

AGREEMENT TO PURCHASE

This Agreement is executed by the party(ies) signing as Buyer(s) (hereinafter "Buyer", whether one or more) on page 3 of this Agreement to Purchase ("Signature Page") in connection with the public auction conducted on **June 20, 2024** by Schrader Real Estate and Auction Company, Inc. ("Auction Company") on behalf of David G. Smith ("Seller") with respect to certain real estate in Madison County, Indiana. 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** (hereinafter referred to as the "Purchased Tract(s)", whether one or more).

- SUBJECT OF AGREEMENT; PROPERTY.** Buyer offers and agrees to purchase from Seller the land comprising the Purchased Tract(s), together with the improvements and permanent fixtures, if any, presently existing on said land (collectively, the "Property"), in accordance with and subject to the terms and conditions set forth herein, together with the Revised Auction Tract Map & Survey Provisions included in each bidder's packet as Exhibit A ("**Exhibit A**") and the bidding procedures and auction announcements included in each bidder's packet as Addendum A ("**Addendum A**"). Exhibit A and Addendum A are incorporated herein as integral parts hereof and, together with this Agreement to Purchase, are collectively referred to herein as this "Agreement".
- PURCHASE PRICE.** The purchase price for the Property (the "Purchase Price") consists of the amount in U.S. Dollars which is written as the Purchase Price on the Signature Page, being the amount of Buyer's high bid for the Purchased Tract(s); *provided, however*, the Purchase Price shall be adjusted at closing (based on surveyed acres) if applicable in accordance with the terms of Addendum A. Prior to the closing, Buyer shall deliver Good Funds to the closing agent in the amount of the Purchase Price, plus expenses charged to Buyer as provided in this Agreement, less applied Earnest Money and any other credits due Buyer as provided in this Agreement. "Good Funds" means immediately available funds delivered by confirmed wire transfer to an account designated by the closing agent.
- EARNEST MONEY.** Concurrently with Buyer's execution and delivery of this offer, Buyer shall deliver to Auction Company at least ten percent (10%) of the Purchase Price, to be held in escrow as an earnest money deposit ("Earnest Money"), and to be delivered to the closing agent at or prior to closing and applied to the Purchase Price at closing.
- TAXES.** "Taxes" refers to all general real estate taxes and any special assessments that are or will become a lien against all or any part of the Property. "Parent Parcel Taxes" refers to all Taxes that, at the time of closing, are not yet ascertainable and payable but constitute a lien against the Property *and other real estate*. Buyer shall assume and pay all Taxes consisting of: (a) general real estate taxes assessed for the calendar year 2024 (due in 2025), and subsequent years, *to the extent attributed to the Property*; and (b) installments of drainage and other special assessments, if any, that are last payable without a penalty after 2024, *to the extent attributed to the Property*. Seller shall pay (or arrange for payment of) all other Taxes. All Taxes that are ascertainable and payable at the time of closing shall be collected from the proper party(ies) at closing and paid directly to the county treasurer. Because this sale involves a tax parcel split, Seller may elect to require collection of each party's share of the estimated Parent Parcel Taxes at closing, to be either: (i) held in escrow and applied towards payment of the Parent Parcel Taxes when billed after closing; or (ii) paid directly to the county treasurer as an estimated prepayment of the Parent Parcel Taxes. In any event, Buyer and Seller shall pay their respective shares of the Parent Parcel Taxes when due after closing (to the extent not paid via escrow or estimated prepayment) and shall cooperate with each other (and with the owner/s of any other real estate affected by the Parent Parcel Taxes) to facilitate the allocation and timely payment of the balance due. For purposes of the foregoing provisions: (A) any estimate of Taxes shall be based on the amounts last billed for a calendar year; and (B) the extent to which any Taxes or estimated Taxes are attributed to any new parcel resulting from a split 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).
- SURVEY.** The Property shall be conveyed as shown and described in a new survey or plat to be obtained prior to closing in accordance with the "Survey Provisions" set forth in **Exhibit A**.
- DEED; TITLE INSURANCE.** The Property shall be conveyed by Warranty Deed (subject to the Permitted Exceptions), to be furnished at Seller's expense. As a condition precedent to Buyer's obligation to acquire the Property at closing, Seller shall furnish (and Buyer shall have the right to receive) a commitment, updated to a date after the auction and prior to closing, for the issuance of a standard coverage ALTA owner's title insurance policy in the amount of the Purchase Price insuring fee simple title to the Property in the name of Buyer, subject to the standard exceptions and the Permitted Exceptions but free and clear of any material encumbrance that does not constitute a Permitted Exception (the "Final Title Commitment"). At closing, Seller shall pay for the cost of issuing a standard coverage ALTA owner's title insurance policy in accordance with the Final Title Commitment.
- PERMITTED EXCEPTIONS.** Buyer agrees to acquire the Property (and to accept the title, title insurance, and any survey or plat) subject to and notwithstanding any of the following matters (each a "Permitted Exception"; collectively, the "Permitted Exceptions"): (a) existing roads, utilities and drains; (b) any visible or apparent use; (c) existing pipelines, whether or not visible or apparent and whether or not appearing of record; (d) rights and/or claims relating to or arising from any variation between a deeded boundary line and a fence line, field line, ditch line, or other visible or apparent occupancy or occupancy line and/or the encroachment of any existing use, structure or improvement over any boundary line; (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 and/or assessments that are not yet ascertainable and payable; (h) the provisions of (and any matter referenced or disclosed in) Addendum A; and/or (i) any matter (except liens) referenced, listed, shown or disclosed in the preliminary title insurance schedules and/or preliminary Rural Development Concept Plan described in Addendum A.
8. **CLOSING.** It is anticipated that the closing will be scheduled by mutual agreement and completed **on or before August 30, 2024**. In any event, Seller may arrange for the closing to be held on a date specified in an email or other written notice from Seller or Seller's agent to Buyer or Buyer's agent, and Buyer shall be obligated to close on the specified date if such date is not earlier than **August 30, 2024** and at least 7 days after: (a) sending such notice; (b) completion of the survey/plat in accordance with Exhibit A; (c) obtaining any required plat approval; and (d) completion of the Final Title Commitment. The closing shall be held at and/or administered by the office of **Fidelity National Title Company, 1106 Meridian Plaza, Ste. 100, Anderson, IN (Tel: 765-643-7417)**.
 9. **RISK OF LOSS.** The Property shall be conveyed at closing in substantially its present condition, normal wear and tear excepted. Seller assumes the risk of loss and/or damage to the Property until closing.
 10. **POSSESSION.** Possession shall be delivered in accordance with Addendum A. Seller shall pay for all utilities until possession is delivered.
 11. **INCLUDED / EXCLUDED ITEMS.** Notwithstanding any other provision, this purchase includes or excludes any item that is specifically included or excluded according to Addendum A or any residential disclosure form signed by Seller. Propane tanks are excluded unless otherwise provided.
 12. **THE PROPERTY IS SOLD "AS IS", WITHOUT ANY WARRANTY OF ANY KIND AS TO ITS CHARACTER OR CONDITION OR ITS SUITABILITY FOR ANY PARTICULAR USE OR PURPOSE.**
 13. **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 60 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**.
 14. **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.
 15. **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.
 16. **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 11:59 pm on **June 20, 2024**.

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

[Signature Page]

IN WITNESS WHEREOF, Buyer offers to purchase the particular auction tract(s) designated below for the Purchase Price written below in accordance with and subject to the terms and conditions of this Agreement:

Tract(s) _____ including approx. _____ (±) acres of land in Madison County, Indiana, as approximately depicted and identified by reference to the same tract number(s) in **Exhibit A**, being one or more of the tracts put up for bids at the auction conducted on June 20, 2024, and being the Purchased Tract(s) for purpose of this Agreement.

Purchase Price: \$ _____

Earnest Money: \$ _____

SIGNATURE OF BUYER: Executed and delivered by the undersigned, as Buyer for purposes of this Agreement, on the 20th day of June, 2024:

Printed Name(s) of Buyer(s) (Print the full legal name of any Buyer-Entity, the type of entity and the State of incorporation / organization.)

[By:] _____
Signature(s) of Buyer(s) and/or individual(s) signing on behalf of any Buyer-Entity

Printed Name(s) and Office/Capacity of individual(s) signing on behalf of a Buyer-Entity (if applicable)

(Buyer's Address) (City, State, Zip)

(Buyer's Telephone Number) (Buyer's Email Address)

(Buyer's Lender, if any)

(Deed To)

ACCEPTED BY SELLER on June 20, 2024:

The undersigned Timothy V. Smith and Stephanie Caridini are signing as attorneys-in-fact for **David G. Smith** pursuant to a power of attorney dated January 3, 2023, and also as potential owners pursuant to a Transfer on Death Deed recorded on April 18, 2024. The undersigned agree to be bound by this Agreement as "Owner" in the event they acquire an interest in the Property prior to closing.

(Timothy V. Smith, as atty-in-fact & TOD transferee)

(Stephanie Caridini, as atty-in-fact & TOD transferee)

RECEIPT OF EARNEST MONEY: The Earnest Money in the amount written above has been received by Auction Company on the date indicated below, to be held in escrow pursuant to the terms of this Agreement.

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC., by:

Date Received: _____

Sign: _____

Print: _____

EXHIBIT A

Buyer(s): _____

Seller: _____

Revised Auction Tract Map & Survey Provisions

Auction Date: 6/20/2024

Pt. N2 Sec. 2-T19N-R8E (Union Twp.) in Madison County, State of Indiana



Survey Provisions: The land to be conveyed at any closing shall be conveyed as described in a final survey or plat to be obtained in accordance with the following provisions. As used herein, the term “plat” refers to a survey or plat (including an administrative plat) prepared in accordance with this Exhibit A and any applicable requirements of the local planning authorities. The final plat shall be ordered by the Auction Company and shall be sufficient for the purpose of recording the conveyance, but the type of plat shall otherwise be determined solely by the Seller. For adjacent tracts purchased in combination, the final plat will show the perimeter boundary but need not show interior tract boundaries.

Boundary lines and acreages depicted in 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.

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

Buyer(s): _____

Seller: _____

ADDENDUM A

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC.
Auction Marketing Specialists Nationwide

Date: June 20, 2024

Owner: David G. Smith

Sale Managers: Steve Slonaker and Mark Smithson

SCHRADER REAL ESTATE AND AUCTION COMPANY, INC. welcomes you to bid YOUR price on the real estate offered at this auction.

PART A - BIDDING PROCEDURES TO KEEP IN MIND:

1. All bidding is open to the public. You will need to raise your hand or call out your bid as the auctioneer asks for bids. It is easy! Don't be bashful! This is a one-time opportunity. Watch the auctioneer and his bid assistants. They will take your bid and will assist you with any questions.
2. The advertised tract boundaries and acre estimates have been updated based on the preliminary Rural Development Concept Plan described below. These updates are shown in the revised auction tract map which is included in your Bidder's Packet as part of **Exhibit A**.
3. You may bid on any tract or combination of tracts or the entire property. Bidding will remain open on individual tracts and combinations until the close of the auction.
4. Bidding will be on a lump sum basis. Minimum bids are at the auctioneer's discretion.
5. Bids are not contingent on financing, so be sure you have arranged financing, if needed, and are able to pay cash at closing.
6. The Seller's authorized representatives are present and we anticipate that the top bid(s) at the close of the auction will be accepted. The final bid(s), however, are subject to the Seller's acceptance or rejection.

PART B - TERMS OF SALE OUTLINED:

7. 10% of the purchase price is due as an earnest money deposit at the close of auction. A cashier's check or a personal or corporate check immediately negotiable is satisfactory for the earnest money. The balance of the purchase price is due in cash at closing.

8. The closing will be scheduled in accordance with Section 8 of the Agreement to Purchase in your Bidder's Packet. The targeted closing period is on or before August 30, 2024.
9. Delivery of title and possession shall be effective upon completion of the closing.
10. The closing will be held at the office of Fidelity National Title Company in Anderson, Indiana. The closing agent's fee to administer the closing will be shared equally (50:50) between Buyer and Seller (in the amount of \$275 each). Buyer will pay all costs of any loan obtained by Buyer.
11. Real estate taxes and drainage assessments will be allocated and paid in accordance with Section 4 of the Agreement to Purchase. To the extent attributed to the purchased tract(s), **Buyer** will assume and pay the real estate taxes for the entire calendar year 2024 (due in 2025) and all drainage assessments due after 2024.
12. Preliminary title insurance schedules dated May 13, 2024 have been prepared by Fidelity National Title and are available to review in the auction display area.
13. Buyer will have the right to receive a Final Title Commitment prior to closing in accordance with Section 6 of the Agreement to Purchase. At closing, Seller will pay for the cost of issuing the owner's title insurance policy.
14. Buyer agrees to accept title and acquire the property subject to the Permitted Exceptions as defined in Section 7 of the Agreement to Purchase.
15. As a condition precedent to Buyer's obligation to acquire the property, the title is to be insured free and clear of any state tax warrant or judgment lien.
16. A preliminary Rural Development Concept Plan has been prepared by RAYL Civil Engineering & Land Surveying in which Tracts 1, 2 and 3 are depicted as Lots 1, 2 and 3, respectively. A copy is posted in the auction display area. Seller has paid or will pay the cost of preparing the preliminary Rural Development Concept Plan.
17. Buyer agrees to accept all matters shown in the preliminary Rural Development Concept Plan, including:
 - Right-of-way dedication and building setback lines (affecting all tracts);
 - Right of entry for legal drain on either side of Turkey Creek (affecting Tracts 2 & 3);
 - "Zone A" flood hazard area near Turkey Creek (affecting Tracts 2 & 3); and
 - New 30-foot-wide perimeter drain easement (affecting Tract 2).
18. At each closing, the purchased tract(s) will be conveyed as shown in a final plat to be obtained in accordance with the "Survey Provisions" set forth in **Exhibit A**. As used herein, the term "plat" refers to a survey or plat (including an administrative plat) prepared in accordance with Exhibit A and any applicable requirements of the local planning authorities.

19. The cost of preparing the final post-auction plat shall be shared equally (50:50) by the Seller and Buyer(s). If there are multiple closings, such cost shall be allocated between the respective tracts and the portion thus allocated to each closing shall be shared equally (50:50) by the Seller and the applicable Buyer.
20. The acre estimates have been revised for purposes of the auction as shown in Exhibit A. The revised acre estimates are based on the acres shown in the preliminary Rural Development Concept Plan, as follows:

ACRE ESTIMATES (±)	Tract 1:	Tract 2:	Tract 3:	Total:
Advertised / Brochure (±)	4.36	10	10	24.36
Revised / Exhibit A (±)	4.77	9.32	10.55	24.64

21. We anticipate that the acres shown in the final plat will match the acre estimates shown in Exhibit A. However, no promise or warranty is made as to the exact number of acres included with any tract or set of tracts. If the acres shown in the final plat vary from the acres shown in Exhibit A, the purchase price shall be adjusted proportionately to reflect the difference (except for Tract 1 or any combination that includes Tract 1).
22. Boundary lines and auction tract maps depicted in Exhibit A and 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.
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 consent of Seller. Upon such termination, the earnest money will be returned to Buyer and the property may be re-sold free 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. **Tract 1:** Although previously used as a summer dwelling, the barn on Tract 1 is not currently approved or permitted for occupancy as a dwelling. If the Buyer of Tract 1 intends to occupy the barn as a dwelling, Buyer will be responsible for the satisfaction of all requirements under the applicable building codes and all other requirements of the local planning officials. The Auction Company is informed that such requirements would include obtaining a satisfactory barn engineering study and obtaining the health department's approval of plans for a private septic system.
25. **Tract 1:** Subject to the foregoing disclaimer, the Seller's Residential Real Estate Sales Disclosure form and the lead-based paint disclosure form are posted and shall be signed by the Buyer of Tract 1 at the end of the auction.
26. **Tract 1:** Upon completion of the closing, the Buyer of Tract 1 shall automatically acquire the Seller's interest in the personal property remaining on the premises at the time of closing (including furniture, appliances, shop tools, piano, artwork and décor).

Buyer will acquire such personal property **AS IS** (as of the time of closing) without any promise or warranty of any kind. Seller shall not be responsible for any loss or damage to any personal property prior to closing.

27. **Tracts 1 & 2:** If Tracts 1 and 2 are not purchased together, Tract 2 will be subject to a new easement for the installation, use, maintenance and repair of a subsurface outlet drain connected to a perimeter drain serving a private septic system on Tract 1, all at the cost of the owner(s) of Tract 1. If applicable, such easement will be created within the 30-foot wide "perimeter drain easement" corridor shown in the preliminary Rural Development Concept Plan, and shall be created pursuant to: (a) a grant of easement in the deed to the Buyer of Tract 1; and/or (b) a reservation of easement in the deed to the Buyer of Tract 2; and/or (c) an express dedication of easement in a final plat signed by Seller and recorded prior to either deed; and/or (d) a separate declaration of easement signed by Seller and recorded prior to either deed.
28. Your bids are to be based solely upon your inspection. All property is sold "AS IS" without any warranty. 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 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.
29. At the close of the auction, each high bidder shall execute a purchase contract in the form provided in each Bidder's Packet, consisting of the Agreement to Purchase, Exhibit A and this Addendum A. The terms of these documents are non-negotiable.
30. You will be closing on the tract or combination of tracts on which you are the successful bidder in the manner in which you bid at the auction. Deeds shall be recorded in the order designated by the Seller.
31. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Seller.

Thank you for your interest in this offering. If you have any questions, please feel free to talk to one of our representatives.

ANY ANNOUNCEMENTS MADE BY THE AUCTIONEER
TAKE PRECEDENCE OVER THIS PRINTED MATERIAL.