

**Cervantes Orchards - Cherry Blocks**  
**REAL ESTATE SALE TERMS AND CONDITIONS**  
**May 20 – 2010**

1. **CONDITIONS OF SALE:** The terms and conditions for this sale are set forth in the Purchase and Sale Agreements which will be executed by successful bidders at the auction. Copies of the Purchase and Sale Agreements are available for inspection prior to this event by contacting Western Real Estate Auctions, LLC (referred to herein as WREA or Broker or Auctioneer). To the extent of any inconsistencies between these terms and conditions and the Purchase & Sale Agreement, the Purchase & Sale Agreement shall control.

2. **SALE PROCEDURE:** The property is owned by Cervantes Orchards & Vineyards, LLC and is being administered by T16 Management Co., Ltd., solely in its capacity as Bankruptcy Plan Liquidating Agent for Cervantes Orchards & Vineyards, LLC under Bankruptcy Case No. 05-06600-JAR11 (“Seller”). For purposes of the auction, the property has been divided into 4 different Tracts, as identified on a preliminary parcel map. These Tracts will be offered individually, in combinations, or as an entirety as the bidders desire in such a style that all bids remain open until the auctioneer declares the bidding closed. The manner in which the bids total the greatest amount of money resulting in the highest price for the property, will be declared the winning bid(s). The selling price(s) shall be determined by competitive bidding. **A 10 % BUYER’S PREMIUM WILL BE ADDED TO THE HIGH BID(S) TO DETERMINE THE TOTAL SALES PRICE(S).** Should any dispute arise between bidders, the Auctioneer shall have the right to make the final decision to either determine the successful bidder or to re-sell the property that is in dispute. The sale will be recorded and if any dispute arises, the Auctioneer's sales records shall be conclusive in all respects.

3. **BIDDER REGISTRATION:** The auction is for Registered Bidders and their guests. **ALL BIDDERS, prior to receiving a bid number, must provide sufficient evidence to the Broker that they have adequate funds and/or financing to close on the offered property.** Bidders must register their name, address, and telephone number with the registration clerk, providing photo I.D. (i.e. driver's license); and the Bidder Deposits as specified per Tract (see paragraph 4, “Bidder Deposit(s)”), in cash, cashier's check or PRE-APPROVED company or personal checks made payable to Fidelity Title Company. All checks not endorsed by successful Bidders will be returned to providers at the close of the oral auction. Bidder registration will begin at 12:30 p.m. on May 20, 2010 at Clarion Hotel, 1507 N.1<sup>st</sup> Street, Yakima, Washington 98901. The Seller and/or Broker reserve the right to refuse admittance to or expel anyone from the sale premises for interference with the event activities, nuisance, canvassing or any other reasons.

4. **BIDDER DEPOSIT(S):** As required in paragraph 3 above, each Bidder must make a Bidder Deposit in order to be eligible to bid. The amount of the Bidder’s Deposit required for each Tract is as follows:

Tracts	Bidder Deposits
1	\$10,000.00
2	\$10,000.00
3	\$15,000.00
4	\$20,000.00

5. **TERMS:** At the conclusion of the auction the high bidder for any given parcel will need to deposit with the Broker as an initial earnest money deposit, a sum equal to ten percent (10%) of the the Sale Price for the property (the Sale Price being defined as the successful bid plus the ten percent (10%) Buyer’s premium). The bidder deposit paid pursuant to paragraph 4 will be credited against the purchaser’s obligation under the Purchase & Sale Agreement. Broker will accept cash or pre-approved personal checks as payment of the earnest money deposit. Within forty-eight (48) hours of the conclusion of the auction (and prior to the purchaser taking possession of the property), purchaser shall be required to pay in cash an additional Fifteen Percent (15%) of the Sale Price (total of 25% of the sale price) for Sale Tract 4 and Twenty Percent (20%) of the Sale Price (total of 30%) for Sale Tracts 1, 2 and 3. Closing shall occur no later than July 30, 2010, at which time the remainder of the Sale Price as well as all costs allocable to the purchaser pursuant to the Purchase and Sale agreement must be paid in cash.

6. **CREDIT BIDDING:** Bidders should be aware that parties holding liens against the property that have been determined by Broker to be valid will have the right to credit bid the amount of their liens. In order to make a credit bid, a bidder must be prepared to pay in cash at Closing: (a) the amount of any liens senior to the credit bidder against the property as approved by the United States Bankruptcy Court for the Eastern District of Washington ("Court"); (b) the Buyer's Premium described in paragraph 2; (c) all costs of Closing as described in these terms and conditions or in the Purchase & Sale Agreement; and (d) all Growing Costs incurred by Seller and its predecessors as defined in the Purchase & Sale Agreement. An estimate of these costs will be available prior to the conduct of the auction. Seller reserves the right to modify the requirements for credit bidders based on the circumstances of the specific credit bidder.
7. **RIGHT TO ACCEPT OR REJECT:** These properties are being offered for sale subject to Bankruptcy Plan Liquidating Agent acceptance. Seller reserves the right to accept or reject any and all offers for any reason, however, the sole purpose is to sell the properties. Please come prepared to purchase these Tracts.
8. **PROPERTY INFORMATION:** Property information packages are available in print or digital form, containing a copy each of the Purchase and Sale Agreements, Preliminary Title Reports, Plat Maps, Law of Real Estate Agency, and Auction brochure by contacting Western Real Estate Auctions at (509) 297-9294.
9. **CONFIRMATION OF BID:** Successful Bidder(s) must execute a "Confirmation of Bid" immediately upon award of the right to execute an offer to purchase as announced by the Auctioneer. Successful Bidder(s) must then complete the Purchase and Sale Agreement(s) on the day of the sale.
10. **ENVIRONMENTAL DISCLAIMER:** Seller and WREA make no warranties to or covenants with Buyer(s), with respect to the existence or nonexistence of any pollutants, contaminants, or hazardous waste prohibited by federal, state or local law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration or escape of such substances at, from or into the demised premises, whether known or unknown. Buyer is to rely upon its own environmental audit or examination of the premises.
11. **CONVEYANCE OF TITLE BY SELLER:** As provided in the purchase and sale agreement, Seller shall convey title by quitclaim deed without warranty or representation. The sale of the property has been authorized free and clear of liens and encumbrances by order of the United States Bankruptcy Court for the Eastern District of Washington dated April 5, 2010.
12. **CLOSING:** Sales shall be closed by Fidelity Title Company, located at 117 North 4<sup>th</sup> Street, Yakima, Washington 98901. These sale transactions must close no later than June 30, 2010 unless extended in writing by the Seller.
13. **EARLY POSSESSION:** Each Buyer shall be required to take possession of the Property being purchased within forty eight (48) hours after the auction. Prior to taking possession the Buyer shall be required to increase the earnest money deposit to Twenty Five Percent (25%) of the Sale Price as provided in paragraph 5 above for Tract 4, and Thirty Percent (30%) for Tract 1, 2 and 3. As indicated in the purchase and sale agreement, Buyer shall be responsible for paying for all costs associated with the maintenance and operation of the property as well as all costs associated with the growing and harvesting of any crops growing thereon upon possession.
14. **CLOSING COSTS AND PRORATIONS:** Buyer shall pay all closing costs associated with the transaction, including but not limited to title insurance premiums, real estate excise tax, sales or use tax, document preparation and escrow fees, recording fees and other -usual costs of closing. Real estate taxes, irrigation assessments and personal property taxes shall be pro-rated as of the date of Closing.
15. **ADDITIONAL TERMS AND CONDITIONS:** All dimensions and descriptions are approximations only based on the best information available and are subject to possible variation. Bidders should inspect the property and also review all of the pertinent documents and information available at Western Real Estate Auctions as each bidder is responsible for evaluating the property and shall not rely upon the Seller or WREA. The Seller or WREA or their agents assume no liability for errors or omissions. The properties herein are being sold subject to federal, state and county laws, ordinances and regulations which may affect the property and its use, including all

conditions, restrictions and limitations and other matters of record. The property is being sold on an "AS IS, WHERE IS" basis and without any warranties or representations, expressed or implied, known or unknown. No claim will be considered for allowance, adjustment or rescission based upon failure of the property to correspond to any particular standard or exception. Broker, at his sole discretion, reserves the right to accept a personal check from a pre-qualified bidder in-lieu of a cashier's check. Seller and/or Broker have the right to postpone or cancel the sale, in whole or in part, to add or delete properties, at their sole discretion, and to modify or add any terms and conditions of sale and to announce such modifications or additional terms and conditions either prior to or at the auction. Announcements made at the auction will take precedence over printed matter.

16. **AGENCY DISCLOSURE:** Western Real Estate Auctions is representing the Seller and will be paid by the Seller. Each Purchaser will be required to acknowledge such agency.

17. **BROKER PARTICIPATION:** A cooperating broker referral fee will be paid to the appropriately licensed real estate broker whose pre-registered prospect pays and successfully closes on Tract(s) sold in this sale. Participating brokers must follow all guidelines set by the selling Broker and be pre-registered on Company letterhead no later than 5:00 p.m. on Monday, May 17, 2010. No agent will be recognized on a prospect who has previously contacted or been contacted by the Seller or its representatives. Registered broker(s) and their client(s) must attend the Auction.

18. **FAILURE TO CLOSE:** In the event that the successful Bidder(s) fails to close for any reason, the Earnest Money shall be non-refundable and Seller shall have default rights as set forth in the Purchase and Sale Agreements.

19. **SELLER'S PERFORMANCE:** The Seller has agreed to the terms of the sale as published, however, the Broker makes no warranties or guarantees as to the Seller's performance. All properties are being offered for sale to qualified purchasers without regard to the prospective purchaser's sex, race, color, religion or national origin.

20. **PERSONAL PROPERTY:** The sale of the properties includes the crops growing thereon (for which reimbursement of expenses must be paid to the Seller as provided in the Purchase & Sale Agreement) as well as any wind machines located on the properties together with such other personal property as Broker may indicate. The price allocation for any wind machine(s) located on the sale property shall be determined by the auctioneer prior to the sale, but shall be included as a part of the Sale Price. Growing Costs (as defined in paragraph 28 of the Purchase & Sale Agreement) need not be allocated as reimbursement for those amounts is provided for explicitly.

21. **INDEMNITY AND RELEASE OF ALL CLAIMS:** Buyer will release and fully indemnify Seller against any and all claims resulting out of the possession, occupancy, or control of the property after the Buyer takes possession of the property,