

AGREEMENT WITH OPTION

FOR AND IN CONSIDERATION of the mutual terms, covenants and conditions herein contained, JORY, INC., a Nebraska corporation (hereinafter called "Jory") and HORIZON HOMES, INC., a Nebraska corporation (hereinafter called "Horizon") hereby agree as follows:

1. DEFINITIONS: For the purposes of this agreement:

A. The "Fairview Lots" as used herein shall mean each and every one of those real estate lots identified on Exhibit A attached hereto and incorporated by this reference, which lots are in Fairview, a subdivision of Sarpy County, Nebraska, and are legally described as follows:

- Lots 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31,
- 32, 33, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54, 57, 58, 62,
- 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 82, 83, 85, 86, 87, 90, 91, 92, 93, 95, 96, 97, 98,
- 99, 100, 101, 102, 103, 106, 108, 109, 129, 131, 132, 133, 134, 135, 136, 137, 138, 139,
- 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156,
- 157, 158, 159, 160, 161, 162 Fairview Subdivision, Sarpy County, Nebraska, as surveyed, platted and recorded.

B. The "Lot Price" for each lot shall be that price set forth on Exhibit "A" attached hereto and incorporated herein by this reference for each respective lot; the Lot Price per lot shall increase by \$200.00 on such of the Fairview Lots as are not the subject of a notice of exercise of option as of December 31, 1994.

2. OPTION: Jory hereby grants to Horizon an exclusive and irrevocable option to purchase the Fairview Lots, and each of them; for a price not greater than the Lot Price per lot. Horizon agrees that in the event Jory submits a written request for release of any of the Fairview Lots from this option for the purpose of selling said lot to an individual to be used as the purchaser's residence, together with a duly executed copy of the purchase agreement evidencing said sale, Horizon agrees to release and subordinate its rights hereunder with respect to said particular lot to the interests of said purchaser only. In the event the named purchaser does not purchase the said lot or purchases but does not use the same for a residence, within a reasonable time, Horizon's option granted hereunder shall be restored in full force and priority. Horizon shall not be obligated to release any of the Fairview Lots on which a structure has been or is to be constructed by a contractor other than Horizon or Jory; and the right of Jory to build individual structures reserved herein shall be personal and nontransferable.

3. EXERCISE OF OPTION: In the event Horizon desires to exercise its option to purchase any of the Fairview Lots, Horizon shall do so by mailing or delivering a written notice of exercise of option to the last known business address or registered address of Jory. Upon the exercise of this option, the closing shall take place upon the terms and conditions set out below, which shall apply to the sale of each of the Fairview Lots.

A. TITLE INSURANCE: Jory shall deliver to Horizon within ten (10) days after the exercise of this option, a title

insurance commitment evidencing marketable title in Jory. In the event the title binder contains exceptions which render the title less than marketable, Jory upon a written notice thereof from Horizon delivered not more than fifteen (15) days after receipt of the title insurance commitment, shall endeavor to cure the same at the earliest possible time. If said defects are not cured within a reasonable time, then Horizon may rescind this agreement without releasing any claim for damages, which shall constitute a lien upon the remaining Fairview Lots. The cost of the title insurance policy issued in connection with each sale of an unimproved Fairview Lot to Horizon shall be equally divided between the Horizon and Jory. It is understood that the documentary revenue on the conveyance is to be paid for by Jory. Real estate taxes becoming delinquent in the year of closing shall be prorated to date of closing.

B. TITLE: Title to property to be conveyed by Jory shall be good and marketable title, clear of all liens, encumbrances, defects, and burdens, except any general exceptions such as easements, restrictive covenants, or zoning regulations as of the date of this agreement and except the initial special assessments heretofore levied and assessed against those Fairview Lots for which the Purchase Price is either \$3,000.00 or \$3,500.00. Title as herein required shall be evidenced by a standard policy of title insurance issued by the Security Land Title Company. Such policy shall be issued as of the date of closing, shall be in the amount of the Lot Price plus unpaid special assessments, if any.

C. TAXES: Jory shall pay and be responsible for all real estate taxes which became delinquent before the date of closing; all special assessments that are unlevied as of the date hereof for improvements constructed prior to or in construction on the date hereof and all special assessments that are unlevied as of the date of closing of each lot sale hereunder for improvements constructed prior to or in construction on the date of said closing; and all interest, penalties and advertising costs thereon. In addition, Jory shall be responsible for any and all interest, penalties and advertising costs on real estate taxes which become delinquent before closing, until all prior real estate taxes and subsequent special assessments are paid. The only exception to the foregoing shall be those special assessments* that have been assessed, levied and recorded prior to the date of this agreement on those Fairview Lots for which the Purchase Price is either \$3,000.00 or \$3,500.00; Jory shall pay all special assessments on the Fairview Lots for which the Purchase Price is \$15,000.00.

*Including all interest, penalties and advertising costs.

D. CLOSING: Closing shall take place within thirty (30) days of the exercise of this option. Possession shall be delivered at closing.

E. CONVEYANCE OF THE PROPERTY: The Property shall be conveyed by general warranty deed in which normal and customary warranty shall be contained and free and clear of all liens, encumbrances or special taxes levied or assessed,

excepting only the initial special assessments. Jory agrees to pay for any assessments for improvements previously constructed or now under construction but not yet assessed as of the date of closing.

3. WARRANTY: Jory, for itself and its successors, assigns and administrators does or do warrant and confirm with Horizon and its assigns, that Jory is or are well seized in fee of the Fairview Lots and that it has the right to grant and convey this option in the manner and form aforesaid, and that it will, and its successors, assigns and administrators shall warrant, and defend this option to Horizon and its assigns against the lawful claims and demands of all persons. Jory does further warrant and confirm that, as of the date hereof, all special assessments on the Fairview Lots for which the Purchase Price is \$15,000.00 are fully paid and discharged.

4. LOT SALES: As soon as practicable after the date hereof, Horizon shall construct and maintain a model home with a sales office therein on Lot 129, Fairview Subdivision or such other lot as Horizon may designate. Said model home may be sold by Horizon at any time, and shall be replaced by Horizon unless this agreement has been terminated or the three years commencing on the date hereof have past. During the term hereof, Horizon shall attempt to sell the Fairview Lots; however, Horizon expressly disclaims any representation, promise or warranty regarding the number of Fairview Lots to be sold, the rate of such sales or the price thereof or of the improvements thereon. Jory understands and agrees that Horizon may continue to own, sell, and construct improvements on real property other than the Fairview Lots without in any way affecting this agreement. Notwithstanding and without limiting the foregoing, Horizon agrees to exercise this option with respect to at least six of the Fairview Lots by December 31, 1993.

5. SIGNAGE: During the term of this agreement, Horizon shall be allowed to place signs on Lot 165, Fairview Subdivision, as well as such signs as Horizon may deem appropriate on any Fairview Lots subject to this agreement. Said right to erect signs may be exercised directly by Horizon or indirectly by Horizon and such real estate agents, brokerages, or companies as Horizon may employ for the purpose of marketing the Fairview Lots. In the event said lot is sold for development, Horizon's signage rights shall be at the option of the buyer of said lot.

6. ARCHITECTURAL REVIEW: Jory hereby assigns to Horizon the right to designate the Architectural Review Committee referred to in the Protective Covenants dated March 30, 1989, filed April 5, 1989 in the office of the Sarpy County Register of Deeds as Document No. 89-03911; provided that one member of said Architectural Review Committee designated by Horizon shall be an officer of Jory, Inc. The Architectural Review Committee from the date hereof shall consist of James Stover and Joseph J. Cascio, Sr. Jory hereby certifies that all members of the currently designated Architectural Review Committee have tendered their resignations from said committee effective upon the date of this agreement.

7. TERMINATION: This agreement shall terminate either upon the mutual written agreement of the parties, upon delivery of notice of

termination by Horizon at its sole discretion, the sale of all of the Fairview Lots, or in the event of a default in performance or breach of any term herein. In the event of a termination occasioned by the act or failure of Jory, Horizon may retain the option herein contained at its discretion. In the event of a termination by Horizon without cause, such termination shall terminate Horizon's rights hereunder.

8. ENTIRE AGREEMENT: This instrument contains the entire agreement of the parties; that there are no other different agreements or understandings and Jory, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of Horizon or its agents or employees, except as are set forth herein.

9. BINDING EFFECT: The provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the parties, their successors, and assigns, expressly including any owner of any of the Fairview Lots that is not released from this agreement by a written release signed by Horizon.

10. SPECIFIC PERFORMANCE: The parties acknowledge that the Property is unique and stipulate that Horizon shall be entitled to specific performance of this agreement in addition to all other available remedies.

Dated: September 21, 1993

HORIZON HOMES, INC.

Rec'd	<i>L</i>
File	<i>M</i>
Index	<i>L</i>
Booked	
Fee \$	79.50

FILED NO. _____
 INSTRUMENT NUMBER By: *Joe W. Stone*
93-023824 Title: President
 93 SEP 21 PM 2:29 JORY, INC.

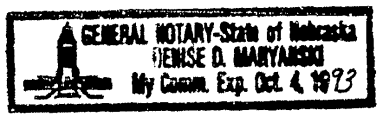
Corporate Seal *Carol A. Staris* By *Joseph J. Cascio Sr.* - President
 REGISTER OF DEEDS

Attest *Joseph J. Cascio Sr.* - Secretary

STATE OF NEBRASKA }
 COUNTY OF SARPY } ss:

On this 21 day of SEPTEMBER, 1993, before me, the undersigned Notary Public in and for said County and State, personally appeared JOSEPH J. CASCIO SR., President of Jory, Inc.; and JOSEPH J. CASCIO SR., the Secretary of Jory, Inc.; to me personally known to be the President and Secretary respectively of said Corporation and the identical persons whose names are affixed to the foregoing instrument, and each acknowledged the execution and delivery of the foregoing instrument to be their respective voluntary act and deed and the voluntary act and deed of said Corporation.

WITNESS my hand and Notarial Seal on the 21 day of September, 1993.



Jenise D. Maryanski
 Notary Public

93-23824D

EXHIBIT "A"

FOR THE FOLLOWING LOTS THE "LOT PRICE" SHALL BE \$3,000.00 PER LOT:

LOTS 9, 10, 11, 12, 13, 14, 16, 134, 135, 136, 137, 138,
139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149,
150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160,
161, 162 Fairview, a subdivision of Sarpy County,
Nebraska

FOR THE FOLLOWING LOTS THE "LOT PRICE" SHALL BE \$3,500.00 PER LOT:

Lots 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29,
30, 31, 32, 33, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45,
47, 48, 49, 50, 51, 52, 54, 57, 58, 62, 63, 64, 65, 66,
67, 68, 69, 70, 71, 72, Fairview, a subdivision of
Sarpy County, Nebraska.

FOR THE FOLLOWING LOTS THE "LOT PRICE" SHALL BE \$15,000.00 PER LOT;
all special assessments are to be paid by seller, Jory, Inc., in
addition to all current taxes, pro-rated to date of closing:

46, 82, 83, 85, 86, 87, 90, 91, 92, 93, 95, 96, 97, 98,
99, 100, 101, 102, 103, 106, 108, 109, 129, 131, 132, 133,
Fairview, a subdivision of Sarpy County, Nebraska.