

**HOME MAX, LLC – FLAT FEE MLS LIMITED REPRESENTATION AGREEMENT**

This Listing Agreement is by and between (Seller): \_\_\_\_\_ and (Broker): Home Max, LLC. d.b.a. Home Max Realty, MLS Direct, Realty Net, The Associates Realty Group, By Owner Advertising [ByOwnerOregon.com](http://ByOwnerOregon.com), [MLS-Direct.net](http://MLS-Direct.net), and [PortlandMLSDirect.com](http://PortlandMLSDirect.com) and provides that, in consideration for the covenants contained herein, Seller hereby appoints Broker as Sellers Broker limited to listing the Property more fully described below.

1. **PROPERTY:** Seller hereby appoints Home Max, LLC. as Sellers Broker limited to list the Property described below, at the price described below, beginning the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and terminating at 11:59 P.M. the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (Termination Date). Upon full execution of contract for the sale and purchase of the property, all rights and obligations of this Contract will automatically extend through the date of the actual closing of a contract for sale and purchase. Seller certifies and represents that Seller is the legal title holder and entitled to convey the Property and all improvements.

**LISTED PROPERTY ADDRESS**

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

2. **PERSONAL PROPERTY:** Seller agrees to offer for sale through the services provided by Home Max, LLC the property, fixtures and all improvements thereon. All personal property to be conveyed at the time of sale shall be listed by Seller in the Real Estate Sales Agreement entered into between Seller and Buyer and shall be transferred free of any liens.

1. **LISTING PRICE:** The Property and all improvements are offered for sale at a selling price of \$\_\_\_\_\_. Seller is solely responsible for determining the appropriate listing price.

3. **SELLERS OBLIGATIONS & BROKER COMPENSATION:** The Property and all improvements thereon are offered for sale at the listing price. Seller reserves the right to amend the listing price. Any changes to the listing price will not be effective until submitted to Broker in writing, signed by Seller, and submitted to the MLS by Broker. Home Max, LLC shall make any modifications and changes in the MLS pursuant to the MLS rules. LISTING CHANGES: Seller may add to or change the information or pictures contained in the listing up to 3 times without charge therefore, all additional change request will be processed for an additional Listing Change Fee of \$25 per change request to be paid in advance along with the request for such a change (this charge shall not apply to a change in status to pending, sold, or withdrawn). All changes must be requested in writing and signed by seller and delivered to listing agent (e-mail and facsimile copies are accepted) along with payment of said fee. Seller agrees to make the Property available to MLS Members at all reasonable hours for showing to prospective Buyer's during the term of this Agreement.

4A. Seller authorizes Broker to make an offer of compensation equal to the cooperating commission to all participating Brokers in the MLS who are acting solely as a Buyer's Broker or Transaction Broker (Cooperating Broker). Any changes to the cooperating commission will not be effective until submitted to Broker in writing, signed by Seller, and submitted to the MLS by Broker.

4B. Other than the non-refundable Service \$\_\_\_\_\_ fee Seller has paid to \_\_\_\_\_ or Home Max, LLC. Seller is only required to pay a commission of \_\_\_\_\_ % percent [(3%) if left blank] to a licensed Buyers Broker (**Home Max, LLC will be considered a Buyer's Broker if Home Max, LLC procures a buyer for the Property on its own efforts**) who represents and introduces the property to a ready and able buyer pursuant to a written or oral Agreement with a valid real estate license. Seller must pay the cooperating commission if, during the term of this agreement or the protection period, within 60 days after this listing expires, Seller transfers the Property to a buyer shown the Property by a cooperating broker. The term "buyer" is broadly construed to include any individual or entity to any capacity and any type (or portion) of transfer of a legal or equitable interest in the subject Property. Upon the sale of the Property the cooperating commission will be paid to cooperating broker.

4C. Seller must pay the cooperating commission if, within 60 days after this listing expires, Seller: 1) Enters into a contract to transfer the Property, or 2) transfers a legal or equitable interest (excluding a lease with no right to purchase) in the Property, to any buyer shown the Property by a cooperating broker during the term of the listing. If such contract or transfer occurs while the Property is listed exclusively with another licensed real estate broker, the provision of this sub-paragraph will not apply. Should Seller default in the performance of a sales contract signed by Seller and a prospective buyer, Seller must pay the cooperating commission as if the sale of the Property had been consummated, and any expenses, including reasonable attorney's fees, incurred in connection with such default, or the enforcement of this Agreement. Broker will retain the listing fee in all circumstances, including and without limitation to when a buyer is found for the Property or in the event Seller is unable to sell the Property.

**Under this Agreement, the Seller can sell his or her Property himself or herself to any buyer not procured or represented by a participating Realtor, in which case no selling or listing agent commission is due.**

**Notice: The amount or rate of the real estate commission is not fixed by law. They are set by each Listing Broker individually and may be negotiable only between the Seller and Listing Broker at the time of signing the Listing Contract or Limited Representation Agreement. MLS rules prohibit attempting to negotiate the Buyer's Broker Commission as part of the terms of a real estate transaction at any time.**

Sellers Initials \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_

5. **SELLER'S REQUIREMENTS:** Seller shall provide Home Max, LLC with all the Property information requested and represents that said information is true and accurate to the best of Sellers knowledge. **Seller is responsible for any and all inaccuracies contained in the information provided to Home Max, LLC and agrees to be responsible for any fines assessed by the MLS for any MLS infractions caused by Seller as stated below.** Seller understands that Home Max, LLC does not conduct any investigation of the Property to verify the information provided by Seller and is not responsible for the accuracy of the information. Home Max, LLC shall input the Property information with the local MLS in accordance with local MLS rules and regulations. Home Max, LLC shall complete a verification form setting forth all of the information provided by Seller and as input on the MLS. Seller agrees to review, verify and sign the form.

•5A. **Seller agrees to notify Broker, within 48 hours, in the event of any of the following:**

- Seller enters into a contract to sell the property.
- Seller wishes to change the listing price or cooperating commission.
- Seller decides not to sell property.
- Closing date or settlement.

•5B. **Seller, upon entering into a contract of sale with a buyer, agrees to notify Broker, within 48 hours, of the fact that Property is under contract, and will advise Broker of the name and phone number of the settlement agent or attorney and provide a complete fully executed copy of the purchase/sale agreement and all addendum thereto. The failure to do so will result in a \$200.00 fine to Home Max, LLC, which will be charged to the Seller collectable at closing and/or through judicial action at the option of Home Max, LLC.**

- Upon the sale of the Property, Seller agrees to deliver to Broker, the following documents or information:
- Copy of HUD-1 settlement statement or closing statement.
- Copy of Sales Contract including all addenda and amendments, if any, and written verification by the escrow agent that all required deposit(s) have been paid.
- Sellers' new address and contact information.
- Seller may not terminate this Agreement while the Property is under contract. If this agreement expires while the property is under contract Seller must comply with the above.

•5C. **Seller may not: Advertise the Property at a price that is lower than the Listing Price. Seller may not use the Home Max, LLC name or logo in any advertisement placed independently by Seller without written permission of Home Max, LLC.**

**6. BROKER'S SERVICES: the Broker's services are strictly limited to the listing of the subject Property on the Multiple Listing Service (MLS), for the listing term specified above in this Agreement.**

7. **HOME MAX, LLC SHALL NOT BE AN ESCROWEE:** Other than the service fee paid by Seller to Home Max, LLC for the real estate services provided in this agreement, Seller shall not tender to Home Max, LLC or any Broker/Agent employed by Home Max, LLC, at any time, any money for deposit or to hold on Sellers or Buyer's behalf. Home Max, LLC Broker/Agent employees are expressly prohibited from accepting any money from Seller. Seller shall not execute a sales contract that stipulates or requires Home Max, LLC to hold earnest money or a possession escrow.

8. **SELLER'S MANDATORY DISCLOSURES:** Seller understands that Seller has a duty under Oregon law to disclose to potential buyer facts known to the Seller which materially and adversely affect the value of the Property, including violations of governmental laws, rules and regulations, and which are not readily observable by a buyer. Seller understands that a licensed real estate broker or salesperson ("licensee") working with a buyer may represent that buyer, and may be required to disclose to the buyer any information given to him by Seller. Home Max, LLC shall not be responsible for making any disclosure to Buyer or Buyers Agent. Sellers expressly release Home Max, LLC from any responsibility or liability regarding disclosure requirements whether required by statute or otherwise. Home Max, LLC recommends Seller consult with legal counsel concerning Sellers disclosure requirements or the completion of any disclosure forms. Seller agrees to indemnify and hold Home Max, LLC harmless for any violation of any ordinance, regulation, and statute of law regarding Sellers disclosure obligations.

9. **REPRESENTATIONS:** Seller represents, warrants and agrees as follows: Seller understands that he must comply with all federal, state and local laws concerning fair housing. Seller acknowledges that federal, state, and local laws prohibit discrimination in the sale of property based on race, color, religion, sex, disability, familial status, or national origin. Seller cannot instruct Broker or any person acting as Sellers agent to convey on behalf of Seller any limitations in the sale of the Property based upon any of the foregoing as Home Max Realty is also bound by the law not to discriminate.

- All persons and/or entities authorized to sell the Property have signed this Agreement, and the undersigned signature(s) include all person(s) and/or entities, or their duly authorized representatives, who have an ownership interest in the Property. If the individual signing this Agreement is acting in a representative capacity, such individual certifies that he is legally authorized to enter into this Agreement.

Sellers Initials \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_

- Seller has given Broker the information regarding the Property to appear on the MLS. Seller understands that the Property information will be included in the MLS. Such information is accurate and complete and does not omit or fail to disclose any material defects regarding the Property known to Seller.
- Seller shall indemnify, defend and hold broker harmless from and against any and all claims, demands, suits, damages, liability, losses or expenses (including reasonable attorneys fees) arising out of any misrepresentation, nondisclosure, concealment nonperformance of any purchase/sales agreement, or payment of any commissions by Seller in connection with the sale of the Property, including and without limitation, the inaccuracy or incompleteness of any information provided by Seller for listing on the MLS. Seller is solely responsible for any complaints made by a buyer or prospective buyer before or after possession of the Property with respect to any defects in the Property.

9. **LOCK BOX (Rental):** At Sellers option, Seller may rent a Supra Computerized Agent lock box system for \$149 plus deposit and shipping if necessary. Lock box must be returned immediately after property has closed. Seller shall hold Home Max, LLC harmless from any and all liability, claim, judgment, obligations or demands, including reasonable attorney's fees, arising as a result of the lock box. Seller should remove or safeguard personal valuables while the lock box is being used. If the Property is currently being leased, Seller must comply with local laws regarding access to the premises and, in most states, advise tenants of the foregoing and obtain tenants authorization consenting to the use of a lock box, for access to the Property. Place your initials in the following blank if you want Home Max, LLC to contact you regarding the rental of a Supra Lock Box:

**Yes, please contact me regarding the rental of a Supra Lock Box:** \_\_\_\_\_ (Initial)

10. **OWNERS OF MULTIPLE PROPERTIES:** A single owner selling multiple Properties in the same sub-division, complex or building, must list each Property individually with Home Max, LLC. Multiple Property listings will be offered at a discounted flat fee rate.

11. **ENTIRE AGREEMENT:** This Agreement contains all covenants between the parties and may only be modified by writing signed by all parties hereto. There are no oral representations made that are not contained herein and no oral modifications of this Agreement are allowed.

9. **ASSIGNMENT:** This Agreement may not be assigned by the Seller without the express written consent of Home Max, LLC.

12. **BINDING:** This Agreement shall be binding upon the parties hereto and respective heirs, personal representatives, successors and assigns.

13. **PRIOR AGREEMENTS:** This Agreement supersedes all other Agreements entered into between the parties and in the event there is a conflict between this Agreement and any other Agreement between the parties hereto the terms and provisions of this Agreement shall control and be binding upon the parties.

14. **NO GUARANTEE OF SALE OF PROPERTY:** Seller understands that this Agreement does not guarantee the sale of the Property.

17. **LIMITATION OF BROKER'S LIABILITY:** Seller agrees that the limit of Home Max, LLC's liability under this Agreement and/or related to Home Max, LLC's performance of the services mentioned herein is strictly limited to the service fee paid to Home Max, LLC by Seller and no more.

18. **TERMINATION OF AGREEMENT:** There is no termination fee in the event the seller decides to withdraw their Property from the market. To terminate this agreement you must give written notice to Home Max, LLC as long as there is not a contract pending on the Property involving a buyer who was procured by a participating licensed real estate agent.

19. All orders are final and absolute once your flat fee service fee has been paid. No refunds are given at anytime. Once the listing has been input into the MLS, Home Max Realty will provide Seller with a copy of the listing to proof read. This agreement is binding whether or not Seller receives a signed copy of this agreement.

20. **ATTORNEYS FEES & COSTS:** If a dispute arises by and between the parties or involving the subject matter of this Agreement and litigation is commenced to enforce the provisions herein or interpret the provisions herein, the prevailing party shall be due its reasonable attorney's fees and litigation costs, including appellate attorneys' fees & costs by the non prevailing party.

21. **CHOICE OF LAW & FORUM:** All disputes by and between the parties hereto shall be exclusively heard in Clackamas County, Oregon, USA and Oregon state law governs the interpretation and application of this agreement.

Sellers Initials \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_

17. **SELLERS ACKNOWLEDGMENT OF HOME MAX, LLC's LIMITED DUTIES:** This Agreement creates an Exclusive Agency Agreement to market Sellers Property and limits the performance requirements of Home Max, LLC as set forth herein. Home Max, LLC is not representing Seller as a full service Real Estate Agency but rather has limited obligations to Seller. Home Max, LLC has no obligation to prepare or negotiate, on Sellers behalf, a real estate contract for the sale of the Property. Seller acknowledges that selling the property may be complicated and may require professional legal assistance. Seller agrees to obtain assistance, as Seller deems necessary. No other agreement, expressed or implied, shall be held to impose any greater relationship than that set forth herein. Seller waives any claim or cause of action it may have against Home Max, LLC, its owners, agents and employees arising as a result of any act or omission of Home Max, LLC. Seller accepts the responsibility to comply with all ordinances, regulations and statutes pertaining to Sellers offer for sale and sale of the Property. Seller does not waive any rights guaranteed by the regulations and statutes of the State in which cannot be voluntarily waived. Home Max Realty is not charged with any responsibility or custody of the Property, its management, maintenance, upkeep or repair. If permitted or unless otherwise directed by Seller, Home Max, LLC may provide Sellers address and telephone number in the MLS and all affiliated web sites. Local laws govern the use of lawn signs. Broker makes no representation that the signs it provides comply with local law. Seller should be aware of local regulations or should consult with local authorities prior to placing the sign.

18. **USE OF ELECTRONIC SIGNATURE AND RECORD:** SELLER agrees to use of electronic record keeping, including fax, email, or online update to their listing using their username and password, to make, keep, or make changes to this listing contract, and SELLER understands that by modifying the listing price or listing status on [ByOwnerOregon.com](http://ByOwnerOregon.com), this will be equivalent to SELLER signature and given the same validity, authorizing BROKER to make corresponding changes on the MLS.

19. **SELLER and BROKER** agree that they may enter into this contract (including any amendments hereto) via fax or email. This agreement to the use of electronic record keeping applies only to this particular real estate transaction and not to all real estate transactions in which SELLER(s) are a party to, and either party may withdraw such consent by email, fax, or in writing, but such withdrawal will not affect the validity or enforceability of this contract (or any amendments hereto) after it has been entered into. Faxing requires a fax machine or other appropriate fax technology. Email requires a computer, access to Internet, web browser or email software, and the ability to view and/or print Adobe .PDF files.

**IMPORTANT NOTICE**

**OREGON LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.**

You should not assume that any real estate broker or salesperson represents you unless you agree to engage a real estate licensee in an authorized brokerage/agency relationship, either as a single agent or as a transaction broker. You are advised not to disclose any information you want to be held in confidence until you make a decision on representation.

Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, the parties are giving up their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when acting as a transaction broker to both parties.

**Click the link below to read the Agency Disclosure Pamphlet:**

[http://byowneroregon.com/virtualoffice\\_files/Agency%20Pamphlet.pdf](http://byowneroregon.com/virtualoffice_files/Agency%20Pamphlet.pdf)

**PLEASE SIGN HERE TO ACKNOWLEDGE THE ABOVE REQUIRED OREGON DISCLOSURE.**

**Seller:** \_\_\_\_\_ **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**PLEASE SIGN AGAIN BELOW TO ACKNOWLEDGE THIS "4 PAGE" LIMITED REPRESENTATION AGREEMENT. BY SIGNING BELOW, SELLER OR SELLER'S AGREE THEY UNDERSTAND AND ACCEPT ALL TERMS OF THIS CONTRACT.**

**Seller:** \_\_\_\_\_ **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**E-Mail Address:** \_\_\_\_\_ **Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_ **City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**This agreement is binding on Seller without Brokers signature. Seller Initials** \_\_\_\_\_ / \_\_\_\_\_

Home Max, LLC accepted this agreement electronically when order was processed on the ByOwnerOregon.com website or at the time we received their order by e-mail from a third party flat fee referral company.