



STATE OF WISCONSIN

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Governor Scott Walker Secretary Dave Ross

REAL ESTATE CONTRACTUAL FORMS ADVISORY COMMITTEE
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Angela Hellenbrand (608) 261-5406
September 19, 2013

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.

10:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-2)**
- B. Approval of Minutes from July 22, 2013 (3-4)**
- C. Executive Director Matters
 - 1) Staff Updates
- D. WB-35 Simultaneous Exchange Agreement - Discussion**
- E. Review and Revise Business Listing Contract (WB-6)**
 - 1) WRA Memo with Proposed Changes **(5-8)**
 - 2) WB-6 as modified by Council on July 22, 2013 **(9-14)**
 - 3) WB-6 with WRA Proposed Changes (with “tracking”)
- F. WB-16 Business With Real Estate – Offer to Purchase**
 - 1) WRA Memo With Proposed Changes **(15-38)**
 - 2) WB-16 With WB-15 Changes (with no “tracking”) **(39-50)**
 - 3) WB-16 With WB-15 Changes (with “tracking”)
- G. Priority of Remaining Forms**
 - 1) WB-17 Business without Real Estate – Offer to Purchase **(51-56)**
 - 2) WB-35 Simultaneous Exchange Agreement **(57-62)**
 - 3) Time Share Issues
- H. Informational Items
- I. New Business
- J. Public Comments

ADJOURNMENT

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**REAL ESTATE CONTRACTUAL FORMS ADVISORY COMMITTEE
MEETING MINUTES
JULY 22, 2013**

PRESENT: Stephen Beers, Casey Clickner, Michael Gordon, Cori Lamont, Scott Minter, Richard Petershack, Jonathan Sayas, Gary Tritz, and Jack Drzewiecki

EXCUSED: Debra Conrad, Kim Moermond, Michael Sewell, Peter Sveum,

STAFF: Angela Hellenbrand, Executive Director; Joshua Archiquette, Bureau Assistant and other Department Staff

Steven Beers, Chair called the meeting to order at 10:04 a.m. A quorum of nine (9) members was confirmed.

ADOPTION OF AGENDA

MOTION: Richard Petershack moved, seconded by Scott Minter, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Cori Lamont moved, seconded by Casey Clickner, to approve the minutes of May 2, 2013. Motion carried unanimously.

EXECUTIVE DIRECTOR MATTERS

MOTION: Richard Petershack moved, seconded by Gary Tritz, to switch the order of agenda items "G.2 Time Share Issues" and "G.3 WB-35 Simultaneous Exchange Agreement" for the Board's next meeting. Motion carried unanimously.

ADJOURNMENT

MOTION: Gary Tritz moved, seconded by Cori Lamont, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:53 p.m.

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REVISIONS TO WB-6 Business Listing Contract – Exclusive Right to Sell

To: Real Estate Contractual Forms Advisory Committee

From: WRA Forms Committee

Date: August 20, 2013

RE: **WB-6 Business Listing Contract – Exclusive Right to Sell**

Although this form was essentially finalized and formatted, there appears to remain some concerns relative to the condition reports that the seller is asked to complete and the definition of defects in that regard.

WB-6 Changes

◆ Business Name, Line 2: Add “(include both legal name and any trade name)” at the end of the line, as was done in the WB-16 draft.

◆ Included in List Price, Lines 10-13: upon further review the group decided it was best to remove “cash” from this section:

Seller shall include in the list price (unless excluded at lines xx-xx) and transfer, free and clear of encumbrances, the Assets of the Business including all goodwill, stock-in-trade, trade fixtures, ~~Fixtures (if interest in Real Estate is included),~~ accounts receivable, ~~cash,~~ all Business Personal Property, the interest in Real Estate (if included on lines xx-xx), ~~Fixtures (if interest in Real Estate is included),~~ and the following additional property

◆ Seller’s Disclosure Report(s), Lines 81-87, and Seller Representations Regarding Defects, Lines 88-92:

■ **SELLER'S DISCLOSURE REPORT(S):** Wis. Admin. Code Chapter REEB 24 requires listing brokers to make inquiries of the seller on the condition of the structure, mechanical systems and other relevant aspects of the property and to request that the Seller provide a written response to the broker’s inquiry. Seller agrees to provide Broker with written disclosure of all defects known to Seller with regard to the Assets and to complete any and all other disclosure report(s), as may be applicable or required by law. Seller agrees to promptly amend the report(s) to include any defects (as defined in the report(s)) which Seller learns of after completion of the report(s), but before acceptance of a buyer’s offer to purchase. Seller authorizes Broker to distribute the report(s) to all interested parties and their agents inquiring about the Assets, and acknowledges that Broker has a duty to disclose all material adverse facts, as required by law.

■ **SELLER REPRESENTATIONS REGARDING DEFECTS:** Seller represents to Broker that as of the date of this Listing, Seller has no notice or knowledge of any defects affecting the Assets other than those noted on seller’s disclosure report(s) or other written disclosure provided to Broker. **WARNING: IF SELLER REPRESENTATIONS ARE INCORRECT OR INCOMPLETE, SELLER MAY BE LIABLE FOR DAMAGES AND COSTS.**

⇒ **CONCERNS WITH THESE PROVISIONS:** they refer to “defects” but “defects” is not defined in this context. The § REEB 24.07 duty to inquire about conditions relative to the structure, mechanical systems and other relevant aspects of the property, apparently applies only to real estate. Committee members seemed to be uncomfortable with the idea that the form would

require the broker to do something not required under Wis. Admin. Code § REEB 24.07 and do not want to use the current “standard” definition of “Defects” with the term “Assets” in place of “Property.” This provision says the Seller will complete “any and all other disclosure report(s), as may be applicable or required by law.” It is not clear who decides what reports might be applicable or where they come from, but does tell us that Seller will complete a RECR or a VLCR if there is 1-4 dwellings units or vacant land – the only two condition reports required by law. At the same time, in order to do a competent job as a business broker one would certainly want to have information about all the assets for the good of the transaction and the parties.

Another option is to create a provision that does not refer to “defects” and combine the Seller disclosure Reports and the Seller Representations provisions into one:

[SELLER DISCLOSURE REPORT(S) AND REPRESENTATIONS] Wis. Admin. Code Chapter REEB 24 requires listing brokers to make inquiries of the seller on the condition of real estate and request that the Seller provide a written response to the broker’s inquiry. If there is an interest in Real Estate included in the list price, Seller agrees to complete and provide the Broker with a written property condition report or vacant land disclosure report as applicable or required by law.

Broker may also request that Seller complete disclosure report(s) pertaining to Assets other than Real Estate and Seller agrees to complete and provide such written report(s).

Seller agrees complete all reports to the best of Seller’s knowledge. Seller agrees to promptly amend the report(s) to include any information that would change a response if Seller learns of such information after completion of the report(s), but before acceptance of a buyer’s offer to purchase.

Seller authorizes Broker to distribute any report(s) completed by Seller regarding the Real Estate or Assets other than Real Estate to all interested parties and their agents inquiring about the Assets. Seller acknowledges that Broker has a duty to disclose all Material Adverse Facts, as required by law.

WARNING: IF SELLER REPRESENTATIONS ARE INCORRECT OR INCOMPLETE, SELLER MAY BE LIABLE FOR DAMAGES AND COSTS.

Note that the definitions of adverse fact and material adverse fact in the WB-6 are true to the statutes and are not changing or interpreting any rule or duty. The last statement about the seller acknowledging the broker’s duty to disclose material adverse facts can be removed from this section if it causes any discomfort – it is already covered in the Broker Disclosure to Clients section at lines 132-133 so either way would be fine.

⇒ Any other solutions or thoughts on this??? This is just one suggestion!!

◆ Commission, Lines 204-226: A concern was raised over the scenario where a seller who started out selling ends up leasing the Real Estate or other Assets. The practitioner wanted there to be explicit language that would protect the broker’s commission. It does say “A transaction occurs which causes an effective change of ownership, management or control of all or any part of the Assets from Seller to a third party, other than in the ordinary course of business” at lines 210-211. Is that sufficient to cover the described scenario? Is it desirable to add additional language regarding commission on leased property?

8). Seller enters into lease(s) involving all or any part of the Assets during the term of this Listing.

A percentage commission, if applicable, shall be calculated based on the purchase price if commission is earned under 1), 2), 4) or 5) above, or calculated based on the list price under 3) (if an exchange of all Assets), 6), 7), or 8).

⇒ Is the intent that more than own of the numbered events may occur in a given transaction

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for the sale of Business Assets? Does it need to be explicitly stated in the WB-6 that different transfers may be done for different parts of the Assets?

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⇒ Another question that has been raised is whether the terminology in the WB-6 and the WB-16 and WB-17 offers should be modified to continue with Real Estate as a defined term but to have Assets refer to the Assets of the Business other than Real Estate. This could be done quite readily if this is a concern/preferred.

WB6RevisionsDSPA9-19-13

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WB-06 Form 20121204 (Format Attempt#1)

WB-6 BUSINESS LISTING CONTRACT – EXCLUSIVE RIGHT TO SELL

LISTING CONTRACT FOR SALE OF ASSETS ONLY.

CONSULT APPROPRIATE ADVISORS FOR TAX, LICENSING, LIABILITY OR RELATED ISSUES.

- 1 SELLER GIVES BROKER THE EXCLUSIVE RIGHT TO SELL THE ASSETS ON THE FOLLOWING TERMS:
2 Business Name: _____
3 Type of Business Entity (e.g., corporation, LLC, partnership, sole proprietorship, etc.): _____
4 _____
5 Business Description: _____
6 _____
7 _____ (lines 2-7 hereinafter referred to as the "Business").
8 Insert additional description, if any, at lines xxx-xxx or attach as an addendum per line xxx.
9 ■ LIST PRICE: _____ Dollars (\$ _____).
10 ■ INCLUDED IN LIST PRICE: Seller shall include in the list price (unless excluded at lines xx-xx) and transfer, free and clear of
11 encumbrances, the Assets of the Business including all goodwill, stock-in-trade, trade fixtures, accounts receivable, cash, all
Business
12 Personal Property, the interest in Real Estate (if included on lines xx-xx), Fixtures (if interest in Real Estate is included), and the
13 following additional property _____
14 _____
15 _____ [STRIKE AND COMPLETE AS APPLICABLE] (hereinafter collectively the "Assets").
16 Seller shall convey Business Personal Property and any other personal property by Bill of Sale or _____
17 _____, free and clear of all liens and encumbrances except _____
18 _____
19 ■ INTEREST IN REAL ESTATE [CHECK BOX ON LINE XX OR XX, AS APPLICABLE]:
20 NO INTEREST IN REAL ESTATE INCLUDED IN LIST PRICE
21 DESCRIPTION OF INTEREST IN REAL ESTATE INCLUDED IN LIST PRICE:
22 Street address is: _____
23 _____ in the _____ of _____
24 _____, County of _____, Wisconsin (the "Real Estate").
25 The Real Estate is owned by: _____
26 The Real Estate is leased to: _____
(see lines xx-xx)
27 The interest in the Real Estate included in the list price is: ownership leasehold assignment of existing lease
28 other: _____ Insert any additional description, including further description
29 of the type of interest in the Real Estate that is included in list price, at lines xxx-xxx or attach as an addendum per line xxx.
30 ■ NOT INCLUDED IN LIST PRICE: CAUTION: Identify any Fixtures, trade fixtures and Business Personal Property to be
31 excluded by Seller (see lines 234-241, 244-254): _____
32 _____
33 _____
34 **MARKETING** Seller authorizes and Broker agrees to use reasonable efforts to procure a buyer for the Assets. Broker's marketing may
35 include: _____
36 _____
37 Broker may advertise the following special financing and incentives offered by Seller: _____
38 _____ Seller has a duty to cooperate
39 with Broker's marketing efforts. See lines xx-xx regarding Broker's role as marketing agent and Seller's duty to notify Broker of any
40 potential buyers known to Seller. Seller agrees that Broker may market other assets and properties during the term of this Listing.
41 **COOPERATION, ACCESS TO PROPERTY OR OFFER PRESENTATION** The parties agree that Broker will work and cooperate
42 with other brokers in marketing the Assets, including brokers from other firms acting as subagents (agents from other companies
43 engaged by Broker - see lines xxx-xxx) and brokers representing buyers. Cooperation includes providing access to the Assets for
44 showing purposes and presenting offers and other proposals from these brokers to Seller. Note any brokers with whom Broker shall not
45 cooperate, any brokers or buyers who shall not be allowed to attend showings, and the specific terms of offers which should not be
46 submitted to Seller: _____
47 **CAUTION: Limiting Broker's cooperation with other brokers may reduce the marketability of the Assets.**
48 ■ **EXCLUSIONS:** All persons who may acquire an interest in the Assets as a Protected Buyer under a prior listing contract are
49 excluded from this Listing to the extent of the prior broker's legal rights, unless otherwise agreed to in writing. Within seven days of the
50 date of this Listing, Seller agrees to deliver to Broker a written list of all such prospective buyers. The following other buyers are
51 excluded from this Listing until _____ [INSERT DATE]: _____
52 _____ These other buyers are no longer excluded from this Listing after the specified date unless,

53 on or before the specified date, Seller has either accepted an offer from the buyer or sold the Assets to the buyer.

54 **SELLER COOPERATION WITH MARKETING EFFORTS** Seller agrees to cooperate with Broker in Broker's marketing efforts and to
55 provide Broker with all records, documents and other material in Seller's possession or control which are required in connection with the
56 sale. Seller authorizes Broker to do those acts reasonably necessary to effect a sale and Seller agrees to cooperate fully with these
57 efforts which may include Internet advertising or a lockbox system on the Real Estate. Seller shall promptly notify Broker in writing of the
58 names and contact information of any potential buyers known to Seller, who contact Seller or with whom Seller negotiates during the
59 term of this Listing and shall promptly refer all such potential buyers and all persons making inquiries concerning the Assets to Broker.

60 **SELLER AUTHORITY TO SELL** Seller represents that Seller has authority to convey the Assets. If the owner is an entity, Seller
61 agrees, within ten days of the execution of this Listing, to provide Broker with a copy of documents evidencing that the sale of the
62 Assets has been properly authorized.

63 **DOCUMENTS AND RECORDS** Seller agrees to promptly deliver all financial, business or other records, documents or other
64 materials related to the Assets or transaction required in connection with the marketing or sale. Seller warrants that all written
65 documents and records given to Broker in conjunction with the marketing or sale of the Assets shall be true and accurate.

66 Seller agrees to hold Broker harmless from loss or liability resulting from Broker's use of these documents and records, including but
67 not limited to, the payment of costs and reasonable attorney fees in the event of any suit against Broker arising out of the use of these
68 documents and records. Seller authorizes Broker to distribute any or all of the documents and records given to Broker to prospective
69 buyers and their business, legal or tax counsel.

70 **SELLER RESPONSIBILITIES** Seller agrees to hold Broker harmless as to any losses suffered by Broker because of any breach of
71 contract by Seller where Broker has acted as agent for Seller according to terms and conditions set forth in this Listing, including but not
72 limited to, the payment of costs and reasonable attorney fees required to defend Broker from claims by a buyer of the Assets. Seller is
73 aware that there is a potential risk of injury, damage, loss or theft involving persons attending a showing of the Assets. Seller accepts
74 responsibility for preparing the Assets to minimize the likelihood of personal injury, property damage, loss or theft. Seller agrees to hold
75 Broker harmless for any losses or liability resulting from personal injury, property damage, loss or theft occurring during the term of this
76 listing, other than those caused by Broker's negligence or intentional wrongdoing. Seller acknowledges that showings may be
77 conducted by licensees other than Broker, that appraisers and inspectors may conduct appraisals and inspections without being
78 accompanied by Broker or other licensees, and that buyers or licensees may be present at all inspections and testing and may
79 photograph or videotape the Assets unless otherwise provided for in additional provisions at lines xxx-xxx or in an addendum per lines
80 xxx-xxx.

81 **SELLER'S DISCLOSURE REPORT(S)** Wis. Admin. Code Chapter REEB 24 requires listing brokers to make inquiries of the seller on
82 the condition of the structure, mechanical systems and other relevant aspects of the property and to request that the Seller provide a
83 written response to the broker's inquiry. Seller agrees to provide Broker with written disclosure of all defects known to Seller with regard
84 to the Assets and to complete any and all other disclosure report(s), as may be applicable or required by law. Seller agrees to promptly
85 amend the report(s) to include any defects (as defined in the report(s)) which Seller learns of after completion of the report(s), but
86 before acceptance of a buyer's offer to purchase. Seller authorizes Broker to distribute the report(s) to all interested parties and their
87 agents inquiring about the Assets, and acknowledges that Broker has a duty to disclose all material adverse facts, as required by law.

88 **SELLER REPRESENTATIONS REGARDING DEFECTS** Seller represents to Broker that as of the date of this Listing, Seller has no
89 knowledge or notice of any defects affecting the Assets other than those noted on seller's disclosure report(s) or other written disclosure
90 provided to Broker.

91 **WARNING: IF SELLER REPRESENTATIONS ARE INCORRECT OR INCOMPLETE, SELLER MAY BE LIABLE FOR DAMAGES**
92 **AND COSTS.**

93 **OCCUPANCY** Unless otherwise provided, Seller agrees to give buyer occupancy of the Real Estate at time of closing and to have the
94 Real Estate free of all debris and personal property except for personal property belonging to current tenants, sold to buyer or left with
95 buyer's consent.

96 **LEASED PROPERTY** If any Assets are currently leased to third parties and the lease(s) will extend beyond closing, Seller shall assign
97 Seller's rights under the lease(s) and transfer all security deposits and prepaid rents (subject to agreed-upon prorations) thereunder to
98 buyer at closing. Seller acknowledges that Seller remains liable under the lease(s) unless released by tenants.

99 **CAUTION: Seller should consider obtaining an indemnification agreement from buyer for liabilities under the lease(s) unless**
100 **released by tenants.**

101 **NOTICE ABOUT SEX OFFENDER REGISTRY:** You may obtain information about the sex offender registry and persons registered
102 with the registry by contacting the Wisconsin Department of Corrections on the Internet at <http://www.doc.wi.gov> or by telephone at
103 (608) 240-5830.

104 **NON-DISCRIMINATION:** Seller and Broker agree that they will not discriminate against any prospective buyer on account
105 of race, color, sex, sexual orientation as defined in Wis. Stat. § 111.32(13m), disability, religion, national origin, marital status,
106 lawful source of income, age, ancestry, familial status or in any other unlawful manner.

107 **EXTENSION OF LISTING:** The Listing term is extended for a period of one year as to any Protected Buyer. Upon receipt of a written
108 request from Seller or a broker who has listed the Assets, Broker agrees to promptly deliver to Seller a written list of those buyers known
109 by Broker to whom the extension period applies. Should this Listing be terminated by Seller prior to the expiration of the term stated in
110 this Listing, this Listing shall be extended for Protected Buyers, on the same terms, for one year after the Listing is terminated.

111 **TERMINATION OF LISTING:** Neither Seller nor Broker have the legal right to unilaterally terminate this Listing absent a material
112 breach of contract by the other Party. Seller understands that the Parties to the Listing are Seller and the Broker (firm). Agents

113 (salespersons) for Broker (firm) do not have the authority to enter into a mutual agreement to terminate the Listing, amend the
114 commission amount or shorten the term of this Listing, without the written consent of the agent's supervising broker. Seller and Broker
115 agree that any termination of this Listing by either party before the date stated on line xxx shall be indicated to the other Party in writing
116 and shall not be effective until delivered to the other Party in accordance with lines xxx-xxx.

117 **CAUTION: Early termination of this Listing may be a breach of contract, causing the terminating party to potentially be liable**
118 **for damages.**

119 **EARNEST MONEY** If Broker holds trust funds in connection with the transaction, they shall be retained by Broker in Broker's trust
120 account. Broker may refuse to hold earnest money or other trust funds. Should Broker hold the earnest money, Broker shall hold and
121 disburse earnest money funds in accordance with Wis. Stat. Ch. 452 and Wis. Admin. Code Ch. REEB 18. If the transaction fails to
122 close and the earnest money is disbursed to Seller, then upon disbursement to Seller the earnest money shall be paid first to reimburse
123 Broker for cash advances made by Broker on behalf of Seller and one half of the balance, but not in excess of the agreed commission,
124 shall be paid to Broker as Broker's full commission in connection with said purchase transaction and the balance shall belong to Seller.
125 This payment to Broker shall not terminate this Listing.

126 ■ **BROKER DISCLOSURE TO CLIENTS:**

127 **UNDER WISCONSIN LAW, A BROKER OWES CERTAIN DUTIES TO ALL PARTIES TO A TRANSACTION:**

128 (a) The duty to provide brokerage services to you fairly and honestly.

129 (b) The duty to exercise reasonable skill and care in providing brokerage services to you.

130 (c) The duty to provide you with accurate information about market conditions within a reasonable time if you request it, unless
131 disclosure of the information is prohibited by law.

132 (d) The duty to disclose to you in writing certain material adverse facts about a property, unless disclosure of the information is
133 prohibited by law (see lines xx-xx).

134 (e) The duty to protect your confidentiality. Unless the law requires it, the broker will not disclose your confidential information or the
135 confidential information of other parties (see lines xx-xx).

136 (f) The duty to safeguard trust funds and other property the broker holds.

137 (g) The duty, when negotiating, to present contract proposals in an objective and unbiased manner and disclose the advantages and
138 disadvantages of the proposals.

139 **BECAUSE YOU HAVE ENTERED INTO AN AGENCY AGREEMENT WITH A BROKER, YOU ARE THE BROKER'S CLIENT. A**
140 **BROKER OWES ADDITIONAL DUTIES TO A CLIENT.**

141 (a) The broker will provide, at your request, information and advice on real estate matters that affect your transaction, unless you
142 release the broker from this duty.

143 (b) The broker must provide you with all material facts affecting the transaction, not just adverse facts.

144 (c) The broker will fulfill the broker's obligations under the agency agreement and fulfill your lawful requests that are within the scope
145 of the agency agreement.

146 (d) The broker will negotiate for you, unless you release the broker from this duty.

147 (e) The broker will not place the broker's interests ahead of your interests. The broker will not, unless required by law, give information
148 or advice to other parties who are not the broker's clients, if giving the information or advice is contrary to your interests.

149 If you become involved in a transaction in which another party is also the broker's client (a "multiple representation relationship"),
150 different duties may apply.

151 ■ **MULTIPLE REPRESENTATION RELATIONSHIPS AND DESIGNATED AGENCY:**

152 ■ A multiple representation relationship exists if a broker has an agency agreement with more than one client who is a party in the
153 same transaction. In a multiple representation relationship, if all of the broker's clients in the transaction consent, the broker may
154 provide services to the clients through designated agency.

155 ■ Designated agency means that different salespersons employed by the broker will negotiate on behalf of you and the other client or
156 clients in the transaction, and the broker's duties will remain the same. Each salesperson will provide information, opinions, and advice
157 to the client for whom the salesperson is negotiating, to assist the client in the negotiations. Each client will be able to receive
158 information, opinions, and advice that will assist the client, even if the information, opinions, or advice gives the client advantages in the
159 negotiations over the broker's other clients. A salesperson will not reveal any of your confidential information to another party unless
160 required to do so by law.

161 ■ If a designated agency relationship is not in effect you may authorize or reject a multiple representation relationship. If you authorize
162 a multiple representation relationship the broker may provide brokerage services to more than one client in a transaction but neither the
163 broker nor any of the broker's salespersons may assist any client with information, opinions, and advice which may favor the interests
164 of one client over any other client. If you do not consent to a multiple representation relationship the broker will not be allowed to provide
165 brokerage services to more than one client in the transaction.

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172 INITIAL ONLY ONE OF THE THREE LINES BELOW:

173 _____ consent to ~~multiple representation relationships with~~ designated agency.

174 _____ consent to multiple representation relationships, but I do not consent to designated agency.

175 _____ reject multiple representation relationships.

176 NOTE: YOU MAY WITHDRAW YOUR CONSENT TO DESIGNATED AGENCY OR TO MULTIPLE REPRESENTATION
177 RELATIONSHIPS BY WRITTEN NOTICE TO THE BROKER AT ANY TIME. YOUR BROKER IS REQUIRED TO DISCLOSE TO
178 YOU IN YOUR AGENCY AGREEMENT THE COMMISSION OR FEES THAT YOU MAY OWE TO YOUR BROKER. IF YOU HAVE
179 ANY QUESTIONS ABOUT THE COMMISSION OR FEES THAT YOU MAY OWE BASED UPON THE TYPE OF AGENCY
180 RELATIONSHIP YOU SELECT WITH YOUR BROKER YOU SHOULD ASK YOUR BROKER BEFORE SIGNING THE AGENCY
181 AGREEMENT.

182 ■ SUBAGENCY: The broker may, with your authorization in the agency agreement, engage other brokers who assist your broker by
183 providing brokerage services for your benefit. A subagent will not put the subagent's own interests ahead of your interests.

184 A subagent will not, unless required by law, provide advice or opinions to other parties if doing so is contrary to your interests.

185 PLEASE REVIEW THIS INFORMATION CAREFULLY. A broker or salesperson can answer your questions about brokerage
186 services, but if you need legal advice, tax advice, or a professional home inspection, contact an attorney, tax advisor, or
187 home inspector. This disclosure is required by section 452.135 of the Wisconsin statutes and is for information only. It is a
188 plain-language summary of a broker's duties to you under section 452.133(2) of the Wisconsin statutes.

189 ■ CONFIDENTIALITY NOTICE TO CLIENTS: Broker will keep confidential any information given to broker in confidence, or any
190 information obtained by broker that he or she knows a reasonable person would want to be kept confidential, unless the information
191 must be disclosed by law or you authorize the broker to disclose particular information. A broker shall continue to keep the information
192 confidential after the broker is no longer providing brokerage services to you. The following information is required to be disclosed by
193 law:

194 1) Material adverse facts, as defined in section 452.01(5g) of the Wisconsin statutes (see lines xx-xx).

195 2) Any facts known by the broker that contradict any information included in a written inspection report on the property or real estate
196 that is the subject of the transaction.

197 To ensure that the broker is aware of what specific information you consider confidential, you may list that information below (see lines
198 xx-xx). At a later time, you may also provide the broker with other information you consider to be confidential.

199 CONFIDENTIAL INFORMATION: _____

200 _____
201 NON-CONFIDENTIAL INFORMATION (The following may be disclosed by Broker): _____

202 _____

203 _____
204 [COMMISSION] Broker's commission shall be _____ % or _____
205 _____ whichever is greater.

206 Seller shall pay Broker's commission, which shall be earned if, during the term of this Listing:

207 1) Seller sells or accepts an offer which creates an enforceable contract for the sale of all or any part of the Assets;

208 2) Seller grants an option to purchase all or any part of the Assets which is subsequently exercised;

209 3) Seller exchanges or enters into a binding exchange agreement on all or any part of the Assets;

210 4) A transaction occurs which causes an effective change of ownership, management or control of all or any part of the Assets from
211 Seller to a third party, other than in the ordinary course of business;

212 5) A transfer or sale of any stock, shares, membership or partnership interest of the Business Entity occurs which results in an effective
213 change of ownership, management or control of the Business;

214 6) A buyer is Procured for the Assets by Broker, by Seller, or by any other person, at no less than the price and on substantially the
215 terms set forth in this Listing and the standard provisions of the current WB-16 OFFER TO PURCHASE - BUSINESS WITH REAL
216 ESTATE (if real property is included in the list price) or WB-17 OFFER TO PURCHASE - BUSINESS WITHOUT REAL ESTATE,
217 which is/are incorporated by reference into this Listing, even if Seller does not accept this buyer's offer.

218 7) Seller enters into a management contract involving all or any part of the Assets during the term of this Listing.

219 A percentage commission, if applicable, shall be calculated based on the purchase price if commission is earned under 1), 2), 4) or 5)
220 above, or calculated based on the list price under 3) (if an exchange of all Assets), 6) or 7). A percentage commission shall be
221 calculated on the fair market value of the Assets exchanged under 3) if the exchange does not involve all Assets. "Purchase price" shall
222 include all consideration received by Seller including, but not limited to, buyer assumptions of debt, any Seller provided financing, and
223 shall additionally include all consideration received by other selling or transferring parties, as the case may be. Once earned, Broker's
224 commission is due and payable in full at the earlier of closing or the date set for closing, unless otherwise agreed in writing. Broker's
225 commission shall be earned if, during the term of the Listing, one owner of the Assets sells, conveys, exchanges or options an interest
226 in all or any part of the Assets to another owner, except by divorce judgment.

227 NOTE: A sale, option, exchange or Procurement of a buyer for a portion of the Assets does not terminate the Listing as to
228 any remaining Assets.

229 ■ COMPENSATION TO OTHERS: Broker offers the following commission to cooperating brokers: _____

230 _____. (Exceptions if any): _____.

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231 NOTICE: Broker has the authority under section 779.32 of the Wisconsin Statutes to file a broker lien for commissions or
232 compensation earned but not paid when due against the commercial real estate, or the interest in the commercial real estate,
233 if any, that is the subject of this Listing. "Commercial real estate" includes all real estate except (a) real property containing
234 8 or fewer dwelling units, (b) real property that is zoned for residential purposes and that does not contain any buildings or
235 structures, and (c) real property that is zoned for agricultural purposes.

236 ■ DEFINITIONS:

237 **ADVERSE FACT:** ~~A~~"Adverse fact" means any of the following:

238 (a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:

- 239 1) Significantly and adversely affecting the value of the property;
- 240 2) Significantly reducing the structural integrity of improvements to real estate; or
- 241 3) Presenting a significant health risk to occupants of the property.

242 (b) Information that indicates that a party to a transaction is not able to or does not intend to meet his or her obligations under a
243 contract or agreement made concerning the transaction.

244 **BUSINESS PERSONAL PROPERTY:** "Business ~~p~~Personal ~~p~~Property" is defined as all tangible and intangible personal property and
245 rights in personal property owned by Seller and used in the Business, including, but not limited to, furniture, trade fixtures and
246 equipment, tools used in business, telephone numbers and listings if transferable, customer lists, trade names, intellectual property,
247 Internet domain names, digital media, digital marketing, databases, business records, supplies, leases, advance lease deposits,
248 customer deposits, signs, all other personal property used in the Business, and if transferable, all permits, special licenses and
249 franchises, except those assets disposed of in the ordinary course of business or as permitted by the offer.

250 **CAUTION: Identify on lines 30-33 Business Personal Property not included in the list price or not exclusively owned by
251 Seller, such as licensed or rented personal property, tenants' personal property and tenants' trade fixtures.**

252 **DEADLINES – DAYS:** Deadlines expressed as a number of "days" from an event are calculated by excluding the day the event
253 occurred and by counting subsequent calendar days.

254 **FIXTURES:** ~~A~~ "Fixture" is an item of property which is physically attached to or so closely associated with land or buildings so as to be
255 treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the
256 premises, items specifically adapted to the premises, and items customarily treated as fixtures, including, but not limited to, all: garden
257 bulbs; plants; shrubs and trees; screen and storm doors and windows; electric lighting fixtures; window shades; curtain and traverse
258 rods; blinds and shutters; central heating and cooling units and attached equipment; water heaters and treatment systems; sump
259 pumps; attached or fitted floor coverings; awnings; attached antennas, garage door openers and remote controls; installed security
260 systems; central vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans;
261 fences; storage buildings on permanent foundations and docks/piers on permanent foundations. A Fixture does not include trade
262 fixtures owned by tenants of the Real Estate.

263 **CAUTION: Identify on lines 30-33 Fixtures not included in the list price or not exclusively owned by Seller, such as rented
264 Fixtures.**

265 **MATERIAL ADVERSE FACT:** ~~A~~ "Material ~~a~~Adverse ~~f~~Fact" means an Adverse Fact that a party indicates is of such significance, or that
266 is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the
267 party's decision to enter into a contract or agreement concerning a transaction or affects or would affect the party's decision about the
268 terms of such a contract or agreement.

269 **PERSON ACTING ON BEHALF OF BUYER:** ~~In this Agreement~~ "Person ~~a~~Acting on ~~B~~ehalf of ~~B~~uyer" shall mean any person joined
270 in interest with buyer, or otherwise acting on behalf of buyer, including but not limited to buyer's immediate family, agents, servants,
271 employees, directors, managers, members, officers, owners, partners, incorporators and organizers, as well as any and all
272 corporations, partnerships, limited liability companies, trusts or other entities created or controlled by, affiliated with or owned by buyer,
273 in whole or in part whether created before or after expiration of this Listing.

274 **PROCURE:** A buyer is procured when during the term of the Listing, an enforceable contract of sale is entered into between the Seller
275 and the buyer or when a ready, willing and able buyer submits to the Seller or the ~~Listing~~ Broker a written offer at the price and on
276 substantially the terms specified in this Listing. A buyer is ready, willing and able when the buyer submitting the written offer has the
277 ability to complete the buyer's obligations under the written offer. See lines ~~xx-xx~~.

278 **PROTECTED BUYER:** "Protected buyer" ~~M~~means a buyer who personally, or through any Person Acting on Behalf of Buyer, during
279 the term of this Listing: 1) delivers to Seller or Broker a written offer to purchase, exchange or option on the Assets; 2) negotiates
280 directly with Seller by discussing with Seller the potential terms upon which buyer might acquire an interest in the Assets; or 3) attends
281 an individual showing of the Assets or discusses with Broker or cooperating brokers the potential terms upon which buyer might acquire
282 an interest in the Assets, but only if Broker delivers the buyer's name to Seller, in writing, no later than three days after the expiration of
283 the Listing. The requirement in 3), to deliver the buyer's name to Seller in writing, may be fulfilled as follows: a) If the Listing is effective
284 only as to certain individuals who are identified in the Listing, by the identification of the individuals in the Listing; or b) if a buyer has
285 requested that the buyer's identity remain confidential, by delivery of a written notice identifying the broker with whom the buyer
286 negotiated and the date(s) of any showings or other negotiations. A Protected Buyer also includes any Person Acting on Behalf of
287 Buyer joined in interest with or otherwise acting on behalf of a Protected Buyer, who acquires an interest in the Assets during the
288 extension of listing period as noted on lines ~~xx to xx~~.

289

290

291 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Listing, delivery of documents and written
292 notices to a Party shall be effective only when accomplished by one of the methods specified at lines **xx-xx**.

293 (1) **Personal Delivery**: giving the document or written notice personally to the Party, or the Party's recipient for delivery if named at line **xx or xx**.

294 Seller's recipient for delivery (optional): _____

295 Broker's recipient for delivery (optional): _____

296 (2) **Fax**: fax transmission of the document or written notice to the following telephone number:

297 Seller: (_____) _____ Broker: (_____) _____

298 (3) **Commercial Delivery**: depositing the document or written notice fees prepaid or charged to an account with a commercial
299 delivery service, addressed either to the Party, or to the Party's recipient for delivery if named at line **xx or xx**, for delivery to the Party's
300 delivery address at line **xx or xx**.

301 (4) **U.S. Mail**: depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party, or to the
302 Party's recipient for delivery if named at line **xx or xx**, for delivery to the Party's delivery address at line **xx or xx**.

303 Delivery address for Seller: _____

304 Delivery address for Broker: _____

305 (5) **E-Mail**: electronically transmitting the document or written notice to the Party's e-mail address, if given below at line **xx or xx**.

306 If this is a consumer transaction where the property being leased or purchased or the proceeds are used primarily for personal, family
307 or household purposes, each consumer providing an e-mail address below has first consented electronically to the use of electronic
308 documents, e-mail delivery and electronic signatures in the transaction, as required by federal law.

309 E-Mail address for Seller: _____

310 E-Mail address for Broker: _____

311 **ADDITIONAL PROVISIONS** _____

312 _____

313 _____

314 _____

315 **ADDENDA** The attached _____ is/are made part of this Listing.

316 **TERM OF THE CONTRACT**: From the _____ day of _____,
317 up to and including midnight of the _____ day of _____.

318 **READING/RECEIPT: IF SIGNED, THIS LISTING CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BY SIGNING
319 BELOW, SELLER ACKNOWLEDGES RECEIPT OF A COPY OF THIS LISTING CONTRACT AND THAT HE/SHE HAS READ ALL
320 XXX PAGES AS WELL AS ANY ADDENDA AND ANY OTHER DOCUMENTS INCORPORATED INTO THE LISTING.**

321 All persons signing below on behalf of a Seller Entity represent that they have proper legal authority to sign for and bind the Entity.

322 Seller Entity Name (if any): _____

323 (x) _____
324 Authorized Signature ▲ Print Name & Title Here ► Date ▲

325 (x) _____
326 Individual Seller's Signature ▲ Print Name Here ► Date ▲

327 _____
328 x) _____
329 Authorized Signature ▲ Print Name & Title Here ► Date ▲

330 (x) _____
331 Individual Seller's Signature ▲ Print Name Here ► Date ▲

332 Seller Entity Name (if any): _____

333 (x) _____
334 Authorized Signature ▲ Print Name & Title Here ► Date ▲

335 (x) _____
336 Individual Seller's Signature ▲ Print Name Here ► Date ▲

337 _____
338 (x) _____
339 Authorized Signature ▲ Print Name & Title Here ► Date ▲

340 (x) _____
341 Individual Seller's Signature ▲ Print Name Here ► Date ▲

342 (x) _____
343 Agent for Broker ▲ Print Name Here: ► Broker/Firm Name ▲ Date ▲

REVISIONS TO WB-16 OFFER TO PURCHASE – BUSINESS WITH REAL ESTATE

To: Real Estate Contractual Forms Advisory Committee

From: WRA Forms Committee

Date: August 20, 2013

RE: **WB-16 Offer to Purchase - Business with Real Estate**

The starting point for this discussion is the 2001 WB-16 Offer to Purchase - Business with Real Estate. This may be viewed on the DSPS web site at <http://dsps.wi.gov/Documents/Credentialing%20Forms/Business%20Application%20Forms/WB-16.pdf>. This memo relating to the WB-16 and the accompanying drafts look at the modifications proposed by the WRA Committee. This Committee began working through the proposed provisions and making desired changes along the way. The document marked WB-16WordWB-15ChangesPlainJuly22 shows the changes this Committee made (WB-16 Offer to Purchase – Business with Real Estate **Interest**) at its last meeting (hereinafter referred to as the July 22 draft). This is the document discussed in this memo. Additional suggestions not in that document are proposed in this memo but not shown if the draft WB-16.

WB-16 Draft

The following discussion addresses the July 22 draft:

◆ Lines 5-13, **Business Description**: the draft inserts the Business identification lines from the WB-6 **with a few modifications highlighted in yellow**:

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Business Name: _____ **(include both legal name and trade name)**

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Type of Business Entity (e.g., corporation, LLC, partnership, sole proprietorship, etc.): _____

Business Description: _____

_____ **(Lines 3-8 hereinafter referred to as the "Business")**

Insert additional description, if any, at lines xxx-xxx or attach as an addendum per line xxx, ~~on the following terms. The terms of Buyer's offer are as follows.~~

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⇒ **The insertion of "on the following terms" does not necessarily flow. Would it be better to place a period after the xxx and start a new sentence, such as, "The terms of Buyer's offer are as follows:" This suggestion is shown above.**

◆ **Included in Purchase Price**: The DSPS reorganized this section so that the Interest in Real Estate is addressed first. **Note that a colon missing on line 22 of the July 22 draft** (see below). Also the WRA group reconsidered and decided it was better to remove "cash" from the list of included assets.

■ **INCLUDED IN PURCHASE PRICE**: Seller shall include in the purchase price the following:

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DESCRIPTION OF INTEREST IN REAL ESTATE:

Street address is: _____

in the _____ of _____, County of

_____, Wisconsin (the "Real Estate").

The Real Estate is owned by: _____
The Real Estate is leased to: _____ (see lines xxx-xxx).

The interest in the Real Estate included in the purchase price is: ownership leasehold assignment of existing lease other: _____. Insert any additional description, including further description of the type of interest in the Real Estate that is included in purchase price, at lines xxx-xxx or attach as an addendum per line xxx.

DESCRIPTION OF OTHER ASSETS:

Seller shall also include in the purchase price (unless excluded at lines xx-xx) the Assets of the Business including all goodwill, stock-in-trade (inventory), trade fixtures, accounts receivable, cash, all Business Personal Property, Fixtures, and the following additional property _____

~~STRIKE AND COMPLETE~~

~~AS APPLICABLE~~ (hereinafter, including the interest in Real Estate described above, collectively the "Assets").

Seller shall convey Business Personal Property and any other personal property by Bill of Sale or _____

free and clear of all liens and encumbrances except _____

If stock-in-trade or accounts receivable are purchased, the purchase price shall be based on the following terms and costs:

(a) Stock-in-Trade (inventory) _____

(b) Accounts Receivable _____

⇒ Would it be helpful to include a parenthetical "(inventory)" after "stock in trade" or even substitute that terminology so that it would plainer and more readily understood (this suggestion is shown above)?

⇒ **TERMINOLOGY QUESTION:** Another question that has been raised is whether the terminology in the WB-6 and the WB-16 and WB-17 offers should be modified to continue with Real Estate as a defined term but to have Assets refer to the Assets of the Business other than Real Estate. This could be done fairly readily if this is a concern/preferred.

◆ **Delivery of Documents and Written Notices:** the delivery section that was placed in the WB-6 business listing is also placed in the offer, with modifications. Check boxes need to be added as shown below:

DELIVERY OF DOCUMENTS AND WRITTEN NOTICES Unless otherwise stated in this Offer, delivery of documents and written notices to a Party shall be effective only when accomplished by one of the methods specified at lines xx-xx.

(1) **Personal Delivery:** giving the document or written notice personally to the Party, or the Party's recipient for delivery if named at line xx or xx.

Seller's recipient for delivery (optional): _____

Buyer's recipient for delivery (optional): _____

(2) **Fax:** fax transmission of the document or written notice to the following telephone number:

Seller: (_____) _____ Buyer: (_____) _____

(3) **Commercial Delivery:** depositing the document or written notice fees prepaid or charged to an account with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery if named at line xx or xx, for delivery to the Party's delivery address at line xx or xx.

(4) **U.S. Mail:** depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party, or to the Party's recipient for delivery if named at line xx or xx, for delivery to the Party's delivery address at line xx or xx.

Delivery address for Seller: _____

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Delivery address for Buyer: _____
 (5) E-Mail: electronically transmitting the document or written notice to the Party's e-mail address, if given below at line xx or xx. If this is a consumer transaction where the property being purchased or the sale proceeds are used primarily for personal, family or household purposes, each consumer providing an e-mail address below has first consented electronically to the use of electronic documents, e-mail delivery and electronic signatures in the transaction, as required by federal law.
E-Mail address for Seller: _____
E-Mail address for Buyer: _____

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◆ Pre-Closing Inspection: The DSPS Committee changed the PRE-CLOSING INSPECTION subsection, so that the buyer will view the assets, presumably because one cannot walk through most non-real estate assets.

BUYER'S PRE-CLOSING WALK THROUGH ■ **BUYER'S PRE-CLOSING VIEW OF ASSETS**: Within 3 days prior to closing, ~~as agreed by the Parties~~, at a reasonable time pre-approved by Seller or Seller's agent, Buyer shall have the right to ~~walk through~~ walk through the Assets to determine that there has been no significant change in the condition of the Assets, except for ordinary wear and tear and changes approved by Buyer, and that any Defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

⇒ **Questions were raised by the WRA Committee regarding this provision. First, should there be a differentiation between walking through the Real Estate and viewing Assets other than Real Estate including documents such as leases, counting employees at work, etc. (see this suggestion shown below)?**

■ **BUYER'S PRE-CLOSING VIEW OF ASSETS**: Within 3 days prior to closing, ~~as agreed by the Parties~~, at a reasonable time pre-approved by Seller or Seller's agent, Buyer shall have the right to ~~walk through the Real Estate and walk through~~ walk through the Assets ~~other than Real Estate~~ to determine that there has been no significant change in the condition of the Assets, except for ordinary wear and tear and changes approved by Buyer, and that any Defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

⇒ **The second issue raised by the WRA Committee was whether there should be language indicating that the buyer may be accompanied by advisors who have the expertise to see if any repairs were made as agreed and that there has not been any significant deterioration, damage or other adverse change regarding the Real Estate and/or other Assets. Can this be done without too great a risk of the buyer "back-dooring" a second inspection? This issue will likely come up with the other offers, too, the next time we see them!**

◆ Environmental Evaluation/Inspection Contingency: the provision in the existing WB-16 is a combination environmental evaluation – inspection check-box contingency where one or both may be selected. It is being replaced in the draft with a separate Environmental Evaluation Contingency and a separate Inspection Contingency like those found in the WB-15.

The following is inserted in the draft in place of the existing combination Environmental Evaluation/Inspection Contingency. Is the terminology used below (use of Assets in place of Property, etc.) appropriate?

ENVIRONMENTAL EVALUATION CONTINGENCY: This Offer is contingent upon a qualified independent environmental consultant of Buyer's choice conducting an Environmental Site Assessment of the ~~Property Assets~~ (see lines ~~288xxx-302xxx~~), at (Buyer's) (Seller's) expense ~~STRIKE ONE~~ ("Buyer's" if neither is stricken), which discloses no Defects. For the purpose of this contingency, a Defect (see lines ~~223xxx-225xxx~~) is defined to also include a material violation of environmental laws, a material contingent liability affecting the ~~Property Assets~~ arising under any environmental laws, the presence of an underground storage tank(s) or material levels of hazardous substances either on the ~~Property Assets~~ or presenting a significant risk of contaminating the ~~Property Assets~~ due to future migration from other properties. Defects do not include

conditions the nature and extent of which Buyer had actual knowledge or written notice before signing the Offer.

■ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers to Seller a copy of the Environmental Site Assessment report and a written notice listing the Defect(s) identified in the Environmental Site Assessment report to which Buyer objects (Notice of Defects).

CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.

■ **RIGHT TO CURE:** Seller (shall) (shall not) ~~STRIKE ONE~~ (“shall” if neither is stricken) have a right to cure the Defects. If Seller has the right to cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within 10 days of Buyer’s delivery of the Notice of Defects stating Seller’s election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3) delivering to Buyer a written report detailing the work done within 3 days prior to closing. This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written Environmental Site Assessment report and: (1) Seller does not have a right to cure or (2) Seller has a right to cure but: (a) Seller delivers written notice that Seller will not cure or (b) Seller does not timely deliver the written notice of election to cure.

The Inspection Contingency was placed near the end of the WB-16 draft in keeping with the sequence of provisions in the other updated offer forms and is discussed later in this memo.

◆ **Leased Property:** After extensive discussion, this section was modified by the DSPS Committee as shown in the draft and below:

LEASED PROPERTY ~~If any Real Estate is currently leased~~ For any Assets included in the purchase price which are currently leased to third parties and if such lease(s) extend beyond closing, Seller shall assign Seller’s rights under the lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) ~~STRIKE ONE~~ lease(s), if any, are _____

■ If the real property occupied by the Business is owned by Seller, but not sold by this Offer, Seller: ~~CHECK ONE~~
 agrees to lease the Real Estate to Buyer on the following terms: _____
 agrees to lease the Real Estate to Buyer according to the terms of the lease made a part of this agreement per line xxx.

agrees the lease for the following described property shall terminate at closing:

■ If the real property occupied by the Business is owned by a third party and is currently leased to Seller, then ~~CHECK ONE~~
 Seller agrees to assign its interest in the lease for the Real Estate to Buyer, if assignable. (See lines xxx-xxx.)
 Buyer will not accept an assignment of Seller’s interest in the lease.

⇒ **Would the following additional modifications be helpful? This language breaks out different scenarios for both Real Estate and other Assets (this is new and does not appear in the July 22 draft). Other suggestions?**

LEASED REAL ESTATE

■ **Real Estate Leased to Third Parties.** ~~CHECK AS APPLICABLE~~
 For any Real Estate included in the purchase price which is owned by Seller and leased to third parties and such lease(s) extend beyond closing, Seller shall assign Seller’s interests and rights under the lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) ~~STRIKE ONE~~

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lease(s), if any, are _____

Seller agrees the lease(s) for the following Real Estate currently owned by Seller and leased to third parties shall terminate at closing: _____

■ **Real Estate Owned by Seller.** If the Real Estate occupied by the Business is owned by Seller, but not sold by this Offer: CHECK ONE AS APPLICABLE

Seller agrees to lease the Real Estate to Buyer at closing on the following terms: _____

Seller agrees to lease the Real Estate to Buyer at closing according to the terms of the lease attached to this Offer as an addendum per line xxx.

This Offer is contingent upon Seller and Buyer, within _____ days from acceptance of this Offer, negotiating the terms of a written lease for the Real Estate to be executed at closing, with a minimum term from _____ to _____ and minimum initial rent of \$ _____ per month STRIKE AND COMPLETE AS APPLICABLE or this Offer shall be null and void.

■ **Real Estate Leased to Seller.** If the Real Estate occupied by the Business is owned by a third party and leased to Seller, then CHECK ONE AS APPLICABLE

Seller agrees to assign its interest in the lease for the Real Estate to Buyer, if assignable. (See lines xxx-xxx.)

This Offer is contingent upon the third party and Buyer, within _____ days from acceptance of this Offer, negotiating the terms of a written lease for the Real Estate to be executed at closing, with a minimum term from _____ to _____ and an initial maximum rent of \$ _____ per month STRIKE AND COMPLETE AS APPLICABLE or this Offer shall be null and void.

LEASED ASSETS (OTHER THAN REAL ESTATE)

■ **Assets Leased to Third Parties.** CHECK AS APPLICABLE

For non-real property Assets included in the purchase price which are owned by Seller and leased to third parties and such lease(s) extend beyond closing, Seller shall assign Seller's interests and rights under the lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) STRIKE ONE lease(s), if any, are _____

Seller agrees the lease(s) for the following Assets currently owned by Seller and leased to third parties shall terminate at closing: _____

■ **Assets Owned by Seller.** If Assets are used by the Business and owned by Seller, but not sold by this Offer, Seller: CHECK AS APPLICABLE

Seller agrees to lease the following listed Assets to Buyer at closing on the following terms: _____

Seller agrees to lease the following listed Assets to Buyer at closing according to the terms of the lease(s) attached to this Offer as an addendum per line xxx. Assets: _____

This Offer is contingent upon Seller and Buyer, within _____ days from acceptance of this Offer, negotiating the terms of a written lease(s) for the following listed Assets to be executed at closing, with a minimum term(s) from _____ to _____ and minimum initial rent(s) of \$ _____ per month STRIKE AND COMPLETE AS APPLICABLE or this Offer shall be null and void. Assets: _____

■ **Assets Leased to Seller.** If Assets used by the Business are owned by a third party and leased to Seller, then CHECK AS APPLICABLE

Seller agrees to assign its interest in the lease(s) for the following listed Assets to Buyer, if assignable. (See lines xxx-xxx.) Assets: _____

This Offer is contingent upon the third party and Buyer, within _____ days from acceptance of this Offer, negotiating the terms of a written lease(s) for the following listed Assets to be executed at closing, with a minimum term(s) from _____ to _____ and an initial maximum rent(s) of \$ _____ per month STRIKE AND COMPLETE AS APPLICABLE or this Offer shall be null and void. Assets: _____

◆ **Adding Proposed Use Contingencies:** Below is the provision from the WB-15 commercial offer, with some preliminary potential modifications. This has been inserted into the draft immediately following the Leased Property section.

PROPOSED USE CONTINGENCIES: Buyer is purchasing the Property-Assets for the purpose of: _____

_____ [insert proposed use and type and size of buildingthe Assets or Business, if applicable; e.g., restaurant and tavern business with capacity of 350 and 3 second floor dwelling units]. The optional provisions checked on lines 123xxx-139-xxx shall be deemed satisfied unless Buyer delivers to Seller by the deadline(s) set forth on lines 123xxx-139-xxx written notice specifying those items which cannot be satisfied and written evidence substantiating why each specific item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingencies checked at lines 123xxx-139xxx.

EASEMENTS AND RESTRICTIONS: This Offer is contingent upon Buyer obtaining, within _____ days of acceptance, at (Buyer's) (Seller's) ~~STRIKE ONE~~ ("Buyer's" if neither is stricken) expense, copies of all public and private easements, covenants and restrictions affecting the Property-Assets and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines 116-xxx to 118xxx.

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APPROVALS: This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) ~~STRIKE ONE~~ ("Buyer's" if neither is stricken) expense, all applicable governmental permits, approvals and licenses, as necessary and appropriate, or the final discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses, for the following items related to Buyer's proposed use: _____ or delivering written notice to Seller if the item(s) cannot be obtained or can only be obtained subject to conditions which significantly increase the cost of Buyer's proposed use, all within _____ days of acceptance of this Offer.

ACCESS TO PROPERTY: This Offer is contingent upon Buyer obtaining, within _____ days of acceptance, at (Buyer's) (Seller's) ~~STRIKE ONE~~ ("Buyer's" if neither is stricken) expense, written verification that there is legal vehicular access to the Property-Assets from public roads.

LAND USE APPROVAL: This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) ~~STRIKE ONE~~ ("Buyer's" if neither is stricken) expense, a rezoning; conditional use permit; license; variance; building permit; occupancy permit; other _____

CHECK ALL THAT APPLY, for the Property-Assets for its proposed use described at lines 116xxx-118-xxx or delivering written notice to Seller if the item(s) cannot be obtained or can only be obtained subject to conditions which significantly increase the cost of Buyer's proposed use, all within _____ days of acceptance.

◆ **Document Review/Receipt Contingency:** The contingency below is from the existing WB-16. It has been modified to break it into two subsections, one for documents obtained by the buyer and one for documents delivered by the seller. It is structured so that a different number of days can be inserted when setting the deadlines for the buyer obtaining or the seller delivering the specified documentation. Each subsection has its own satisfaction/termination language. This proposal appears in the July 22 draft except for the portions highlighted in yellow which were a later addition as a suggestion to enhance the affected items and provide more explanation/examples.

DOCUMENT REVIEW/RECEIPT CONTINGENCY

■ **BUYER OBTAINING DOCUMENTS.** This Offer is contingent upon Buyer, at Buyer's expense, being able to obtain the following within the number of days of acceptance specified in each item checked below (consider addressing licenses, permits, etc.):

- _____ (___ days).
- _____ (___ days).
- _____ (___ days).

This contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of: 1) receipt of the final document to be obtained by Buyer or 2) the latter of the deadlines for Buyer obtaining the documents, delivers to Seller a written notice indicating that this contingency has not been satisfied. The notice shall identify which document(s) (a) cannot be timely obtained and why they cannot be obtained, or (b) do not meet the standard set forth for the document(s).

■ **BUYER TERMINATION RIGHTS:** If Buyer cannot obtain any document by the stated deadline; Buyer may terminate this Offer if Buyer delivers a written notice of termination to Seller.

■ **SELLER DELIVERING DOCUMENTS.** This Offer is contingent upon Seller delivering the following documents to Buyer within the number of days of acceptance specified in each item checked below:

- Documents showing the sale of the ~~Business and included real estate~~ Assets has been properly authorized, if Seller is a business entity (___ days).
- A complete inventory of all included Business Personal Property which shall be consistent with all prior representations (___ days).
- Uniform Commercial Code lien search as to the Business Personal Property included in the purchase price, showing the Business Personal Property to be free and clear of all liens, other than liens to be released prior to or from the proceeds of closing (___ days).
- Copies of all leases, contracts and agreements affecting the Business or -Business or business personal property Assets (e.g., vendor agreements, telephone, internet, credit card machine, ATM, etc.), which shall be consistent with all prior representations (___ days).
- Estimated principal balance of accounts receivable and payable which shall be consistent with all prior representations (___ days).
- Copy of profit and loss statements, balance sheets, business books and records, and income tax returns for the following years _____ which shall be consistent with all prior representations (___ days).
- Copies of all current licenses/licenses, permits and certificates held by Business which indicate that Business holds all licenses, permits and certificates required for current operations (___ days).
- Copies of franchise agreements, if any, which shall be consistent with all prior representations (___ days).
- Any agreements restricting Seller from competing with Buyer after closing which shall be consistent with all prior representations (___ days).
- Other _____
- Other _____
- Other _____

This ~~document review/receipt~~ contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of: 1) Buyer's receipt of the final document to be ~~obtained~~ delivered by Seller; or 2) the latter of the deadlines for ~~obtaining or Seller's~~ delivery of the documents, delivers to Seller a written notice indicating that this contingency has not been satisfied. The notice shall identify which document(s): (a) have not been timely obtained delivered; or (b) do not meet the standard set forth for the document(s).

■ **BUYER TERMINATION RIGHTS:** If Seller does not make timely delivery of any document by the stated deadline; Buyer may terminate this Offer if Buyer delivers a written notice of termination to Seller prior to Buyer's Actual Receipt of the document(s) identified in Buyer's written notice as not having been timely received.

Buyer shall keep all information reviewed confidential until closing. If this Offer does not close Buyer shall promptly return all documents received from Seller.

ALTERNATE LANGUAGE FOR LAST PARAGRAPH (from the WB-15): All documents Seller delivers to Buyer shall be true, accurate, current and complete. Buyer shall keep all such documents confidential and disclose them to third parties only to the extent necessary to implement other provisions of this Offer. Buyer shall return all documents (originals and any reproductions) to Seller if this Offer is terminated.

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Food for thought and for ideas: below are some of the provisions from the Document Review contingency from the WB-15. Is there anything here that might be helpful to add as items or prompts?

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DOCUMENT REVIEW CONTINGENCY: This Offer is contingent upon Seller delivering the following documents to Buyer within _____ days of acceptance: CHECK THOSE THAT APPLY: STRIKE AS APPROPRIATE

Rent roll.

Additional items which may be added include, but are not limited to: building, construction or component warranties, previous environmental site assessments, surveys, title commitments and policies, maintenance agreements, other contracts relating to the Property, existing permits and licenses, recent financial operating statements, current and future rental agreements, notices of termination and non-renewal, and assessment notices.

◆ Sales Tax: The provision below is based on the existing WB-16 with a few suggestions for changes shown in tracking (and it is different than the provision in the July 22 draft). The information following it is from the Department of Revenue website.

⇒ **Is the process outlined in the provision in the July 22 draft still current? Is it necessary to “inactivate” and/or “cancel” the Seller’s sales permit? The following only addresses the Seller’s obligation to pay any sales tax due and to create an escrow at closing to ensure any sales tax due has been paid.**

Sales tax, if any, **on the sale of the Assets** shall be paid by Seller. **In compliance with § 77.52(18), Wis. Stats.,** Seller agrees to escrow the sum of \$ _____ out of the purchase price to be held by _____ (escrow agent) and **to be released to Seller when Seller provides the escrow agent with a receipt from the Department of Revenue that any sales tax due and owing has been paid, or a certificate stating that no amount is due, per Wis. Stat. § 77.52(18).**

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<http://www.revenue.wi.gov/faqs/pcs/sales.html>:

1. Should I notify the Wisconsin Department of Revenue if I close my business?

Yes. When you (1) close your business, (2) no longer have a sales tax liability, or (3) need a new Wisconsin sales tax number as the result of a change in business entity, you must notify the department using one of the following methods:

- o Complete the *Request to Close Account in My Tax Account*
- o Email DORSalesandUse@revenue.wi.gov
- o Call (608) 266-2776

Be sure to provide the last date of sales, your account number, location(s) of your business, and federal employer identification number. Your account will be closed based on the information provided.

Note: You must file a final sales tax return **within 30 days** of the account cease date.

2. When is selling a Business or Business Assets subject to sales tax?

The sale of business assets consisting of tangible personal property is subject to sales tax if you hold or are required to hold a seller's permit at the time of sale, except that the sale is exempt if both of the following conditions are met:

- o The sale is of personal property (other than inventory held for sale) previously used by the seller to conduct its trade or business at a location, and
- o The sale occurs after the seller ceased operating the business at that location.

A sale meeting the above two conditions is exempt from sales and use taxes even though the seller holds a seller's permit for one or more *other* locations.

The sale of business or business assets which are subject to tax include:

- o Selling surplus assets of a continuing business.
- o Sales of motor vehicles, boats, snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semi-trailers, all-terrain vehicles, or aircraft.

For additional information see [sec. Tax 11.34, Wis. Adm. Code](#)

FOR MORE INFORMATION PLEASE CONTACT:

WISCONSIN DEPARTMENT OF REVENUE, Customer Service Bureau, PO Box 8949, Madison, WI 53708-8949; Phone: (608) 261-6261; Fax: (608) 267-1030; [Email Additional Questions](#)

Inactivate your Account

Please submit the following information:

- The current name on your account
- Your tax account number
- The date you want the inactivation to take effect (this should be the last day you are making sales)
- Return your permit to us

You may submit a request to inactivate an account in *My Tax Account*.

⇒ We also received the information from a State and Local Tax Expert from Grant Thornton who said that this falls under Occasional Sales. He said: The sale of business assets “would qualify as exempt under the WI occasional sale rule as long as 100% of the assets formerly used to do business at that location were sold at the same time. It doesn’t make a difference whether the seller holds a WI seller’s permit or not. Any registered vehicles would not qualify for this exemption.”

⇒ **For the time being the provision above does not refer to the seller inactivating or cancelling the seller’s permit – this does not seem to have the importance it once did. In other words, that is left to seller’s legal counsel to see that this is handled properly and is not mentioned in the sales contract.**

◆ **Real Property Title – Conveyance of Title:** The provision below is from the existing WB-16 with some modifications to make it match the WB-15 language.

REAL PROPERTY TITLE EVIDENCE

■ **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey ~~the any interest in Real property-Estate to be conveyed by Seller~~ by warranty deed ~~(trustee’s deed if Seller is a trust, personal representative’s deed if Seller is an estate~~ or other conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, general taxes levied in the year of closing and _____ (provided none of the foregoing prohibit present use of the real property), which constitutes merchantable title for purposes of this transaction. Seller further agrees to complete and execute the documents necessary to record the conveyance. **WARNING:** Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore should be reviewed, particularly if Buyer contemplates making improvements to ~~Property~~ **the Assets** or a use other than the current use.

Note that “present uses of the Property in violation of the foregoing disclosed in Seller’s disclosure report, and Real Estate Condition Report, if applicable,” is part of the WB-15 language in the definition of merchantable title as a type of lien or encumbrance that is permitted as part of merchantable title. This language is also included in the residential, vacant land, condo and farm offers. This has caused a fair amount of confusion so was not included in the provision above. The purpose of that language was intended to be to not allow an ordinance or restriction violated by an illegal use, for example, an illegal bedroom in the attic, as a permissible exception to the seller’s title warranty. The phraseology was meant to indicate that if an illegal bedroom in violation of building code, a duplex zoned as single family, or a fence in violation of subdivision covenants, had been disclosed in the seller’s disclosure report, then that the item would not be allowed as an exception to merchantable title in the offer and in the deed. See the discussion at https://www.wra.org/News/WREM/2005/January/Disclosures_and_Exclusions_to_Warranties_of_Title/

⇒ **So the question is whether it is best to leave this provision as it is above (with the confusing language omitted) or whether something should be added to capture uses that are illegal or in violation of applicable restrictions or codes. Another puzzle to be solved!**

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⇒ Should it say: "Acceptable exceptions to the warranty of merchantable title do not include any ordinances, restrictions or covenants violated by any present use of the Assets that has been disclosed by Seller or is known to Buyer on the date of this Offer?" That might be placed immediately after the very long first sentence above. **This suggestion is different than the language shown in the July 22 draft for your consideration. Any and all other comments and suggestions are welcomed! There is no magic in this proposal.**

◆ **Title Evidence:** The provision below is from the existing WB-16 with some modifications to make it resemble the WB-15 language. The WB-16 provision has also been reordered so that the caution comes last.

■ ~~FORM OF TITLE EVIDENCE:~~ Seller shall give evidence of title to the Real property Estate in the form of an owner's policy of title insurance in the amount of the value of the Real property Estate on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. **CAUTION: MODIFY AMOUNT OF OWNER'S POLICY OF TITLE INSURANCE IF TITLE POLICY WILL INSURE TITLE TO PROPERTY OTHER THAN REAL PROPERTY. CAUTION: IF TITLE EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.** Seller shall pay all costs of providing title evidence to Buyer. Buyer shall pay all costs of providing title evidence required by Buyer's lender.
CAUTION: MODIFY AMOUNT OF OWNER'S POLICY OF TITLE INSURANCE IF TITLE POLICY WILL INSURE TITLE TO ASSETS OTHER THAN REAL ESTATE.

◆ **Gap Endorsement and Provision of Merchantable Title:** The Gap provision shown comes from the WB-15 and the Provision of Merchantable Title is from the WB-16 business offer, modified to parallel the WB-15 commercial offer wording.

■ **GAP ENDORSEMENT:** Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's) (Buyer's) ~~STRIKE ONE~~ ("Seller's" if neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded after the effective date of the title insurance commitment and before the deed is recorded, subject to the title insurance policy exclusions and exceptions, provided the title company will issue the endorsement. If a gap endorsement or equivalent gap coverage is not available, Buyer may give written notice that title is not acceptable for closing (see lines xxx-xxx).

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■ **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence shall be acceptable if the required title insurance commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less more than 3 business _____ days before closing after acceptance ("15" if left blank), showing title to the Property Real Estate as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines xxx-xxx, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate. ~~CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE COMMITMENT PRIOR TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE EFFECTIVE DATE OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.~~

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One question may be the use of the phrase "or equivalent gap coverage." There have been some who say this is not meaningful. Others have indicated that it refers to the fact some 2006 ALTA policies have gap coverage included automatically.

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⇒ Should it be removed or is it helpful to leave it in (see yellow highlighting above)? Also should this refer to title to Real Estate or the Assets?

◆ **Title Not Acceptable for Closing:** The provision below comes from the WB-16 business offer, modified to conform to the WB-15 commercial offer provision.

■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title to the ~~R~~real property ~~Estate~~ is not acceptable for closing, Buyer shall notify Seller in writing of objections to title within _____ days (*15* if left blank) after delivery of the title commitment to Buyer or Buyer's attorney ~~by the time set for closing.~~ In such event, Seller shall have a reasonable time, but not exceeding _____ days (*5* if left blank) ~~15 days,~~ from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections, and by the time set for closing, shall be extended as necessary for this purpose. In the event that Seller is unable to remove said objections, Buyer shall have 5 days from receipt of may notice thereof, ~~to deliver to Seller~~ written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, Buyer shall deliver written notice of termination and this Offer shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

◆ **Special Assessments:** The provision below comes from the WB-16 business offer, modified to match the WB-15 commercial offer language. These provisions were quite similar.

■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced ~~or levied~~ prior to date of this Offer shall be paid by Seller no later than closing. All other special assessments shall be paid by Buyer.

CAUTION: Consider a special agreement if area assessments, property owner's association assessments, special charges for current services under Wis. Stat. § 66.0627, or other expenses are contemplated. "Other expenses" are one-time charges or ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb, gutter, street, sidewalk, municipal water, sanitary and storm water and storm sewer (including all sewer mains and hook-up/connection and interceptor charges), parks, street lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f). ~~§66.55(1)(c) & (f).~~

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◆ **Bulk Transfers:** The repeal of Wisconsin's bulk transfer law, Chapter 406 of the Wisconsin Statutes, was effective February 5, 2010. This provision can be deleted!

◆ **Rental Weatherization:** The provision in the existing WB-16 presumes the transaction is exempt from rental weatherization unless stated otherwise somewhere in the offer. There is perhaps some reason to think it is more likely than not that there are no living quarters or dwelling units involved. The provision in the commercial offer has check boxes so the selection is made within the provision regarding applicability. The WRA Forms Committee recommends using a provision like the provision in the commercial offer but to add a default indicating that the transaction is exempt:

RENTAL WEATHERIZATION This transaction (is) (is not) ~~STRIKE ONE~~ (*is* if neither is stricken) exempt from Wisconsin Rental Weatherization Standards (Wis. Admin. Code Ch. SPS 367). If not exempt, (Buyer) (Seller) ~~STRIKE ONE~~ (*Buyer* if neither is stricken) shall be responsible for compliance, including all costs, with Wisconsin Rental Weatherization Standards. If Seller is responsible for compliance, Seller shall provide a Certificate of Compliance at closing.

◆ **Earnest Money – Held By:** Only some minor tweaks and formatting shown below to make the WB-16 provision come in line with the same provision in the WB-15:

EARNEST MONEY

■ **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (~~B~~uyer's agent-broker if ~~Property Assets is~~ are not listed or ~~S~~eller's account if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer.

CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.

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- ◆ **Earnest Money – Disbursement:** The following provision was removed from the WB-16 disbursement language as was done in the other revised offers: “(Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer to purchase is not a written disbursement agreement pursuant to which the broker may disburse).”

In addition, the WRA Forms Committee believes the time has come to modify the provision regarding the money payable to a third party attorney rendering a disbursement opinion. The \$250 which may be paid to the attorney providing the opinion is too low and should be increased to say “in an amount up to \$1,000 but no more than one-half of the earnest money.” This recommendation is shown in the July 22 draft:

and broker may deduct from the earnest money any costs and reasonable attorney’s fees, in an amount up to \$1,000 but no more than one-half of the earnest money not to exceed \$250, prior to disbursement.

- ◆ **Earnest Money – Legal Rights/Action:** The July 22 draft shows some minor format/style changes, shown below.

~~The~~ Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of a dispute. Both Parties agree to hold the broker harmless from any liability for good faith disbursement of earnest money in accordance with this Offer or applicable Department of ~~Regulation Safety~~ and ~~Licensing Professional Service~~ regulations concerning earnest money. See Wis. Admin. Code Ch. ~~REEBL~~ 18.

The WRA Forms Committee also recommends that the Note directly following the Legal Rights/Action section in the current WB-16 should be removed because a similar section already appears following the Default section. In the existing WB-16 the note to consult an attorney, etc. appears in both spots but in the WB-15 it is included just once. Also this type of note or caution could be placed in other places within the offer to facilitate layout. This deletion appears in the July 22 draft.

Following Default section (left in in the drafts):

NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.

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Following Earnest Money section (deleted from the drafts):

NOTE: WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL RIGHTS OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR CONVEYANCE. NOTE: AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE OR OPINIONS REGARDING THIS CONTRACT IS REQUIRED.

- ◆ **Definitions – Acceptance:** Although the existing WB-16 does not have an Acceptance section on the first page as do the other offers, the July 22 draft has an Acceptance section, directly before Binding Acceptance. Therefore the “Acceptance” definition can be removed from the definitions section because it is now repetitive.
- ◆ **Definitions – Actual Receipt:** Taken from the WB-15 commercial offer and added to the WB-16:

■ **ACTUAL RECEIPT:** “Actual Receipt” means that a Party, not the Party’s recipient for delivery, if any, has the document or written notice physically in the Party’s possession, regardless of the method of delivery.

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◆ **Definitions – Business Personal Property:** Below is the definition of Business Personal Property from the WB-6 Business Listing contract, as most recently modified by the DSPS Committee. The definitions in the WB-16 drafts were modified to match this definition, with appropriate adjustments for an offer rather than a listing contract. Look for modifications in the WB-16 drafts.

■ **BUSINESS PERSONAL PROPERTY:** “Business personal property” is defined as all tangible and intangible personal property and rights in personal property owned by Seller and used in the Business, including, but not limited to, furniture, trade fixtures and equipment, tools used in business, telephone numbers and listings if transferable, customer lists, trade names, intellectual property, Internet domain names, digital media, digital marketing, databases, business records, supplies, leases, advance lease deposits, customer deposits, signs, all other personal property used in the Business, and if transferable, all permits, special licenses and franchises, except those assets disposed of in the ordinary course of business or as permitted by the Offer.

CAUTION: Identify on lines xx-xx Business Personal Property not included in the purchase price or not exclusively owned by Seller, such as licensed or rented personal property, tenants’ personal property and tenants’ trade fixtures.

◆ **Definitions – Conditions Affecting the Business, Included Property or Transaction:** First of all we used a different name for this definition in the Business and Property Condition Provisions section earlier in the July 22 draft, namely “Conditions Affecting the Business, Assets or Transaction.” This is the terminology used but this may be adjusted if need be.

If you look at the definitions section in the current WB-16 draft you can see the long list of items included in the WB-16 definition. Below is the list from the WB-15 definition of “Conditions Affecting the Property or Transaction:”

- a. Defects in structural components, e.g. roof, foundation, basement or other walls.
- b. Defects in mechanical systems, e.g. HVAC, electrical, plumbing, septic, well, fire safety, security or lighting.
- c. Underground or aboveground storage tanks presently or previously on the Property for storage of flammable or combustible liquids, including but not limited to gasoline and heating oil.
- d. Defect or contamination caused by unsafe concentrations of, or unsafe conditions relating to, lead paint, asbestos, radon, radium in water supplies, mold, pesticides or other potentially hazardous or toxic substances on the premises.
- e. Production of or spillage of methamphetamine (meth) or other hazardous or toxic substances on the Property.
- f. Zoning or building code violations, any land division involving the Property for which required state or local permits had not been obtained, nonconforming structures or uses, conservation easements, rights-of-way.
- g. Special purpose district, such as a drainage district, lake district, sanitary district or sewer district, that has the authority to impose assessments against the real property located within the district.
- h. Proposed, planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property or the present use of the Property.
- i. Federal, state or local regulations requiring repairs, alterations or corrections of an existing condition.
- j. Flooding, standing water, drainage problems or other water problems on or affecting the Property.
- k. Material damage from fire, wind, floods, earthquake, expansive soils, erosion or landslides.
- l. Near airports, freeways, railroads or landfills, or significant odor, noise, water intrusion or other irritants emanating from neighboring property.

- m. Portion of the Property in a floodplain, wetland or shoreland zoning area under local, state or federal regulations.
 - n. Property is subject to a mitigation plan required under administrative rules of the Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the Property to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county.
 - o. Encroachments; easements, other than recorded utility easements; access restrictions; covenants, conditions and restrictions; shared fences, walls, wells, driveways, signage or other shared usages; or leased parking.
 - p. High voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property.
 - q. Structure on the Property designated as a historic building, any part of the Property located in a historic district, or burial sites or archeological artifacts on the Property.
 - r. All or part of the land has been assessed as agricultural land, the owner has been assessed a use-value conversion charge or the payment of a use-value conversion charge has been deferred.
 - s. All or part of the Property is subject to, enrolled in or in violation of a certified farmland preservation zoning district or a farmland preservation agreement, or a Forest Crop, Managed Forest (see disclosure requirements in Wis. Stat. § 710.12), Conservation Reserve or comparable program.
 - t. A pier is attached to the Property that is not in compliance with state or local pier regulations.
 - u. Government investigation or private assessment/audit (of environmental matters) conducted.
 - v. Other Defects affecting the Property.
- A lot if these items are related primarily to real estate.

And here are some of the items from a business disclosure statement:

- Litigation (threatened or pending) against the Business or its agents
- Violations of any applicable regulation, ordinance, law or rule which may materially affect the Business, or the present use of the Business
- Unresolved insurance claims
- Outstanding lease agreements
- Outstanding contracts or agreements
- Back wages due or claims for the same
- Product liability exposure
- Unpaid medical or other insurance premiums
- Other pending or outstanding problems or concerns
- Claims for unfair labor practices
- Union problems or demand for unionization
- Court order(s)
- Governmental proceedings or investigations
- Violations of the Americans with Disabilities Act or other state or local laws requiring minimum accessibility for persons with disabilities
- Violations of any laws or agreements regulating the Business
- Unpaid Business taxes, including income, sales, payroll, social security, unemployment, or any other employer/employee taxes
- Conditions constituting a significant health or safety hazard for occupants, invitees or employees of the Business
- Information that indicates that any person affiliated with the Seller is not able to or does not intend his or her obligations under any contract or agreement made concerning the sale of the Business
- Any right granted to any underlying lien holder to accelerate the debtor's obligation by reason of the transfer of ownership of the Business, or any permission to transfer being required and not obtained
- Completed or pending reassessment of any portion of the Business
- Unpaid past due debts
- Notices or claims by Bureau of Consumer Protection

- ___ any hazardous substances or medical or infectious waste located on the premises on which the Business is located or was there previously any storage of hazardous substances or medical or infectious waste on the premises on which the Business is located
- ___ currently, or were there previously, any underground or above ground storage tanks for the storage of flammable, combustible or hazardous materials located on the premises on which the Business is located
- ___ high voltage electric or steel natural gas transmission lines located on the premises on which the Business is located
- ___ defects in any of the equipment, appliances, fixtures, fixtures, tools or other personal property included in the sale
- ___ any construction or remodeling on the premises on which the Business is located for which federal, state or local approvals were not obtained

Obviously there is some overlap. Presuming that there should be a definition that includes numerous general descriptions as well as important specific items and examples, the Committee presumably will have to develop list of items that would be beneficial and appropriate for this use – and make sure there is a good catchall at the end and “included but not limited to” language at the beginning.

- ⇒ **What items should be in the definition in the revised WB-16? Please consider the list you believe would be most appropriate here!**
- ⇒ **Starting from the current WB-16 please comment on this preliminary proposal that appears in the drafts. Also keep in mind that this list would likely appear in any business condition report. Some additional suggestions not shown in the July 22 draft are shown in yellow highlights below:**

- **CONDITIONS AFFECTING THE BUSINESS, INCLUDED PROPERTY ASSETS OR THE TRANSACTION:** A “condition affecting the Business, included property Assets or the transaction” is defined to include, but is not limited to, the following defined as follows:
 - (a) **Proposed, p**lanned or commenced public improvements which may result in special assessments or otherwise materially affect the Business or **included property Assets, or** the present use of the Business or **included property sold by this Offer Assets;**
 - (b) **Violation of federal, state or local regulations, ordinances, laws or rules; any g**overnment agency or court order **s** requiring repair, alteration or correction of any existing condition; **or any potential, threatened or pending claims against the Business or its agents or materially affecting the Assets;**
 - (c) Material violation of the Americans with Disabilities Act (ADA) or other state or local laws requiring minimum accessibility for persons with disabilities. Note: a Building owner’s or tenant’s obligations under the ADA may vary dependent upon the financial or other capabilities of the building owner or tenant;
 - (d) Completed or pending reassessment of the **real property or Business Personal Property sold by this Offer for tax purposes Assets or any part thereof;**
 - (e) **Structural or mechanical system inadequacies which if not repaired will significantly shorten the expected normal life of Deficiencies in the Assets real property sold by this Offer;**
 - (f) **Zoning or building code violations, a**ny land division involving the **Assets real property sold by this Offer, for** which required state or local approvals were not obtained, **nonconforming structures or uses, conservation easements, rights-of-way, encroachments; easements, other than recorded utility easements; covenants, conditions and restrictions; zoning variances or conditional use permits; shared fences, walls, wells, driveways, signage or other shared usages; or leased parking.**
 - (g) Construction or remodeling on the **real property sold by this Offer Assets** for which required **federal,** state or local approvals were not obtained;
 - (h) Any portion of the **real property sold by this Offer Assets** being in a 100 year floodplain, a wetland or shoreland zoning area under local, state or federal regulations;
 - (i) That a structure which the Business occupies or which is located on the **R**real **property Estate** sold by this Offer is designated as a historic building or that any part of a structure which the Business occupies or the **R**real **property Estate** sold by this Offer is in a historic district; **or burial sites or archeological artifacts on the Real Estate.**
 - (j) Material violations of environmental laws or other laws or agreements regulating **the use of** the Business or **the use of the real property sold by this Offer Assets;**

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(k) Conditions constituting a significant health or safety hazard for occupants, **invitees or employees** of the **Business or real property sold by this Offer/Business**;

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(l) **Defect or contamination caused by Unsafe concentrations of, or unsafe conditions relating to Material levels of hazardous or toxic substances or medical or infectious waste** located on the premises which the Business occupies or on the **Assets/real property sold by this Offer**, or previous storage **or disposal** of material amounts of hazardous **or toxic substances or medical or infectious waste** on the premises which the Business occupies or on the **real property sold by this Offer/Assets**;

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~~(m) Material levels of medical or infectious waste located on the premises which the Business occupies or on the real property sold by this Offer or previous storage of material amounts of medical or infectious waste on the premises which the Business occupies or on the real property sold by this Offer;~~

~~(n) Underground storage tanks for storage of flammable or combustible liquids including but not limited to gasoline and heating oil on the premises which the Business occupies or on the real property sold by this Offer; NOTE: The Wisconsin Administrative Code contains registration and operation rules for such underground storage tanks.~~

~~(m) Assets are subject to a mitigation plan required under administrative rules of the Department of Natural Resources related to county shoreland zoning ordinances, which obligates the owner of the Assets to establish or maintain certain measures related to shoreland conditions and which is enforceable by the county.~~

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~~(n) Flooding, standing water, drainage problems or other water problems on or affecting the Assets; material damage from fire, wind, floods, earthquake, expansive soils, erosion or landslides; or significant odor, noise, water intrusion or other irritants emanating from neighboring property.~~

(o) Underground or aboveground storage tanks for storage of flammable, combustible or hazardous materials including but not limited to gasoline and heating oil, which are currently or which were previously located on the premises which the Business occupies or on the **real property sold by this Offer/Assets**;

(p) High voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the **Business or real property sold by this Offer/Assets**;

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(q) Any material **defects/Deficiencies** in any of the equipment, appliances, business fixtures, fixtures, tools, furniture or other Business Personal Property included in the transaction, and Seller further warrants that all will be in good working order on the day of closing;

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(r) Any encumbrances on the Business, all integral parts thereof, or the ~~included property being conveyed in conjunction with the Business/Assets~~, except as stated in this Offer and in any schedule attached to it;

(s) Any litigation, government proceeding or investigation in progress, threatened or in prospect against or related to the Business or the ~~included property sold by this Offer/Assets~~;

(t) Any road change, road work or change in road access which would materially affect the present use or access to the Business or the ~~real property included in this Listing/Assets~~.

(u) Any right granted to underlying lien holder(s) to accelerate the debtor's obligation by reason of the transfer of ownership of Business or ~~other property included in the transaction/the Assets~~, or any permission to transfer being required and not obtained;

(v) Any unpaid Business taxes such as: income; sales; payroll; Social Security; unemployment; or any other employer/employee taxes due and payable or accrued; **or any past due debts**;

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(w) A material failure of the financial statements, or schedules to the financial statements, to present the true and correct condition of the Business as of the date of the statements and schedules or a material change in the financial condition or operations of the Business since the date of the last financial statements and schedules provided by Seller, except for changes in the ordinary course of business which are not in the aggregate materially adverse;

~~(x) Unresolved insurance claims, outstanding lease or contract agreements, back wages due or claimed, product liability exposure, unpaid insurance premiums, unfair labor practice claims, union problems, unpaid past due debts,~~

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(y) Other Defects affecting the **Real Estate, Deficiencies affecting the Assets**, or conditions or occurrences which would significantly reduce the value of the Business or ~~included property/Assets~~ to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

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◆ **Definitions – DEADLINES and DEFECT and DEFICIENCY:** Taken from the WB-15 commercial offer and applied to Assets rather than Property:

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■ **DEADLINES:** “Deadlines” expressed as a number of “days” from an event, such as acceptance, are calculated by excluding the day the event occurred and by counting subsequent calendar days. The

deadline expires at midnight on the last day. Deadlines expressed as a specific number of “business days” exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other day designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day. Deadlines expressed as a specific number of “hours” from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

■ **DEFECT:** “Defect” means a condition that would have a significant adverse effect on the value of the Assets; that would significantly impair the health or safety of future occupants of the Assets; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

⇒ Or do we need another definition of defect for use in the business offers since the above definition comes from Chapter 709 with regard to property condition reports? The following is a proposal for discussion purposes limiting “Defect” to Real Estate and establishing a definition of “Deficiency” to be used with regard to non-Real Estate Assets. Other suggestions or ideas?

■ **DEFECT:** “Defect” means a condition that would have a significant adverse effect on the value of the Real Estate; that would significantly impair the health or safety of future occupants of the Real Estate; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

■ **DEFICIENCY:** “Deficiency” means an imperfection that impairs the worth or utility of an Asset; makes the Asset unusable or harmful; or substantially prevents the Asset from functioning or operating as designed or intended.

◆ **Definitions – ENVIRONMENTAL SITE ASSESSMENT:** Taken from the WB-16 and modified based on the provision in the WB-15 commercial offer.

⇒ Should the references here should be to Real Estate or Assets? Would a Phase I apply to Assets other than Real Estate?

■ **ENVIRONMENTAL SITE ASSESSMENT:** An “environmental site assessment” (also known as a “Phase I Site Assessment” or equivalent)(see lines 125-133xxx-xxx) may include, but is not limited to: (1) an inspection of the Real propertyEstate; (2) a review of the ownership and use history of the Real propertyEstate, including a search of title records showing private ownership of the Real property Estate for a period of 80 years prior to the visual inspection; (3) a review of historic and recent aerial photographs of the Real propertyEstate, if available; (4) a review of environmental licenses, permits or orders issued with respect to the Real propertyEstate; (5) an evaluation of results of any environmental sampling and analysis that has been conducted on the Real propertyEstate; and (6) a review to determine if the Real property-Estate is listed in any of the written compilations of sites or facilities considered to pose a threat to human health or the environment including the National Priorities List, the Department of Natural Resources’ (DNR) registry of Waste Disposal Sites, Abandoned Landfills, the DNR’s Contaminated Lands Environmental Action Network, Registry of Leaking Underground Storage Tanks, and the DNR’s Remediation and Redevelopment (RR) Sites Map including the Geographical Information System (GIS) Registry and related resources, most recent remedial response site evaluation report (including the Inventory of Sites and Facilities Which May Cause or Threaten to Cause Environmental Pollution). Any Environmental Site Assessment² performed under this Offer shall comply with generally recognized industry standards (e.g. current American Society of Testing and Materials “Standard Practice for Environmental Site Assessments for Commercial Real Estate”), and state and federal guidelines, as applicable.

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CAUTION: Unless otherwise agreed an Environmental Site Assessment²² does not include subsurface testing of the soil or groundwater or other testing of the Property Real Estate for environmental pollution. If further investigation is required, insert provisions for a Phase II Site Assessment (collection and analysis of samples), Phase III Environmental Site Assessment (evaluation of remediation alternatives) or other site evaluation at lines xxx-xxx or xxx-xxx or attach as an addendum per line xxx.

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◆ **Definitions – ENVIRONMENTAL DEFECT:** The WB-16 includes this definition which is included in the body of the Environmental Evaluation Contingency in the July 22 draft. Thus this separate definition was eliminated.

◆ **Definitions – FIXTURES:** The WB-16 includes the following definition, which has been modified in the drafts to be more like the WB-15 definition of fixtures.

■ **FIXTURES:** A “Fixture” is an item of property, which is on the Real property Estate on the date of this Offer, which is physically attached to or so closely associated with land and improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the real property premises, items specifically adapted to the real property premises, and items customarily treated as fixtures, including, but not limited to, all: garden bulbs; plants; shrubs and trees; screen and storm doors and windows; electric lighting fixtures; window shades; curtain and traverse rods; blinds and shutters; central heating and cooling units and attached equipment; water heaters and treatment systems; sump pumps; attached or fitted floor coverings; awnings; attached antennas; garage door openers and remote controls; installed security systems; central vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans; fences; storage buildings on permanent foundations and docks/piers on permanent foundations. A ~~F~~ fixture²² does not include trade fixtures owned by tenants of the Real property Estate. See Lines 11-21.

CAUTION: Exclude Fixtures not owned by Seller such as rented fixtures. See lines xx-xx.

◆ **Definitions – INCLUDED PROPERTY:** The WB-16 includes this definition, which really is the equivalent of the term Assets defined on page 1 of the July 22 draft. Thus this definition is unnecessary and is deleted from the WB-16 drafts.

◆ **Definitions – INSPECTION and TEST:** The WB-16 includes these definitions, which appear in the INSPECTIONS AND TESTING provision earlier on in the business offer drafts. Thus these definitions are also removed from the WB-16 draft.

◆ **Definitions – INSPECTION DEFECT:** The WB-16 includes this definition, which is covered by the DEFECTS definition added to the definitions section of the WB-16 drafts. Therefore this definition is deleted.

◆ **TIME IS OF THE ESSENCE:** The WB-16 provision has been replaced with the similar provision from the WB-15 commercial offer.

◆ **ALLOCATION OF PURCHASE PRICE:** The WB-16 contains the following provision which has been tweaked for a couple of formatting items.

ALLOCATION OF PURCHASE PRICE CHECK LINE XXX OR XXX

The Parties agree to the following allocation of the purchase price:

Goodwill:.....	\$ _____
Stock-in-trade (inventory):	\$ _____
Accounts receivable:.....	\$ _____

Business Personal Property:..... \$ _____
 Real Estate Interest: \$ _____
 Other: \$ _____
 Total \$ _____

The Parties shall agree on an allocation by the following deadline: (within ____ days of acceptance of the Offer)(_____, _____) **STRIKE AND COMPLETE AS APPLICABLE**. If the Parties cannot agree to an allocation by the deadline, the Parties shall submit to binding arbitration. The Parties will share any costs of arbitration equally. Allocation may take place after closing.

CAUTION: Fair market value of the real property must be determined prior to closing to complete the transfer return per Wis. Stat. § 77.22. The Parties should consult accountants, legal counsel or other appropriate experts, as necessary.

◆ **FINANCING CONTINGENCY:** The WB-16 includes a Financing Contingency section that addresses land contracts and does not include an appraisal contingency or any of the other provisions added to the more recently revised offers. The July 22 draft is revamped to include the same financing provisions as the WB-15 commercial offer.

However, the WRA Forms Committee has various concerns with this solution. Most business transactions will include seller financing, which may be predominant in many transactions, and require buyer self-financing of some sort, whether that be cash resources or equity financing. Debt financing may be conventional or SBA financing although it may also come from private lenders. Although the collateral for the loans and seller financing will include the real estate interest, if any, other assets may serve as collateral via a security agreement and/or UCC filings. Other “financing may take the form of a consulting agreement or guaranteed employment for principle owners who receive part of their compensation with these contracts.

Thus a separate seller financing provision may be helpful and a proof of funds for the buyer financing component and the appraisal contingency would be very important.

⇒ **The WRA Forms Committee recommends that there be a seller financing provision in the WB-16 (or a note or a caution at the very least). Should the references to “mortgage loan” be removed from any financing provisions? Below are some samples of seller/second loan financing provisions for discussion – would need modification:**

Second Mortgage: Seller Financing (Alternate 1)

Seller agrees to provide Buyer, at the time of closing, a second mortgage loan in an amount not less than \$_____, for a term of not less than ____ years, with payments amortized over (the term of the loan) (____ months) [STRIKE ONE].

Initial monthly payments of principal and interest shall not exceed \$_____. If the purchase price under this Offer is modified, the loan amount, unless otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain the term and amortization stated above.

Note: If the term of the second mortgage is shorter than the amortization period, a balloon payment consisting of the principal balance and any unpaid accrued interest shall be due at the end of the term of the loan.

CHECK AND COMPLETE THE APPLICABLE FINANCING PROVISION BELOW.

FIXED RATE FINANCING: The annual rate of interest shall not exceed ____%.

ADJUSTABLE RATE FINANCING: The initial annual interest rate shall not exceed ____%. The initial interest rate shall be fixed for ____ months, at which time the interest rate may be increased not more

than ____% per year. The maximum interest rate during the mortgage term shall not exceed ____%.

Monthly payments of principal and interest may be adjusted to reflect interest changes.

Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing. If, within ____ days of acceptance of this Offer, Seller determines that Buyer does not qualify for the above described financing using reasonable underwriting standards, Seller shall promptly provide Buyer written notification. The Offer shall be null and void unless Buyer provides Seller a commitment for the above second mortgage financing from a third party lender within ____ days of Seller's delivery of the notification.

CAUTION: Allow enough time to evaluate creditworthiness and provide the second mortgage before closing.

Second Mortgage: Seller Financing Utilizing the State Bar Mortgage Form 21- 2003 (Alternate 2)

CAUTION: Licensee and parties should be careful to abide by any current constraints imposed upon their ability to negotiate or draft any seller financing arrangements per the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) (see

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/rmra/safe/sfea) and Wisconsin loan originator law (see Wis. Stat. §§ 224.71-224.83 online at <http://www.legis.state.wi.us/statutes/Stat0224.pdf>).

Seller agrees to provide to Buyer a (first) (second) [STRIKE ONE] mortgage loan on the Property in the amount of \$ _____ with interest at the annual rate of __%, with monthly payments based upon a ___ year amortization, of not less than \$ _____ to be applied to interest, then to principal, with the entire principal balance due and payable ___ years from the date of closing. Buyer may prepay the mortgage in any amount at any time without penalty. The first monthly payment shall be due and payable one month from date of closing.

The terms and conditions of said mortgage shall be as set forth on State Bar of Wisconsin Form 21 - 2003; the mortgage shall secure a note having terms and conditions set forth on State Bar of Wisconsin Form 16 - 2003.

If Buyer, at Buyer's expense, does not deliver to Seller with a written credit report evidencing Buyer's credit worthiness, determined using reasonable underwriting standards, within 10 days of acceptance of this Offer; Seller may terminate this Offer if Seller delivers to Buyer a written notice disapproving Buyer's credit report and terminating this Offer, no later than 5 days after Buyer's delivery of the credit report. If Buyer does not timely deliver a credit report within 10 days of acceptance, Seller may terminate this Offer if Seller delivers written notice of termination to Buyer no later than 15 days after acceptance of this Offer.

Seller Financing: First or Second Mortgage: (Alternate 3)

CAUTION: Licensee and parties should be careful to abide by any current constraints imposed upon their ability to negotiate or draft any seller financing arrangements per the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) (see

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/rmra/safe/sfea) and Wisconsin loan originator law (see Wis. Stat. §§ 224.71-224.83 online at <http://www.legis.state.wi.us/statutes/Stat0224.pdf>).

Seller will credit Buyer with the sum of \$ _____ at closing in exchange for Buyer's execution and delivery of a note and mortgage encumbering the Property on the following terms:

- ◆ Principal Balance: \$ _____ (same as above)
- ◆ Rate of interest per year: _____%
- ◆ Interest to be paid in (advance)(arrear)[STRIKE ONE]

- ◆ Term: _____(months/years)
- ◆ Amortization Period: _____(months/years)
- ◆ Payments to be made monthly on _____day of the month.
- ◆ Late payment charge of _____% of the monthly principal and interest for payments received more than _____days after the due date.
- ◆ Prepayment penalty: (None) (_____if paid before_____) [STRIKE ONE]].
- ◆ Buyer understands that the entire balance of such debt will be due (balloon) at the end of the specified term. [Use if amortization period exceeds term]
- ◆ [Use the following if Seller is taking back a "second" mortgage]: Seller agrees that such mortgage will be subordinate to a first mortgage against the Property in the (amount of ____ % of the purchase price) (sum of \$_____) [STRIKE ONE].

Buyer must deliver a current credit report to Seller within ____ days of acceptance of this offer. Within _____days of Buyer's delivery of such report Seller may, in Seller's reasonable discretion, object to Buyer's credit worthiness and void this contract by delivering to Buyer written notice of such objection.

(Buyer's) (Seller's) [STRIKE ONE] attorney shall prepare the mortgage and distribute the proposed draft no later than ____ business days prior to closing, for approval by the other party. Within ____ days of delivery of the proposed draft, the other party may provide written notice to the other party, specifying the party's objections, and the Offer shall be null and void unless (1) the parties agree to an amended mortgage or (2) Buyer provides Seller a commitment for the above mortgage financing from a third party lender within ____ days of delivery of the proposed mortgage draft.

.....

The other concern discussed by the WRA Forms Committee was that the Financing Contingency in the various offers is not very realistic. It is less and less clear what a loan commitment is and more and more difficult to obtain one. Even if there is a loan commitment the underwriters/lenders may change their minds or the loan may not go through because of the appraisal. Delivery of a loan commitment thus does not often have much meaning. The question becomes, if one goes back to the drawing board, what does the seller hope to accomplish or ascertain with the financing contingency and what should the buyer derive?

Ideas: the seller wants to know that the buyer makes a good faith effort to apply for the financing at some level at or above the baseline described. The seller would like to know that everything is set and that the financing will be ready at closing but that does not seem to be something that is determinable prior to closing with any reliability. The buyer wants to know that if they cannot get the desired financing that they can get out of the contract. What else?

- ⇒ **What realistically can a basic financing contingency accomplish?**
- ⇒ **What changes should be considered for the basic financing contingency in the offers or is it adequate in its current state?**
- ◆ Inspection Contingency: the provision in the existing WB-16 is a combination environmental evaluation – inspection check-box contingency where one or both may be selected. It is being replaced in the draft with a separate Environmental Evaluation Contingency and the separate Inspection Contingency like those found in the WB-15.
- ⇒ **Should this provision authorize follow-up testing as well as follow-up inspections if recommended by the inspector?**

The Inspection Contingency shown below was placed near the end of the WB-16 draft in keeping with the sequence of provisions in the other updated offer forms.

INSPECTION CONTINGENCY: This contingency only authorizes inspections, not testing (see lines 437xxx-449xxx). This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s) of the Property Assets which discloses no Defects. This Offer is further contingent upon a qualified independent inspector or qualified independent third party performing an inspection of _____ (list any Property-feature(s) to be separately inspected, e.g., dumpsite, etc. - **NOTE:WORKING ON COMING UP WITH PERTINENT EXAMPLES FROM BUSINESS PRACTITIONERS**) which discloses no Defects. Buyer shall order the inspection (s) and be responsible for all costs of inspection(s). Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection performed provided they occur prior to the deadline specified at line 464xxx. Each inspection shall be performed by a qualified independent inspector or qualified independent third party.

CAUTION: Buyer should provide sufficient time for the primary inspection and/or any specialized inspection(s), as well as any follow-up inspection(s).

For the purpose of this contingency, Defects (see lines 223xxx-225xxx) do not include conditions the nature and extent of which Buyer had actual knowledge or written notice before signing the Offer.

■ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers to Seller a copy of the inspection report(s) and a written notice listing the Defect(s) identified in the inspection report(s) to which Buyer objects (Notice of Defects).

CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.

■ **RIGHT TO CURE:** Seller (shall)(shall not) ~~STRIKE ONE~~ (“shall” if neither is stricken) have a right to cure the Defects. If Seller has the right to cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within 10 days of Buyer’s delivery of the Notice of Defects stating Seller’s election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3) delivering to Buyer a written report detailing the work done within 3 days prior to closing. This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s) and: (1) Seller does not have a right to cure or (2) Seller has a right to cure but: (a) Seller delivers written notice that Seller will not cure or (b) Seller does not timely deliver the written notice of election to cure.

The business practitioners working with the WRA Forms Committee will work on some examples of features that might be inspected separately.

- ◆ Drafted By Lines: The WB-16 draft was made to conform to the WB-15 commercial offer.
- ◆ Agency Status Line: The WB-16 draft has this information at the beginning of the form. Like the other offer so this line is deleted.
- ◆ Buyer Signature Lines: The WB-16 draft has been modified to show a signature block similar to the one used for the seller in the WB-6 business listing contract draft.
- ◆ Earnest Money Lines: The WB-16 draft was made to conform to the WB-15 commercial offer.
- ◆ Seller Acceptance language: The WB-16 draft was made to conform to the WB-15 commercial offer and to use the terminology of Assets regarding what the seller was agreeing to convey.

SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING AND THE CONVEYANCE OF THE ~~BUSINESS AND INCLUDED PROPERTY IN THIS OFFER~~ ASSETS. THE UNDERSIGNED HEREBY ~~SELLER~~ SELLER AGREES TO CONVEY THE ABOVE-MENTIONED ~~BUSINESS AND INCLUDED PROPERTY IN THIS OFFER~~ ASSETS ON THE TERMS

AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.

- ◆ Seller Signature Lines: The WB-16 draft has been modified to show signature blocks similar to the one used for the seller in the WB-6 business listing contract draft.
- ◆ Presentation Lines: The WB-16 draft was made to conform to the WB-15 commercial offer.
- ◆ Rejected/Countered Lines: The WB-16 draft was made to conform to the WB-15 commercial offer.

WB16RevisionsDSPS9-19-13

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WB-15 Changes (Plain) WB-16 OFFER TO PURCHASE – BUSINESS WITH REAL ESTATE INTEREST

OFFER TO PURCHASE FOR SALE OF ASSETS ONLY.

CONSULT APPROPRIATE ADVISORS FOR TAX, LICENSING, LIABILITY OR RELATED QUESTIONS.

1 LICENSEE DRAFTING THIS OFFER ON _____ [DATE] IS (AGENT OF
2 BUYER) (AGENT OF SELLER/LISTING BROKER) (AGENT OF BUYER AND SELLER) ~~STRIKE THOSE NOT APPLICABLE~~

3 ~~GENERAL PROVISIONS~~ The Buyer, _____

4 _____, offers to purchase the Assets of the Business known as: ~~on the~~

5 following terms: Business Name: _____

6 _____ (include both

7 legal name and any trade names)

8 Type of Business Entity (e.g., corporation, LLC, partnership, sole proprietorship, etc.): _____

9 Business Description: _____

10 _____

11 _____

12 _____ (Lines 3-8 hereinafter referred to as the "Business")

13 Insert additional description, if any, at lines xxx-xxx or attach as an addendum per line xxx. on the following terms:

14 ~~GENERAL PROVISIONS~~ The Buyer, _____

15 _____, offers to purchase the Assets of the Business on the following terms:

16 ■ PURCHASE PRICE: _____

17 _____ Dollars (\$ _____).

18 ■ EARNEST MONEY of \$ _____ accompanies this Offer and earnest money of \$ _____

19 will be mailed, or commercially or personally delivered within _____ days of acceptance to listing broker or

20 _____.

21 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise provided below.

22 ■ INCLUDED IN PURCHASE PRICE Seller shall include in the purchase price the following:

23 DESCRIPTION OF INTEREST IN REAL ESTATE:

24 Street address is: _____ in the

25 _____ of _____, County of _____, Wisconsin (the "Real Estate").

26 The Real Estate is owned by: _____

27 The Real Estate is leased to: _____ (see lines xxx-xxx).

28 The interest in the Real Estate included in the purchase price is: ownership leasehold assignment of existing lease other:

29 _____ . Insert any additional description, including further description of the type of

30 interest in the Real Estate that is included in purchase price, at lines xxx-xxx or attach as an addendum per line xxx.

31 DESCRIPTION OF OTHER ASSETS:

32 -Seller ~~is shall also include~~ in the purchase price (unless excluded at lines xx-xx) the Assets of the Business including all goodwill, stock-in-

33 trade, trade fixtures, accounts receivable, cash, all Business Personal Property, ~~the interest in Real Estate (if included on lines xx-xx)~~, Fixtures (if

34 ~~interest in Real Estate is included~~), and the following additional property _____

35 _____

36 ~~STRIKE AND COMPLETE AS APPLICABLE~~ (hereinafter, including the interest in

37 Real Estate described above, collectively the "Assets").

38 Seller shall convey Business Personal Property and any other personal property by Bill of Sale or _____

39 _____, free and clear of all liens and encumbrances except _____

40 _____.

41 If stock-in-trade or accounts receivable are purchased, the purchase price shall be based on the following terms and costs:

42 (a) Stock-in-Trade _____

43 _____

44 (b) Accounts Receivable _____

45 _____

46 ■ ~~INTEREST IN REAL ESTATE~~ ~~CHECK BOX ON LINE XX OR XX, AS APPROPRIATE.~~

47 ~~NO INTEREST IN REAL ESTATE INCLUDED IN PURCHASE PRICE~~

48

49 ■ ~~NOT INCLUDED IN THE PURCHASE PRICE:~~ _____

50 _____

51 _____

52 **CAUTION: Identify Fixtures, trade fixtures and Business Personal Property to be excluded by Seller or which are rented and**

53 **will continue to be owned by the lessor (see lines xxx-xxx and xxx-xxx).**

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54 **NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are included/excluded.**

55 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed one copy of the Offer, or separate but identical copies of
56 the Offer.

57 **CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term deadlines
58 running from acceptance provide adequate time for both binding acceptance and performance.**

59 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before
60 _____ . Seller may keep the Assets on the market and

61 accept secondary offers after binding acceptance of this Offer.

62 **CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.**

63 **OPTIONAL PROVISIONS** Terms of this Offer that are preceded by an OPEN BOX () are part of this offer ONLY if the box is
64 marked such as with an "X." They are not part of this offer if marked "N/A" or are left blank.

65 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this **Listing Offer**, delivery of documents and written
66 notices to a Party shall be effective only when accomplished by one of the methods specified at lines xx-xx.

67 (1) **Personal Delivery**: giving the document or written notice personally to the Party, or the Party's recipient for delivery if named at
68 line xx or xx.

69 Seller's recipient for delivery (optional): _____

70 Buyer's recipient for delivery (optional): _____

71 (2) **Fax**: fax transmission of the document or written notice to the following telephone number:

72 Seller: (_____) _____ Buyer: (_____) _____

73 (3) **Commercial Delivery**: depositing the document or written notice fees prepaid or charged to an account with a commercial delivery
74 service, addressed either to the Party, or to the Party's recipient for delivery if named at line xx or xx, for delivery to the Party's
75 delivery address at line xx or xx.

76 (4) **U.S. Mail**: depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party, or to the
77 Party's recipient for delivery if named at line xx or xx, for delivery to the Party's delivery address at line xx or xx.

78 Delivery address for Seller: _____

79 Delivery address for Buyer: _____

80 (5) **E-Mail**: electronically transmitting the document or written notice to the Party's e-mail address, if given below at line xx or xx. If
81 this is a consumer transaction where the property being purchased or the sale proceeds are used primarily for personal, family or
82 household purposes, each consumer providing an e-mail address below has first consented electronically to the use of electronic
83 documents, e-mail delivery and electronic signatures in the transaction, as required by federal law.

84 E-Mail address for Seller: _____

85 E-Mail address for Buyer: _____

86 **PERSONAL DELIVERY/ACTUAL RECEIPT** Personal delivery to, or Actual Receipt by, any named Buyer or Seller constitutes
87 personal delivery to, or Actual Receipt by, all Buyers or Sellers.

88 **CLOSING** Legal possession of the Assets shall be delivered to Buyer at the time of closing. This transaction is to be closed no later
89 than _____ at the place

90 selected by Seller, unless otherwise agreed by the Parties in writing.

91 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing values: real estate taxes,
92 personal property taxes, rents, prepaid insurance (if assumed), private and municipal charges, property owners association assessments, fuel
93 and _____

94 **CAUTION: Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.**

95 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing. Personal property taxes shall
96 be prorated based on (the taxes for the current year, if known, otherwise on the taxes for the preceding year) (_____)

97 _____) **STRIKE AND COMPLETE AS APPLICABLE**.

98 Real estate taxes shall be prorated at closing based on [CHECK BOX FOR APPLICABLE PRORATION FORMULA]:

99 The net general real estate taxes for the preceding year, or the current year if available (Net general real estate taxes are defined as
100 general property taxes after state tax credits and lottery credits are deducted) (NOTE: THIS CHOICE APPLIES IF NO BOX IS CHECKED)

101 Current assessment times current mill rate (current means as of the date of closing)

102 Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior year, or current year if
103 known, multiplied by current mill rate (current means as of the date of closing)

104 _____

105 **CAUTION: Buyer is informed that the actual real estate taxes for the year of closing and subsequent years may be substantially
106 different than the amount used for proration especially in transactions involving new construction, extensive rehabilitation, remodeling
107 or area-wide re-assessment. Buyer is encouraged to contact the local assessor regarding possible tax changes.**

108 Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes on the actual tax bill for
109 the year of closing, with Buyer and Seller each owing his or her pro-rata share. Buyer shall, within 5 days of receipt, forward a copy of the bill
110 to the forwarding address Seller agrees to provide at closing. The Parties shall re-prorate within 30 days of Buyer's receipt of the actual tax
111 bill. Buyer and Seller agree this is a post-closing obligation and is the responsibility of the Parties to complete, not the responsibility of the real
112 estate brokers in this transaction.

113 **BUSINESS AND PROPERTY CONDITION PROVISIONS**

114 ■ REPRESENTATIONS REGARDING THE BUSINESS, ASSETS AND TRANSACTION: Seller represents to Buyer that as of the date of
115 acceptance Seller has no notice or knowledge of Conditions Affecting the Business, Assets or Transaction (as defined at lines xxx to xxx)
116 other than those identified in Seller's disclosure report(s) CHECK AND INSERT DATES AS APPLICABLE:

117 Seller disclosure report (commercial or business real estate) dated _____

118 Real Estate Condition Report (1-4 dwelling units) dated _____

119 Vacant Land Disclosure Report (no buildings) dated _____

120 Business disclosure report(s) dated _____

121 Other: _____ (specify) dated _____

122 which was/were received by Buyer prior to Buyer signing this Offer and which is/are made a part of this Offer by reference and _____

123 _____

124 INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE OR CONDITION REPORT(S).

125 **CAUTION: If Assets include 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided in Wis.**
126 **Stat. § 709.03 may be required. If Assets include Real Estate without any buildings, a Vacant Land Disclosure Report**
127 **containing the disclosures provided in Wis. Stat. § 709.033 may be required. Buyer may have rescission rights per Wis.**
128 **Stat. § 709.05. A commercial or business disclosure report for commercial/business Real Estate may be used as well as**
129 **business disclosure report(s) regarding Assets other than real estate. More than one report may be used.**

130 ■ **BUSINESS OPERATION:** Seller shall continue to conduct the Business in a regular and normal manner and shall use Seller's best
131 efforts to keep available the services of Seller's present employees and to preserve the goodwill of Seller's suppliers, customers and
132 others having business relations with Seller.

133 ■ **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:** Seller shall maintain the physical Assets until the earlier of
134 closing or occupancy of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear
135 and tear. If, prior to the earlier of closing or occupancy by Buyer, the physical Assets are damaged in an amount of not more than five
136 per-cent (5%) of the purchase price, Seller shall be obligated to repair the damaged property and restore it to the same condition that
137 is was in on the day of this Offer. No later than closing, Seller shall provide Buyer with lien waivers for all lienable repairs and
138 restoration. If Seller is unable to repair and restore the damaged property, Seller shall promptly notify Buyer in writing and this Offer
139 may be canceled at the option of the Buyer. If the damage shall exceed such sum, Seller shall promptly notify Buyer in writing of the
140 damage and this Offer may be canceled at the option of Buyer. Should Buyer elect to carry out this Offer despite such damage,
141 Buyer shall be entitled to any insurance proceeds relating to the damaged property, plus a credit towards the purchase price equal to
142 the amount of Seller's deductible on such policy, if any. However, if this sale is financed by a land contract or a mortgage to Seller,
143 any insurance proceeds shall be held in trust for the sole purpose of restoring the physical Assets.

144 ■ **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific contingencies are included as a part of this
145 Offer. An "inspection" is defined as an observation of the Assets which does not include an appraisal or testing of the Assets, other
146 than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are hereby
147 authorized. A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Assets and
148 the laboratory or other analysis of these materials. Seller agrees to allow Buyer's inspectors, testers, appraisers and qualified third
149 parties reasonable access to the Assets upon advance notice, if necessary to satisfy the contingencies in this Offer. Buyer and
150 licensees may be present at all inspections and testing. Except as otherwise provided, Seller's authorization for inspections does not
151 authorize Buyer to conduct testing of the Assets.

152 **NOTE: Any contingency authorizing testing should specify the areas of the Assets to be tested, the purpose of the test,**
153 **(e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other material**
154 **terms of the contingency.**

155 Buyer agrees to promptly restore the Assets to their original condition after Buyer's inspections and testing are completed unless
156 otherwise agreed to with Seller. Buyer agrees to promptly provide copies of all inspection and testing reports to Seller. Seller
157 acknowledges that certain inspections or tests may detect environmental pollution which may be required to be reported to the
158 Wisconsin Department of Natural Resources.

159 ■ **BUYER'S PRE-CLOSING WALK-THROUGH VIEW OF ASSETS:** Within 3 days prior to closing, ~~as agreed by the Parties,~~ at a
160 reasonable time pre-approved by Seller or Seller's agent, Buyer shall have the right to walk-through the Assets to determine that
161 there has been no significant change in the condition of the Assets, except for ordinary wear and tear and changes approved by
162 Buyer, and that any Defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

163 ■ **PROPERTY IMPROVEMENT, DEVELOPMENT OR CHANGE OF USE:** If Buyer contemplates improving, developing or changing
164 the use of the Assets, Buyer may need to address municipal ordinances and zoning, recorded building and use restrictions,
165 covenants and easements which may prohibit some improvements or uses. The need for licenses, building permits, zoning
166 variances, environmental audits, etc. may need to be investigated to determine feasibility of improvements, development or use
167 changes for the Assets. Contingencies for investigation of these issues may be added to this Offer. See lines xxx -xxx or xxx. If plant
168 closings or mass layoffs will occur as a result of this Offer the Parties-Buyer and Seller should review federal and state plant closing
169 laws.

170 ■ **PROPERTY DIMENSIONS AND SURVEYS:** Buyer acknowledges that any land, building or room dimensions, or total acreage or
171 building square footage figures, provided to Buyer by Seller or by a broker, may be approximate because of rounding, formulas used
172 or other reasons, unless verified by survey or other means.

173 **CAUTION: Buyer should verify total square footage or acreage figures and land, building or room dimensions, if material to**
174 **Buyer's decision to purchase.**

175 **DEFAULT** Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of
176 this Offer. A material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability
177 for damages or other legal remedies.

178 If Buyer defaults, Seller may:

179 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or

180 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual
181 damages.

182 If Seller defaults, Buyer may:

183 (1) sue for specific performance; or

184 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

185 In addition, the Parties may seek any other remedies available in law or equity.

186 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the
187 discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of
188 the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those
189 disputes covered by the arbitration agreement.

190 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ**
191 **THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE**
192 **OFFER BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER**
193 **THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL**
194 **ADVICE IS NEEDED.**

195 **ENTIRE CONTRACT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding
196 the transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the
197 benefit of the parties to this Offer and their successors in interest.

198 **PROPERTY ADDRESS:** _____

199 **ENVIRONMENTAL EVALUATION CONTINGENCY:** This Offer is contingent upon a qualified independent environmental
200 consultant of Buyer's choice conducting an Environmental Site Assessment of the Assets (see lines xxx-xxx), at (Buyer's) (Seller's)
201 expense **STRIKE ONE** ("Buyer's" if neither is stricken), which discloses no Defects. For the purpose of this contingency, a Defect (see
202 lines xxx-xxx) is defined to also include a material violation of environmental laws, a material contingent liability affecting the Assets arising
203 under any environmental laws, the presence of an underground storage tank(s) or material levels of hazardous substances either on the
204 Assets or presenting a significant risk of contaminating the Assets due to future migration from other properties. Defects do not include
205 conditions the nature and extent of which Buyer had actual knowledge or written notice before signing the Offer.

206 **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of
207 acceptance, delivers to Seller a copy of the Environmental Site Assessment report and a written notice listing the Defect(s) identified in the
208 Environmental Site Assessment report to which Buyer objects (Notice of Defects).

209 **CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.**

210 **RIGHT TO CURE:** Seller (shall) (shall not) **STRIKE ONE** ("shall" if neither is stricken) have a right to cure the Defects. If Seller has the
211 right to cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within 10 days of Buyer's delivery of the Notice of
212 Defects stating Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3) delivering to Buyer a
213 written report detailing the work done within 3 days prior to closing. This Offer shall be null and void if Buyer makes timely delivery of the
214 Notice of Defects and written Environmental Site Assessment report and: (1) Seller does not have a right to cure or (2) Seller has a right to
215 cure but: (a) Seller delivers written notice that Seller will not cure or (b) Seller does not timely deliver the written notice of election to cure.

216 **LEASED PROPERTY** ~~if any~~ For any Assets included in the purchase price which are currently leased to third parties, Real Estate is
217 ~~currently leased~~ and if such lease(s) extend beyond closing, Seller shall assign Seller's rights under the lease(s) and transfer all
218 security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) **STRIKE ONE** lease(s), if any, are
219 _____

220 _____

221 **If the real property occupied by the Business is owned by Seller, but not sold by this Offer, Seller:** **CHECK ONE AS APPLICABLE**

222 agrees to lease the Real Estate to Buyer on the following terms: _____
223 _____

224 agrees to lease the Real Estate to Buyer according to the terms of the lease made a part of this agreement per line xxx.
225 ~~agrees the lease for the following described property shall terminate at closing.~~

226 **If the real property occupied by the Business is owned by a third party and is currently leased to Seller, then** **CHECK ONE AS**
227 **APPLICABLE**

228 Seller agrees to assign its interest in the lease for the Real Estate to Buyer, if assignable. (See lines xxx-xxx.)

229 Buyer will not accept an assignment of Seller's interest in the lease.

230 **PROPOSED USE CONTINGENCIES:** Buyer is purchasing the Assets for the purpose of: _____

231 _____

232 _____ [insert proposed use and type and size of

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233 the Assets or Business, if applicable; e.g., restaurant and tavern business with capacity of 350 and 3 second floor dwelling units]. The
234 optional provisions checked on lines xxx-xxx shall be deemed satisfied unless Buyer delivers to Seller by the deadline(s) set forth on
235 lines xxx-xxx written notice specifying those items which cannot be satisfied and written evidence substantiating why each specific
236 item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to
237 cooperate with Buyer as necessary to satisfy the contingencies checked at lines xxx-xxx.

238 **EASEMENTS AND RESTRICTIONS:** This Offer is contingent upon Buyer obtaining, within _____ days of
239 acceptance, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, copies of all public and private
240 easements, covenants and restrictions affecting the Assets and a written determination by a qualified independent third party that
241 none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines xxx to xxx.

242 **APPROVALS:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is
243 stricken) expense, all applicable governmental permits, approvals and licenses, as necessary and appropriate, or the final
244 discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses, for the following items
245 related to Buyer's proposed use: _____

246 _____ or delivering written notice to Seller if the item(s) cannot be obtained or can only be obtained subject to conditions
247 which significantly increase the cost of Buyer's proposed use, all within _____ days of acceptance of this Offer.

248 **ACCESS TO PROPERTY:** This Offer is contingent upon Buyer obtaining, within _____ days of acceptance, at (Buyer's)
249 (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, written verification that there is legal vehicular access to the
250 Assets from public roads.

251 **LAND USE APPROVAL:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither
252 is stricken) expense, a rezoning; conditional use permit; license; variance; building permit; occupancy permit;
253 other _____ CHECK ALL THAT APPLY,

254 for the Assets for its proposed use described at lines xxx-xxx or delivering written notice to Seller if the item(s) cannot be obtained
255 or can only be obtained subject to conditions which significantly increase the cost of Buyer's proposed use, all within
256 _____ days of acceptance.

257 **DOCUMENT REVIEW/RECEIPT CONTINGENCY**

258 ■ **BUYER OBTAINING DOCUMENTS.** This Offer is contingent upon Buyer, at Buyer's expense, being able to obtain the following
259 within the number of days of acceptance specified in each item checked below (consider addressing licenses, permits, etc.)

260 _____ (___ days).
261 _____ (___ days).
262 _____ (___ days).

263 This contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of: 1) receipt of the final document to
264 be obtained by Buyer or 2) the latter of the deadlines for Buyer obtaining the documents, delivers to Seller a written notice indicating
265 that this contingency has not been satisfied. The notice shall identify which document(s) (a) cannot be timely obtained and why they
266 cannot be obtained, or (b) do not meet the standard set forth for the document(s).

267 ■ **BUYER TERMINATION RIGHTS:** If Buyer cannot obtain any document by the stated deadline; Buyer may terminate this Offer
268 if Buyer delivers a written notice of termination to Seller.

269 ■ **SELLER DELIVERING DOCUMENTS.** This Offer is contingent upon Seller delivering the following documents to Buyer within the
270 number of days of acceptance specified in each item checked below:

271 Documents showing the sale of the Assets has been properly authorized, if Seller is a business entity (___ days).

272 A complete inventory of all included Business Personal Property which shall be consistent with all prior representations (___
273 days).

274 Uniform Commercial Code lien search as to the Business Personal Property included in the purchase price, showing the
275 Business Personal Property to be free and clear of all liens, other than liens to be released prior to or from the proceeds of closing
276 (___ days).

277 Copies of all leases affecting the Assets, which shall be consistent with all prior representations (___ days).

278 Estimated principal balance of accounts receivable and payable which shall be consistent with all prior representations (___
279 days).

280 Copy of profit and loss statements, balance sheets, business books and records, and income tax returns for the following years
281 _____ which shall be consistent with all prior representations (___ days).

282 Copies of all current licenses held by Business which indicate that Business holds all licenses required for current operations
283 (___ days).

284 Copies of franchise agreements, if any, which shall be consistent with all prior representations (___ days).

285 Any agreements restricting Seller from competing with Buyer after closing which shall be consistent with all prior
286 representations (___ days).

287 Other _____

288 Other _____

289 Other _____

290 This contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of: 1) Buyer's receipt of the final
291 document to be delivered by Seller; or 2) the latter of the deadlines for delivery of the documents, delivers to Seller a written notice
292 indicating that this contingency has not been satisfied. The notice shall identify which document(s): (a) have not been timely
293 delivered; or (b) do not meet the standard set forth for the document(s).

244 ■ **BUYER TERMINATION RIGHTS:** If Seller does not make timely delivery of any document by the stated deadline; Buyer may
245 terminate this Offer if Buyer delivers a written notice of termination to Seller prior to Buyer's Actual Receipt of the document(s)
246 identified in Buyer's written notice as not having been timely received.

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297 Buyer shall keep all information reviewed confidential until closing. If this Offer does not close Buyer shall promptly return all
298 documents received from Seller.

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299 **ADDITIONAL PROVISIONS**

300 _____
301 _____
302 _____

303 **SALES TAX** Sales tax, if any, shall be paid by Seller. Seller agrees to inactivate or cancel and surrender Seller's sales permit in a
304 timely manner. In compliance with Wis. Stat. § 77.52(18), Seller agrees to escrow the sum of \$ _____
305 out of the purchase price to be held by _____
306 _____ and to be released to Seller when Seller provides the escrow agent with
307 a receipt from the Department of Revenue that any sales tax due and owing has been paid, or a certificate that no amount is due.

308 **TITLE EVIDENCE**

309 ■ **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Real Estate by warranty deed
310 (trustee's deed if Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as provided
311 herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements entered under them,
312 recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants,
313 general taxes levied in the year of closing and _____ (provided none of the foregoing prohibit
314 present use of the real property), which constitutes merchantable title for purposes of this transaction. **Exceptions to warranty of**
315 **merchantable title also include _____ and any present uses of the Assets in violation of the foregoing disclosed by Seller**
316 **or known to Buyer on the date of this Offer.** Seller further agrees to complete and execute the documents necessary to record the
317 conveyance. **WARNING: Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements**
318 **may prohibit certain improvements or uses and therefore should be reviewed, particularly if Buyer contemplates making**
319 **improvements to the Assets or a use other than the current use.**

320 ■ **TITLE EVIDENCE:** Seller shall give evidence of title to the Real Estate in the form of an owner's policy of title insurance in the
321 amount of the value of the Real Estate on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin.
322 Seller shall pay all costs of providing title evidence to Buyer. Buyer shall pay all costs of providing title evidence required by Buyer's
323 lender.

324 **CAUTION: MODIFY AMOUNT OF OWNER'S POLICY OF TITLE INSURANCE IF TITLE POLICY WILL INSURE TITLE TO**
325 **ASSETS OTHER THAN REAL ESTATE.**

326 ■ **GAP ENDORSEMENT:** Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's) (Buyer's) ~~STRIKE ONE~~ ("Sellers" if
327 neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded after the effective date of the title insurance
328 commitment and before the deed is recorded, subject to the title insurance policy exclusions and exceptions, provided the title company will issue
329 the endorsement. If a gap endorsement or equivalent gap coverage is not available, Buyer may give written notice that title is not acceptable for
330 closing (see lines xxx-xxx).

331 ■ **PROVISION OF MERCHANTABLE TITLE:** For purposes of closing, title evidence shall be acceptable if the required title insurance
332 commitment is delivered to Buyer's attorney or Buyer not more than _____ days after acceptance ("15" if left blank), showing title to
333 the **Real Estate** as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines xxx-xxx, subject only to liens
334 which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate.

335 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title to the Real Estate is not acceptable for closing, Buyer shall notify Seller in writing of
336 objections to title within _____ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In such event,
337 Seller shall have a reasonable time, but not exceeding _____ days ("5" if left blank), from Buyer's delivery of the notice stating title
338 objections, to deliver notice to Buyer stating Seller's election to remove the objections by the time set for closing. In the event that Seller is unable
339 to remove said objections, Buyer may deliver to Seller written notice waiving the objections, and the time for closing shall be extended accordingly.
340 If Buyer does not waive the objections, Buyer shall deliver written notice of termination and this Offer shall be null and void. Providing title
341 evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

342 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced prior to date of this Offer
343 shall be paid by Seller no later than closing. All other special assessments shall be paid by Buyer.

344 **CAUTION:** Consider a special agreement if area assessments, property owners association assessments, special charges for current
345 services under Wis. Stat. § 66.0627 or other expenses are contemplated. "Other expenses" are one-time charges or ongoing use fees
346 for public improvements (other than those resulting in special assessments) relating to curb, gutter, street, sidewalk, municipal water,
347 sanitary and storm water and storm sewer (including all sewer mains and hook-up/connection and interceptor charges), parks, street
348 lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).

349 **RENTAL WEATHERIZATION** This transaction (is) (is not) ~~STRIKE ONE~~ ("is" if neither is stricken) exempt from Wisconsin Rental
350 Weatherization Standards (Wis. Admin. Code, Ch. SPS 367). If not exempt, (Buyer) (Seller) ~~STRIKE ONE~~ ("Buyer" if neither is stricken)
351 shall be responsible for compliance, including all costs with Wisconsin Rental Weatherization Standards. If Seller is responsible for
352 compliance, Seller shall provide a Certificate of Compliance at closing.

353 **EARNEST MONEY**

354 ■ **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (Buyer's
355 broker if Assets are not listed or Seller's account if no broker is involved), until applied to purchase price or otherwise disbursed as
356 provided in the Offer.

357 **CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties
358 or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.**

359 ■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after
360 clearance from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At
361 closing, earnest money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be
362 disbursed according to a written disbursement agreement signed by all Parties to this Offer. If said disbursement agreement has not
363 been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by an
364 attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the
365 earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law.
366 Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and broker may deduct from
367 the earnest money any costs and reasonable attorney's fees, in an amount up to \$1,000 but no more than one-half of the earnest
368 money, prior to disbursement.

369 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to
370 this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement per
371 (1) or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with
372 broker's proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has
373 jurisdiction over all earnest money disputes arising out of the sale of residential property with 1-4 dwelling units and certain other
374 earnest money disputes. Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of
375 a dispute. Both Parties agree to hold the broker harmless from any liability for good faith disbursement of earnest money in
376 accordance with this Offer or applicable Department of Safety and Professional Service regulations concerning earnest money. See
377 Wis. Admin. Code Ch. REEB 18.

378 **DEFINITIONS**

379 ■ **ACTUAL RECEIPT:** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document or written notice
380 physically in the Party's possession, regardless of the method of delivery.

381 ■ **BUSINESS PERSONAL PROPERTY:** "Business personal property" is defined as all tangible and intangible personal property and rights in
382 personal property owned by Seller and used in the Business as of the date of this Offer, including, but not limited to, furniture, trade fixtures and
383 equipment, tools used in business, telephone numbers and listings if transferable, customer lists, trade names, intellectual property, Internet
384 domain names, digital media, digital marketing, databases, business records, supplies, leases, advance lease deposits, customer deposits, signs,
385 all other personal property used in Business, and if transferable, all permits, special licenses and franchises, except those assets disposed of in
386 the ordinary course of business or as permitted by this Offer.

387 **CAUTION: Identify on lines xx-xx Business Personal Property not included in the purchase price or not exclusively owned by Seller,
388 such as licensed or rented personal property, tenants' personal property and tenants' trade fixtures.**

389 ■ **CONDITIONS AFFECTING THE BUSINESS, ASSETS OR TRANSACTION:** A "condition affecting the Business, Assets or transaction" is
390 defined to include, but is not limited to, the following:

391 (a) Proposed, planned or commenced public improvements which may result in special assessments or otherwise materially affect the Business
392 or Assets, or the present use of the Business or Assets;

393 (b) Violation of federal, state or local regulation, ordinances, laws or rules, or government agency or court order requiring repair, alteration or
394 correction of any existing condition; or any potential, threatened or pending claims against the Business or materially affecting the Assets;

395 (c) Material violation of the Americans with Disabilities Act (ADA) or other state or local laws requiring minimum accessibility for persons with
396 disabilities. Note: a Building owner's or tenant's obligations under the ADA may vary dependent upon the financial or other capabilities of the
397 building owner or tenant;

398 (d) Completed or pending reassessment of the Assets;

399 (e) Structural or mechanical system Defects in the Assets;

400 (f) Zoning or building code violations, any land division involving the Assets for which required state or local approvals were not obtained,
401 nonconforming structures or uses, conservation easements, rights-of-way, encroachments; easements, other than recorded utility easements;
402 covenants, conditions and restrictions; shared fences, walls, wells, driveways, signage or other shared usages; or leased parking.

403 (g) Construction or remodeling on the Assets for which required state or local approvals were not obtained;

404 (h) Any portion of the Assets being in a 100 year floodplain, a wetland or shoreland zoning area under local, state or federal regulations;

405 (i) That a structure which the Business occupies or which is located on the Real Estate sold by this Offer is designated as a historic building or
406 that any part of a structure which the Business occupies or the Real Estate sold by this Offer is in a historic district; or burial sites or archeological
407 artifacts on the Real Estate.

408 (j) Material violations of environmental laws or other laws or agreements regulating the Business or the use of the Assets;

409 (k) Conditions constituting a significant health or safety hazard for occupants of the Assets;

410 (l) Defect or contamination caused by unsafe concentrations of, or unsafe conditions relating to hazardous or toxic substances or medical or
411 infectious waste located on the premises which the Business occupies or on the Assets or previous storage of material amounts of hazardous
412 substances or medical or infectious waste on the premises which the Business occupies or on the Assets;

413 (m) Assets are subject to a mitigation plan required under administrative rules of the Department of Natural Resources related to county
414 shoreland zoning ordinances, which obligates the owner of the Assets to establish or maintain certain measures related to shoreland conditions
415 and which is enforceable by the county.

416 (n) Flooding, standing water, drainage problems or other water problems on or affecting the Assets; material damage from fire, wind, floods,
417 earthquake, expansive soils, erosion or landslides; or significant odor, noise, water intrusion or other irritants emanating from neighboring
418 property.

419 (o) Underground or aboveground storage tanks for storage of flammable, combustible or hazardous materials including but not limited to
420 gasoline and heating oil, which are currently or which were previously located on the premises which the Business occupies or on the Assets;

421 (p) High voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Assets;

422 (q) Any material defects in any of the equipment, appliances, business fixtures, fixtures, tools, furniture or other Business Personal Property
423 included in the transaction, and Seller further warrants that all will be in good working order on the day of closing;

424 (r) Any encumbrances on the Business, all integral parts thereof, or the Assets, except as stated in this Offer and in any schedule attached to it;

425 (s) Any litigation, government proceeding or investigation in progress, threatened or in prospect against or related to the Business or the Assets;

426 (t) Any road change, road work or change in road access which would materially affect the present use or access to the Business or the Assets.

427 (u) Any right granted to underlying lien holder(s) to accelerate the debtor's obligation by reason of the transfer of ownership of Business or the
428 Assets, or any permission to transfer being required and not obtained;

429 (v) Any unpaid Business taxes such as: income; sales; payroll; Social Security; unemployment; or any other employer/employee taxes due and
430 payable or accrued;

431 (w) A material failure of the financial statements, or schedules to the financial statements, to present the true and correct condition of the
432 Business as of the date of the statements and schedules or a material change in the financial condition or operations of the Business since the
433 date of the last financial statements and schedules provided by Seller, except for changes in the ordinary course of business which are not in the
434 aggregate materially adverse;

435 (x) Unresolved insurance claims, outstanding lease or contract agreements, back wages, product liability exposure, unpaid insurance premiums,
436 unfair labor practice claims, unpaid past due debts,

437 (y) Other Defects affecting the Assets or conditions or occurrences which would significantly reduce the value of the Business or Assets to a
438 reasonable person with knowledge of the nature and scope of the condition or occurrence.

439 ■ **DEADLINES:** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the event
440 occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as a specific number
441 of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other day designated by the
442 President such that the postal service does not receive registered mail or make regular deliveries on that day. Deadlines expressed as a specific
443 number of "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24
444 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at
445 midnight of that day.

446 ■ **DEFECT:** "Defect" means a condition that would have a significant adverse effect on the value of the Assets; that would significantly impair the
447 health or safety of future occupants of the Assets; or that if not repaired, removed or replaced would significantly shorten or adversely affect the
448 expected normal life of the premises.

449 ■ **ENVIRONMENTAL SITE ASSESSMENT:** An "environmental site assessment" (also known as a "Phase I Site Assessment")(see lines xxx-xxx)
450 may include, but is not limited to: (1) an inspection of the Real Estate; (2) a review of the ownership and use history of the Real Estate, including a
451 search of title records showing private ownership of the Real Estate for a period of 80 years prior to the visual inspection; (3) a review of historic
452 and recent aerial photographs of the Real Estate, if available; (4) a review of environmental licenses, permits or orders issued with respect to the
453 Real Estate; (5) an evaluation of results of any environmental sampling and analysis that has been conducted on the Real Estate; and (6) a review
454 to determine if the Real Estate is listed in any of the written compilations of sites or facilities considered to pose a threat to human health or the
455 environment including the National Priorities List, the Department of Natural Resources' (DNR) registry of Waste Disposal Sites, the DNR's
456 Contaminated Lands Environmental Action Network, and the DNR's Remediation and Redevelopment (RR) Sites Map including the Geographical
457 Information System (GIS) Registry and related resources. Any Environmental Site Assessment performed under this Offer shall comply with
458 generally recognized industry standards (e.g. current American Society of Testing and Materials "Standard Practice for Environmental Site
459 Assessments"), and state and federal guidelines, as applicable.

460 **CAUTION: Unless otherwise agreed an Environmental Site Assessment does not include subsurface testing of the soil or groundwater**
461 **or other testing of the Real Estate for environmental pollution. If further investigation is required, insert provisions for a Phase II Site**
462 **Assessment (collection and analysis of samples), Phase III Environmental Site Assessment (evaluation of remediation alternatives) or**
463 **other site evaluation at lines xxx-xxx or xxx-xxx or attach as an addendum per line xxx.**

464 ■ **FIXTURES:** A "Fixture" is an item of property, which is on the Real Estate on the date of this Offer, which is physically attached to or so closely
465 associated with land and improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not
466 easily removable without damage to the premises, items specifically adapted to the premises, and items customarily treated as fixtures, including,
467 but not limited to, all: garden bulbs; plants; shrubs and trees; screen and storm doors and windows; electric lighting fixtures; window shades;
468 curtain and traverse rods; blinds and shutters; central heating and cooling units and attached equipment; water heaters and treatment systems;
469 sump pumps; attached or fitted floor coverings; awnings; attached antennas; garage door openers and remote controls; installed security systems;
470 central vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans; fences; storage
471 buildings on permanent foundations and docks/piers on permanent foundations. A Fixture does not include trade fixtures owned by tenants of the
472 Real Estate.

473 CAUTION: Exclude Fixtures not owned by Seller such as rented fixtures. See lines xx-xx.

474 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy;
475 (4) date of closing; (5) contingency Deadlines STRIKE AS APPLICABLE and all other dates and Deadlines in this Offer except: ____
476 _____. If "Time is of the Essence"

477 applies to a date or Deadline, failure to perform by the exact date or Deadline is a breach of contract. If "Time is of the Essence" does
478 not apply to a date or Deadline, then performance within a reasonable time of the date or Deadline is allowed before a breach occurs.

479 **PROPERTY ADDRESS:**

480 **ALLOCATION OF PURCHASE PRICE** CHECK LINE XXX OR XXX

481 The Parties agree to the following allocation of the purchase price:

482 Goodwill:.....	\$ _____
483 Stock-in-trade (inventory):	\$ _____
484 Accounts receivable:.....	\$ _____
485 Business Personal Property:.....	\$ _____
486 Real Estate Interest:	\$ _____
487 Other:	\$ _____
488 _____ Total	\$ _____

489 The Parties shall agree on an allocation by the following deadline: (within _____ days of acceptance of the Offer)
490 (_____, _____) **STRIKE AND COMPLETE AS APPLICABLE**. If the Parties cannot agree to an

491 allocation by the deadline, the Parties shall submit to binding arbitration. The Parties will share any costs of arbitration equally.

492 Allocation may take place after closing. **CAUTION: Fair market value of the real property must be determined prior to closing to**

493 **complete the transfer return per Wis. Stat. § 77.22. The Parties should consult accountants, legal counsel or other**

494 **appropriate experts, as necessary.**

495 **IF LINE 228 IS NOT MARKED OR IS MARKED N/A LINES 264-269 APPLY.**

496 **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written _____

497 _____ [INSERT LOAN PROGRAM OR SOURCE] first mortgage loan commitment as described below,

498 within _____ days of acceptance of this Offer. The financing selected shall be in an amount of not less than \$

499 _____ for a term of not less than _____ years, amortized over not less than _____ years. Initial

500 monthly payments of principal and interest shall not exceed \$ _____. Monthly payments may also include 1/12th of the

501 estimated net annual real estate taxes, hazard insurance premiums, and private mortgage insurance premiums. The mortgage may

502 not include a prepayment premium. Buyer agrees to pay discount points and/or loan origination fee in an amount not to exceed

503 _____% of the loan. If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall

504 be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as

505 necessary to maintain the term and amortization stated above.

506 **CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE xxx or xxx.**

507 **FIXED RATE FINANCING:** The annual rate of interest shall not exceed _____%.

508 **ADJUSTABLE RATE FINANCING:** The initial annual interest rate shall not exceed _____%. The initial interest rate

509 shall be fixed for _____ months, at which time the interest rate may be increased not more than _____% per year.

510 The maximum interest rate during the mortgage term shall not exceed _____%. Monthly payments of principal and

511 interest may be adjusted to reflect interest changes.

512 If Buyer is using multiple loan sources or obtaining a construction loan or land contract financing, describe at lines 109-115 or 277-

513 286 or in an addendum attached per line 479.

514 NOTE: If purchase is conditioned on buyer obtaining financing for operations or development consider adding a contingency for that

515 purpose.

516 **BUYER'S LOAN COMMITMENT:** Buyer agrees to pay all customary loan and closing costs, to promptly apply for a mortgage loan,

517 and to provide evidence of application promptly upon request of Seller. If Buyer qualifies for the loan described in this Offer or

518 another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline

519 at line 229. Buyer and Seller agree that delivery of a copy of any written loan commitment to Seller (even if subject to conditions)

520 shall satisfy Buyer's financing contingency if, after review of the loan commitment, Buyer has directed, in writing, delivery of the loan

521 commitment. Buyer's written direction shall accompany the loan commitment. Delivery shall not satisfy this contingency if

522 accompanied by a notice of unacceptability.

523 **CAUTION: The delivered commitment may contain conditions Buyer must yet satisfy to obligate the lender to provide the**

524 **loan. BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER SHALL NOT DELIVER A LOAN COMMITMENT TO**

525 **SELLER OR SELLER'S AGENT WITHOUT BUYER'S PRIOR WRITTEN APPROVAL OR UNLESS ACCOMPANIED BY A**

526 **NOTICE OF UNACCEPTABILITY.**

527 **SELLER TERMINATION RIGHTS:** If Buyer does not make timely delivery of said commitment; Seller may terminate this Offer if

528 Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written loan commitment.

529 **FINANCING UNAVAILABILITY:** If financing is not available on the terms stated in this Offer (and Buyer has not already delivered

530 an acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including

531 copies of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller

532 shall then have 10 days to deliver to Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in
533 this Offer, and this Offer shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not
534 timely given, this Offer shall be null and void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to
535 determine Buyer's credit worthiness for Seller financing.

536 ■ **IF THIS OFFER IS NOT CONTINGENT ON FINANCING:** Within 7 days of acceptance, a financial institution or third party in
537 control of Buyer's funds shall provide Seller with reasonable written verification that Buyer has, at the time of verification, sufficient
538 funds to close. If such written verification is not provided, Seller has the right to terminate this Offer by delivering written notice to
539 Buyer. Buyer may or may not obtain mortgage financing but does not need the protection of a financing contingency. Seller agrees
540 to allow Buyer's appraiser access to the Property for purposes of an appraisal. Buyer understands and agrees that this Offer is not
541 subject to the appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of
542 access for an appraisal constitute a financing contingency.

543 **APPRAISAL CONTINGENCY:** This Offer is contingent upon the Buyer or Buyer's lender having the Property appraised at
544 Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report dated subsequent to the
545 date of this Offer indicating an appraised value for the Property equal to or greater than the agreed upon purchase price. This
546 contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers to Seller a copy of the
547 appraisal report which indicates that the appraised value is not equal to or greater than the agreed upon purchase price,
548 accompanied by a written notice of termination.

549 **CAUTION: An appraisal ordered by Buyer's lender may not be received until shortly before closing. Consider whether**
550 **deadlines provide adequate time for performance.**

551 **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines xxx-xxx). This Offer is
552 contingent upon a qualified independent inspector(s) conducting an inspection(s) of the Assets which discloses no Defects. This
553 Offer is further contingent upon a qualified independent inspector or qualified independent third party performing an inspection of
554 _____ (list any
555 **feature(s) to be separately inspected, e.g., dumpsite, etc.**) which discloses no Defects. Buyer shall order the inspection (s) and be
556 responsible for all costs of inspection(s). Buyer may have follow-up inspections recommended in a written report resulting from an
557 authorized inspection performed provided they occur prior to the deadline specified at line xxx. Each inspection shall be performed by
558 a qualified independent inspector or qualified independent third party.

559 **CAUTION: Buyer should provide sufficient time for the primary inspection and/or any specialized inspection(s), as well as**
560 **any follow-up inspection(s).**

561 For the purpose of this contingency, Defects (see lines xxx-xxx) do not include conditions the nature and extent of which Buyer had
562 actual knowledge or written notice before signing the Offer.

563 ■ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of
564 acceptance, delivers to Seller a copy of the inspection report(s) and a written notice listing the Defect(s) identified in the inspection
565 report(s) to which Buyer objects (Notice of Defects).

566 **CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.**

567 ■ **RIGHT TO CURE:** Seller (shall)(shall not) ~~STRIKE ONE~~ ("shall" if neither is stricken) have a right to cure the Defects. If Seller has
568 the right to cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within 10 days of Buyer's delivery of the
569 Notice of Defects stating Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3)
570 delivering to Buyer a written report detailing the work done within 3 days prior to closing. This Offer shall be null and void if Buyer
571 makes timely delivery of the Notice of Defects and written inspection report(s) and: (1) Seller does not have a right to cure or (2)
572 Seller has a right to cure but: (a) Seller delivers written notice that Seller will not cure or (b) Seller does not timely deliver the written
573 notice of election to cure.

574 **ADDENDA** The attached _____ is/are made part of this Offer.

575 This Offer was drafted by [Licensee and firm] _____

576 _____ on _____.

577 Buyer Entity Name (if any): _____

578 (x) _____

579 Authorized Signature ▲ Print Name & Title Here ► Date ▲

580 (x) _____

581 Individual Buyer's Signature ▲ Print Name Here ► Date ▲

582 x) _____

583 Authorized Signature ▲ Print Name & Title Here ► Date ▲

584 (x) _____

585 Individual Buyer's Signature ▲ Print Name Here ► Date ▲

586 Buyer Entity Name (if any): _____

587 (x) _____
588 Authorized Signature ▲ Print Name & Title Here ► Date ▲

589 (x) _____
590 Individual Buyer's Signature ▲ Print Name Here ► Date ▲

591 x) _____
592 Authorized Signature ▲ Print Name & Title Here ► Date ▲

593 (x) _____
594 Individual Buyer's Signature ▲ Print Name Here ► Date ▲

595 **EARNEST MONEY RECEIPT** Broker acknowledges receipt of earnest money as per line xx of the above Offer.

596 _____ Broker (By) _____

SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING AND THE CONVEYANCE OF THE ASSETS. SELLER AGREES TO CONVEY THE ASSETS ON THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.

597 (Seller Entity Name (if any): _____

598 (x) _____
599 Authorized Signature ▲ Print Name & Title Here ► Date ▲

600 (x) _____
601 Individual Seller's Signature ▲ Print Name Here ► Date ▲

602 x) _____
603 Authorized Signature ▲ Print Name & Title Here ► Date ▲

604 (x) _____
605 Individual Seller's Signature ▲ Print Name Here ► Date ▲

606 (Seller Entity Name (if any): _____

607 (x) _____
608 Authorized Signature ▲ Print Name & Title Here ► Date ▲

609 (x) _____
610 Individual Seller's Signature ▲ Print Name Here ► Date ▲

611 x) _____
612 Authorized Signature ▲ Print Name & Title Here ► Date ▲

613 (x) _____
614 Individual Seller's Signature ▲ Print Name Here ► Date ▲

615 This Offer was presented to Seller by [Licensee and Firm] _____

616 _____ on _____ at _____ a.m./p.m.

617 This Offer is rejected _____ This Offer is countered [See attached counter] _____
618 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

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WB-17 OFFER TO PURCHASE - BUSINESS WITHOUT REAL ESTATE

NOTE: If real property is being purchased or leased, use a WB-16 Offer to Purchase - Business With Real Estate.

1 **TO BE USED FOR SALE OF ASSETS ONLY. CONSULT APPROPRIATE ADVISORS FOR TAX, LICENSE OR OTHER QUESTIONS.**

2 **BROKER DRAFTING THIS OFFER ON** _____ **[DATE] IS AGENT OF (SELLER)(BUYER)(DUAL AGENT) STRIKE TWO**

3 **GENERAL PROVISIONS** The Buyer, _____, offers to purchase
4 the Business known as _____

5 _____

6 _____ **Identify business name, type of business entity and type of business** on the following terms:

7 **■ PURCHASE PRICE:** _____

8 _____ Dollars (\$ _____).

9 **■ EARNEST MONEY** of \$ _____ accompanies this Offer and earnest money of \$ _____

10 will be paid within _____ days of acceptance.

11 **■ THE BALANCE OF PURCHASE PRICE** will be paid in cash or equivalent at closing unless otherwise provided below.

12 **■ ADDITIONAL PROPERTY INCLUDED IN PURCHASE PRICE:** Seller shall include in the purchase price and transfer, free and clear
13 of encumbrances, all goodwill, stock-in-trade, accounts receivable and business personal property as defined at lines 83 - 87,
14 unless excluded at lines 16 -17, and the following additional property: _____

15 _____

16 **■ ITEMS NOT INCLUDED IN THE PURCHASE PRICE:** _____

17 _____

18 **■ TRANSFER OF OWNERSHIP:** Legal possession of the Business and all included property shall be delivered to Buyer at the time
19 of closing. Business personal property included in purchase price will be transferred by bill of sale or _____

20 _____

21 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed an identical copy of the Offer, including signatures on
22 separate but identical copies of the Offer. **CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider**
23 **whether short term deadlines running from acceptance provide adequate time for both binding acceptance and performance.**

24 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before
25 _____ **CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.**

26 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and written
27 notices to a Party shall be effective only when accomplished by one of the methods specified at lines 28-37.

28 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an
29 account with a commercial delivery service, addressed either to the Party or to the Party's recipient for delivery designated at
30 lines 31 or 33 (if any), for delivery to the Party's delivery address at lines 32 or 34.

31 Seller's recipient for delivery (optional): _____

32 Seller's delivery address: _____

33 Buyer's recipient for delivery (optional): _____

34 Buyer's delivery address: _____

35 (2) By giving the document or written notice personally to the Party, or the Party's recipient for delivery if an individual is designated at lines 31 or 33.

36 (3) By fax transmission of the document or written notice to the following telephone number:

37 Buyer: (_____) Seller: (_____)

38 **PLACE OF CLOSING** This transaction is to be closed at: _____
39 _____ no later than _____, _____ unless another date or place is agreed to in writing.

40 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing: personal property taxes, prepaid
41 insurance (if assumed), and _____

42 _____ Any income, taxes or expenses shall accrue to Seller, and be prorated,
43 through the day prior to closing. Personal property taxes shall be prorated based on (the personal property taxes for the current
44 year, if known, otherwise on the personal property taxes for the preceding year) (_____)

45 _____) **STRIKE COMPLETE AS APPLICABLE**

46 **CAUTION: If Business has not been fully assessed for tax purposes or if proration on the basis of personal property**
47 **taxes for the preceding year is not acceptable, insert estimated annual tax or other basis for proration. Note: The**
48 **government taxing authority normally bills Seller for personal property taxes for the entire year.**

49 **BUSINESS AND PROPERTY CONDITION PROVISIONS**

50 **■ REPRESENTATIONS REGARDING BUSINESS, INCLUDED PROPERTY AND THE TRANSACTION:** Seller represents to Buyer
51 that as of the date of acceptance Seller has no notice or knowledge of conditions affecting the Business, included property or
52 the transaction (as defined at lines 88-116) other than those identified in Seller's disclosure report dated _____ which was received
53 by Buyer prior to Buyer signing this Offer **COMPLETE DATE OR STRIKE AS APPLICABLE** and _____

54 _____

55 **■ BUSINESS OPERATION**

56 Seller shall continue to conduct the Business in a regular and normal manner and shall use Seller's best efforts to keep available the services of Seller's
57 present employees and to preserve the goodwill of Seller's suppliers, customers and others having business relations with Seller.

58 ■ PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:

[page 2 of 5, WB-17]

59 Seller shall maintain all business personal property included in this Offer until the earlier of closing or occupancy by Buyer in
60 materially the same condition as of the date of acceptance of this Offer. If, prior to the earlier of closing or occupancy by Buyer,
61 the included business personal property is damaged in an amount of not more than five per cent (5%) of the purchase price, Seller
62 shall be obligated to restore the damaged property. If Seller is unable to restore the damaged property, Seller shall promptly
63 notify Buyer in writing and this Offer may be canceled at the option of the Buyer. If the damage shall exceed such sum, Seller shall
64 promptly notify Buyer in writing of the damage and this Offer may be canceled at option of Buyer. Should Buyer elect to carry out this
65 Offer despite such damage, Buyer shall be entitled to any insurance proceeds relating to the damage to the damaged property, plus
66 a credit towards the purchase price equal to the amount of Seller's deductible on such policy.

67 ■ INVESTIGATIONS: Seller agrees to allow Buyer's investigators reasonable access to the Business and included property
68 upon reasonable notice if the investigations are reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to
69 promptly provide copies of all such investigative reports to Seller, and to listing broker if Business is listed. Furthermore, Buyer agrees
70 to promptly restore the Business and included property to its original condition after Buyer's investigations are completed, unless
71 otherwise agreed with Seller. ***Seller's authorization for investigations does not authorize Buyer to conduct testing of the***
72 ***Business or included property. CAUTION: See lines 119-122 for definition of "test". If Buyer requires testing contingencies,***
73 ***they should be specifically provided for at lines 274-285. Seller acknowledges that certain investigations or tests may detect***
74 ***environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.***

75 ■ PRE-CLOSING INVESTIGATION: At a reasonable time, preapproved by Seller or Seller's agent, within 3 days before closing,
76 Buyer shall have the right to investigate to determine that there has been no significant change in the condition of the Business
77 and included property, except for changes approved by Buyer.

78 ■ CHANGE OR EXPANSION OF THE BUSINESS: WARNING: If Buyer contemplates changing or expanding the Business, Buyer
79 may need to investigate whether governmental approvals such as licenses, permits or variances may be required prior to the
80 change or expansion of the Business. Contingencies for investigation of these issues may be added to this Offer. See lines
81 274-285. If plant closings or mass layoffs will occur as a result of this Offer the Parties should review federal and state plant closing laws.

82 **DEFINITIONS**

83 ■ BUSINESS PERSONAL PROPERTY: "Business personal property" is defined as all tangible and intangible personal property and
84 rights in personal property owned by Seller and used in the business, including furniture, trade fixtures and equipment, tools used
85 in business, telephone numbers and listings, if transferable, customer lists, trade names, business records, supplies, leases, advance
86 lease deposits, customer deposits, signs, all other personal property used in Business, and if transferable, all permits, special
87 licenses and franchises, except those assets disposed of in the ordinary course of business or as permitted by this Offer.

88 ■ CONDITIONS AFFECTING THE BUSINESS, INCLUDED PROPERTY OR THE TRANSACTION: A "condition affecting the
89 Business, included property or the transaction" is defined as follows:

- 90 (a) Planned or commenced public improvements which may materially affect the Business or included property;
 - 91 (b) Government agency or court order requiring repair, alteration or correction of any existing condition;
 - 92 (c) Material violation of the Americans with Disabilities Act (ADA) or other state or local laws requiring minimum accessibility for persons
93 with disabilities. **Note: a Building owner's or tenant's obligations under the ADA may vary depending upon the financial or**
94 **other capabilities of the building owner or tenant;**
 - 95 (d) Completed or pending reassessment of the business personal property sold by this Offer for tax purposes;
 - 96 (e) Structural, mechanical or other inadequacies which if not repaired will significantly shorten the expected normal life of the
97 included property sold by this Offer;
 - 98 (f) Material violations of environmental laws or other laws or agreements regulating the Business;
 - 99 (g) Significant health or safety hazards associated with the Business;
 - 100 (h) Any material defects in any of the equipment, appliances, business fixtures, fixtures, tools, furniture or other business personal
101 property included in the transaction, and ***Seller further warrants that all will be in good working order on the day of closing;***
 - 102 (i) Any encumbrances on the Business, all integral parts thereof, or the included property being conveyed in conjunction with the
103 Business, except as stated in this contract and in any schedule attached to it;
 - 104 (j) Material violations of environmental laws or other laws or agreements regulating the Business;
 - 105 (k) Any litigation, government proceeding or investigation in progress, threatened or in prospect against or related to the Business
106 or the included property sold by this Offer;
 - 107 (l) Any right granted to underlying lien holder(s) to accelerate the debtor's obligation by reason of the transfer of ownership of
108 Business or other property included in the transaction, or any permission to transfer being required and not obtained;
 - 109 (m) Any unpaid Business taxes such as: income; sales; payroll; Social Security; unemployment; or any other employer/employee
110 taxes due and payable or accrued;
 - 111 (n) A material failure of the financial statements, or schedules to the financial statements, to present the true and correct
112 condition of the Business as of the date of the statements and schedules or a material change in the financial condition or
113 operations of the Business since the date of the last financial statements and schedules provided by Seller, except for changes
114 in the ordinary course of business which are not in the aggregate materially adverse;
 - 115 (o) Other conditions or occurrences which would significantly reduce the value of the Business or included property occupied by
116 the Business to a reasonable person with knowledge of the nature and scope of the condition or occurrence.
- 117 ■ INCLUDED PROPERTY: "Included property" is defined as all business personal property (as defined at lines 83-87 and other
118 property of any kind or an interest in any property of any kind which has been included in the purchase price (See lines 12-15).
- 119 ■ TEST: A "test" is defined as the taking of samples from the included property and the laboratory or other analysis of these
120 materials. Note: Any contingency authorizing such tests should specify the included property to be tested, the purpose of the test,
121 (e.g. to determine the presence or absence of a source of environmental contamination), any limitations on Buyer's testing and any
122 other material terms of the contingency (e.g. Buyer's obligation to return the included property to its original condition).

123 **BULK SALES** Seller shall comply with the Bulk Transfers Law (Chapter 406, Wis. Stats.), if applicable. The delivery of a
124 fully executed copy of this Offer to Seller shall constitute a written demand for a list of creditors and for the preparation of a
125 schedule of the personal property transferred, as required by the Bulk Transfers Law.

126 BUSINESS NAME: _____ [page 3 of 5, WB-17]

127 THE CONTINGENCY AT LINES 129 – 154 IS A PART OF THIS OFFER IF THE BOX PRECEDING THE PARAGRAPH IS MARKED SUCH
128 AS WITH AN "X" AT LINE 129. IT IS NOT PART OF THIS OFFER IF MARKED N/A OR IF NOT MARKED.

129 DOCUMENT REVIEW/RECEIPT CONTINGENCY: CHECK APPLICABLE BOXES BELOW

130 This Offer is contingent upon Buyer, at Buyer's expense, being able to obtain the following within the number of days of
131 acceptance specified following each item below (consider addressing licenses, permits, etc.)

132 _____ (___ days).

133 _____ (___ days).

134 _____ (___ days).

135 This Offer is contingent upon Seller delivering the following documents to Buyer within the number of days of acceptance
136 specified following each item below: CHECK APPLICABLE BOXES BELOW

137 Documents showing the sale of the Business has been properly authorized, if Seller is a business entity (___ days).

138 A complete inventory of all included business personal property which shall be consistent with all prior representations (___ days).

139 Uniform Commercial Code lien search as to the business personal property included in the purchase price, showing the business
140 personal property to be free and clear of all liens, other than liens to be released prior to or from the proceeds of closing (___ days).

141 Copies of all leases affecting the Business or business personal property, which shall be consistent with all prior representations (___ days).

142 Estimated principal balance of accounts receivable and payable which shall be consistent with all prior representations (___ days).

143 Copy of profit and loss statements, balance sheets, business books and records, and income tax returns for the following years
144 _____ which shall be consistent with all prior representations (___ days).

145 Copies of all current licenses held by Business which indicate that Business holds all licenses required for current operations (___ days).

146 Copies of franchise agreements, if any, which shall be consistent with all prior representations (___ days).

147 Any agreements restricting Seller from competing with Buyer after closing which shall be consistent with all prior representations (___ days).

148 Other _____ (___ days).

149 Other _____ (___ days).

150 This document review/receipt contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of: 1) receipt
151 of the final document to be obtained/delivered or 2) the latter of the deadlines for obtaining or delivery of the documents, delivers
152 to Seller a written notice indicating that this contingency has not been satisfied. The notice shall identify which document(s) have not
153 been timely obtained/delivered or do not meet the standard set forth for the document(s). Buyer shall keep all information reviewed
154 confidential until closing. If this Offer does not close Buyer shall promptly return all documents received from Seller.

155 **ALLOCATION OF PURCHASE PRICE** Seller and Buyer will agree to an allocation of the: goodwill; stock-in-trade; accounts
156 receivable; business personal property and _____

157 _____ which is included in the purchase price, as follows: **CHECK ONE**

158 Buyer and Seller agree to the allocation set forth at lines 168 - 175 of this Offer.

159 Buyer and Seller shall agree on an allocation by the following deadline: (within _____ days of acceptance of the
160 Offer)(_____, _____) **STRIKE AND COMPLETE AS APPLICABLE**. If the Parties cannot agree to an allocation

161 by the deadline, the Parties shall submit to binding arbitration. Seller and Buyer will share any costs of arbitration equally. Allocation
162 may take place after closing. **CAUTION: Parties should consult accountants, legal counsel or other appropriate experts, as necessary.**

163 If stock-in-trade or accounts receivable are purchased, the purchase price shall be based on the following terms and costs:

164 (a) Stock-in-Trade _____

165 _____

166 (b) Accounts Receivable _____

167 _____

168 **OPTIONAL ALLOCATION OF PURCHASE PRICE:** Seller and Buyer agree to the following allocation of the purchase price:

169 Goodwill: \$ _____

170 Stock-in-trade: \$ _____

171 Accounts receivable: \$ _____

172 Business personal property: \$ _____

173 Other: \$ _____

174 Other: \$ _____

175 Total \$ _____

176 **TIME IS OF THE ESSENCE** TIME IS OF THE ESSENCE as to all dates and deadlines in this Offer, including but not limited to:
177 earnest money payment(s); binding acceptance; date of closing and contingency deadlines unless it is agreed in that time is not of
178 the essence for a specific date(s) or deadline(s) at lines 274 – 284, or in an addendum per line 285. If "Time is of the Essence"
179 applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does
180 not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

181 **ENTIRE AGREEMENT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the
182 transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of
183 the parties to this Offer and their successors in interest. **Note: Consult appropriate advisors for tax, license or other questions.**

185 Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer. A
186 material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or other
187 legal remedies. NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD
188 READ THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER
189 BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR
190 HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.

191 **DATES AND DEADLINES** Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding
192 the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day.
193 Deadlines expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under
194 Wisconsin or Federal law, and other day designated by the President such that the postal service does not receive registered mail
195 or make regular deliveries on that day. Deadlines expressed as a specific number of "hours" from the occurrence of an event, such
196 as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines
197 expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

198 **EARNEST MONEY**

199 ■ **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent if
200 Business is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the
201 Offer. **CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties**
202 **or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.**

203 ■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance
204 from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest
205 money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according
206 to a written disbursement agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer to
207 purchase is not a written disbursement agreement pursuant to which the broker may disburse). If said disbursement agreement has
208 not been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by
209 an attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the
210 earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law.
211 Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and broker may deduct from
212 the earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.

213 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to
214 this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement
215 per (1) or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree
216 with broker's proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. The Buyer and Seller
217 should consider consulting attorneys regarding their legal rights under this Offer in case of a dispute. Both Parties agree to hold the
218 broker harmless from any liability for good faith disbursement of earnest money in accordance with this Offer or applicable
219 Department of Regulation and Licensing regulations concerning earnest money. See Wis. Adm. Code Ch. RL 18. **NOTE:**
220 **WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL**
221 **RIGHTS OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR**
222 **CONVEYANCE. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

223 **DELIVERY/RECEIPT** Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be
224 treated in all manner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be
225 considered an original signature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to,
226 or actual receipt by Buyer or Seller. Once received, a notice cannot be withdrawn by the Party delivering the notice without the
227 consent of the Party receiving the notice. A Party may not unilaterally reinstate a contingency after a notice of a contingency waiver
228 has been received by the other Party. **The delivery/receipt provisions in this Offer may be modified when appropriate, e.g. when**
229 **mail delivery is not desirable (see lines 26 - 34).** Buyer and Seller authorize the agents of Buyer and Seller to distribute copies of
230 the Offer to Buyer's lender, appraisers, insurance companies and any other settlement service providers for the transaction.

231 **ADDITIONAL FINANCING PROVISIONS**

232 **LOAN COMMITMENT:** Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly,
233 and to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer
234 or other financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline
235 for loan commitment at line 255. **Buyer's delivery of a copy of any written loan commitment (even if subject to conditions)**
236 **shall satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability. CAUTION: BUYER,**
237 **BUYER'S LENDER AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER**
238 **WITHOUT BUYER'S PRIOR APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.**

239 **FINANCING UNAVAILABILITY:** If financing is not available on the terms stated in this Offer (and Buyer has not already delivered
240 an acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including
241 copies of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in the financing
242 contingency, Seller shall then have 10 days to give Buyer written notice of Seller's decision to finance this transaction on the same
243 terms set forth in the financing contingency, and this Offer shall remain in full force and effect, with the time for closing extended
244 accordingly. If Seller's notice is not timely given, this Offer shall be null and void. Buyer authorizes Seller to obtain any
245 credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing.

246 **SELLER TERMINATION RIGHTS:** If Buyer does not make timely delivery of said commitment, Seller may terminate this Offer if
247 Seller delivers a written notice of termination to Buyer prior to Seller's actual receipt of a copy of Buyer's written loan commitment.

248 **BUSINESS NAME:** _____ [page 5 of 5, WB-17]

249 **OPTIONAL FINANCING CONTINGENCY: THE CONTINGENCY AT LINES 251 THROUGH 268 IS A PART OF THIS OFFER IF**
250 **MARKED, SUCH AS WITH AN "X," AT LINE 251. IT IS NOT PART OF THIS OFFER IF IT IS MARKED N/A OR LEFT BLANK .**

251 **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain: CHECK APPLICABLE FINANCING BELOW

252 financing from Seller at closing as further described at lines 256 to 268. Personal property transferred under this Offer shall
253 be subject to a chattel security agreement and lien rights under the Uniform Commercial Code in favor of Seller.

254 a _____ **INSERT LOAN PROGRAM** (fixed) (adjustable) **STRIKE ONE** rate
255 loan commitment as further described at lines 231 to 247 and 256 to 268, within _____ days of acceptance of this Offer.

256 The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years, amortized
257 over not less than _____ years. If the purchase price under this Offer is modified, the financed amount, unless otherwise
258 provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall
259 be adjusted as necessary to maintain the term and amortization stated above.

260 **IF FINANCING IS FIXED RATE** the annual rate of interest shall not exceed _____ % and monthly payments of principal
261 and interest shall not exceed \$ _____.

262 **IF FINANCING IS ADJUSTABLE RATE** the initial annual interest rate shall not exceed _____ %. The initial interest rate shall
263 be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The maximum
264 interest rate during the loan term shall not exceed _____ %. Initial monthly payments of principal and interest shall not
265 exceed \$ _____. Monthly payments of principal and interest may be adjusted to reflect interest changes.

266 The financing may not include a prepayment premium. Buyer agrees to pay discount points and/or loan origination fee in an
267 amount not to exceed _____ % of the loan. Monthly payments may also include: _____
268 _____.

269 **SALES TAX** Sales tax, if any, shall be paid by Seller. Seller agrees to surrender Seller's sales permit in a timely manner. In
270 compliance with § 77.52(18), Wis. Stats., Seller agrees to escrow the sum of \$ _____ out of the
271 purchase price to be held by _____ and
272 to be released to Seller when Seller provides the escrow agent with a receipt from the Department of Revenue that any sales tax
273 due and owing has been paid, or a certificate that no amount is due.

274 **ADDITIONAL PROVISIONS/CONTINGENCIES** _____
275 _____
276 _____
277 _____
278 _____
279 _____
280 _____
281 _____
282 _____
283 _____
284 _____

285 **ADDENDA:** The attached _____ is/are made part of this Offer.

286 This Offer was drafted on _____ [date] by [Licensee and firm] _____.

287 (x) _____
288 Buyer's Signature ▲ Print Name here: Social Security No. or FEIN (Optional) ▲ Date ▲

289 (x) _____
290 Buyer's Signature ▲ Print Name here: Social Security No. or FEIN (Optional) ▲ Date ▲

291 **EARNEST MONEY RECEIPT** Broker acknowledges receipt of earnest money as per line 9 of the above Offer. **(See lines 198-222)**

292 _____ Broker (By) _____

293 **SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE**
294 **CLOSING AND THE CONVEYANCE OF THE BUSINESS AND INCLUDED PROPERTY IN THIS OFFER. THE UNDERSIGNED**
295 **HEREBY AGREES TO CONVEY THE ABOVE-MENTIONED BUSINESS AND INCLUDED PROPERTY IN THIS OFFER ON THE**
296 **TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.**

297 (x) _____
298 Seller's Signature ▲ Print Name Here: Social Security No. or FEIN (Optional) ▲ Date ▲

299 (x) _____
300 Seller's Signature ▲ Print Name Here: Social Security No. or FEIN (Optional) ▲ Date ▲

301 This Offer was presented to Seller by _____ on _____, _____, at _____ a.m./p.m.

302 THIS OFFER IS REJECTED _____ THIS OFFER IS COUNTERED [See attached counter] _____
303 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

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WB-35 SIMULTANEOUS EXCHANGE AGREEMENT

1 **THE BROKER DRAFTING THIS AGREEMENT ON _____ [DATE] IS THE AGENT OF (FIRST PARTY)(SECOND PARTY)**
2 **(BOTH PARTIES) ~~STRIKE TWO~~** **CAUTION: NOT TO BE USED FOR "STARKER" EXCHANGES.**

3 **GENERAL PROVISIONS** First Party and Second Party agree to exchange Property One for Property Two. As used in this Agreement:

4 First Party is _____.

5 Second Party is _____.

6 Property One is _____.

7 Property Two is _____.

8 As to Property One, First Party is Grantor and Second Party is Grantee. As to Property Two, Second Party is Grantor and First
9 Party is Grantee. Unless otherwise indicated, the words "Property", "Grantor", and "Grantee" shall apply separately to both aspects
10 of the transaction (See lines 267 to 272).

11 **ADDITIONAL CONSIDERATION:** At closing First Party Second Party shall pay the Other Party cash in the amount of \$ _____.

12 **OTHER CONSIDERATION:** At closing First Party Second Party shall: _____

13 _____

14 _____ **Note: If assuming mortgage(s) consider terms and balance of mortgage, lender approval, etc.**

15 **FIXTURES AND OTHER PROPERTY:** Included with the real property exchanged under this Agreement are all fixtures (See lines 263 to 266)
16 as may be on the Property on the date of this Agreement, unless excluded at lines 22-25 and the following additional items:

17 **PROPERTY ONE:** _____

18 _____

19 **PROPERTY TWO:** _____

20 _____

21 All personal property will be transferred by Bill of Sale, free and clear of all liens and encumbrances, subject to tenants' rights.

22 **ITEMS NOT INCLUDED IN THIS AGREEMENT:** **CAUTION: Address rented fixtures or trade fixtures owned by tenants, if applicable.**

23 **PROPERTY ONE:** _____

24 **PROPERTY TWO:** _____

25 **NOTE: Attach a schedule to identify additional included or excluded personal or other property, as needed.**

26 **TIME IS OF THE ESSENCE** as to: (1) binding acceptance; (2) occupancy; (3) date of closing; (4) contingency deadlines; ~~STRIKE AS APPLICABLE~~

27 and all other dates and deadlines in this Agreement except: _____

28 **BINDING ACCEPTANCE** This Agreement will only be binding if a copy of the Agreement, which has been signed by or on
29 behalf of each Party (Note: each Party, or an authorized agent, must sign for this Agreement to be valid.), has been
30 delivered to both Parties on or before _____.

31 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Agreement, delivery of documents and
32 written notices to a Party shall be effective only when accomplished in any of the following ways:

33 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with a
34 commercial delivery system addressed either to the Party or to the Party's recipient for delivery designated at lines 37 or 39 (if any), for
35 delivery to the Party's delivery address at lines 36 or 38.

36 First Party's Address: _____

37 First Party's recipient for delivery (optional): _____

38 Second Party's Address: _____

39 Second Party's recipient for delivery (optional): _____

40 (2) By giving the document or written notice personally to the Party, or the Party's recipient for delivery if an individual is designated at lines 39 or 39.

41 (3) By electronically transmitting the document or written notice to the following telephone number:

42 First Party: (_____) _____ Second Party: (_____) _____

43 Any signed document transmitted by fax shall be considered an original document and shall have the binding and legal effect of an
44 original document. The signature of any Party upon a faxed document shall be considered an original signature.

45 **LEASED PROPERTY** If Property is currently leased and leases extend beyond closing, Grantor shall assign Grantor's rights under the
46 lease(s) and credit all security deposits and prepaid rents thereunder to Grantee at closing. The terms of the (written) (oral) ~~STRIKE ONE~~

47 lease(s), if any, are _____

48 _____

49 **PROPERTY CONDITION PROVISIONS**

50 **PROPERTY CONDITION REPRESENTATIONS:** Grantor represents to Grantee that as of the date of Grantor's signing of this Agreement
51 Grantor has no notice or knowledge of conditions affecting the Property or transaction (as defined at lines 227 to 246) other than those
52 identified in Grantor's disclosure report (Property One report dated _____, Property Two report dated _____) which
53 was received by Grantee prior to Grantee signing this Agreement ~~COMPLETE DATE OR STRIKE AS APPLICABLE~~, and the following:

54 **PROPERTY ONE:** _____

55 _____

56 **PROPERTY TWO:** _____

57 _____

58 ■ **REAL ESTATE CONDITION REPORT:**

59 Wisconsin law requires Grantors of property which includes 1-4 dwelling units to provide Grantees with a Real Estate Condition Report.
60 Excluded from this requirement are sales of property that has never been inhabited, sales exempt from the real estate transfer fee, and
61 sales by certain fiduciaries, (for example, personal representatives who have never occupied the property). The form of the Report is found
62 in Wis. Stats. 709.03. The law provides: "709.02 Disclosure...the owner of the property shall furnish, not later than 10 days after acceptance
63 of the contract of sale, to the prospective Grantee of the property a completed copy of the report.... A prospective Grantee who does not receive a
64 report within the ten days, may within two business days after the end of that ten day period, rescind the contract of sale by delivering a
65 written notice of rescission to the Grantor or the Grantor's agent". Grantee may also have certain rescission rights if a Real Estate Condition Report
66 disclosing defects is furnished before expiration of the 10 days, but after the Agreement is submitted to Grantor. Grantee should review the
67 report form or consult with an attorney for additional information regarding these rescission rights.

68 ■ **PROPERTY DIMENSIONS AND SURVEYS:** Each Party acknowledges that any Property, building or room dimensions, or total
69 acreage or building square footage figures, provided to that Party may be approximate because of rounding or other reasons, unless
70 verified by survey or other means. Each Party also acknowledges that there are various formulas used to calculate total square footage
71 of buildings and that total square footage figures will vary dependent upon the formula used. **CAUTION: Each Party should verify**
72 **total square footage formula, Property, building or room dimensions, and total acreage or square footage figures, if the**
73 **information is material to the Party.**

74 ■ **INSPECTIONS:** Grantor agrees to allow Grantee and Grantee's inspectors reasonable access to the Property upon reasonable notice
75 if the inspections are reasonably necessary to satisfy the contingencies in this Agreement. Grantee agrees to promptly provide copies of all
76 third-party inspection reports to Grantor, and to listing broker if Property is listed. Furthermore, Grantee agrees to promptly restore the
77 property to its original condition after Grantee's and Grantee's inspector's inspections are completed, unless otherwise agreed with Grantor.
78 **Caution: See lines 275 to 284 for definitions of "inspection" and "test". Grantor's authorization for inspections does not authorize**
79 **Grantee to conduct testing of the Property. If Grantee requires testing contingencies, they should be specifically provided for at lines**
80 **349 to 353. Grantor acknowledges that certain inspections or tests may detect environmental pollution which may be required to be**
81 **reported to the Wisconsin Department of Natural Resources.**

82 ■ **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:** Grantor shall maintain the Property until the earlier of closing
83 or occupancy by Grantee in materially the same condition as of the date of acceptance of this Agreement. If, prior to the earlier of closing or
84 occupancy by Grantee, the Property is damaged in an amount of not more than five per cent (5%) of the selling price, Grantor shall be
85 obligated to restore the Property. If Grantor is unable to restore the Property, Grantor shall promptly notify Grantee in writing and this
86 Agreement may be canceled at the option of the Grantee. If the damage shall exceed such sum, Grantor shall promptly notify Grantee
87 in writing of the damage and this Agreement may be canceled at option of Grantee. Should Grantee elect to carry out this Agreement
88 despite such damage, Grantee shall be entitled to any insurance proceeds relating to the damage to the Property, plus a credit towards
89 the purchase price equal to the amount of Grantor's deductible on such policy.

90 ■ **PRE-CLOSING INSPECTION:** At a reasonable time, preapproved by Grantor or Grantor's agent, within 3 days before closing,
91 Grantee shall have the right to inspect the Property to determine that there has been no significant change in the condition of the
92 Property, except for changes approved by Grantee.

93 **OCCUPANCY** Occupancy of the entire Property shall be given to Grantee at time of closing unless otherwise provided in this Offer at
94 lines 349-352 or in an addendum per line 353. Occupancy shall be given subject to tenant's rights, if any. **CAUTION: Consider an**
95 **agreement which addresses responsibility for removal of personal property and debris prior to occupancy, if applicable.**

96 **ADDITIONAL FINANCING PROVISIONS**

97 ■ **LOAN COMMITMENT:** If this Agreement is contingent on financing, Grantee agrees to pay all customary financing costs (including
98 closing fees), to apply for financing promptly, and to provide evidence of application promptly upon request of Grantor. If Grantee qualifies for
99 said financing or other financing acceptable to Grantee, Grantee agrees to deliver to Grantor, or Grantor's agent, a copy of the written
100 loan commitment no later than the deadline for loan commitment under the Financing Contingency. **Grantee's delivery of a copy of**
101 **any written loan commitment (even if subject to conditions) shall satisfy the Grantee's financing contingency unless**
102 **accompanied by a notice of unacceptability. CAUTION: GRANTEE, GRANTEE'S LENDER AND AGENTS OF GRANTEE OR**
103 **GRANTOR SHOULD NOT DELIVER A LOAN COMMITMENT TO GRANTOR WITHOUT GRANTEE'S PRIOR APPROVAL OR**
104 **UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.**

105 ■ **GRANTOR TERMINATION RIGHTS:** If Grantee does not make timely delivery of said commitment, Grantor may terminate this
106 Agreement if Grantor delivers a written notice of termination to Grantee prior to Grantor's actual receipt of a copy of Grantee's written
107 loan commitment.

108 ■ **FINANCING UNAVAILABILITY:** If this Agreement is contingent on financing and financing is not available on the terms stated, Grantee
109 shall promptly deliver written notice to Grantor of same including copies of lender(s)' rejection letter(s) or other evidence of unavailability.
110 Unless a specific loan source is named in the Financing Contingency, Grantor shall then have 5 days to give Grantee written notice of
111 Grantor's decision to finance this transaction on the same terms set forth herein, and this Agreement shall remain in full force and effect,
112 with the time for closing extended accordingly. If Grantor's notice is not timely given, this Agreement shall be null and void.

113 ■ **LAND CONTRACT:** If this Agreement provides for a land contract both Parties agree to execute a State Bar of Wisconsin Form 11
114 Land Contract, the terms of which are incorporated into this Agreement by reference. Prior to execution of the land contract Grantor shall
115 provide the same evidence of merchantable title as required above and written proof, at or before execution, that the total underlying
116 indebtedness, if any, is not in excess of the proposed balance of the land contract, that the payments on the land contract are sufficient
117 to meet all of the obligations of Grantor on the underlying indebtedness, and that all creditors whose consent is required have consented
118 to the land contract sale. Grantor may terminate this Agreement if creditor approval cannot be obtained. Grantor may terminate this
119 Agreement if Grantee does not provide a written credit report which indicates that Grantee is credit worthy based upon reasonable
120 underwriting standards within 15 days of acceptance. Grantee shall pay all costs of obtaining creditor approval and the credit report.

122 **Note: The contingency at line 123 is part of this Offer if marked, such as with an "x," it is not if not so marked or marked N/A.**

123 **FINANCING CONTINGENCY:** This Agreement is contingent upon First Party Second Party **CHECK ONE** ("Borrower" for
124 the purpose of this contingency) being able to obtain: **CHECK APPLICABLE FINANCING BELOW**

125 land contract financing from the Other Party at closing as further described at lines 128 to 147 and 113 to 120.

126 a _____ **INSERT LOAN PROGRAM** (fixed) (adjustable) **STRIKE ONE** rate
127 first mortgage loan commitment as further described at lines 128 to 141 and 97 to 112, within _____ days of acceptance of this Offer.

128 The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years, amortized
129 over not less than _____ years. If the purchase price under this Offer is modified, the financed amount, unless otherwise
130 provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly
131 payments shall be adjusted as necessary to maintain the term and amortization stated above.

132 **IF FINANCING IS FIXED RATE** the annual rate of interest shall not exceed _____% and monthly payments of principal and
133 interest shall not exceed \$ _____.

134 **IF FINANCING IS ADJUSTABLE RATE** the initial annual interest rate shall not exceed _____%. The initial interest rate shall be
135 fixed for _____ months, at which time the interest rate may be increased not more than _____% per year. The maximum interest
136 rate during the mortgage term shall not exceed _____%. Initial monthly payments of principal and interest shall not exceed
137 \$ _____. Monthly payments of principal and interest may be adjusted to reflect interest changes.

138 **MONTHLY PAYMENTS MAY ALSO INCLUDE** 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private
139 mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee in an amount not to
140 exceed _____% of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing
141 costs.) Note: Unless otherwise agreed, Buyer's delivery of any document labeled a loan commitment will satisfy this contingency.

142 **IF FINANCING IS BY LAND CONTRACT** \$ _____ shall be paid at closing (in addition to earnest money) interest rate
143 following payment default shall be _____%, the default period shall be _____ days for payments and _____ days for performance of any
144 other obligations. Interest shall be calculated on a prepaid postpaid **CHECK ONE** basis. The first payment shall be
145 due _____. Any amount may be prepaid on principal without penalty at any time. If the term of the land contract is
146 shorter than the amortization period, a balloon payment will be due at the end of the term of the land contract. Borrower
147 Other Party **CHECK ONE** shall be responsible for the preparation of the land contract, including all costs of preparation.

148 **FAIR MARKET VALUE** Fair market value (value) must be determined prior to completion of the transfer fee return per Wis. Stats. §77.22.
149 Fair market value information may also be needed to determine if the transaction qualifies for a particular tax treatment and per lines
150 174-177. See lines 260 to 262 for a definition of fair market value (value) per Wis. Stats. §77.21. If fair market value is available on the date of
151 this agreement, state the fair market value of the properties:

152 PROPERTY ONE: \$ _____ PROPERTY TWO: \$ _____

153 If fair market values are not stated in this Agreement, the Parties shall agree on the fair market values of the Properties, in writing, prior
154 to _____ days before closing. If the Parties cannot agree by the deadline, the Parties shall submit this matter to binding arbitration and
155 shall share the cost of arbitration equally. Should this matter go to arbitration, the date set for closing shall be extended accordingly.

156 **RENTAL WEATHERIZATION** For each Property containing dwelling units, identify whether the transfer of the Property is or is not
157 exempt from State of Wisconsin Rental Weatherization Standards (ILHR 67, Wisconsin Administrative Code). For each Property which
158 is not exempt, identify which Party will be responsible for compliance, including costs of compliance:

159 PROPERTY ONE: (is)(is not) **STRIKE ONE** exempt. PROPERTY TWO: (is)(is not) **STRIKE ONE** exempt. Party responsible for cost of
160 compliance: PROPERTY ONE: (First Party) (Second Party) **STRIKE ONE** PROPERTY TWO: (First Party) (Second Party) **STRIKE ONE**.

161 **PLACE OF CLOSING** This transaction is to be closed in escrow **STRIKE ESCROW LANGUAGE IF NOT APPLICABLE** at _____
162 _____ no later than _____, _____ unless another date or place is agreed to
163 in writing. See lines 204-214.) Escrow fees shall be the responsibility of: (First Party) (Second Party) (Shared equally) **STRIKE TWO**.

164 **CLOSING PRORATIONS** The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges,
165 property owner's association assessments, fuel and _____
166 _____. Any income, taxes or expenses shall
167 accrue to Grantor, and be prorated, through the day prior to closing. Net general real estate taxes shall be prorated based on (the
168 net general real estate taxes for the current year, if known, otherwise on the net general real estate taxes for the preceding year) (
169 _____). **STRIKE AND COMPLETE AS APPLICABLE**

170 **CAUTION: If Property has not been fully assessed for tax purposes (for example, recent land division or completed/pending**
171 **reassessment) or if proration on the basis of net general real estate taxes is not acceptable (for example, changing mill rate),**
172 **insert estimated annual tax or other basis for proration.**

173 **TITLE EVIDENCE**

174 **FORM OF TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance on a current ALTA
175 form issued by an insurer licensed to write title insurance in Wisconsin. The policies shall be in the amount of (the Property's fair
176 market value as defined at lines 148 to 155) (PROPERTY ONE: \$ _____
177 PROPERTY TWO: \$ _____) **STRIKE AND COMPLETE AS APPLICABLE**.

178 **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Grantor shall convey the Property by warranty deed
179 (or other conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and
180 agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use
181 restrictions and covenants, tenant's rights, general taxes levied in the year of closing and _____
182 _____ (provided none of the foregoing prohibit present use of the Property), which constitutes merchantable title
183 for purposes of this transaction. Grantor further agrees to complete and execute the documents necessary to record the conveyance.

185 **WARNING: If Grantee contemplates improving or developing Property, or a change in use, Grantee may need to address**
186 **municipal and zoning ordinances, recorded building and use restrictions, covenants and easements which may prohibit**
187 **some improvements or uses. The need for building permits, zoning variances, environmental audits, etc. may need to**
188 **be investigated to determine feasibility of improvements, development or use changes for Property Contingencies for**
189 **investigation of these issues may be added to this Agreement. See lines 349 to 353.**

190 ■ PROVISION OF MERCHANTABLE TITLE: Grantor shall pay all costs of providing title evidence. For purposes of closing, title evidence
191 shall be acceptable if the commitment for the required title insurance is delivered to Grantee's attorney or to Grantee not less than 5 business
192 days before closing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable,
193 subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate.

194 **CAUTION: IF TITLE EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.**

195 ■ TITLE ACCEPTABLE FOR CLOSING: If title is not acceptable for closing, Grantee shall notify Grantor in writing of objections to title
196 by the time set for closing. In such event, Grantor shall have a reasonable time, but not exceeding 15 days, to remove the objections,
197 and the time for closing shall be extended as necessary for this purpose. In the event that Grantor is unable to remove said objections,
198 Grantee shall have 5 days from receipt of notice thereof, to deliver written notice waiving the objections, and the time for closing shall
199 be extended accordingly. If Grantee does not waive the objections, this Agreement shall be null and void. Providing title evidence
200 acceptable for closing does not extinguish Grantor's obligations to give merchantable title to Grantee.

201 ■ SPECIAL ASSESSMENTS: Special assessments, if any, for work on site actually commenced or levied prior to date of this
202 Agreement shall be paid by Grantor no later than closing. All other special assessments shall be paid by Grantee. **CAUTION: See**
203 **lines 275- 277 regarding other expenses. Consider a special agreement regarding these expenses, if applicable.**

204 **ESCROW CLOSING**

205 If closing is to be conducted by escrow, each Party shall deposit with the escrow agent all funds and documents necessary to
206 complete the exchange according to the terms of this Agreement. The escrow agent shall disburse the closing funds and
207 record/file the documents promptly upon verification that, per the most current records available for review, the condition of title
208 has not changed from the condition of title shown in the title commitment provided per lines 190 to 193, other than liens to be paid
209 out of closing proceeds and other changes agreed to by the Parties. **CAUTION: CONSIDER THE POSSIBILITY OF GAPS IN**
210 **TITLE RECORDS DUE TO DELAYS WHICH MAY OCCUR BETWEEN THE FILING OF DOCUMENTS FOR RECORDING AND**
211 **THE AVAILABILITY OF THOSE DOCUMENTS FOR REVIEW BY THE ESCROW AGENT. IF TITLE INSURANCE IS BEING**
212 **PROVIDED BY SELLER, A "GAP ENDORSEMENT" MAY BE AVAILABLE AND WOULD INSURE AGAINST LIENS OR**
213 **ENCUMBRANCES FILED BETWEEN THE EFFECTIVE DATE OF THE TITLE SEARCH BY THE ESCROW AGENT AND THE**
214 **RECORDING OF THE CONVEYANCE DOCUMENTS CALLED FOR BY THIS AGREEMENT.**

215 **ENTIRE AGREEMENT** This Agreement, including any amendments, contains the entire agreement of the Parties regarding the
216 transaction. All prior negotiations and discussions have been merged into this Agreement. This Agreement binds and inures to
217 the benefit of the Parties to this Agreement and their successors in interest.

218 **COOPERATION WITH "LIKE KIND" EXCHANGE**

219 Grantor understands that Grantee may elect to consummate this transaction as part of a tax deferred "like kind" exchange under
220 Section 1031 of the Internal Revenue Code. Grantor agrees to cooperate with Grantee in such exchange. Any costs associated
221 with the exchange portion of the transaction shall be borne by the Grantee. In addition, Grantee hereby agrees to indemnify,
222 defend, and hold Grantor harmless from and against any claim, suits, actions, damages, or liabilities as may arise as a reason of
223 Grantor's cooperation with respect to the effectuation of a tax-deferred "like kind" exchange as contemplated herein.

224 **DEFINITIONS**

225 ■ ACCEPTANCE: "Acceptance" occurs when all Grantees and Grantors have signed an identical copy of the Agreement, including
226 signatures on separate but identical copies of the Agreement. See lines 28-30 regarding when this Agreement becomes binding.

227 ■ CONDITIONS AFFECTING THE PROPERTY OR TRANSACTION: A "condition affecting the Property or transaction" is defined as follows:

- 228 (a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property or
229 the present use of the Property;
- 230 (b) government agency or court order requiring repair, alteration or correction of any existing condition;
- 231 (c) completed or pending reassessment of the Property for property tax purposes;
- 232 (d) structural inadequacies which if not repaired will significantly shorten the expected normal life of the Property;
- 233 (e) any land division involving the Property, for which required state or local approvals were not obtained;
- 234 (f) construction or remodeling on the Property for which required state or local approvals were not obtained;
- 235 (g) any portion of the Property being in a 100 year floodplain, a wetland or shoreland zoning area under local, state or federal regulations;
- 236 (h) that a structure on the Property is designated as a historic building or that any part of the Property is in a historic district;
- 237 (i) material violations of environmental laws or other laws or agreements regulating the use of the Property;
- 238 (j) conditions constituting a significant health or safety hazard for occupants of the Property;
- 239 (k) underground storage tanks on the Property for storage of flammable or combustible liquids including but not limited to gasoline and
240 heating oil; NOTE: The Wisconsin Administrative Code contains registration and operation rules for such underground storage tanks.
- 241 (l) underground or aboveground storage tanks for storage of flammable, combustible or hazardous materials including but not limited
242 to gasoline and heating oil, which are currently or which were previously located on the Property;
- 243 (m) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;
- 244 (n) material levels of hazardous substances located on Property or previous storage of material amounts of hazardous substances on Property;
- 245 (o) other conditions or occurrences which would significantly reduce the value of the Property to a reasonable person with knowledge
246 of the nature and scope of the condition or occurrence.

247 ■ **ENVIRONMENTAL SITE ASSESSMENT:** [page 5 of 6, WB-35]

248 An “environmental site assessment” may include, but is not limited to: (1) an inspection of the Property; (2) a review of the
249 ownership and use history of the Property, including a search of title records showing private ownership of the Property for a period of
250 80 years prior to the visual inspection; (3) a review of historic and recent aerial photographs of the Property, if available; (4) a review of
251 environmental licenses, permits or orders issued with respect to the Property; (5) an evaluation of results of any environmental
252 sampling and analysis that has been conducted on the Property; and (6) a review to determine if the Property is listed in any of the
253 written compilations of sites or facilities considered to pose a threat to human health or the environment including the National Priorities
254 List, the Department of Natural Resources’ (DNR) registry of Abandoned Landfills, the DNR’s Registry of Leaking Underground Storage
255 Tanks, the DNR’s most recent remedial response site evaluation report (including the Inventory of Sites and Facilities Which May Cause
256 or Threaten to Cause Environmental Pollution). Any “environmental site assessment” performed under this Agreement shall comply
257 with generally recognized industry standards (e.g. current American Society of Testing and Materials “Standards for Environmental Site
258 Assessments for Commercial Real Estate”), state and federal guidelines, as applicable. **Caution: Unless otherwise agreed an
259 “environmental site assessment” does not include testing of the Property for environmental pollution.**

260 ■ **FAIR MARKET VALUE:** Fair market value (value), as defined in Wis. Stats. §77.21 means: “The estimated price the property would bring in
261 an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both
262 conversant with the property and at prevailing general price levels.”

263 ■ **FIXTURES:** A “fixture” is an item of property which is physically attached to or so closely associated with land and
264 improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not
265 easily removable without damage to the Property, items specifically adapted to the Property, and items customarily treated
266 as fixtures. A “fixture” does not include trade fixtures owned by tenants of the Property. See Lines 15 to 25.

267 ■ **GRANTEE:** “Grantee” as used in this Agreement refers to a Party who will receive an interest in Property under this Agreement. Any
268 warranties, representations, covenants, rights or obligations of a Grantee under this Agreement apply to the transfer(s) of Property wherein
269 the Grantee is receiving an interest in Property.

270 ■ **GRANTOR:** “Grantor” as used in this Agreement refers to a Party conveying an interest in Property under this Agreement. Any
271 warranties, representations, covenants, rights or obligations of a Grantor under this Agreement apply to the transfer(s) of Property wherein
272 Grantor is the Party conveying an interest in Property.

273 ■ **INSPECTION:** An “inspection” is defined as an observation of the Property which does not include testing of the Property.

274 ■ **OTHER EXPENSES:** In addition to “special assessments for work on site”, government entities may charge one-time or ongoing use fees
275 for other public improvements relating to curb, gutter, street, sidewalk, sanitary and storm sewer (including all sewer mains and hook-up and
276 interceptor charges), parks, street lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stats. 66.55(1)(c) & (f).

277 ■ **PROPERTY:** “Property” refers to PROPERTY ONE, PROPERTY TWO or both as indicated by the context within this Agreement.

278 ■ **TEST:** A “test” is defined as the taking of samples of materials such as soils, water or building materials from the Property and the laboratory
279 or other analysis of these materials. Note: Any contingency authorizing such tests should specify the areas of the Property to be tested,
280 the purpose of the test, (e.g. to determine the presence or absence of environmental contamination), any limitations on Grantee’s testing and
281 any other material terms of the contingency (e.g. Grantee’s obligation to return the Property to its original condition).

282 ■ **DEFAULT** Grantor and Grantee each have the legal duty to use good faith and due diligence in completing the terms and conditions of
283 this Agreement. A material failure to perform any obligation under this Agreement is a default which may subject the defaulting party to
284 liability for damages or other legal remedies.

285 If Grantee defaults, Grantor may:

- 286 (1) sue for specific performance and request the earnest money, if any, as partial payment of Grantee’s obligations under
287 this Agreement; or
288 (2) terminate the Agreement and have the option to: (a) request the earnest money, if any, as liquidated damages; or (b)
289 direct Broker to return the earnest money, if any, and have the option to sue for actual damages.

290 If Grantor defaults, Grantee may:

- 291 (1) sue for specific performance; or
292 (2) terminate the Agreement and request the return of any earnest money paid, sue for actual damages, or both.

293 In addition, the Parties may seek any other remedies available in law or equity.

294 If a default or other circumstance result in the termination of one Party’s duties as Grantor or Grantee, the entire Agreement shall be
295 terminated.

296 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the
297 discretion of the courts. If either Party defaults, the Parties may renegotiate the Agreement or seek nonjudicial dispute resolution instead
298 of the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes
299 covered by the arbitration agreement.

300 NOTE: BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE AGREEMENT BUT WISCONSIN LICENSE LAW PROHIBITS A
301 BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL RIGHTS OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL
302 EFFECT OF A SPECIFIC CONTRACT OR CONVEYANCE. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.

303 **BROKER’S COMPENSATION**

304 The Parties acknowledge and agree that each Broker may receive compensation from persons other than their client in the transaction.

305 **Caution: This consent does not satisfy the requirements for the Parties’ consent to multiple representation if said consent
306 is required under Wisconsin Statutes 452.137.**

307 **PROPERTY ADDRESS:** _____

308 **ENVIRONMENTAL EVALUATION/INSPECTION CONTINGENCY:** This Agreement is contingent upon First Party Second Party CHECK ONE
309 ("Investigating Party" for the purpose of this contingency) being able to obtain: CHECK APPLICABLE PARAGRAPH(S)

310 A written report from a qualified independent environmental consultant of the Investigating Party's choice, who has conducted an
311 environmental site assessment (see lines 247 to 259) of the Other Party's Property, at Investigating Party's Other Party's CHECK ONE
312 expense, which discloses no defects. A defect is defined as a material violation of environmental laws, a material contingent liability affecting
313 the Property arising under any environmental laws, the presence of an underground storage tank(s) or material levels of hazardous substances
314 either on the Property or presenting a significant risk of contaminating the Property due to future migration from other properties.

315 A qualified independent inspector of Investigating Party's choice conducting an inspection of the Other Party's Property and
316 _____ which discloses no

317 defects as defined at lines 322 to 326. The inspection shall be at Investigating Party's Other Party's CHECK ONE expense.

318 An inspection by Investigating Party of the Other Party's Property which discloses no defects as defined at lines 322 to 326.
319 This contingency shall be deemed satisfied unless Investigating Party, within _____ days of acceptance, delivers to the Other Party a copy
320 of a written notice listing the defect(s) identified in the environmental site assessment /inspection which are being objected to
321 and a copy of the environmental site assessment/ inspection report(s), if a third-party evaluation/inspection is performed.

322 A defect is defined as a structural, mechanical or other condition would have a significant adverse effect on the value of the Property;
323 that would significantly impair the health and safety of future occupants of the Property; or that if not repaired, removed or replaced would
324 significantly shorten or have a significantly adverse effect on the expected normal life of the Property. Defects do not include conditions
325 the nature and extent of which the Investigating Party had actual knowledge or written notice before signing the Agreement. Investigating
326 Party agrees to deliver a copy of the report and notice to Listing Broker, if Property is listed, promptly upon delivery to the Other Party.

327 **DOCUMENT REVIEW CONTINGENCY:**

328 This Agreement is contingent upon First Party Second Party CHECK ONE providing the Other Party with
329 CHECK APPLICABLE PARAGRAPH(S), no later than _____ days from acceptance:

330 Copies of all current leases, lease applications of all current tenants and service contracts applicable to Property being transferred
331 to the Other Party Which shall be consistent with all prior representations.

332 The opportunity to inspect, at reasonable times upon reasonable notice, the books and records of the Property being transferred
333 to the Other Party as may be necessary to verify that the income and expenses for the year(s)
334 are consistent with all prior representations.

335 Other _____

336 This contingency will be satisfied unless the Other Party, within _____ days of the earlier of: 1) the deadline at line 329 or 2) the date the
337 Other Party has received or been given the opportunity to inspect all of the documents specified above, delivers written notice indicating
338 that this contingency has not been satisfied. The notice shall identify which document(s) have not been timely delivered/made available for
339 inspection or have been disapproved by the Other Party.

340 **TAX QUALIFICATION CONTINGENCY:** This Agreement is contingent upon First Party Second Party CHECK ONE OR BOTH

341 obtaining a written opinion from a qualified tax advisor that this transaction qualifies for the benefits under Section 1031 of the Internal
342 Revenue Code. The qualified tax advisor shall be an attorney, CPA or _____

343 _____ IDENTIFY BY PROFESSION OR NAME This contingency shall be deemed satisfied unless a copy of a
344 written opinion from the qualified tax advisor indicating that this transaction does not qualify for the benefits under Section 1031 of the
345 Internal Revenue Code is delivered to the Other Party within _____ days of the latter of acceptance or agreement as to fair market value.

346 **CAUTION: THIS TRANSACTION MAY HAVE SIGNIFICANT TAX CONSEQUENCES. Tax advisors should be consulted if either**
347 **party requires that the transaction qualify as a deferred (Starker) exchange or for other particular tax treatment. NOTE: If**
348 **any of the above contingencies must be used by both parties, attach addendum setting forth the duplicate contingency.**

349 **ADDITIONAL PROVISIONS/CONTINGENCIES** _____

350 _____
351 _____
352 _____

353 **ADDENDA:** The attached _____ is/are made part of this Agreement.

354 This Agreement was drafted on _____ by _____
355 (Date) (Licensee and Firm)

356 **IF ACCEPTED (see lines 225 to 226), THIS AGREEMENT CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS DOCUMENT**
357 **CAREFULLY. BY SIGNING BELOW EACH PARTY AGREES TO BE BOUND BY THIS AGREEMENT. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE**
358 **IN THIS AGREEMENT SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. THE UNDERSIGNED HEREBY AGREE TO CONVEY THE ABOVE-MENTIONED**
359 **PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT.**

360 (x) _____
361 First Party's Signature ▲ Print Name here: ► Social Security No. or FEIN (Optional) ▲ Date ▲

362 (x) _____
362 First Party's Signature ▲ Print Name here: ► Social Security No. or FEIN (Optional) ▲ Date ▲

364 (x) _____
365 Second Party's Signature ▲ Print Name here: ► Social Security No. or FEIN (Optional) ▲ Date ▲

366 (x) _____
367 Second Party's Signature ▲ Print Name here: ► Social Security No. or FEIN (Optional) ▲ Date ▲