

OPTION AGREEMENT FOR RIGHTS TO PUBLISHED WORK

THIS AGREEMENT made effective as of the ____ day of _____, _____.

BETWEEN:

[NAME OF PRODUCER/PRODUCTION COMPANY]

a body corporate incorporated under the laws of _____ / a partnership consisting of _____
[revise to fit the circumstances]
("Producer")

- and -

[NAME OF OWNER OF THE WORK]

a body corporate incorporated under the laws of _____ / a partnership consisting of _____
_____ / an individual resident in the City of _____, _____
[revise to fit the circumstances]
("Owner")

THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Grant of Option

In consideration of the payment to Owner by Producer of the sum of _____ DOLLARS (\$ _____), the receipt and sufficiency of which is hereby acknowledged, Owner hereby grants to Producer the exclusive and irrevocable option (the "Option") to acquire from Owner certain rights in and to an original literary work written by Owner entitled " _____ " (the "Work"), upon the terms set out in, and for the total purchase price specified in, the Purchase Agreement attached hereto as Exhibit "A"; PROVIDED that any sums paid under this Section shall be applied against such purchase price. If Producer shall fail to exercise this option, any sums already paid by Producer hereunder shall be and remain the sole property of Owner.

2. Option Period

- (a) The option granted hereunder shall be effective for an initial option period of ____ year(s) from the date hereof; provided, however, that Producer shall have the right to extend the option period for a further ____ year(s) by giving Owner written notice of its election to do so at any time prior to the expiration of the initial option period, and upon payment to Owner of an additional payment of _____ DOLLARS (\$ _____).
- (b) If the production and/or development of motion pictures, screenplays, budgets, teleplays, treatments or other materials shall be prevented or substantially interfered with by reason of any force majeure event (i.e., any labor dispute, fire, war, governmental action or other unexpected or disruptive event), the initial option period or the further option period, as the case may be (depending upon which of said periods shall be in effect at the commencement of such force majeure event), shall be automatically extended for a period equivalent to the period that such force majeure event exists. In the event that the option period then in effect would otherwise expire on a Saturday, Sunday or national holiday, such option period shall be automatically extended until the close of business on the next following business day.

3. Exercise of Option

- (a) Producer may exercise the Option at any time prior to the expiration thereof by giving Owner written notice of its election to so exercise and by paying Owner the balance of the purchase price set out in the Purchase Agreement attached as Exhibit "A" hereto.

- (b) The option may be exercised only by notice in writing. No conduct or verbal statement by Producer, its agents, representatives or employees shall constitute an exercise of the option.
- (c) If Producer elects to exercise the option, Owner shall, upon request and at its sole cost, supply all supporting agreements and documentation and shall execute, acknowledge and deliver to Producer, or shall cause the execution, acknowledgement and delivery to Producer of such further documents as Producer may reasonably require in order to confirm unto Producer the rights, licenses, and privileges which are the subject of the within option. If Owner fails to execute and deliver (or cause the execution and delivery) to Producer of any such documents, Producer is hereby irrevocably granted the power coupled with an interest to execute such documents and to take such other actions as may be necessary in connection therewith on behalf of Owner and as Owner's attorney-in-fact.
- (d) Without limiting the generality of the foregoing paragraph, Owner agrees to execute and deliver to Producer concurrently herewith a Short Form Option Agreement in the form attached hereto as Exhibit "B", which shall become effective immediately and may be recorded by Producer with the United States Copyright Office as evidence of the option granted hereunder, and Owner agrees to cause the publisher of the Work, if any, and any other person, firm or corporation having or claiming any interest in or to the Work, to execute, acknowledge and deliver to Producer promptly upon the execution hereof, a quitclaim or assignment in a form satisfactory to Producer, whereby such publisher or other party quitclaims to Owner all of their right, title and interest in or to any of the rights, licenses, or privileges agreed to be granted to Producer upon the exercise of the option.

4. Development

Pending the exercise of the Option, Producer shall have the right to prepare screenplays, budgets, teleplays, treatments or other material, and engage in other customary pre-production activities. Producer will not commence principal photography of any motion picture or television film based upon the Work without first exercising the Option. Producer shall own all rights of every kind and character whatsoever in and to any materials developed and/or prepared by Producer, subject only to such rights as Owner may have in the materials herein referred to if Producer does not exercise the Option within the time and in the manner hereinabove set forth.

5. Effectiveness of Exhibits

- (a) Concurrently with the execution hereof, Owner has executed Exhibit "A" (Purchase Agreement), Exhibit "B" (Short Form Option Agreement for recordation with the Copyright Office), and Exhibit "C" (Assignment of Copyright), which Exhibits are undated.
- (b) Producer agrees that if and only if Producer shall exercise the option, Exhibits "A", "B" and "C" shall be deemed to be effective and shall constitute valid and binding agreements effective as of the date the option is exercised (the "Exercise Date"), and Producer is hereby authorized to date the Exhibits with such Exercise Date. Upon Producer exercising the option, Producer shall execute and deliver to Owner a copy of Exhibit "A" (Purchase Agreement), dated as of the Exercise Date, and Owner will, upon request, execute and deliver to Producer additional copies of any or all of the Exhibits hereto.
- (c) Notwithstanding the failure or omission of either party to execute and/or deliver any additional copies of Exhibits "A", "B" and/or "C", the parties agree that upon the exercise of the option by Producer, all rights in and to the Work to be transferred to Producer pursuant to the terms of Exhibit "A" shall be deemed vested in Producer, effective as of the Exercise Date, which rights shall be irrevocable.
- (d) If Producer fails to exercise the option, Exhibits "A", "B" and "C" shall be void and of no further force or effect whatsoever, and Producer shall not acquire any rights in or to the Work other than the option provided for herein.

6. **Representations and Warranties of Owner**

Owner represents and warrants to Producer that:

- (a) Owner is the sole and original author of the Work, and owns all rights to the Work throughout the world, free and clear of any liens, encumbrances, or third party interests of any kind, and free of any claims or litigation, either pending or threatened;
- (b) the Work was first published _____ by _____ and is registered under Copyright number _____ in the Office of the United States Register of Copyrights;
- (c) neither the Work nor any element thereof infringes the copyright in any other work, nor has it been adapted from any other literary, dramatic or other material of any kind;
- (d) the Work is not in the public domain in any country in the world where copyright protection is available;
- (e) the Work does not infringe upon any common law or statutory rights in any other literary, dramatic or other material;
- (f) the Work is not based in whole or in part on the life of any real person except as disclosed in writing to Producer prior to the execution of this Agreement;
- (g) to Owner's knowledge, neither the Work nor its exploitation will violate the rights to privacy or publicity of any person or constitute defamation or libel against any person, or in any other way violate the rights of any person whomsoever;
- (h) Owner has the full right and power to enter into and to perform this Agreement without the consent of any third party;
- (i) the Work has not, in whole or in part, previously been exploited as a motion picture or television production, and no written or oral agreements or commitments with respect to the Work or with respect to any right therein have been made or entered into by or on behalf of Owner with any other party whatsoever;
- (j) no attempt will be made hereafter to encumber, diminish or impair any of the rights herein granted, and all appropriate protections of such rights will continue to be maintained by Owner.

THIS IS A 20-PAGE PACKAGE OF FORMS.