; Right of First Refusal.** If the Property consists of any of Auction Tracts 1, 2 and/or 3, Buyer acknowledges that the Property is subject to a Right of First Refusal in favor of Wheeler Land Holding, LLC (the "**First Right Holder**") as recorded on October 30, 2013 ("**ROFR**"). Under the ROFR Seller must present this Offer to the First Right Holder, which, under the terms of the ROFR, the Offer must be signed only by Buyer. The First Right Holder has twenty (20) days, not counting the day of delivery, to exercise its rights under the ROFR. ) If the First Right Holder exercises its right to acquire the Property under the ROFR, Seller shall promptly notify Buyer or Buyer's representative (via email, fax or otherwise) of such exercise. ) If, at any time prior to the final acceptance deadline specified in Section 37, Seller is satisfied that Seller is able to sell the Property to Buyer free and clear of the ROFR, Seller shall execute and deliver Seller's final acceptance of this Offer and promptly deliver a fully executed copy of this Agreement to Buyer. If the Property consists of Auction Tract 4, the ROFR and this Section 35 shall not apply.

36. **Tracts 1-3; Provisional Acceptance; Deadline.** If the Property consists of any of Auction Tracts 1, 2 and/or 3: (a) the terms "provisional acceptance" and "provisionally accepted", for purposes of this Agreement, shall mean and refer to Seller's provisional acceptance of this Offer as evidenced by Seller's execution and delivery of "Seller's Provisional Acceptance" on the Signature Page within the time specified in this Section; (b) this Offer shall be deemed automatically withdrawn (and the Earnest Money shall be returned to Buyer) if this Offer is not provisionally accepted on or before 11:59 p.m. (PT) on **March 24, 2016**; and (c) delivery of Seller's provisional acceptance shall be

effective if the Signature Page with “Seller’s Provisional Acceptance” signed by Seller (or a copy thereof) is delivered to Buyer or Buyer’s representative in person or via email, fax or otherwise within the time specified in this Section.

37. **Tracts 1-3; Final Acceptance; Deadline.** If the Property consists of any of Auction Tracts 1, 2 and/or 3: (a) the terms “final acceptance” and “finally accepted”, for purposes of this Agreement, shall mean and refer to Seller’s final acceptance of this Offer as evidenced by Seller’s execution and delivery of “Seller’s Final Acceptance” on the Signature Page within the time specified in this Section (after having provisionally accepted this Offer as provided in Section 36); (b) if this Offer is provisionally accepted but is not finally accepted on or before 11:59 p.m. (PT) on **April 20, 2016**, this Offer and the provisional acceptance thereof shall be automatically withdrawn, cancelled and terminated and the Earnest Money shall be returned to Buyer; and (c) delivery of Seller’s final acceptance shall be effective if the Signature Page with “Seller’s Final Acceptance” signed by Seller (or a copy thereof) is delivered to Buyer or Buyer’s representative in person or via email, fax or otherwise within the time specified in this Section.

38. **Tracts 1-3; Termination; Interest on Earnest Money.** This Section applies if: (a) the Property consists of any of Auction Tracts 1, 2 and/or 3; (b) this Offer is provisionally accepted; and (c) the final acceptance deadline passes without final acceptance of this Offer or, prior to the final acceptance deadline, Seller gives notice in accordance with Section 35 that the First Right Holder has exercised its right to acquire the Property. If and when this Section applies: (i) as between Seller and Buyer, this Offer and the provisional acceptance thereof shall be terminated in all respects (but the parties’ obligations under this Section shall survive any such termination); (ii) Seller and Buyer shall promptly execute and deliver instructions to the Escrow Agent to deliver the Earnest Money to Buyer; and (iii) Seller shall pay Buyer simple interest on the Earnest Money at the rate of 12% per annum accruing from the date on which the Escrow Agent received the Earnest Money until the date on which the Earnest Money is sent to Buyer.

39. **Tract 4; Seller’s Acceptance; Deadline.** If the Property consists of Auction Tract 4: (a) Sections 34 thru 38, above, shall not apply; (b) this Offer shall constitute the binding agreement of the parties if this Offer is finally accepted by Seller as evidenced by Seller’s execution and delivery of “Seller’s Final Acceptance” on the Signature Page within the time specified in this Section; (c) if this Offer is not finally accepted on or before 11:59 p.m. (PT) on **March 24, 2016**, this Offer shall be automatically withdrawn, cancelled and terminated and the Earnest Money shall be returned to Buyer; and (d) delivery of Seller’s final acceptance shall be effective if the Signature Page with “Seller’s Final Acceptance” signed by Seller (or a copy thereof) is delivered to Buyer or Buyer’s representative in person or via email, fax or otherwise within the time specified in this Section.

[The remainder of this Agreement to Purchase is contained in the immediately-following Signature Page.]

[Signature Page]

IN WITNESS WHEREOF, the parties have designated the particular auction tract(s) purchased by Buyer and the amount of the Purchase Price and Earnest Money for purposes of this Agreement as follows:

Tract(s) \_\_\_\_\_ comprising \_\_\_\_\_ (±) acres, more or less, as identified, depicted and described by reference to the same tract number(s) in the aerial auction tract map and tract descriptions attached as **Exhibit A**, being one or more of the tracts in Grant County in the State of Washington offered at the Auction conducted on this date, and being the Purchased Tract(s) for purpose of this Agreement.

Bid Amount: \$ \_\_\_\_\_ **Earnest Money:** \$ \_\_\_\_\_

4% Buyer's Premium: \$ \_\_\_\_\_ (pay to "Steven H. Sackmann Attorney Trust Account")

**Purchase Price:** \$ \_\_\_\_\_

**SIGNATURE OF BUYER:** On the 24th day of March, 2016, this Agreement is signed by the undersigned, constituting the "Buyer" for purposes of this Agreement:

\_\_\_\_\_  
Printed Name of Buyer, Co-Buyer or Buyer Entity

\_\_\_\_\_  
Printed Name of Buyer, Co-Buyer or Buyer Entity

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Office or Capacity (if signing on behalf of a Buyer Entity)

\_\_\_\_\_  
Office or Capacity (if signing on behalf of a Buyer Entity)

\_\_\_\_\_  
(Buyer's Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Buyer's Telephone Number)

\_\_\_\_\_  
(Buyer's Email Address and/or Fax)

\_\_\_\_\_  
(Buyer's Lender, if any)

**SELLER'S *PROVISIONAL* ACCEPTANCE (*TRACTS 1, 2 &/or 3*):** On the 24<sup>th</sup> day of March, 2016, this Agreement is provisionally accepted by Seller in accordance with Section 36 above:

\_\_\_\_\_  
(Ronald L. Fode)

\_\_\_\_\_  
(Robin M. Fode)

**SELLER'S *FINAL* ACCEPTANCE:** On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, this Agreement is finally accepted by Seller in accordance with Section 37 or Section 39 above:

\_\_\_\_\_  
(Ronald L. Fode)

\_\_\_\_\_  
(Robin M. Fode)

**RECEIPT OF EARNEST MONEY:** As of the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Earnest Money in the amount written above has been received by the undersigned, to be held in escrow pursuant to the terms of the foregoing Agreement.

Law Office of Steven H. Sackmann

By: \_\_\_\_\_

Print: \_\_\_\_\_