

Option Contract for Sale and Purchase

The SELLER and the BUYER (named below) hereby enter into this Option Contract for Sale and Purchase of real estate.

The SELLER, in consideration of the BUYER paying \$_____ (the "Option Deposit"), gives to the BUYER the exclusive option (the "Option") to purchase the property described below (the "Property"). In the event that the BUYER exercises this Option, the Option Deposit shall not be applied towards the purchase price of the Property. The Option Deposit is non-refundable and will be forfeited in the event that BUYER fails to exercise the Option unless otherwise so stated. The BUYER shall have the right to exercise this Option during a period of time beginning at 9:00 a.m. on _____, 20__ and lasting until 5:30 p.m. on _____, 20 0__ ("Option Period"). The Option Period may be extended for an additional period of time for the purpose of obtaining said approval(s) with the consent of both parties.

Subject to the Buyer exercising this Option, the Seller and BUYER hereby agree that the Seller shall sell and the Buyer shall buy the property described below upon the following terms and conditions. Seller fully agrees and acknowledges that the above-described consideration given by the Buyer constitutes legal, adequate and valuable consideration for the purposes of this contract.

1. NOTICE, COMMENCEMENT DATE AND EFFECTIVE DATE: The "Commencement Date" shall be the date that the last of the parties to this Contract signs and executes below. The obligations of the Parties under this Option Contract begin on the Commencement Date. The "Effective Date" is the date that the SELLER receives notice from the BUYER that the BUYER is exercising its Option under this Contract. The BUYER shall exercise this Option by giving written notice by certified or registered mail to the SELLER at the address indicated below (the letter must be delivered to SELLER by the time and date indicated above or by hand delivering written notice to the SELLER with the SELLER giving the BUYER a written receipt indicating the time and date of delivery).

The date that the SELLER receives this Notice shall be known as the "Effective Date." It is understood and agreed that time is of the essence as to the payment of the purchase price under this provision. If the BUYER does not exercise the terms of this Option by ending date as specified above, then the right and Option set forth herein shall immediately terminate and the SELLER shall keep the Option deposit.

2. DESCRIPTION OF PARTIES

SELLER: _____ BUYER: _____

ADDRESS: _____ ADDRESS: _____

TELEPHONE: _____ TELEPHONE: _____

3. DESCRIPTION OF PROPERTY BEING SOLD:

STREET ADDRESS, CITY/STATE/ZIP: _____

PARCEL #: _____

4. PURCHASE PRICE

Purchase Price: WILL BE NEGOCIATED WITH THE LENDER

Buyer's Initials

Seller's Initials

SELLER understands that this transaction is a short sale and is contingent upon the acceptance by Seller's lien holders of discounts off outstanding balances. SELLER will receive **NO proceeds from the closing of the short sale.**

Parties acknowledge that the initial purchase price may change. This is because the purchase price will be effected by many factors including but not limited to (a) negotiations with the lender contemplating the short sale, (b) brokers price opinions, (c) investors standards, (d) junior lien holders, and (e) closing costs. Inasmuch as the initial purchase price is subject to change, as a practical matter, it is burdensome to have the Seller continue to sign off on each counter offer. Therefore the Buyer shall not require Seller's signature when submitting counteroffers on the condition that Seller is not required to come in with any funds to close. If the Seller is required to provide funds to close, than the Seller must approve any changes unless Seller has already agreed with the Buyer as to an actual amount to come up with.

5. FINANCING AND INSPECTION PERIOD: The BUYER may cancel this Contract at any time within the first _____ days (the "Financing and Inspection Period") following the Effective Date by delivering written notification to the SELLER. If such notice is delivered the Contract shall be terminated and no party will have any further obligation under this Contract. In the event that the Contract is so terminated the BUYER shall be entitled to the return of the Deposit. SELLER shall grant to the BUYER reasonable access to the property for purposes inspection and evaluation (such as environmental testing, home inspection, and BPO or appraisals, etc.)

Yes or No

_____ Contingent upon financing; or

_____ This is a **CASH** Transaction.

6. REPRESENTATIONS AND WARRANTIES: To induce the BUYER to enter into this Agreement, the SELLER makes the following representations, warranties, and covenants.

A. The property is being sold "As Is" with regard to the physical condition of any improvements. SELLER is giving no warranties to the BUYER,

B. SELLER has good and marketable fee simple title to the Property, free and clear of all liens, property taxes, encumbrances, and restrictions, except for those restrictions appearing of record, taxes for the year of closing, encumbrances that will be cleared prior to closing, and encumbrances that will be cleared at the closing out of the SELLER's proceeds from the Purchase Price,

C. There are no condemnations or similar proceedings affecting any part of the Property and no such proceeding shall be pending on the Closing Date. To the best of the SELLER's knowledge, no such condemnations or other proceeds are threatened or planned,

D. There are no service contracts or agreements relating to the operation, maintenance, or security of the property under which the SELLER is bound and which will survive the closing,

E. SELLER understands that this transaction is a short sale and is contingent upon acceptance by Lien holders of discounts off outstanding balances. Furthermore, Seller will receive **NO funds upon closing of the short sale.**

F. SELLER hereby grants the Buyer and or their representatives all of the necessary rights to immediately list for sale, market, negotiate and enter into a contract to lease or sell immediately to a third party for a profit. All documentation in connection with the foregoing will be made available at the request of all Lenders, Sellers, and Buyers involved in the transaction.

Buyer's Initials

Seller's Initials

G. SELLER has sole and exclusive possession of the Property and will be able to deliver possession of the Property free of all leases, if any, on the Closing Date.

H. SELLER grants Buyer the additional following rights: _____

7. CLEAR TITLE:

A. SELLER shall convey a marketable title, subject only to liens, encumbrances, exceptions, or qualifications set forth in this Contract and those which shall be discharged by SELLER at or before closing. Marketable title shall be determined according to applicable Title Standards in the applicable State. Notice of this Agreement and an Affidavit will be filed of record in the applicable county recorders office within 14 days of the signing of this Agreement.

B. If the BUYER discovers that the title is defective, the BUYER shall notify the SELLER in writing specifying the defect(s). If said defect(s) render the title unmarketable or uninsurable the SELLER will have 20 days from receipt of notice within which to remove said defect(s). The Option period shall also be extended up to 20 days for said removal. If SELLER is unsuccessful in removing them within said time, the BUYER shall have the option of either accepting the title as it then is or terminating this Agreement and thereupon the SELLER shall return any deposits that might have been made to the BUYER and both parties shall be released as to one another of all further obligations under this Agreement. The SELLER shall pay all expenses to clear title defects.

8. CLOSING:

SELLER and BUYER select _____ to be the title and escrow agent for this transaction. _____ is located at _____.
Telephone # _____ Facsimile _____.

A. This transaction shall be closed and the deed and other closing papers delivered on or before the Option Period expiration unless extended by other provisions of this contract or by the mutual written consent of both parties.

B. At closing, the BUYER shall pay the cash portion of the purchase price by bank cashier's or certified check, or by bank wire either of which shall be issued by and drawn on a local institution. The SELLER shall furnish the deed, an absence of lien affidavit, non-foreign status affidavit, and any corrective instruments that may be required in connection with perfecting the title. BUYER shall furnish the closing statement(s) which SELLER agrees to sign.

C. In addition to paying the standard and customary closing costs, the SELLER shall pay the following closing costs: the cost of recording any corrective instruments (if needed), transfer tax, deed stamps and deed preparation _____

_____. In addition to paying the standard and customary closing costs, the BUYER shall pay the cost of: _____

_____.

9. CONVEYANCE: SELLER shall convey title to the Property by statutory warranty, trustee, personal representative, or guardian deed, as appropriate to the status of the SELLER, subject only to matters contained in the following and those otherwise accepted by BUYER.

Buyer's Initials

Seller's Initials

10. RESTRICTIONS; EASEMENTS; LIMITATIONS: The BUYER shall take title subject to: zoning, restrictions, prohibitions, and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivision; public utility easements of record; taxes for year of closing and subsequent years; assumed mortgages and purchase money mortgages, if any, and any City or County health and safety code violations.

11. SURVEY: BUYER, at BUYER's expense at any time within the Option Period may have the Property surveyed and certified by a registered State surveyor. If the survey shows any encroachment on the Property or that improvements intended to be located on the Property in fact encroach on setback lines, easements, lands of others, or violate any restrictions, Contract covenants, or applicable governmental regulations, the same shall be treated as a title defect.

12. LIENS: SELLER shall furnish to BUYER at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statements, claims of lien or potential liens known to seller and further attesting that there have been no improvements or repairs to the Property for 60 days immediately preceding the date of closing in a form satisfactory to the BUYER. If the Property has been improved, or repaired within said time, SELLER shall deliver releases or waivers of mechanic's liens, executed by all general contractors, subcontractors, suppliers, and material men, in addition to seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers, and material men and further reciting that in fact all bills for work to the Property which could serve as a basis for a mechanic's lien or a claim for damages have been paid or will be paid at closing.

13. SPECIAL ASSESSMENT LIENS: Certified, confirmed, and ratified special assessment liens as of the date of closing (and not as of Effective Date) are to be paid by the SELLER. Pending liens as of the date of closing shall be assumed by BUYER, provided, however, that if the improvement has been substantially completed as of Effective Date, such pending lien shall be considered as certified, confirmed, and ratified and SELLER shall, at closing, be charged an amount equal to the last estimate by the public body of assessment for the improvement.

14. PRORATIONS: Taxes and assessments (if any) shall be prorated through the day to the closing. Cash at closing shall be increased or decreased as may be required by said prorations. All prorations will be made through the day prior to occupancy if occupancy occurs before closing. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount and homestead or other exemptions if allowed for said year. If closing occurs at a date when the current year's millage is not fixed, and current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax; provided, however, if there are completed improvements on the Property by January 1st of the prior year, then taxes shall be prorated bases upon the prior years millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration homestead exemption, if any. However, any tax prorations based on an estimate may at the request of either the BUYER or the SELLER be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is set forth in the closing statement.

15. PERSONS BOUND; NOTICE: This Contract shall bind and inure to the benefit of the parties hereto and their successors in interest and heirs at law. Whenever the context permits, singular shall include plural and one gender shall include all. Notice given by or to the attorney for any party shall be as effective as if given by or to said party.

16. PROCEEDS OF SALE; CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds and evidence of title continued at BUYER's expense, to show title in BUYER, without any encumbrances or change which would render SELLER's title unmarketable from the date of the last evidence, and the proceeds of the sale shall be held in escrow by the escrow agent for a period of not longer than five (5) days from and after closing date.

Buyer's Initials

Seller's Initials

17. ESCROW: Any escrow agent receiving funds or equivalent is authorized and agrees by acceptance thereof to deposit promptly and to hold same in escrow and subject to clearance thereof to disburse the same in accordance with the terms and conditions of this Contract. Failure of clearance of funds shall not excuse performance by the BUYER. In the event of doubt as to the escrow agent's duties or liabilities under the provisions of this Contract, the escrow agent may in the agent's sole discretion, continue to hold the subject matter of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or the escrow agent may deposit the same with the clerk of the circuit court having jurisdiction of the dispute, and upon notifying all parties concerned of such action, all liability on the part of the escrow agent shall fully terminate, except to the extent of accounting for any items theretofore delivered out of escrow. In the event of any suit between BUYER and SELLER wherein the escrow agent is made a party by virtue of acting as an escrow agent hereunder, or in the event of any suit wherein the escrow agent interpleads the subject matter of this escrow, the agent shall be entitled to recover reasonable attorney's fee and costs incurred, said fees and cost to be charged and assessed as court costs in favor of the prevailing party. All parties agree that the escrow agent shall not be liable to any party or person whomsoever for misdelivery to BUYER or SELLER of items subject to this escrow.

18. OTHER AGREEMENTS: No modifications or changes in this Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties to be bound thereby. Parties acknowledge that Seller may be asked by Buyer to sign a new or corrective contract for the resale of the property. Seller agrees to sign such contract should such signature be needed and requested by Buyer so long as such signature will not result in any financial gain for Seller and that such addition is for the purpose of demonstrating additional evidence as to the dissolution of all Sellers' rights and interests in the property and to permit any MLS Listing.

19. RADON: Radon is a naturally occurring radioactive gas that, when it has accumulated in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings. Additional information regarding radon and radon testing may be obtained from your county public health unit.

20. FAILURE OF PERFORMANCE: If the BUYER fails to perform this Contract within the time specified the deposit(s) paid by the BUYER may be retained by or for the account of the SELLER as liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon BUYER and SELLER shall be relieved of all obligations under the Contract; or SELLER, at SELLER's option, may proceed at law or in equity to enforce SELLER's legal rights under this Contract. If, for any reason other than failure of SELLER to make SELLER's title marketable after diligent effort, SELLER fails, neglects or refuses to perform this Contract, the BUYER may seek specific performance or elect to receive the return of BUYER's deposit(s) without thereby waiving any action or damages resulting from SELLER's breach.

21. RISK OF LOSS: If there are improvements on the Property, and such improvements are damaged, by fire or other casualty prior to closing, and the costs of restoring the same do not exceed 3% of the purchase price of the improvements so damaged, the cost of restoration shall be an obligation of the SELLER and closing shall proceed pursuant to the terms of the Contract with cost thereof escrowed at closing. In the event that the cost of repair or restoration exceeds 3% of the purchase price of the property improvements, the BUYER shall have the option of either taking the Property as is, together with either the said 3% or any insurance proceeds payable by virtue of such loss or damage, or of canceling the Contract and receiving a return of the deposit(s) made hereunder.

22. TYPEWRITTEN OR HANDWRITTEN PROVISIONS: Typewritten or handwritten provisions inserted herein or attached hereto as addenda shall NOT control all printed provisions of this contract in conflict therewith.

23. PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT

Buyer's Initials

Seller's Initials

IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

24. ADDITIONAL TERMS: The parties agree that the following additional terms shall prevail (for example: appliances, acceptance of a second note by Seller; credits towards costs) – use an addendum if needed.

25. LEGAL: In the event that any legal proceeding is brought to enforce any right or obligation under this Option, the parties each agree to a jury trial, only after unsuccessful non-binding mediation. In addition, the prevailing party shall recover its reasonable court costs and attorney fees from the non-prevailing party.

26. GOVERNING LAW: In the event of any dispute, the laws of the State of California and the County of San Diego shall apply.

27. Expiration of Offer: This offer will expire at 11:59 pm on _____ day of _____, 20__

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. DO NOT SIGN IF THERE ARE BLANK SPACES NOT FILLED IN. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

SELLER(s):

By: _____ Date: _____

_____ Date: _____

BUYER(s):

By: _____ Date: _____

_____ Date: _____

Buyer's Initials

Seller's Initials