**IT IS HIGHLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE FOR ANY TRANSACTIONS YOU UNDERTAKE. THIS TEMPLATE IS FOR INFORMATION PURPOSES ONLY AND SHOULD NOT BE USED AS A LEGALLY BINDING DOCUMENT.**

**DATED XXXXXXXX**

**OPTION AGREEMENT**

relating to

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Between

XXXXXXXXXXXXXXXX

And

Vendor

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**THIS AGREEMENT** is dated this **XXXXXXXX**

**PARTIES**

(1) **XXXXXXXXXXXXXXXX** **(Buyer)**

(2) **XXXXXXXXXXXXXXXX (Seller)**

**BACKGROUND**

The Seller owns the Property and has agreed to grant the Buyer an option to buy it in accordance with the terms of this Agreement.

**AGREED TERMS**

**1. INTERPRETATION**

1.1 The definitions in this clause apply to this agreement

**Buyer’s Solicitors:** Acting for himself, as **XXXXXXXXXXXXXXXXXXXXX**,

**Completion Date**: means the date which is 30 working days after service of the Option Notice on the Seller (or earlier by mutual agreement).

**Conditions**: The Standard Conditions of Sale (Fifth Edition)

**Initial Option Fee**: One Pound (£1.00)

**Insurance Policy**: the buildings insurance policy in respect of the Property underwritten by the Insurer (a copy of which has been provided to the Buyer prior to the date of this Agreement) or such other insurance policy as may be obtained by the Buyer in accordance with clause 5.

**Insurance Premium**: The Insurance Policy premium payable to the Insurer under the terms of the Insurance Policy

**Insurer**: Such company or organisation which provides the Insurance Policy.

**Monthly Payments**: the sum of £**XXXXXX** per calendar month. The first payment to be paid on the date hereof and the same date of every month thereafter.

**Option**: the option granted by the Seller to the Buyer by this Agreement.

**Option Notice**: written notice exercising the Option in the form or substantially in the form set out in Schedule 1 to this Agreement.

**Option Period**: the period of **XX (MONTHS IN WORDS)** months from and including the date of this agreement.

**Power of Attorney**: means the irrevocable Power of Attorney entered into pursuant to clause 4.6 a certified copy which is attached to this Agreement

Property: the freehold property known as which is registered at HM Land Registry under title number

**XXXXXXXX**

**Purchase Price**: £ (**XXXXXXXX**) or the sum required to redeem the Mortgage on the Completion Date, whichever is the lesser.

**Seller’s Solicitors**: **XXXXXXXX**

**Seller’s Solicitors Account**: Such account as the Seller’s Solicitors may advise the Buyer of in writing.

**Schedule of Condition**: means the schedule of condition of the Property as set out in Schedule 3 hereof.

**Tenancy**: means an assured shorthold tenancy of the Property granted on terms materially similar to those set out in Schedule 2 and which shall be for no longer than permitted under the terms of the Mortgage.

**Working Day**: any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.

1.2 The rules of interpretation in this clause apply to this agreement

1.3 Clause and Schedule headings do not affect the interpretation of this agreement

1.4 Except where a contrary intention appears, a reference to a clause or a Schedule is a reference to a clause of, or Schedule to this agreement.

1.5 Unless otherwise specified, a reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it

1.6 A **person** includes a corporate or unincorporated body.

1.7 **Writing** or **written** includes faxes but not e-mail.

1.8 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done

1.9 Any Reference to the **Seller** or to the **Buyer** includes their respective personal representatives and successors in title.

**2. OPTION**

2.1 On the date of this agreement the Buyer will pay the Initial Option Fee to the Seller (receipt of which the Seller hereby acknowledges).

2.2 In consideration of

(a) the Initial Option Fee paid by the Buyer to the Seller;

(b) the Monthly Payments paid by the Buyer to the Seller; 3

(c) the obligations entered into by the Buyer under this Agreement

the Seller grants to the Buyer an option during the Option Period to buy the Property at the Purchase Price

2.3 The Buyer may assign the benefit of this Option to a third party provided that he gives written notice of such assignment together with the assignee’s name and address to the Seller within 10 working days of the assignment.

2.4 The Initial Option Fee are not refundable to the Buyer in any circumstances save for where the Seller has materially breached the terms of this agreement and not remedied such breach or breaches within 14 days of receipt of written notice from the Buyer (and to the Buyer’s reasonable satisfaction) in which case all such payments are refundable to the Buyer upon demand.

**3. BUYER’S OBLIGATIONS AND UNDERTAKINGS**

During the Option Period:

3.1 The Buyer will pay the Monthly Payments to the Seller

3.2 The Buyer will pay the Insurance Premium to the Insurer in accordance with the terms of the Insurance Policy.

3.3 The Buyer will maintain the Property in no worse state of decoration than the state immediately prior to the date of this Agreement in accordance with the Schedule of Condition.

3.4 The Buyer will pay and indemnify the Seller against:

(a) all rates taxes assessments duties charges impositions and outgoings which are now or during the Option Period are charged assessed or imposed on the Property or on the owner of occupier of it, other than any taxes payable by the Seller in connection with any dealing with or disposition of the title to the Property;

(b) all charges for electricity gas water and other services consumed or used at the Property (including metre rents) during the Option Period; and

(c) all costs expenses and demands arising from a Tenancy including (but not limited to) the costs of complying with all statutes and laws in relation to the Tenancy and obtaining a court order or orders for possession of the Property.

3.5 The Buyer will not permit or suffer anybody to reside at or occupy the Property unless such person or persons have first entered into a Tenancy. 4

**4. SELLER’S OBLIGATIONS AND UNDERTAKINGS**

4.1 The Seller shall not create or dispose of any legal or equitable interest (including without limitation any easement right of covenant) in on over or under nor create any right or licence to occupy or use the Property or any part of it without the prior written consent of the Buyer, such consent not to be unreasonably withheld or delayed.

4.2 The Seller shall not sell or agree to sell the Property without the prior written consent of the Buyer.

4.3 The Seller hereby authorises all rents and any other sums due from any tenants of the Property from time to time during the Option Period to be paid directly to the Buyer as from the date of this Agreement as part consideration for the Buyer entering into this Agreement and upon the date of this Agreement will provide a letter to the current tenants (if any) of the Property authorising all future rent payments to be made to the Buyer.

4.4 The Seller grants the Buyer authority to:

(a) grant a Tenancy of the Property; or

(b) enter the Property at any time Provided That the Buyer shall not reside at or occupy any part of the Property (with or without others) unless he has entered into a Tenancy.

4.5 The Seller shall not from the date of this Agreement without the prior written consent of the Buyer (such consent not to be unreasonably withheld or delayed) occupy or enter the Property.

4.6 On the date of this Agreement the Seller will sign and deliver the Power of Attorney to the Buyer.

**5. INSURANCE**

5.1 The Buyer shall during the Option Period keep the Property insured for its full reinstatement value against loss or damage by the usual risks.

5.2 The Buyer will insure the Property in the name of the Seller

5.3 The Buyer will:

(a) give the Insurance Company notice immediately any matter occurs that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Property;

(b) not do or omit anything as a result of which any policy of insurance of the Property or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld;

(c) comply at all times with the requirements of the Insurance Company relating to the Property;

(d) give the Insurance Company immediate notice of the occurrence of any damage or loss relating to the Property arising from an insured risk or of any other event that might affect any insurance policy relating to the Property; and

(e) pay the Seller an amount equal to any insurance money that the insurers of the Property refuse to pay by reason of any act or omission of the Buyer or any tenant, their workers, contractors or agents or any person at the Property with the actual or implied authority of any of them.

5.4 The Buyer shall, subject to obtaining all necessary planning and other consents, use all insurance money received (other than for loss of rent) to repair the damage for which the money has been received or (as the case may be) in rebuilding the Property. The Buyer shall not be obliged to:

(a) provide accommodation identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property is provided; or

(b) repair or rebuild the Property after a notice has been served pursuant to clause 5.5.

5.5 If, following damage to or destruction of the Property, the Buyer reasonably considers that it is impossible or impractical to reinstate the Property, the Buyer may terminate this option by giving written notice to the Seller. On giving such written notice this option shall determine but this shall be without prejudice to any right or remedy of either party in respect of any prior breach of this Agreement. Any proceeds of the insurance (other than any insurance for plate glass) shall be divided between the parties in accordance with the value of their respective beneficial interests in the Property, and if the parties cannot agree then the matter will be referred to mediation, on an equal cost basis. If no agreement is reached at mediation then the matter will be referred to an independent arbitrator agreed between the parties and if not so agreed, to be appointed by the president of the Royal Institution of Chartered Surveyors (RICS) and the decision of the arbitrator shall be final and binding on the parties (save in the case of manifest error) and his costs shall be borne as he shall direct.

5.6 On each amendment to or renewal of the Insurance Policy the Buyer must send a copy of the amended or renewed policy to the Seller within 10 Working Days of such amendment or renewal.

**6. EXERCISE OF THE OPTION**

6.1 The Buyer may exercise the Option at any time during the Option Period by serving an Option Notice on the Seller or the Seller’s Solicitors

6.2 If the Option is exercised in accordance with the terms of this Agreement the Seller will sell and the Buyer will buy the Property for the Purchase Price on the terms of this Agreement.

6.3 The Seller by way of security for the Buyer’s proprietary interest (which ends at the termination of this Agreement) irrevocably appoints the Buyer as his attorney for the duration of the Option Period for the purposes of giving effect to the completion of the sale and purchase of the Property pursuant to this Agreement including (without limitation) signing the Transfer Deed to transfer the Property to the Buyer or a third party purchaser of the Buyer’s nomination.

**7. REGISTRATION**

7.1 The Seller consents to the registration of an agreed notice or a unilateral notice in the Charges Register of the Seller’s title to the Property.

7.2 The Seller consents to the Buyer making an application to the Land Registry on Form RX1 (or equivalent from time to time) to register a Restriction in the following form:

“No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by **XXXXXXXX**

or his conveyancer that the terms of an Option Agreement dated **XXXXXXXX** and made between (1) and (2) have been complied with.”

7.3 If the Option expires or is lawfully determined the Buyer shall within 21 days cancel registration of all notices and restrictions registered in the Registers of the Seller’s title. Should the Buyer fail to comply with his obligation under this clause the Buyer appoints the Seller as its attorney for the purpose of applying to cancel the registered notice(s) and restriction(s) and a third party shall be entitled without enquiry to assume that the events causing this power of attorney to be exercisable have arisen.

**8. TERMINATION**

8.1 In this clause:

(a) **Break Date** means the date of each calendar anniversary of the date of this Agreement; and

(b) **Break Notice** means a notice served pursuant to clause 8.2. 7

8.2 Subject to clause 8.3, the Buyer may terminate this Agreement on any Break Date by serving notice on the Seller.

8.3 A Break Notice shall be of no effect if:

(a) the Buyer has assigned his rights under this Agreement before he serves the Break Notice; or

(b) at Break Date any Monthly Payments due to be paid by the Buyer on or before the Break Date have not been paid in full, or

(c) the Break Notice does not comply with the requirements of this clause; or

(d) the Break Notice is not served in accordance with this clause

8.4 The Break Notice shall be in writing and for the purposes of this clause writing does not include facsimile transmission or e-mail.

8.5 The Break Notice shall state the Break Date in respect of which it is served.

8.6 The Break Notice shall be signed by the Buyer or by a person who is expressed to sign on behalf of and with the authority of the Buyer.

8.7 The Break Notice shall be served in accordance with clause 16.1(a).

8.8 In proving service of the Break Notice it shall be sufficient to prove that delivery by hand was made or that the envelope containing the Break Notice was correctly addressed and posted by pre-paid first-class post or recorded delivery, as the case may be.

8.9 A Break Notice delivered or sent by the Buyer in accordance with clause 8.8 shall be deemed to have been served on the Seller:

(a) if delivered by hand, on the day of delivery, except that if delivery occurs after 5pm on a Working Day or on a day that is not a Working Day, then the notice shall be deemed to have been served on the next Working Day,

(b) if sent by pre-paid first-class post or recorded delivery, on the second Working Day after posting (for the avoidance of doubt, not including the date of posting itself).

8.10 The Break Notice shall be delivered or sent by the Buyer so that it shall be deemed to have been served on the Seller as provided by clause 8.9 not less than three months before the Break Date (and for the avoidance of doubt, the day of deemed receipt shall not be taken into account in calculating the period of three months).

8.11 Time shall be of the essence in respect of all time periods and limits in this clause.

8.12 If during the Option Period the Buyer shall fail to pay any the Monthly Payments on the due date and has not rectified such failure within 21 days of the due date, the Seller shall be entitled to immediately terminate this Agreement on the understanding that there will be no obligation on the Seller to reimburse any monies paid by the Buyer pursuant to this Agreement.

8.13 Either party shall be entitled to rescind this Agreement if the other party:

(a) (if a body corporate or, if more than one body corporate, any one of them) has a receiver or an administrative receiver appointed in respect of all or any part of its assets, or has a petition presented or an order made or a resolution passed for a winding-up (other than for the purpose of amalgamation or reconstruction not involving a diminution of assets), or an application for an administration order is made or notice of appointment of an administrator is filed at court in respect of it; or

(b) (if an individual or, if more than one individual, any one of them) becomes bankrupt or has a bankruptcy petition presented against him, or has an interim order under Part VIII of the Insolvency Act 1986 made against him or has an interim receiver of his property appointed under section 286 of that 1986 Act;

then in any such case the non-insolvent party is entitled to rescind this Agreement by giving three Working Days' written notice to the insolvent party and at the expiration of such notice this Agreement ends and the parties are released from any further liability under it but without cancelling any liability for an antecedent breach of this Agreement.

8.14 On determination of this Agreement (howsoever determined) the Buyer must immediately return all keys to the Property to the Seller.

8.15 The termination of this Agreement shall not affect any rights of the Seller or the Buyer which accrued up to the date of termination.

**9. TITLE GUARANTEE**

The Seller will transfer the Property with full title guarantee

**10. CONDITIONS**

10.1 Upon exercise of the Option, the Conditions will be incorporated in this agreement in so far as they:

(a) apply to a sale by private treaty;

(b) relate to freehold property;

(c) are not inconsistent with the other clauses in this agreement; and

(d) have not been modified by the other clauses in this agreement.

10.2 The Conditions are supplemented and amended as follows: -

1.3.7 The following words shall be added: “(f) by hand: on delivery”

3 The Seller’s duty of disclosure shall relate only to incumbrances of which the Seller has actual knowledge and in any event the word “and could not reasonably” in Condition 3.1.2(c) shall be deleted.

3.1.2(d) Shall be extended to include:

(i) all local land charges (whether or not registered before the date of this Agreement) and all matters capable of registration as local land charges;

(ii) all notices, contracts, charges, conditions, demands, orders or requirements relating to planning legislation or other requirements of any public authority whether or not before the date of this Agreement;

(iii) all matters revealed, or which might reasonably be expected to be revealed by the searches and enquiries which a prudent buyer ought to make, whether or not actually made by the Buyer.

3.1.2 The following words shall be added: “(f) overriding interests as defined in Schedule 3 of the Land Registration Act 2002.”

4.3.2 Shall be omitted.

5.1.1. Shall not apply and the following condition shall be substituted: -

If the Property is destroyed or damaged prior to actual completion and the proceeds of any insurance policy effected by or on behalf of the Buyer are reduced by reason of the existence of any policy effected by the Seller, the purchase price for the Property shall be abated by the amount of such reduction but this Condition shall not apply if the proceeds of the Seller's policy are applied towards the re-instatement of the Property pursuant to any statutory or contractual obligation.

5.1.2 Shall be omitted.

10.4 Money payable by the Buyer for chattels shall be paid to the Seller's solicitors on completion and shall be treated as money due on completion for the purposes of Conditions 6 and 7.

**11. BUYER’S ACKNOWLEDGEMENT OF CONDITION**

The Buyer acknowledges that before the date of this contract, the Seller has given the Buyer and others authorised by the Buyer, permission and the opportunity to 10

inspect, survey and carry out investigations as to the condition of the Property. The Buyer has formed its own view as to the condition of the Property, accepts the condition of the Property at the date of this Agreement and the suitability of the Property for the Buyer's purposes.

**12. VACANT POSSESSION**

The Property will be sold with vacant possession on completion unless a Tenancy subsists at the date of Completion in which case the Property will be sold subject to such Tenancy.

**13. TRANSFER**

13.1 The Buyer will be entitled to direct the Seller to transfer the Property to a third party of the Buyer’s choice on the terms of this Agreement save for the price which be higher (but not lower) than the Purchase Price. The difference between the price in the Transfer to a third party and the Purchase Price (if any) will belong to the Buyer and will be paid to the Buyer on the date of such transfer.

13.2 The Seller will (at the Buyer’s cost) promptly give all assistance required by the Buyer in relation to a sale of the Property, to include (but not limited to) completing and signing any paperwork, replying to pre-contract enquiries, replying to requisitions on title, obtaining mortgage redemption figures, providing statutory declarations (if required) and dealing promptly with any Land Registry requisitions.

13.3 The Buyer will be responsible for all reasonable legal and other associated fees and costs incurred in relation to a sale.

13.4 The Transfer shall include the following provisions:

13.5 “This Transfer is made with full title guarantee but the covenants set out in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to any charge, incumbrance or right about which the Transferor does not know”;

13.6 The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the words “at the cost of the Transferee” in substitution for the words “at his own cost”; and

13.7 “For the purpose of section 6(2)(a) of the Law of Property (Miscellaneous Provisions) Act 1994 all matters now recorded in registers open to public inspection are to be considered within the actual knowledge of the Transferee”.

**14. COMPLETION**

14.1 Completion will take place on the Completion Date.

14.2 On completion the Buyer will pay the Purchaser Price to the Seller. 11

**15. ENTIRE AGREEMENT**

15.1 This agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or understanding between them relating to the subject matter of this agreement.

15.2 The Seller acknowledges and agrees that in entering into this agreement, the Buyer is relying upon the written replies given by the Seller’s solicitors to any enquiries raised by the Buyer or its solicitors.

**16. NOTICES**

16.1 Any notice (including the Option Notice and Break Notice) given under this Agreement must be in writing and signed by or on behalf of the party giving it and be served by delivering it personally or sending it by pre-paid first class post or recorded delivery or fax to the address and for the attention of the relevant party as follows

(a) to the Seller at:

**XXXXXXXXXXXXX** or to the Seller’s Solicitors or to such other address or fax number, or for the attention of such other person, as was last notified in writing by the Seller to the Buyer (save that the Break Notice shall not be validly served by fax).

(b) to the Buyer at:

**XXXXXXXXXXXXXXXXXXXXXXXXXXX** or to the Buyer’s Solicitors or to such other address or fax number, or for the attention of such other person, as was last notified in writing by the Buyer to the Seller.

16.2 Any such notice shall be deemed to have been received:

(a) If delivered personally, at the time of delivery.

(b) in the case of pre-paid first class or recorded delivery, on the second Working Day after posting; and

(c) In the case of fax, at the time of transmission, if sent before 4.30pm or on the next Working Day if sent after that time.

16.3 In proving service it shall be sufficient to prove that delivery was made or that the envelope containing the notice was properly addressed and posted as a prepaid first class or recorded delivery letter or that the fax message was properly addressed and transmitted, as the case may be.

16.4 notice given under this agreement will not be validly served if sent by e-mail. 12

**17. RIGHTS OF THIRD PARTIES**

A person who is not a party to this agreement may not enforce any of its terms under the Contracts (Rights) of Third Parties Act 1999.

**18. JURISDICTION AND GOVERNING LAW**

This Agreement shall be governed by and constructed in accordance with English Law and the parties submit to the jurisdiction of the English Courts.

This Agreement has been entered into on the date stated at the beginning of it. 13

**IN WITNESS** whereof this agreement has been duly executed by the parties

hereto as a deed the day and year first before written

SIGNED as a DEED by (BUYER)

**BUYERS**) ………………………………….

in the presence of:

Witness Signature ………………………………….

Witness Name ………………………………………

Witness Address ……………………………………

Witness Occupation ………………………………..

SIGNED as a DEED by (SELLER))

**SELLERS)** ………………………………….

in the presence of:

Witness Signature ………………………………….

Witness Name ………………………………………

Witness Address ……………………………………

Witness Occupation ………………………………..