

# EXCLUSIVE RIGHT TO SELL LISTING AGREEMENT

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1 **DATE:** \_\_\_\_\_

2 This Exclusive Right to Sell Listing Agreement (“Agreement”) is between:

3 **SELLER(s):** \_\_\_\_\_ and

4 **BROKER:** \_\_\_\_\_.

5 **LISTING TERMS:** The Seller(s) hereby grants to the above named Broker the exclusive right to sell or exchange the  
6 Property hereafter described, from the Agreement start date \_\_\_\_\_ to \_\_\_\_\_ at 11 :59 P.M.,  
7 on the following terms. Seller(s) has the full and legal right to sell the Property and will sign all closing documents  
8 (including a Warranty Deed or Contract for Warranty Deed) necessary to transfer to Buyer(s) marketable ownership of  
9 the Property.

10 **PROPERTY ADDRESS:**

11 Street Address: \_\_\_\_\_

12 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County: \_\_\_\_\_

13 **LEGAL DESCRIPTION:** \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_

17 **LIST PRICE:** \$ \_\_\_\_\_ or at such price and terms as shall be acceptable to Seller(s).

18 Minerals, if owned, included:  **Yes**  **No**  **Unknown**

19 Personal Property Included: \_\_\_\_\_

20 \_\_\_\_\_

21 Personal Property Excluded: \_\_\_\_\_

22 \_\_\_\_\_

23 Does Seller(s) have an Abstract?  **Yes**  **No** **OR** Title Insurance?  **Yes**  **No** Policy # \_\_\_\_\_

24 Is there a loan against the Property?  **Yes**  **No** If “Yes,” are loan payments up to date?  **Yes**  **No**

25 Is a sign permitted on the Property?  **Yes**  **No**

26 Lock Box?  **Yes**  **No** Lock Box Location: \_\_\_\_\_

27 Seller(s) agrees the lockbox  **will**  **will not** be attached to the property. Seller(s) accepts all liability for any damage  
28 or loss that may occur on the property as a result of lockbox not being securely attached.

29 Seller(s) has a contract with a  **Power Company**  **Fuel Tank Rental**  **Water Softener Service**  **Rural Water**  
30 **Membership**

31 Terms: \_\_\_\_\_

32 Is there a functioning audio/visual surveillance system on the Property?  **Yes**  **No** If “Yes,” Seller(s) agrees to post  
33 notice of such at the entrance where potential Buyer(s) may enter the Property. Seller(s) understands that Broker must  
34 disclose this information to all parties. Seller(s) should seek appropriate legal advice if Seller(s) intend to utilize technology  
35 that may intercept audio or visual communications between persons other than Seller(s).

36 Is there a security system installed on the Property?  **Yes**  **No** If “Yes,” Terms: \_\_\_\_\_

37 \_\_\_\_\_

Seller(s) Initials \_\_\_\_\_

38 Home Protection Plan: Seller(s)  will  will not provide a home protection plan.

39 Is there a well on the Property?  Yes  No If “Yes,” see WELL DISCLOSURE.

40 Is there a subsurface sewer system/septic system on the Property?  Yes  No If “Yes,” see PRIVATE SEWAGE  
41 TREATMENT SYSTEM DISCLOSURE. Seller(s) has been informed that if there is a subsurface sewer system/septic  
42 system on the Property, it may be required to meet certain federal, city, county, or state certification standards. Seller(s)  
43 assumes responsibility for the inspection and will hold Broker harmless of any responsibility for said system.

44 Does Seller(s) currently have flood insurance?  Yes  No

45 Seller(s) understands that Broker intends to rely on the accuracy of the information Seller(s) furnishes, including  
46 information about the condition of the Property. Seller(s) agrees to hold Broker harmless and defend Broker from any  
47 costs, expenses, or damages, including attorney’s fees incurred by Broker as a result of Seller’s withholding information  
48 from Broker or as a result of giving Broker any information which is incorrect.

49 This shall serve as the Seller’s written notice granting the Broker or any authorized closing agent permission to obtain:  
50 1.) mortgage and title policy information (i.e. mortgage balance, interest rate, payoff and/or assumption figures,  
51 etc.) regarding any existing financing on this Property, and  
52 2.) utility information.

53 **SELLER’S DUTIES:** The Seller(s) will:

- 54 a) cooperate with Broker in selling the Property, and authorizes Broker, Broker’s Agent(s), and/or Agent(s) with  
55 customers or clients to enter the Property for the purposes of showing/reviewing the Property at reasonable times;
- 56 b) promptly tell Broker about all inquiries received about the Property;
- 57 c) provide Homeowner’s Association documents, if applicable;
- 58 d) provide and pay for any inspections and reports if required by any governing authority;
- 59 e) give the Buyer(s) an up-to-date abstract, or current owner’s title insurance commitment, or mobile home  
60 registration;
- 61 f) provide SELLER’S PROPERTY DISCLOSURE;
- 62 g) warrant appliances, heating, air conditioning, wiring, and plumbing on Property to be in working order on date  
63 of closing, except \_\_\_\_\_  
64 \_\_\_\_\_;
- 65 h) remain responsible for security, maintenance, lawn care, snow removal, utilities, and insurance while Seller(s)  
66 owns the Property; and
- 67 i) remain responsible for safekeeping, securing, and/or concealing any valuable personal property during showings  
68 or open houses.

69 **BROKER AUTHORITY:** Seller(s) authorizes Broker to market the Property to the Public, obtain information relating to  
70 the present mortgage(s) on the Property, and provide objective comparative market analysis information to potential  
71 Buyer(s).

72 **MULTIPLE LISTING SERVICE AND INTERNET MARKETING:** Seller(s) understands the Broker is a member of a  
73 Multiple Listing Service (MLS) and will give information to the MLS concerning the Property. Seller(s) grants Broker  
74 access to the Property and authorizes Broker to market the Property including submission of data to a MLS.

75 Shall the Property listing be displayed on the Internet, including sold information?  Yes  No

76 Shall the listing address (house and unit numbers and street name) be displayed on the Internet?  Yes  No

77 Shall an automatic valuation of the Property listing or a link to an automated valuation be displayed adjacent to the  
78 listing?  Yes  No

79 Shall comments or reviews of the Property by persons other than the displaying Broker be displayed with or attached as  
80 a link to the listing data of the Property?  Yes  No

81 **BROKER COMPENSATION:** Seller(s) hereby authorizes Broker to market Seller’s Property and allows Broker to share  
82 Broker compensation with cooperating real estate Brokers. The commission rate for the sale, lease, rental, or management  
83 of real property shall be determined between each individual real estate Broker and its client.

84 Seller(s) will pay Broker compensation of \_\_\_\_\_% of the purchase price to be split as follows:

85 with Buyer’s Broker: \_\_\_\_\_% or Other Broker: \_\_\_\_\_%

Seller(s) Initials \_\_\_\_\_

86 **OR**

87 a sum of \$ \_\_\_\_\_, to be split with Buyer’s Broker: \$ \_\_\_\_\_ or Other Broker: \$ \_\_\_\_\_ whichever is  
 88 greater of Lines 84 and 87 or other terms: \_\_\_\_\_  
 89 upon the happening of the following events:

- 90 a) at closing of the sale;
- 91 b) if Broker presents a Buyer(s) who is willing and able to buy or exchange the Property at a price and terms required  
 92 in the PURCHASE AGREEMENT, but Seller(s) refuses or fails to sell for any reason;
- 93 c) if Seller(s), before expiration of this Agreement, agrees to a sale or exchange of the Property with any person, even  
 94 if Broker did not present the Buyer(s), and even if Seller(s) sells or exchanges the Property without Broker’s  
 95 assistance;
- 96 d) if within \_\_\_\_\_ days after the end of this Agreement, Seller(s) sells or agrees to sell, or exchanges or agrees to  
 97 exchange, the Property with anyone who:
  - 98 1. during this Agreement made inquiry of Seller(s) about the Property and Seller(s) did not tell Broker  
 99 about the inquiry;
  - 100 2. during this Agreement made an affirmative showing of interest in the Property or was physically shown  
 101 the Property;

102 After the expiration of this Agreement, Seller(s) understands that Seller(s) does not have to compensate Broker if Seller(s)  
 103 signs another valid listing contract under which Seller(s) is obligated to pay a compensation to another licensed real estate  
 104 Broker.

105 **APPOINTED AGENCY REPRESENTATION:** The Broker will appoint to the Seller(s), in writing, a licensed Agent(s)  
 106 who will be acting as the Seller’s Appointed Agent(s) to the exclusion of all other affiliated licensed Agent(s) of the Broker.  
 107 By agreeing to Appointed Agency, the Seller(s), the Broker, the Agent(s) of the Broker and the Appointed Agent(s) named  
 108 below are considered to possess only actual knowledge and information. By an act of North Dakota Law, the definitions  
 109 regarding Appointed Agency make it clear that there is no imputed knowledge or information between the Seller(s),  
 110 the Broker, the Broker’s Agent(s), or the named Appointed Agent(s).

111 \_\_\_\_\_ (“Appointed Agent(s)”), an affiliated  
 112 licensed Agent(s) of the Broker, is appointed to act solely as an Agent(s) for the Seller(s) unless they personally represent  
 113 the Buyer(s), in which event the Appointed Agent(s) is considered a Dual Agent (see Lines 127-142) in this transaction  
 114 only. Seller’s designated Appointed Agent(s) is obligated not to reveal any confidential information obtained from the  
 115 Seller(s) to other licensed Agents, except to the Broker in charge of the oversight of the Seller’s transaction.

116 It is understood that the Broker may appoint another Agent(s) for the Seller(s) during the term of this Agreement if:

- 117 1. The Appointed Agent(s) is not able to fulfill the terms of this Agreement, and/or
- 118 2. The Seller(s) and the Broker mutually agree to the appointment of another Agent(s). An appointment of another  
 119 Agent(s) as a new or additional Agent(s) does not relieve the first Appointed Agent(s) of any of the duties owed to  
 120 the Seller(s) as previously described in this Agreement.

121 Having read and understood this information, Seller(s) makes the following decision:

122 Seller(s)  **accepts**  **does not accept** a possible Appointed Agency Representation.

123 \_\_\_\_\_  
 124 Seller Signature Date Agent Signature Date

125 \_\_\_\_\_  
 126 Seller Signature Date

127 **DUAL AGENCY REPRESENTATION:** Dual Agency means the Broker represents both Buyer(s) and Seller(s) and owes  
 128 the same duties to both parties. This agency relationship will prohibit the Broker from advocating exclusively for either  
 129 party. Dual Agency will limit the level of representation the Broker can provide. Confidential information communicated  
 130 by Buyer(s) or Seller(s) to the Broker in regard to price, terms, or motivation will remain confidential unless Buyer(s) or  
 131 Seller(s) instructs the Broker in writing specific information to disclose. All other information may be shared. The Broker  
 132 cannot act as a Dual Agent unless both Seller(s) and Buyer(s) agree.

133 By agreeing to a **possible** Dual Agency, Seller(s) may be giving up the right to exclusive representation in a transaction  
 134 where the Agent(s) representing Seller(s) and Buyer(s) work for the same Brokerage or when one Agent is representing  
 135 both Seller(s) and Buyer(s).

Seller(s) Initials \_\_\_\_\_

136 By not agreeing to a **possible** Dual Agency: Seller(s) will be giving up the opportunity to show and sell the Property to a  
 137 Buyer(s) client from the same Brokerage as Seller’s Agent, unless Appointed Agency applies.

138 Seller(s)  **accepts**  **does not accept** a possible Dual Agency Representation.

139 \_\_\_\_\_  
 140 Seller Signature Date Agent Signature Date

141 \_\_\_\_\_  
 142 Seller Signature Date

143 **CONSENT FOR COMMUNICATION:** Seller(s) authorizes Broker and Broker’s representatives to contact Seller(s) by  
 144 mail, phone, fax, email, or other means of communication during the term of this Agreement and anytime thereafter.

145 **MULTIPLE OFFER DISCLOSURE:** Based on receiving a guide or other information regarding multiple offers, Seller(s)  
 146 now instructs Broker as follows:

- 147  Seller(s) agrees that the Listing Agent(s) should inform Agents in the event of a multiple offer situation.
- 148  Seller(s) does not want the Listing Agent(s) to disclose multiple offer situations to other Agent(s).

149 **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (“FIRPTA”):** 26 U.S. Code § 1445 of the Internal Revenue  
 150 Code provides that a transferee (“Buyer(s)”) of a United States real property interest must be notified in writing and must  
 151 withhold tax if the transferor (“Seller(s)”) is a foreign person and no exceptions from FIRPTA withholding apply. Buyer(s)  
 152 and Seller(s) agree to comply with FIRPTA requirements under Section 1445 of the Internal Revenue Code. Seller(s) shall  
 153 represent and warrant, under the penalties of perjury, whether Seller(s) is a “foreign person” (as the same is defined within  
 154 FIRPTA), prior to closing. Any representations made by Seller(s) with respect to this issue shall survive the closing and  
 155 delivery of the deed.

156 Buyer(s) and Seller(s) shall complete, execute, and deliver, on or before closing, any instrument, affidavit, or statement  
 157 reasonably necessary to comply with the FIRPTA requirements, including delivery of their respective federal taxpayer  
 158 identification numbers or Social Security numbers.

159 Due to the complexity and potential risks of failing to comply with FIRPTA, including the Buyer’s responsibility for  
 160 withholding the applicable tax, Buyer(s) and Seller(s) should seek legal and tax advice regarding FIRPTA compliance, as  
 161 the respective Broker(s)/Agent(s) representing or assisting either party will be unable to assure either party whether the  
 162 transaction is exempt from FIRPTA withholding requirements.

163 **NOTICES AND NONDISCRIMINATION:** As of this date, Seller(s)  **has**  **has not** received notice from any  
 164 municipality, government agency, or homeowner’s association about the Property that Seller(s) has not told the Broker  
 165 about, and Seller(s) agrees to promptly tell the Broker of any notice of that type should Seller(s) receive.

166 Seller(s) understands that Broker may not refuse to sell to, or discriminate in the terms, conditions, or privileges of sale  
 167 against, or indicate or publicize that sale is unwelcome, objectionable, not acceptable, or not solicited from, any person due  
 168 to that person’s race, color, religion, sex, national origin, age, physical or mental disability, family status, status with  
 169 respect to marriage, or status with respect to public assistance. Seller(s) understands further applicable laws, rules, or  
 170 ordinances may include other protected classes of persons.

171 **ELECTRONIC SIGNATURES:** The Seller(s) agrees the electronic signature of any party on any document related to  
 172 this transaction constitutes valid, binding signatures.

173 **CLOSING SERVICES:** After the PURCHASE AGREEMENT for the Property is fully executed, arrangements must be  
 174 made to close the transaction. Seller(s) understands that no one can require Seller(s) to use a particular person to conduct  
 175 the closing and that Seller(s) may arrange for another qualified person, including Seller’s attorney, to conduct the closing.  
 176 The real estate Broker, real estate Agent(s), or real estate closing agent, has not, and under applicable state law, may not,  
 177 express opinions regarding the legal effect of the closing documents or of the closing itself. Seller(s) has indicated Seller’s  
 178 choice for closing services (Select one):

- 179  Seller(s) requests Broker arrange for closing services. Broker will give Seller(s) written disclosure of any controlled  
 180 business arrangement Broker has with the closing services Broker selects.
- 181  Seller(s) will arrange for a qualified closing agent or Seller’s attorney to conduct the closing.

Seller(s) Initials \_\_\_\_\_

182 **OTHER PROFESSIONAL SERVICES:** Seller(s) acknowledges that Broker is retained solely as a real estate agent  
 183 and **not** as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, home inspector or other  
 184 professional service advisor. Seller(s) has been advised to seek professional advice concerning the condition of the  
 185 property, legal, and tax matters.

186 **ADDITIONAL PROVISIONS:** \_\_\_\_\_  
 187 \_\_\_\_\_  
 188 \_\_\_\_\_  
 189 \_\_\_\_\_

190 I hereby certify that I have received a copy of this Agreement and agree to its terms.

191 \_\_\_\_\_  
 192 Acceptance Date Seller Signature Date

193 \_\_\_\_\_  
 194 Brokerage Name Seller Signature Date

195 \_\_\_\_\_  
 196 Brokerage Phone Seller's Street Address

197 \_\_\_\_\_  
 198 Broker/Agent Printed Name City State Zip Code

199 \_\_\_\_\_  
 200 Broker/Agent Signature Seller's Phone

201 \_\_\_\_\_  
 202 Seller's Email