

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):** _____

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

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

85 ☐ Seller(s) agrees that the Listing Agent(s) should inform Agents in the event of a multiple offer situation.

86 ☐ Seller(s) does not want the Listing Agent(s) to disclose multiple offer situations to other Agent(s).

Seller(s) Initials _____

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

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

with Buyer's Broker: _____ % or Other Broker: _____ %

OR

a sum of \$_____, to be split with Buyer's Broker: \$_____ or Other Broker: \$_____ whichever is greater of Lines 90 and 93 or other terms: _____ upon the happening of the following events:

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

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

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

_____, ("Appointed Agent(s)"), an affiliated licensed Agent(s) of the Broker, is appointed to act solely as an Agent(s) for the Seller(s) unless they personally represent the Buyer(s), in which event the Appointed Agent(s) is considered a Dual Agent (see Lines 134-149) in this transaction only. Seller's designated Appointed Agent(s) is obligated not to reveal any confidential information obtained from the Seller(s) to other licensed Agents, except to the Broker in charge of the oversight of the Seller's transaction.

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

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

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

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

_____ Seller Signature	Date	_____ Agent Signature	Date
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_____ Seller Signature	Date
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DUAL AGENCY REPRESENTATION: Dual Agency means the Broker represents both Buyer(s) and Seller(s) and owes the same duties to both parties. This agency relationship will prohibit the Broker from advocating exclusively for either party. Dual Agency will limit the level of representation the Broker can provide. Confidential information communicated

Seller(s) Initials _____

136 by Buyer(s) or Seller(s) to the Broker in regard to price, terms, or motivation will remain confidential unless Buyer(s) or
137 Seller(s) instructs the Broker in writing specific information to disclose. All other information may be shared. The Broker
138 cannot act as a Dual Agent unless both Seller(s) and Buyer(s) agree.

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

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

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

145 _____
146 Seller Signature Date Agent Signature Date

147 _____
148 Seller Signature Date

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

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

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

CANCELLATION: This Exclusive Right to Sell Listing Agreement can be cancelled only with mutual written consent of the parties.

ADDITIONAL PROVISIONS: _____

ENTIRE AGREEMENT: This Exclusive Right to Sell Listing Agreement constitutes the entire Agreement between the parties relating to the subject hereof, and any prior agreement, whether oral or written, are merged, and integrated into this Agreement. Any modification to this Agreement shall be reduced to writing and signed by all parties.

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

ACCEPTANCE:

To be binding, this Agreement must be fully executed by all parties:

Seller Signature	Date	Seller Signature	Date
Seller's Street Address		Seller's Street Address	
City	State	City	State
Zip Code		Zip Code	
Seller's Phone		Seller's Phone	
Seller's Email		Seller's Email	

Brokerage Name

Brokerage Phone

Agent Printed Name

Agent Signature

Date