

AGREEMENT TO PURCHASE

Date: May 18, 2022

I/We the undersigned Buyer(s) ("Buyer") offer to purchase Tract(s) \_\_\_\_\_, being approx. \_\_\_\_\_ (±) acres of land in Kosciusko County, Indiana, as identified by reference to the same tract number(s) in the attached Exhibit A (the "Property"), and being one or both of the tracts put up for bids via online auction scheduled to close on May 18, 2022, as conducted by Schrader Real Estate and Auction Company, Inc. ("Auction Company") on behalf of D. Trent Doran ("Seller"). This offer incorporates the terms and conditions set forth herein, the Auction Tract Map and Survey Provisions attached as Exhibit A and the bidding procedures and auction terms attached as Addendum A (collectively, this "Agreement").

\$ \_\_\_\_\_ + \$ \_\_\_\_\_ = \$ \_\_\_\_\_
(Bid Amount) (2.5% Buyer's Premium) (Purchase Price)

- 1. PURCHASE PRICE. The Purchase Price consists of the Bid Amount plus a 2.5% Buyer's Premium as shown above (subject to adjustment if and only if an adjustment is applicable in accordance with the terms of Addendum A) and shall 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 have delivered to Auction Company at least ten percent (10%) of the Bid Amount to be held in escrow as an earnest money deposit ("Earnest Money") and applied to the purchase price at closing.
3. TAXES; ASSESSMENTS. "Seller's Taxes" refers to: (a) real estate taxes assessed against the tax parcel that includes all or part of 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; and (b) any drainage or other special assessments attributed to such tax parcel and last payable without a penalty on or before the closing date. Any unpaid Seller's Taxes shall be withheld from Seller's proceeds at closing and paid directly to the county; provided, however, any portion of Seller's Taxes 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 (to the extent attributed to the Property for the period up to and including the closing date) shall be paid via credit against the sums due from Buyer at closing, with no further settlement or adjustment after closing. Buyer shall then pay all real estate taxes and assessments due after closing to the extent attributed to the Property. If this sale involves a tax parcel split, the extent to which any taxes and/or assessments are attributed to the Property shall be based on a split calculation provided by the appropriate property tax official (or, if an official split calculation is not available, based on an estimated split calculation using available assessment data). After closing, if any taxes and/or assessments are billed as a lump sum with portions attributed to the Property and other real estate, Buyer shall cooperate with the owner(s) of such other real estate to facilitate timely payment of the balance due and Buyer shall pay the portion attributed to the Property.
4. SURVEY. A new survey shall be obtained if and only if obtained in accordance with the survey provisions of Exhibit A.
5. DEED; TITLE INSURANCE. The Property shall be conveyed by Warranty Deed (subject to the Permitted Exceptions), 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, title insurance and any survey subject to and notwithstanding any of the following matters (collectively, the "Permitted Exceptions"): (a) existing roads, utilities and drains; (b) any visible or apparent use; (c) any variation between a deeded boundary line and a fence line, field line, ditch line or other visible or apparent occupancy or occupancy line; (d) any subdivision plat, easement, condition, restriction, or other matter of record (except liens); (e) any outstanding right or severance as to minerals; (f) any recorded oil and gas lease (active or not); (g) a lien for property taxes or assessments not yet payable; (h) any matter disclosed in this Agreement; and/or (i) any matter (except liens) referenced or shown in the preliminary title insurance schedules described in Addendum A.
7. CLOSING. Closing shall be held on or before June 18, 2022 or as soon as possible after said date upon completion of the survey (if applicable), the Final Title Commitment and Seller's closing documents. The closing shall be held at and/or administered by the office of Fidelity National Title Company, LLC, 108 W. Main St., Warsaw, IN (Tel: 574-268-0065), or otherwise as mutually agreed.
8. POSSESSION. Possession shall be delivered in accordance with Addendum A.
9. THE PROPERTY IS SOLD "AS IS, WHERE IS", WITHOUT ANY WARRANTY OF ANY KIND AS TO ITS CHARACTER OR CONDITION OR ITS SUITABILITY FOR ANY PARTICULAR USE OR PURPOSE.
10. REMEDIES. In the event of nonpayment or ineffective payment of the Earnest Money and/or any other nonperformance, breach and/or default with respect to an obligation of Buyer under this Agreement ("Buyer Default"), Seller shall have the right to: (a) give notice terminating Buyer's right to acquire the Property (whereupon Seller shall have the absolute right to re-sell the Property free and clear of any right or claim of Buyer); and (b) recover 10% of the purchase price as liquidated damages. 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 shall recover actual damages plus attorney fees and expenses. If this sale fails to close due to Seller's default: (i) Buyer shall have the right to demand and receive a refund of the Earnest Money and, upon such demand and receipt, this Agreement shall terminate; or (ii) at any time prior to such termination, Buyer may elect instead to seek specific performance; provided, however, if the title or title insurance does not conform to (or if Seller is otherwise 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, further, 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. If this sale fails to close, the Earnest Money shall be retained in escrow pending disbursement instructions: (A) signed by both parties (or by one party authorizing disbursement to the other); or (B) 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 (or, 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.
11. 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.
12. GENERAL PROVISIONS. Auction Company and its affiliated agents represent only Seller, not Buyer. This Agreement shall bind and benefit the parties and their respective heirs, personal representatives and successors. This Agreement constitutes the entire agreement between Buyer and Seller regarding the Property. No party is relying upon any other statement or promise and no party shall be bound by any purported oral modification or waiver. Time is of the essence. All terms of this Agreement shall be read and construed together as a harmonious whole and, unless otherwise provided or required by the express terms of this Agreement, shall survive closing. This Agreement may be executed in multiple counterparts, all of which together shall constitute the same instrument. The electronic transmission of a signed counterpart via email, fax or a commonly-used electronic signature service such as DocuSign® shall have the same effect as the delivery of an original signature.
13. 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 before the end of the first business day after the close of bidding.

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

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

Buyer's Address: \_\_\_\_\_

Buyer's Tel: \_\_\_\_\_ Buyer's Email: \_\_\_\_\_

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

ACCEPTED BY SELLER on May \_\_\_\_\_, 2022: Sign: \_\_\_\_\_ (D. Trent Doran)

EARNEST MONEY RECEIPT: Auction Company acknowledges receipt of the Earnest Money in the amount of \$ \_\_\_\_\_.
SCHRADER REAL ESTATE AND AUCTION COMPANY, INC., by:

Sign: \_\_\_\_\_ Print: \_\_\_\_\_ Date Received: \_\_\_\_\_

# EXHIBIT A

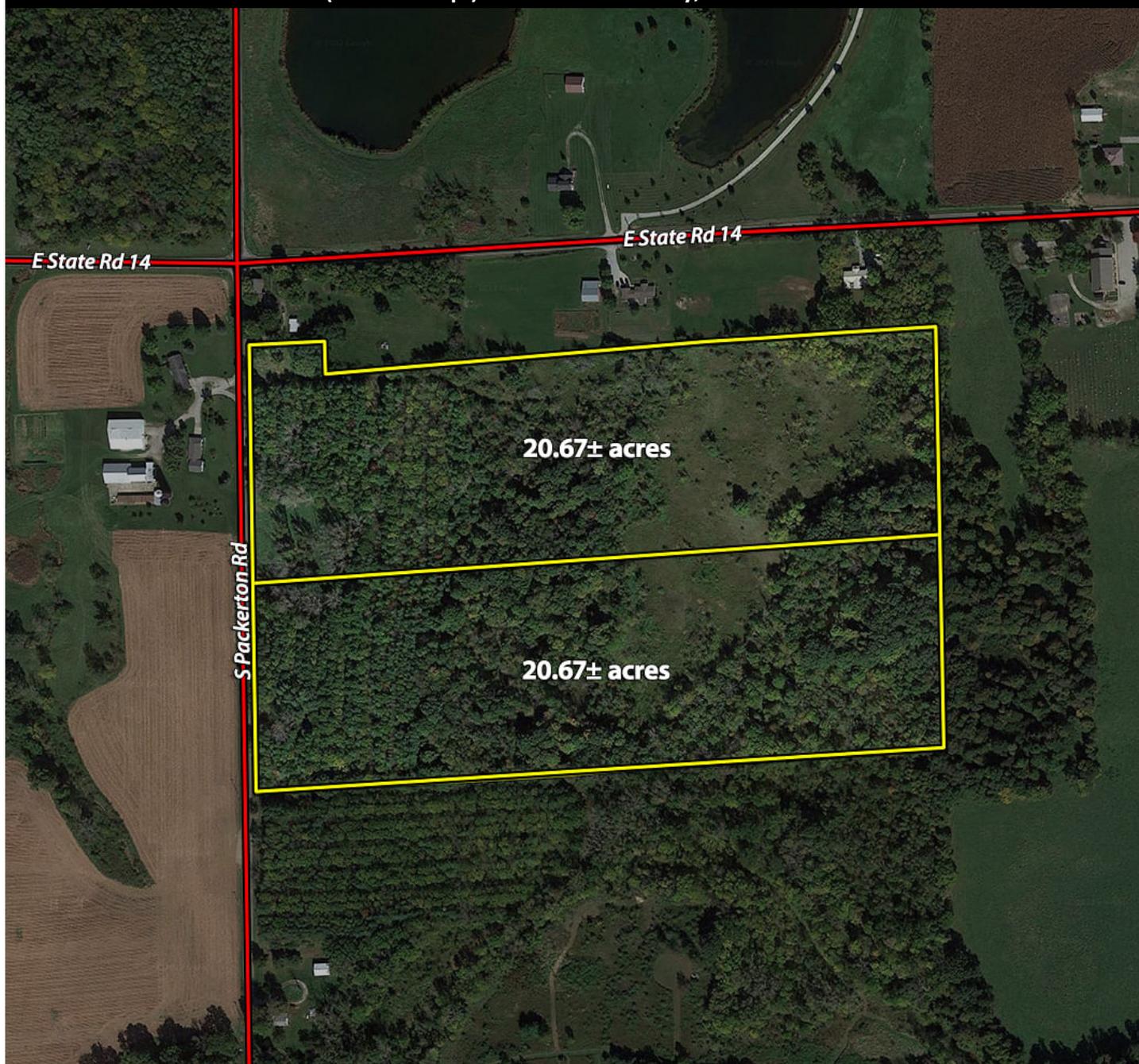
Buyer(s): \_\_\_\_\_

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

## Auction Tract Map & Survey Provisions

Auction Date: 5/18/2022

Pt. N2 NW4 Sec. 7-T30N-R7E (Jackson Twp.) in Kosciusko County, State of Indiana



**Survey Provisions:** A new post-auction survey of all or any part(s) of the land to be conveyed at any closing shall be obtained *if and only if*: (a) the conveyance will involve the creation of a new parcel; or (b) the official(s) responsible for recording the conveyance will not accept the conveyance for recording without a new survey; or (c) Seller elects to obtain a new survey for any other reason in Seller's sole discretion. If a new survey is obtained, the survey shall be ordered by the Auction Company and shall be sufficient for the purpose of recording the conveyance, but the type of survey shall otherwise be determined solely by the Seller. Any survey of adjacent tracts purchased in combination will show the perimeter boundaries of the surveyed land but will not show interior tract boundaries. **Boundary lines and/or acreages depicted in the marketing materials and auction tract maps, including this Exhibit A, are approximations and are provided for identification and illustration purposes only. They are not provided or intended as survey products or as authoritative representations of property boundaries and/or acreages.**

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

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

## ADDENDUM A

### BIDDING PROCEDURES AND AUCTION TERMS

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

On behalf of: Trent D. Doran ("Seller")

***Online Bidding Ends: May 18, 2022 at 6:00 p.m. (EDT) \****

*(\* unless extended as provided below)*

#### **PART A - BIDDING PROCEDURES:**

1. Bidding is online only and is open to anyone who has:
  - Registered as a bidder and obtained an online bidding number for this auction through the online bidding platform (<https://bid.schraderauction.com>);
  - Agreed to the Online Bidding Terms, as posted to the auction website ([www.schraderauction.com/auctions/8167](http://www.schraderauction.com/auctions/8167)); and
  - Agreed to the particular Auction Terms that apply to this auction ("Auction Terms"), consisting of the provisions contained in the Agreement to Purchase, Exhibit A and this Addendum A, as posted to the auction website.
2. Each bidder must deliver a bid deposit to the Auction Company prior to bidding. Bids submitted by any bidder will be limited to ten times (10x) the amount of the bid deposit.
3. The auction tracts are identified in Exhibit A. Bids may be submitted on Tract 1, or Tract 2, or Tracts 1 & 2 combined.
4. Bidding on the individual tracts and the combination will compete until the close of all bidding. The high bid(s) at any given time shall consist of that bid or set of bids resulting in the highest total price (either the highest bid on both tracts combined or the highest bids on the individual tracts).
5. The initial bidding period ends at 6:00 o'clock p.m. (EDT) on Wednesday, May 18, 2022, at which time all bidding will close *unless* the bidding is extended in accordance with paragraph 6 below.
6. If a bid is received during the *final minute* of the initial bidding period (or during the *final minute* of any extended bidding period): (a) bidding will remain open for an extended bidding period ending five minutes after the end of the last prior bidding period; and (b) this extension of bidding will continue until an extended bidding period ends with no bid having been made during the final minute thereof, at which time all bidding will close. The time of any bid and the end of any bidding period shall be determined by reference to the "Time Left" clock displayed by the online bidding platform.

## PART B - AUCTION TERMS:

7. The Auction Terms consist of the provisions contained in the Agreement to Purchase, Exhibit A and this Addendum A, all of which have been posted to the auction website. These terms 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.
8. After the bidding closes, a purchase offer for each final high bid will be completed by the Auction Company and delivered to the high bidder ("Buyer") who shall then sign and return the purchase offer to the Auction Company. The purchase offer will be in the form of the Agreement to Purchase, Exhibit A and this Addendum A (as posted to the auction website) and may be signed and/or delivered electronically.
9. **A Buyer's Premium equal to 2.5% of the high bid amount will be charged to each Buyer and added to the bid amount to arrive at the purchase price.**
10. The final high bid(s) are subject to the Seller's acceptance or rejection. The final high bid(s) may be accepted at any time before the end of the first business day after the close of bidding.
11. An earnest money deposit is due from each Buyer in the amount of at least 2.5% of the Buyer's high bid (not including the Buyer's Premium). As an update to the marketing materials, the Buyer's bid deposit (delivered prior to the auction) will be held by the Auction Company as the Earnest Money for purposes of the Agreement to Purchase.
12. 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.
13. Delivery of title and possession will be effective upon completion of the closing. The closing shall be held on or before June 18, 2022, or as soon as possible after said date upon completion of the survey (if applicable), the Final Title Commitment and Seller's closing documents.
14. 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.
15. Real estate taxes will be prorated to the date of closing. Buyer will assume and pay all assessments, including drainage assessments, if any, that are last payable without a penalty after the date of closing.
16. 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.
17. Preliminary title insurance schedules dated April 14, 2022 have been prepared by Fidelity National Title Company and posted to the auction website.

18. Buyer agrees to accept title and acquire the property subject to all "Permitted Exceptions" as defined in Section 6 of the Agreement to Purchase.
19. A new post-auction survey will be obtained if and only if obtained in accordance with the survey provisions set forth in **Exhibit A**.
20. If a new survey is obtained for any closing in accordance with the provisions of Exhibit A: (a) the cost of such survey shall be shared equally (50:50) by Seller and Buyer; and (b) the purchase price shall be adjusted proportionately to reflect any difference between the acre estimates shown in Exhibit A and the gross acres shown in the survey.
21. The acre estimates shown in Exhibit A and the marketing information are approximate and have been estimated based on: (a) the total acres shown in the property tax records; and (b) an approximate, provisional allocation of the total between the potential new tracts. No warranty or authoritative representation is made as to the number of acres included with any tract or set of tracts.
22. Boundary lines and auction tract maps depicted in Exhibit A and the marketing information 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.
23. If a dispute arises prior to closing as to the location of any boundary, the Auction Company may (but need not) terminate the purchase contract by giving written notice of termination to Buyer, but only with the Seller's consent. 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.
24. Buyer's obligation to purchase and acquire the Property at closing is not contingent upon any post-auction inspection, investigation or evaluation of the character, 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".
25. Without limiting the foregoing provisions, Seller and Auction Company and their respective agents and representatives make no warranty or authoritative representation as to: (a) zoning matters; (b) whether the Property qualifies for any particular use; (c) the availability or location of utilities; (d) the availability of any permit; or (e) the accuracy of any materials or information prepared or provided by any third party regarding the auction and/or the Property.
26. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Seller.