

AGREEMENT TO PURCHASE

Date: October 18, 2022

I/We the undersigned Buyer(s) ("Buyer") offer to purchase Tract(s) _____, being approx. _____ (±) acres of land in Steuben 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 the timed online auction conducted by Schrader Real Estate and Auction Company, Inc. ("Auction Company") on behalf of Kimberly S. Ehleiter ("Seller"). This offer incorporates the terms and conditions set forth herein, the Revised Auction Tract Map attached as **Exhibit A** and the bidding procedures and auction announcements set forth in 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 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.** General real estate taxes and drainage assessments that are or will be assessed against the parent parcel that includes the Property ("Taxes" and "Assessments", respectively) shall be allocated and paid as follows. At closing, Seller shall pay any balance owed for Taxes and/or Assessments last payable without a penalty in 2022 or earlier. The 2022 Taxes (due in 2023) shall be estimated based on the 2021 Taxes (due in 2022) and the amount thus estimated ("Estimated 2022 Taxes") shall be allocated between the newly-created parcels and the portion allocated to the Property shall be **prorated** on a calendar year basis to the date of closing. The parties' respective shares of the entire amount of the Estimated 2022 Taxes (for the entire parent parcel, as allocated and prorated between the parties) shall be collected from the proper parties at closing, to be either held in escrow and applied towards payment of the 2022 Taxes when billed after closing or paid directly to the county treasurer as an estimated prepayment of the 2022 Taxes. Buyer shall pay all Taxes and Assessments due after closing to the extent attributed to the Property and not paid via escrow or estimated prepayment. The extent to which any Taxes, estimated Taxes and/or Assessments are attributed to the Property and/or any other new parcel 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 and Seller shall cooperate with each other and with any other owner(s) of such other real estate to facilitate timely payment of the balance due and Buyer and Seller shall pay their respective shares of the balance due.
4. **SURVEY.** A final, post-auction survey of the Property shall be obtained in accordance with the provisions of **Addendum 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 coverage ALTA 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 coverage ALTA owner's title insurance policy in accordance with the Final Title Commitment.
6. **PERMITTED EXCEPTIONS.** Buyer agrees to accept title and title insurance 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 or other visible or apparent occupancy or occupancy line; (d) any easement, condition, covenant, restriction or other matter of record (except a mortgage or lien); (e) any outstanding right or severance as to minerals; (f) any recorded oil and gas lease, active or not; (g) any lien for property taxes or assessments not yet payable; (h) any matter disclosed in this Agreement; and/or (i) any matter (except a mortgage or lien) referenced in the preliminary title insurance schedules described in Addendum A.
7. **CLOSING.** It is anticipated that the closing will be scheduled by mutual agreement and completed **on or before November 18, 2022**, or as soon as possible after said date upon completion of the survey, the Final Title Commitment and Seller's closing documents. In any case, Seller may arrange for the closing to be held (and Buyer shall be obligated to close) on a date specified in an email or other written notice from Seller or Seller's agent to Buyer or Buyer's agent if such date is: (a) at least 7 days after sending such notice (but not earlier than November 18, 2022); and (b) at least 7 days after completion of the survey and Final Title Commitment. The closing shall be held at and/or administered by the office of **Book Title Company, 207 Hoosier Dr., Ste. 1, Angola, IN (Tel: 419-630-7498)**.
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 REGARDING THE CONDITION OF THE PROPERTY OR ITS SUITABILITY FOR ANY PARTICULAR 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): _____

Address: _____

Tel.: _____ **Email:** _____

Deed to: _____ **Lender/Contact:** _____

ACCEPTED BY SELLER on October _____, 2022: **Sign:** _____ (Kimberly S. Ehleiter)

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

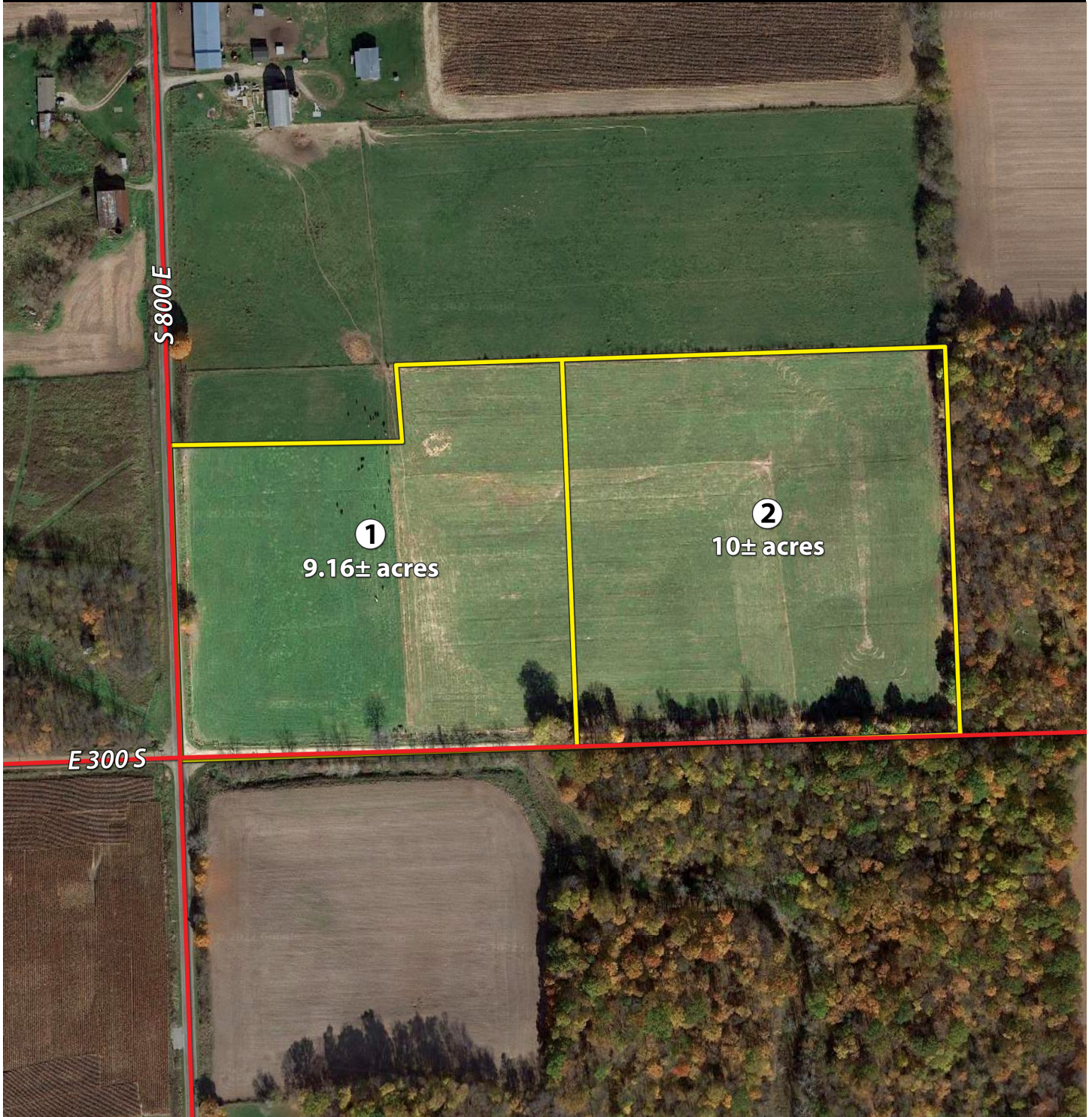
Revised Auction Tract Map

Buyer(s): _____

Seller: _____

Auction Date: 10/8/2022 - 10/18/2022

Pt. SW4 SW4 Sec. 5-T36N-R15E (Richland Twp.) in Steuben County, State of Indiana



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: Kimberly S. Ehleiter ("Seller")

Online Bidding Ends: October 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/8302); and
 - Agreed to the particular Auction Terms that apply to this auction ("Auction Terms"), consisting of the provisions contained in the Agreement to Purchase, the Revised Auction Tract Map (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, as posted to the auction website. As an update to the marketing materials, Exhibit A reflects adjustments to the tract boundaries for both tracts and the acre estimate for Tract 1 (based on pre-auction survey work).
4. Bids may be submitted on Tract 1, or Tract 2, or Tracts 1 & 2 combined.
5. 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).
6. The Seller has reserved the right to enter bids (or have bids entered on her behalf) using the online bidding platform.
7. The initial bidding period ends at 6:00 o'clock p.m. (EDT) on Tuesday, October 18, 2022, at which time all bidding will close *unless* the bidding is extended in accordance with paragraph 8 below.

8. 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 two 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 solely by the online bidding platform.

PART B - AUCTION TERMS:

9. 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.
10. **As an important update to the marketing materials, both tracts will be conveyed subject to a new restrictive covenant which shall be included in the deed(s) in substantially the following form:**

“No part of the real estate hereby conveyed shall be used for keeping, raising, feeding or producing livestock or for any type of confined feeding of animals and/or commercial animal feeding operation, regardless of the number of animals; *provided, however*, this restriction does not prohibit keeping household pets or hobby animals for non-commercial purposes. This covenant shall run with the land and shall be binding on Grantee and Grantee’s successors in interest with respect to all or any part of the real estate hereby conveyed. This covenant is for the benefit of and shall be enforceable by the current and future owner(s) of any part(s) of the Southwest Quarter of the Southwest Quarter of Section 5, Township 36 North, Range 15 East, in Steuben County, Indiana.
11. 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.
12. The final high bid is subject to the Seller’s acceptance or rejection. The final high bid may be accepted at any time before the end of the first business day after the close of bidding.
13. An earnest money deposit is due from each Buyer in the amount of at least 10% 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.
14. 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.

15. Delivery of title and possession will be effective upon completion of the closing, to be scheduled in accordance with Section 7 of the Agreement to Purchase. The targeted closing period is on or before November 18, 2022.
16. 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.
17. Real estate taxes will be prorated to the date of closing. Buyer will assume and pay special assessments, including drainage assessments, if any, that are last payable without a penalty after 2022.
18. 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.
19. Preliminary title insurance schedules dated September 1, 2022 have been prepared by Book Title Company and posted to the auction website.
20. Buyer agrees to accept the title and acquire the property subject to the "Permitted Exceptions", as defined in Section 6 of the Agreement to Purchase. The title shall be conveyed and the title insurance shall be issued free and clear of any mortgage.
21. As shown in Exhibit A, the acre estimate for Tract 1 has been revised for purposes of the auction as follows:

ACRE ESTIMATES (±)	Tract 1:	Tract 2:	Total:
Advertised / Brochure (±)	10	10	20
Revised / Exhibit A (±)	9.16	10	19.16

22. The revised tract boundaries and revised acre estimates shown in Exhibit A are based on preliminary survey work performed by Rowland Associates.
23. A final, post-auction survey shall be obtained for each closing. 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. If both tracts are purchased together, the survey will show the perimeter boundaries but need not show the "interior" tract boundary.
24. At each closing, the costs of the pre-auction survey work and the final post-auction survey(s) obtained in accordance with this Addendum A (as allocated between the respective closings, if more than one) shall be shared equally (50:50) by Seller and Buyer.
25. No warranty or authoritative representation is made as to the number of gross acres or tillable acres included with any tract or set of tracts. If there is any difference between the acre estimate(s) shown in Exhibit A and the gross acres shown in the final survey, the purchase price shall be adjusted proportionately to reflect the difference.
26. 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.

27. 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.
28. 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".
29. 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 permit; or (e) the accuracy of any materials or information prepared or provided by any third party regarding the auction and/or the property.
30. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Seller.