

## FLAT-FEE LISTING AGREEMENT

This Flat-Fee Listing Agreement (hereafter "Agreement") is entered into between Owner and Agent as identified below on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Whereas Owner desires to sell his/her/their real property without the assistance of a full-service real estate agent; and

Whereas Agent is a real estate agent or broker licensed by the State of Idaho, who desires to assist Owner with the sale of his/her/their real property only as set forth herein; and

Whereas Owner and Agent agree to enter into a "customer" relationship as that term is defined by Idaho Code section 54-2083(7), and not an "agency representation" relationship as that term is defined by Idaho Code section 54-2083(2); and

Whereas the use of term "Agent" in this Agreement is meant to refer solely to the Agent's capacity as a licensed real estate professional, and not as an agent of the Owner unless specifically set forth hereinafter.

THEREFORE, Owner and Agent enter into the following agreements:

1. OWNER. Owner is identified as \_\_\_\_\_, and hereby certifies that he/she/they owns the real property described herein, and has full authority to enter into this Agreement.
2. PROPERTY LOCATION. The real property which is the subject of this Agreement has a street address of \_\_\_\_\_, in the city of \_\_\_\_\_, County of \_\_\_\_\_, State of Idaho.
3. AGENT. Agent is identified as House of Brokers Home Team, with an office located at 6315 Ustick Road, Boise, Idaho, and is licensed to engage in real estate transactions as set forth in the Idaho Real Estate License Law and applicable rules.
4. TERM OF AGREEMENT. The term of this agreement shall be from the date first set forth above (assuming this Agreement is fully and properly executed and any costs or fees agreed herein are paid in full), and shall expire at midnight \_\_\_\_ days from the date the property is listed on the Intermountain Multiple Listing Service (hereafter "IMLS"). For purposes of calculating the expiration date, the day after the property is listed on the IMLS is counted as the first day.
5. SELLING PRICE. The selling price must be determined solely by Owner. At Owner's request, and subject to an additional fee, Agent can provide a comparative market analysis which will list pricing of comparable properties recently sold in the area (subject to availability). Owner's current selling price is \$\_\_\_\_\_.
6. AGENT'S FEES. There are no Listing Agent Commissions under this Agreement. Owner shall pay Agent the flat fee associated with each service requested by Owner. The services requested, and the flat fee associated with each service, are set forth below:

SERVICE:      FLAT FEE:

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Acceptable forms of payment include cash or credit card, or as otherwise agreed between the parties. Payment must be received by Owner for each service request prior to Agent providing said service. Agent shall commence performance of each service requested by Owner within five days after receipt of payment, except Agent shall provide listing data to the IMLS, where such service is requested by Owner, within 24 hours of receipt of payment.

7. COOPERATING BROKER FEES. Owner shall pay a commission of \_\_\_\_\_% of the gross selling price of Owner's property to any licensed real estate agent or broker (hereafter "Cooperating Agent") who finds a purchaser who is ready and willing to purchase said property at terms and conditions acceptable to Owner. Owner agrees that if the property is sold, leased or otherwise transferred to a purchaser brought to Owner by a Cooperating Agent during the term of this Agreement, or for six months after its termination, Owner is still obligated to pay said commission to the Cooperating Agent. However, after termination of this Agreement, if Owner enters into a written listing agreement with a licensed real estate agent or broker, and then is presented with a purchaser brought to Owner by a Cooperating Agent, then Owner no longer has an obligation to pay the Cooperating Agent under the terms of this Agreement. Notwithstanding the foregoing, Owner may sell the property to a purchaser who is not represented by a licensed real estate agent or broker, and may do so without any obligations to pay any commission under this paragraph.

8. OWNER'S RESPONSIBILITIES.

a. Owner shall provide Agent with all relevant and/or requested information about Owner's property, including the completion of any online or hard copy forms requested by Agent. Owner must provide such information in an accurate and truthful manner, and without the intent to deceive or mislead Agent or potential buyers.

b. Owner is fully responsible for any errors contained in the information provide by Owner to Agent. Owner must review the temporary IMLS listing information data sheet provided by Agent for accuracy and completeness, and must immediately notify Agent of any errors or misinformation. Owner is solely responsible for the accuracy of the information provide to Agent for inclusion in the IMLS. Agent does not and will not verify or confirm the accuracy of any such information.

c. Owner acknowledges that Agent is not acting as a full service real estate agent or broker. Owner and Agent agree that Agent is only providing the services agreed between the parties herein, and nothing more. Agent will comply with any legal obligations required under the Idaho Real Estate License Law as such law relates to

this Agreement.

d. Unless these services are requested and paid for by Owner, OWNER MUST ARRANGE ALL SHOWINGS OF THE PROPERTY, PROVIDE ALL NECESSARY DISCLOSURES, NEGOTIATE ALL OFFERS ON THE PROPERTY, COORDINATE CLOSING AND TRANSFER THE PROPERTY AT CLOSING. OWNER ACKNOWLEDGES THAT ANY TRANSACTION IN REAL ESTATE MAY BE A COMPLEX TRANSACTION AND MAY REQUIRE THE ASSISTANCE OF AN ATTORNEY. OWNER IS ENCOURAGED TO SEEK LEGAL COUNSEL TO RESOLVE ANY QUESTIONS OR CONCERNS, AND TO ENSURE THAT A VALID TRANSACTION TAKES PLACE BETWEEN OWNER AND PURCHASER. Owner further agrees that Owner shall not enter into any contracts or agreements which provide that Agent will maintain an escrow account for earnest money, down payments, etc., or provide that Agent hold trusted funds for any such contracts or agreements. Likewise, Owner agrees that Owner shall not enter into any contracts or agreements which provide that Agent be named as the responsible broker for such contacts or agreements.

e. Owner must immediately notify Agent of any changes to the property which should be included in the IMLS listing. Such changes shall include, without limitation, changes to the selling price, description or remarks, photos, commissions, etc. Owner agrees to pay \$15.00 for each individual change made to the IMLS listing.

f. Owner must immediately notify Agent of any changes in the status of the property, including without limitation any pending or closed transactions on the property. Immediate notification, for purposes of this paragraph, means notification received by Broker within 24 hours of any such change. The following terms shall be used to indicate a change to the status of the property:

(i) Under Contract. Property is Under Contract when Owner has accepted an offer from a potential buyer to purchase the property.

(ii) Sold. Property is Sold when the transaction has closed or gone through final settlement.

(iii) Active. Property is Active if any contract or offer to purchase is rejected, terminated or otherwise fails to close.

(iv) Withdrawn. Property is Withdrawn from the real estate market when the Owner desires to remove the property for sale and discontinue its listing on the IMLS.

The above changes in the status of the property shall be relayed to the IMLS at no additional cost to Owner. However, Owner agrees to pay \$15.00 for any other changes to the status of the property which is conveyed to the IMLS.

g. Owner agrees that it shall immediately advise Agent of any changes to the status of the property as set forth above. In the event Owner does not advise Agent of such changes, or fails to advise Agent in a timely manner, resulting in the imposition of a penalty from the IMLS, then Owner agrees to pay Agent said penalty.

h. Owner agrees to comply with any and all applicable federal, state and local rules and regulations pertaining to the sale of Owner's property. Owner acknowledges that Agent is not a licensed attorney and does not and cannot offer legal advice.

i. Owner shall be solely responsible for the safety and soundness of Owner's property, and shall indemnify and defend Agent, at Owner's expense, by and against any liability, claims, judgments, obligations, or demands brought against Agent as a result of injuries received or damages incurred on or from Owner's property.

j. Unless otherwise stated herein, Owner agrees to pay any fees or costs under this Agreement immediately upon receipt of an invoice. Late payments shall incur interest charges at the rate of eighteen percent per annum, and shall begin to accrue fifteen days after the invoice date.

## 9. AGENT'S RESPONSIBILITIES.

a. During the term of this Agreement, Agent shall distribute the information received from Owner to the IMLS and other participating real estate sites in a timely manner.

b. Agent shall provide services to Owner as a Customer as that term is defined by Idaho Code section 54-2083 and further explained by Idaho Code section 54-2086.

c. Unless the parties agree otherwise in writing, Agent will not actively market Owner's property (other than inclusion in the IMLS and as set forth herein), will not arrange for nor participate in showing the home to prospective buyers, will not negotiate the selling price of the home and will not act as escrow agent, closing agent, settlement agent or otherwise be involved in the formalities associated with closing a real estate transaction. This Agreement defines the terms of the relationship between the parties, and no other relationships, expressed or implied, shall be construed to exceed the terms of the relationship set forth herein.

d. Agent is not obligated to find a buyer to purchase Owner's property. Neither is Agent responsible for the property itself, any fixtures attached thereto or any contents therein. Agent also is not responsible for the management, maintenance, repair or upkeep of Owner's property.

## 10. PROPERTY DISCLOSURES AND FORMS.

a. There may be legal obligations which require Owner to disclose property defects. Likewise, federal law may require property owners to disclose the existence of lead based paint. Owner acknowledges the existence of these legal obligations and agrees to be solely responsible for the fulfillment of these obligations.

b. As a courtesy only, Agent may provide Owner with certain standard residential real estate disclosure forms, which may be made available on Agent's website. Owner acknowledges that any such forms are provided "as is" and are not guaranteed to be accurate or applicable to any particular transaction. Owner hereby releases and discharges Agent, its agents and assigns from any and all liability, claims, judgments, obligations, or demands based on any latent or obvious defects with said forms. Agent encourages Owner to seek competent legal counsel as to the applicability and use of any forms required to complete the sale of Owner's property.

## 11. SIGNS AND ADVERTISING.

a. Agent may provide Owner with the temporary use of a "For Sale" sign for an additional fee. Owner shall deposit \$\_\_\_\_\_ with Agent for use of the "For Sale" sign. Once the property is sold, or upon the termination of this Agreement, whichever first occurs, Owner shall return the "For Sale" sign to Agent and shall be entitled to a refund of said deposit, subject to reasonable deductions for damages to the sign that are not normal and reasonable wear-and-tear. If Owner fails to return the "For Sale" sign, Owner shall be responsible for the replacement cost of said sign, and shall pay the difference between said replacement cost and the deposit previously paid to Agent. In no event shall Owner be entitled to any portion of its deposit if Owner fails to return said sign.

b. Any advertising or marketing materials that include Agent's name, logo, or other references to Agent's business must be reviewed and approved by Agent prior to Owner's usage. Owner agrees to allow Agent to use Owner's name and property in Owner's marketing campaigns, advertisements, promotions, etc.

## 12. LOCK BOX.

a. Agent may provide Owner with a temporary Lock Box for an additional fee. The Lock Box can be attached to the outside of Owner's residence to allow licensed real estate agents or brokers to access the property for viewing. Owner shall deposit \$\_\_\_\_\_ with Agent for use of the Lock Box. Once the property is sold, or upon the termination of this Agreement, whichever first occurs, Owner shall return the Lock Box to Agent and shall be entitled to a refund of said deposit, subject to reasonable deductions for damages to the Lock Box that are not normal and reasonable wear-and-tear. If Owner fails to return the Lock Box, Owner shall be responsible for the replacement cost of said Lock Box, and shall pay any difference between said replacement cost and the deposit previously paid to Agent. In no event shall Owner be entitled to any portion of its deposit if Owner fails to return said Lock Box.

b. Owner agrees to hold Agent, its agents and assigns and the IMLS, harmless and shall indemnify Agent, its agents and assigns and the IMLS from any and all liability, claims, judgments, obligations, or demands against Agent resulting from the use of said Lock Box. Owner is advised to remove anything of value located within Owner's property, and is further advised to obtain personal property insurance. In the event there are tenants presently occupying Owner's property, Owner agrees to notify its tenants of the Lock Box and the provisions of this paragraph 12.b.

## 13. DISAGREEMENTS AND ARBITRATION.

a. Any disputes arising as a result of this Agreement shall be submitted to binding arbitration pursuant to the rules of the American Arbitration Association. The venue for arbitration shall be in Ada County, Idaho.

b. If a Cooperating Agent claims entitlement to a commission from the sale of Owner's property, and pursues and receives an award at arbitration against Agent, Owner agrees to pay Agent the amount of any such award, plus all out-of-pocket

costs and reasonable attorney fees.

14. LIMITATION OF LIABILITY. IN NO EVENT SHALL AGENT'S LIABILITY FOR CLAIMS OR DAMAGES RESULTING FROM THIS AGREEMENT EXCEED THE AMOUNT OF FEES PAID BY OWNER UNDER THIS AGREEMENT. IN NO EVENT SHALL AGENT BE LIABLE FOR INCIDENTAL AND CONSEQUENTIAL DAMAGES, LOST PROFITS, SPECULATIVE LOSSES OR OTHER SIMILAR DAMAGES.

15. REFUND POLICY AND TERMINATION. Any flat fees paid by Owner to Agent are final when paid and are NONREFUNDABLE. If Owner desires to withdraw Owner's property from the market, Owner may do so by giving Agent written notice, with which Agent shall comply within 48 hours of receipt by canceling the listing with the IMLS.

16. MONEY-BACK OPTION. In the event Owner cancels the listing of Owner's property with the IMLS because Owner has engaged the services of a full-service licensed real estate agent or broker, Owner shall be entitled to a refund of the fee paid for listing Owner's property on the IMLS (but not as to other fees paid for other services), so long as the following conditions are met:

- a. Owner allows Agent to refer Owner with House of Brokers Home Team only; and
- b. At closing, Agent receives a referral commission from the new full-service broker.

17. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties, and shall not be amended except by written agreement signed by both parties. Any prior agreements between the parties regarding this same subject matter, whether verbal or in writing, are hereby terminated. Owner acknowledges having read this Agreement in its entirety and agrees to be bound by its terms and conditions (including any attachments included herewith). Owner has been advised to seek legal counsel before signing this Agreement and in conjunction with the final sale of Owner's property. This Agreement shall be construed under the laws of the State of Idaho. By signing below, Owner acknowledges receipt of a copy of this Agreement.

OWNER:

OWNER:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Phone: \_\_\_\_\_

\_\_\_\_\_  
Phone: \_\_\_\_\_

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

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

AGENT:  
House of Brokers Home Team

By: \_\_\_\_\_

It's \_\_\_\_\_

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