

# OPTION AGREEMENT SCREENPLAY

As of August \_\_\_\_\_, 2017

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: [NAME OF PROJECT]

Dear \_\_\_\_\_,

The following will confirm the Agreement between \_\_\_\_\_, of \_\_\_\_\_ (sometimes called "Producer"), and you (sometimes called "Writer"), regarding the screenplay written by you entitled "\_\_\_\_\_" ("the Screenplay"). The first theatrical feature based on, or substantially based on, the Screenplay is called the "Picture".

1. Option: In consideration of the sum of One Dollar (\$1.00) (the "Initial Option Fee") and other good and valuable consideration, Writer hereby grants to Producer the exclusive option ("Option") to purchase all rights in and to the Screenplay, for exploitation in all media now known or hereafter devised or discovered throughout the universe, in perpetuity, including but not limited to motion picture, television, home video, digital transmission, ancillary, subsidiary, underlying and merchandising rights to the Screenplay, as such rights are more fully set forth in Exhibits "A" and "B" affixed to this agreement.

## 2. Options

(a) First Option Period: The length of the term for the initial Option ("First Option Period") shall be for two (2) years following the date of this Agreement.

(b) Second Option Period: Producer may extend the Option for an additional eighteen (18) months from the end of the First Option Period ("Second Option Period") by giving written notice to Writer, along with a payment of One Dollar (\$1.00) prior to the expiration of the First Option Period.

## 3. Purchase Price:

(a) If Producer exercises the Option, as consideration for all rights granted and assigned to Producer and for Writer's representations and warranties, Producer agrees to pay to Writer, and Writer agrees to accept, \_\_\_\_\_ percent (\_\_\_\_\_% ) of the direct certified production budget for the Picture less contingencies, financing costs, bank fees, interest, and bond fees (the "Purchase Price"), payable upon exercise of the option to acquire the Property or the commencement of principal photography of a Picture based on the Screenplay, whichever occurs first, but in no event less than \_\_\_\_\_ Dollars (\$\_\_\_\_\_) and not more than \_\_\_\_\_ (\$\_\_\_\_\_).

(b) The Purchase Price shall be paid to you upon our notice to you that Producer is exercising the Option, but not later than the first day of principal photography of the Picture.

(c) In addition to the above and if you receive screen credit as a writer for the Picture, you shall be paid a sum equal to either (i) \_\_\_\_\_ percent (\_\_\_\_%) of 100% of the Net Profits, if any, received by Producer in the United States in U.S. dollars from the distribution and exploitation of the Picture if you are accorded a shared Screenplay By or Written By credit on the Picture; or (ii) \_\_\_\_\_ percent (\_\_\_\_%) of 100% of the Net Profits, if any, received by Producer in the United States in U.S. dollars from the distribution and exploitation of the Picture if you are accorded a sole Screenplay By or Written By credit on the Picture.

(d) For the purposes hereof, "Net Profits" shall be defined, computed, accounted for, and paid as follows:

(i) if a single entity both finances one hundred percent (100%) the production of the Picture and distributes the Picture in all territories of the world, then in accordance with the standard definition utilized by such entity, subject to such changes as the parties may agree to in writing following good faith negotiation within customary motion picture industry parameters for a person of Writer's professional stature; provided, however, that the definition of net profits applicable to Writer hereunder shall be no less favorable than the definition applicable to the individual producer of the Picture (excluding any so-called over budget penalties or cross-collateralization provisions);

(ii) if one entity does not so finance and distribute the Picture, then in accordance with Producer's standard definition of net profits, subject to such changes as the parties may agree to in writing following good faith negotiation within customary motion picture industry parameters for a person of Writer's professional stature; provided, however, that the definition applicable to Writer hereunder shall be no less favorable than the definition applicable to the individual producer of the Picture (excluding any so called over budget penalties or cross-collateralization provisions).

4. Rights Granted: In consideration of the above Purchase Price, and on condition that the Option is timely exercised and the Purchase Price is paid to Writer, Writer hereby grants and assigns to Producer all rights (including but not limited to motion picture, television, home video, digital transmission, ancillary, subsidiary, underlying and merchandising rights, and Rental and Lending Rights as defined and agreed to in Schedule 1 of Exhibit "B" to this agreement), throughout the universe, in all media, in perpetuity in and to all writings by Writer concerning the Screenplay, including but not limited to the story, all treatments, and all drafts of the Screenplay, and any other drafts or rewrites written to date or in the future (herein collectively called the "Writings"), which Producer shall own in its entirety. Such grant of rights is further set forth in Exhibits "A" and "B" to this agreement, which Exhibits are incorporated into this agreement by this reference.

#### 5. Credits.

(a) Writing credits on the Picture shall be determined and given pursuant to the WGA West Basic Agreement and Credit Manual, whether or not the Writers Guild has jurisdiction. If the Writers Guild has jurisdiction, the Writers Guild will determine all writing credits on the Picture. If the Writers Guild does not have jurisdiction, and the parties cannot agree on writing

credits, they shall be determined by expedited arbitration conducted in Chicago, Illinois under the rules and procedures of the American Arbitration Association, using a single arbitrator who shall be a neutral attorney familiar with the entertainment business. The arbitrator shall use the Writers Guild Credit Manual. Whether or not the Basic Agreement applies, the writing credit shall be given on screen and in paid ads as required by the Basic Agreement.

(b) All other aspects of such credit shall be determined by Producer in its sole discretion. Producer shall contractually require all distributors with whom Producer enters into agreements to honor all credit obligations to Writer, but no casual, inadvertent or third party breach of the credit provisions of this agreement shall constitute a breach of this agreement. In the event of failure to give credit, Producer shall use its best efforts, on a prospective basis, to require such distributors to correct any omission or failure to give Writer credit.

6. Representations and Warranties. Writer represents and warrants that (a) Writer has the legal right and authority to enter into this Agreement and to grant the rights being granted hereunder; (b) the Writings are and shall be totally original with Writer, do not infringe upon the copyright of any third party, and do not invade the privacy of any third party, defame any third party or in any other way violate the rights of any third party; (c) Writer is the sole author of the Writings; (d) the Writings have not been published; (e) no written or oral agreements or commitments whatsoever with respect to the Writings or with respect to any right therein, have heretofore been made or entered into by or on behalf of Writer; (f) there are no monies due third parties by reason of the execution of this Agreement and/or the exercise of the Option hereunder; and (f) there are no claims, demands or any form of litigation pending or threatened with respect to the Writings. Writer agrees to indemnify, defend, and hold Producer and its officers, employees, successors and assigns harmless from and against any and all claims and costs, including, without limitation, reasonable attorneys' fees and disbursements, arising, directly or indirectly, from or out of any breach or alleged breach of such representations and warranties, the cost of enforcing any right to indemnification hereunder, and the cost of pursuing any insurance providers. Producer similarly indemnifies Writer with respect to any material Producer or its assigns furnishes to Writer or adds to the Screenplay, and hold Writer harmless from and against any and all claims and costs, including, without limitation, reasonable attorneys' fees and disbursements, arising, directly or indirectly, from or out of the use in the Screenplay or Picture of any material furnished by Producer or its assigns.

7. Short Form Option and Assignment: Attached to this agreement is Exhibit "A" (Short Form Option) and Exhibit "B" (Short Form Assignment). Writer shall date and execute all copies of Exhibits "A" and "B." Exhibit "B" shall be held in trust by Producer. If the Option expires without being exercised, Producer shall return all copies of Exhibit "B" to Writer.

8. Notices: All notices to be given under this agreement shall be in writing, and shall be personally delivered, mailed with delivery confirmation, sent by ground or air freight with delivery confirmation, faxed by confirmed fax (by a printout confirming delivery of the fax), or given by confirmed email (by a printout of the email) to the parties at their respective addresses as follows:

Producer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a simultaneous copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTN: \_\_\_\_\_

Writer

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any party can change their address under this agreement by notifying the other parties of the new address by a notice satisfying this paragraph.

#### 9. Additional Provisions.

(a) If Producer is furnished with transportation and lodging to the first domestic premiere of the Picture, Writer and Writer's guest shall also be furnished with round trip air transportation (if applicable), ground transportation and location amenities and tickets in the V.I.P section for the first domestic premiere of the Picture, if out of town. If in town, Writer shall be furnished with two tickets in the V.I.P. section.

(b) If Writer receives sole written by or screenplay credit on the Picture the following shall apply: Writer shall have the first opportunity to write the first theatrical sequel, prequel or remake to the Picture, if any, for compensation to be negotiated in good faith, with the writing fee to be, unless agreed otherwise, WGA minimum for a first and final draft screenplay, not original, with no treatment; the purchase price shall be negotiated in good faith, but not less than the cash compensation payable under this agreement for the Picture plus \_\_\_\_\_ percent (\_\_\_\_%) of 100% of the Net Profits derived from such sequel, prequel or remake if Writer is accorded a shared Screenplay By or Written By credit on the sequel, prequel, or remake; or (ii) \_\_\_\_\_ percent (\_\_\_\_%) of 100% of the Net Profits, if any, received by Producer in the United States in U.S. dollars from the distribution and exploitation of the sequel, prequel, or remake if Writer is accorded a sole Screenplay By or Written By credit on the sequel, prequel, or remake. All writing fees paid to the Writer for any such sequel, prequel or remake to the Picture shall be deducted from the purchase price. If Writer receives sole written by or screenplay credit on the Picture, and elects not to write the first theatrical sequel, prequel or remake to the Picture, if any, Writer shall be paid fifty percent (50%) of the Purchase Price paid to him for the Picture, on the first day of principal photography of such production, plus a sum equal to \_\_\_\_\_ percent (\_\_\_\_%) of 100% of the Net Profits, if any, derived from such first theatrical sequel, prequel or remake.

(c) Writer hereby grants to Producer the right to use and to authorize others to use Writer's name, likeness and other elements of Writer's identity and biography for purposes of advertising, publicizing and exploiting the Picture, but any such use of Writer's name or likeness may not be used as an endorsement without Writer's prior written consent.

10. Notice and Cure: In the event either party is in material breach or alleged material breach of this Agreement, the non-breaching party shall give Producer written notice describing such alleged breach, and the breaching party shall have ten (10) business days after receipt of such

notice to cure any such alleged breach. If the breaching party cures such alleged breach within such ten (10) business day period, the breaching party shall not be deemed to be in breach of this agreement.

11. Arbitration: Any dispute between the parties shall be settled by binding expedited arbitration, using a single neutral arbitrator, in accordance with the rules of the American Arbitration Association, with hearings to take place in Chicago, IL. Any judgment rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. The prevailing party may be awarded attorney's fees and other costs, damages and expenses to be determined by the Arbitrator(s) but neither party shall have the right to seek injunctive relief which would enjoin the distribution or other exploitation of the Picture in any medium or market. The arbitrator shall have the right to decide any and all issues relevant to the arbitration including, without limitation, the arbitrability of all issues.

12. Miscellaneous:

(a) This Agreement contains the entire agreement between the parties concerning the subject matter hereof and supersedes any and all prior and contemporaneous agreements, both oral and written, pertaining to that same subject matter. This Agreement cannot be changed except by a written document signed by the parties.

(b) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, which shall be binding on and inure to the benefit of the parties' respective heirs, successors and assigns.

(c) Producer has the right to assign this Agreement, or any part of this Agreement, to one or more third parties, but Producer shall remain secondarily liable under this Agreement unless the Agreement is assigned to, and the obligations are assumed in writing by, that third party (ies).

(d) Producer shall have the right, during the Option Periods as they may be extended (and thereafter if the Option is exercised), at its expense, to enter into development, pre-production and production activities with respect to any and all productions or works intended to be based on the Writings, and any and all materials (literary or otherwise) prepared by or on behalf of Producer in connection therewith shall, as between Producer and Writer, remain the sole and exclusive property of Producer. Writer hereby grants to Producer the exclusive right during the Option Periods to create, write, produce, distribute, exhibit, reproduce, transmit and perform one or more works to make the general public aware and potential studios/distributors of the Screenplay and Picture and to incorporate into those works one or more characters from the Writings.

(e) The Option Periods and any extensions of the Option Periods shall automatically be suspended for a period of time equal to the duration of any of the following contingencies: (i) Producer's development of the Picture is prevented, hampered, or delayed by reason of any law or ordinance of any jurisdiction, governmental order, or other regulation, fire, act of God or public enemy, labor dispute, strike or threat of strike, or by reason of any other cause, thing, or occurrence not within Producer's control, either of the same or any other nature (including, but not limited to, a strike or other work action by any guild or union, and/or the death, illness, or incapacity of any director or principal cast member); (ii) Writer's material default hereunder;

and/or (iii) any third party claim in connection with the Option and/or any of the rights granted and/or Writer's representations and warranties hereunder.

(f) In the event of an alleged material breach or material breach by Producer, or in the event of a failure to give Writer credit on the Picture pursuant to the Credits paragraph above, Writer's sole remedy shall be an arbitration for monetary damages, and in no event shall Writer be entitled to terminate or rescind this agreement or seek equitable relief, including but not limited to seeking to enjoin or restrain the distribution or exploitation of the Picture.

(g) This Agreement may be signed in counterparts, and may be signed by fax or by scanned email attachment (which fax or email attachment shall include the entire agreement).

(h) The paragraph headings contained herein are for convenience only, and they shall not affect the construction of any provision contained in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

AGREED TO AND ACCEPTED:

\_\_\_\_\_

**EXHIBIT "A"**

**SHORT FORM OPTION AGREEMENT—SCREENPLAY**

KNOW ALL PERSONS BY THESE PRESENTS: for good and valuable consideration, receipt whereof is hereby acknowledged, the undersigned, \_\_\_\_\_ does hereby grant to \_\_\_\_\_ (hereinafter referred to as "Purchaser"), and its heirs, representatives, successors, licensees and assigns forever, the exclusive and irrevocable right and option to purchase and acquire from the undersigned all of his right, title and interest (including but not limited to the sole and exclusive motion picture rights [silent, sound, talking], television motion picture and other television rights, soundtrack, merchandising, literary publishing, music publishing, stage and radio rights, throughout the world in perpetuity) in and to that certain original literary work described as follows:

TITLE: " \_\_\_\_\_ " (WT)  
WRITTEN BY: \_\_\_\_\_  
PUBLISHER: Unpublished Screenplay  
COPYRIGHT APPLICATION NO.: \_\_\_\_\_

including all contents thereof, all present and future adaptations and versions thereof, and the theme, title and characters thereof, and in and to the copyright thereof, and all renewals and extensions of such copyright.

The option herein granted may be exercised by Purchaser, or its heirs, representatives, successors, licensees or assigns as provided in that certain Option Agreement dated as of August \_\_\_\_\_, 2017 between Purchaser and the undersigned, which agreement is incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned has executed this instrument as of \_\_\_\_\_.

\_\_\_\_\_

**EXHIBIT "B"**  
**ASSIGNMENT OF ALL RIGHTS—SCREENPLAY**

1. The undersigned, \_\_\_\_\_ ("Assignor"), for valuable consideration, receipt of which is hereby acknowledged, does hereby assign, grant, bargain, sell, transfer, convey and set over (all herein called "grant") forever, unto \_\_\_\_\_ ("Assignee"), the literary material described as follows:

All of Assignor's right, title and interest in and to a screenplay written by Assignor tentatively entitled " \_\_\_\_\_", including the underlying story ideas and including the results and proceeds of past and future writing services in connection therewith, together with all now or hereafter existing rights of every kind and character whatsoever therein, and the complete and unconditional and encumbered title therein for all purposes, including all titles thereof, and all elements, themes, ideas, stories, plots, incidents, music, lyrics, arrangements, choreography, dialogue, characters, character names, action, revisions, dramatizations, sequels, and other parts and components contained therein, now or hereafter in existence as well as all copies of any and all manuscripts thereof, and all versions and translations thereof, all hereinafter referred to as the "Work".

Assignee shall have full ownership of the Work, including all copyrights to the Work throughout the world, the right to alter, change or rewrite the Work, and to add to or delete from the Work, and the right to use all or only part or parts of the Work, in its sole discretion, and Assignor hereby waives all rights in connection therewith including, but not limited to, the "droit morale" of authors.

2. Without limiting the above, Assignor hereby grants to Assignee the right to produce one or more motion pictures or other productions based on the Work and to exploit, publicize and use such motion pictures or other productions in all media throughout the world in perpetuity, by all means whether or not now known, including but not limited to theatrical, television, digital transmission, and home video exploitation, and exploitation of ancillary and subsidiary rights, including live stage, novelization, merchandising, music publishing, soundtrack and all other exploitation of the Work and all motion pictures or other projects based on the Work. Without limiting the generality of the foregoing, Assignor specifically grants to Assignee, without limitation: the sole and exclusive right, throughout the universe, in perpetuity, to exhibit, record, reproduce, broadcast, televise, transmit, publish, sell, vend, distribute, advertise, exploit, publicize and use for any purpose, in any manner, and by any means, whether or not now known, invented, used or contemplated, the Work, and each and every part thereof, and any and all versions, adaptations, copies and mechanical or other reproductions of all thereof; all publication, novelization, dramatization, performing, merchandising, mechanical reproduction, radio, television and motion picture rights in the Work and each and every part thereof in such manner and to such extent as Assignee may, in its sole discretion, desire; the right to translate the Work and all such versions and adaptations into all or any languages; the right to use the name and likeness of the Assignor as the author of the Work upon which said versions and adaptations, or any of them, is based; the right to use all titles of the Work and any other title or titles, in conjunction with any such versions and adaptations and the right to use all titles of the Work in connection with literary, dramatic and other works not based upon the Work; Rental and Lending Rights as defined and agreed to in Schedule 1 of this Exhibit "B"; and the right to refrain from exercising all or any part of the rights herein granted.

3. Assignor specifically grants to Assignee, without limitation, all copyrights throughout the world including all renewals, extensions, and continuations thereof, whether common law, statutory, or otherwise, in and to the Work, and each and every part thereof, together with the exclusive right to obtain and register copyright and renewal copyright or analogous protection for the Work, whether in the name of the Assignor, Assignee, or otherwise, in Assignee's sole discretion. Assignor further assigns to Assignee all actions and causes of action whether past or future, for infringement or violation of any rights in and to the Work, and all damages, profits, penalties and other recoveries, and all other rights of every kind and character which Assignor may now or hereafter have, directly or indirectly as a result of any such infringement or violation.

4. Assignor agrees to execute, acknowledge and deliver, or to procure the execution, acknowledgement and delivery of all further documents which, in the sole judgment of Assignee, may be necessary or expedient to effectuate the purposes and intent of this Assignment. Assignor irrevocably appoints Assignee or its nominee as Assignor's attorney-in-fact, with full power of delegation, substitution and assignment, for the sole benefit of Assignee, but at Assignee's expense to procure, execute, acknowledge, register and record any and all such copyrights, renewal copyrights and documents, and to institute and prosecute such proceedings as Assignee may deem expedient to protect the rights herein granted and purported to be granted and to the effect the recovery by Assignee of the full benefit of all rights herein granted and purported to be granted. Assignee may take any of the aforesaid actions in its own name, or in the name of Assignor, and at its option, may join Assignor as party plaintiff or defendant in any suit or proceeding affecting the Work.

5. Assignor hereby represents and warrants that (a) the Work is original with Assignor and does not violate the copyright of any third party, and to the best of Assignor's knowledge does not defame, infringe upon or violate the rights of privacy or other rights of any person, firm or corporation; (b) Assignor is the sole author of the Work; (c) the Work has not been published; (d) no written or oral agreements or commitments whatsoever with respect to the Work or with respect to any right therein, have heretofore been made or entered into by or on behalf of Assignor; (e) there are no monies due third parties by reason of the execution of this Agreement and/or the exercise of the Option hereunder; and (f) there are no claims, demands or any form of litigation pending or threatened with respect to the Work. Assignor agrees to indemnify, defend, and hold Assignee, its assigns and licensees harmless from and against any costs incurred by Assignee or its assigns (including attorney's fees) arising out of any breach or alleged breach of the aforesaid representations and warranties. Assignor agrees to execute such documents and do such other acts and deeds as may be required by Assignee or its assignees or licensees to farther evidence or effectuate its rights hereunder, and in connection therewith.

6. The exercise by Assignee of any of said rights shall not be deemed a waiver or abandonment of any other of said rights. All rights herein granted and assigned shall be fully transferable, in whole or in part, without restriction, and shall inure to the benefit of the Assignee's successors, assigns, and licensees. This Assignment is executed by Assignor for himself and his heirs, executors, administrators, next of kin, personal representative, successors and assigns, and shall be binding upon said persons jointly and severally. As used herein, the term "person" includes any association, organization, partnership, business trust or corporation.

7. This Assignment shall be subject to the terms and conditions of the Option Agreement between Assignee and Assignor dated as of August \_\_\_\_\_, 2017.

IN WITNESS WHEREOF, the undersigned has executed this Assignment of All Rights as of \_\_\_\_\_.

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**SCHEDULE 1 TO EXHIBIT “B”**

**EUROPEAN COMMUNITY (“EC”) AND OTHER  
DIRECTIVES CONCERNING RENTAL AND LENDING RIGHTS**

(a) Rental and Lending Rights: Assignor acknowledges that the compensation payable under the agreement to which this document is attached includes adequate and equitable remuneration for the “Rental and Lending Rights” (as defined below) and to the fullest extent permitted by applicable law, constitutes a complete worldwide buyout of all Rental and Lending Rights, in perpetuity. Assignor hereby irrevocably grants to Assignee throughout the world in perpetuity, the right to collect and retain for Assignee’s own account all amounts payable to Assignor in respect of Rental and Lending Rights and irrevocably directs any collecting societies or other persons or entities receiving such amounts to pay them to Assignee.

(b) Definition: “Rental and Lending Rights” means all rights of Assignor to authorize, prohibit, control or receive money from the rental, lending, fixation, reproduction of other exploitation of the materials, results and proceeds of Assignor’s services, or any motion picture, program or other production based thereon, by any media or means now known or hereafter devised as may be conferred upon Assignor under applicable laws, regulations or directives, in any jurisdiction throughout the world, including any so-called rental and lending rights pursuant to the European Community directives or enabling or implementing legislation, laws or regulations enacted by member nations of the European Community. The payments made by Assignee to Assignor under the agreement to which this document is attached are deemed to include sufficient remuneration for all so-called rental and lending rights pursuant to the EC directives, enabling or implementing legislation, laws and regulations enacted by the member nations of the EC.

AGREED TO as of \_\_\_\_\_

\_\_\_\_\_