

# US Mineral Exchange Auction Agreement

## General Terms

**About You** – You are a company properly organized and in good standing under the laws of the state incorporated/registered, or you are a natural-born person with legal capacity to enter into this Agreement. You have all the necessary power and authority to enter into and perform this Agreement, and carry out the transactions considered under this Agreement. You also are at least eighteen (18) years of age.

**About Us** – The US Mineral Exchange (“USME”) is a Listing Service. We are not brokers or agents and only act as an intermediary to bring parties together. You agree USME makes absolutely no representations and/or warranties of any kind and/or nature related to any person or entities you may deal with through our website, including any characteristics related to trustworthiness, creditworthiness, business acumen, financial standing and/or similar characteristics.

**Title, Liens, Taxes and other Such Matters** – You agree that 1) you have good and marketable title to the minerals 2) all taxes have been timely paid when due and are not in arrears 3) there are no pending or threatened suits, claims, liens, judgments, violations, encumbrances, mortgages, or security interests on any of the minerals 4) the minerals are not under any kind of bankruptcy proceeding and 5) USME is to be indemnified on all assumed liabilities and all tax matters of any kind related to the minerals.

**No Advice** – You agree that you have the sole responsibility confirm the minimum acceptable starting bid, and once set you are agreeing to sell your minerals at that price or higher net of USME commission. Nothing on our website or spoken/written through our representatives constitutes sales advice.

**Information Provided in a Listing** – You agree that you will be responsible for any personal information you elect to disclose. You also agree that to the best of your knowledge the information provided is accurate and reliable.

**Mineral Interests as a Security; Resale** – You agree that the properties you are selling are not intended or considered to be securities or fractionalized interests.

**Indemnification** - You warrant that all information furnished to USME is correct and accurate in all material respects. USME will make no independent investigation to any of your representations. You agree then to indemnify and hold harmless USME from any and all claims, demands, causes of action or liability whatsoever, including costs, expenses and reasonable attorney's fees. You agree to hold harmless USME for any lost sale due to a Buyer withdrawing an offer during the time you are listing with USME. You also agree to indemnify and hold harmless USME and its agents, employees, officers, directors, shareholders, co-brokers and affiliates against any and all losses, claims, damages, expenses or liabilities whatsoever, joint or several, which may arise out of or in connection with the good faith performance of this Agreement, or the good faith performance of USME in connection with this Agreement. This indemnification and hold harmless agreement of you shall not apply to any intentionally wrongful acts of USME or the gross negligence of USME, its agents, employees, officers, directors, shareholders, co-brokers and affiliates.

**Dispute Resolution** – The terms of this Agreement and/or any dispute between the Parties shall be governed by the substantive law of the State of Oklahoma. Each party irrevocably agrees that any suit, action, or proceeding arising out of or relating to this agreement shall be exclusively

instituted in any court located in Tulsa County, Oklahoma.

**Electronic Agreement** – You agree to enter into an agreement with USME and are executing this agreement either physically or electronically. All parties shall be bound by the aforementioned terms and conditions whether this document is returned to USME physically or electronically via email, fax, etc..

## **Auction Terms**

**Auction System:** You understand and agree that USME will be listing your mineral rights on our platform, and utilizing our auction system to generate bids from Mineral Buyers. You agree that the winning bidder at or above your minimum acceptable asking price, as determined by USME, has the right to purchase your mineral rights and you have the obligation to sell them.

**Commission** – You acknowledge and agree that USME is paid a commission of 3% of the total amount/final winning bid, as determined by USME. The Buyer's closing agent shall pay this commission directly to USME at closing.

**Starting Bid:** You understand and agree to sell all of your mineral rights at the price you specify (or higher) in the Seller acknowledgements section of this agreement. The price you specify shall be the minimum due to you net of USME's commission. You understand and agree that USME will increase your minimum acceptable asking price to cover our 3% commission payable by the Buyer at closing. The 3% commission is based upon the total and final sales price.

**Term of Agreement:** This agreement grants USME the exclusive right to market your property via auction/listing on our website for up to 14 business days from the date USME activates the listing and starts the auction, which is at the sole discretion of USME. The term of agreement ends on the same day the auction does, as mutually agreed by you and USME.

**Commitment to Sell:** If you refuse to sell your mineral rights for any reason after the auction has begun but before the auction ends, you agree to pay USME 3% of the starting bid price OR 3% of the highest bid amount, whichever is greater.

If after signing a purchase and sale agreement or letter of intent with a Buyer, you breach the purchase and sale agreement or letter of intent, you agree to pay USME 3% of the purchase and sale price.

**Winning Bidder:** You understand that USME, at its sole discretion, will determine the winning bidder of the auction. The basis for determining the winning bidder shall be based upon the highest winning bid amount, however, USME reserves the right to disqualify a Buyer who refuses to meet the closing terms specified by USME. You acknowledge and agree that the winning bidder will have up to the amount of days you allowed prior to the start of the auction to run title on your interests following the close of the auction period and subsequent execution of any Purchase and Sale Agreement or Letter of Intent.

**Winning Bid Amount:** The winning bid amount is the highest bid placed by a Buyer, that meets the closing terms as determined by USME, whether by manual bid or by proxy bid. Proxy bids automatically increase in \$1,000 increments above the next highest bid until a proxy bid has either been exhausted or the auction closes. All auction listings have a minimum bid increment of \$1,000, whether placed manually or by proxy. For Example:

**Manual Bid** - If Buyer A has bid \$10,000 and Buyer B wants to manually place a bid, Buyer B must bid a minimum of \$11,000 or \$1,000 above Buyer A's bid.

Proxy Bid - If Buyer B chooses instead to vote by proxy and that they are willing to pay at most \$14,000, assuming Buyer A's bid remains at \$10,000 at the close of the auction, Buyer B's final bid will still be \$11,000 or \$1,000 above Buyer A's maximum bid.

**Referred Buyers/Brokers:** Any buyer or broker who initiates contact or has access to the auction through US Mineral Exchange during the term of agreement is considered a referred buyer. Any direct contact you receive from buyers or brokers outside US Mineral Exchange during the term of agreement are also considered referred buyers and should be referred promptly to US Mineral Exchange. If you close a sale with any Referred Buyer or Referred Broker during the term of this agreement or within 90 business days following the agreement termination, you agree to pay USME 3% of the final sales price.

**Closed Auction:** You understand that you **will not** have the ability to view live auction information, and that you **will not** receive any updates about the status of the auction until it has completed and USME has determined the winner.

## Other Terms

**Existing Offers:** Providing any existing offer you have in writing is to your benefit. If an auction ends with no bids, and you sell your mineral rights within 90 business days to a Referred Buyer or Referred Broker **you are personally liable to pay USME 3% of the total sales price.** By providing us with your best offers in writing, those Buyers and their existing offers will not be subject to a commission if your auction ends with no bidding, subject to the following terms:

- A) The offer must be formal and must have been received within the last 30 calendar days.
- B) The offer must be in writing on a Buyer's company letterhead or from a company email address
- C) The offer must be a specific amount per acre or total offer amount, not a range or an "up to" offer amount
- D) The contract must not be an "option" or "broker" contract
- E) The contract must not require a due diligence period of more than 45 days including extensions
- F) The offer must be received by USME prior to the activation of the auction
- G) You must set the minimum acceptable starting bid at no more than 2% higher than the amount of the highest offer you have received, and USME's commission will be added on top so that all bids received will net you the minimum acceptable starting bid or better

If an auction fails and no bids are received, you may still sell to any of your existing Buyers at their exact highest originally offered price, but not more, and would owe US Mineral Exchange nothing. However, if any of your existing Buyers increase their offer amounts during or after the auction period, and you accept that increased offer, you agree that USME is entitled to 3% of the final sales price, which shall be paid within 5 days of closing. However, under no circumstances can the USME 3% commission cause you to get less than the original best offer listed on this agreement.

**Notification of Sale:** If you sell your mineral rights during the term of the agreement, or for 90 business days following the agreement termination and the sale did not occur through USME, you are required to notify USME of the sale.

**Agreement and Closing Processes** - You agree to the following Agreement and Closing Requirements:

- A) USME will notify the winning Buyer within twenty-four (24) hours following the successful Auction and provide the Buyer the Sellers Contact Information.

B) Buyer and Seller together will be responsible for managing the due diligence and closing process, including all documentation necessary and final disbursements of all closing funds, and optionally use USME escrow process defined below

C) Buyer and Seller agree and acknowledge that USME shall be notified of the final closing date at least three (3) business days prior to the scheduled closing and that USME shall be paid its 3% commission due on the day closing occurs.

**Optional Escrow Process** – If buyer and seller mutually agree, USME may provide an escrow process as described below:

A) Following Buyer's due diligence period, the Buyer will provide the final deed to the Seller and notify USME of Buyers intent to close.

B) Seller will fully execute the mineral deed provided by Buyer and deliver two original copies of the mineral deed to USME.

C) USME will provide an electronic copy of the mineral deed to Buyer for approval.

D) After Buyer's approval of the electronic copies of the mineral deed, Buyer will wire the funds due to the Seller and to USME as specified in the Commission Section above. USME's commission shall not be paid to the Sellers directly in any case.

E) Upon USME's confirmation that all monies due from the Buyer have been paid to both the Seller and USME, USME will immediately overnight the original fully executed mineral deed to the Buyer.

## **Seller Acknowledgements:**

\_\_\_\_\_ Initials - I agree to sell \_\_\_\_\_% of my mineral rights for a minimum of \$ \_\_\_\_\_ which is net of USME's 3% commission which will be added on top of my minimum.

\_\_\_\_\_ Initials - I agree that I, nor any other party or entity affiliated with me or my company in any way, will not interfere, place bids or cause bids to be place on this auction for the purpose of artificially increasing or otherwise manipulating the bidding process.

\_\_\_\_\_ Initials - I understand that this agreement grants USME the exclusive right to market my property.

\_\_\_\_\_ Initials - If an auction fails, I understand that I am required to notify USME of any sale of this property for 90 business days thereafter.

### **Do you have existing offers? Check one:**

\_\_\_\_\_ I **do not** have existing offers

\_\_\_\_\_ I **do** have existing offers. List all offers below. Include company name and offer amount:

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**Seller Agreement to all terms:**

Seller Company Name: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_  
(No PO Boxes)

**US Mineral Exchange:**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Managing Partner