

## **OPTION TO PURCHASE AGREEMENT**

**THIS IS A LEGALLY BINDING CONTRACT. YOU ARE ADVISED TO SEEK THE ADVICE OF LEGAL COUNSEL PRIOR TO SIGNING IT.**

This OPTION TO PURCHASE AGREEMENT (hereinafter called the "**Option Agreement**") is entered into by and between \_\_\_\_\_ and/or assignee, with an address of \_\_\_\_\_, Telephone (\_\_\_\_) \_\_\_\_ - \_\_\_\_ (hereinafter called the "**Owner**"); and

**Optionee:** \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Home Phone \_\_\_\_\_ Mobile Phone \_\_\_\_\_ Fax \_\_\_\_\_

(hereinafter called the "**Optionee**" whether one or more).

### **KEY TERMS**

**Option Property:** Owner hereby agrees to grant to Optionee, and Optionee hereby agrees to obtain from Owner, the exclusive option to acquire the real property described as:

\_\_\_\_\_ (hereinafter the "**Option Property**").

**Option Price:** The price to obtain this option on the Option Property shall be \$ \_\_\_\_\_ (hereinafter the "**Option Price**").

**Purchase Price:** The purchase price for the Option Property (hereinafter the "**Purchase Price**") shall be determined in the manner set forth in paragraph 17.

**Option Term Commencement Date:** The Commencement Date shall be \_\_\_\_\_, 20\_\_\_\_\_(hereinafter the "**Option Term Commencement Date**").

**Closing Date:** The Closing Date shall be \_\_\_\_\_, 20\_\_\_\_ (hereinafter the "**Closing Date**").

### **AGREEMENT**

In consideration of the payment by Optionee to Owner of the Option Price, Owner grants to Optionee the exclusive option to acquire (the "**Option**") the Option Property for the Purchase Price and on the Closing Date under the following terms and conditions:

1. The Option Price shall be paid to Owner on or before the Option Term Commencement Date.
2. The Option Price is non-refundable and is solely the price paid for the rights contained in this Option Agreement. The Option Price does not apply toward the Purchase Price at closing. Optionee understands that if the full Option Price is not paid in full on or before the Option Term Commencement Date, then this Option will be void and any and all portions of the Option Price monies paid to Owner by Optionee will be retained by Owner as liquidated damages and not as a penalty.
3. **Term of Option.** The term of the Option (the "**Option Term**") shall commence on the Option Term Commencement Date, and shall terminate on the first to occur of:
  - A. The Closing Date;

B. Any default or failure to perform by Optionee under any other agreement between Owner and Optionee concerning the Option Property regardless of whether such default or failure to perform under any other agreement between Owner and Optionee has been cured to Owner's satisfaction or by operation of law. Optionee specifically acknowledges that a default under any residential lease between Optionee and Owner for the rental by Optionee of the Option Property shall terminate this Option, regardless of whether the residential lease is terminated due to default, or is cured or reinstated by operation of law or the consent of the Owner;

- C. The recording of this Option or any memorandum thereof; or,
- D. Mutual written termination of the Option by Optionee and Owner.

In the event the Optionee fails to exercise any term in this Option or to close on the purchase of the Option Property on the Closing Date, this Option will terminate. If the Option Agreement and the Option are terminated as provided herein, and subject to the terms set forth elsewhere herein, Optionee shall execute all documents necessary to clear title of the Option Agreement.

4. To exercise this option Optionee must give Owner written notice at least 90 days before the Closing Date, and must close on the Closing Date. In the event that the Owner does not receive Optionee's written notice of Optionee's intention to exercise this Option to purchase the Option Property at least 90 days prior to the Closing Date, then this Option shall terminate.

5. This Option is an option to purchase the Option Property pursuant to the terms of this Agreement and at the sole discretion of the Optionee. This Option is NOT contingent upon Optionee's ability to obtain financing from a lender or for any other reason. Optionee understands that **TIME IS OF THE ESSENCE** for this agreement, and that the Optionee's failure to exercise the Option as provided herein shall result in the automatic termination of the Option without further notice.

6. All notice required or permitted to be given hereunder shall be in writing and shall become effective upon personal service or seventy-two (72) hours after being deposited in the United States mail, certified or registered mail, postage prepaid, addressed as shown on the first page of this Agreement or to such other address as the parties may, from time to time, designate in writing.

7. This agreement is NOT an installment sale or land contract or contract-for-deed agreement or equitable mortgage; it is merely an option to purchase the Option Property under the terms and conditions stated in this Agreement.

8. There will be no real estate commission paid as a result of this transaction and Optionee will be responsible for all closing costs other than documentary stamps on the deed. This Option is subject to Owner's ability to transfer clear title to the property. Taxes and insurance will be prorated as of the date of this Agreement.

9. The recording of this Agreement or any memorandum hereof will result in the automatic termination of this Agreement and the Option. In addition, Optionee will be liable to Owner for all incidental and consequential damages for slander of title, including, but not limited to, attorneys fees and court costs for correcting title.

10. Any additions, alterations or modification to the Option Property that Optionee wishes to make to the Option Property prior to the closing must be approved by the Owner in writing. Any

additions, alterations or modification made to the Option Property by the Optionee will become a part of the Option Property and may not be removed by Optionee under any circumstance.

11. The Option Property is being transferred in AS IS condition. The Optionee acknowledges that Optionee has inspected the Option Property and accepts it in its current condition. If the Optionee occupies the Option Property during any or all of the Option Term, Optionee shall be responsible for all the repairs and maintenance of the Option Property during the Option Term. Optionee acknowledges that Owner has made no representations or warranties concerning the condition of the property or the improvements thereon, its ownership, the neighborhood, or the value of the property.

12. All parties to this Agreement warrant and represent by the signing of this Agreement that they have read and fully understand its provisions and hereby acknowledge the receipt of a signed copy of this Agreement. Optionee understands that Optionee is encouraged to seek the legal counsel of the Agreement prior to signing this agreement.

13. Optionee may not assign this Agreement without the prior written approval of the Owner, which approval shall be provided in the sole discretion of the Owner. The assignment of this Option by Optionee will result in the automatic termination of the Option.

14. OPTIONEE ACKNOWLEDGES THAT OPTIONEE HAS NOT BEEN REPRESENTED BY OWNER, OR BY ANY REPRESENTATIVE OF OWNER, INCLUDING \_\_\_\_\_ WITH RESPECT TO THE PURCHASE AND SALE OF THE PROPERTY AS CONTEMPLATED BY THIS CONTRACT. OPTIONEE AGREES AND UNDERSTANDS THAT THE OWNER AND OWNER'S REPRESENTATIVES, INCLUDING \_\_\_\_\_, ARE NOT ACTING AS OPTIONEE'S AGENT IN THIS TRANSACTION AND HAVE BEEN ACTING SOLELY FOR OWNER'S OWN BENEFIT. OPTIONEE AGREES AND UNDERSTANDS THAT \_\_\_\_\_ IS A LICENSED REAL ESTATE SALESPERSON [AND HAS A FINANCIAL INTEREST IN THE TRANSACTION OTHER THAN THE RECEIPT OF COMPENSATION FOR REAL ESTATE SERVICES]. OPTIONEE AGREES TO HOLD OWNER FREE FROM ANY AND ALL LIABILITY REGARDING THIS PROPERTY AND TRANSACTION ARISING FROM ANY CLAIM OF AGENCY.

[Optionee(s) Initials \_\_\_\_ \_\_\_\_]

15. OPTIONEE ACKNOWLEDGES THAT OWNER AND OWNER'S REPRESENTATIVES, INCLUDING \_\_\_\_\_, ARE NOT A LENDER OR MORTGAGE BROKER. OPTIONEE AGREES AND UNDERSTANDS THAT OWNER AND OWNER'S REPRESENTATIVES HAVE MADE NO REPRESENTATIONS ABOUT OPTIONEE'S ABILITY TO OBTAIN FINANCING TO EXERCISE THE OPTION. OPTIONEE AGREES AND UNDERSTANDS THAT OWNER AND OWNER'S REPRESENTATIVES HAVE MADE NO REPRESENTATIONS OR PROMISES TO PROVIDE OPTIONEE ANY FINANCING.

[Optionee(s) Initials \_\_\_\_ \_\_\_\_]

16. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the parties except as specifically provided herein. No term or provision of this Agreement is intended to benefit any person, partnership, corporation or other entity not a party hereto, and no such other person, partnership, corporation or entity shall have any right or cause of action hereunder.

17. Additional Provisions: The Optionee and the Owner will each obtain a new appraisal of

the Option Property by a licensed appraiser within the thirty days immediately prior to the Closing Date and take the average of the two appraisals to determine the Purchase Price.

18. Determination of Purchase Price. The Optionee and the Owner will each obtain a new appraisal of the Option Property by a licensed appraiser within the thirty days immediately prior to the Closing Date and take the average of the two appraisals to determine the Purchase Price.

19. Owner wishes to avoid any misunderstandings concerning Optionee's. Owner and Optionee agree and warrant that there are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties that are not also in this Agreement. If Optionee believes that there are other agreements between the parties, Optionee shall write in below any representations or promises that are not set out in this Agreement, but that Optionee believes have been made by Owner or its purported agents or employees, and upon which Optionee is relying in making this purchase (if "None," so state):

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**OPTIONEE(S):**

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Signature

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Printed Name  
\_\_\_\_\_, 20\_\_\_\_\_  
Date                      Date

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Signature

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Printed Name  
\_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OWNER:**

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Signature

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Printed Name  
\_\_\_\_\_, 20\_\_\_\_\_  
Date