

## EXCLUSIVE RIGHT TO SELL LISTING AGREEMENT

This form approved by the North Dakota Association of REALTORS®, which disclaims any liability out of use or misuse of this form. Only REALTORS® licensed in North Dakota are authorized to use this form in compliance with NDAR's Statewide Forms Policy.

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

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

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

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

5 **LISTING TERMS:** Seller(s) hereby grants to the above named Broker the exclusive right to sell or exchange the Property  
6 hereafter described, from the Agreement start date \_\_\_\_\_ to \_\_\_\_\_ at 11:59 P.M. If closing  
7 of an executed PURCHASE AGREEMENT is set to occur after the expiration date of this Agreement, the parties agree  
8 that the terms of this Agreement shall be extended until the closing has been completed. Seller(s) has the full and legal  
9 right to sell the Property and will sign all closing documents (including a Warranty Deed or Contract for Warranty Deed)  
10 necessary to transfer to Buyer(s) marketable ownership of the Property.

11 **PROPERTY ADDRESS:**

12 Street Address: \_\_\_\_\_

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

14 **LEGAL DESCRIPTION:** \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

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

19 Minerals, if owned, included: ☐ Yes ☐ No ☐ Unknown

20 **THIS SALE INCLUDES:**

21 The following property, if any, with no additional monetary value, owned by Seller(s) and used and located on said  
22 Property: shed(s), plants, garden bulbs, shrubs, trees; storm windows, storm doors, screens and awnings; window shades,  
23 blinds, curtains, traverse curtain and drapery rods; attached lighting fixtures and bulbs; ceiling fans and remotes,  
24 plumbing fixtures, water heater, heating systems; built-in air conditioning equipment, electronic air filter, sump pump,  
25 attached television antenna, cable TV jacks and wiring, satellite dish and mounts, swing sets, and playsets.

26 **BUILT-INS:** shelving, trash compactors, dishwashers, garbage disposals, ovens, cooktop stoves, microwave ovens, hood  
27 fans, intercoms, wall or ceiling speakers.

28 **ATTACHED:** shelving, carpeting, mirrors, garage door openers and any controls, smoke detectors, fireplace screens, doors,  
29 TV wall mounts, and heating circulating inserts; and the following personal property, with no additional monetary value,  
30 and free and clear of all liens and encumbrances: \_\_\_\_\_

31 \_\_\_\_\_

32 \_\_\_\_\_

33 \_\_\_\_\_

34 \_\_\_\_\_

35 **THIS SALE EXCLUDES:**

36 The following property: \_\_\_\_\_

37 \_\_\_\_\_

38 \_\_\_\_\_

39 \_\_\_\_\_

40 \_\_\_\_\_

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

- 41 Does Seller(s) have an Abstract? ☐ Yes ☐ No OR Title Insurance? ☐ Yes ☐ No Policy # \_\_\_\_\_
- 42 Is there a loan against the Property? ☐ Yes ☐ No If "Yes," are loan payments up to date? ☐ Yes ☐ No
- 43 Is a sign permitted on the Property? ☐ Yes ☐ No
- 44 Lockbox? ☐ Yes ☐ No Lockbox Location: \_\_\_\_\_
- 45 Seller(s) agrees the lockbox ☐ will ☐ will not be attached to the Property. Seller(s) accepts all liability for any damage  
46 or loss that may occur on the Property as a result of lockbox not being securely attached.
- 47 Seller(s) has a contract with:  
48 ☐ Power Company ☐ Fuel Tank Rental ☐ Water Softener Service ☐ Rural Water Membership  
49 Terms: \_\_\_\_\_
- 50 Is there a functioning audio/visual surveillance system on the Property? ☐ Yes ☐ No If "Yes," Seller(s) agrees to post  
51 notice of such at the entrance where potential Buyer(s) may enter the Property. Seller(s) understands that Broker must  
52 disclose this information to all parties. Seller(s) should seek appropriate legal advice if Seller(s) intends to utilize  
53 technology that may intercept audio or visual communications between persons other than Seller(s).
- 54 Is there a security system installed on the Property? ☐ Yes ☐ No If "Yes," Terms: \_\_\_\_\_  
55
- 56 Home Protection Plan: Seller(s) ☐ will ☐ will not provide a home protection plan.
- 57 Is there a well on the Property? ☐ Yes ☐ No If "Yes," see WELL DISCLOSURE.
- 58 Is there a subsurface sewer system/septic system on the Property? ☐ Yes ☐ No If "Yes," see PRIVATE SEWAGE  
59 TREATMENT SYSTEM DISCLOSURE. Seller(s) has been informed that if there is a subsurface sewer system/septic  
60 system on the Property, it may be required to meet certain federal, city, county, or state certification standards. Seller(s)  
61 assumes responsibility for the inspection and will hold Broker harmless of any responsibility for said system.
- 62 Does Seller(s) currently have flood insurance? ☐ Yes ☐ No
- 63 Seller(s) understands that Broker intends to rely on the accuracy of the information Seller(s) furnishes, including  
64 information about the condition of the Property. Seller(s) agrees to hold Broker harmless and defend Broker from any  
65 costs, expenses, or damages, including attorney's fees incurred by Broker as a result of Seller(s) withholding information  
66 from Broker or as a result of giving Broker any information which is incorrect.
- 67 This shall serve as Seller's written notice granting Broker or any authorized closing agent permission to obtain:  
68 1) mortgage and title policy information (i.e. mortgage balance, interest rate, payoff and/or assumption figures,  
69 etc.) regarding any existing financing on this Property, and  
70 2) utility information.
- 71 **SELLER'S DUTIES:** Seller(s) will:  
72 (a) cooperate with Broker in selling the Property, and authorizes Broker, Broker's Agent(s), and/or Agent(s) with  
73 customers or clients to enter the Property for the purpose of showing/reviewing the Property at reasonable times;  
74 (b) promptly tell Broker about all inquiries received about the Property;  
75 (c) provide and pay for CONDO/HOA ASSOCIATION DISCLOSURE, as required by law;  
76 (d) provide and pay for any inspections and reports if required by any governing authority;  
77 (e) give Buyer(s) an up-to-date abstract, or current owner's title insurance commitment, or mobile home registration;  
78 (f) provide SELLER'S PROPERTY DISCLOSURE and RADON DISCLOSURE, as required by law;  
79 (g) warrant appliances, heating, air conditioning, wiring, and plumbing on Property to be in working order on date  
80 of closing, except \_\_\_\_\_;  
81 \_\_\_\_\_;  
82 (h) remain responsible for security, maintenance, lawn care, snow removal, utilities, and insurance while Seller(s)  
83 owns the Property; and  
84 (i) remain responsible for safekeeping, securing, and/or concealing any valuable personal property during showings  
85 or open houses.
- 86 **LEASE:** Is the Property listed for lease at this time? ☐ Yes ☐ No  
87 If "Yes", the Property is listed with \_\_\_\_\_.  
88 If "No", Seller(s) ☐ may ☐ may not list the Property for lease during the term of this Agreement.

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

89 **BROKER AUTHORITY:** Seller(s) authorizes Broker to market the Property to the public, obtain information relating to  
90 the present mortgage(s) on the Property, and provide objective comparative market analysis information to potential  
91 Buyer(s).

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

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

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

97 Shall an automatic valuation of the Property listing or a link to an automated valuation be displayed adjacent to the  
98 listing? ☐ Yes ☐ No

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

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

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

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

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

107 **BROKER COMPENSATION:**

108 **BROKER COMMISSIONS ARE NOT SET BY LAW AND ARE FULLY NEGOTIABLE.**

109 Seller(s) hereby authorizes Broker to market Seller's Property. The commission rate for the sale, lease, rental, or  
110 management of real property shall be determined between each individual real estate Broker and its client.

111 In consideration of the services to be performed by Broker, Seller(s) agrees to pay Broker as follows (Check all that apply):

112 **Listing Broker Compensation:**

113 Seller(s) agrees to pay Listing Broker compensation of:

114 1) ☐ \_\_\_\_\_ % of purchase price.

115 2) ☐ Flat fee of \$\_\_\_\_\_.

116 3) ☐ Transaction fee of \$\_\_\_\_\_.

117 4) ☐ Other terms: \_\_\_\_\_

118 \_\_\_\_\_

119 \_\_\_\_\_

120 **Buyer's Broker Compensation:**

121 ☐ Seller(s) offers to pay Buyer's Broker or Broker assisting Buyer(s) compensation of:

122 1) ☐ \_\_\_\_\_ % of purchase price.

123 2) ☐ Flat fee of \$\_\_\_\_\_.

124 3) ☐ Other terms: \_\_\_\_\_

125 \_\_\_\_\_

126 \_\_\_\_\_

127 ☐ Buyer(s) to request compensation in offer:

128 Seller(s) invites Buyer(s) to include, in a Purchase Agreement, the amount Buyer(s) requests Seller(s) to compensate  
129 Buyer's Broker. Compensation to be paid directly to Buyer's Broker at the time of closing.

130 ☐ No offer of compensation:

131 Seller(s) declines to offer and does not intend to pay Buyer's Broker Compensation. Seller(s) acknowledges that  
132 Buyer(s) may still submit an offer that includes a request for Seller(s) to compensate Buyer's Broker.

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

**Compensation is due 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; or
  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 compensation to another licensed real estate Broker.

**APPOINTED AGENCY REPRESENTATION:** Broker will appoint to Seller(s), in writing, a licensed Agent(s) who will be acting as Seller's Appointed Agent(s) to the exclusion of all other affiliated licensed Agent(s) of Broker. By agreeing to Appointed Agency, Seller(s), Broker, Agent(s) of Broker and 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 Seller(s), Broker, Broker's Agent(s), or named Appointed Agent(s).

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

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

- 1) Appointed Agent(s) is not able to fulfill the terms of this Agreement, and/or
- 2) Seller(s) and 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 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.

	Date		Date
Seller Signature		Agent Signature	
Seller Signature	Date		

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

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

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

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

	Date		Date
Seller Signature		Agent Signature	
Seller Signature	Date		

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

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

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

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

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

203 **NONDISCRIMINATION:** All parties agree not to discriminate against or refuse to sell to, or discriminate in the terms,  
204 conditions, or privileges of sale against, or indicate or publicize that sale is unwelcome, objectionable, not acceptable, or  
205 not solicited from, any person due to that person’s race, color, religion, sex, national origin, age, physical or mental  
206 disability, family status, status with respect to marriage, or status with respect to public assistance. All parties understand  
207 further applicable laws, rules, or ordinances may include other protected classes of persons.

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

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

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

219 **FINCEN REPORTING NOTICE:** Seller(s) understands that if Seller(s) is selling the Property and accepts an  
220 offer to purchase from an entity or trust Buyer(s), both Buyer(s) and Seller(s) may be subject to federal reporting  
221 requirements issued by the Financial Crimes Enforcement Network (FinCEN). Reporting will include providing  
222 identifying and ownership information to a designated closing agent or settlement company. This reporting requirement  
223 may affect whether Seller(s) is willing to accept the terms of an offer to purchase. Broker(s) and Agent(s) do not provide  
224 legal or tax advice regarding FinCEN reporting. Seller(s) is encouraged to review the FINCEN REPORTING  
225 ADDENDUM, if applicable, and consult with legal and tax professionals regarding any reporting obligations.

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

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

232 **ADDITIONAL PROVISIONS:** \_\_\_\_\_  
233 \_\_\_\_\_  
234 \_\_\_\_\_  
235 \_\_\_\_\_  
236 \_\_\_\_\_  
237 \_\_\_\_\_

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

238 **ENTIRE AGREEMENT:** This Exclusive Right to Sell Listing Agreement constitutes the entire Agreement between the  
 239 parties relating to the subject hereof, and any prior agreements, whether oral or written, are merged, and integrated into  
 240 this Agreement. Any modification to this Agreement must be in writing and signed by all parties.

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

242 **ACCEPTANCE:**

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

244	_____	_____
245	Seller Signature                      Date	Seller Signature                      Date
246	_____	_____
247	Seller Phone	Seller Phone
248	_____	_____
249	Seller Email	Seller Email
250	_____	_____
251	Seller Address	Seller Address

252	_____	_____
253	Brokerage Name	Agent Printed Name
254	_____	_____
255	Brokerage Phone	Agent Signature                      Date