

OREGON REAL ESTATE FORMS, LLC

FORMS LICENSE AGREEMENT

PLEASE READ THE FOLLOWING AGREEMENT CAREFULLY

This Forms License Agreement ("Agreement") is entered into between the party reviewing and executing this Agreement (hereinafter, "you") and Oregon Real Estate Forms, LLC ("Licensor"). Your use of the Forms described in this Agreement is conditioned upon your acceptance of the unmodified terms and conditions of this Agreement. By clicking on the "I AGREE" button at the end of this Agreement, you are agreeing to be bound by the terms of this Agreement.

1. FORMS LICENSE.

a. **Forms.** OREF has developed a set of forms intended to provide useful guidance to real estate professionals within the State of Oregon with respect to documenting a variety of real estate transactions (the "Forms").

b. **Grant of License.** Subject to the terms and conditions set forth below, Licensor hereby grants you a limited, revocable, nonexclusive, personal and nontransferable license to access and use the Forms via the Internet for your own personal use in conducting professional real estate activity within the State of Oregon. This license shall include the right to print, or to deliver electronically through electronic mail, a reasonable number of Forms for your personal use in the ordinary course of your licensed professional real estate activity in the State of Oregon, including delivery of such Forms to an existing client. All use of the Forms shall be in strict conformance with this Agreement.

c. **Restrictions and Limitations on License.** Your right to use the Forms is limited, and is personal to you. You must be licensed to engage in professional real estate activity in the State of Oregon. All references in this Agreement to "your client" or "your customer" shall mean your own personal clients or customers if you are acting on your own behalf, or shall refer to the clients or customers of those principals for whom you are acting as an agent if, and only if, you are so engaged while conducting licensed professional real estate activity in accordance with all applicable laws and regulations of the State of Oregon. Under this license you may *not*, except as expressly licensed above, do any of the following, directly or indirectly:

- (i) Make any copies of the Forms, or any portions thereof, except for your own direct personal use as licensed herein in the ordinary course of your licensed professional real estate activity;
- (ii) Create any derivative works, enhancements, alterations or modifications of the Forms, or any portions thereof;
- (iii) Publicly display the Forms, or any portions thereof;
- (iv) Use the Forms, or any portions thereof, for any purpose other than in the ordinary course of your professional real estate activity; or
- (v) Sell, assign, lend, give away or otherwise transfer, directly or indirectly, the Forms to any third parties, whether or not they are licensed real estate brokers or principal brokers, within Oregon or outside of Oregon, for any consideration or in the expectation of receipt of any consideration, excepting only such fees, compensation, or other consideration paid or agreed to be paid as the result of licensed professional real estate activity you are providing within the State of Oregon.

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d. **Term of License.** Subject to Licensor's termination rights set forth below, your license to use the Forms shall be limited to the term you establish with Licensor's third party provider of access to the Forms.

2. **Proprietary Rights.** All right, title and interest in and to the Forms will at all times remain the sole property of Licensor and are protected by trademark and copyright laws. Any unauthorized use of the Forms may subject you to civil and criminal penalties under state and federal copyright and trademark laws and international treaties. This license only grants you the right to use the Forms in the manner described in this Agreement, and you do not acquire any rights of ownership or title to them.

3. **Disclaimer of Professional Advice.** The Forms are intended solely for your general guidance as a licensed user, and are not intended to constitute legal, tax, accounting or other professional advice of any kind. Your clients and customers are not third party beneficiaries of your rights under this Agreement. Licensor is not licensed to practice law in Oregon or elsewhere, and is not engaged in the practice of law. The Forms do not constitute "legal advice" to you or your clients by Licensor or its agents, representatives, employees, contractors or attorneys. Neither you nor your clients should rely upon the use of the Forms to the exclusion of seeking independent legal counsel, and you should so advise your clients. Licensor does not expressly or impliedly warrant the suitability of the Forms for your specific transaction or the transaction of your client. You and your client should independently confirm that the Forms you seek to use are legally suitable for the purposes intended, and that they are current with respect to all laws and regulations. The Forms may be changed from time to time at the sole discretion of Licensor, and you are solely responsible for determining whether any Form will meet your needs or the needs of your client. You are not authorized to use any outdated Forms, *i.e.* those that have been replaced by more current Forms on this Website.

4. **Access to Forms.** Your access to the Forms will be provided through a third party service, and will require a private, unique Username and Password. You may not loan, sell, license, disclose or otherwise make available your Username or Password to any person for any purpose whatsoever. You are solely responsible for maintaining the confidentiality of your Username and Password, and for logging out of your account at the end of each session. You are fully responsible for any activities that occur in or through your account. Licensor is not responsible for any losses or damages incurred as a result of an unauthorized use of your account, Username or Password. You agree to notify Licensor and the third party service immediately of any unauthorized use of your account or breach in security so Licensor may take the appropriate actions, including possibly closing your account or giving you a new account.

5. **Right to Modify the Forms.** Licensor may discontinue or change the Forms for any reason and without prior notice. Licensor reserves the right to change the terms of this Agreement at any time and to condition your future right to access to the Forms upon your agreement to such modified terms.

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6. **Disclaimer of Warranties.** LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE FORMS OR THE SUITABILITY OF THE FORMS FOR ANY PURPOSE. YOUR ACCESS AND USE OF THE FORMS SHALL BE ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND. LICENSOR HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH REGARD TO THE FORMS, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, AVAILABILITY, AND ANY WARRANTIES UNDER THE UNIFORM COMPUTER INFORMATIONAL TRANSACTIONS ACT, AS MAY BE ADOPTED BY ANY JURISDICTION FROM TIME TO TIME. LICENSOR DOES NOT WARRANT THE ACCURACY OF THE FORMS, THAT A PARTICULAR FORM WILL MEET YOUR REQUIREMENTS, THAT THE FORMS WILL BE UPDATED OR ERROR FREE, OR THAT ANY DEFECTS WILL BE CORRECTED.

7. **Limitations of Liability and Remedies.** LICENSOR WILL HAVE NO LIABILITY TO YOU, YOUR CLIENTS, OR TO ANY OTHER THIRD PARTIES IN CONNECTION WITH ANY USE OF THE FORMS IN ANY MANNER WHATSOEVER. IN NO EVENT SHALL LICENSOR BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS RESULTING FROM BUSINESS DISRUPTION, LOSS OF DATA, LOST PROFITS, LOST GOODWILL OR DAMAGES TO YOUR SYSTEMS OR DATA, WHETHER YOUR CLAIMS ARISE UNDER CONTRACT OR STATUTE, OR ARE BASED UPON A CLAIM OF STRICT LIABILITY, NEGLIGENCE OR SOME OTHER TORT CLAIM, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.

8. **Indemnification.** You agree to indemnify, defend and hold Licensor harmless against any claims, demands, liability, damages, costs and fees, including, without limitation, attorneys fees, arising from your use of the Forms.

9. **Breach, Injunctive Relief.** In the event you breach this Agreement, Licensor may, in addition to its other remedies, immediately terminate your access to the Forms without prior notice. You agree that if you breach or threaten to breach this Agreement with respect to Licensor's intellectual property rights in any manner, Licensor may suffer irreparable damage, that money damages will be inadequate, and that Licensor shall be entitled to preliminary and other injunctive relief by a court of competent jurisdiction against any such breach or threatened breach, without having to wait for you to cure a breach, and without having to post a bond or other security. Such injunctive relief shall be in addition to, and in no way in limitation of, any and all other remedies Licensor may have at law or equity.

10. **Liquidated Damages.** You agree that in the event you have breached your license with respect to your use of the Forms, Licensor shall be entitled to receive, in addition to its other remedies, liquidated damages in an amount equal to three (3) times the license fee normally charged by Licensor for each such use of the Form(s).

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11. Dispute Resolution/Arbitration. Except as set forth in paragraphs 9 and 10 above, in the event a dispute arises between the parties relating to or arising out of this Agreement, the parties agree to work in good faith to resolve such dispute informally. If the parties are incapable of resolving such dispute informally, any party may submit the dispute to mediation with the Arbitration Service of Portland, located in Portland, Oregon ("ASP"), and such mediation shall occur under the ASP's then current mediation rules. All parties shall participate in good faith in such mediation. In the event such mediation does not result in a resolution of the dispute, the dispute shall be resolved by binding arbitration, and a party may then, but only then, initiate an arbitration proceeding with the ASP under ASP's then current arbitration rules. In such arbitration, the arbitrator's fees shall be shared equally by the parties during the course of the arbitration, but shall be recoverable as costs to the prevailing party. The arbitrator will control the scheduling of all events and will resolve all disputes, including disputes regarding pretrial procedure and discovery. The decision of the arbitrator (or arbitration panel) will be binding, and any party may submit the decision as an enforceable judgment with any court of competent jurisdiction.

12. Attorneys' Fees. If a party to this Agreement breaches any term of this Agreement, then the other party shall be entitled to recover all expenses of whatever form or nature, costs and attorneys' fees reasonably incurred to enforce the terms of this Agreement, whether or not suit is filed, including such costs or fees as may be awarded in arbitration or by a court at trial or on appeal. In addition, in the event either party to this Agreement becomes a debtor subject to the United States Bankruptcy Code, the non-debtor party shall be entitled to recover any expenses, costs and fees, including attorneys' fees, incurred in connection with enforcing its rights against the debtor party, whether those rights arise under this contract or involve matters arising solely under the Bankruptcy Code.

13. Non-Waiver. The failure or delay of any party to require performance of, or to otherwise enforce, any condition or other provision of this Agreement shall not waive or otherwise limit that party's right to enforce, or pursue remedies for the breach of, any such provision or condition. Any waiver by any party of any particular condition or provision of this Agreement, including this non-waiver provision, shall not constitute a waiver or limitation on that party's right to enforce performance of, or pursue remedies for the breach of, any other condition or provision of this Agreement.

14. Successor Interests. The license granted under this Agreement is not transferable without Licensor's prior written consent. Subject to this limitation, this Agreement is binding upon and shall inure to the benefit of the heirs, successors, assigns, legatees, devisees, bankruptcy estates, administrators, personal representatives, and executors of each of the parties.

15. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Oregon without regard to, or application of, any conflict of law provisions.

16. Jurisdiction, Venue. The parties agree that any suit, action or arbitration proceeding arising out of or relating to this Agreement shall be brought in Multnomah County,

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Oregon, and the parties expressly consent to the personal jurisdiction over them of any state or federal court in Multnomah County, Oregon.

17. Severability. If any court of competent jurisdiction finds any term of this Agreement, or of any other document or instrument referred to or contemplated in this Agreement, to be invalid or unenforceable, such determination shall not affect the validity and enforceability of the remainder of the Agreement.

18. Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of the Agreement and supersedes all prior discussions, negotiations, understandings, representations and agreements, whether oral or written. All terms of this Agreement are contractual and not mere recitals.

19. Electronic Execution. Execution of this Agreement shall occur and may be evidenced by transmission of your electronic assent to its terms through your clicking the "I Agree" button below. By clicking the "I Agree" button, you are warranting that the information you provided to register with Licensor's third party service administering distribution of the Forms is accurate and complete, and that you are authorized to execute this Agreement on behalf of the registered party. After executing this Agreement, you may print or download a copy of it for your records.