

Option Contracts

What is an "option to purchase" agreement?

An option to purchase is an agreement that gives a potential buyer ("optionee") the right, but not the obligation, to buy property in the future. The optionee must decide by a certain time whether to "exercise" the option and thereafter be bound under the contract to purchase.

How is an option different from a purchase agreement?

Once an offer to purchase has been accepted, and contingencies have been removed, if the buyer fails to purchase the buyer likely will be in breach of contract. Once an option has been accepted, up until the time the potential buyer exercises the option, the buyer can unilaterally decide not to buy and will not be in breach.

Is separate consideration needed to make an option enforceable? If so, is it refundable?

Because the seller is giving the buyer an unfettered right to decide in the future whether to buy, the option needs to be supported by consideration, usually money, which is non-refundable. The consideration may be applied toward the purchase price if the buyer exercises the option.

How does an optionee exercise an option?

Typically, this is done by giving notice to the owner within the time specified in the option.

What is a lease option?

A lease option is really two separate agreements: a lease and an option to purchase. And since the option agreement itself is typically two agreements, the option and the purchase agreement, there will essentially be three parts to the lease option; the lease, the option and the purchase agreement.

Where can I get more information on options?

C.A.R. has a legal Q&A titled, Option Contracts and Leases with Option to Purchase. There is also a standard form Option Agreement.