



## **REAL ESTATE AUCTION**

### **Spectacular Christmas Tree Farm**

**Austin Street  
Grayson County  
Independence, VA**

### **Nicholls Auction Marketing Group**

Corporate Office: (888) 357-2814

Offices through out Virginia to meet your needs

VAAF #729

On the web at: [www.nichollsauction.com](http://www.nichollsauction.com)

Contact us by E-mail at: [info@nichollsauction.com](mailto:info@nichollsauction.com)

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#### *Why use Nicholls Auction Marketing Group to sell your property?*

Nicholls Auction Marketing Group has set and maintained an overall sales ratio in excess of 95% since 1980. Our standards for conducting an auction are simply higher, and the marketplace has responded, allowing us to be the leader in getting properties sold and closed. For property owners who are serious about selling—who wish to maximize their returns while reducing the time, risk and frustration of trying to sell through a traditional approach—our customized individual owner services are a perfect fit.

Nicholls Auction Marketing Group will customize and execute a results oriented auction marketing campaign that maximizes exposure and creates active competition for the purchase of your property. This results not only in full and current market value, but also preserves opportunities for greatest price, while limiting risk of lower price. Individual sellers also benefit from the convenience of controlled viewings, standardized terms and conditions of sale, and a known sale and closing date.

Our 40+ years experience is broad-based allowing us to bring together the necessary resources for a successful sale of practically any type of real, as well as personal property. For more information please go to [nichollsauction.com](http://nichollsauction.com) and allow us the privilege to add your name to our growing lists of satisfied clients.



**Property Location**

Austin Street (Grayson County), Independence, VA 24348

**Date & Time**

Auction conducted onsite on **May 15, 2009 at 11:00 am.**

**Preview**

Saturday, May 9, 2009, at 10:00 am.

**Information**

Please contact Mr. Kelly Strauss at (540) 226-1279.

**Description**

115 +/- Acre Farm in Independence, VA (Grayson County) with 137,000+/- Fraser Fir Christmas Trees!!! The Farm will be offered in parcels and as a whole!! The Trees will be offered in individual lots and as a whole!! The farm and trees will be offered as a complete working operation!! Sold the Highest Bidder!!!

- **PARCEL #1:** 73A7-A-9, 39 acres, 6' – 11' trees.
- **PARCEL #2:** 73A1-A-9A, 11.724 acres, 6' – 11' trees.
- **PARCEL #3:** 73A7-A-11, 1.5 acres, 3' – 5' trees.
- **PARCEL #4:** 73A7-A-10, 63 acres, 3' – 5' trees.
  
- **Lot 1:** 9,559 Fraser fir trees ranging form 6' – 10' trees.
- **Lot 2:** 10,419 Fraser fir trees ranging form 6' – 10' trees.
- **Lot 3:** 9,871 Fraser fir trees ranging form 6' – 10' trees.
- **Lot 4:** 10,860 Fraser fir trees ranging form 6' – 10' trees.
- **Lot 5:** 11,094 Fraser fir trees ranging form 3' – 6' trees.
- **Lot 6:** 15,750 Fraser fir trees ranging form 3' – 6' trees.
- **Lot 7:** 13,507 Fraser fir trees ranging form 3' – 6' trees.
- **Lot 8:** 12,543 Fraser fir trees ranging form 3' – 6' trees.
- **Lot 9:** 11,621 Fraser fir trees ranging form 3' – 6' trees.
- **Lot 10:** 10,400 Fraser fir trees ranging form 3' – 6' trees.
  
- Property has approximately 600 feet of frontage on Rt. 21.

**Tree Information**

The trees have been treated with Lindane and Thionex for the common infestation of Balsam Wholly Adelgid by hose spraying method in the year of 2008. They will be treated for the common occurrence of Twig Aphid between now and bud break with mist blower sprayer using Dimethoate. Fertility has been managed with applications of appropriate fertilizer: 18-46-0, 0-0-22, 43-0-0, trace elements and foliage feeding.

The trees have been freshly sheared.

## **Pre-auction Bids**

All pre-auction bids are welcome, and pre-registered broker participation is encouraged and well compensated!!

## **Financing**

For financing information, please contact:

**Mr. Mike Hall of Farm Credit of the Virginias** at (276) 228-8666 or (800) 654-7377 ext. 1420;

**Mr. Brant Banks of North Carolina Farm Credit** at (336) 372-8587;

**Mr. Gary Howell of AF Financial Group** at (800) 723-4718 or (336) 246-4344; or

**Mr. John Priddy of Branch Banking and Trust (BB&T)** at (336) 719-2817

for all of your financing needs.

## **Accommodations**

Overnight accommodations are available at the Galax Hampton Inn, 205 Cranberry Road, Galax, VA 24333, (276) 238-4605. Please mention that you are attending the Woodie Christmas Tree Farm Auction to receive a discounted rate from the hotel.

# Terms & Conditions

## **Auctioneer's Authority on Bidding Procedures and Bidding:**

**Bidding Procedures:** Open and verbal. Announcements made on the day of the auction will take precedence over all printed material or oral statements made. (1) Method, order of sale, and bidding increments shall be at the sole discretion of the auctioneer. (2) The auctioneer reserves the right to delete or add additional properties at this discretion. (3) Nicholls Auction Marketing Group may act to protect the seller's reserve, as an agent of the seller, by bidding on behalf of the seller. The auctioneer has the authority, at his sole and absolute discretion, to deviate from, change, alter, or modify the bidding procedures and conduct of the auction at any time including after commencement of the auction.

**Bidding:** All bidding is open to the public without regard to race, color, sex, religion, or national origin. As used in these conditions of sale the term "the final bid" means the highest bid acknowledged by the auctioneer, and the term "purchase price" means the sum of the final bid and the buyer's premium. The highest bidder acknowledged by the auctioneer shall be the buyer. The auctioneer has the right to reject any bid or raise which, in his opinion, is not commensurate with the value of the property being offered. The auctioneer may advance the bidding at his absolute discretion and, in the event of any dispute between bidders, may determine the successful bidder or re-offer and resell the property in dispute. Should there be any dispute after the sale; record of final sale shall be conclusive. Please contact our offices for information on absentee and or phone bidding.

**Buyer's Premium:** If a Buyer's Premium is involved, the buyer's premium shall be paid by the Buyer and will be added to the final bid on the property.

Example:	High bid on property is:	\$100,000
	Add 10% buyer's premium:	<u>+\$10,000</u>
	Total on Sales Contract:	\$110,000

**Earnest Money:** The buyer of the property, unless prior arrangements have been made with Nicholls Auction Marketing Group, shall be required to pay a deposit of \$10,000 per parcel or \$25,000 as a whole. The buyer of the trees, unless prior arrangements have been made with Nicholls Auction Marketing Group, shall be required to pay a deposit of \$5,000 per lot not to exceed \$25,000 per buyer. The buyer of the property and trees as a whole, unless prior arrangements have been made with Nicholls Auction Marketing Group, shall be required to pay a deposit of \$50,000. This deposit will be held in a non-interest bearing escrow account until settlement. Please have a bank letter of guarantee that will accompany your deposit check, or make a cashier's check payable to yourself and endorse it over to Nicholls Auction Marketing Group if you are the high bidder.

**Closing:** The successful buyer must sign all documents and contracts immediately after the acceptance of the final bid. The successful buyer will also be required to make an appointment with the closing agent to pay the balance of the purchase price and receive the deed to the property. All closings must occur on or before specified dates. Closing is to take place on or before 30 days from date of auction. Buyer acknowledges and agrees that time is of the essence.

**Closing Costs:** The deed shall be prepared and acknowledged by Seller at Seller's expense and recorded at the expense of Buyer. The buyer shall pay all title searches, title insurance charges, survey expense, usual conveyance expenses, and recordation taxes, including the Grantor's tax. Real estate taxes, water and sewer charges, if any, will be prorated as of the date of closing.

**Financing:** Sale of the property is not contingent upon the buyer obtaining financing.

**Conditions of Default:** If any conditions contained herein are not complied with by the buyer, Nicholls Auction Marketing Group may, in addition to asserting all remedies available by law, including the right to hold defaulting buyer liable for the purchase price, either, a) cancel the sale, retaining as liquidated damages any payments made by such buyer, b) resell the property at public auction or privately on seven days notice to such buyer, or c) take such other action as it deems necessary or appropriated. If Nicholls Auction Co. resells the property, the original defaulting buyer shall be liable for the payment of any deficiency between the purchase price and all costs and expenses, the expenses of both sales, reasonable attorney's fees, commissions, incidental damages and all other charges due hereunder. In any event, the buyer's earnest money deposit will be retained by Nicholls Auction Co. as liquidated damages.

**State Laws:** The respective rights and obligations of the parties with respect to the Conditions of Sale and the conduct of the auction shall be governed and interpreted by the laws of the state in which the auction is held. By bidding at an auction, whether present in person or by agent, by written bid, telephone or other means, the buyer shall be deemed to have consented to the jurisdiction of the courts of such state and the federal courts sitting in such state.

**Real Estate Brokers/Agents/Auctioneers:** When offered, a fee equal to a specified commission will be paid to any qualified broker/auctioneer who is duly licensed in the same state where the property is located, and whose properly registered client successfully buys and closes on the property. To qualify for a commission the licensed broker/agent must first register the prospective bidder by mail (40 Carriage Hill Ln., Fredericksburg, VA 22407) or fax, (540) 898-3057, on Nicholls Auction Marketing Group's Broker Participation Acknowledgement Form. Registration letters must be countersigned by the prospect and include the broker's and agent's or auctioneer's license number, identification of the property, any agency disclosure statements, the letter and participation acknowledgement form. All forms, letters and statements must be received no later than 5:00 P.M. (EST) one day prior to the auction. In addition, agents/auctioneers must also attend with and register their prospects at the auction.

**Inspection:** All property is sold "As Is, With All Faults." Descriptions are provided as a service to customers only and do not constitute a warranty, either expressed or implied. Nicholls Auction Marketing Group disclaims all responsibility for physical condition. All buyers are responsible for prior inspection of properties on which they bid, and by bidding are deemed to have so inspected the property. Placing a bid on the offered property, whether in person, or by agent, by written bid, telephone bid or other means, constitutes an agreement by bidder to these conditions of sale. For residences built prior to 1978, buyer waives the right to a 10 calendar-day opportunity to conduct a risk assessment or inspection for the presence of Lead-Base Paint and/or Lead-Base Paint Hazards. Square footage dimensions and acreage are approximate and should be independently verified prior to bidding. Nicholls Auction Co., its agents and subagents, and the sellers assume no liability for errors or omissions in this or any other property listing or advertising or promotional/publicity statements and materials. All information and dimensions were derived from sources believed to be correct, but are not guaranteed. Buyers shall rely on their own information, judgment, and inspection of the property. All auction day announcements take precedence over any previously printed material or any other oral statements made.

## **Broker Participation Terms**

**Auction Date:** May 15, 2009

**Property Address:** Austin Street, Independence, VA 24348

**A commission of 20% of the 10% Buyer's Premium charged or 20% of any negotiated commission will be paid to any properly licensed real estate broker whose Buyer/Bidder is the successful purchaser for this property, and who actually closes and pays the total Contract Price and Closing Costs for this property. It is understood and agreed that the Broker commission structure will be based on the stated terms and conditions of sale.**

**To earn the foregoing commission:** Participating broker must register his/her buyer/bidder by filling out the broker registration form in full, and must fax, e-mail or mail it to Nicholls Auction Marketing Group to be received no later than 5:00 pm EST, the day prior to the auction. Send form to: Nicholls Auction Marketing Group, 40 Carriage Hill Lane, Fredericksburg, VA 22407. FAX: 540-898-3057 E-mail: [info@nichollsauction.com](mailto:info@nichollsauction.com)

**Broker agrees that Broker will not claim any exceptions to the foregoing procedures.**

**Broker agrees that no oral registration will qualify Broker for commission, and no broker forms will be accepted at the auction site.**

**Broker agrees that if the commission is reduced due to negotiations between buyer and seller the commission to the broker shall be 20% of total commission earned.**

**Broker agrees that Broker's commission will be due upon closing of the purchase by his Buyer/Bidder with all consideration paid in full.**

**Broker/Agent must accompany their buyer/bidder to the auction.**

**Broker shall not be entitled to said commission on account of any sale to an entity of which (or any affiliate of which) the broker is a principal, employee, or affiliate, or immediate family member.**

**Broker agrees that he/she shall hold harmless and indemnify Nicholls Auction Marketing Group, including its reasonable attorney's fees, from any and all claims with regard to such commission.**

**Broker must attach a copy of these terms, executed by the Broker below, with each registration.**

**I agree to the terms set forth herein.**

\_\_\_\_\_ **Printed Name:** \_\_\_\_\_

**Broker's Initials** \_\_\_\_\_

# **BROKER PARTICIPATION ACKNOWLEDGMENT FORM**

DATE: \_\_\_\_\_ REMIT TO: Nicholls Auction Marketing Group – 40 Carriage Hill Lane,  
Fredericksburg, VA 22407. FAX: 540-898-3057 E-mail: [info@nichollsauction.com](mailto:info@nichollsauction.com)

Name of Broker/Agent: \_\_\_\_\_

Name of Company: \_\_\_\_\_

Phone Number & E-mail Address: \_\_\_\_\_

Address of Auction Property: \_\_\_\_\_

Name of Bidder and Contact Info.: \_\_\_\_\_

\_\_\_\_\_

Broker/Agent Signature \_\_\_\_\_ Date \_\_\_\_\_

Real Estate License No. \_\_\_\_\_

Bidder's Signature: \_\_\_\_\_ Date \_\_\_\_\_

\*Bidder/Buyer acknowledges that he/she understands the Broker Participation Terms, and if Bidder/Buyer is the successful purchaser at the auction and successfully closes the transaction, said broker will receive a commission from the sale.

**ALL BROKER PARTICIPATION FORMS MUST BE  
RECEIVED NO LATER THAN 5:00 PM (EST) THE DAY PRIOR TO  
THE AUCTION!!**

**FAX: 540-898-3057**

40 Carriage Hill Lane  
Fredericksburg, VA 22407  
www.nichollsauction.com  
info@nichollsauction.com



Phone: 540-898-0971  
Fax: 540-898-3057  
Toll Free: 888-357-2814

## REAL ESTATE CONTRACT OF PURCHASE

THIS CONTRACT of purchase made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_  
\_\_\_\_\_ hereinafter called "Seller"), and \_\_\_\_\_

(hereinafter called "Purchaser"), and Nicholls Auction Marketing Group, a Virginia corporation (hereinafter called "Auctioneer").

That, for and in consideration of the hereinafter contained mutual promises other good and valuable consideration, the parties do hereby agree as follows:

- REAL PROPERTY:** Seller shall sell and convey and Purchaser shall purchase all that certain Real Estate (hereinafter the "Real Estate") with all rights and privileges thereto appurtenant and all buildings and improvements thereon situate, lying and being in \_\_\_\_\_ Magisterial District, \_\_\_\_\_, Virginia, more particularly described as follows:  
\_\_\_\_\_  
\_\_\_\_\_
- PURCHASE PRICE:** The purchase price of the Real Estate is \$ \_\_\_\_\_  
+ \$ \_\_\_\_\_ (Buyers Premium) = \$ \_\_\_\_\_  
as determined by public auction by Auctioneer held of even date herewith, **PAYABLE IN CASH ON OR BEFORE** \_\_\_\_\_.
- DEPOSIT:** Purchaser has paid a deposit (hereinafter "the deposit") to Auctioneer in the amount of \$ \_\_\_\_\_ with the signing of this contract, which represents \_\_\_\_\_ percent (\_\_\_\_\_% ) of the purchase price. The deposit shall be held in escrow in a non-interest bearing account by Auctioneer and then applied to the purchase price at settlement less Auctioneer's commission and all costs and expenses of sale. In the event Purchaser breaches this Contract, the deposit shall be paid to Seller, less Auctioneer's commission and all costs and expenses of sale, but such payment shall not preclude any other remedies available to Seller for such breach. If this Contract is not consummated and dispute exists between Seller and Purchaser, the deposit shall be held in escrow by the Auctioneer until Seller and Purchaser have agreed to the disposition thereof, or a court of competent jurisdiction orders disbursement. \_\_\_\_\_
- AUCTIONEER'S COMMISSION:** Auctioneer shall be paid from the deposit a commission of \_\_\_\_\_ percent (\_\_\_\_\_% ) of the purchase price or \$ \_\_\_\_\_ plus all costs and expenses of sale.
- SETTLEMENT AND POSSESSION:** Settlement shall be made at \_\_\_\_\_  
on or before \_\_\_\_\_ days from the date hereof. Possession shall be given at settlement, unless otherwise agreed in writing by the parties hereto. **TIME IS OF THE ESSENCE.** \_\_\_\_\_
- DEFAULT:** Seller and Purchaser agree that Auctioneer was the sole procuring cause of this Contract of Purchase. If either Seller or Purchaser defaults under this Contract of Purchase, such defaulting party shall be liable for the commission of Auctioneer and for any expenses incurred by the nondefaulting party and by Auctioneer, such expenses including their respective attorney's fee, advertising expenses, and labor, if any, in connection with this transaction and the enforcement of such Contract.
- RESIDENTIAL PROPERTY DISCLAIMER:** The Virginia Residential Property Disclosure Act (Section 55-517 through 55-525 of the Code of Virginia) requires Seller of a certain residential property to furnish the Purchaser either (a) a property disclaimer statement stating that the Property is sold "as is" or (b) a property disclosure statement disclosing defects in the condition of the Property actually known to the Seller. Seller has furnished Purchaser a Residential Property Disclaimer Statement. This Real Estate is sold and is to be conveyed in AS IS CONDITION.
- PROPERTY OWNERS' ASSOCIATION DISCLOSURE:** Seller represents that the Property (check as applicable) is \_\_\_\_\_ is not \_\_\_\_\_ located within a development which is subject to the Virginia Property Owners' Association Act (Section 55-508 et seq. of the Code of Virginia). If the Property is within such a development, the Act requires Seller to obtain from the property owners' association an association disclosure packet and provide it to Purchaser. Purchaser may cancel this contract within three (3) days after receiving the packet or being notified that the association disclosure packet will not be available. The right to receive the association disclosure packet and the right to cancel this contract are waived conclusively if not exercised before settlement.
- EXPENSES AND PRORATIONS:** Seller agrees to pay the expense of preparing the deed, certificates for non-foreign status and Form 1099-S and the recordation tax applicable to grantors. Except as otherwise agreed herein, all other expenses incurred by Purchaser in connection with this purchase, including, without limitation, title examination, insurance premiums, survey costs, recording costs, loan document preparation costs and fees of Purchaser's attorney, shall be borne by Purchaser. Real estate taxes shall be prorated as of settlement. Seller shall pay no closing costs on behalf of Purchaser.
- TITLE:** At Settlement, Seller shall convey to Purchaser good and marketable fee simple title the Property by deed of \_\_\_\_\_ warranty and free of all liens, defect and encumbrances, except as otherwise indicated herein, and subject only to such restrictions and easements as shall then be of record which do not render the title unmarketable. If a defect is found which can be remedied by legal action within a reasonable time, Seller shall, at Seller's expense, promptly take such action as is necessary to cure the defect. If Seller, acting in good faith, is unable to have such defect corrected within sixty (60) days after notice of such defect is given to Seller, then this Contract may be terminated by either Seller or Purchaser. Purchaser may extend the date for Settlement to the extent necessary for Seller to comply with this Paragraph. However, in such event, Auctioneer shall be paid its commission and all costs and expenses of sale from the deposit.

- 11. **LAND USE ASSESSMENT:** In the event the Property is taxed under land use assessment and this sale results in disqualification from land use eligibility, Purchaser shall pay any rollback taxes assessed.
- 12. **RISK OF LOSS:** All risk of loss or damage to the Property by fire, windstorm, casualty or other cause, or taking by eminent domain, is assumed by Seller until Settlement. In the event of substantial loss or damage to the Property before Settlement, Purchaser shall have the option of either (i) terminating this Contract, or (ii) affirming this Contract, in which event Seller shall assign to Purchaser all of Seller's rights under any applicable policy or policies of insurance and any condemnation awards and pay over the Purchaser any sums received as a result of such loss or damage.
- 13. **MECHANIC'S LIEN NOTIFICATION NOTICE:** Virginia law (Va. Code Ann Section 43-1 et seq.) permits persons who have performed labor or furnished materials for the construction, removal, repair or improvement of any building or structure to file a lien against the property. This lien may be filed at any time after the work is commenced or the material is furnished, but not later than the earlier of (i) 90 days from the last day of the month in which the lienor last performed work or furnished materials or (ii) 90 days from the time the construction, removal, repair or improvement is terminated.

AN EFFECTIVE LIEN FOR WORK PERFORMED PRIOR TO THE DATE OF SETTLEMENT MAY BE FILED AFTER SETTLEMENT. LEGAL COUNSEL SHOULD BE CONSULTED.

- 14. **TITLE INSURANCE NOTIFICATION:** Purchaser may wish at Purchaser's cost to purchase owner's title insurance. Depending on the particular circumstances of the transaction, such insurance could include affirmative coverage against possible mechanics' and material men's liens for labor and materials performed prior to closing and which, though not recorded at the time of recordation of Purchaser's deed, could be subsequently recorded and would adversely affect Purchaser's title to the Property. The coverage afforded by such title insurance will be governed by the terms and conditions thereof, and the dollar amount of the cost of obtaining such title insurance coverage.
- 15. **ASSIGNABILITY:** This Contract may not be assigned by either Seller or Purchaser without the written consent of the other.
- 16. **GOVERNING LAW:** This agreement is made in the Commonwealth of Virginia and shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.
- 17. **SEVERABILITY:** If any provisions herein shall be legally unenforceable or in the event that a Court of competent jurisdiction shall deem any of the provisions contained in this contract invalid or unenforceable, they shall be deemed severed from the other provisions of this contract, and the remaining provisions shall, nevertheless, be valid and enforceable and continue in full force and effect. The invalidity or the unenforceability of any particular provision of this contract shall not effect the other provisions hereof and the contract shall be construed in all respects as though such invalid or unenforceable provisions were omitted.
- 18. **ENTIRE AGREEMENT:** This contract contains the entire understanding between the parties with reference to the matters contained herein, and there are no terms, conditions, warranties, or representations other than those contained herein and no amendments hereto are valid unless made in writing and signed by both of the parties hereto.
- 19. **NOTICES:** All notices and other communications hereunder in connection herewith shall be deemed to have been duly given if they are in writing and delivered personally or sent by registered or certified mail, return receipt requested and first-class postage prepaid to the following addresses:

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

- 20. **CONTRACT BINDING:** Except as herein otherwise provided to the contrary, this agreement shall be binding upon and inure to the benefit of the parties signatory hereto, their personal representatives, successors and assigns.
- 21. **SUCCESSORS AND ASSIGNS:** No party shall assign or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this contract without the written consent of the other. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this contract.
- 22. **EXCLUSIVE BENEFIT:** Nothing under this contract shall be construed to give any rights or benefits in this contract to anyone other than the parties hereto, and all duties and responsibilities undertaken pursuant to this contract will be for the sole and exclusive benefit of the parties hereto and not for the benefit of any other party.
- 23. **PRIOR AGREEMENTS:** This contract supersedes any and all other understandings or agreements between the parties, either oral or in writing, with respect to the subject matter hereof.
- 24. **FULL UNDERSTANDING:** The parties hereto declare and acknowledge that each has read and fully understands the terms set forth in this Contract.

WITNESS the following signatures and seals:

<b>AUCTIONEER:</b>  NICHOLLS AUCTION MARKETING GROUP INC., a Virginia corporation  By: _____ Title: _____	<b>SELLER:</b> _____ (SEAL), indiv. _____ (SEAL), indiv. _____ (SEAL), indiv. _____ (SEAL), indiv.  <b>CORPORATION:</b> _____ Corporate Name	<b>PURCHASER:</b> _____ (SEAL), indiv. _____ (SEAL), indiv. _____ (SEAL), indiv. _____ (SEAL), indiv.  <b>CORPORATION:</b> _____ Corporate Name
<b>SELLER'S ATTORNEY:</b> _____ _____ Telephone: _____	By: _____ Title: _____ Telephone: _____	By: _____ Title: _____ Telephone: _____