

AGREEMENT TO PURCHASE

Date: **October 29, 2020**

The party(ies) signing as Buyer(s) below ("Buyer") offer(s) to purchase from Candlelight Development Corporation and Scott Lods ("Seller") the real estate described as follows (the "Property"): 39.85(±) acres of land in pt. NE4 Sec. 4-T23N-R5W (Wabash Twp.) in Tippecanoe County, Indiana, as described in a survey by TBird Engineering & Surveying recorded on March 6, 2007 as Document No. 07004658 (the "2007 Survey"), together with improvements and/or permanent fixtures, other than Excluded Items, now located on said land, being the real estate put up for bids via online auction conducted on this date by Schrader Real Estate and Auction Company, Inc. ("Auction Company"). This offer incorporates the auction terms and conditions set forth in this Agreement to Purchase and Addendum A (collectively, this "Agreement").

1. **PURCHASE PRICE.** The purchase price is \$ _____, to be paid via wired funds at closing (plus expenses charged to Buyer, less applied Earnest Money and any other credits due Buyer, as provided in this Agreement).
2. **EARNEST MONEY.** Buyer shall deliver to Auction Company an earnest money deposit in the amount of \$ _____ ("Earnest Money") **on or before Friday, October 30, 2020**, to be held in escrow and applied to the purchase price at closing.
3. **TAXES AND ASSESSMENTS.** "Seller's Taxes" refers to: (a) real estate taxes assessed or to be assessed against the Property for the calendar year 2020 (due in 2021) and all prior years; and (b) special assessments, including drainage assessments, if any, assessed against the Property and last payable without a penalty on or before the closing date. Any unpaid Seller's Taxes shall be withheld from Seller's proceeds at closing and paid directly to the county treasurer; *provided, however*, any portion of Seller's Taxes that is not ascertainable and payable at the time of closing shall be estimated based on 100% of the amount last billed for a calendar year and the amount thus estimated shall be paid via credit against the sums due from Buyer at closing, with no further settlement or adjustment after closing. Buyer shall then pay all real estate taxes and assessments when due after closing.
4. **SURVEY.** The Property shall be conveyed as described in the 2007 survey, without obtaining a new post-auction survey.
5. **DEED; TITLE INSURANCE.** The Property shall be conveyed by Warranty Deed (subject to the Permitted Exceptions and with customary corporation provisions, as applicable), to be furnished at Seller's expense. Seller shall furnish a commitment, updated to a date after the Auction and prior to closing, for the issuance of a standard owner's title insurance policy in the amount of the purchase price insuring marketable title to the Property in Buyer's name, subject to standard exceptions, conditions and requirements and subject to the Permitted Exceptions (the "Final Title Commitment"). At closing, Seller shall pay for the cost of issuing a standard owner's title insurance policy in accordance with the Final Title Commitment.
6. **PERMITTED EXCEPTIONS.** Buyer agrees to accept title and title insurance and acquire the Property subject to and notwithstanding: (a) existing roads, utilities and drains; (b) any visible or apparent use; (c) any variation between a deeded boundary line and a fence line, field line, ditch line or other visible or apparent occupancy or occupancy line; (d) any easement, condition, restriction or other matter (except liens) appearing of record; (e) any outstanding right or severance as to minerals; (f) any recorded oil and gas lease, active or not; (g) current property taxes and assessments; (h) any matter disclosed in this Agreement; and/or (i) any matter (except liens) referenced or depicted in the preliminary title insurance schedules described in Addendum A and/or in the 2007 Survey (collectively, the "Permitted Exceptions").
7. **CLOSING.** Closing shall be held **on or before November 30, 2020** (or as soon as possible after said date upon completion of the Final Title Commitment and Seller's closing documents). The closing shall be held at the office of **Advantage Title, 250 Main St., Ste. 550, Lafayette, IN (Tel: 765-420-7730)**, or otherwise as mutually agreed. If Seller is unable to convey the Property in conformance with the requirements of this Agreement, either party may terminate this Agreement by written notice to the other and, in the event of such termination by either party, Buyer shall receive the Earnest Money as Buyer's sole and exclusive remedy; *provided, however*, prior to any such termination by Buyer, Buyer must give Seller sufficient written notice of the nonconformity to enable Seller to cure the nonconformity and Seller shall have the right to extend the closing date for up to 30 days after receiving such notice in order to cure such nonconformity.
8. **POSSESSION.** Possession shall be delivered in accordance with Addendum A.
9. **EXCLUDED ITEMS.** Notwithstanding any other provision, the purchased "Property" does not include any structure or other item that is excluded (or specifically not included) according to Addendum A ("Excluded Items"). Propane tanks are excluded unless otherwise provided.
10. **THE PROPERTY IS SOLD "AS IS, WHERE IS", WITHOUT ANY WARRANTY AS TO ITS CONDITION OR ITS SUITABILITY FOR ANY PARTICULAR USE OR PURPOSE.**
11. **REMEDIES.** If the Earnest Money is not effectively paid in accordance with this Agreement *or* if this sale fails to close due to Buyer's default (each a "Buyer Default"), Seller shall have the right to recover 10% of the purchase price as liquidated damages and the right to give notice terminating Buyer's right to acquire the Property (without prejudice to the right to recover liquidated damages). Upon such termination, Seller shall have the absolute and unconditional right to re-sell the Property free and clear of any right or claim of Buyer. Buyer agrees that 10% of the purchase price is fairly proportionate to the amount of Seller's damages due to a Buyer Default, which damages would otherwise be uncertain and difficult to ascertain. If such liquidated damages are adjudicated as unenforceable, Seller may recover actual damages plus attorney fees and expenses. If this sale fails to close due to Seller's default: (a) Buyer shall have the right to demand and receive a refund of the Earnest Money and, upon such demand and receipt, this Agreement shall be terminated in all respects; or (b) at any time prior to such termination, Buyer may elect instead to seek specific performance. If this sale fails to close, the Earnest Money shall be retained in escrow pending disbursement instructions: (i) signed by both parties (or by one party authorizing disbursement to the other); or (ii) in a final court order. In the event of a Buyer Default, Buyer agrees to sign and deliver a release of the Earnest Money for payment of the liquidated damages due Seller and, if Buyer fails to do so, Seller shall have the right to recover (in addition to any other recovery) attorney's fees and other expenses thereafter incurred by Seller in seeking to enforce any right or remedy. In a lawsuit to enforce a right or remedy under this Agreement, the prevailing party shall recover attorneys' fees and expenses and **ANY RIGHT TO A TRIAL BY JURY IS WAIVED.**
12. **AGENCY.** Auction Company and its affiliated agents represent only Seller, not Buyer. This Agreement is between Buyer and Seller. Auction Company and its agents and representatives shall not be liable for any defect or deficiency in any land, improvements, fixtures or equipment.
13. **1031 EXCHANGE.** Each party shall reasonably cooperate if another party intends to structure the transfer or acquisition of the Property as part of an exchange under 26 U.S.C. § 1031 ("Exchange"). This Agreement may be assigned for purposes of an Exchange, but the assignor shall not be released from any obligation. A party is not required to assume or incur any additional obligation in connection with another party's Exchange.
14. **GENERAL PROVISIONS.** This Agreement shall bind and benefit the parties and their heirs, legal representatives and successors. This Agreement constitutes the entire agreement between the parties regarding the Property. Neither party is relying upon any other statement or promise and neither shall be bound by any purported oral modification or waiver. Time is of the essence. All terms and conditions of this Agreement shall be read and construed together as a harmonious whole and shall survive the closing. This Agreement may be executed in multiple counterparts, all of which together shall constitute the same instrument. The electronic transmission of a signed counterpart via email, fax or a commonly-used electronic signature service such as DocuSign® shall have the same effect as the delivery of an original signature.
15. **ACCEPTANCE DEADLINE.** This offer shall be deemed automatically withdrawn and the Earnest Money shall be returned to Buyer if this offer is not accepted by Seller in writing on or before **Friday, October 30, 2020**.

Printed Name(s) of Buyer(s): _____

Signature(s) of Buyer(s): _____

Buyer's Address: _____

Buyer's Tel.: _____ Buyer's Email Address: _____

Deed to: _____ Lender/Contact: _____

ACCEPTED BY SELLER on the _____ day of October, 2020: Candlelight Development Corporation, by its duly-authorized officer(s):

Sign: _____
(Scott Lods)

Sign: _____
Print: _____

RECEIPT OF EARNEST MONEY on the _____ day of October in the amt. of \$ _____ is hereby acknowledged:

Schrader Real Estate and Auction Company, Inc., By: _____ Print: _____

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

Buyer(s): _____

Sellers: _____

ADDENDUM A BIDDING PROCEDURES AND AUCTION TERMS

For online auction conducted by:
Schrader Real Estate and Auction Company, Inc.

On behalf of:
Candlelight Development Corporation and Scott Lods (collectively, "Seller")

Online Bidding Ends: October 29, 2020 at 6:00 p.m. *
(* or 5 minutes after the last bid)

1. Bidding is online only and is open to anyone who has:
 - a. Obtained an Online Bidding Number by successfully applying for access to Online Bidding Services and agreeing to the Online Bidding Terms and Conditions through the Auction Company's website (<http://www.schraderauction.com> and/or <https://schrader.nextlot.com>); and
 - b. Successfully registered to participate in this auction and agreed to the particular Auction Terms that apply to this auction.
2. The Auction Terms that apply to this auction ("Auction Terms") consist of the provisions contained in the Agreement to Purchase and this Addendum A, both of which have been posted to the auction website. The Auction Terms contained in the Agreement to Purchase and this Addendum A are non-negotiable and they supersede and control over any oral statements and/or any other written terms stated in the auction brochure and/or the auction website or otherwise.
3. Bidding will close at 6:00 o'clock p.m. on Wednesday, October 29, 2020; provided, however, if any bid is received within the last 5 minutes prior to the scheduled close of bidding, the online bidding platform will extend the bidding for an additional five minutes beyond the last bid received. This extension of bidding will continue until no bid has been made for a period of five minutes.
4. After the close of bidding, a purchase contract shall be executed by the high bidder ("Buyer") in the form of the Agreement to Purchase posted to the auction website and this Addendum A.
5. The final bid(s) are subject to the Seller's acceptance or rejection. The final bid(s) may be accepted on the evening of the auction or any time the following day.
6. The high bidder shall deliver an earnest money deposit to Auction Company in the amount of 10% of the purchase price. The earnest money may be delivered by check or wire transfer, but it must be received by Auction Company **on or before Friday, October 30, 2020.**

7. The balance of the purchase price is due in cash at closing. Bids are not contingent on financing. Each bidder is responsible for having arranged any financing prior to bidding.
8. As an update to the marketing materials, the closing will be scheduled in accordance with Section 7 of the Agreement to Purchase. The targeted closing period is on or before November 30, 2020.
9. Delivery of title and possession shall be effective upon completion of the closing, subject to the provisions of the Agreement to Purchase and this Addendum A. Buyer agrees to take possession subject to the rights of all tenants and occupants at the time of closing.
10. The closing agent's fee to administer the closing will be shared equally (50:50) between the Buyer and Seller. Buyer will pay all costs of any loan obtained by Buyer.
11. At closing, Seller will pay the real estate taxes for the calendar year 2020 due in 2021 (or the estimated amount thereof) in accordance with the Agreement to Purchase.
12. Seller will furnish the deed and owner's title insurance at Seller's expense in accordance with the terms of Section 5 of the Agreement to Purchase.
13. The property will be conveyed to Buyer using the existing legal descriptions, without obtaining a new post-auction survey.
14. The auction property is depicted and described in a survey by TBird Engineering & Surveying recorded on March 6, 2007. A copy of this survey has been posted to the auction website and is hereinafter referred to as the "2007 Survey".
15. Preliminary title insurance schedules dated August 13, 2020 and August 14, 2020 have been prepared by Advantage Title and posted to the auction website, along with copies of the recorded documents listed as exceptions.
16. Buyer agrees to acquire the property subject to and notwithstanding all matters defined as "Permitted Exceptions" in Section 6 of the Agreement to Purchase, including but not limited to all matters referenced or depicted in the preliminary title insurance schedules and/or the 2007 Survey.
17. The advertised acres are based on the acres shown in the 2007 Survey. No warranty or authoritative representation is made as to the number of acres included with the auction property. The purchase price shall not be subject to adjustment regardless of the number of acres shown in any survey or other record prepared before or after the auction.
18. Boundary lines and auction tract maps depicted in the auction marketing materials are approximations provided for identification and illustration purposes only. Flag markers were placed on site prior to the auction as approximate locational references only. Such maps and markers are not provided as survey products and are not intended to depict or establish authoritative boundaries or locations.

19. If a dispute arises prior to closing as to the location of any boundary, the Auction Company may (but need not) terminate the purchase contract by giving written notice of termination to Buyer, but only with the Seller's consent. In the event of such termination, the earnest money shall be refunded to Buyer and the property may be re-sold free and clear of any claim of Buyer. In lieu of consenting to such termination, Seller may elect instead to enforce the purchase contract according to its terms.
20. Access along the Hwy. 52 frontage is limited to the west 55± feet thereof.
21. The sale of the auction property does not include any tangible personal property. Specifically excluded are vehicles, tractors, equipment, all personal property inside the 40x200 building, and all mobile homes and accessory structures owned by any tenant or occupant.
22. Concurrently with the conveyance of the real estate, the Buyer shall automatically acquire whatever right, title and/or interest the Seller may have with respect to the abandoned mobile homes on the site, without any warranty of any kind as to the condition thereof or the title thereto. For purposes of the conveyance requirements under the Agreement to Purchase, the term "Property" does not include any mobile home. Seller shall have no obligation to deliver any certificate of title or other instrument of transfer with respect to any mobile home.
23. The following rights and obligations shall be assigned to and assumed by the Buyer as of the time of closing: (a) all rights and obligations of Seller with respect to any lease, tenancy or occupancy of any mobile home lot, *except* that Seller is retaining all rights to the rent for the remainder of 2020; and (b) any rights and/or obligations of Seller with respect to any abandoned mobile home on the site. Such assignment and assumption shall be effective automatically as of the time of closing, without a separate instrument of assignment and assumption, and without any promise, representation or warranty as to any particular right or obligation.
24. The auction property consists of two parcels with different owners, including a company with multiple shareholders. Any individual owner or shareholder may bid separately on his or her own behalf.
25. For the purpose of administering the closing, it may be necessary to allocate the purchase price between the separately-owned parcels. Any such allocation shall be determined solely by the Seller.
26. Buyer's obligation to purchase and acquire the Property at closing is not contingent upon any post-auction inspection, investigation or evaluation of the condition or suitability of the Property. Buyer is responsible for having completed all inspections, investigations and evaluations before bidding. Buyer acknowledges that Buyer has either completed all such inspections, investigations and evaluations or has knowingly and willingly elected to purchase the Property without having done so. In either case, Buyer assumes all risks and agrees to acquire the Property "AS IS".

27. Without limiting the foregoing provisions, Seller, Auction Company and their respective agents and representatives make no warranty or authoritative representation as to: (a) zoning matters; (b) whether or not the property qualifies for any particular use; (c) the availability or location of utilities; (d) the availability of any building permit, driveway permit, septic permit or any other permit; or (e) the accuracy of any materials or information prepared or provided by any third party regarding the auction and/or the property.
28. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Seller.