

Options to Sell

An option to sell may be used to assure that a property acquisition can be undone if expectations are not met.

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Summary

An option to sell (sometimes called a “put” option) gives an owner the right to compel another to purchase property at a certain price within a certain period of time. One reason to create such a right is to ensure that a property acquisition can be undone if expectations regarding funding or other matters related to the acquired property are not met.

Temporary Accommodation

Sometimes one land trust¹ may help another by acquiring land or an easement and holding it on a temporary basis until the other organization, slated to be the permanent owner or holder, raises sufficient funding to purchase the property. To ensure that a temporary accommodation does not turn into a permanent arrangement, the accommodating land trust may want a mechanism to compel the other to buy out its investment after a certain period of time. An option to sell will ensure that the accommodating land trust is relieved of its burden and compensated for its investment.

Ensuring Project Participation

A land trust may be willing to acquire a property relying on the promises of other project participants to raise funds for long-term stewardship. To protect itself from being saddled with the burdens of ownership without proper funding, the land trust may require, as a condition to accepting ownership, the right to convey the title to other project participants if, after a certain date, the required stewardship funding is not in place.

Unwinding a Collaboration

Partners in a conservation project may need to address the possibility that circumstances may occur when they will want, or need, to go their own way. For example:

A land trust joint ventures with an educational organization to acquire land for use as a nature preserve with an environmental study center. If the sale of a conservation easement (which will finance the land trust’s stewardship of the land) to a government agency does not materialize, the land trust does not want to remain as a co-owner. If a grant from another government

agency to build and operate the center does not materialize, the educational organization does not want to remain as a co-owner.

The collaboration may be structured so that each organization has an option to make the other buy out its interest (a put option) if its project expectations are not met.

The collaboration may be further structured so that if, say, organization A exercises its put option and organization B defaults on its obligation to purchase organization A's interest, organization A can have the right (a [purchase option](#)) to purchase the organization B's interest (perhaps at a discounted price) so as to be in a position to control a sale of the entire set of property interests related to the joint venture to a third-party.

Related Guides

- [Matching the Form of Agreement to the Project](#)
- [Purchase Options](#)

Experts

[Patricia L. Pregmon, Esq.](#)

Pregmon authored this guide and has helped scores of clients find creative solutions to their conservation goals.

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Submit Comments and Suggestions

The Pennsylvania Land Trust Association would like to know your thoughts about this guide: Did we miss issues? Do any subjects need clarification or expansion? Other concerns? Please contact Andy Loza at 717-230-8560 or aloza@conserveland.org with your thoughts. Thank you.

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¹ The term “land trust” as used in this guide serves as a shorthand for any private or public entity – including trail groups – that seeks to acquire property interests for a conservation purpose.