

**AGREEMENT TO PURCHASE**

Date: **October 16, 2021**

I/We the undersigned Buyer(s) ("Buyer") offer to purchase the residential lot and improvements located at 311 E. Morsches Rd., Columbia City, Indiana, in Whitley County (the "Property"), being the real estate put up for bids via online auction conducted by Schrader Real Estate and Auction Company, Inc. ("Auction Company") on behalf of John W. Igney and Diane S. Igney ("Seller") and concluded on October 16, 2021. This offer incorporates the terms and conditions set forth herein and the bidding procedures and auction announcements set forth in **Addendum A** (collectively, this "Agreement").

- 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).
- EARNEST MONEY.** Buyer shall deliver to Auction Company an earnest money deposit in the amount of \$ \_\_\_\_\_ ("Earnest Money") **on or before Monday, October 18, 2021**, to be held in escrow and applied to the purchase price at closing.
- TAXES AND ASSESSMENTS.** "Seller's Taxes" refers to: (a) real estate taxes assessed or to be assessed against 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 for all prior years; and (b) any drainage or other special assessments attributed to the Property and last payable without 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 (and prorated to the date of closing) 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.
- SURVEY.** A new survey shall be obtained if and only if obtained in accordance with the provisions of Addendum A.
- 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.
- PERMITTED EXCEPTIONS.** Buyer agrees to accept the title 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 and/or wind energy easement, 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 (collectively, the "Permitted Exceptions").
- CLOSING.** Closing shall be held **on or before November 16, 2021**, 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 the office of **Doma Insurance Agency of Indiana, LLC, 236 Frontage Rd., Columbia City, IN (Tel: 260-248-5880)**, 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.
- POSSESSION.** Possession shall be delivered in accordance with Addendum A. Seller shall pay for all utilities until possession is delivered.
- INCLUDED / EXCLUDED ITEMS.** Notwithstanding any other provision, the "Property" 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.
- 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.**
- REMEDIES.** If the Earnest Money is not effectively and timely 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.**
- 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.
- 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.
- GENERAL PROVISIONS.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives and successors. This Agreement constitutes the entire agreement between Buyer and Seller 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 (including Addendum A) shall survive the closing. This Agreement to Purchase and Addendum A shall be read and construed together as a harmonious whole. This Agreement may be executed in multiple counterparts, all of which together shall constitute the same instrument and, for such purposes, 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.
- 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 **Monday, October 18, 2021**.

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

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

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

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

**ACCEPTED BY SELLER** on the \_\_\_\_\_ day of October, 2021: **EARNEST MONEY** in the amt. of \$ \_\_\_\_\_ was received by the Auction Company on the \_\_\_\_\_ day of October, 2021. Schrader Real Estate and Auction Company, Inc.

**Sign:** \_\_\_\_\_ (John W. Igney)

**Sign:** \_\_\_\_\_ (Diane S. Igney)

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

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: John W. Igney and Diane S. Igney

**Online Bidding Ends: October 16, 2021 at 2:00 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 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 2:00 o'clock p.m. on Saturday, October 16, 2021; 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 high bid is subject to the Sellers' acceptance or rejection.
6. Buyer 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 Monday, October 18, 2021.**

7. The balance of the purchase price is due in cash at closing. Bidding is not contingent on financing. Each bidder is responsible for having arranged any financing prior to bidding.
8. 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 16, 2021.
9. The closing agent's fee to administer the closing will be shared equally (50:50) between the Buyer and Sellers. Buyer will pay all costs of any loan obtained by Buyer.
10. 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.
11. At closing, Sellers will furnish the deed and owner's title insurance at Sellers' expense in accordance with Section 5 of the Agreement to Purchase.
12. Preliminary title insurance schedules dated September 30, 2021 have been prepared by Doma Insurance Agency of Indiana and posted to the auction website along with copies of the recorded documents listed as exceptions therein.
13. The title is to be conveyed and the title insurance is to be issued free and clear of any mortgage or lien (except current taxes), but subject to all easements and all other "Permitted Exceptions" as defined in Section 6 of the Agreement to Purchase.
14. Without limiting Section 6 of the Agreement to Purchase, Buyer agrees to accept the title and acquire the property subject to and notwithstanding the following documents, each of which has been posted to the auction website with the preliminary title insurance schedules:
  - a. Plat of Crooked Lake Estates recorded on March 23, 2021, including the deeds of dedication recorded with said plat.
  - b. Easement granted to Tri-Lakes Regional Sewer District, recorded on June 22, 1992.
  - c. Ingress-Egress and Utility Easement recorded on August 25, 1992. This document describes a 20-foot wide easement corridor extending from the most westerly part of the property to the east line of the property.
15. It is expected that the property will be conveyed using the existing legal description, without obtaining a new survey. A new survey shall be obtained if and only if: (a) the official(s) responsible for recording the deed will not accept the conveyance for recording without a new survey; or (b) Sellers elect to obtain a new survey for any other reason in Sellers' sole discretion.
16. 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 Sellers. The cost of any such survey shall be shared equally (50:50) by Sellers and Buyer.

17. Boundary lines depicted in the auction marketing materials are approximations provided for identification and illustration purposes only. They are not provided as survey products and are not intended to depict or establish authoritative boundaries or locations.
18. The Seller's Residential Real Estate Sales Disclosure form for the home has been posted to the auction website prior to the auction. The Buyer will sign this form at the end of the auction.
19. Advertised square footages and dimensions are approximate and have been estimated based on property tax information. No warranty or authoritative representation is made as to the size or dimensions of any improvements.
20. Only one (1) pier is included with the sale of the home.
21. 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 of the Property. Buyer is responsible for having completed all such 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".
22. Without limiting the foregoing provisions, Sellers 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.
23. Schrader Real Estate and Auction Company, Inc. and its agents and representatives are exclusively the agents of the Sellers.





SELLER'S RESIDENTIAL REAL ESTATE SALES DISCLOSURE  
State Form 46234 (R4 / 1-07)

Date (month, day, year)

9-16-21

Seller states that the information contained in this Disclosure is correct to the best of Seller's CURRENT ACTUAL KNOWLEDGE as of the above date. The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property. The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and the owner. Indiana law (IC 32-21-5) generally requires sellers of 1-4 unit residential property to complete this form regarding the known physical condition of the property. An owner must complete and sign the disclosure form and submit the form to a prospective buyer before an offer is accepted for the sale of the real estate.

Property address (number and street, city, state, and ZIP code)

311 E. Morsches Rd, Columbia City IN

1. The following are in the conditions indicated:

A. APPLIANCES	None/Not Included	Defective	Not Defective	Do Not Know
Built-in Vacuum System	✓			
Clothes Dryer	✓			
Clothes Washer	✓			
Dishwasher			✓	
Disposal			✓	
Freezer	✓			
Gas Grill	✓			
Hood			✓	
Microwave Oven			✓	
Oven			✓	
Range			✓	
Refrigerator			✓	
Room Air Conditioner(s)	✓			
Trash Compactor	✓			
TV Antenna / Dish	✓			
Other:				

B. ELECTRICAL SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Air Purifier	✓			
Burglar Alarm	✓			
Ceiling Fan(s)			✓	
Garage Door Opener / Controls			✓	
Inside Telephone Wiring and Blocks / Jacks			✓	
Intercom				✓
Light Fixtures			✓	
Sauna	✓			
Smoke / Fire Alarm(s)			✓	
Switches and Outlets			✓	
Vent Fan(s)				✓
60 / 100 / 200 Amp Service (Circle one)			✓	

NOTE: "Defect" means a condition that would have a significant adverse effect on the value of the property, that would significantly impair the health or safety of future occupants of the property, or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

C. WATER & SEWER SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Cistern	✓			
Septic Field / Bed	✓		✓	
Hot Tub			✓	
Plumbing			✓	
Aerator System	✓			
Sump Pump	✓			
Irrigation Systems	✓			
Water Heater / Electric	✓			
Water Heater / Gas			✓	
Water Heater / Solar	✓			
Water Purifier	✓		✓	
Water Softener			✓	
Well			✓	
Septic & Holding Tank/Septic Mound	✓			
Geothermal and Heat Pump	✓			
Other Sewer System (Explain)	✓			

D. HEATING & COOLING SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Attic Fan	✓		✓	
Central Air Conditioning	✓		✓	
Hot Water Heat	✓		✓	
Furnace Heat / Gas	✓		✓	
Furnace Heat / Electric	✓			
Solar House-Heating	✓			
Woodburning Stove	✓		✓	
Fireplace	✓		✓	
Fireplace Insert	✓		✓	
Air Cleaner	✓		✓	
Humidifier			✓	
Propane Tank	✓		✓	
Other Heating Source	✓			

	Yes	No	Do Not Know
Are the improvements connected to a public water system?	✓	✓	
Are the improvements connected to a public sewer system?	✓		
Are there any additions that may require improvements to the sewage disposal system?		✓	
If yes, have the improvements been completed on the sewage disposal system?		✓	
Are the improvements connected to a private/community water system?		✓	
Are the improvements connected to a private/community sewer system?	✓		

The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below.

Signature of Seller: John Grey	Date (mm/dd/yy): 9-16-21	Signature of Buyer:	Date (mm/dd/yy):
Signature of Seller: Diane Grey	Date (mm/dd/yy): 9-16-21	Signature of Buyer:	Date (mm/dd/yy):
The Seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer.			
Signature of Seller: John Grey	Date (mm/dd/yy): 9-16-21	Signature of Buyer:	Date (mm/dd/yy):



Property address (number and street, city, state, and ZIP code)

2. ROOF	YES	NO	DO NOT KNOW
Age, if known: <u>2 House</u> Years. <u>1/1/80</u>			
Does the roof leak?		<input checked="" type="checkbox"/>	
Is there present damage to the roof?		<input checked="" type="checkbox"/>	
Is there more than one roof on the house? If so, how many layers? <u>1</u>		<input checked="" type="checkbox"/>	
3. HAZARDOUS CONDITIONS	YES	NO	DO NOT KNOW
Have there been or are there any hazardous conditions on the property, such as methane gas, lead paint, radon gas in house or well, radioactive material, landfill, mineshaft, expansive soil, toxic materials, mold, other biological contaminants, asbestos insulation, or PCB's? Explain:		<input checked="" type="checkbox"/>	
E. ADDITIONAL COMMENTS AND/OR EXPLANATIONS: (Use additional pages, if necessary)			
4. OTHER DISCLOSURES	YES	NO	DO NOT KNOW
Do improvements have aluminum wiring?		<input checked="" type="checkbox"/>	
Are there any foundation problems with the improvements?		<input checked="" type="checkbox"/>	
Are there any encroachments?		<input checked="" type="checkbox"/>	
Are there any violations of zoning, building codes, or restrictive covenants?		<input checked="" type="checkbox"/>	
Is the present use a non-conforming use? Explain:		<input checked="" type="checkbox"/>	
Is the access to your property via a private road?		<input checked="" type="checkbox"/>	
Is the access to your property via a public road?	<input checked="" type="checkbox"/>		
Is the access to your property via an easement?		<input checked="" type="checkbox"/>	
Have you received any notices by any governmental or quasi-governmental agencies affecting this property?		<input checked="" type="checkbox"/>	
Are there any structural problems with the building?		<input checked="" type="checkbox"/>	
Have any substantial additions or alterations been made without a required building permit?		<input checked="" type="checkbox"/>	
Are there moisture and/or water problems in the basement, crawl space area, or any other area?		<input checked="" type="checkbox"/>	
Is there any damage due to wind, flood, termites or rodents?		<input checked="" type="checkbox"/>	
Have any improvements been treated for wood destroying insects?		<input checked="" type="checkbox"/>	
Are the furnace/woodstove/chimney/flue all in working order?	<input checked="" type="checkbox"/>		
Is the property in a flood plain?		<input checked="" type="checkbox"/>	
Do you currently pay flood insurance?		<input checked="" type="checkbox"/>	
Does the property contain underground storage tank(s)?		<input checked="" type="checkbox"/>	
Is the homeowner a licensed real estate salesperson or broker?		<input checked="" type="checkbox"/>	
Is there any threatened or existing litigation regarding the property?		<input checked="" type="checkbox"/>	
Is the property subject to covenants, conditions and/or restrictions of a homeowner's association?		<input checked="" type="checkbox"/>	
Is the property located within one (1) mile of an airport?		<input checked="" type="checkbox"/>	

The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below:

Signature of Seller: <u>John Gray</u>	Date (mm/dd/yy): <u>9-16-21</u>	Signature of Buyer:	Date (mm/dd/yy):
Signature of Seller: <u>Diane Izaga</u>	Date (mm/dd/yy): <u>9-16-21</u>	Signature of Buyer:	Date (mm/dd/yy):
The Seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer.			
Signature of Seller: <u>John Gray</u>	Date (mm/dd/yy):	Signature of Buyer:	Date (mm/dd/yy):