

This Instrument Prepared by:  
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SIROTE & PERMUTT, P.C.  
P. O. Box 55727  
Birmingham, Alabama 35255

STATE OF ALABAMA  
COUNTY SHELBY

**FIRST RIGHT OF REFUSAL - OPTION**

THIS FIRST RIGHT OF REFUSAL - OPTION (hereinafter referred to as the "Agreement") is executed on this the 15th day of April, 1994, by and between **BEEBE M. GRISWOLD** (hereinafter referred to as the "Optionor"), and **TERRY COLAFRANCESCO** (hereinafter referred to as the "Optionee").

1. In consideration of the payment of the sum of Ten and No/100 Dollars (\$10.00) to the Optionor as a nonrefundable option fee (the "Option Fee"), the receipt and sufficiency whereof is hereby acknowledged, the Optionor hereby grants to the Optionee a first right of refusal (the "Option") to purchase the real property described on Exhibit "A" attached hereto and made a part hereof by reference and incorporation (hereinafter the "Property"), upon the terms and conditions set forth hereinbelow.

2. In the event Optionor at any time during a period of five (5) years from the date of the full execution of this Agreement receives one or more bona fide offers from third parties to purchase the Property, and if any such offer is acceptable to the Optionor (the "Offer"), then Optionor agrees to notify Optionee in writing at the address set forth hereinbelow, giving the name and address of the offeror, and the price, terms and conditions of such offer, and Optionee shall have sixty (60) days from and after the receipt of such notice from Optionor in which to elect to purchase the Property for the consideration and upon the same terms and conditions as set forth in such Offer. In the event that the option granted herein is exercised, the Option Fee shall be applied to and shall reduce the purchase price as set forth in the Offer by such amount. In the event Optionee does not elect to purchase the Property, then Optionee shall no longer have any option or other rights hereunder or with regard to the Property, the Option Fee shall be forfeited, and the parties hereunder shall have no further rights or liabilities with regard to the other. At the time Optionee gives said written notice, Optionee shall also enclose therewith a cashier's check payable to the Optionor in the amount of the purchase price set forth in the offer or in the amount of the earnest money as specified in the Offer, whichever is applicable.

3. In the event Optionor does not receive one or more bona fide offers from third parties to purchase the Property, Optionee shall have the right and option at any time during a period of two (2) years from the date of the full execution of this Agreement to purchase the Property by giving Optionor written notice of such intent to exercise the option to purchase. In

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Inst # 1994-14958

the event Optionee so elects to purchase the Property, the purchase price shall be the then fair market value determined as hereinafter set forth. The Optionor and Optionee shall have ten (10) days from the date of Optionee's notice to Optionor that Optionee is exercising his right to purchase the Property within which to agree on the appointment of an MAI appraiser to determine the fair market value of the Property. In the event the parties agree on an MAI appraiser, then said MAI appraiser shall submit his appraisal within twenty (20) days of his appointment and his appraisal shall be final, conclusive and binding upon the parties hereto. In the event the parties are unable to agree on an MAI appraiser to determine the fair market value of the Property, then such fair market value shall be determined by arbitration. The parties shall have ten (10) days within which to notify the other party in writing of the appointment of an arbitrator. The arbitrators thus appointed shall appoint a third disinterested person of recognized competence in such field, and such three arbitrators shall as promptly as possible determine the then fair market value; provided, however, that: (i) all three arbitrators must be MAI appraisers; (ii) if the second arbitrator shall not have been appointed as aforesaid, the first arbitrator shall proceed to determine such matters; and (iii) if the two arbitrators appointed by the parties shall be unable to agree, within five days after the appointment of the second arbitrator, upon the appointment of a third arbitrator, they shall give written notice of such failure to agree to the parties, and, if the parties fail to agree upon the selection of such third arbitrator within five days after the arbitrators appointed by the parties give notice as aforesaid, then within ten days thereafter, either of the parties upon written notice to the other party thereto may request such appointment by the then presiding judge of the District Court of the United States having jurisdiction in Birmingham, Alabama. The rules of the American Arbitration Association most nearly applicable to the issue involved shall govern the arbitration proceedings. The determination of the majority of the arbitrators or of the sole arbitrator if a sole arbitrator acts under provisions of subsection (ii) above, as the case may be, shall be conclusive upon the parties and judgment upon the same may be entered in any court having jurisdiction thereof. The arbitrators shall give prompt written notice to the parties stating their determination, and shall furnish to each party a copy of such determination signed by them. Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half (1/2) of the fees and expenses of the other arbitrator properly incurred hereunder.

In the event Optionee timely exercises his option to purchase the Property and the purchase price is agreed upon or determined as set forth above, the terms and provisions of the sale and purchase will be as follows:

(i) Optionor shall, at Optionor's cost and expense, furnish to Optionee a title policy in the total amount of the purchase price, issued by a company qualified to insure titles in Alabama. The property will be sold and conveyed by general warranty deed (the "Deed") subject to any mineral and mining rights not owned by Optionor and subject to such easements or rights-of-way which may then be filed for record, and subject to zoning ordinances pertaining to the Property. The entire purchase price, adjusted subject to the pro ration of ad valorem taxes and assessments on the Property, shall be paid in cash upon the delivery of the Deed to Optionee.



(ii) The sale of the Property shall be closed within sixty (60) days immediately following the agreement or the determination of the amount of the purchase price, except that the time of the closing shall be extended for a reasonable additional period in which to perfect title or cure defects in title to the Property, as such may be agreed upon by the parties.

4. All notices provided for herein shall be sent by United States certified mail, return receipt requested, as follows:

To Optionor:

Beebe M. Griswold

521 3<sup>rd</sup> St. N.E.  
Alabaster, AL 35007

To Optionee:

Terry Colafrancesco

Box 120

4647 Highway 280 East

Birmingham, Alabama 35242

5. It is expressly understood and agreed that Optionee may not assign this First Right of Refusal - Option, in whole or in part, at any time before the option to purchase has been exercised.

IN WITNESS WHEREOF, the Optionor and Optionee have caused this Right of First Refusal - Option to be executed on the date first above written.

OPTIONOR:

Beebe M. Griswold  
BEEBE M. GRISWOLD

OPTIONEE:

Terry Colafrancesco  
TERRY COLAFRANCESCO

**EXHIBIT "A"**

Begin at the SE corner of the NW 1/4 of SE 1/4 of Section 31, Township 18 South, Range 1 East, Shelby County, Alabama; thence N 2 degrees 41' W 29.08 feet to a point this point being the point of beginning; thence N 2 degrees 41' W 621.52 feet; thence N 87 degrees 35' W 281.95 feet; thence N 37 degrees 35' W 737.35 feet; S 87 degrees 55' W 150.0 feet; thence S 39 degrees 43' W 430.75 feet; thence S 56 degrees 11' E 1489.38 feet to the point of beginning, located in the NW 1/4 of SE 1/4, Section 31, Township 18 South, Range 1 East, Shelby County, Alabama.

LESS AND EXCEPT that property described as follows:

Commence at the SE corner of the NW 1/4 of SE 1/4 of Section 31, Township 18 South, Range 1 East; thence N 2 degrees 41' W along the East line of said 1/4-1/4 Section 29.08 feet to the point of beginning of tract herein described; thence continue along the last named course 622.30 feet; thence S 87 degrees 02' 46" W 281.95 feet, thence N 42 degrees 57' 27" W 736.61 feet; thence N 85 degrees 12' 37" W 149.67 feet to the Southeasterly right of way of Highway #43; thence S 39 degrees 41' 23" W along said right of way 100.00 feet; thence S 54 degrees 47' 16" E 867.16 feet; thence N 87 degrees 02' 46" E 239.62 feet; thence S 2 degrees 41' E 560.12 feet; thence S 56 degrees 13' 32" E 62.17 feet to point of beginning. Containing 2.902 acres, more or less.

Inst # 1994-14958

5

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