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Real Estate Contractual Forms Council
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Angela Hellenbrand - 608-261-5406
May 2, 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.

FULL COUNCIL MEETING **10:00 A.M. – 2:30 P.M.**

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1)

B. Approval of Minutes – March 7, 2013 (3)

C. Administrative Matters

D. Review and Revise Business Listing Contract (WB-6)

- 1) WRA Memo with Proposed Changes **(5-12)**
- 2) WB-6 as modified by Council on 3/7/13 (with “tracking”) **(13-19)**

E. WB-16 Business With Real Estate-Offer to Purchase

- 1) WRA Memo With Proposed Changes **(21-39)**
- 2) WB-16 With WB-15 Changes (with no “tracking”) **(41-51)**
- 3) WB-16 With WB-15 Changes (with “tracking”) **(53-64)**

F. Priority of Remaining Forms

- 1) WB-17 Business without Real Estate – Offer to Purchase
- 2) Time Share Issues
- 3) WB-35 Simultaneous Exchange Agreement

G. Informational Items

H. New Business

I. Public Comments

J. Next Meeting Date: July 25, 2013

ADJOURNMENT

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**REAL ESTATE CONTRACTUAL FORMS
ADVISORY COMMITTEE
MEETING MINUTES
MARCH 7, 2013**

PRESENT: Casey Clickner, Debra Conrad, Jack Drzewiecki, Michael Gordon, Scott Minter, Kim Moermond, Richard Petershack (by telephone), Jonathan Sayas, Gary Tritz and Tom Weber.

EXCUSED: Stephen Beers, John Flor, Cori Lamont, Michael Sewell and Peter Sveum.

STAFF: Tom Wightman, Executive Director and David Carlson, Communications Specialist.

Casey Clickner, Acting Chair, called the meeting to order at 10:04 a.m. A quorum of ten (10) members was confirmed.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES

MOTION: Gary Tritz moved, seconded by Jack Drzewiecki, to approve the minutes of January 17, 2013 as published.

Richard Petershack left the meeting at 1:00 p.m.

ADJOURNMENT

MOTION: Michael Gordon moved, seconded by Gary Tritz, to adjourn the meeting at 2:29 p.m. Motion carried unanimously.

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

To: DSPS Real Estate Contractual Forms Advisory

From: WRA Forms Committee

Date: April 11, 2013

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

The starting point for this discussion was the 2001 WB-6 Business Listing Contract – Exclusive Right to Sell. This memo discusses the latest draft of the DSPS Real Estate Contractual Forms Advisory Committee that is labeled WB-06Form (with Tracking)20120307 as modified by council on 03-07-2013. In that draft, all changes that were in tracking that the DSPS Committee accepted, as well as additional changes that the DSPS Committee made, are accepted and shown without tracking in this draft. The sections highlighted in yellow or shown in tracking are sections of the form that the DSPS Committee did change, at least for the most part. Sections or language highlighted in aqua in the first two thirds of the draft are items the Committee wants to take another look at while in the latter part of the form these are provisions that have been modified and are different from what the Committee may have seen in this draft before, but these changes are all in areas that the DSPS Committee has not yet discussed.

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Many of the changes made are intended to “modernize” the WB-6 and make it more similar to the WB-5 Commercial Listing Contract (and the other updated WB listing contracts) by including the same standard listing provisions that appear in the WB-5 in the draft, to the extent possible.

WB-6 Changes

◆ Commission: Lines 93-94 presently say “Purchase price” shall include “all consideration received by Seller and other third parties including, but not limited to, buyer assumptions of debt and any Seller provided financing.”

The DSPS Committee spent a great deal of time on the “purchase price” definition and still was not satisfied. The concern stems from the fact that the purchase price is the basis of the commission computation when the Assets are sold or optioned – which does not cause a problem. The purchase price also is the basis of the commission computation under items

4: “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”
and

5: “A transfer or sale of any stock, shares, membership or partnership interest of the Business occurs which results in an effective change of ownership, management or control of the Business.”

Under 5, the purchase price would be paid to the stockholders or LLC members or other parties who own part of the Business entity, so that it the reason the “purchase price” definition now also refers to third parties. This is intended to capture those situations where the decision was made to sell the ownership in the Business Entity rather than selling the Assets. This addition is meant to help ensure that a broker participating in such a transaction is still paid commission even though the ultimate sale morphed into the sale of the entity instead of the Business. It was decided to retain both item 4) on lines 81& 82 as well as item 5) on lines 83 & 84 because it was felt that a sale of stock is not the same thing as a change of ownership or management – the corporation still owns the assets.

⇒ The WRA Forms Committee proposes the following purchase price language: “Purchase price” shall include “all consideration received by Seller under 1) and 2), ~~and other third parties~~ including, but not limited to, buyer assumptions of debt and any Seller provided financing, and shall additionally include all consideration received by other third selling or transferring parties, as the case may be, if under 4) and 5).”

The business practitioners on the WRA Forms Committee posed the following real-life scenarios, asking whether the language in the new WB-6 would sufficiently address the commission concerns.

The broker has a business listed and just received a signed offer between the buyer and seller. The offer is a stock purchase. The buyer will pay the seller 2 million dollars at closing, another 1.5 million for the rest of the stock in 4 years, and will pay the seller to stay at the company for 4 years under a management contract for a total compensation of 500K. The buyer’s agent now says that the subject of commission is on the table (that’s a surprise!). The listing broker believes that the entire 4 million is commissionable, but it is going to be a hard sell with the present listing contract language. Looking at the new WB-6 language:

QUESTIONS: Would the full commission be captured under the new language? Does it effectively encompass deferred or installment purchase price payments?

SUGGESTED ANSWERS: The 2 million paid at closing would appear to be captures under 5). The \$1.5 million paid over 4 years may be less clear.

⇒ Should the purchase price definition be further modified to indicate that consideration includes all consideration received at closing and the amounts obligated to be paid over time on an installment or deferred payment basis? purchase price language: “Purchase price” shall include “all consideration received by Seller under 1) and 2), including, but not limited to, buyer assumptions of debt and any Seller provided financing, and shall additionally include all consideration received by other third selling or transferring parties, as the case may be, if under 4) and 5). Consideration includes consideration tendered at closing and installment or deferred payment obligations.”

QUESTIONS: Same scenario above. What if the seller/buyer instead of calling it a management contract calls the 4-year compensation period agreement a “consulting agreement” or an “employment agreement” or a “training agreement” or something else that they conjure up – do we have a solid argument that commission is due no matter what it is called? Do you think that the new contract clearly covers this area – a combined sale and management agreement? Or just a management agreement (which could be code for “let’s do the deal when the broker is not looking!”)

SUGGESTED ANSWERS: Looking at 7), that refers just to management agreements because the concept is a transfer of control of the assets to a point it effectively represents a change in ownership, correct? The contract arguably is for services provided, yet it also appears to be a part of the compensation package for the deal.

⇒ The issue may be whether it is part of the purchase price, not whether the particular name applied to the 4-year contract is listed in the WB-6 commission provisions. Thoughts?

Going forward the decision will have to be made whether there should be two business offer to purchase forms – one if real estate is included and one when it is not (that is what we have now)? The plan is going to be to work through the WB-16 Offer to Purchase - Business with Real Estate and then assess whether it makes sense/is necessary to also have a WB-17 Offer to Purchase - Business without Real Estate. The business practitioners working with the WRA Forms committee believe that there should be two forms because many transactions may not involve real estate or there may be real estate owned by a different entity, thus leading to the need for separate offers. Also there may be two separate offers because there are two different listings with

different commission rates in play. If the transaction does not involve real estate, the parties see the real estate provisions and worry that they apply to them.

◆ Definition of Fixtures: the 2001 WB-6 language was replaced with the language from the WB-5 and the term Property was changed to Real Estate. The DSPS Committee modified the Caution as follows:

“CAUTION: ~~Exclude Identify on lines 30-33~~ Fixtures not included in the list price or not exclusively owned by Seller, such as rented Fixtures ~~and tenant’s trade fixtures.~~”

⇒ Definition of Person Acting on Behalf of Buyer (based on the WB-36 definition) NEW to the WB-6: there have been reports of instances where an individual looks at a property, maybe attends a showing, discusses terms or even writes an offer. Then the person forms an LLC or another entity and writes an offer and the seller uses this to evade paying commission under the listing protection/protected buyer provisions. The language of “any person acting for such buyer” found within the definition of Protected Buyer has been found to not always hold up. For instance, it is difficult to argue that the individual was acting for the ultimate LLC or corporate buyer when the entity was not even in existence at the time of the original buyer contact (although the plans for such may have been contemplated by the person).

Below is that provision from the WB-36 Buyer Agency/Tenant Representation Agreement with some modifications as it was adopted by the DSPS Committee. This definition is referenced in the Protected Buyer definition. As a means to solving the dilemma described above, the following suggestion was made:

■ PERSON ACTING ON BEHALF OF BUYER: In this Agreement “Person Acting on Behalf of Buyer” shall mean any person or a Protected Buyer joined in interest with buyer, or otherwise acting on behalf of buyer, including but not limited to buyer's immediate family, agents, servants, employees, directors, managers, members, officers, owners, partners, incorporators, and organizers, as well as any and all corporations, partnerships, limited liability companies or other entities controlled by, affiliated with or owned by the buyer in whole or in part whether created before or after expiration of this Listing.

⇒ Is this helpful?

◆ Definition of Procure: The following language based upon the WB-5 was adopted.

⇒ Should the reference to Listing Broker be modified to just say “Broker” because that is the terminology used in the rest of the WB-6?

PROCURE: A buyer is procured when during the term of the Listing, an enforceable contract of sale is entered into between the Seller 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 substantially the terms specified in this Listing. A buyer is ready, willing and able when the buyer submitting the written offer has the ability to complete the buyer's obligations under the written offer. See lines xx-xx.

◆ Definition of Protected Buyer: This definition was replaced with language substantially the same as the WB-5. The last sentence in red was the DSPS Committee’s solution – after much discussion -- to the problem with the individual who sees the Assets and later forms an LLC to be the buyer so that the seller does not owe commission – and can therefore accept a lesser purchase price? The Protected Buyer provision requires in some circumstances that the buyer be named – how do you provide the name of an LLC that the individual has yet to create? Or can this aspect of the problem not be fixed in these contract provisions?

PROTECTED BUYER: Means a buyer who personally, or through any Person Acting on Behalf of Buyer, during the term of this Listing: 1) delivers to Seller or Broker a written offer to purchase, exchange or option on the Assets; 2) negotiates directly with Seller by discussing with Seller the potential terms upon which buyer might acquire an interest in the Assets; or 3) attends an individual showing of the Assets or discusses with Broker or cooperating brokers the potential terms upon which buyer might acquire 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 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 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 requested that the buyer's identity remain confidential, by delivery of a written notice identifying the broker with whom the buyer negotiated and the date(s) of any showings or other negotiations. **A Protected Buyer also includes any Person Acting on Behalf of Buyer who acquires an interest in the Assets during the extension of listing period as noted on lines XX to XX.**

Does the language accomplish what is wanted or is something still missing? Does the change suggested above to the definition of Person Acting on Behalf of Buyer address this concern? Does the language added/deleted below make sense and help?

PROTECTED BUYER: Means a buyer who personally, or through any Person Acting on Behalf of Buyer, during the term of this Listing: 1) delivers to Seller or Broker a written offer to purchase, exchange or option on the Assets; 2) negotiates directly with Seller by discussing with Seller the potential terms upon which buyer might acquire an interest in the Assets; or 3) attends an individual showing of the Assets or discusses with Broker or cooperating brokers the potential terms upon which buyer might acquire 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 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 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 requested that the buyer's identity remain confidential, by delivery of a written notice identifying the broker with whom the buyer negotiated and the date(s) of any showings or other negotiations. **A Protected Buyer also includes any Person Acting on Behalf of Buyer of a Protected Buyer who acquires an interest in all or any part of the Assets during the extension of listing period as noted on lines XX to XX.**

⇒ **Other thoughts or suggestions? Should the term "Person Acting on Behalf of Buyer" be changed because that may be what is getting in the way? Try thinking of this as if the term was THE AGENT and see what you come up with!**

◆ **Notice about Sex Offender Registry:** Added from the WB-5 for consistency and to make sure everyone is covered in all circumstances.

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

Please note that the department of corrections has a new web site and that the internet address for the Sex Offender Registry has changed! The new online address is <http://offender.doc.state.wi.us/public/>. The DSPTS inserted the new web address for the DOC home page (highlighted in yellow above) which has a link on it that will get you to the sex offender registry after a couple of clicks.

The DSPTS was to communicate with the DOC to see how long they will maintain the link that presently guides you so that you get to the new page. Virtually all real estate forms may need to be updated.

◆ Existing WB-6, Real Property Included in List Price: The draft now states REAL ESTATE PROVISIONS with a note below saying “LINES –XXX-XXX ARE A PART OF THIS LISTING ONLY IF REAL ESTATE IS INCLUDED IN THE LIST PRICE”

⇒ The WRA Forms Committee recommends removing the Real Estate Provisions heading and “LINES –XXX-XXX ARE A PART OF THIS LISTING ONLY IF REAL ESTATE IS INCLUDED IN THE LIST PRICE” (in other words, deleting lines 279-280) to avoid any possible disputes or confusion, and to delete language that is not necessary.

The Existing WB-6 had included the description of any real estate included in the list price here – this has been modified and moved to the first page of the draft.

The Occupancy Date and Occupancy Charge items in the Existing WB-6 have been replaced in the draft with the language of the WB-5 regarding Occupancy as shown below and in the draft. The WRA Committee recommends that the broom swept reference be removed (highlighted in yellow).

■ **OCCUPANCY:** Unless otherwise provided, Seller agrees to give buyer occupancy of the Real Estate at time of closing and to have the Real Estate ~~in broom swept condition and~~ free of all debris and personal property except for personal property belonging to current tenants, sold to buyer or left with buyer's consent.

The Condition of Title, Title Evidence and Inspections items in the existing WB-6 were removed because similar provisions were removed from the other WB listings. Representations regarding property condition and title matters no longer are part of the process at the listing stage, at least per the other approved WB listing contracts.

◆ Seller's Disclosure Report: The initial step is to modify the provision so that it has the same content as the WB-5 language, with additional changes shown below in tracking. The following is what is shown in the draft:

■ **SELLER'S DISCLOSURE REPORT:** ~~Wisconsin-Wis. Administrative Admin.~~ Code Chapter ~~REEB~~ 24 requires listing brokers to make inquiries of the seller on the condition of the ~~real-real estate property~~ and to request that the seller provide a written response to broker's inquiry. ~~If the Assets include Real Estate,~~ Seller agrees to complete ~~the-a~~ seller's disclosure report ~~provided by Broker~~ to the best of Seller's ~~ability~~ knowledge. Seller agrees to amend the report should Seller learn of any defect(s) ~~(as defined in the report)~~ after completion of the report, but before acceptance of a buyer's offer to purchase. Seller authorizes Broker to distribute the report to all interested parties and their agents inquiring about the ~~Property Assets~~ and acknowledges that Broker has a duty to disclose all ~~material~~ adverse ~~material~~ facts as required by law.

⇒ The WRA Committee recommends that this provision be further modified to indicate that there may also be business disclosures and that different property types may require different types of property condition reports. There may be more than one disclosure report and the seller should agree to update the reports if there are changes in conditions before an offer is accepted. The WRA Forms Committee recommends the following additional changes be made to the provision appearing in the draft:

■ **SELLER'S DISCLOSURE REPORT:** ~~Wisconsin-Wis. Administrative Admin.~~ Code Chapter ~~REEB~~ 24 requires listing brokers to make inquiries of the seller on the condition of the ~~real-real estate property~~ and to request that the seller provide a written response to broker's inquiry. Seller agrees to complete ~~the~~ seller's disclosure report(s) ~~provided by Broker~~ to the best of Seller's

ability knowledge. If the Real Estate includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided in Wis. Stat. § 709.03 may be required. If the Real Estate does not include any buildings, a Vacant Land Disclosure Report containing the disclosures provided in Wis. Stat. § 709.033 may be required. A commercial disclosure report for commercial Real Estate may be needed as well as business disclosure reports regarding the Business. More than one report may be necessary. Seller agrees to amend the report(s) should Seller learn of any defect(s) (as defined in the reports) 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 Property-Assets and acknowledges that Broker has a duty to disclose all material adverse facts as required by law.

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◆ Current WB-6, lines 17-22, Seller Representations Regarding Business, Included Property and the Transaction: The WB-6 provision from the first page of the 2001 form is removed and the draft shows a provision based on the language in the WB-5 commercial listing. The proposal below has taken WB-5 language and has added proposed representations with regard to business disclosures regarding the Business and the Assets (such reports are often created by the business brokerage or legal counsel).

⇒ The WRA Forms Committee recommends the following additional changes be made to the provision appearing in the draft:

■ **SELLER REPRESENTATIONS REGARDING REAL ESTATE AND BUSINESS**

ASSET DEFECTS: Seller represents to Broker that as of the date of this Listing, if the Assets include Real Estate and if a seller's disclosure report(s) or other form of written response to Broker's inquiry regarding the condition of the Property-Real Estate has been made-completed by the Seller, the Seller has no notice or knowledge of any defects (as defined in the report(s)) affecting the Property-Real Estate other than those noted on Seller's disclosure report(s) or written responses. Seller additionally represents to Broker that as of the date of this Listing, if business disclosure report(s) or other form of written response(s) to Broker's inquiry regarding the Business or Assets have been completed by Seller, the Seller has no notice or knowledge of any defects (as defined in the report(s)) affecting the Business or Assets other than those noted on Seller's disclosure report(s) or written response(s).

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

Note that there are no standard seller disclosure forms regarding business assets or business real estate per se (the WRA condition report for commercial properties may be used in some of these transactions).

◆ Leased Property: Delete the language in the 2001 WB-6 and instead use the following language modified from the WB-5 as follows:

■ **LEASED PROPERTY:** If the Property-Real Estate included in the list price is currently leased to third parties and lease(s) will extend beyond closing, Seller shall assign Seller's rights under the lease(s) and transfer all security deposits and prepaid rents (subject to agreed-upon prorations) thereunder to buyer at closing. Seller acknowledges that Seller remains liable under the lease(s) unless released by tenants. CAUTION: Seller should consider obtaining an indemnification agreement from buyer for liabilities under the lease(s) unless released by tenants.

⇒ The WRA Committee suggests that a reference to this section be inserted on page 1 of the WB-6 draft. For instance, it might state at the end of line 25: "See lines xxx-xxx regarding Leased Property."

◆ Term of the Contract: Replace with WB-5 language:

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

◆ **CAUTION:** The draft has the original WB-6 language. Should this be replaced with WB-5 language or is the existing language appropriate, even though it is somewhat duplicative? WB-5 language is:

■ **READING/RECEIPT: BY SIGNING BELOW, SELLER ACKNOWLEDGES RECEIPT OF A COPY OF THIS LISTING CONTRACT AND THAT HE/SHE HAS READ ALL FIVE x PAGES AS WELL AS ANY ADDENDA AND ANY OTHER DOCUMENTS INCORPORATED INTO THE LISTING.**

⇒ The WRA Committee suggests that there be a combination of the two that might say, for instance:

CAUTION: IF SIGNED, THIS LISTING CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. A LISTING FOR LEASE ALSO MUST BE ENTERED INTO IF BROKER IS TO BE AUTHORIZED TO PROCURE TENANTS. BY SIGNING BELOW, SELLER ACKNOWLEDGES RECEIPT OF A COPY OF THIS LISTING CONTRACT AND THAT HE/SHE HAS READ ALL FIVE x PAGES AS WELL AS ANY ADDENDA AND ANY OTHER DOCUMENTS INCORPORATED INTO THE LISTING.

◆ Existing WB-6, Dated line: this was removed from the draft because the parties each date on their respective signature lines. Please remove the tracking if this is acceptable.

◆ Signature lines: The draft takes elements from the broker and seller signature lines from the WB-5, the entity signature lines from the WB-15 commercial offer and the signature section of the WB-37 rental listing. The business practitioners working with the WRA Forms Committee wanted to add a second entity signature block and two lines under each block where individuals may sign personally – a proposal for this appears below and in the draft, highlighted in aqua. They wanted to be able to have individuals sign in their capacity on behalf of the entity, but to also have the individuals sign in a personal capacity so that the broker can pursue the individual(s) if the entity ends up bankrupt or without collectible assets. The business practitioners also suggested that language similar to the following be added directly before the signature lines:

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

Seller Entity Name (if any): _____

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

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

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

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

Seller Entity Name (if any): _____

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

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

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

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

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

◆ Attorney Fees Provision: one business practitioner suggested that there an attorney's fees provision should be added, such as "In the event either party hereto shall commence legal proceedings against the other to enforce the terms hereof, or to declare rights hereunder, as a result of a breach of any covenant or condition of this Contract, the prevailing party in any such proceeding shall be entitled to recover from the losing party its costs of suit, including reasonable attorneys fees, as may be fixed by the court." That practitioner recalled that there used to be attorney fees provisions in many of the Department listings years ago. Note that this provision was removed from the other listing contracts when they were updated in 2008-2009. The WRA Committee suggests that this be left out of the WB-6 and allow the parties to include it in an addendum if an attorney fees provision is desired.

WB6RevisionsDSPS5-2-13

WB-06 Form 20121204 (With Tracking) Use Me

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 Business Description: _____
5 _____
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 encumbrances,
11 the Assets of the Business including all goodwill, stock-in-trade, trade fixtures, Fixtures (if interest in Real Estate is included), accounts receivable,
12 all Business Personal Property, the interest in Real Estate (if included on lines xx-xx), and the following additional property _____
13 _____
14 _____ [STRIKE AND COMPLETE AS APPLICABLE] (hereinafter collectively the "Assets").
15 Seller shall convey Business Personal Property and any other personal property by Bill of Sale or _____
16 _____, free and clear of all liens and encumbrances except _____
17 _____
18 ■ **INTEREST IN REAL ESTATE** [CHECK BOX ON LINE XX OR XX, AS APPLICABLE]:
19 **NO INTEREST IN REAL ESTATE INCLUDED IN LIST PRICE**
20 **DESCRIPTION OF INTEREST IN REAL ESTATE INCLUDED IN LIST PRICE:**
21 Street address is: _____ in the
22 _____ of _____, County of _____,
23 Wisconsin (the "Real Estate").
24 The Real Estate is owned by: _____.
25 The Real Estate is leased to: _____.
26 The interest in the Real Estate included in the list price is: ownership leasehold assignment of existing lease
27 other: _____. Insert any additional description, including further
28 description 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
29 xxx.
30 ■ **NOT INCLUDED IN LIST PRICE: CAUTION: Identify any Fixtures, trade fixtures and Business Personal Property to be excluded**
31 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
35 may include: _____
36 _____
37 Broker may advertise the following special financing and incentives offered by Seller: _____
38 _____
39 Seller has a duty to cooperate with Broker's marketing efforts. See lines xx-xx regarding Broker's role as marketing agent and Seller's
40 duty to notify Broker of any potential buyers known to Seller. Seller agrees that Broker may market other assets and properties during
41 the term of this Listing.
42 ■ **COOPERATION, ACCESS TO PROPERTY OR OFFER PRESENTATION:** The parties agree that Broker will work and cooperate
43 with other brokers in marketing the Assets, including brokers from other firms acting as subagents (agents from other companies
44 engaged by Broker - See lines xxx-xxx) and brokers representing buyers. Cooperation includes providing access to the Assets for
45 showing purposes and presenting offers and other proposals from these brokers to Seller. Note any brokers with whom Broker shall not
46 cooperate, any brokers or buyers who shall not be allowed to attend showings, and the specific terms of offers which should not be
47 submitted to Seller: _____
48 CAUTION: Limiting Broker's cooperation with other brokers may reduce the marketability of the Assets.
49 ■ **EXCLUSIONS:** All persons who may acquire an interest in the Assets as a Protected Buyer under a prior listing contract are
50 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
51 date of this Listing, Seller agrees to deliver to Broker a written list of all such prospective buyers. The following other buyers are
52 excluded from this Listing until _____ [INSERT DATE]: _____

53 _____ . These other buyers are no longer excluded from this Listing after the specified date unless,
54 on or before the specified date, Seller has either accepted an offer from the buyer or sold the Assets to the buyer.

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

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

59 Seller's recipient for delivery (optional): _____
60 Broker's recipient for delivery (optional): _____

61 (2) **Fax:** fax transmission of the document or written notice to the following telephone number:
62 Seller: (_____) _____ Broker: (_____) _____

63 (3) **Commercial Delivery:** depositing the document or written notice fees prepaid or charged to an account with a commercial delivery
64 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
65 address at line xx or xx.

66 (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
67 recipient for delivery if named at line xx or xx, for delivery to the Party's delivery address at line xx or xx.

68 Delivery address for Seller: _____
69 Delivery address for Broker: _____

70 (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
71 is a consumer transaction where the property being leased or purchased or the proceeds are used primarily for personal, family or
72 household purposes, each consumer providing an e-mail address below has first consented electronically to the use of electronic
73 documents, e-mail delivery and electronic signatures in the transaction, as required by federal law.

74 E-Mail address for Seller: _____
75 E-Mail address for Broker: _____

76 ■ **COMMISSION:** Broker's commission shall be _____ % or _____
77 _____ **whichever is greater.**

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

79 1) Seller sells or accepts an offer which creates an enforceable contract for the sale of all or any part of the Assets;
80 2) Seller grants an option to purchase all or any part of the Assets which is subsequently exercised;
81 3) Seller exchanges or enters into a binding exchange agreement on all or any part of the Assets;
82 4) 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
83 third party, other than in the ordinary course of business;
84 5) A transfer or sale of any stock, shares, membership or partnership interest of the Business occurs which results in an effective change of
85 ownership, management or control of the Business;
86 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 terms set forth
87 in this Listing and the standard provisions of the current **WB-16 OFFER TO PURCHASE - BUSINESS WITH REAL ESTATE (if real property is**
88 **included in the list price) or WB-17 OFFER TO PURCHASE - BUSINESS WITHOUT REAL ESTATE**, which is/are incorporated by reference into
89 this Listing, even if Seller does not accept this buyer's offer.

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

91 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
92 calculated based on the list price under 3) (if an exchange of all Assets), 6) or 7). A percentage commission shall be calculated on the fair market
93 value of the Assets exchanged under 3) if the exchange does not involve all Assets. "Purchase price" shall include all consideration received by
94 **Seller and other third parties including, but not limited to, buyer assumptions of debt and any Seller provided financing.** Once earned, Broker's
95 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 commission
96 shall be earned if, during the term of the Listing, one owner of the Assets sells, conveys, exchanges or options an interest in all or any part of the
97 Assets to another owner, except by divorce judgment.

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

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

104 ■ **COMPENSATION TO OTHERS:** Broker offers the following commission to cooperating brokers: _____
105 _____ . (Exceptions if any): _____.

106 ■ **EXTENSION OF LISTING:** The Listing term is extended for a period of one year as to any Protected Buyer. Upon receipt of a written
107 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
108 by Broker to whom the extension period applies. Should this Listing be terminated by Seller prior to the expiration of the term stated in
109 this Listing, this Listing shall be extended for Protected Buyers, on the same terms, for one year after the Listing is terminated.

110 ■ **SELLER COOPERATION WITH MARKETING EFFORTS:** Seller agrees to cooperate with Broker in Broker's marketing efforts and to
111 provide Broker with all records, documents and other material in Seller's possession or control which are required in connection with the sale.
112 Seller authorizes Broker to do those acts reasonably necessary to effect a sale and Seller agrees to cooperate fully with these efforts which may

113 include Internet advertising or a lockbox system on the Real Estate. Seller shall promptly notify Broker in writing of the names and contact
114 information of any potential buyers known to Seller, who contact Seller or with whom Seller negotiates during the term of this Listing and shall
115 promptly refer all such potential buyers and all persons making inquiries concerning the Assets to Broker.

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

119 ■ **DOCUMENTS AND RECORDS:** Seller agrees to promptly deliver all financial, business or other records, documents or other materials
120 related to the Assets or transaction required in connection with the marketing or sale. **Seller warrants that all written documents and records**
121 **given to Broker in conjunction with the marketing or sale of the Assets shall be true and accurate.** Seller agrees to hold Broker harmless
122 from **loss or liability resulting from** Broker's use of these documents and records, **including but not limited to**, the payment of **costs and** reasonable
123 attorney fees in the event of any suit against Broker arising out of the use of these documents and records. Seller authorizes Broker to distribute
124 any or all of the documents and records given to Broker to prospective buyers and their business, legal or tax counsel.

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

136 ■ **TERMINATION OF LISTING:** Neither Seller nor Broker have the legal right to unilaterally terminate this Listing absent a material breach of
137 contract by the other Party. Seller understands that the Parties to the Listing are Seller and the Broker (firm). Agents (salespersons) for Broker
138 (firm) do not have the authority to enter into a mutual agreement to terminate the Listing, amend the commission amount or shorten the term of
139 this Listing, without the written consent of the agent's supervising broker. Seller and Broker agree that any termination of this Listing by either party
140 before the date stated on line xxx shall be indicated to the other Party in writing and shall not be effective until delivered to the other Party in
141 accordance with lines xxx-xxx. CAUTION: Early termination of this Listing may be a breach of contract, causing the terminating party to potentially
142 be liable for damages.

143 ■ **EARNEST MONEY:** If Broker holds trust funds in connection with the transaction, they shall be retained by Broker in Broker's trust account.
144 Broker may refuse to hold earnest money or other trust funds. Should Broker hold the earnest money, Broker shall hold and disburse earnest
145 money funds in accordance with Wis. Stat. Ch. 452 and Wis. Admin. Code Ch. REEB 18. If the transaction fails to close and the earnest money
146 is disbursed to Seller, then upon disbursement to Seller the earnest money shall be paid first to reimburse Broker for cash

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147 advances made by Broker on behalf of Seller and one half of the balance, but not in excess of the agreed commission, shall be paid to Broker as
148 Broker's full commission in connection with said purchase transaction and the balance shall belong to Seller. This payment to Broker shall not
149 terminate this Listing.

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

153 ■ **BROKER DISCLOSURE TO CLIENTS:**

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

- 155 (a) The duty to provide brokerage services to you fairly and honestly.
- 156 (b) The duty to exercise reasonable skill and care in providing brokerage services to you.
- 157 (c) The duty to provide you with accurate information about market conditions within a reasonable time if you request it, unless
158 disclosure of the information is prohibited by law.
- 159 (d) The duty to disclose to you in writing certain material adverse facts about a property, unless disclosure of the information is
160 prohibited by law. (See Lines 28-37)
- 161 (e) The duty to protect your confidentiality. Unless the law requires it, the broker will not disclose your confidential information or
162 the confidential information of other parties. (See Lines 71-89)
- 163 (f) The duty to safeguard trust funds and other property the broker holds.
- 164 (g) The duty, when negotiating, to present contract proposals in an objective and unbiased manner and disclose the advantages
165 and disadvantages of the proposals.

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

- 168 (a) The broker will provide, at your request, information and advice on real estate matters that affect your transaction, unless you
169 release the broker from this duty.
- 170 (b) The broker must provide you with all material facts affecting the transaction, not just adverse facts.
- 171 (c) The broker will fulfill the broker's obligations under the agency agreement and fulfill your lawful requests that are within the

172 scope of the agency agreement.
173 (d) The broker will negotiate for you, unless you release the broker from this duty.
174 (e) The broker will not place the broker's interests ahead of your interests. The broker will not, unless required by law, give
175 information or advice to other parties who are not the broker's clients, if giving the information or advice is contrary to your
176 interests.

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

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

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

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

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

194 **INITIAL ONLY ONE OF THE THREE LINES BELOW:**

195 _____ I consent to *multiple representation relationships* with designated agency.
196 _____ I consent to multiple representation relationships, but I do not consent to designated agency.
197 _____ I reject multiple representation relationships.

198 **NOTE: YOU MAY WITHDRAW YOUR CONSENT TO DESIGNATED AGENCY OR TO MULTIPLE REPRESENTATION**
199 **RELATIONSHIPS BY WRITTEN NOTICE TO THE BROKER AT ANY TIME. YOUR BROKER IS REQUIRED TO DISCLOSE TO**
200 **YOU IN YOUR AGENCY AGREEMENT THE COMMISSION OR FEES THAT YOU MAY OWE TO YOUR BROKER. IF YOU HAVE**
201 **ANY QUESTIONS ABOUT THE COMMISSION OR FEES THAT YOU MAY OWE BASED UPON THE TYPE OF AGENCY**
202 **RELATIONSHIP YOU SELECT WITH YOUR BROKER YOU SHOULD ASK YOUR BROKER BEFORE SIGNING THE AGENCY**
203 **AGREEMENT.**

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

206 A subagent will not, unless required by law, provide advice or opinions to other parties if doing so is contrary to your interests.
207 **PLEASE REVIEW THIS INFORMATION CAREFULLY.** A broker or salesperson can answer your questions about brokerage services,
208 but if you need legal advice, tax advice, or a professional home inspection, contact an attorney, tax advisor, or home inspector. This
209 disclosure is required by section 452.135 of the Wisconsin statutes and is for information only. It is a plain-language summary of a
210 broker's duties to you under section 452.133(2) of the Wisconsin statutes.

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

215 1) Material adverse facts, as defined in section 452.01(5g) of the Wisconsin statutes (see lines xx-xx).
216 2) Any facts known by the broker that contradict any information included in a written inspection report on the property or real estate that is the
217 subject of the transaction.

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

220 **CONFIDENTIAL INFORMATION:** _____
221 _____
222 _____

223 **NON-CONFIDENTIAL INFORMATION** (The following may be disclosed by Broker): _____
224 _____
225 _____

226 ■ ■ **DEFINITIONS:**

227 ■ **ADVERSE FACT:** An "Adverse Fact" means any of the following:
228 (a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:
229 1) Significantly and adversely affecting the value of the property;
230 2) significantly reducing the structural integrity of improvements to real estate; or
231 3) presenting a significant health risk to occupants of the property.
232 (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

233 contract or agreement made concerning the transaction.
234 ■ **BUSINESS PERSONAL PROPERTY:** "Business Personal Property" is defined as all tangible and intangible personal property and rights in
235 personal property owned by Seller and used in the Business, including, but not limited to, furniture, trade fixtures and equipment, tools used in
236 business, telephone numbers and listings if transferable, customer lists, trade names, intellectual property, Internet domain names, digital media,
237 digital marketing, databases, business records, supplies, leases, advance lease deposits, customer deposits, signs, all other personal property
238 used in the Business, and if transferable, all permits, special licenses and franchises, except those assets disposed of in the ordinary course of
239 business or as permitted by the offer.

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

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

244 ■ **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 treated
245 as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the premises, items
246 specifically adapted to the premises, and items customarily treated as fixtures, including, but not limited to, all: garden bulbs; plants; shrubs and
247 trees; screen and storm doors and windows; electric lighting fixtures; window shades; curtain and traverse rods; blinds and shutters; central
248 heating and cooling units and attached equipment; water heaters and treatment systems; sump pumps; attached or fitted floor coverings;
249 awnings; attached antennas, garage door openers and remote controls; installed security systems; central vacuum systems and accessories;
250 in-ground sprinkler systems and component parts; built-in appliances; ceiling fans; fences; storage buildings on permanent foundations and
251 docks/piers on permanent foundations. A Fixture does not include trade fixtures owned by tenants of the Real Estate.

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

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

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

262 ■ **PROCURE:** A buyer is procured when during the term of the Listing, an enforceable contract of sale is entered into between the Seller and the
263 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 substantially the terms
264 specified in this Listing. A buyer is ready, willing and able when the buyer submitting the written offer has the ability to complete the buyer's
265 obligations under the written offer. See lines xx-xx.

266 ■ **PROTECTED BUYER:** Means a buyer who personally, or through any Person Acting on Behalf of Buyer, during the term of this
267 Listing: 1) delivers to Seller or Broker a written offer to purchase, exchange or option on the Assets; 2) negotiates directly with Seller by
268 discussing with Seller the potential terms upon which buyer might acquire an interest in the Assets; or 3) attends an individual showing
269 of the Assets or discusses with Broker or cooperating brokers the potential terms upon which buyer might acquire an interest in the
270 Assets, but only if Broker delivers the buyer's name to Seller, in writing, no later than three days after the expiration of the Listing. The
271 requirement in 3), to deliver the buyer's name to Seller in writing, may be fulfilled as follows: a) If the Listing is effective only as to certain
272 individuals who are identified in the Listing, by the identification of the individuals in the Listing; or b) if a buyer has requested that the
273 buyer's identity remain confidential, by delivery of a written notice identifying the broker with whom the buyer negotiated and the date(s)
274 of any showings or other negotiations. A Protected Buyer also includes any Person Acting on Behalf of Buyer who acquires an interest
275 in the Assets during the extension of listing period as noted on lines XX to XX.

276 ■ **NOTICE ABOUT SEX OFFENDER REGISTRY:** You may obtain information about the sex offender registry and persons registered
277 with the registry by contacting the Wisconsin Department of Corrections on the Internet at <http://www.doc.wi.gov> or by telephone at
278 (608)240-5830.

279 ■ **REAL ESTATE PROVISIONS:**

280 **NOTE: LINES –xxx-xxx ARE A PART OF THIS LISTING ONLY IF REAL ESTATE IS INCLUDED IN THE LIST PRICE**

281 ■ **OCCUPANCY:** Unless otherwise provided, Seller agrees to give buyer occupancy of the Real Estate at time of closing and to have the Real
282 Estate in broom swept condition and free of all debris and personal property except for personal property belonging to current tenants, sold to
283 buyer or left with buyer's consent.

284 **OCCUPANCY DATE:** _____ **OCCUPANCY CHARGE:** (if Seller occupies after closing): \$ _____
285 per day or part thereof.

286 **PROPERTY INCLUDED IN LIST PRICE:** Seller agrees to include in the list price all fixtures as defined at lines 258 – 260, unless excluded at
287 lines 11 – 13. **Caution: Exclude fixtures not owned by Seller such as rented fixtures and tenant's trade fixtures.** The Offer's terms will
288 determine what property is included or excluded.

289 ■ **CONDITION OF TITLE:** Upon payment of the purchase price, Seller shall convey the real property by warranty deed (or other conveyance as
290 provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements 281 entered under
291 them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and 282 covenants, general
292 taxes levied in the year of closing and _____

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293 _____ (provided none of the foregoing prohibit present use of the real property)

294 **CAUTION CONSIDER THE NEED TO ADDRESS UCC SECURITY INTERESTS, CONDITIONAL USES, NONCONFORMING USES, ETC.**

295 ■ **TITLE EVIDENCE:** Seller shall provide evidence of the condition of title in the form agreed to by buyer and Seller in the offer to purchase.

296 ■ **SELLER'S DISCLOSURE REPORT:** Wisconsin Administrative Code Chapter REEBL 24 requires listing brokers to make inquiries of the
297 seller on the condition of the real property/real estate and to request that the seller provide a written response to the broker's inquiry. If the Assets
298 include Real Estate, Seller agrees to complete the a seller's disclosure report provided by Broker to the best of Seller's ability/knowledge. Seller
299 agrees to promptly amend the report to include any defects (as defined in the report) which Seller learns of after completion of the report, but
300 before acceptance of a buyer's offer to purchase. Seller authorizes Broker to distribute the report to all interested parties and their agents inquiring
301 about the Assets, and acknowledges that Broker has a duty to disclose all adverse material adverse facts as required by law.

302 ■ **SELLER REPRESENTATIONS REGARDING REAL ESTATE DEFECTS:** Seller represents to Broker that as of the date of this
303 Listing, if the Assets includes Real Estate and if a seller's disclosure report or other form of written response to Broker's inquiry
304 regarding the condition of the Real Estate has been made by the Seller, the Seller has no notice or knowledge of any defects affecting
305 the Real Estate other than those noted on Seller's disclosure report or written response.

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

308 ■ **INSPECTIONS:** Seller agrees to allow buyer's inspectors and testers reasonable access to the real property upon reasonable notice if the

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309 inspections or tests are reasonably necessary to satisfy contingencies in the offer. Seller acknowledges that certain inspections or tests may
310 detect environmental contamination which may be required to be reported to the Wisconsin Department of Natural Resources.

311 ■ **LEASED PROPERTY:** If the real the property/Real Estate included in the list price is currently leased to third parties and the lease(s) will
312 extend beyond closing, Seller shall assign Seller's rights under the lease(s) and transfer all security deposits and prepaid rents (subject to
313 agreed-upon prorations) thereunder to buyer at closing. Seller acknowledges that Seller remains liable under the lease(s) unless released by
314 tenants. **CAUTION: Seller should consider obtaining an indemnification agreement from buyer for liabilities under the lease(s) unless**
315 **released by tenants.**

316 ■ **ADDITIONAL PROVISIONS:** Notice: You may obtain information about the sex offender registry and persons registered with the registry by
317 contacting the Wisconsin Department of Corrections on the Internet at <http://www.widocoffenders.org> or by phone at 8772340085.

318 _____
319 _____
320 _____
321 _____
322 _____
323 _____
324 _____
325 _____

326 ■ **ADDENDA:** The attached _____ is/are made part of this Listing.

327 ■ **TERM OF THE CONTRACT:** From the _____ day of _____, _____ up to
328 and including midnight of the _____ day of _____.

329 **CAUTION: IF SIGNED, THIS LISTING CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BROKERS MAY PROVIDE A**
330 **GENERAL EXPLANATION OF THE PROVISIONS OF THE LISTING BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR**
331 **OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS LISTING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL**
332 **ADVICE IS NEEDED. A LISTING FOR LEASE ALSO MUST BE ENTERED INTO IF BROKER IS TO BE AUTHORIZED TO PROCURE**
333 **TENANTS.**

334 Dated this _____ day of _____,
All persons signing below on behalf of a Seller Entity represent that they have proper legal authority to sign for and bind the Entity.

335 Seller Entity Name (if any): _____

336 (x) _____
337 Authorized Signature ▲ Print Name & Title Here ▶ Date ▲

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

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

342 (x) _____
343 Individual Seller's Signature ▲ Print Name Title Here ▶ Date ▲

344 Seller Entity Name (if any): _____

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345 (x) _____
346 Authorized Signature ▲ Print Name & Title Here ► Date ▲

347 (x) _____
348 Authorized Signature ▲ Print Name & Title Here ► Date ▲

349 (x) _____
350 Individual Seller's Signature ▲ Print Name Title Here ► Date ▲

351 (x) _____
352 Individual Seller's Signature ▲ Print Name Title Here ► Date ▲

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

355

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

To: DSPS Real Estate Contractual Forms Advisory Committee
From: WRA Forms Committee
Date: April 12, 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 memo relating to the WB-16 and the accompanying draft document labeled “WB-16WordWB-15ChangesTrack” (says **WB-15 Changes in Tracking** in red at the top) gives an initial look at some of the possible modifications that might be made to update the WB-16. The draft shows the changes proposed in this memo either in tracking style or with yellow highlights. A second version of the draft without all of the tracking marks has also been sent – the document is labeled “WB-16WordWB-15ChangesPlain” and it says **WB-15 Changes (Plain)** in red at the top.

WB-16 Draft

The attached discussion attempts to capture a sample lay-out and flow of an updated business offer incorporating language from the 2012 WB-15 Commercial Offer to Purchase and proposing other modifications. The following are shown in the draft and have been initially reviewed by this Committee:

- ◆ Update the form to state Approved by the Real Estate Examining Board, and add page numbers and optional and mandatory use dates

" Phrases below form title: "TO BE USED FOR SALE OF ASSETS ONLY. CONSULT APPROPRIATE ADVISORS FOR TAX, LICENSE OR OTHER QUESTIONS." To make this more consistent with the WB-6 listing, the draft suggests the following modification: "**TO BE USED OFFER TO PURCHASE FOR SALE OF ASSETS ONLY. CONSULT APPROPRIATE ADVISORS FOR TAX, LICENSING, LIABILITY OR OTHER-RELATED QUESTIONS.**" Other ideas?

- ◆ Lines 1-2: The draft inserts lines 1-2 from the other updated Department offers. This will identify the agency status of the licensee drafting the offer in a manner identical to the other offers.

- ◆ Lines 3-9, Business Description: the draft inserts the Business identification lines from the WB-6. Any comments?

Business Name: _____
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.

- ◆ General Provisions: The draft proposes to shorten this so that it becomes introductory language identifying the buyer but it does not include a description of the business in General Provisions because that already appears in the new section immediately before. The line for the Buyer’s name was lengthened.

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

◆ **Earnest Money:** The draft proposes to modify the language so that it matches the WB-15 commercial offer. The blank lines for money amounts and the deadline (so it may be expressed as business days) were lengthened a bit – more may be needed but the blank line at the end of the provision will have to be shortened to accommodate this.

EARNEST MONEY of \$ _____ accompanies this Offer and earnest money of \$ _____ will be ~~mailed, or commercially or personally delivered~~ paid within _____ days of acceptance ~~to listing broker or~~

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

~~-. The balance of purchase price will be paid in cash or equivalent at closing unless otherwise provided below.~~

◆ **Real Property Included in Purchase Price, Additional Property Included in Purchase Price:** The draft proposes to delete these sections from the current WB-16 and replace them with sections like those in the WB-6 as far as the property descriptions and associated definitions (Assets, Real Estate) used to indicate what is included in the purchase price.

~~■ INCLUDED IN PURCHASE PRICE: Seller is including in the purchase price (unless excluded at lines xx-xx) the Assets of the Business including all goodwill, stock-in-trade, trade fixtures, Fixtures (if interest in Real Estate is included), accounts receivable, all Business Personal Property, the interest in Real Estate (if included on lines xx-xx), and the following additional property _____~~

~~_____ [STRIKE AND~~

~~COMPLETE AS APPLICABLE] (hereinafter 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 _____~~

~~■ INTEREST IN REAL ESTATE [CHECK BOX ON LINE XX OR XX, AS APPLICABLE]:~~

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

~~DESCRIPTION OF INTEREST IN REAL ESTATE INCLUDED IN PURCHASE PRICE:~~

~~Street address is: _____~~

~~in the _____ of _____, County of _____~~

~~_____, Wisconsin (the "Real Estate").~~

~~The Real Estate is owned by: _____~~

~~The Real Estate is leased to: _____~~

~~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.~~

Also the language below, which appears under the ITEMS NOT INCLUDED IN THE PURCHASE PRICE section in the existing WB-16, has been moved:

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 _____

(b) Accounts Receivable _____

This language now comes at the end of the INCLUDED IN PURCHASE PRICE section, immediately before the INTEREST IN REAL ESTATE section. The business practitioners indicated that the type of information that might be inserted here may relate to whether items are working, have reasonable or unreasonable wear, are merchantable, involve pre-pays, or gift cards, etc.

◆ **Items Not Included in the Purchase Price:** The language pertaining to this section has been modified in the draft to change the heading and incorporate elements of the WB-6 business listing draft and the WB-15 commercial offer.

⇒ **This has been modified since the DSPS Committee made a few changes to the language so please review what is below (and in the drafts) to see if you are satisfied:**

NOT INCLUDED IN THE PURCHASE PRICE:

CAUTION: Identify Fixtures, trade fixtures and Business Personal Property to be excluded by Seller or which are rented and will continue to be owned by the lessor (see lines xxx-xxx and xxx-xxx).

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

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◆ **Acceptance and Binding Acceptance:** the current WB-16 does not have an acceptance section on the first page (“acceptance” is in the definitions section), but it does have a binding acceptance provision. The draft inserts both acceptance and binding acceptance provisions (and the optional provisions lines as well) from the WB-15 Commercial Offer. This draft attempts to track the general sequence of the items in the WB-15 to the greatest extent possible.

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

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

BINDING ACCEPTANCE This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before _____. Seller may keep the Assets on the market and accept secondary offers after binding acceptance of this Offer.

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

OPTIONAL PROVISIONS TERMS OF THIS OFFER THAT ARE PRECEDED BY AN OPEN BOX () ARE PART OF THIS OFFER ONLY IF THE BOX IS MARKED SUCH AS WITH AN "X." THEY ARE NOT PART OF THIS OFFER IF MARKED "N/A" OR ARE LEFT BLANK.

◆ **Delivery of Documents and Written Notices:** the draft takes the section that was placed in the WB-6 business listing and incorporates it here, as follows:

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: _____

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: _____

[We will take a second look at whether there is a need for the consumer electronic consent language in the E-mail delivery section in a business offer and report back if it may be able to be removed.]

◆ Personal Delivery/Actual Receipt: this section has been copied from the WB-15 commercial offer and placed immediately following the Delivery section:

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

◆ Transfer of Legal Possession: below is the section that appears in the current business offer. The second sentence is covered in the draft in the Included in Purchase Price section.

TRANSFER OF LEGAL POSSESSION Legal possession of the Business and all included property shall be delivered to Buyer at the time of closing. Business personal property included in purchase price will be transferred by bill of sale or _____

NOTE: If real property is being leased see lines 134 - 144.

The WRA Forms Committee recommends that the first sentence be moved into the Closing section (see below), that the second sentence be eliminated because it duplicates language in the INCLUDED IN PURCHASE PRICE section, and that the reference to the Leased Property section appear in the INTEREST IN REAL ESTATE section: at the end of the line stating "The Real Estate is leased to ..." it now says "(see lines xxx-xxx)." We may come back to considering whether that Leased Property section might best be moved, but that may have to wait until we are further into this offer. These recommendations appear in the drafts.

◆ Place of Closing: in the draft this language is modified to conform to the verbiage in the WB-15 commercial offer (and the other offers) and to add a sentence to this section that says: "Legal possession of the Business Assets shall be delivered to Buyer at the time of closing."

PLACE OF CLOSING Legal possession of the Business Assets shall be delivered to Buyer at the time of closing. This transaction is to be closed ~~at the place designated by Buyer's lender or _____~~
~~_____ no later than _____,~~
~~at the place selected by Seller, unless otherwise agreed by the Parties unless another date or place is agreed to in writing.~~

◆ Closing Prorations: the section from the WB-15 has been inserted in place of the language now in the current WB-16:

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

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

Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.

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

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

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

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 known, multiplied by current mill rate (current means as of the date of closing)

_____.

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

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 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 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 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 estate brokers in this transaction.

◆ **Business and Property Condition Provisions:** In the draft the REPRESENTATIONS REGARDING BUSINESS, INCLUDED PROPERTY AND THE TRANSACTION subsection was first modified to make it similar to the WB-15 commercial offer, and then additional changes were made as discussed below.

In the existing WB-16 there is a definition for "conditions affecting the Business, included property or the transaction." Other than the fact that we would use initial caps as is done in the other revised forms for defined terms, what exactly is the best name for this term (we will come to the interesting task of crafting this definition a bit later on)? The draft uses "Conditions Affecting the Business, Assets or Transaction" which can certainly be changed. Accordingly, the first portion of this provision has been modified in the draft as highlighted in yellow:

■ REPRESENTATIONS REGARDING ~~THE BUSINESS, INCLUDED PROPERTY~~ASSETS AND THE TRANSACTION: Seller represents to Buyer that as of the date of acceptance Seller has no notice or knowledge of ~~C~~onditions ~~A~~affecting the ~~Business, included real or personal property Assets or the T~~ransaction (as defined at lines 253-xxx to 302xxx) other than those identified in Seller's disclosure report dated _____ and Real Estate Condition Report, if applicable, dated _____, which was/were received by Buyer prior to Buyer signing this Offer and which is/are made a part of this offer by reference COMPLETE DATES OR STRIKE AS APPLICABLE and _____

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

CAUTION: If the Property includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided in Wis. Stat. § 709.03 may be required. Excluded from this requirement are sales of property that has never been inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed fiduciaries, (for example, personal representatives who have never occupied the Property). Buyer may have rescission rights per Wis. Stat. § 709.05.

The business practitioners on the WRA Committee suggest that this section be restructured to have a list of check boxes for the various kinds of disclosure reports that may be involved. The drafts reflect the following:

■ REPRESENTATIONS REGARDING ~~THE BUSINESS, INCLUDED PROPERTY~~ASSETS AND ~~THE~~ TRANSACTION: Seller represents to Buyer that as of the date of acceptance Seller has no notice or

knowledge of ~~C~~onditions ~~A~~affecting the Business, ~~included real or personal property Assets~~ or ~~the T~~ransaction (as defined at lines ~~253-xxx~~ to ~~302xxx~~) other than those identified in Seller's disclosure report(s) [CHECK AND INSERT DATES AS APPLICABLE]:

- Seller disclosure report (commercial or business real estate) dated _____
- Real Estate Condition Report (1-4 dwelling units) dated _____ and Real Estate Condition Report, if applicable, Vacant Land Disclosure Report (no buildings) dated _____
- Business disclosure report(s) dated _____
- Other: _____ (specify) dated _____

which was/were received by Buyer prior to Buyer signing this Offer and which is/are made a part of this Offer by reference ~~COMPLETE DATES OR STRIKE AS APPLICABLE~~ and _____

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

CAUTION: If the Real Estate includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided in Wis. Stat. § 709.03 may be required. If the Real Estate does not include any buildings, a Vacant Land Disclosure Report containing the disclosures provided in Wis. Stat. § 709.033 may be required. Buyer may have rescission rights per Wis. Stat. § 709.05. A commercial or business disclosure report for commercial/business Real Estate may be needed as well as business disclosure report(s) regarding the Business. More than one report may be necessary.

◆ Business Operation: In the draft the BUSINESS OPERATION subsection has been left as is in the existing business offer. It is an important statement. Is there any reason to change or add to this?

◆ Property Damage Between Acceptance and Closing: In the draft the PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING subsection is modified where appropriate to reflect the wording used in the WB-15 and the other offers and WB-16 terminology. The term Assets is used.

■ PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING: Seller shall maintain ~~all real and business personal property included in this Offer~~ the Assets until the earlier of closing or occupancy ~~by of~~ Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. -If, prior to the earlier of closing or occupancy by Buyer, the ~~included real or business personal property is~~ Assets are damaged in an amount of not more than five per cent (5%) of the purchase price, Seller shall be obligated to ~~restore-repair~~ the damaged property and restore it to the same condition that 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 restoration. -If Seller is unable to restore the damaged property, Seller shall promptly 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 promptly notify Buyer in writing of the damage and this Offer may be canceled at the option of Buyer. -Should Buyer elect to carry out this Offer despite such damage, Buyer shall be entitled to any insurance proceeds relating to the damaged property, plus a credit towards the purchase price equal to 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, ~~the any~~ insurance proceeds shall be held in trust for the sole purpose of restoring the Property Assets.

◆ Inspections: For the INSPECTIONS subsection, the draft takes the INSPECTIONS AND TESTING provision from the WB-15, substitutes it in place of the existing WB-16 INSPECTIONS provision and attempts to make appropriate language modifications (Assets in place of Property), as shown below:

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

Offer. Buyer and licensees may be present at all inspections and testing. Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Assets.

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

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

◆ **Pre-Closing Inspection:** For the PRE-CLOSING INSPECTION subsection, this has been changed in the draft to match the similar section in the WB-15 Commercial Offer:

BUYER'S PRE-CLOSING WALK-THROUGH 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 **Property Assets** to determine that there has been no significant change in the condition of the **Property 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.

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Also the business practitioners indicated that this is important but can be very tricky if the situation involves walking through an ongoing business with employees at work, etc. There may be confidentiality concerns, for instance. Accordingly, this provision was qualified "**as agreed by the Parties**" as shown above and in the draft.

◆ **Property Improvement, Development or Change of Use:** Below is the PROPERTY IMPROVEMENT, DEVELOPMENT OR CHANGE OF USE subsection, with a few terminology changes and other small modifications. The WRA Forms Committee felt comfortable, at least for the time being, in retaining this provision and including Proposed Use Contingencies from the WB-15 despite some overlap – these transactions are so complex that additional reminders are often welcome to the business practitioners.

■ **PROPERTY IMPROVEMENT, DEVELOPMENT OR CHANGE OF USE:** If Buyer contemplates improving, developing or changing the use of the Business or **Real property Estate** sold by this Offer, Buyer may need to address municipal **ordinances** and zoning **ordinances**, recorded building and use restrictions, covenants and easements which may prohibit some improvements or uses. The need for **licenses**, building permits, zoning variances, environmental audits, etc. may need to be investigated to determine feasibility of improvements, development or use changes for the Business or real property sold by this Offer. Contingencies for investigation of these issues may be added to this Offer. See lines **169-xxx -172-xxx** or **449xxx**. If plant closings or mass layoffs will occur as a result of this Offer the Parties should review federal and state plant closing laws.

◆ **Property Dimensions and Surveys:** Below is the PROPERTY DIMENSIONS AND SURVEYS section that appears in the draft. The provision from the existing WB-16 has been modified to match the like provision from the WB-15 commercial offer.

■ **PROPERTY DIMENSIONS AND SURVEYS:** Buyer ~~and Seller~~ acknowledges that any ~~real property land~~, building or room dimensions, or total acreage or building square footage figures, provided to Buyer ~~or by Seller or by a broker~~, may be approximate because of rounding, **formulas used** or other reasons, unless verified by survey or other means. ~~Buyer and Seller also acknowledge that there are various formulas used to calculate total square footage of buildings and that total square footage figures will vary dependent upon the formula used.~~

CAUTION: Buyer ~~and Seller~~ should verify total square footage ~~formula or acreage figures and real property land~~, building or room dimensions, and total acreage or square footage figures, if these figures are material to Buyer's decision to purchase.

◆ Default: Below is the DEFAULT section from the existing WB-16, showing the sole modification needed to make it read like the corresponding section from the WB-15.

DEFAULT 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 material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or other legal remedies.

If Buyer defaults, Seller may:

- (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
- (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) ~~direct Broker to return the earnest money and have the option to~~ sue for actual damages.

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If Seller defaults, Buyer may:

- (1) sue for specific performance; or
 - (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.
- In addition, the Parties may seek any other remedies available in law or equity.

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The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts. -If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead 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 covered by the arbitration agreement.

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.

◆ Entire Agreement: Below is the ENTIRE AGREEMENT section as it exists in the WB-16, with the suggested modifications to make it match this provision as it appears in other offers shown below and in the draft. The section title was changed to Entire Contract because that is what this provision is called in the other updated offers, and the note was removed because a similar caution appears directly below the form title on page 1.

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

◆ 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 Environmental Evaluation Contingency and the Inspection Contingency provisions like those found in the WB-15.

The following is inserted in the draft in place of the 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 shown below was placed near the end of the WB-16 draft in keeping with the sequence of 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.

◆ Leased Property: [going back to the next provision appearing after the Environmental Evaluation Contingency] Below is the LEASED PROPERTY section from the existing WB-16, modified for the terminology used in the revisions:

LEASED PROPERTY For any Real ~~Property-Estate~~ included in the purchase price which is currently leased and if leases 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 ~~R~~real ~~property-Estate~~ to Buyer on the following terms: _____

agrees to lease the ~~R~~real ~~property-Estate~~ according to the terms of the lease made a part of this agreement per line ~~419xxx~~.

■ 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 ~~434xxx-437xxx~~.)

Buyer will not accept an assignment of Seller's interest in the ~~!~~Lease.

These would be the lines being referred to on page 1 at the end of the line that says: "The Real Estate is leased to: _____ (see lines xxx-xxx)."

◆ 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 provision.

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

_____ [insert proposed use and type and size of ~~building~~the Assets or Business, if applicable; e.g. restaurant/tavern with capacity of 350 and 3 second floor dwelling units - **NOTE:WORKING ON COMING UP WITH PERTINENT EXAMPLES FROM BUSINESS PRACTITIONERS**]. The optional provisions checked on lines ~~423xxx-439-xxx~~ shall be deemed satisfied unless Buyer delivers to Seller by the deadline(s) set forth on lines ~~423xxx-439-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 ~~423xxx-439xxx~~.

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 ~~416-xxx~~ to ~~418xxx~~.

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

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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-Real Estate 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-Real Estate 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.

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⇒ Any changes or additional subcontingencies?

⇒ The business practitioners working with the WRA Forms Committee will work on some good examples of the buyer's proposed use.

◆ **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 drafts.

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 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 or 2) the latter of the deadlines for 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 below:

- Documents showing the sale of the Business and included real estate 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 affecting the Business or business personal property, 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 held by Business which indicate that Business holds all licenses 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) receipt of the final document to be ~~obtained~~/delivered or 2) the latter of the deadlines for ~~obtaining or~~ 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) have not been timely ~~obtained~~/delivered or 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 not 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.

Food for thought and for ideas: this is the Document Review contingency from the WB-15. Is there anything here that might be helpful to add?

- 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
 - Documents evidencing that the sale of the Property has been properly authorized, if Seller is a business entity.
 - A complete inventory of all furniture, fixtures, equipment and other personal property included in this transaction which is consistent with representations made prior to and in this Offer.
 - Uniform Commercial Code lien search as to the personal property included in the purchase price, showing the Property to be free and clear of all liens, other than liens to be released prior to or at closing.
 - Rent roll.
 - Other _____

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.

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.

■ **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of receipt of the final document to be delivered or the deadline for delivery of the documents, delivers to Seller a written notice indicating that this contingency has not been satisfied. Such notice shall identify which document(s) have not been timely delivered or do not meet the standard set forth for the document(s). Upon delivery of such notice, this Offer shall be null and void.

◆ **Sales Tax:** The provision below is from the existing WB-16 and the information following it is from the Department of Revenue website.

⇒ **Is the process outlined in the provision is current. Is the term "inactivate" and/or "cancel" the current language to use instead of or in addition to "surrender?" Any other language changes indicated? Or is the provision unnecessary?**

Sales tax, if any, shall be paid by Seller. Seller agrees to **inactivate or cancel and** surrender Seller's sales permit in a timely manner. In compliance with § 77.52(18), Wis. Stats., Seller agrees to escrow the sum of \$_____ out of the purchase price to be held by _____ 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 that no amount is due.

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 following information from the 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 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.”

◆ 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 ESTATE ESTATE TITLE

■ CONVEYANCE OF TITLE: Upon payment of the purchase price, Seller shall convey the Real property Estate 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 Real Estate or a use other than the current use.

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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 also listed in the WB-15 in the definition of merchantable title as a type of lien or encumbrance that is permitted as part of merchantable title. This has caused a fair amount of confusion so was not suggested in the provision above. The purpose of that language was intended to be to except an illegal use, for example, an illegal bedroom in the attic, from 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 that the item would also become an exception to merchantable title in the offer and in the deed. See 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 as it is above or whether something should be added to capture uses that are illegal or in violation of applicable restrictions or codes.**

Should it say: “Exceptions to warranty of merchantable title include _____ and other present uses of the Assets/Real Estate in violation of the foregoing disclosed by seller or known to buyer on the date of this Offer?” That might be placed immediately after the very long first sentence above. This suggestion is shown in the WB-16 draft for your consideration.

◆ Title Evidence: The provision below is from the existing WB-16 with some modifications to make it resemble the WB-15 language. This is shown in the tracking draft of the WB-16

■ 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 ASSETS OTHER THAN REAL PROPERTYESTATE. 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.**

⇒ **Are these modifications appropriate and are there other changes to be made here?**

◆ 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.**

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. Should it be removed or is it helpful to leave it in (see yellow highlighting above)?

⇒ Are these modifications appropriate and are there other changes to be made here?

◆ **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 Rreal 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.

⇒ Are these modifications appropriate and are there other changes to be made here?

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

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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).

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⇒ Are these modifications appropriate and are there other changes to be made here?

- ◆ Bulk Transfers: The repeal of Wisconsin's bulk transfer law, Chapter 406 of the Wisconsin statutes, became 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.

WB-16:

RENTAL WEATHERIZATION Unless otherwise provided this transaction is exempt from State of Wisconsin Rental Weatherization Standards (Wisconsin Administrative Code, Comm 67). If not exempt, address which Party is responsible for compliance, including all costs (See lines 169-172 or 419). If Seller is responsible for compliance, Seller shall provide a Certificate of Compliance at closing.

WB-15 commercial (modified as shown):

RENTAL WEATHERIZATION This transaction (is) (is not) **STRIKE ONE** ("is not" 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.

⇒ The drafts have been modified to conform to the commercial offer version but we can change it back if you think the other approach makes more sense in a business offer.

- ◆ 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 (Buyer's agent if Property Assets is/are not listed or Seller'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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⇒ Are these modifications appropriate and are there other changes to be made here?

- ◆ Earnest Money – Disbursement: The following was removed from the provision: (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).

⇒ One question may be whether the \$250 which may be paid to the attorney providing the opinion is too low and should be increased now. Should it be \$500? Up to \$1,000 but no more than one-half of the earnest money? Some other amount?

- ◆ Earnest Money – Legal Rights/Action: The WB-16 drafts show 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 other question would be whether the Note directly following the Legal Rights/Action section should be removed because a similar section 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 note that this type of note or caution could be placed in other places within the offer. there is no apparent reason why it needs to be next to the earnest money or the default sections and there may be good reason for different positioning once final layout and formatting is undertaken – we are not there yet by any means!

Following Default section:

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:

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.

⇒ Are both of these desired – is the repetition helpful – or should we choose one or the other?
Which one is best or is there a preferable blend?

◆ Definitions – Acceptance: Although the existing WB-16 does not have an Acceptance section on the first page as do the other offers, in our revisions we have added the Acceptance section, directly before Binding Acceptance. Therefore this can be deleted from the definitions because it is now repetitive. **Questions?**

◆ 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 definition in the drafts is shown as being modified to match this definition, with appropriate adjustments for an offer rather than a listing contract. Look for modifications in the WB-16 drafts. **Questions?**

■ **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 30-33 Business Personal Property not included in the list 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 early in our WB-16 draft, namely “Conditions Affecting the Business, Assets or Transaction.” **Are we still satisfied with this term?**

If you look at the definitions section in either draft you can see the long list of items included in the current 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 with these. Presuming that there should be a definition that includes numerous specific items and examples, we will have to develop a proposal of the list of items that would be beneficial and appropriate for this use – and make sure there is a good catchall at the end and maybe the “included but not limited to” language at the beginning?

⇒ **What items should be in the definition in the revised WB-16? Please start working on the list you believe would be most appropriate here!**

WB16RevisionsDSPS5-2-13

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

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 Business Name: _____

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

5 Business Description: _____

6 _____

7 _____

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

9 Insert additional description, if any, at lines xxx-xxx or attach as an addendum per line xxx.

10 **GENERAL PROVISIONS** The Buyer, _____

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

12 ■ PURCHASE PRICE: _____

13 _____ Dollars (\$ _____).

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

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

16 _____.

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

18 ■ INCLUDED IN PURCHASE PRICE: Seller is including in the purchase price (unless excluded at lines xx-xx) the Assets of the Business

19 including all goodwill, stock-in-trade, trade fixtures, Fixtures (if interest in Real Estate is included), accounts receivable, all Business Personal

20 Property, the interest in Real Estate (if included on lines xx-xx), and the following additional property _____

21 _____

22 _____ [STRIKE AND COMPLETE AS APPLICABLE] (hereinafter collectively the "Assets").

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

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

25 _____.

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

27 (a) Stock-in-Trade _____

28 _____

29 (b) Accounts Receivable _____

30 _____

31 ■ INTEREST IN REAL ESTATE [CHECK BOX ON LINE XX OR XX, AS APPLICABLE]:

32 NO INTEREST IN REAL ESTATE INCLUDED IN PURCHASE PRICE

33 DESCRIPTION OF INTEREST IN REAL ESTATE INCLUDED IN PURCHASE PRICE:

34 Street address is: _____ in the _____

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

36 The Real Estate is owned by: _____.

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

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

39 _____.

40 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.

41 ■ NOT INCLUDED IN THE PURCHASE PRICE: _____

42 _____

43 _____

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

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

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

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

48 the Offer.

49 **CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term deadlines**

50 **running from acceptance provide adequate time for both binding acceptance and performance.**

51 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before

52 _____.

53 Seller may keep the Assets on the market and

54 accept secondary offers after binding acceptance of this Offer.

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

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

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

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

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

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

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

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

65 (3) **Commercial Delivery:** depositing the document or written notice fees prepaid or charged to an account with a commercial delivery
66 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
67 delivery address at line xx or xx.

68 (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
69 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.

70 Delivery address for Seller: _____

71 Delivery address for Buyer: _____

72 (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
73 this is a consumer transaction where the property being purchased or the sale proceeds are used primarily for personal, family or
74 household purposes, each consumer providing an e-mail address below has first consented electronically to the use of electronic
75 documents, e-mail delivery and electronic signatures in the transaction, as required by federal law.

76 E-Mail address for Seller: _____

77 E-Mail address for Buyer: _____

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

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

82 at the place selected by Seller, unless otherwise agreed by the Parties in writing.

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

85 _____

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

87 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.

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

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

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

92 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
93 known, multiplied by current mill rate (current means as of the date of closing)

94 _____

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

98 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
99 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
100 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
101 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
102 estate brokers in this transaction.

103 **BUSINESS AND PROPERTY CONDITION PROVISIONS**

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

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

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

109 Vacant Land Disclosure Report (no buildings) dated _____

110 Business disclosure report(s) dated _____

111 Other: _____ (specify) dated _____

112 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 _____

113 _____

114 _____ [INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE OR CONDITION REPORT(S)].

115 **CAUTION: If the Real Estate includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided**
116 **in Wis. Stat. § 709.03 may be required. If the Real Estate does not include any buildings, a Vacant Land Disclosure Report**
117 **containing the disclosures provided in Wis. Stat. § 709.033 may be required. Buyer may have rescission rights per Wis.**
118 **Stat. § 709.05. A commercial or business disclosure report for commercial/business Real Estate may be needed as well as**
119 **business disclosure report(s) regarding the Business. More than one report may be necessary.**

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

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

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

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

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

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

153 ■ **PROPERTY IMPROVEMENT, DEVELOPMENT OR CHANGE OF USE:** If Buyer contemplates improving, developing or changing
154 the use of the Business or Real Estate sold by this Offer, Buyer may need to address municipal ordinances and zoning, recorded
155 building and use restrictions, covenants and easements which may prohibit some improvements or uses. The need for licenses,
156 building permits, zoning variances, environmental audits, etc. may need to be investigated to determine feasibility of improvements,
157 development or use changes for the Business or real property sold by this Offer. Contingencies for investigation of these issues may
158 be added to this Offer. See lines xxx -xxx or xxx. If plant closings or mass layoffs will occur as a result of this Offer the Parties should
159 review federal and state plant closing laws.

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

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

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

168 If Buyer defaults, Seller may:

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

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

172 If Seller defaults, Buyer may:

173 (1) sue for specific performance; or

174 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.
175 In addition, the Parties may seek any other remedies available in law or equity.
176 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the
177 discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of
178 the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those
179 disputes covered by the arbitration agreement.
180 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ**
181 **THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE**
182 **OFFER BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER**
183 **THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL**
184 **ADVICE IS NEEDED.**
185 **ENTIRE CONTRACT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding
186 the transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the
187 benefit of the parties to this Offer and their successors in interest.
188 **PROPERTY ADDRESS:** _____
189 **ENVIRONMENTAL EVALUATION CONTINGENCY:** This Offer is contingent upon a qualified independent environmental
190 consultant of Buyer's choice conducting an Environmental Site Assessment of the Assets (see lines xxx-xxx), at (Buyer's) (Seller's)
191 expense ("Buyer's" if neither is stricken), which discloses no Defects. For the purpose of this contingency, a Defect (see
192 lines xxx-xxx) is defined to also include a material violation of environmental laws, a material contingent liability affecting the Assets arising
193 under any environmental laws, the presence of an underground storage tank(s) or material levels of hazardous substances either on the
194 Assets or presenting a significant risk of contaminating the Assets due to future migration from other properties. Defects do not include
195 conditions the nature and extent of which Buyer had actual knowledge or written notice before signing the Offer.
196 **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of
197 acceptance, delivers to Seller a copy of the Environmental Site Assessment report and a written notice listing the Defect(s) identified in the
198 Environmental Site Assessment report to which Buyer objects (Notice of Defects).
199 **CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.**
200 **RIGHT TO CURE:** Seller (shall) (shall not) ("shall" if neither is stricken) have a right to cure the Defects. If Seller has the
201 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
202 Defects stating Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3) delivering to Buyer a
203 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
204 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
205 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.
206 **LEASED PROPERTY** For any Real Estate included in the purchase price which is currently leased and if leases extend beyond
207 closing, Seller shall assign Seller's rights under the lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer
208 at closing. The terms of the (written) (oral) lease(s), if any, are _____
209 _____
210 If the real property occupied by the Business is owned by Seller, but not sold by this Offer, Seller:
211 agrees to lease the Real Estate to Buyer on the following terms: _____
212 _____
213 agrees to lease the Real Estate according to the terms of the lease made a part of this agreement per line xxx.
214 If the real property occupied by the Business is owned by a third party and is currently leased to Seller, then
215 Seller agrees to assign its interest in the lease for the Real Estate to Buyer, if assignable. (See lines xxx-xxx.)
216 Buyer will not accept an assignment of Seller's interest in the lease.
217 **PROPOSED USE CONTINGENCIES:** Buyer is purchasing the Assets for the purpose of: _____
218 _____
219 _____ [insert proposed use and type and size of
220 building, if applicable; e.g. restaurant/tavern with capacity of 350 and 3 second floor dwelling units]. The optional provisions checked
221 on lines xxx-xxx shall be deemed satisfied unless Buyer delivers to Seller by the deadline(s) set forth on lines xxx-xxx written notice
222 specifying those items which cannot be satisfied and written evidence substantiating why each specific item included in Buyer's
223 notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to cooperate with Buyer as
224 necessary to satisfy the contingencies checked at lines xxx-xxx.
225 **EASEMENTS AND RESTRICTIONS:** This Offer is contingent upon Buyer obtaining, within _____ days of
226 acceptance, at (Buyer's) (Seller's) expense, copies of all public and private
227 easements, covenants and restrictions affecting the Assets and a written determination by a qualified independent third party that
228 none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines xxx to xxx.
229 **APPROVALS:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) ("Buyer's" if neither is
230 stricken) expense, all applicable governmental permits, approvals and licenses, as necessary and appropriate, or the final
231 discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses, for the following items
232 related to Buyer's proposed use: _____
233 _____ or delivering written notice to Seller if the item(s) cannot be obtained or can only be obtained subject to conditions
234 which significantly increase the cost of Buyer's proposed use, all within _____ days of acceptance of this Offer.

235 **ACCESS TO PROPERTY:** This Offer is contingent upon Buyer obtaining, within _____ days of acceptance, at (Buyer's
 236 (Seller's) ~~STRIKE ONE~~ ("Buyer's" if neither is stricken) expense, written verification that there is legal vehicular access to the Real
 237 Estate from public roads.
 238 **LAND USE APPROVAL:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) ~~STRIKE ONE~~ ("Buyer's" if neither
 239 is stricken) expense, a rezoning; conditional use permit; license; variance; building permit; occupancy permit;
 240 other _____ **CHECK ALL THAT APPLY,**
 241 for the **Real Estate** for its proposed use described at lines xxx-xxx or delivering written notice to Seller if the item(s) cannot be
 242 obtained or can only be obtained subject to conditions which significantly increase the cost of Buyer's proposed use, all within
 243 _____ days of acceptance.

244 **DOCUMENT REVIEW/RECEIPT CONTINGENCY**

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

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

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

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

- 258 Documents showing the sale of the Business and included real estate has been properly authorized, if Seller is a business entity (___ days).
- 259 A complete inventory of all included business personal property which shall be consistent with all prior representations (___
 260 days).
- 261 Uniform Commercial Code lien search as to the business personal property included in the purchase price, showing the
 262 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
 263 (___ days).
- 264 Copies of all leases affecting the Business or business personal property, which shall be consistent with all prior
 265 representations (___ days).
- 266 Estimated principal balance of accounts receivable and payable which shall be consistent with all prior representations (___
 267 days).
- 268 Copy of profit and loss statements, balance sheets, business books and records, and income tax returns for the following years
 269 _____ which shall be consistent with all prior representations (___ days).
- 270 Copies of all current licenses held by Business which indicate that Business holds all licenses required for current operations
 271 (___ days).
- 272 Copies of franchise agreements, if any, which shall be consistent with all prior representations (___ days).
- 273 Any agreements restricting Seller from competing with Buyer after closing which shall be consistent with all prior
 274 representations (___ days).
- 275 Other _____
- 276 Other _____
- 277 Other _____

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

282 ■ **BUYER TERMINATION RIGHTS:** If Seller does not make timely delivery of any document by the stated deadline, Buyer may
 283 terminate this Offer if Buyer delivers a written notice of termination to Seller prior to Buyer's Actual Receipt of the document not
 284 received.

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

287 **ADDITIONAL PROVISIONS**

288 _____
 289 _____
 290 _____

291 **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
 292 timely manner. In compliance with § 77.52(18), Wis. Stats., Seller agrees to escrow the sum of \$ _____
 293 out of the purchase price to be held by _____

294 _____ and to be released to Seller when Seller provides the escrow agent with
295 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.

296 **REAL ESTATE TITLE**

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

308 ■ **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
309 amount of the value of the Real Estate on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin.
310 **CAUTION: MODIFY AMOUNT OF OWNER'S POLICY OF TITLE INSURANCE IF TITLE POLICY WILL INSURE TITLE TO
311 ASSETS OTHER THAN REAL ESTATE. CAUTION:** Seller shall pay all costs of providing title evidence to Buyer. Buyer shall pay all
312 costs of providing title evidence required by Buyer's lender.

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

318 ■ **PROVISION OF MERCHANTABLE TITLE:** For purposes of closing, title evidence shall be acceptable if the required title insurance
319 commitment is delivered to Buyer's attorney or Buyer not more than _____ days after acceptance ("15" if left blank), showing title to
320 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
321 which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate.

322 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title to the Real Estate is not acceptable for closing, Buyer shall notify Seller in writing of
323 objections to title within _____ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In such event,
324 Seller shall have a reasonable time, but not exceeding _____ days ("5" if left blank), from Buyer's delivery of the notice stating title
325 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
326 to remove said objections, Buyer may deliver to Seller written notice waiving the objections, and the time for closing shall be extended accordingly.
327 If Buyer does not waive the objections, Buyer shall deliver written notice of termination and this Offer shall be null and void. Providing title
328 evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

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

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

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

340 **EARNEST MONEY**

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

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

346 ■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after
347 clearance from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At
348 closing, earnest money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be
349 disbursed according to a written disbursement agreement signed by all Parties to this Offer. If said disbursement agreement has not
350 been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by an
351 attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the
352 earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law.

353 Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and broker may deduct from
354 the earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.

355 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to
356 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
357 (1) or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with
358 broker's proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has
359 jurisdiction over all earnest money disputes arising out of the sale of residential property with 1-4 dwelling units and certain other
360 earnest money disputes. Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of
361 a dispute. Both Parties agree to hold the broker harmless from any liability for good faith disbursement of earnest money in
362 accordance with this Offer or applicable Department of Safety and Professional Service regulations concerning earnest money. See
363 Wis. Admin. Code Ch. REEB 18.

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

368 **DEFINITIONS**

369 ■ **BUSINESS PERSONAL PROPERTY:** "Business Personal Property" is defined as all tangible and intangible personal property and rights in
370 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
371 equipment, tools used in business, telephone numbers and listings if transferable, customer lists, trade names, intellectual property, Internet
372 domain names, digital media, digital marketing, databases, business records, supplies, leases, advance lease deposits, customer deposits, signs,
373 all other personal property used in Business, and if transferable, all permits, special licenses and franchises, except those assets disposed of in
374 the ordinary course of business or as permitted by this Offer.

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

377 ■ **CONDITIONS AFFECTING THE BUSINESS, INCLUDED PROPERTY OR THE TRANSACTION**

378 A "condition affecting the Business, included property or the transaction" is defined as follows:

379 (a) Planned or commenced public improvements which may result in special assessments or otherwise materially affect the
380 Business or included property, the present use of the Business or included property sold by this Offer;

381 (b) Government agency or court order requiring repair, alteration or correction of any existing condition;

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

385 (d) Completed or pending reassessment of the real property or business personal property sold by this Offer for tax purposes;

386 (e) Structural inadequacies which if not repaired will significantly shorten the expected normal life of the real property sold by this
387 Offer;

388 (f) Any land division involving the real property sold by this Offer, for which required state or local approvals were not obtained;

389 (g) Construction or remodeling on the real property sold by this Offer for which required state or local approvals were not obtained;

390 (h) Any portion of the real property sold by this Offer being in a 100 year floodplain, a wetland or shoreland zoning area under local,
391 state or federal regulations;

392 (i) That a structure which the Business occupies or which is located on the real property sold by this Offer is designated as a
393 historic building or that any part of a structure which the Business occupies or the real property sold by this Offer is in a historic
394 district;

395 (j) Material violations of environmental laws or other laws or agreements regulating the use of the Business or real property sold by
396 this Offer;

397 (k) Conditions constituting a significant health or safety hazard for occupants of the Business or real property sold by this Offer;

398 (l) Material levels of hazardous substances located on the premises which the Business occupies or on the real property sold by
399 this Offer or previous storage of material amounts of hazardous substances on the premises which the Business occupies or on the
400 real property sold by this Offer;

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

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

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

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

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

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

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

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

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

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

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

428 (x) Other conditions or occurrences which would significantly reduce the value of the Business or included property to a
429 reasonable person with knowledge of the nature and scope of the condition or occurrence.

430 ■ **ENVIRONMENTAL SITE ASSESSMENT:** An "environmental site assessment" ("Phase I Site Assessment" or equivalent)(see lines
431 125-133) may include, but is not limited to: (1) an inspection of the real property; (2) a review of the ownership and use history of the
432 real property, including a search of title records showing private ownership of the real property for a period of 80 years prior to the
433 visual inspection; (3) a review of historic and recent aerial photographs of the real property, if available; (4) a review of environmental
434 licenses, permits or orders issued with respect to the real property; (5) an evaluation of results of any environmental sampling and
435 analysis that has been conducted on the real property; and (6) a review to determine if the real property is listed in any of the written
436 compilations of sites or facilities considered to pose a threat to human health or the environment including the National Priorities List,
437 the Department of Natural Resources' (DNR) registry of Abandoned Landfills, the DNR's Registry of Leaking Underground Storage
438 Tanks, the DNR's most recent remedial response site evaluation report (including the Inventory of Sites and Facilities Which May
439 Cause or Threaten to Cause Environmental Pollution). Any "environmental site assessment" performed under this Offer shall comply
440 with generally recognized industry standards (e.g. current American Society of Testing and Materials "Standards for Environmental
441 Site Assessments for Commercial Real Estate"), and state and federal guidelines, as applicable. **CAUTION: Unless otherwise
442 agreed an "environmental site assessment" does not include subsurface testing of the soil or groundwater or other testing
443 of the Property for environmental pollution.**

444 ■ **ENVIRONMENTAL DEFECT:**

445 An "environmental defect" is defined as a material violation of environmental laws, a material contingent liability affecting the Real
446 Property arising under any environmental laws, the presence of an underground storage tank(s) or material levels of hazardous
447 substances either on the Real Property, or presenting a significant risk of contaminating the Real Property, due to future migration
448 from other properties.

449 ■ **FIXTURES:** A "Fixture" is an item of property, which is on the real property on the date of this Offer, which is physically attached
450 to or so closely associated with land and improvements so as to be treated as part of the real estate, including, without limitation,
451 physically attached items not easily removable without damage to the real property, items specifically adapted to the real property,
452 and items customarily treated as fixtures. A "fixture" does not include trade fixtures owned by tenants of the real property. See Lines
453 11-21.

454 ■ **INCLUDED PROPERTY:** "Included property" is defined as all business personal property (as defined at lines 247-251), real
455 property and other property of any kind or an interest in any property of any kind which has been included in the purchase price (See
456 lines 11-21).

457 ■ **INSPECTION:** An "inspection" is defined as an observation of the included property which does not include testing of the included
458 property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are
459 hereby authorized.

460 ■ **INSPECTION DEFECT:** An "inspection defect" is defined as a structural, mechanical or other condition that would have a
461 significant adverse effect on the value of the Real Property; that would significantly impair the health and safety of future occupants of
462 the Real Property; or that if not repaired, removed or replaced would significantly shorten or have a significantly adverse effect on the
463 expected normal life of the Real Property.

464 ■ **TEST:** A "test" is defined as the taking of samples of materials such as soils, water or building materials from the included
465 property and the laboratory or other analysis of these materials. Note: Any contingency authorizing such tests should specify the
466 areas of the included property sold or leased pursuant to this Offer to be tested, the purpose of the test, (e.g. to determine the
467 presence or absence of environmental contamination), any limitations on Buyer's testing and any other material terms of the
468 contingency (e.g. Buyer's obligation to return the included property to it's original condition). Seller acknowledges that certain
469 inspections or tests may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural
470 Resources.

471 **TIME IS OF THE ESSENCE** TIME IS OF THE ESSENCE as to all dates and deadlines in this Offer, including but not limited to:
472 earnest money payment(s); binding acceptance; date of closing and contingency deadlines unless it is agreed that time is not of the
473 essence for a specific date(s) or deadline(s) at lines 169-172, or in an addendum per line 419. If "Time is of the Essence" applies
474 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 not
475 apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

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

483 **ADDITIONAL FINANCING PROVISIONS**

484 ■ **LAND CONTRACT:** If this Offer provides for a land contract both Parties agree to execute a State Bar of Wisconsin Form 11
485 Land Contract, the terms of which are incorporated into this Offer by reference. Prior to execution of the land contract Seller shall
486 provide the same evidence of merchantable title as required above and written proof, at or before execution, that the total underlying
487 indebtedness, if any, is not in excess of the proposed balance of the land contract, that the payments on the land contract are
488 sufficient to meet all of the obligations of Seller on the underlying indebtedness, and that all creditors whose consent is required have
489 consented to the land contract sale. Seller may terminate this Offer if creditor approval cannot be obtained. Seller may terminate
490 this Offer if Buyer does not provide a written credit report which indicates that Buyer is credit worthy based upon reasonable
491 underwriting standards within 15 days of acceptance. Buyer shall pay all costs of obtaining creditor approval and the credit report.
492 Seller shall be responsible for preparation and the expense of preparation of all closing documentation, including the land contract.

493 ■ **LOAN COMMITMENT:** Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly,
494 and to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or
495 other financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the
496 deadline for loan commitment at line 400. **Buyer's delivery of a copy of any written loan commitment (even if subject to**
497 **conditions) shall satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability. CAUTION:**
498 **BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO**
499 **SELLER WITHOUT BUYER'S PRIOR APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.**

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

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

509 **SELLER FINANCING:** If this Offer provides for Seller financing, personal property transferred hereunder shall be subject to a chattel
510 security agreement and lien rights under the Uniform Commercial Code in favor of Seller.

511 **NOTE: IF PURCHASE IS CONDITIONED ON BUYER OBTAINING FINANCING FOR OPERATIONS OR DEVELOPMENT**
512 **CONSIDER ADDING A CONTINGENCY FOR THAT PURPOSE.**

513 **PROPERTY ADDRESS:** _____

514 **ALLOCATION OF PURCHASE PRICE** CHECK LINE 384 OR 392

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

516 Goodwill:.....	\$ _____
517 Stock-in-trade:	\$ _____
518 Accounts receivable:.....	\$ _____
519 Business personal property:.....	\$ _____
520 Real property:	\$ _____
521 Other:	\$ _____
522 Total	\$ _____

523 The Parties shall agree on an allocation by the following deadline: (within ____ days of acceptance of the Offer)(_____

524 , _____) **STRIKE AND COMPLETE AS APPLICABLE**. If the Parties cannot agree to an allocation by the deadline, the Parties
525 shall submit to binding arbitration. The Parties will share any costs of arbitration equally. Allocation may take place after closing.

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

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

530 land contract financing from Seller at closing as further described at lines 353-361 and 401-418.
531 a _____ **INSERT LOAN PROGRAM** (fixed) (adjustable) **STRIKE ONE**
532 rate first mortgage loan commitment as further described at lines 362-381 and 401-414, within ____ days of acceptance of this Offer.
533 The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____
534 years, amortized over not less than _____ years. If the purchase price under this Offer is modified, the financed amount,
535 unless otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly
536 payments shall be adjusted as necessary to maintain the term and amortization stated above.
537 **IF FINANCING IS FIXED RATE** the annual rate of interest shall not exceed _____ % and monthly
538 payments of principal and interest shall not exceed \$ _____.
539 **IF FINANCING IS ADJUSTABLE RATE** the initial annual interest rate shall not exceed _____ %. The initial interest rate
540 shall be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The
541 maximum interest rate during the mortgage term shall not exceed _____ %. Initial monthly payments of principal and
542 interest shall not exceed \$ _____. Monthly payments of principal and interest may be
543 adjusted to reflect interest changes. Monthly payments may also include: _____. The
544 mortgage may not include a prepayment premium. Buyer agrees to pay discount points and/or loan origination fee in an amount not
545 to exceed _____ % of the loan.
546 **OTHER FINANCING TERMS:** _____
547 _____
548 **IF FINANCING IS BY LAND CONTRACT** \$ _____ shall be paid at closing (in addition to earnest money). The interest
549 rate following payment default shall be _____ %, the default period shall be _____ days for payments and _____ days for
550 performance of any other obligations. Interest shall be calculated on a prepaid basis. Any amount may be prepaid on principal
551 without penalty at any time. Buyer understands that if the term of the land contract is shorter than the amortization period a balloon
552 payment will be due at the end of the term.
553 **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines xxx-xxx). This Offer is
554 contingent upon a qualified independent inspector(s) conducting an inspection(s) of the Assets which discloses no Defects. This
555 Offer is further contingent upon a qualified independent inspector or qualified independent third party performing an inspection of
556 _____ (list any
557 feature(s) to be separately inspected, e.g., dumpsite, etc.) which discloses no Defects. Buyer shall order the inspection (s) and be
558 responsible for all costs of inspection(s). Buyer may have follow-up inspections recommended in a written report resulting from an
559 authorized inspection performed provided they occur prior to the deadline specified at line xxx. Each inspection shall be performed by
560 a qualified independent inspector or qualified independent third party.
561 **CAUTION: Buyer should provide sufficient time for the primary inspection and/or any specialized inspection(s), as well as**
562 **any follow-up inspection(s).**
563 For the purpose of this contingency, Defects (see lines xxx-xxx) do not include conditions the nature and extent of which Buyer had
564 actual knowledge or written notice before signing the Offer.
565 **CONTINGENCY SATISFACTION:** This contingency shall be deemed satisfied unless Buyer, within _____ days of
566 acceptance, delivers to Seller a copy of the inspection report(s) and a written notice listing the Defect(s) identified in the inspection
567 report(s) to which Buyer objects (Notice of Defects).
568 **CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.**
569 **RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** ("shall" if neither is stricken) have a right to cure the Defects. If Seller has
570 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
571 Notice of Defects stating Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3)
572 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
573 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)
574 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
575 notice of election to cure.
576 **ADDENDA** The attached _____ is/are made part of this Offer.
577 This Offer was drafted on _____ [date] by [Licensee and firm] _____.
578 **BROKER DRAFTING THIS OFFER ON _____ [DATE] IS AGENT OF (SELLER)(BUYER)(DUAL AGENT) **STRIKE ONE****
579 (x) _____
580 Buyer's Signature ▲ Print Name here: ► _____ Social Security No. or FEIN (Optional) ▲ _____ Date ▲ _____
581 (x) _____
582 Buyer's Signature ▲ Print Name here: ► _____ Social Security No. or FEIN (Optional) ▲ _____ Date ▲ _____
583 **EARNEST MONEY RECEIPT** Broker acknowledges receipt of earnest money as per line 9 of the above Offer. **(See lines 217-242)**
584 _____ Broker (By) _____

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

589 (x) _____
590 Seller's Signature ▲ Print Name here: ► Social Security No. or FEIN (Optional) ▲ Date ▲

591 (x) _____
592 Seller's Signature ▲ Print Name here: ► Social Security No. or FEIN (Optional) ▲ Date ▲

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

594 THIS OFFER IS REJECTED _____ THIS OFFER IS COUNTERED [See attached counter] _____
595 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

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WB-15 Changes in Tracking WB-16 OFFER TO PURCHASE – BUSINESS WITH REAL ESTATE

~~TO BE USED OFFER TO PURCHASE~~ FOR SALE OF ASSETS ONLY. CONSULT APPROPRIATE ADVISORS FOR TAX, LICENSING, LIABILITY OR OTHER 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 Business Name: _____

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

5 Business Description: _____

6 _____

7 _____

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

9 Insert additional description, if any, at lines xxx-xxx or attach as an addendum per line xxx.

10 **GENERAL PROVISIONS** The Buyer, _____

11 _____, offers to purchase the ~~Assets of the Business~~ ~~known as~~

12 _____

13 _____ ~~identify business name, type of business entity and type of business~~ on the following terms:

14 ■ PURCHASE PRICE: _____

15 _____ Dollars (\$ _____).

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

17 will be ~~mailed, or commercially or personally delivered~~ paid within _____ days of acceptance ~~to listing~~

18 ~~broker~~ _____ or

19 _____

20 ■ ~~THE BALANCE OF PURCHASE PRICE: The balance of purchase price~~ will be paid in cash or equivalent at closing unless otherwise

21 provided below.

22 ■ ~~INCLUDED IN PURCHASE PRICE: Seller is including in the purchase price (unless excluded at lines xx-xx) the Assets of the Business~~

23 ~~including all goodwill, stock-in-trade, trade fixtures, fixtures (if interest in Real Estate is included), accounts receivable, all Business Personal~~

24 ~~Property, the interest in Real Estate (if included on lines xx-xx), and the following additional property~~

25 _____

26 _____ [STRIKE AND COMPLETE AS APPLICABLE] (hereinafter collectively the "Assets").

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

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

29 _____

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

31 (a) Stock-in-Trade _____

32 _____

33 (b) Accounts Receivable _____

34 _____

35 ■ ~~INTEREST IN REAL ESTATE (CHECK BOX ON LINE XX OR XX, AS APPLICABLE):~~

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

37 ~~DESCRIPTION OF INTEREST IN REAL ESTATE INCLUDED IN PURCHASE PRICE:~~

38 Street address is: _____ in the

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

40 The Real Estate is owned by: _____

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

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

43 _____ Insert any additional description, including further description of the type of

44 interest in the Real Estate that is included in purchase price, at lines xxx-xxx or attach as an addendum per line xxx. ■ ~~REAL PROPERTY~~

45 ~~INCLUDED IN PURCHASE PRICE: The following Real Property is included in the purchase price (address) _____~~

46 _____

47 ■ ~~ADDITIONAL PROPERTY INCLUDED IN PURCHASE PRICE: Seller shall include in the purchase price and transfer, free and~~

48 ~~clear of encumbrances, all fixtures, as defined at lines 321-324, goodwill, stock-in-trade, accounts receivable and business personal~~

49 ~~property as defined at lines 247-251, unless excluded at lines 15-16, and the following additional property: _____~~

50 _____

51 ■ ~~ITEMS NOT INCLUDED IN THE PURCHASE PRICE: _____~~

52 _____

53 _____

54 **CAUTION: Identify Fixtures tenant's trade fixtures and Business Personal Property to be excluded by Seller or which are**

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

56 **NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are included/excluded.**
57 ~~If stock-in-trade or accounts receivable are purchased, the purchase price shall be based on the following terms and costs:~~

- 58 (a) Stock-in-Trade _____
59 _____
60 (b) Accounts Receivable _____
61 _____

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

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

66 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before
67 _____ . Seller may keep the Assets on the market and
68 accept secondary offers after binding acceptance of this Offer.

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

70 **OPTIONAL PROVISIONS** TERMS OF THIS OFFER THAT ARE PRECEDED BY AN OPEN BOX () ARE PART OF THIS OFFER ONLY IF
71 THE BOX IS MARKED SUCH AS WITH AN "X." THEY ARE NOT PART OF THIS OFFER IF MARKED "N/A" OR ARE LEFT BLANK.

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

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

76 Seller's recipient for delivery (optional): _____
77 Buyer's recipient for delivery (optional): _____

78 (2) Fax: fax transmission of the document or written notice to the following telephone number:
79 Seller: (_____) _____ Buyer: (_____) _____

80 (3) Commercial Delivery: depositing the document or written notice fees prepaid or charged to an account with a commercial delivery
81 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
82 delivery address at line xx or xx.

83 (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
84 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.
85 Delivery address for Seller: _____
86 Delivery address for Buyer: _____

87 (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
88 this is a consumer transaction where the property being purchased or the sale proceeds are used primarily for personal, family or
89 household purposes, each consumer providing an e-mail address below has first consented electronically to the use of electronic
90 documents, e-mail delivery and electronic signatures in the transaction, as required by federal law.

91 E-Mail address for Seller: _____
92 E-Mail address for Buyer: _____

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

95 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and written
96 notices to a Party shall be effective only when accomplished by one of the methods specified at lines 24 - 33.

97 (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
98 with a commercial delivery service, addressed either to the Party or to the Party's recipient for delivery designated at lines 27 - 29 (if
99 any), for delivery to the Party's delivery address at lines 28 - 30.

100 Seller's recipient for delivery (optional): _____
101 Seller's delivery address: _____
102 Buyer's recipient for delivery (optional): _____
103 Buyer's delivery address: _____

104 (2) By giving the document or written notice personally to the Party, or the Party's recipient for delivery if an individual is designated
105 at lines 27 - 29.

106 (3) By fax transmission of the document or written notice to the following telephone number:
107 Buyer: (_____) _____ Seller: (_____) _____

108 **Occupancy** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer at
109 lines 169-172 or in an addendum per line 419. Occupancy shall be given subject to tenant's rights, if any. **MOVED**

110 **TRANSFER OF LEGAL POSSESSION** Legal possession of the Business and all included property shall be delivered to Buyer at
111 the time of closing. Business personal property included in purchase price will be transferred by bill of sale or _____

112 _____ . **NOTE: If real property is being leased see lines 134 - 144.**
113 **PLACE OF CLOSING** Legal possession of the Business Assets shall be delivered to Buyer at the time of closing. This transaction is
114 to be closed at the place designated by Buyer's lender or _____

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115 _____ no later than _____

116 ~~at the place selected by Seller, unless otherwise agreed by the Parties, unless another date or place is agreed to in writing.~~

117 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing values: real estate taxes,

118 rents, prepaid insurance (if assumed), private and municipal charges, property owners association assessments, fuel and _____

119 _____

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

121 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.

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

123 The net general real estate taxes for the preceding year, or the current year if available (Net general real estate taxes are defined as

124 general property taxes after state tax credits and lottery credits are deducted) (NOTE: THIS CHOICE APPLIES IF NO BOX IS CHECKED)

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

126 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

127 known, multiplied by current mill rate (current means as of the date of closing)

128

129 **CAUTION: Buyer is informed that the actual real estate taxes for the year of closing and subsequent years may be substantially**

130 **different than the amount used for proration especially in transactions involving new construction, extensive rehabilitation, remodeling**

131 **or area-wide re-assessment. Buyer is encouraged to contact the local assessor regarding possible tax changes.**

132 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

133 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

134 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

135 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

136 estate brokers in this transaction.

137 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing: real estate taxes, personal property taxes,

138 rents, prepaid insurance (if assumed), private and municipal charges, property owner's association assessments, fuel and _____.

139 Any income, taxes

140 or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net general real estate taxes and personal

141 property taxes shall be prorated based on (the taxes for the current year, if known, otherwise on the taxes for the preceding year)

142 _____)

143 **STRIKE AND COMPLETE AS APPLICABLE** **CAUTION: If real or personal property has not been fully assessed for tax purposes or**

144 **if proration on the basis of taxes for the preceding year is not acceptable, insert estimated annual tax or other basis for proration.**

145 *Note: The government taxing authority normally bills Seller for personal property taxes for the entire year.*

146 **BUSINESS AND PROPERTY CONDITION PROVISIONS**

147 ■ REPRESENTATIONS REGARDING **THE BUSINESS, INCLUDED PROPERTY ASSETS, AND THE TRANSACTION**: Seller represents

148 to Buyer that as of the date of acceptance Seller has no notice or knowledge of **Conditions Affecting the Business, included real or**

149 **personal property Assets or the Transaction (as defined at lines 253-xxx to 302xxx)** other than those identified in Seller's disclosure report(s)

150 [CHECK AND INSERT DATES AS APPLICABLE]:

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

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

153 Report, if applicable, Vacant Land Disclosure Report (no buildings) dated _____

154 Business disclosure report(s) dated _____

155 Other: _____ (specify) dated _____

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

157 reference **COMPLETE DATE OR STRIKE AS APPLICABLE** and _____

158 _____

159 [INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE OR CONDITION REPORT(S)].

160 **CAUTION: If the Real Estate includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided**

161 **in Wis. Stat. § 709.03 may be required. If the Real Estate does not include any buildings, a Vacant Land Disclosure Report**

162 **containing the disclosures provided in Wis. Stat. § 709.033 may be required. Buyer may have rescission rights per Wis.**

163 **Stat. § 709.05. A commercial or business disclosure report for commercial/business Real Estate may be needed as well as**

164 **business disclosure report(s) regarding the Business. More than one report may be necessary.**

165 ■ **BUSINESS OPERATION**: Seller shall continue to conduct the Business in a regular and normal manner and shall use Seller's best

166 efforts to keep available the services of Seller's present employees and to preserve the goodwill of Seller's suppliers, customers and

167 others having business relations with Seller.

168 ■ **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING**: Seller shall maintain ~~all real and business personal property~~

169 ~~included in this Offer the Assets~~ until the earlier of closing or occupancy ~~by of~~ Buyer in materially the same condition as of the date of

170 acceptance of this Offer, except for ordinary wear and tear. If, prior to the earlier of closing or occupancy by Buyer, the ~~included~~

171 ~~Assets are real or Business Personal Property is~~ damaged in an amount of not more than five per cent (5%) of the purchase price,

172 Seller shall be obligated to ~~restore/repair~~ the damaged property and restore it to the same condition that is was in on the day of this

173 Offer. No later than closing, Seller shall provide Buyer with lien waivers for all lienable repairs and restoration. If Seller is unable to

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174 ~~repair and~~ restore the damaged property, Seller shall promptly notify Buyer in writing and this Offer may be canceled at the option of
175 the Buyer. If the damage shall exceed such sum, Seller shall promptly notify Buyer in writing of the damage and this Offer may be
176 canceled at the option of Buyer. Should Buyer elect to carry out this Offer despite such damage, Buyer shall be entitled to any
177 insurance proceeds relating to the damaged property, plus a credit towards the purchase price equal to the amount of Seller's
178 deductible on such policy, if any. However, if this sale is financed by a land contract or a mortgage to Seller, ~~the any~~ insurance
179 proceeds shall be held in trust for the sole purpose of restoring the Property/Assets.

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

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

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

195 ~~INSPECTIONS: Seller agrees to allow Buyer's inspectors and testers reasonable access to the Business and included property~~
196 ~~upon reasonable notice if the inspections or tests are reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees~~
197 ~~to promptly provide copies of all such inspection and test reports to Seller, and to listing broker if Business is listed. Furthermore,~~
198 ~~Buyer agrees to promptly restore the Business and included property to its original condition after Buyer's inspections and tests are~~
199 ~~completed, unless otherwise agreed with Seller. CAUTION: See lines 327-339 for definitions of inspection and test. Seller's~~
200 ~~authorization for inspections does not authorize Buyer to conduct testing of the Business or included property. If Buyer~~
201 ~~requires testing contingencies, they should be specifically provided for at lines 169-172 or 419. Seller acknowledges that~~
202 ~~certain inspections or tests may detect environmental pollution which may be required to be reported to the Wisconsin~~
203 ~~Department of Natural Resources.~~

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

208 **PRE-CLOSING INSPECTION:** At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer
209 shall have the right to inspect the Business and included property to determine that there has been no significant change in the
210 condition of the Business and included property, except for changes approved by Buyer.

211 ■ **PROPERTY IMPROVEMENT, DEVELOPMENT OR CHANGE OF USE:** If Buyer contemplates improving, developing or changing
212 the use of the Business or Real property/Estate sold by this Offer, Buyer may need to address municipal ordinances and zoning
213 ordinances, recorded building and use restrictions, covenants and easements which may prohibit some improvements or uses. The
214 need for licenses, building permits, zoning variances, environmental audits, etc. may need to be investigated to determine feasibility
215 of improvements, development or use changes for the Business or real property sold by this Offer. Contingencies for investigation of
216 these issues may be added to this Offer. See lines 469-xxx -472-xxx or 449xxx. If plant closings or mass layoffs will occur as a result
217 of this Offer the Parties should review federal and state plant closing laws.

218 ■ **PROPERTY DIMENSIONS AND SURVEYS:** Buyer ~~and Seller~~ acknowledges that any real property/land, building or room
219 dimensions, or total acreage or building square footage figures, provided to Buyer ~~or by Seller or by a broker~~, may be approximate
220 because of rounding, formulas used or other reasons, unless verified by survey or other means. ~~Buyer and Seller also acknowledge~~
221 ~~that there are various formulas used to calculate total square footage of buildings and that total square footage figures will vary~~
222 ~~dependent upon the formula used. CAUTION: Buyer and Seller should verify total square footage formula, or acreage figures~~
223 ~~and real property/land, building or room dimensions, and total acreage or square footage figures, if these figures are~~
224 ~~material to Buyer's decision to purchase.~~

225 **DELIVERY/RECEIPT** Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be
226 treated in all manner and respects as an original document and the signature of any Party upon a document transmitted by fax shall
227 be considered an original signature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal
228 delivery to, or actual receipt by Buyer or Seller. Once received, a notice cannot be withdrawn by the Party delivering the notice
229 without the consent of the Party receiving the notice. A Party may not unilaterally reinstate a contingency after a notice of a
230 contingency waiver has been received by the other Party. The delivery/receipt provisions in this Offer may be modified when
231 appropriate, e.g. when mail delivery is not desirable (see lines 24-30). Buyer and Seller authorize the agents of Buyer and Seller to
232 distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for
233 the transaction.

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

237 **If Buyer defaults**, Seller may:

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

239 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) ~~direct Broker to return~~
240 ~~the earnest money and have the option to~~ sue for actual damages.

241 **If Seller defaults**, Buyer may:

242 (1) sue for specific performance; or

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

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

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

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

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

258 **PROPERTY ADDRESS:**

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

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

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

270 **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
271 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
272 Defects stating Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3) delivering to Buyer a
273 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
274 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
275 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.

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276 **ENVIRONMENTAL EVALUATION/INSPECTION CONTINGENCY:** This Offer is contingent upon: **CHECK THOSE THAT APPLY**

277 A qualified independent environmental consultant of Buyer's choice conducting an environmental site assessment (see lines
278 303-315) of the Real Property, at (Buyer's)(Seller's) expense ~~STRIKE ONE~~, which discloses no environmental defects as defined at
279 lines 316-320.

280 A qualified independent inspector of Buyer's choice conducting an inspection of the Real Property, and _____
281 _____, at (Buyer's)(Seller's) ~~STRIKE ONE~~ expense, which discloses no defects as defined at lines 330-333.
282 This contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers to Seller a copy of the
283 environmental site assessment / inspection report(s) and a written notice listing the defect(s) identified in the environmental site
284 assessment / inspection report(s) to which Buyer objects. Defects do not include conditions the nature and extent of which Buyer had
285 actual knowledge or written notice before signing the Offer. Buyer agrees to deliver a copy of the report and notice to listing broker, if
286 Real Property is listed, promptly upon delivery to Seller.

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

291 If the real property occupied by the Business is owned by Seller, but not sold by this Offer, Seller: Check ONE

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292 agrees to lease the Real Property Estate to Buyer on the following terms: _____

293
294 agrees to lease the ~~Real property-Estate~~ according to the terms of the lease made a part of this agreement per line 419xxx.
295 ■ If the real property occupied by the Business is owned by a third party and is currently leased to Seller, then CHECK ONE
296 Seller agrees to assign its interest in the ~~Lease for the Real Estate~~ to Buyer, if assignable. (See lines 434xxx-437xxx.)
297 Buyer will not accept an assignment of Seller's interest in the ~~Lease~~.
298 **PROPOSED USE CONTINGENCIES:** Buyer is purchasing the ~~Property-Assets~~ for the purpose of:

299 _____
300 _____ [insert proposed use and type and size of
301 building, if applicable: e.g. restaurant/tavern with capacity of 350 and 3 second floor dwelling units]. The optional provisions checked
302 on lines 423xxx-439 xxx shall be deemed satisfied unless Buyer delivers to Seller by the deadline(s) set forth on lines 423xxx-439
303 xxx written notice specifying those items which cannot be satisfied and written evidence substantiating why each specific item
304 included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to
305 cooperate with Buyer as necessary to satisfy the contingencies checked at lines 423xxx-439xxx.

306 **EASEMENTS AND RESTRICTIONS:** This Offer is contingent upon Buyer obtaining, within _____ days of
307 acceptance, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, copies of all public and private
308 easements, covenants and restrictions affecting the ~~Property-Assets~~ and a written determination by a qualified independent third
309 party that none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines
310 416 xxx to 418xxx.

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

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

320 **LAND USE APPROVAL:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither
321 is stricken) expense, a rezoning; conditional use permit; license; variance; building permit; occupancy permit;
322 other _____ CHECK ALL THAT APPLY.
323 for the ~~Property-Real Estate~~ for its proposed use described at lines 416xxx-418 xxx or delivering written notice to Seller if the
324 item(s) cannot be obtained or can only be obtained subject to conditions which significantly increase the cost of Buyer's proposed
325 use, all within _____ days of acceptance.

326 **DOCUMENT REVIEW/RECEIPT CONTINGENCY**

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

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

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

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

- 340 Documents showing the sale of the Business and included real estate has been properly authorized, if Seller is a business entity (___ days).
- 341 A complete inventory of all included business personal property which shall be consistent with all prior representations (___
342 days).
- 343 Uniform Commercial Code lien search as to the business personal property included in the purchase price, showing the
344 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
345 (___ days).
- 346 Copies of all leases affecting the Business or business personal property, which shall be consistent with all prior
347 representations (___ days).
- 348 Estimated principal balance of accounts receivable and payable which shall be consistent with all prior representations (___
349 days).
- 350 Copy of profit and loss statements, balance sheets, business books and records, and income tax returns for the following
351 years _____ which shall be consistent with all prior representations
352 (___ days).
- 353 Copies of all current licenses held by Business which indicate that Business holds all licenses required for current operations
354 (___ days).
- 355 Copies of franchise agreements, if any, which shall be consistent with all prior representations (___ days).

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

358 Other _____
359 Other _____
360 Other _____

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

365 ■ ~~BUYER TERMINATION RIGHTS: If Seller does not make timely delivery of any document by the stated deadline: Buyer may terminate this~~
366 ~~Offer if Buyer delivers a written notice of termination to Seller prior to Buyer's Actual Receipt of the document not received.~~

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

369 **ADDITIONAL PROVISIONS** _____

370 _____

371 _____

372 _____

373 **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
374 timely manner. In compliance with § 77.52(18), Wis. Stats., Seller agrees to escrow the sum of
375 \$ _____ out of the purchase price to be held by
376 _____

377 _____ and to be released to Seller when Seller provides the escrow agent with
378 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.

379 **REAL PROPERTY ESTATE TITLE**

380 ■ ~~CONVEYANCE OF TITLE: Upon payment of the purchase price, Seller shall convey the Real property Estate by warranty~~
381 ~~deed (trustee's deed if Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as~~
382 ~~provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements entered~~

383 under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and
384 covenants, general taxes levied in the year of closing and _____ (provided none of the
385 foregoing prohibit present use of the real property), which constitutes merchantable title for purposes of this transaction. ~~Exceptions~~

386 ~~to warranty of merchantable title include _____ and other present uses of the Assets/Real Estate in violation of the~~
387 ~~foregoing disclosed by Seller or known to Buyer on the date of this Offer.~~ Seller further agrees to complete and execute the
388 documents necessary to record the conveyance. **WARNING: Municipal and zoning ordinances, recorded building and use**

389 **restrictions, covenants and easements may prohibit certain improvements or uses and therefore should be reviewed,**
390 **particularly if Buyer contemplates making improvements to Property the Real Estate or a use other than the current use.**

391 ■ **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
392 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
393 insurance in Wisconsin. **CAUTION: MODIFY AMOUNT OF OWNER'S POLICY OF TITLE INSURANCE IF TITLE POLICY WILL**
394 **INSURE TITLE TO PROPERTY ASSETS OTHER THAN REAL PROPERTYESTATE. CAUTION: IF TITLE EVIDENCE WILL BE**
395 **GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.** ~~Seller shall pay all~~
396 ~~costs of providing title evidence to Buyer. Buyer shall pay all costs of providing title evidence required by Buyer's lender.~~

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

402 ■ **PROVISION OF MERCHANTABLE TITLE:** ~~Seller shall pay all costs of providing title evidence.~~ For purposes of closing, title
403 evidence shall be acceptable if the ~~required title insurance~~ commitment ~~for the required title insurance~~ is delivered to Buyer's attorney
404 or Buyer not ~~less more~~ than ~~3-business~~ _____ days ~~before closing~~ after acceptance ("15" if left blank), showing title to
405 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-~~
406 ~~xxx~~, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions,
407 as appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE COMMITMENT**
408 **PRIOR TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE EFFECTIVE**
409 **DATE OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.**

410 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title to the ~~Real property Estate~~ is not acceptable for closing, Buyer shall notify
411 Seller in writing of objections to title ~~within~~ _____ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's
412 ~~attorney by the time set for closing.~~ In such event, Seller shall have a reasonable time, but not exceeding _____ days ("5" if
413 ~~left blank~~) 45 days, from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to
414 remove the objections, and ~~by~~ the time ~~set~~ for closing, ~~shall be extended as necessary for this purpose.~~ In the event that Seller is

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415 unable to remove said objections, Buyer shall have 5 days from receipt of may notice thereof, to deliver to Seller written notice
416 waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, Buyer shall
417 deliver written notice of termination and this Offer shall be null and void. Providing title evidence acceptable for closing does not
418 extinguish Seller's obligations to give merchantable title to Buyer.

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

421 **CAUTION: Consider a special agreement if area assessments, property owner's association assessments, special charges**
422 **for current services under Wis. Stat. § 66.0627, or other expenses are contemplated. "Other expenses" are one-time charges**
423 **or ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb, gutter,**
424 **street, sidewalk, municipal water, sanitary and storm water and storm sewer (including all sewer mains and hook-**
425 **up/connection and interceptor charges), parks, street lighting and street trees, and impact fees for other public facilities, as**
426 **defined in Wis. Stat. § 66.0617(1)(f), §66.55(4)(c) & (f).**

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

430 **RENTAL WEATHERIZATION:** Unless otherwise provided, this transaction (is) (is not) **STRIKE ONE** is exempt from State of
431 Wisconsin Rental Weatherization Standards (Wisconsin Administrative Code, Comm-Ch. SPS 367). If not exempt, (Buyer) (Seller)
432 **STRIKE ONE** ("Buyer" if neither is stricken) shall be address which Party is responsible for compliance, including all costs with Wisconsin
433 Rental Weatherization Standards. (See lines 469-472 or 449). If Seller is responsible for compliance, Seller shall provide a Certificate of
434 Compliance at closing.

435 **EARNEST MONEY**

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

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

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

452 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to
453 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
454 (1) or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with
455 broker's proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has
456 jurisdiction over all earnest money disputes arising out of the sale of residential property with 1-4 dwelling units and certain other
457 earnest money disputes. ~~The~~ Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in
458 case of a dispute. Both Parties agree to hold the broker harmless from any liability for good faith disbursement of earnest money in
459 accordance with this Offer or applicable Department of ~~Regulation, Safety~~ and ~~Licensing Professional Service~~ regulations concerning
460 earnest money. See Wis. Admin. Code Ch. ~~REEL~~ 18.

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

465 **DEFINITIONS**

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

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

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

477 ■ **CONDITIONS AFFECTING THE BUSINESS, INCLUDED PROPERTY OR THE TRANSACTION**

478 A "condition affecting the Business, included property or the transaction" is defined as follows:

479 (a) Planned or commenced public improvements which may result in special assessments or otherwise materially affect the
480 Business or included property, the present use of the Business or included property sold by this Offer;

481 (b) Government agency or court order requiring repair, alteration or correction of any existing condition;

482 (c) Material violation of the Americans with Disabilities Act (ADA) or other state or local laws requiring minimum accessibility for
483 persons with disabilities. Note: a Building owner's or tenant's obligations under the ADA may vary dependant upon the financial or
484 other

485 capabilities of the building owner or tenant;

486 (d) Completed or pending reassessment of the real property or business personal property sold by this Offer for tax purposes;

487 (e) Structural inadequacies which if not repaired will significantly shorten the expected normal life of the real property sold by this
488 Offer;

489 (f) Any land division involving the real property sold by this Offer, for which required state or local approvals were not obtained;

490 (g) Construction or remodeling on the real property sold by this Offer for which required state or local approvals were not obtained;

491 (h) Any portion of the real property sold by this Offer being in a 100 year floodplain, a wetland or shoreland zoning area under local,
492 state or federal regulations;

493 (i) That a structure which the Business occupies or which is located on the real property sold by this Offer is designated as a
494 historic building or that any part of a structure which the Business occupies or the real property sold by this Offer is in a historic
495 district;

496 (j) Material violations of environmental laws or other laws or agreements regulating the use of the Business or real property sold by
497 this Offer;

498 (k) Conditions constituting a significant health or safety hazard for occupants of the Business or real property sold by this Offer;

499 (l) Material levels of hazardous substances located on the premises which the Business occupies or on the real property sold by
500 this Offer or previous storage of material amounts of hazardous substances on the premises which the Business occupies or on the
501 real property sold by this Offer;

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

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

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

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

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

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

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

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

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

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

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

529 (x) Other conditions or occurrences which would significantly reduce the value of the Business or included property to a
530 reasonable person with knowledge of the nature and scope of the condition or occurrence.

531 ■ **ENVIRONMENTAL SITE ASSESSMENT:** An "environmental site assessment" ("Phase I Site Assessment" or equivalent)(see lines
532 125-133) may include, but is not limited to: (1) an inspection of the real property; (2) a review of the ownership and use history of the
533 real property, including a search of title records showing private ownership of the real property for a period of 80 years prior to the

534 visual inspection; (3) a review of historic and recent aerial photographs of the real property, if available; (4) a review of environmental
535 licenses, permits or orders issued with respect to the real property; (5) an evaluation of results of any environmental sampling and
536 analysis that has been conducted on the real property; and (6) a review to determine if the real property is listed in any of the written
537 compilations of sites or facilities considered to pose a threat to human health or the environment including the National Priorities List,
538 the Department of Natural Resources' (DNR) registry of Abandoned Landfills, the DNR's Registry of Leaking Underground Storage
539 Tanks, the DNR's most recent remedial response site evaluation report (including the Inventory of Sites and Facilities Which May
540 Cause or Threaten to Cause Environmental Pollution). Any "environmental site assessment" performed under this Offer shall comply
541 with generally recognized industry standards (e.g. current American Society of Testing and Materials "Standards for Environmental
542 Site Assessments for Commercial Real Estate"), and state and federal guidelines, as applicable. **CAUTION: Unless otherwise**
543 **agreed an "environmental site assessment" does not include subsurface testing of the soil or groundwater or other testing**
544 **of the Property for environmental pollution.**

545 ■ **ENVIRONMENTAL DEFECT:**

546 An "environmental defect" is defined as a material violation of environmental laws, a material contingent liability affecting the Real
547 Property arising under any environmental laws, the presence of an underground storage tank(s) or material levels of hazardous
548 substances either on the Real Property, or presenting a significant risk of contaminating the Real Property, due to future migration
549 from other properties.

550 ■ **FIXTURES:** A "Fixture" is an item of property, which is on the real property on the date of this Offer, which is physically attached
551 to or so closely associated with land and improvements so as to be treated as part of the real estate, including, without limitation,
552 physically attached items not easily removable without damage to the real property, items specifically adapted to the real property,
553 and items customarily treated as fixtures. A "fixture" does not include trade fixtures owned by tenants of the real property. See Lines
554 11-21.

555 ■ **INCLUDED PROPERTY:** "Included property" is defined as all business personal property (as defined at lines 247-251), real
556 property and other property of any kind or an interest in any property of any kind which has been included in the purchase price (See
557 lines 11-21).

558 ■ **INSPECTION:** An "inspection" is defined as an observation of the included property which does not include testing of the included
559 property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are
560 hereby authorized.

561 ■ **INSPECTION DEFECT:** An "inspection defect" is defined as a structural, mechanical or other condition that would have a
562 significant adverse effect on the value of the Real Property; that would significantly impair the health and safety of future occupants of
563 the Real Property; or that if not repaired, removed or replaced would significantly shorten or have a significantly adverse effect on the
564 expected normal life of the Real Property.

565 ■ **TEST:** A "test" is defined as the taking of samples of materials such as soils, water or building materials from the included
566 property and the laboratory or other analysis of these materials. Note: Any contingency authorizing such tests should specify the
567 areas of the included property sold or leased pursuant to this Offer to be tested, the purpose of the test, (e.g. to determine the
568 presence or absence of environmental contamination), any limitations on Buyer's testing and any other material terms of the
569 contingency (e.g. Buyer's obligation to return the included property to its original condition). Seller acknowledges that certain
570 inspections or tests may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural
571 Resources.

572 ■ **TIME IS OF THE ESSENCE** TIME IS OF THE ESSENCE as to all dates and deadlines in this Offer, including but not limited to:
573 earnest money payment(s); binding acceptance; date of closing and contingency deadlines unless it is agreed that time is not of the
574 essence for a specific date(s) or deadline(s) at lines 169-172, or in an addendum per line 419. If "Time is of the Essence" applies
575 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 not
576 apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

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

584 ■ **ADDITIONAL FINANCING PROVISIONS**

585 ■ **LAND CONTRACT:** If this Offer provides for a land contract both Parties agree to execute a State Bar of Wisconsin Form 11
586 Land Contract, the terms of which are incorporated into this Offer by reference. Prior to execution of the land contract Seller shall
587 provide the same evidence of merchantable title as required above and written proof, at or before execution, that the total underlying
588 indebtedness, if any, is not in excess of the proposed balance of the land contract, that the payments on the land contract are
589 sufficient to meet all of the obligations of Seller on the underlying indebtedness, and that all creditors whose consent is required have
590 consented to the land contract sale. Seller may terminate this Offer if creditor approval cannot be obtained. Seller may terminate
591 this Offer if Buyer does not provide a written credit report which indicates that Buyer is credit worthy based upon reasonable
592 underwriting standards within 15 days of acceptance. Buyer shall pay all costs of obtaining creditor approval and the credit report.
593 Seller shall be responsible for preparation and the expense of preparation of all closing documentation, including the land contract.

594 ■ **LOAN COMMITMENT:** Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly,
595 and to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or
596 other financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the
597 deadline for loan commitment at line 400. **Buyer's delivery of a copy of any written loan commitment (even if subject to**
598 **conditions) shall satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability. CAUTION:**
599 **BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO**
600 **SELLER WITHOUT BUYER'S PRIOR APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.**

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

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

610 **SELLER FINANCING:** If this Offer provides for Seller financing, personal property transferred hereunder shall be subject to a chattel
611 security agreement and lien rights under the Uniform Commercial Code in favor of Seller.

612 **NOTE: IF PURCHASE IS CONDITIONED ON BUYER OBTAINING FINANCING FOR OPERATIONS OR DEVELOPMENT**
613 **CONSIDER ADDING A CONTINGENCY FOR THAT PURPOSE.**

614 **PROPERTY ADDRESS:** _____

615 **ALLOCATION OF PURCHASE PRICE** CHECK LINE 384 OR 392

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

617 Goodwill:.....	\$ _____
618 Stock-in-trade:	\$ _____
619 Accounts receivable:.....	\$ _____
620 Business personal property:.....	\$ _____
621 Real property:	\$ _____
622 Other:	\$ _____
623 Total	\$ _____

624 The Parties shall agree on an allocation by the following deadline: (within ____ days of acceptance of the Offer)(_____

625 , _____) **STRIKE AND COMPLETE AS APPLICABLE**. If the Parties cannot agree to an allocation by the deadline, the Parties
626 shall submit to binding arbitration. The Parties will share any costs of arbitration equally. Allocation may take place after closing.

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

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

631 land contract financing from Seller at closing as further described at lines 353-361 and 401-418.

632 a _____ **INSERT LOAN PROGRAM** (fixed) (adjustable) **STRIKE ONE**
633 rate first mortgage loan commitment as further described at lines 362-381 and 401-414, within ____ days of acceptance of this Offer.

634 The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____

635 years, amortized over not less than _____ years. If the purchase price under this Offer is modified, the financed amount,
636 unless otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly

637 payments shall be adjusted as necessary to maintain the term and amortization stated above.

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

640 **IF FINANCING IS ADJUSTABLE RATE** the initial annual interest rate shall not exceed _____ %. The initial interest rate
641 shall be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The

642 maximum interest rate during the mortgage term shall not exceed _____ %. Initial monthly payments of principal and
643 interest shall not exceed \$ _____. Monthly payments of principal and interest may be

644 adjusted to reflect interest changes. Monthly payments may also include: _____. The
645 mortgage may not include a prepayment premium. Buyer agrees to pay discount points and/or loan origination fee in an amount not

646 to exceed _____ % of the loan.

647 **OTHER FINANCING TERMS:** _____
648 _____

649 **IF FINANCING IS BY LAND CONTRACT** \$ _____ shall be paid at closing (in addition to earnest money). The interest
650 rate following payment default shall be _____ %, the default period shall be _____ days for payments and _____ days for
651 performance of any other obligations. Interest shall be calculated on a prepaid basis. Any amount may be prepaid on principal

652 without penalty at any time. Buyer understands that if the term of the land contract is shorter than the amortization period a balloon
653 payment will be due at the end of the term.

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

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

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

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

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

670 **■ RIGHT TO CURE:** Seller (shall)(shall not) ~~STRIKE ONE~~ ("shall" if neither is stricken) have a right to cure the Defects. If Seller has
671 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
672 Notice of Defects stating Seller's election to cure Defects, (2) curing the Defects in a good and workmanlike manner and (3)
673 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
674 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)
675 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
676 notice of election to cure.

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

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

679 **BROKER DRAFTING THIS OFFER ON _____ [DATE] IS AGENT OF (SELLER)(BUYER)(DUAL AGENT) ~~STRIKE ONE~~**

680 (x) _____

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

682 (x) _____

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

684 **EARNEST MONEY RECEIPT** Broker acknowledges receipt of earnest money as per line 9 of the above Offer. **(See lines 217-242)**

685 _____ Broker (By) _____

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

690 (x) _____

691 Seller's Signature ▲ Print Name here: ► _____ Social Security No. or FEIN (Optional) ▲ _____ Date ▲ _____

692 (x) _____

693 Seller's Signature ▲ Print Name here: ► _____ Social Security No. or FEIN (Optional) ▲ _____ Date ▲ _____

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

695 THIS OFFER IS REJECTED _____ THIS OFFER IS COUNTERED [See attached counter] _____

696 Seller Initials ▲ Date ▲ _____ Seller Initials ▲ Date ▲ _____