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**Governor Scott Walker      Secretary Dave Ross**

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**Real Estate Contractual Forms Advisory Committee**  
**Room 121A, 1400 E. Washington Avenue, Madison**  
**Contact: Mojgan Hall \* 608-266-2112**  
**June 12, 2012**

*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 BOARD MEETING**  
**10:00 – 2:00**

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda** (1-2)
- B. Approval of Minutes – May 1, 2012** (3-10)
- C. Secretary Matters
- D. Executive Director Matters
- E. Review and Revise Option to Purchase (WB-24)**
  - 1) WRA Memo with Proposed Changes (11-16)
  - 2) Draft WB-24 with WRA Proposed Changes (17-24)
- F. Review and Revise Exclusive Listing Contract for Lease or Rental of Real Property (WB-37)**
  - 1) WRA Memo with Proposed Changes (25-30)
  - 2) Draft WB-37 with WRA Proposed Changes (31-36)
- G. Priority of Remaining Forms**
  - 1) WB-6 Business Listing Contract
  - 2) WB-16 Business with Real Estate – Offer to Purchase
  - 3) WB-17 Business without Real Estate – Offer to Purchase
  - 4) Time Share Issues
  - 5) WB-35 Simultaneous Exchange Agreement
- E. Next Meeting Date: July 30, 2012

**ADJOURNMENT**

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**REAL ESTATE CONTRACTUAL FORMS ADVISORY COMMITTEE  
MEETING MINUTES  
MAY 1, 2012**

Present: Stephen Beers, Debbie Conrad, Kim Moermond, Michael Sewell, Richard Petersahck, Gary Tritz, Mike Gordon, Jonathan Sayas, John Drzewiecki, Peter Sveum and Cori Lamont

Not Present: Casey Clickner, Scott Minter, Steve Lillestrand and Jonathon Flor

Staff: Dan Williams, Executive Director; Sandy Nowack, Legal Counsel; Michelle Solem, Bureau Assistant; and other Department staff

Stephen Beers, Board Chair, called the meeting to order at 10:10 a.m. A quorum of 8 members was confirmed.

**ADOPTION OF AGENDA**

**Changes**

- Change title of item E to be “Option to Purchase”
- Change title of item F to remove “or rental”

**MOTION:** Cori Lamont moved, seconded by Mike Gordon, to adopt the agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES**

**Corrections**

- Change correction to be (W-24)
- Change Discussion to remove “or rental”

**MOTION:** Richard Petershach moved, seconded by Cori Lamont, to approve the minutes of March 20, 2012 as corrected. Motion carried unanimously.

**EXECUTIVE DIRECTOR MATTERS**

Dan Williams introduced himself as the interim executive director and then introduced Sandy Nowack as the interim legal counsel.

*(Jack Drzewiecki arrived at 10:15 a.m., Gary Tritz arrived at 10:30 a.m. and Peter Sveum arrived at 11:15 a.m.)*

**BOARD DISCUSSION**

**Review and Revise Option to Purchase (WB-24)**

The Committee made additional changes to the WB-24. This item will be included on the next agenda.

**Review and Revise Exclusive Listing Contract for Lease of Real Property (WB-37)**

This item was tabled until the next meeting.

**ADJOURNMENT**

**MOTION:** Mike Gordon moved, seconded by Gary Tritz, to adjourn the meeting at 1:57 p.m. Motion carried unanimously.

**WB-24 OPTION TO PURCHASE**

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

3 The Seller (Optionor), \_\_\_\_\_  
4 \_\_\_\_\_, hereby grants to the Buyer (Optionee), \_\_\_\_\_  
5 \_\_\_\_\_, an option to purchase (Option) the Property known as [Street Address]  
6 \_\_\_\_\_ in the \_\_\_\_\_  
7 of \_\_\_\_\_, County of \_\_\_\_\_, Wisconsin, on the following terms:

8 **DEADLINE FOR GRANT OF OPTION** This Option is binding upon both Parties only if a copy of the Option, or separate but identical  
9 copies, is/are signed by all Sellers and delivered to Buyer on or before \_\_\_\_\_ (Time is of the Essence).

10 **OPTION TERMS**

11 ~~■ INITIAL OPTION TERM: This Option may only be exercised by delivering written notice to Seller no later than midnight~~  
12 ~~\_\_\_\_\_.~~ An option fee of \$ \_\_\_\_\_ will be paid by Buyer ~~to Seller~~ within \_\_\_\_\_ days of the  
13 granting of this Option, and shall not be refundable ~~if the Option is not exercised.~~ ~~This Option may only be exercised if Buyer delivers written~~  
14 ~~notice to Seller no later than midnight on \_\_\_\_\_ unless extended below.~~

15 ~~■ EXTENDED OPTION TERM: The Deadline to exercise this Option shall be extended until midnight on~~  
16 ~~\_\_\_\_\_~~, upon payment of \$ \_\_\_\_\_ ~~in cash or equivalent~~ to Seller on or before  
17 \_\_\_\_\_, as an option extension fee which shall not be refundable ~~if this Option is not exercised.~~

18 ~~■ EXERCISE: If the Option is exercised, \$ \_\_\_\_\_ of the option fee and \$ \_\_\_\_\_ of the option extension fee, if~~  
19 ~~any,~~ shall be a credit against the purchase price at closing. ~~This Option may only be exercised by delivering written notice to Seller no later~~  
20 ~~than midnight \_\_\_\_\_.~~ Buyer may sign and deliver the notice at lines xxx-xxx, or may deliver any other written  
21 notice which specifically ~~indicates an intent to~~ exercises ~~this Option.~~

22 ~~CAUTION: If this Option is exercised, \$ \_\_\_\_\_ of the option extension fee shall be a credit against the~~  
23 ~~purchase price at closing. The option fee and option extension fee shall be (paid directly to Seller) (If the option fees are to be held~~  
24 ~~in listing broker's trust account or by a third party, specify in Additional Provisions or a separate agreement. until~~  
25 \_\_\_\_\_

26 \_\_\_\_\_) ~~STRIKE AND COMPLETE AS~~  
27 **APPLICABLE**

28 ~~CAUTION: If this Option is for a condominium unit, the option fee is not a deposit as described in Wis. Stats. § 703.33(4)(c).~~

29 **TERMS OF PURCHASE** If this Option is exercised per the terms of this Option, the following shall be the terms of purchase:  
30 ■ PURCHASE PRICE:

31 \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) will be paid in cash or equivalent at closing unless otherwise provided below.

32 ■ INCLUDED IN PURCHASE PRICE: Seller is including in the purchase price the Property, all Fixtures on the Property on the date  
33 of this Option not excluded at lines xx-xx, and the following additional items: \_\_\_\_\_  
34 \_\_\_\_\_

35 ■ NOT INCLUDED IN PURCHASE PRICE: \_\_\_\_\_  
36 \_\_\_\_\_

37 **CAUTION: Identify trade fixtures owned by tenant, if applicable, and** Fixtures that are on the Property (see lines xxx-xxx) to  
38 be excluded by Seller or which are rented and will continue to be owned by the lessor.

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

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

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

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

48 Seller's recipient for delivery (optional): \_\_\_\_\_

49 Buyer's recipient for delivery (optional): \_\_\_\_\_

50  (2) Fax: fax transmission of the document or written notice to the following telephone number:  
51 Seller: ( \_\_\_\_\_ ) \_\_\_\_\_ Buyer: ( \_\_\_\_\_ ) \_\_\_\_\_

52  (3) Commercial Delivery: depositing the document or written notice fees prepaid or charged to an account with a commercial  
53 delivery service, addressed either to the Party, or to the Party's recipient for delivery if named at line 38 or 39, for delivery to the  
54 Party's delivery address at line xx or xx.

55  (4) **U.S. Mail:** depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party, or to  
56 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.

57 Delivery address for Seller: \_\_\_\_\_

58 Delivery address for Buyer: \_\_\_\_\_

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

63 E-Mail address for Seller (optional): \_\_\_\_\_

64 E-Mail address for Buyer (optional): \_\_\_\_\_

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

67 **CLOSING** This transaction is to be closed (within \_\_\_\_\_ days after the exercise of this Option) (no later  
68 than \_\_\_\_\_) **STRIKE AND COMPLETE AS APPLICABLE** at the place selected by Seller,  
69 unless otherwise agreed by the Parties in writing.

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

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

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

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

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

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

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

82  \_\_\_\_\_.

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

87  Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes on the  
88 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  
89 receipt, forward a copy of the bill to the forwarding address Seller agrees to provide at closing. The Parties shall re-prorate within  
90 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  
91 the Parties to complete, not the responsibility of the real estate brokers in this transaction.

92 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Option  
93 at lines xxx-xxx or xxx-xxx or in an addendum attached per line xxx. At time of Buyer's occupancy, Property shall be in broom swept  
94 condition and free of all debris and personal property except for personal property belonging to current tenants, or that sold to Buyer  
95 or left with Buyer's consent. Occupancy shall be given subject to tenant's rights, if any.

96 **Caution: Consider an agreement which addresses responsibility for clearing the Property of personal property and debris, if**  
97 **applicable.**

98 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under the  
99 lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) **STRIKE ONE**  
100 lease(s), if any, are \_\_\_\_\_

101 \_\_\_\_\_ . Insert additional terms, if any, at lines xxx-xxx or xxx-xxx or attach as an addendum per line xxx.

102 **RENTAL WEATHERIZATION** Unless otherwise agreed, Buyer shall be responsible for compliance with Rental Weatherization  
103 Standards (Wis. Admin. Code Ch. SPS-367), if applicable.

104 **ZONING** Seller represents that the property is zoned \_\_\_\_\_.

105 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that, as of the date Seller grants this Option, Seller has no notice or  
106 knowledge of any Defects (lines xxx-xxx) other than those identified in Seller's disclosure report dated \_\_\_\_\_ and, if  
107 applicable, Real Estate Condition Report dated \_\_\_\_\_, and, if applicable, Vacant Land Disclosure Report dated \_\_\_\_\_,

108 which was/were received by Buyer prior to Buyer signing this Option and which is/are made a part of this Option by reference **COMPLETE**

109 **DATES OR STRIKE AS APPLICABLE** and \_\_\_\_\_

110 \_\_\_\_\_

111 \_\_\_\_\_

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

113 **CAUTION: If the Property includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided in Wis. Stat. §**  
114 **709.03 may be required. If the Property does not include any buildings, a Vacant Land Disclosure Report containing the disclosures**

115 provided in Wis. Stat. § 709.033 may be required. Excluded from these requirements are sales of property with 1-4 dwelling units that  
116 has never been inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed fiduciaries (for example,  
117 personal representatives who have never occupied the Property). The buyer may have certain rescission rights per Wis. Stat. § 709.05 if  
118 Seller does not furnish such report(s) within 10 days after Seller grants this Option or if a report disclosing Defects is furnished before  
119 expiration of those 10 days, but after the Option is submitted to Seller. Buyer should review the report form or consult with an attorney  
120 for additional information regarding rescission rights.

121 Seller agrees to notify Buyer in writing of any Defect which Seller becomes aware of subsequent to date of granting of, but prior to  
122 date of exercise of this Option, which is materially inconsistent with the above representations. For purposes of this provision (lines  
123 442-445xxx-xxx), Defect does not include structural, mechanical or other conditions of which the Buyer has actual knowledge or  
124 written notice or which Buyer discovers prior to the exercise date of this Option.

## 125 **DEFINITIONS**

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

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

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

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

147 **CAUTION: Exclude any Fixtures to be retained by Seller or which are not owned by Seller, such as rented fixtures (e.g.,**  
148 **water softener or other water conditioning systems, home entertainment and satellite dish components, L.P. tanks, etc.) on**  
149 **lines xx-xx.**

150 ■ **PROPERTY:** Unless otherwise stated, "Property" means the real estate described at lines x-x.

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

154 **CAUTION: Buyer should verify total square footage formula, total square footage/acreage figures, and land, building or**  
155 **room dimensions, if material.**

156 **BUYER'S PRE-CLOSING WALK-THROUGHS** Within 3 days ~~of the earlier of i) prior to the Deadline for Buyer's exercise of this~~  
157 ~~Option; or ii) the Buyer's exercise of this Option; and again within 3 days prior to ec~~losing, at a reasonable time pre-approved by  
158 Seller or Seller's agent, Buyer shall have the right to walk through the Property to determine that there has been no significant  
159 change in the condition of the Property, except for ordinary wear and tear and changes approved by Buyer, and that any ~~defects~~  
160 ~~Defects~~ Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

161 **PROPERTY DAMAGE BETWEEN EXERCISE OF OPTION AND CLOSING** Seller shall maintain the Property until the earlier of  
162 closing or occupancy of Buyer in materially the same condition as of the date Buyer exercises this Option, except for ordinary wear  
163 and tear. If, prior to closing, the Property is damaged in an amount of not more than five percent (5%) of the **purchase** price, Seller  
164 shall be obligated to repair the Property and restore it to the same condition that it was on the day this Option was exercised. No later  
165 than closing, Seller shall provide Buyer with lien waivers for all lienable repairs and restoration. If the damage shall exceed such sum,  
166 Seller shall promptly notify Buyer in writing of the damage and this Option may be canceled at the option of Buyer. Should Buyer  
167 elect to carry out this Option despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the damage  
168 to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy, if any. However, if  
169 this sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust for the sole purpose of  
170 restoring the Property.

## 171 **CONDOMINIUM UNITS**

172 **CAUTION: If this Option involves a residential condominium unit, Buyer should obtain and review the condominium**  
173 **disclosure documents before entering into this Option. See lines (xxx-xxx)**

174 **If the Property is a residential condominium unit, Seller must comply with the following:**

175 ■ **CONDOMINIUM DISCLOSURE MATERIALS:** Seller agrees to provide Buyer, at Seller's cost, within 10 days of Seller  
176 granting Buyer exercising this Option, but no later than 15 days prior to the deadline closing for Buyer's exercise of this Option, current  
177 and accurate copies of the Condominium disclosure materials required by Wis. Stat. § 703.33. The condominium disclosure materials  
178 include a copy of the following and any amendments to any of these [except as may be limited for small condominiums with no more  
179 than 12 units per Wis. Stat. § 703.365(1)(b) and (8)]: (a) proposed or existing declaration, bylaws and any rules or regulations, and  
180 an index of the contents; (b) proposed or existing articles of incorporation of the association, if it is or is to be incorporated; (c)  
181 proposed or existing management contract, employment contract or other contract affecting the use, maintenance or access of all or  
182 part of the condominium; (d) projected annual operating budget for the condominium including reasonable details concerning the  
183 estimated monthly payments by the purchaser for assessments and other monthly charges; (e) leases to which unit owners or the  
184 association will be a party; (f) general description of any contemplated expansion of condominium including each stage of expansion  
185 and the maximum number of units that can be added to the condominium; (g) Unit floor plan showing location of common elements  
186 and other facilities available to unit owners; (h) the executive summary.

188 ■ **BUYER RESCISSION RIGHTS:** As provided in Wis. Stat. § 703.33(4)(a), Buyer may, within 5 business days of receipt of all the  
189 required disclosure documents, rescind this Option by written notice delivered to Seller. If the disclosure materials are delivered to  
190 Buyer and Buyer does not receive all of the disclosure documents, Buyer may, within 5 business days of Buyer's receipt of the  
191 disclosure materials, either rescind the Option or request any missing documents. Seller has 5 business days following receipt of  
192 Buyer's request for missing documents to deliver the requested documents. Buyer may rescind the sale within 5 business days of the  
193 earlier of Buyer's receipt of requested missing documents or the deadline for Seller's delivery of the documents [Wis. Stat. §  
194 703.33(4)(b)]. **The Parties agree that the 5 business days begin upon the earlier of: (1) Buyer's Actual Receipt of the**  
195 **disclosure materials or requested missing documents or (2) upon the deadline for Seller's delivery of the documents.**

196 **NOTE: BUYER SHOULD READ ALL DOCUMENTS CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF**  
197 **THE PROVISIONS OF THE DOCUMENTS BUT ARE PROHIBITED BY LAW FROM GIVING LEGAL ADVICE OR OPINIONS.**

198 ■ **ADDITIONAL CONDOMINIUM ISSUES:** In addition to the disclosure materials required by Wis. Stat. § 703.33, Buyer may wish to consider  
199 reviewing other condominium materials as may be available, such as copies of: the condominium association's financial statements for the  
200 last two years, the minutes of the last 3 Unit owners' meetings, the minutes of condominium board meetings during the 12 months prior to  
201 acceptance, information about contemplated or pending condominium special assessments, the association's certificate of insurance, a  
202 statement from the association indicating the balance of reserve accounts controlled by the association, a statement from the association of  
203 the amount of any unpaid assessments on the unit (per Wis. Stat. § 703.165), any common element inspection reports (e.g. roof, swimming  
204 pool, elevator and parking garage inspections, etc.), any pending litigation involving the association and the declaration, bylaws, budget and/or  
205 most recent financial statement of any master association or additional association the unit may be part of. Not all of these materials may exist  
206 or be available from the condominium association.

207 ■ **OPTION FEES NOT A DEPOSIT:** The Parties agree that if this Option is for a residential condominium unit, the option fee and any  
208 option extension fee are not a deposit subject to return under Wis. Stats. § 703.33(4)(c).

## 210 **TITLE EVIDENCE**

211 ■ **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or  
212 **condominium deed if Property is a condominium unit, trustee's deed if Seller is a trust, personal representative's deed if**  
213 **Seller is an estate or other conveyance as provided herein), free and clear of all liens and encumbrances, except: municipal and**  
214 zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services,  
215 recorded building and use restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's  
216 Real Estate Condition Report and in this Option, general taxes levied in the year of closing and \_\_\_\_\_

217 \_\_\_\_\_  
218 \_\_\_\_\_  
219 \_\_\_\_\_ which constitutes merchantable title for purposes of this transaction. Seller shall complete  
220 and execute the documents necessary to record the conveyance at Seller's cost and pay the Wisconsin Real Estate Transfer Fee.  
221 The Parties agree that Seller shall not rezone the Property or create any additional liens or encumbrance on title after Seller grants  
222 this Option without Buyer's written consent except for liens and encumbrances that will be removed at closing.

224 **WARNING: Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements may**  
225 **prohibit certain improvements or uses and therefore should be reviewed, particularly if Buyer contemplates making**  
226 **improvements to Property or a use other than the current use.**

227 ■ **TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the  
228 purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall pay all costs of  
229 providing title evidence to Buyer. Buyer shall pay all costs of providing title evidence required by Buyer's lender.

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

235 ■ **PROVISION OF MERCHANTABLE TITLE:** For purposes of closing, title evidence shall be acceptable if the required title insurance  
236 commitment is delivered to Buyer's attorney or Buyer not more than \_\_\_\_\_ days after Seller grants this Option ("15" if left blank),  
237 showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines  
238 xxx-xxx, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and  
239 exceptions, as appropriate. **[From WB-15]**

240 **CAUTION: Buyer should consider obtaining an update of the title commitment prior to exercising this Option.**  
241 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to  
242 title within \_\_\_\_\_ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In such event, Seller  
243 shall have a reasonable time, but not exceeding \_\_\_\_\_ days ("5" if left blank), from Buyer's delivery of the notice stating title  
244 objections, to deliver notice to Buyer stating Seller's election to remove the objections by the time set for closing. In the event that  
245 Seller is unable to remove said objections, Buyer may deliver to Seller written notice waiving the objections, and the time for closing  
246 shall be extended accordingly. If Buyer does not waive the objections, Buyer shall deliver written notice of termination and this Option  
247 shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable  
248 title to Buyer. ~~From WB-15~~

249 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced prior to the  
250 date this Option is exercised shall be paid by Seller no later than closing. All other special assessments shall be paid by  
251 Buyer.

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

258 **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of the Option  
259 to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the transaction as defined by  
260 the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession data to multiple listing service sold  
261 databases; and (iii) provide active listing, pending sale, closed sale and financing concession information and data, and related  
262 information regarding seller contributions, incentives or assistance, and third party gifts, to appraisers researching comparable sales,  
263 market conditions and listings, upon inquiry.

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

267 If Buyer defaults, Seller may:

- 268 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or  
269 (2) terminate the Option and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual  
270 damages.

271 If Seller defaults, Buyer may:

- 272 (1) sue for specific performance; or  
273 (2) terminate the Option and request the return of the earnest money, sue for actual damages, or both.

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

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

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

284 **ENTIRE CONTRACT** This Option, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding  
285 the transaction. All prior negotiations and discussions have been merged into this Option. This agreement binds and inures to the  
286 benefit of the Parties to this Option and their successors in interest.

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

290 **BUYER DUE DILIGENCE:** Prior to exercising this Option ~~Buyer, Buyer may wish to review all condominium disclosures, if any, and need~~  
291 ~~to~~ perform certain inspections, investigations and testing. In addition, Buyer may need to obtain financing, appraisals, approvals, maps or  
292 other information, ~~or and review of~~ business records. Municipal and zoning ordinances, recorded building and use restrictions,  
293 covenants and easements may prohibit certain improvements or uses and therefore should be reviewed. Building permits, zoning  
294 variances, Architectural Control Committee approvals, ~~environmental audits, subsoil tests, and~~ estimates for utility hook-up  
295 expenses, special assessments, charges for installation of roads or utilities, ~~environmental audits, subsoil tests,~~ or other  
296 development related fees may need to be obtained or verified in order to determine the feasibility of development of, or a particular  
297 use for, the Property. Seller agrees to cooperate with Buyer as necessary, ~~without any out-of-pocket costs to Seller,~~ in such  
298 investigations, testing and inspections.

299 **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific authorizations are included in this Option. An  
300 "inspection" is defined as an observation of the Property which does not include an appraisal or testing of the Property, other than

301 testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are hereby authorized.  
302 A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the  
303 laboratory or other analysis of these materials. Seller agrees to allow Buyer's inspectors, testers, appraisers and qualified third  
304 parties reasonable access to the Property upon advance notice, if necessary to perform the activities authorized in this Option. Buyer  
305 and licensees may be present at all inspections and testing. Except as otherwise provided, Seller's authorization for inspections does  
306 not authorize Buyer to conduct testing of the Property. Buyer agrees to promptly restore the Property to its original condition after  
307 Buyer's inspections and testing are completed unless otherwise agreed to with Seller. Buyer agrees to promptly provide copies of all  
308 inspection and testing reports to Seller. Seller acknowledges that certain inspections or tests may detect environmental pollution  
309 which may be required to be reported to the Wisconsin Department of Natural Resources.

310 **AUTHORIZATION FOR APPRAISAL, INSPECTIONS AND TESTS** Buyer is authorized to have the Property appraised and to conduct the  
311 following inspections and tests (see lines xxx-xxx). Any inspection(s) and test(s) shall be performed by a qualified independent inspector or  
312 expert, or an independent qualified third party. Inspections and testing shall be conducted pursuant to applicable government or industry  
313 protocols and standards, as applicable.

314 **INSPECTIONS:** Property Appraisal;

315 \_\_\_\_\_  
316 \_\_\_\_\_

317 **TESTS:** \_\_\_\_\_  
318 \_\_\_\_\_

319 Describe additional inspections and tests, if any, at lines xxx-xxx or attach as an addendum per line xxx.

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

322 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) payment of option fees; (2) payment of extension fees; (3) earnest  
323 money payment(s); (4) Seller's grant of this Option; (5) Buyer's exercise of this Option; (6) occupancy; (7) date of closing; (STRIKE  
324 AS APPLICABLE) and all other dates and Deadlines in this Option except: \_\_\_\_\_

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

329 **RECORDING OF OPTION** Buyer (may)(may not) STRIKE ONE record this Option at Buyer's expense.

330 Buyer (may)(may not) STRIKE ONE record a separate instrument evidencing this Option at Buyer's expense.

331 If this Option or a separate instrument evidencing this Option is to be recorded, insert legal description at lines xxx-xxx or attach as  
332 an addendum per line xxx.

333 **CAUTION: Failure to record may give persons with subsequent interests in the Property priority over this Option.**

334 This Option (is)(is not) STRIKE ONE assignable. This Property (is) (is not) STRIKE ONE homestead property.

335  **LEASE-OPTION PROVISIONS** Concurrent with the granting of this Option, Seller and Buyer have entered into a lease for  
336 the Property with a term from \_\_\_\_\_ to \_\_\_\_\_, and with an initial rent of \$ \_\_\_\_\_ per month.

337  In the event that this Option is timely exercised, \$ \_\_\_\_\_ of each monthly rent payment of \$ \_\_\_\_\_ shall  
338 be applied to the purchase price while the balance shall be deemed solely rent that is retained by Seller.

339  Buyer may not exercise this Option unless Buyer is current with all rent payments and is not otherwise in default under the terms  
340 of the lease.

341  **ADDENDA:** The attached \_\_\_\_\_ is/are made part of this Option.

342 **ADDITIONAL PROVISIONS** \_\_\_\_\_

343 \_\_\_\_\_  
344 \_\_\_\_\_

345 \_\_\_\_\_  
346 \_\_\_\_\_

347 \_\_\_\_\_  
348 \_\_\_\_\_

349 \_\_\_\_\_  
350 \_\_\_\_\_

351 **IF GRANTED, THIS OPTION CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS OPTION  
352 AND ALL ATTACHMENTS CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE  
353 OPTION BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS  
354 OPTION OR HOW TITLE SHOULD BE TAKEN AT CLOSING IF THE OPTION IS EXERCISED. AN ATTORNEY SHOULD BE  
355 CONSULTED IF LEGAL ADVICE IS NEEDED.**

356 This Option was drafted by [Licensee and Firm] \_\_\_\_\_

357 \_\_\_\_\_ on \_\_\_\_\_

358 Buyer Entity Name (if any): \_\_\_\_\_

359 (x) \_\_\_\_\_

360 Buyer's/Authorized Signature ▲ Print Name/Title Here ►

Date ▲

361 (x) \_\_\_\_\_  
362 Buyer's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

363 **SELLER GRANTS THIS OPTION. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OPTION**  
364 **SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE**  
365 **TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OPTION.**

366 Seller Entity Name (if any): \_\_\_\_\_

367 (x) \_\_\_\_\_  
368 Seller's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

369 (x) \_\_\_\_\_  
370 Seller's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

371 This Option was presented to Seller by [Licensee and Firm] \_\_\_\_\_

372 \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

373 This Option is rejected \_\_\_\_\_ This Option is countered [See attached counter] \_\_\_\_\_  
374 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

375 **NOTICE OF EXERCISE OF OPTION** By signing below and delivering this notice (see lines xxx-xxx) to Seller, Buyer hereby exercises this  
376 Option to Purchase.

377 Buyer Entity Name (if any): \_\_\_\_\_

378 (x) \_\_\_\_\_  
379 Buyer's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

380 (x) \_\_\_\_\_  
381 Buyer's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

## REVISIONS TO WB-24 OPTION TO PURCHASE

To: DSPS Real Estate Contractual Forms Advisory Committee

From: WRA Forms Committee

Date: May 22, 2012

RE: **WB-24 Option to Purchase**

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The Wisconsin REALTORS® Association's Forms Committee reviewed the changes made by the DSPS Real Estate Contractual Forms Advisory Committee at its last meeting on May 1. In reviewing these changes, the WRA Committee made a few additional proposals to fine tune the May 1 modifications and reviewed and improved its suggestions with regard to the remaining portion of the WB-24 that the DSPS Committee has not yet discussed. The following notes a few additional modifications for the consideration of the DSPS Committee with respect to the May 1 changes, as well as the WRA committee's proposals for the last page of the WB-24.

Any line references are to the accompanying WB-24 Option to Purchase draft labeled "WB-24\_REFC 20120501acc\_hilitechanges." This draft of the WB-24 Option to Purchase is the draft where it was left at the end of the May 1 meeting. The only difference is that the changes shown in tracking have been accepted and now are highlighted so that we can see where the May 1 changes were made.

◆ **Option Terms:** The WRA committee was very happy with the reorganization and rewrite of this important section of the WB-24. They did, however, come up with a couple further suggestions. The WRA committee suggestions are shown in tracking below:

■ **INITIAL OPTION TERM:** An option fee of \$ \_\_\_\_\_ will be paid by Buyer to Seller within \_\_\_\_\_ days of the granting of this Option, and shall not be refundable. ~~This Option may only be exercised if Buyer delivers~~ **Buyer may exercise this Option by delivering** written notice to Seller no later than midnight on \_\_\_\_\_ unless extended below.

■ **EXTENDED OPTION TERM:** The Deadline to exercise this Option shall be extended until midnight on \_\_\_\_\_, upon payment of \$ \_\_\_\_\_ to Seller on or before \_\_\_\_\_, as an option extension fee which shall not be refundable.

■ **EXERCISE:** If the Option is exercised, \$ \_\_\_\_\_ of the option fee and \$ \_\_\_\_\_ of the option extension fee, if any, shall be a credit against the purchase price at closing. **To exercise this Option,** Buyer ~~may shall~~ sign and deliver **(i)** the notice at lines xxx-xxx, or ~~may deliver(ii)~~ any other written notice which ~~specifically states that Buyer~~ exercises this Option.

**CAUTION: If the option fees are to be held in listing broker's trust account or by a third party, specify in Additional Provisions at lines xxx-xxx or in a separate agreement attached per line xxx.**

◆ **Seller Notice of Subsequent Defect (at the end of the PROPERTY CONDITION REPRESENTATIONS section):** The seller has an obligation to provide written notice to buyer of new defects arising between the granting and exercise of the option, but this should not include defects that the buyer would be aware of or have knowledge of. In lease-option situations the buyer would have an advantage in knowing what happens at the property and the seller should not be penalized for not disclosing a new defect that is within a property that the buyer, not the seller, was then occupying. The language now reads as shown below. A few additional language modifications are shown below in tracking style that set the timeframe to run from the granting through the exercise of the option rather

from the day after the option is granted through the day before buyer exercises the option. We believe these were discussed and adopted at the May 1 meeting, but did not see them in the May 1 WB-24 draft.

Seller agrees to notify Buyer in writing of any Defect which Seller becomes aware of ~~subsequent to date of after Seller's~~ granting of, but prior to ~~date of Buyer's~~ exercise of this Option, which is materially inconsistent with the above representations. For purposes of this provision (lines xxx-xxx), Defect does not include structural, mechanical or other conditions of which ~~the~~ Buyer has actual knowledge or written notice or which Buyer discovers prior to the exercise ~~date~~ of this Option.

◆ Condominium Units: the WRA Committee suggests the deletion of the word “residential from the caution language is now at the beginning of the CONDOMINIUM UNITS section: “**CAUTION: If this Option involves a residential condominium unit, Buyer should obtain and review the condominium disclosure documents before entering into this Option. See lines (xxx-xxx)**”

Also in the separate subsection at the end of the CONDOMINIUM UNITS section the reference should be to “Wis. Stat.” to be consistent with the statutory citation format used throughout the revisions over the past few years:

“■ **OPTION FEES NOT A DEPOSIT**: The Parties agree that if this Option is for a residential condominium unit, the option fee and any option extension fee are not a deposit subject to return under Wis. Stats. § 703.33(4)(c).

Note: Some of the attorneys on the DSPS Committee believe that this Option Fees Not a Deposit provision could be subject to challenge in court once the option is exercised and part of the fees become credits against the purchase price – it may be hard to argue that those fees at that point are not deposits.

◆ Default section: modifications need to be made to remove references to earnest money from the Default section, as appropriate. The following is a suggestion:

If Buyer defaults, Seller may:

- (1) sue for specific performance ~~if Buyer has exercised this Option and request the earnest money as partial payment of the purchase price~~; or
- (2) terminate the Option and ~~have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual damages.~~

If Seller defaults, Buyer may:

- (1) sue for specific performance; or
- (2) terminate the Option and ~~request the return of the earnest money~~; sue for actual damages, ~~or both~~.

◆ Buyer Due Diligence: The WRA Committee was uncertain whether it was good to suggest that the buyer again review the condominium disclosure materials prior to exercising the option. It is suggested in this form that the buyer review them before entering into the option and the buyer is entitled to have them formally presented within 10 days of exercise of the option. Although this may be helpful for the buyer, is this realistic and practical for the seller? Does it mean the seller potentially must deliver disclosure materials three different times? Is there some other way of stating this?

**BUYER DUE DILIGENCE**: Prior to exercising this Option, **Buyer may wish to review all condominium disclosures, if any**, and perform certain inspections, investigations and testing. In addition, Buyer may need to obtain financing, appraisals, approvals, maps or other information, and review business records. Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore should be reviewed. Building permits, zoning variances, Architectural Control Committee approvals, environmental audits, subsoil tests, and estimates for utility hook-up expenses, special assessments, charges for installation of roads or utilities, or other development related fees may need to be obtained or verified in order to determine the feasibility of development of, or a particular use for, the Property. Seller agrees to cooperate with Buyer as necessary, without any out-of-pocket costs to Seller, in such investigations, testing and inspections.

◆ Authorization for Inspections and Tests: The WRA Forms Committee discussed this section, noting that qualifications are not as important in terms of the outcome as they would be in a contingency because the buyer will take whatever results are given and use that information in determining whether to exercise the option. So in one sense it does not matter who does the inspections or testing. It is important, however, in terms of protecting the seller's property – owners would want proper, minimally invasive techniques to be used and a qualified person is less likely to be reckless with the property. The WRA Committee also proposes the language shown here in tracking style.

**AUTHORIZATION FOR APPRAISAL, INSPECTIONS AND TESTS** Buyer is authorized to have the Property appraised by a licensed or certified appraiser and to conduct the following inspections and tests (see lines xxx-xxx) prior to Buyer's exercise of this Option. Any inspection(s) and test(s) shall be performed by a qualified independent inspector or expert, or an independent qualified third party. Inspections and testing shall be conducted pursuant to government or industry protocols and standards, as applicable.  
INSPECTIONS: \_\_\_\_\_

The DSPS Committee had begun to discuss whether there should be suggestions or prompts of the types of inspections and tests that might be done. There also was a suggestion by one of the DSPS Committee members to add a check box item for a registered home inspector to conduct a home inspection since this will almost always be expected and may be assumed or overlooked if mention is not made in the form.

A home inspection by a Wisconsin registered home inspector.

The WRA Committee preferred the idea of having a few prompts without creating an extensive laundry list. Some ideas might be:

INSPECTIONS: (E.g., home, roof, foundation) \_\_\_\_\_  
TESTS: (E.g., radon, lead-based paint, well water) \_\_\_\_\_

**THIS IS AS FAR AS THE DSPS REAL ESTATE CONTRACTUAL FORMS ADVISORY COMMITTEE GOT. THE COMMENTS BELOW HAVE NOT BEEN DISCUSSED OR ACTED UPON BY THE DEPARTMENT**

The **yellow** highlights from line 308 down signify language added to the WB-24 that has not yet been reviewed by the DSPS forms Committee.

◆ Time is of the Essence: This language represents a blending of the language from the 2000 Option and the language from the residential and other updated offers. The deadlines for payment of the option fee, payment of any extension fees, the grant of the option, and the exercise of the option have been added to the list of the “time is of the essence” items from the offers. The WRA Committee recommends that “earnest money payment(s)” be deleted because there would not typically be earnest money in an option.

◆ Recording of Option: This new section takes provisions that had been on the first page of the 2000 option and brings them together in a new section regarding the recording of the option or a notice or other summary document. This section also directs the adding of the legal description if the option is to be recorded.

If the WB-24 were to be recorded it would also require a cover sheet meeting the requirements of Wis. Stat. § 59.43(2m) although § 59.43(2m)(c) indicates that the register of deeds shall provide an appropriate cover sheet meeting the § 59.43(2m) requirements upon request without any charge or fee. See <https://docs.legis.wisconsin.gov/statutes/statutes/59/IV/43>. A copy of the required cover sheet is at

<http://www.wrdaonline.org/Forms/StandardForm.pdf> and some pointers from the Wisconsin Register of Deeds Association are at <http://www.wrdaonline.org/RecordingDocuments/standardocformat.html>.

Often the parties do not wish to make the details of the transaction quite so public. See a discussion of the recording issue on pages 4-5 of the WRA *Legal Update* 00.05, "Revised WB-24 Option to Purchase & WB-35 Simultaneous Exchange Agreement," online at [www.wra.org/LU0005](http://www.wra.org/LU0005).

A recording fee of \$30 (\$25 in a few counties) would be due to record either the option itself or a shorter notice or affidavit, but no transfer fee need be paid because an option is not considered to be a conveyance. If the option or a notice regarding the option is recorded and not exercised, the Seller may then want to record a cancellation of the Buyer's option rights and may want the Buyer to sign such a cancellation document.

Embedded in this discussion there seems to be two issues for the parties: do they wish to allow a document to be recorded to indicate of record that the option exists, and if so, do they wish to allow the recording of the complete WB-24 or will they only allow a shorter notice or other summary document. Thus the Committee has provided the two STRIKE ONE items:

Assuming it would be the Buyer who would be interested in getting notice of the option recorded. The WRA Committee proposes a default of "may" with regard to the buyer recording a separate instrument evidencing the option, as shown below in tracking:

Buyer (may)(may not) [STRIKE ONE] record this Option at Buyer's expense.

Buyer (may)(may not) [STRIKE ONE] ("may" if neither is stricken) record a separate instrument evidencing this Option at Buyer's expense.

This is followed by a prompt to include the legal description if the option or a separate instrument will be recorded and the CAUTION from the 2000 option advising that not recording may lead to title problems.

With regard to the assignability of the option, the WRA Forms Committee proposes that having the option not be assignable serve as the default, as shown below in tracking:

This Option (is)(is not) [STRIKE ONE] ("is not" if neither is stricken) assignable.

◆ Lease-Option Language: The Option frequently is used in conjunction with a lease such that having a few provisions in the WB-24 might be valuable. Below are some further suggestions for modifications beyond what is shown in the forma draft with respect to lease-option provisions shown in yellow below:

**LEASE-OPTION PROVISIONS** Concurrent with the granting of this Option, Seller and Buyer have entered into a lease for the Property with a term from \_\_\_ to \_\_\_, and with an initial rent of \$\_\_\_\_\_ per month (see the Parties' lease for other lease terms).

In the event that this Option is timely exercised, \$\_\_\_\_\_ of each monthly rent payment of \$\_\_\_\_\_ shall be applied to the purchase price while the balance shall be deemed solely rent that is retained by Seller. **NOTE: Lenders may not recognize a credit for rent paid under a lease.**

Buyer may not exercise this Option unless Buyer is current with all rent payments and is not otherwise in default under the terms of the lease.

Any material breach of the lease by Buyer shall also constitute a default under this Option. \

" Signature blocks: The signature blocks from the commercial offer were inserted because they allow flexibility for entities to sign.

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**WB-24 OPTION TO PURCHASE**

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

3 The Seller (Optionor), \_\_\_\_\_  
4 \_\_\_\_\_, hereby grants to the Buyer (Optionee), \_\_\_\_\_  
5 \_\_\_\_\_, an option to purchase (Option) the Property known as [Street Address]  
6 \_\_\_\_\_ in the \_\_\_\_\_  
7 of \_\_\_\_\_, County of \_\_\_\_\_, Wisconsin, on the following terms:

8 **DEADLINE FOR GRANT OF OPTION** This Option is binding upon both Parties only if a copy of the Option, or separate but identical  
9 copies, is/are signed by all Sellers and delivered to Buyer on or before \_\_\_\_\_ (Time is of the Essence).

10 **OPTION TERMS**

11 ■ **INITIAL OPTION TERM:** An option fee of \$ \_\_\_\_\_ will be paid by Buyer to Seller within \_\_\_\_\_ days of the granting  
12 of this Option, and shall not be refundable. This Option may only be exercised if Buyer delivers written notice to Seller no later than midnight  
13 on \_\_\_\_\_ unless extended below.

14 ■ **EXTENDED OPTION TERM:** The Deadline to exercise this Option shall be extended until midnight on \_\_\_\_\_  
15 upon payment of \$ \_\_\_\_\_ to Seller on or before \_\_\_\_\_, as an option extension fee  
16 which shall not be refundable.

17 ■ **EXERCISE:** If the Option is exercised, \$ \_\_\_\_\_ of the option fee and \$ \_\_\_\_\_ of the option extension fee, if  
18 any, shall be a credit against the purchase price at closing. Buyer may sign and deliver the notice at lines xxx-xxx, or may deliver any other  
19 written notice which specifically exercises this Option.

20 **CAUTION: If the option fees are to be held in listing broker's trust account or by a third party, specify in Additional Provisions or  
21 a separate agreement.**

22 **TERMS OF PURCHASE** If this Option is exercised per the terms of this Option, the following shall be the terms of purchase:

23 ■ **PURCHASE PRICE:** \_\_\_\_\_  
24 \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) will be paid in cash or equivalent at closing unless otherwise provided below.

25 ■ **INCLUDED IN PURCHASE PRICE:** Seller is including in the purchase price the Property, all Fixtures on the Property on the date  
26 of this Option not excluded at lines xx-xx, and the following additional items: \_\_\_\_\_  
27 \_\_\_\_\_.

28 ■ **NOT INCLUDED IN PURCHASE PRICE:** \_\_\_\_\_  
29 \_\_\_\_\_.

30 **CAUTION: Identify trade fixtures owned by tenant, if applicable, and Fixtures that are on the Property (see lines xxx-xxx) to  
31 be excluded by Seller or which are rented and will continue to be owned by the lessor.**

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

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

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

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

41 Seller's recipient for delivery (optional): \_\_\_\_\_

42 Buyer's recipient for delivery (optional): \_\_\_\_\_

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

44 Seller: ( \_\_\_\_\_ ) \_\_\_\_\_ Buyer: ( \_\_\_\_\_ ) \_\_\_\_\_

45  (3) **Commercial Delivery:** depositing the document or written notice fees prepaid or charged to an account with a commercial  
46 delivery service, addressed either to the Party, or to the Party's recipient for delivery if named at line 38 or 39, for delivery to the  
47 Party's delivery address at line xx or xx.

48  (4) **U.S. Mail:** depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party, or to  
49 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.

50 Delivery address for Seller: \_\_\_\_\_

51 Delivery address for Buyer: \_\_\_\_\_

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

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56 E-Mail address for Seller (optional): \_\_\_\_\_  
57 E-Mail address for Buyer (optional): \_\_\_\_\_  
58 **PERSONAL DELIVERY/ACTUAL RECEIPT** Personal delivery to, or Actual Receipt by, any named Buyer or Seller  
59 constitutes personal delivery to, or Actual Receipt by, all Buyers or Sellers.  
60 **CLOSING** This transaction is to be closed (within \_\_\_\_\_ days after the exercise of this Option) (no later  
61 than \_\_\_\_\_) **STRIKE AND COMPLETE AS APPLICABLE** at the place selected by Seller,  
62 unless otherwise agreed by the Parties in writing.  
63 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing values: real  
64 estate taxes, rents, prepaid insurance (if assumed), private and municipal charges, property owners association assessments, fuel  
65 and \_\_\_\_\_.  
66 **CAUTION: Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.**  
67 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.  
68 Real estate taxes shall be prorated at closing based on [CHECK BOX FOR APPLICABLE PRORATION FORMULA]:  
69  The net general real estate taxes for the preceding year, or the current year if available (Net general real estate taxes are  
70 defined as general property taxes after state tax credits and lottery credits are deducted) (NOTE: THIS CHOICE APPLIES IF NO  
71 BOX IS CHECKED)  
72  Current assessment times current mill rate (current means as of the date of closing)  
73  Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior year, or  
74 current year if known, multiplied by current mill rate (current means as of the date of closing)  
75  \_\_\_\_\_  
76 **CAUTION: Buyer is informed that the actual real estate taxes for the year of closing and subsequent years may be**  
77 **substantially different than the amount used for proration especially in transactions involving new construction, extensive**  
78 **rehabilitation, remodeling or area-wide re-assessment. Buyer is encouraged to contact the local assessor regarding**  
79 **possible tax changes.**  
80  Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes on the  
81 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  
82 receipt, forward a copy of the bill to the forwarding address Seller agrees to provide at closing. The Parties shall re-prorate within  
83 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  
84 the Parties to complete, not the responsibility of the real estate brokers in this transaction.  
85 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Option  
86 at lines xxx-xxx or xxx-xxx or in an addendum attached per line xxx. At time of Buyer's occupancy, Property shall be in broom swept  
87 condition and free of all debris and personal property except for personal property belonging to current tenants, or that sold to Buyer  
88 or left with Buyer's consent. Occupancy shall be given subject to tenant's rights, if any.  
89 **Caution: Consider an agreement which addresses responsibility for clearing the Property of personal property and debris, if**  
90 **applicable.**  
91 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under the  
92 lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) **STRIKE ONE**  
93 lease(s), if any, are \_\_\_\_\_  
94 \_\_\_\_\_ . Insert additional terms, if any, at lines xxx-xxx or xxx-xxx or attach as an addendum per line xxx.  
95 **RENTAL WEATHERIZATION** Unless otherwise agreed, Buyer shall be responsible for compliance with Rental Weatherization  
96 Standards (Wis. Admin. Code **Ch. SPS 367**), if applicable.  
97 **ZONING** Seller represents that the property is zoned \_\_\_\_\_.  
98 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that, as of the date Seller grants this Option, Seller has no notice or  
99 knowledge of any Defects (lines xxx-xxx) other than those identified in Seller's disclosure report dated \_\_\_\_\_ and, if  
100 applicable, Real Estate Condition Report dated \_\_\_\_\_, and, if applicable, Vacant Land Disclosure Report dated \_\_\_\_\_,  
101 which was/were received by Buyer prior to Buyer signing this Option and which is/are made a part of this Option by reference **COMPLETE**  
102 **DATES OR STRIKE AS APPLICABLE** and \_\_\_\_\_  
103 \_\_\_\_\_  
104 \_\_\_\_\_  
105 **INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE OR CONDITION REPORT(S)**  
106 **CAUTION: If the Property includes 1-4 dwelling units, a Real Estate Condition Report containing the disclosures provided in Wis. Stat. §**  
107 **709.03 may be required. If the Property does not include any buildings, a Vacant Land Disclosure Report containing the disclosures**  
108 **provided in Wis. Stat. § 709.033 may be required. Excluded from these requirements are sales of property with 1-4 dwelling units that**  
109 **has never been inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed fiduciaries (for example,**  
110 **personal representatives who have never occupied the Property). The buyer may have certain rescission rights per Wis. Stat. § 709.05 if**  
111 **Seller does not furnish such report(s) within 10 days after Seller grants this Option or if a report disclosing Defects is furnished before**  
112 **expiration of those 10 days, but after the Option is submitted to Seller. Buyer should review the report form or consult with an attorney**  
113 **for additional information regarding rescission rights.**  
114 Seller agrees to notify Buyer in writing of any Defect which Seller becomes aware of subsequent to date of granting of, but prior to  
115 date of exercise of this Option, which is materially inconsistent with the above representations. For purposes of this provision (lines

116 **xxx-xxx**, Defect does not include structural, mechanical or other conditions of which the Buyer has actual knowledge or written notice  
117 or which Buyer discovers prior to the exercise date of this Option.

118 **DEFINITIONS**

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

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

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

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

140 **CAUTION: Exclude any Fixtures to be retained by Seller or which are not owned by Seller, such as rented fixtures (e.g.,**  
141 **water softener or other water conditioning systems, home entertainment and satellite dish components, L.P. tanks, etc.) on**  
142 **lines xx-xx.**

143 ■ **PROPERTY:** Unless otherwise stated, "Property" means the real estate described at lines x-x.

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

147 **CAUTION: Buyer should verify total square footage formula, total square footage/acreage figures, and land, building or**  
148 **room dimensions, if material.**

149 **BUYER'S WALK-THROUGHS** Within 3 days of the earlier of i) the Deadline for Buyer's exercise of this Option; or ii) the Buyer's  
150 exercise of this Option; and again within 3 days prior to closing, at a reasonable time pre-approved by Seller or Seller's agent, Buyer  
151 shall have the right to walk through the Property to determine that there has been no significant change in the condition of the  
152 Property, except for ordinary wear and tear and changes approved by Buyer, and that any Defects Seller has agreed to cure have  
153 been repaired in the manner agreed to by the Parties.

154 **PROPERTY DAMAGE BETWEEN EXERCISE OF OPTION AND CLOSING** Seller shall maintain the Property until the earlier of  
155 closing or occupancy of Buyer in materially the same condition as of the date Buyer exercises this Option, except for ordinary wear  
156 and tear. If, prior to closing, the Property is damaged in an amount of not more than five percent (5%) of the purchase price, Seller  
157 shall be obligated to repair the Property and restore it to the same condition that it was on the day this Option was exercised. No later  
158 than closing, Seller shall provide Buyer with lien waivers for all lienable repairs and restoration. If the damage shall exceed such sum,  
159 Seller shall promptly notify Buyer in writing of the damage and this Option may be canceled at the option of Buyer. Should Buyer  
160 elect to carry out this Option despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the damage  
161 to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy, if any. However, if  
162 this sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust for the sole purpose of  
163 restoring the Property.

164 **CONDOMINIUM UNITS**

165 **CAUTION: If this Option involves a residential condominium unit, Buyer should obtain and review the condominium**  
166 **disclosure documents before entering into this Option. See lines (xxx-xxx)**

167 If the Property is a residential condominium unit, Seller must comply with the following:

168 ■ **CONDOMINIUM DISCLOSURE MATERIALS:** Seller agrees to provide Buyer, at Seller's cost, within 10 days of Buyer exercising  
169 this Option, but no later than 15 days prior to closing, current and accurate copies of the Condominium disclosure materials required  
170 by Wis. Stat. § 703.33. The condominium disclosure materials include a copy of the following and any amendments to any of these  
171 [except as may be limited for small condominiums with no more than 12 units per Wis. Stat. § 703.365(1)(b) and (8)]: (a) proposed or  
172 existing declaration, bylaws and any rules or regulations, and an index of the contents; (b) proposed or existing articles of  
173 incorporation of the association, if it is or is to be incorporated; (c) proposed or existing management contract, employment contract  
174 or other contract affecting the use, maintenance or access of all or part of the condominium; (d) projected annual operating budget  
175 for the condominium including reasonable details concerning the estimated monthly payments by the purchaser for assessments and  
176 other monthly charges; (e) leases to which unit owners or the association will be a party; (f) general description of any contemplated

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177 expansion of condominium including each stage of expansion and the maximum number of units that can be added to the  
178 condominium; (g) Unit floor plan showing location of common elements and other facilities available to unit owners; (h) the executive  
179 summary.

180 **BUYER RESCISSION RIGHTS:** As provided in Wis. Stat. § 703.33(4)(a), Buyer may, within 5 business days of receipt of all the  
181 required disclosure documents, rescind this Option by written notice delivered to Seller. If the disclosure materials are delivered to  
182 Buyer and Buyer does not receive all of the disclosure documents, Buyer may, within 5 business days of Buyer's receipt of the  
183 disclosure materials, either rescind the Option or request any missing documents. Seller has 5 business days following receipt of  
184 Buyer's request for missing documents to deliver the requested documents. Buyer may rescind the sale within 5 business days of the  
185 earlier of Buyer's receipt of requested missing documents or the deadline for Seller's delivery of the documents [Wis. Stat. §  
186 703.33(4)(b)]. **The Parties agree that the 5 business days begin upon the earlier of: (1) Buyer's Actual Receipt of the  
187 disclosure materials or requested missing documents or (2) upon the deadline for Seller's delivery of the documents.**

188 **NOTE: BUYER SHOULD READ ALL DOCUMENTS CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF  
189 THE PROVISIONS OF THE DOCUMENTS BUT ARE PROHIBITED BY LAW FROM GIVING LEGAL ADVICE OR OPINIONS.**

190 **ADDITIONAL CONDOMINIUM ISSUES:** In addition to the disclosure materials required by Wis. Stat. § 703.33, Buyer may wish to consider  
191 reviewing other condominium materials as may be available, such as copies of: the condominium association's financial statements for the  
192 last two years, the minutes of the last 3 Unit owners' meetings, the minutes of condominium board meetings during the 12 months prior to  
193 acceptance, information about contemplated or pending condominium special assessments, the association's certificate of insurance, a  
194 statement from the association indicating the balance of reserve accounts controlled by the association, a statement from the association of  
195 the amount of any unpaid assessments on the unit (per Wis. Stat. § 703.165), any common element inspection reports (e.g. roof, swimming  
196 pool, elevator and parking garage inspections, etc.), any pending litigation involving the association and the declaration, bylaws, budget and/or  
197 most recent financial statement of any master association or additional association the unit may be part of. Not all of these materials may exist  
198 or be available from the condominium association.

199 **OPTION FEES NOT A DEPOSIT:** The Parties agree that if this Option is for a residential condominium unit, the option fee and any  
200 option extension fee are not a deposit subject to return under Wis. Stats. § 703.33(4)(c).

201 **TITLE EVIDENCE**

202 **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or  
203 condominium deed if Property is a condominium unit, trustee's deed if Seller is a trust, personal representative's deed if  
204 Seller is an estate or other conveyance as provided herein), free and clear of all liens and encumbrances, except: municipal and  
205 zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services,  
206 recorded building and use restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's  
207 Real Estate Condition Report and in this Option, general taxes levied in the year of closing and \_\_\_\_\_  
208 \_\_\_\_\_  
209 \_\_\_\_\_

210 \_\_\_\_\_ which constitutes merchantable title for purposes of this transaction. Seller shall complete  
211 and execute the documents necessary to record the conveyance at Seller's cost and pay the Wisconsin Real Estate Transfer Fee.  
212 The Parties agree that Seller shall not rezone the Property or create any additional liens or encumbrance on title after Seller grants  
213 this Option without Buyer's written consent except for liens and encumbrances that will be removed at closing.

214 **WARNING: Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements may  
215 prohibit certain improvements or uses and therefore should be reviewed, particularly if Buyer contemplates making  
216 improvements to Property or a use other than the current use.**

217 **TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the  
218 purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall pay all costs of  
219 providing title evidence to Buyer. Buyer shall pay all costs of providing title evidence required by Buyer's lender.

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

225 **PROVISION OF MERCHANTABLE TITLE:** For purposes of closing, title evidence shall be acceptable if the required title insurance  
226 commitment is delivered to Buyer's attorney or Buyer not more than \_\_\_\_\_ days after Seller grants this Option ("15" if left blank),  
227 showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines  
228 xxx-xxx, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and  
229 exceptions, as appropriate.

230 **CAUTION: Buyer should consider obtaining an update of the title commitment prior to exercising this Option.**

231 **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to  
232 title within \_\_\_\_\_ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In such event, Seller  
233 shall have a reasonable time, but not exceeding \_\_\_\_\_ days ("5" if left blank), from Buyer's delivery of the notice stating title  
234 objections, to deliver notice to Buyer stating Seller's election to remove the objections by the time set for closing. In the event that  
235 Seller is unable to remove said objections, Buyer may deliver to Seller written notice waiving the objections, and the time for closing  
236 shall be extended accordingly. If Buyer does not waive the objections, Buyer shall deliver written notice of termination and this Option  
237 shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable  
238 title to Buyer.

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240 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced prior to the  
241 date this Option is exercised shall be paid by Seller no later than closing. All other special assessments shall be paid by  
242 Buyer.

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

249 **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of the Option  
250 to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the transaction as defined by  
251 the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession data to multiple listing service sold  
252 databases; and (iii) provide active listing, pending sale, closed sale and financing concession information and data, and related  
253 information regarding seller contributions, incentives or assistance, and third party gifts, to appraisers researching comparable sales,  
254 market conditions and listings, upon inquiry.

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

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

- 259 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or  
260 (2) terminate the Option and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual  
261 damages.

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

- 263 (1) sue for specific performance; or  
264 (2) terminate the Option and request the return of the earnest money, sue for actual damages, or both.

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

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

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

275 **ENTIRE CONTRACT** This Option, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding  
276 the transaction. All prior negotiations and discussions have been merged into this Option. This agreement binds and inures to the  
277 benefit of the Parties to this Option and their successors in interest.

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

281 **BUYER DUE DILIGENCE:** Prior to exercising this Option, Buyer may wish to review all condominium disclosures, if any, and perform  
282 certain inspections, investigations and testing. In addition, Buyer may need to obtain financing, appraisals, approvals, maps or other  
283 information, and review business records. Municipal and zoning ordinances, recorded building and use restrictions, covenants and  
284 easements may prohibit certain improvements or uses and therefore should be reviewed. Building permits, zoning variances,  
285 Architectural Control Committee approvals, environmental audits, subsoil tests, and estimates for utility hook-up expenses, special  
286 assessments, charges for installation of roads or utilities, or other development related fees may need to be obtained or verified in  
287 order to determine the feasibility of development of, or a particular use for, the Property. Seller agrees to cooperate with Buyer as  
288 necessary, without any out-of-pocket costs to Seller, in such investigations, testing and inspections.

289 **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific authorizations are included in this Option. An  
290 "inspection" is defined as an observation of the Property which does not include an appraisal or testing of the Property, other than  
291 testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source, which are hereby authorized.  
292 A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the  
293 laboratory or other analysis of these materials. Seller agrees to allow Buyer's inspectors, testers, appraisers and qualified third  
294 parties reasonable access to the Property upon advance notice, if necessary to perform the activities authorized in this Option. Buyer  
295 and licensees may be present at all inspections and testing. Except as otherwise provided, Seller's authorization for inspections does  
296 not authorize Buyer to conduct testing of the Property. Buyer agrees to promptly restore the Property to its original condition after  
297 Buyer's inspections and testing are completed unless otherwise agreed to with Seller. Buyer agrees to promptly provide copies of all  
298 inspection and testing reports to Seller. Seller acknowledges that certain inspections or tests may detect environmental pollution  
299 which may be required to be reported to the Wisconsin Department of Natural Resources.

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300 **AUTHORIZATION FOR APPRAISAL, INSPECTIONS AND TESTS** Buyer is authorized to have the Property appraised and to conduct the  
301 following inspections and tests (see lines xxx-xxx). Any inspection(s) and test(s) shall be performed by a qualified independent inspector or  
302 expert, or an independent qualified third party. Inspections and testing shall be conducted pursuant to government or industry protocols and  
303 standards, as applicable.

304 INSPECTIONS: \_\_\_\_\_

305 \_\_\_\_\_

306 TESTS: \_\_\_\_\_

307 \_\_\_\_\_

308 Describe additional inspections and tests, if any, at lines xxx-xxx or attach as an addendum per line xxx.

309 **NOTE: Any testing authorizations should specify the areas of the Property to be tested, the purpose of the test, (e.g., to**

310 **determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms.**

311 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) payment of option fees; (2) payment of extension fees; (3) earnest

312 money payment(s); (4) Seller's grant of this Option; (5) Buyer's exercise of this Option; (6) occupancy; (7) date of closing; (~~STRIKE~~

313 ~~AS APPLICABLE~~) and all other dates and Deadlines in this Option except: \_\_\_\_\_

314 \_\_\_\_\_

315 If "Time is of the Essence" applies to a date or Deadline, failure to perform by the exact date or Deadline is a breach of contract. If

316 "Time is of the Essence" does not apply to a date or Deadline, then performance within a reasonable time of the date or Deadline is

317 allowed before a breach occurs.

318 **RECORDING OF OPTION** Buyer (may)(may not) ~~STRIKE ONE~~ record this Option at Buyer's expense.

319 Buyer (may)(may not) ~~STRIKE ONE~~ record a separate instrument evidencing this Option at Buyer's expense.

320 If this Option or a separate instrument evidencing this Option is to be recorded, insert legal description at lines xxx-xxx or attach as

321 an addendum per line xxx.

322 **CAUTION: Failure to record may give persons with subsequent interests in the Property priority over this Option.**

323 **This Option (is)(is not) ~~STRIKE ONE~~ assignable. This Property (is) (is not) ~~STRIKE ONE~~ homestead property.**

324  **LEASE-OPTION PROVISIONS** Concurrent with the granting of this Option, Seller and Buyer have entered into a lease for

325 the Property with a term from \_\_\_\_\_ to \_\_\_\_\_, and with an initial rent of \$ \_\_\_\_\_ per month.

326  In the event that this Option is timely exercised, \$ \_\_\_\_\_ of each monthly rent payment of \$ \_\_\_\_\_ shall

327 be applied to the purchase price while the balance shall be deemed solely rent that is retained by Seller.

328  Buyer may not exercise this Option unless Buyer is current with all rent payments and is not otherwise in default under the terms

329 of the lease.

330  **ADDENDA:** The attached \_\_\_\_\_ is/are made part of this Option.

331 **ADDITIONAL PROVISIONS** \_\_\_\_\_

332 \_\_\_\_\_

333 \_\_\_\_\_

334 \_\_\_\_\_

335 \_\_\_\_\_

336 \_\_\_\_\_

337 \_\_\_\_\_

338 \_\_\_\_\_

339 \_\_\_\_\_

340 **IF GRANTED, THIS OPTION CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS OPTION**

341 **AND ALL ATTACHMENTS CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE**

342 **OPTION BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS**

343 **OPTION OR HOW TITLE SHOULD BE TAKEN AT CLOSING IF THE OPTION IS EXERCISED. AN ATTORNEY SHOULD BE**

344 **CONSULTED IF LEGAL ADVICE IS NEEDED.**

345 This Option was drafted by [Licensee and Firm] \_\_\_\_\_

346 \_\_\_\_\_ on \_\_\_\_\_

347 Buyer Entity Name (if any): \_\_\_\_\_

348 (x) \_\_\_\_\_

349 Buyer's/Authorized Signature ▲ Print Name/Title Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

350 (x) \_\_\_\_\_

351 Buyer's/Authorized Signature ▲ Print Name/Title Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

352 **SELLER GRANTS THIS OPTION. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OPTION**

353 **SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE**

354 **TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OPTION.**

355 Seller Entity Name (if any): \_\_\_\_\_

356 (x) \_\_\_\_\_

357 Seller's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

358 (x) \_\_\_\_\_

359 Seller's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

360 This Option was presented to Seller by [Licensee and Firm] \_\_\_\_\_

361 \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

362 This Option is rejected \_\_\_\_\_ This Option is countered [See attached counter] \_\_\_\_\_

363 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

364 **NOTICE OF EXERCISE OF OPTION** By signing below and delivering this notice (see lines xxx-xxx) to Seller, Buyer hereby exercises this  
365 Option to Purchase.

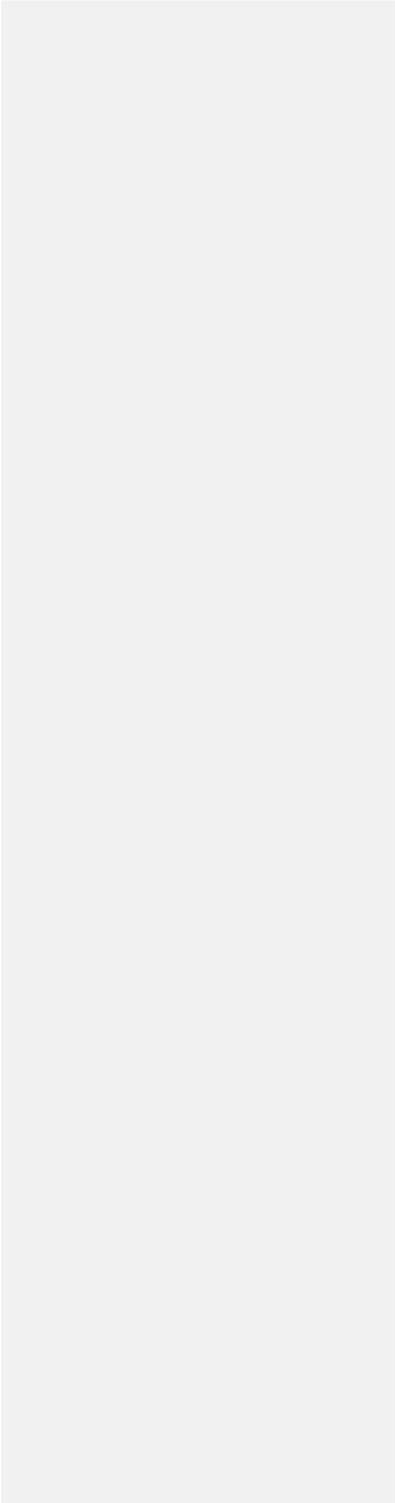
366 Buyer Entity Name (if any): \_\_\_\_\_

367 (x) \_\_\_\_\_

368 Buyer's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

369 (x) \_\_\_\_\_

370 Buyer's/Authorized Signature ▲ Print Name/Title Here ► Date ▲



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**REVISIONS TO WB-37 EXCLUSIVE LISTING CONTRACT  
FOR LEASE OF REAL PROPERTY**

To: DSPS Real Estate Contractual Forms Advisory Committee  
From: WRA Forms Committee  
Date: May 22, 2012  
RE: **WB-37 Exclusive Listing Contract for Lease of Real Property**

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Any line references are to the accompanying WB-37 Exclusive Listing Contract for Lease of Real Property highlighted draft labeled “WB-37 Lease Listing WB1 terms3812.” This draft of the WB-37 gives an initial look at some of the possible modifications that might be made to update the WB-37 in its current format.

The WB-37 Exclusive Listing Contract for Lease of Real Property is used when a property owner hires a real estate broker to lease the owner’s property. This Department-approved form is mandatory with respect to the lease of residential property. Use of the WB-37 is optional, however, for lease listings in retail, commercial or industrial property settings. A WB-37 Exclusive Listing Contract for Lease of Real Property authorizes a broker to advertise a rental property, get it rented and handle the rental funds (security deposit and rents).

**WB-37 Draft**

The 2001 version of the WB-37 Exclusive Listing Contract for Lease of Real Property form contained many of the terms and conditions typically found in a listing contract at that time.

The attached draft attempts to capture a sample lay-out and flow of an updated lease listing incorporating language from the 2008 residential listing and proposing other modifications (highlighted in yellow).

With respect to the terminology used in the WB-37, please keep in mind the following:

**Wis. Stat. § 704.01 Definitions.** In this chapter, unless the context indicates otherwise:

- (1) “Lease” means an agreement, whether oral or written, for transfer of possession of real property, or both real and personal property, for a definite period of time. A lease is for a definite period of time if it has a fixed commencement date and a fixed expiration date or if the commencement and expiration can be ascertained by reference to some event, such as completion of a building. A lease is included within this chapter even though it may also be treated as a conveyance under ch. 706. An agreement for transfer of possession of only personal property is not a lease.
- (2) “Periodic tenant” means a tenant who holds possession without a valid lease and pays rent on a periodic basis. It includes a tenant from day-to-day, week-to-week, month-to-month, year-to-year or other recurring interval of time, the period being determined by the intent of the parties under the circumstances, with the interval between rent-paying dates normally evidencing that intent.
- (3) “Premises” mean the property covered by the lease, including not only the realty and fixtures, but also any personal property furnished with the realty.
- (3m) “Rental agreement” means an oral or written agreement between a landlord and tenant, for the rental or lease of a specific dwelling unit or premises, in which the landlord and tenant agree on the essential terms of the tenancy, such as rent. “Rental agreement” includes a lease. “Rental agreement” does not include an agreement to enter into a rental agreement in the future.

- (4) “Tenancy” includes a tenancy under a lease, a periodic tenancy or a tenancy at will.
- (5) “Tenant at will” means any tenant holding with the permission of the tenant’s landlord without a valid lease and under circumstances not involving periodic payment of rent; but a person holding possession of real property under a contract of purchase or an employment contract is not a tenant under this chapter.

The use of the term “lease” in the current WB-37 seems to be too narrow and the WB-37 draft instead uses the term “rental agreement” that is much more broad and inclusive of both leases and periodic tenancies such as a month-to-month. Accordingly, a definition of Rental Agreement and of Lease from the statutes was placed at lines 223-226 and 243-245 of the draft.

- ◆ Title and language beneath: the WRA Committee suggests renaming the form as the “WB-37 Exclusive Listing for Lease or Rental of Residential Real Property” to encompass the idea that an owner may benefit from a written agreement for a month-to-month tenancy when the owners intent is, for instance, to rent the home until market improves and can be sold. The term “lease” would preclude that.

As far as the language beneath, this indicates that the WB-37 is a mandatory form for licensees entering a listing to rent or lease residential property. Should that continue to be the case? Should the language here be different and **specifically say it is optional for non-residential or commercial properties**? The question has also come up whether there should be a DSPS lease/rental listing for commercial deals. Note that there is presently a WRA Exclusive Listing Contract for Lease of Commercial Property available electronically. **Should this form be revised by the WRA or should there be a mandatory form for lease/rental listing of commercial and non-residential properties?**

- ◆ Draft line 1, Broker’s Authority: the WRA Committee thought it best to make this more the other listings for sales in terms of the authority given. For example, the WB-1 Residential Listing Contract states that the “Seller gives Broker the exclusive right to sell the Property on the following terms.” Similarly, the WRA Committee believes that the WB-37 should state that the “Owner gives Broker the exclusive right to rent or lease the property located ...” **Should this say “rent or lease” or would using only the term “rent” be clear enough?** It is the broader term but the WRA Committee believes a broker will expect to see/be more comfortable if “lease” is also mentioned. This would be a choice to make with regard to the terminology throughout the listing contract: “lease or rent,” “rent,” or “lease (as it is in the 2000 version of the WB-37 – not recommended by the WRA)?”

- ◆ Draft lines 5-9, Unit and Rental Terms: some changes in the language were made to make the WB-37 apply to rental agreements and not just leases and to make it clear that there should be a list of units and terms if the Premises encompass more than one rental unit. If there is not enough room on the chart on lines 10-14, these lines direct the parties to use the Additional Provisions lines or attach an addendum.

- ◆ Broker’s Duties: The terminology in draft was modified to refer to written rental agreements instead of leases. In the Broker’s Duties section, the Broker agrees to use reasonable efforts to “rent the Premises, to negotiate rental agreements” rather than “negotiate leases of the Premises” (2000 version). The broker is authorized to use reasonable efforts to rent the premises as well as to negotiate rental agreements because situations may arise where the owner and the tenant enter into an agreement on their own or the tenant simply just starts renting without a written agreement. While real estate licensees are to have agreements in writing per Wis. Admin. Code § REEB 24.08, they also are allowed to negotiate agreements that the parties or their attorneys put into writing per Wis. Admin. Code § REEB 16.04(3) since there are no Department-approved lease or rental agreement forms. “Advertise” was added to the list of tasks specifically authorized by the owner.

◆ **Owner's Obligations:** proposed language changes to refer to written rental agreements instead of leases, and added elaboration regarding prospective tenants known to the Owner – the draft says the Owner must give the Broker the prospects' names and contact information in writing. The draft also added "code violations and other documents relating to conditions affecting the Premises" to the information the owner is to provide to the broker. Should it say "code violation orders" or "code violation notices" instead?

**NOTE:** The WRA Committee only got part way through the issues in this memo. We have labeled many of the following items as **DISCUSSED** or **NOT DISCUSSED**.

◆ **Owner's Warranties, Covenants and Representations:** proposed language adds in **aqua**: "unless indicated at lines xxx-xxx or in an attached addendum per line xxx, or disclosed in the documentation Owner has provided to Broker" on lines 37-38 of the draft. The items listed on lines 39-49 are issues the landlord must disclose to a prospective tenant before entering into a rental agreement or accepting any earnest money or security deposit, per Wis. Admin. Code § ATCP 134.04(2) ([https://docs.legis.wisconsin.gov/code/admin\\_code/atcp/134.pdf](https://docs.legis.wisconsin.gov/code/admin_code/atcp/134.pdf)). This suggests that the Broker is going to be making these disclosures for the Owner. **DISCUSSED**

Should this list or the Owner's Obligations section be modified to specifically include a reference to the Owner's knowledge, records, etc. regarding LBP such that an Addendum L can be prepared? Any other needed information? **NOT DISCUSSED**

The Committee suggested that item (a) at line 38 be modified to say, "Uncorrected code violations" instead of "uncorrected building or housing code violations" which language appears in Wis. Admin. Code § ATCP 134.04(2). "Uncorrected code violations" is clearly much broader and would include fire code violations and other ordinance violations as well as building and housing code violations. It needs to be determined whether this information is being given just so that the broker can make the disclosures required by law on behalf of the owner or whether there is an additional purpose of giving the broker a somewhat broader range of information about the condition of the property to enhance the broker's ability to do his job. **DISCUSSED**

The new Wis. Stat. § 704.07(2)(bm) (<https://docs.legis.wisconsin.gov/statutes/statutes/704.pdf>) indicates that a landlord has a duty to disclose to a prospective tenant, "before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any building code or housing code violation to which all of the following apply:

1. The landlord has actual knowledge of the violation.
2. The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises.
3. The violation presents a significant threat to the prospective tenant's health or safety.
4. The violation has not been corrected."

This new statute creates a landlord disclosure obligation that is somewhat more narrow and limited than what it says in Wis. Admin. Code § ATCP 134.04(2) with regard to code violations and what it says in the WB-37. It was suggested that item (a) under the Owner's Warranties, Covenants and Representations section refer to this statute, and this has been added (highlighted in **yellow**). **DISCUSSED**

The WRA Committee also discussed whether the owner should give copies of the code violations to the broker. There was discussion over exactly what documentation should be provided and where any requirement in that regard should be placed within the WB-37. Should it be copies of all code violations received by the owner or only current uncorrected violations or only code violations received within the last two years (or other timeframe)? Or should it be all documents relating to conditions affecting the

Premises or only as enumerated in items (a)-(g)? Should this language be placed in the Owner's Warranties section or under Owner's Obligations? The WRA Committee placed language in the Owner's Obligations section and highlighted in yellow: "code violations and other documents relating to conditions affecting the Premises" DISCUSSED

The warning on lines 53-54 (at the end of the section) was also added to the draft. DISCUSSED

◆ Cooperation, Access to Premises or Proposal Presentation: proposed language fashioned after the similar section in the WB-1. This section contemplates that there may be cooperation with other brokers who are working with tenant prospects. This would seem to make sense given that the Metro MLS is going to start listing rentals, as well as for any time this form might be used in other cooperative settings. Also Wis. Admin. Code § REEB 24.13 has been amended effective July 1, 2012 ([https://docs.legis.wisconsin.gov/code/admin\\_code/reeb/24.pdf](https://docs.legis.wisconsin.gov/code/admin_code/reeb/24.pdf)), to specifically apply to rentals as well as sales with respect to submitting proposals and access for showings. DISCUSSED

◆ Exclusions; Extension of Listing; and Protected Tenant Definition: This is fashioned after the Exclusions and Extension of Listing sections and Protected Buyer definition in the WB-1 Residential Listing Contract. Note that the existing Extension of Listing section in the WB-37 is shown on lines 89-100 but is lined out and most of this information appears instead in the Protected Tenant definition, again following the model and format of the WB-1. Within the Protected Tenant definition the concerns with Premises containing more than one rental unit is evident.

As shown below, the WRA Forms Committee believes that a prospective tenant who becomes protected for one rental unit included in the WB-37 (a rental unit listed at lines 10-14 or in an addendum) should be protected for all units included in the WB-37 listing. If a tenant sees one unit the tenant should be protected for all units covered by the WB-37. See the proposed language below. DISCUSSED

■ **EXCLUSIONS:** All persons who may acquire an interest in the Premises as a Protected Tenant under a prior listing contract are 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 date of this Listing, Owner agrees to deliver to Broker a written list of all such prospective tenants. The following other tenants are excluded from this Listing until \_\_\_\_\_ [INSERT DATE]; \_\_\_\_\_ . These other tenants are no longer excluded from this Listing after the specified date unless, on or before the specified date, Owner has either entered into a written rental agreement with the tenants or rented the Premises to the tenants.

■ **EXTENSION OF LISTING:** The Listing term is extended for a period of one year as to any Protected Tenant. Upon receipt of a written request from Owner or a broker who has listed the Premises, Broker agrees to promptly deliver to Owner a written list of those tenants known by Broker to whom the extension period applies. Should this Listing be terminated by Owner prior to the expiration of the term stated in this Listing, this Listing shall be extended for Protected Tenants, on the same terms, for one year after the Listing is terminated.

**PROTECTED TENANT:** Means a tenant who personally, or through any person acting for such tenant, during the term of the Listing: 1) delivers to Owner or Broker a written rental proposal or letter of intent regarding the Premises ~~FOR A RENTAL UNIT WITHIN THE PREMISES??~~ or a rental unit included in this Listing; 2) negotiates directly with Owner by discussing with Owner the potential terms upon which tenant might acquire a leasehold ~~OR RENTAL~~ or rental interest in the Premises or a rental unit included in this Listing ~~FOR A RENTAL UNIT WITHIN THE PREMISES??~~; or 3) attends an individual showing of the Premises or a rental unit included in

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~~this Listing~~~~OR A RENTAL UNIT WITHIN THE PREMISES??]~~ or discusses with Broker or cooperating brokers the potential terms upon which tenant might acquire a leasehold or rental interest in the Premises ~~or a rental unit included in this Listing~~~~OR A RENTAL UNIT WITHIN THE PREMISES??]~~, but only if Broker delivers the tenant's name to Owner, in writing, no later than three days after the expiration of the Listing. The requirement in 3), to deliver the tenant's name to Owner 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 tenant has requested that the tenant'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 tenant who becomes protected with respect to one rental unit included in this Listing shall be a Protected Tenant for all rental units included in this Listing.

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- ◆ **Broker's Commission:** Proposed language changes to refer to written rental agreements instead of leases, and refers to rental units within the Premises being rented should the Premises contain more than one rental unit.

The WRA Committee thought that this provision should be more like the WB-1 listing contract. Line 42 of the WB-1 provides that a commission is earned if, "Seller sells or accepts an offer which creates an enforceable contract for the sale or all or any part of the Property." Hence the draft at lines 68-69 indicates that if, "Owner rents or enters into a rental agreement as to the Premises or as to a rental unit constituting a part of the Premises." **DISCUSSED**

The WRA Committee also discussed that commission should be due if the Broker "procured" a tenant. The language for "procuring a buyer" was used as a basis for the language added to the Commission section as item (b), but the WRA Committee has not reviewed this language to see if it captures the concepts they discussed. A definition of "Procure" was inserted in the draft at lines 226-229, but it is not certain if this accomplishes what the WRA Committee had in mind. **DISCUSSED concept but inserted language NOT REVIEWED**

- ◆ **Compensation to Others:** The co-broke commission provision was added, which will make sense if homes for rent are listed in the MLS or cooperative compensation is offered elsewhere. **DISCUSSED**

- ◆ **Termination of Listing & Termination Fee:** the Termination of Listing is modeled after the WB-1 Residential Listing Contract and seems like a good fit as well as providing consistency for licensees. It may make more sense to reverse the order of the Termination of Listing section and the Termination Fee sections. The WRA Committee suggests that language be added to the Termination of Listing section to echo the statement in the Termination Fee section that "the Parties agree that this Listing shall terminate upon the sale, exchange or other transfer of legal or equitable title to the Premises." **DISCUSSED**

■ **TERMINATION OF LISTING:** The Parties agree that this Listing shall terminate upon the sale, exchange or other transfer of legal or equitable title to the Premises. Neither Owner nor Broker has the legal right to unilaterally terminate this Listing absent a material breach of contract by the other party. Seller understands that the parties to the Listing are Owner and the Broker (firm). Agents (salespersons) for Broker (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 this Listing, without the written consent of the agent(s)' supervising broker. Owner and Broker agree that any termination of this Listing by either party before the date stated on line xxx shall be indicated to the other Party in writing and shall not be effective until delivered to the other Party in accordance with lines xxx-xxx. CAUTION: Early termination of this Listing may be a breach of contract, causing the terminating Party to potentially be liable for damages.

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**TERMINATION FEE** If this Listing is terminated because of a sale, exchange or other transfer of legal or equitable title to the Premises, Owner agrees to pay Broker a termination fee in the amount of \_\_\_\_\_

~~\_\_\_\_\_~~, ~~which shall be reduced by~~ in addition to any commissions paid to Broker in connection with the Owner's sale, exchange, option, or other transfer. A sale of part of the Premises does not terminate this Listing as to the remainder of the Premises. This Listing shall not terminate because of the Lease or rental of all or part of the Premises.

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◆ Attorney Fees Removed: for the sake of consistency with the other listing contracts. Or should this be different? **NOT DISCUSSED**

◆ Fair Housing: should this be qualified to say it only applies to prospective residential tenants or should we leave as it was? Could use the heading of Non-Discrimination as is done in the WB-5 commercial listing and leave the language as it is. **NOT DISCUSSED**

◆ Broker Disclosure to Client and Associated Material: much of this is required by Wis. Stat. § 452.133(2). The rest is related definitions and other helpful information that appears in the listing contracts for sales. **NOT DISCUSSED**

◆ Definitions: these also come from the sales listing contracts, but have been slightly modified for use in the WB-37. Believe the "Procure" definition can be dropped because that term is not used in the draft, at least as it now reads. "Fixtures" is another term that does not appear in the WB-37 draft and may not be needed. Likewise "Property" does not seem to be necessary as long as the definition of Premises at the beginning of the WB-37 is sufficient – or would having a definition of "Premises" be helpful? Protected Tenant was already discussed above, leaving Deadlines-Days and Delivery. **NOT DISCUSSED**

For the Delivery section to function properly, the draft adds the signature and information lines from the WB-1. The draft is also modified to authorize email delivery. **NOT DISCUSSED**

◆ Note directly above signature blocks: It would seem that something like this is needed so long as Premises may contain multiple rental units. Not sure if the reference to personal property and equipment is necessary. Your thoughts? **NOT DISCUSSED**

WB37RevisionsDSPA6-12-12

**WB-37 EXCLUSIVE LISTING CONTRACT FOR LEASE OR RENTAL OF RESIDENTIAL REAL PROPERTY**

Mandatory for use as an exclusive listing contract for lease or rental of residential property.  
Do not use as a property management agreement or listing for sale.

1 Owner gives Broker the exclusive right to rent or lease the property located in the \_\_\_\_\_ of  
2 \_\_\_\_\_ County of \_\_\_\_\_, Wisconsin, further described as: \_\_\_\_\_  
3 \_\_\_\_\_

4 ("Premises" which shall mean the entire property or a particular rental unit, as appropriate) under the terms of this  
5 Listing. ~~STRIKE AND COMPLETE AS APPLICABLE~~. Insert additional description at lines xxx-xxx or in an addendum per line xxx. Identify all  
6 rental units included in this Listing (thereby excluding other units) and specify proposed Lease and rental terms, and marketing instructions,  
7 if any, at lines xx-xx or lines xxx-xxx or attach as an addendum per line xxx. Consider addressing inclusions (furniture, appliances,  
8 equipment, designated parking and storage areas, etc.), marketing terms (potential Owner repairs, build-outs, credits, etc.) and restrictions  
9 on tenant's use and occupancy. Also see lines xx-xx regarding repairs and build-outs Owner agrees to complete under this Listing.

10 UNIT NO.	RENT	SECURITY DEP.	OTHER RENTAL TERMS/CURRENT STATUS OF UNIT
11 1.	\$	\$	
12 2.	\$	\$	
13 3.	\$	\$	
14 4.	\$	\$	

15 **BROKER'S DUTIES** In consideration for Owner's agreements herein, Owner authorizes Broker and Broker agrees to use reasonable  
16 efforts to rent the Premises, to negotiate Rental Agreements of the Premises and to perform the following services: advertise, solicit, review  
17 and verify tenant applications, qualify and approve prospective tenants, receive and hold deposits, execute written Rental Agreements on  
18 behalf of Owner, and collect rents [STRIKE ALL DUTIES BROKER DOES NOT ACCEPT], and, in addition, Broker shall provide the  
19 following services: \_\_\_\_\_

20 \_\_\_\_\_ **Note:** This is not a property management agreement and this Listing  
21 does not obligate Broker to perform any property management duties, including maintenance, unless specified at lines xx-xx or xxx-xxx.

22 **OWNER'S OBLIGATIONS** Owner agrees to make available to Broker copies of all existing data, records, documents, code violations  
23 and other documents relating to conditions affecting the Premises, rules and regulations, and other materials required in connection with the  
24 renting of the Premises, to provide or approve a Lease or Rental Agreement and related forms for Broker's use, to allow Broker to show the  
25 Premises at reasonable times and upon reasonable advance notice as may be allowed by law, to allow Broker to advertise including placing  
26 signage upon the Premises, to cooperate with Broker in Broker's actions under this Listing and to immediately provide to Broker the names  
27 of any prospective tenants known to Owner or who contact Owner, and their contact information, in writing; ~~STRIKE AND COMPLETE AS~~  
28 ~~APPLICABLE~~

29 **OWNER'S WARRANTIES, COVENANTS AND REPRESENTATIONS** Owner warrants and represents that any materials and  
30 information given to Broker by Owner are true, accurate and correct and that the Rental Agreement and other forms provided to Broker by  
31 Owner comply with all applicable laws. Owner has made no rent concessions or other agreements affecting the Premises. Owner shall  
32 immediately notify Broker in writing of any material change in the information provided to Broker. Owner agrees to hold Broker harmless  
33 from loss by reason of Broker's use of these materials, forms and information, including the payment of reasonable attorney fees in the  
34 event of any suit against Broker arising out of the use of these materials, forms and information. Owner agrees to make the following repairs  
35 and build-outs to the Premises: \_\_\_\_\_

36 \_\_\_\_\_ ~~STRIKE AND COMPLETE AS APPLICABLE~~  
37 Owner represents to Broker that Owner has no notice or knowledge of any of the following conditions affecting the Premises unless  
38 indicated at lines xxx-xxx or in an attached addendum per line xxx, or disclosed in the documentation Owner has provided to Broker:

- 39 (a) Uncorrected building or housing code violations as described in Wis. Stat. § 704.07(2)(bm);
- 40 (b) A lack of hot or cold running water;
- 41 (c) Plumbing or sewage disposal facilities that are not in good operating condition;
- 42 (d) Heating facilities serving any rental unit that are not in safe operating condition, or are not capable of maintaining a
- 43 temperature, measured in occupied areas at the approximate center of the room, midway between floor and ceiling, of at least 67° F (19° C)
- 44 during all seasons of the year that the rental unit is occupied;
- 45 (e) A lack of electrical service, or electrical wiring, outlets, fixtures or other components of the electrical system that are not in safe operating
- 46 condition;
- 47 (f) Any structural or other conditions in the Premises which constitute a substantial hazard to the health or safety of the tenant(s), or create
- 48 an unreasonable risk of personal injury as a result of any reasonably foreseeable use of the Premises other than negligent use or abuse of
- 49 the Premises by tenant(s);
- 50 (g) Other conditions or occurrences which would significantly reduce the value of the Leasehold interest to a reasonable person with
- 51 knowledge of the nature and scope of the condition or occurrence. EXCEPTIONS TO REPRESENTATIONS STATED IN LINES xx-
- 52 xx: \_\_\_\_\_

53 Owner agrees to promptly inform Broker of any information that would modify the above representations during the term of this Listing.  
54 **WARNING: IF OWNER REPRESENTATIONS ARE INCORRECT OR INCOMPLETE, OWNER MAY BE LIABLE FOR DAMAGES**  
55 **AND COSTS.**

56 **COOPERATION, ACCESS TO PREMISES OR PROPOSAL PRESENTATION:** The parties agree that Broker will work and cooperate  
57 with other brokers in marketing the Premises, including brokers from other firms acting as subagents (agents from other companies  
58 engaged by Broker - See lines xxx-xxx) and brokers representing tenants. Cooperation includes providing access to the Premises for

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59 showing purposes and presenting Rental Agreement proposals from these brokers to Owner. Note any brokers with whom Broker shall not  
60 cooperate, any brokers or tenants who shall not be allowed to attend showings, and the specific terms of proposed Rental Agreements  
61 which should not be submitted to Owner:

62 CAUTION: Limiting Broker's cooperation with other brokers may reduce the marketability of the Premises.  
63 ■ **EXCLUSIONS:** All persons who may acquire an interest in the Premises as a Protected Tenant under a prior listing contract are excluded  
64 from this Listing to the extent of the prior broker's legal rights, unless otherwise agreed to in writing. Within seven days of the date of this  
65 Listing, Owner agrees to deliver to Broker a written list of all such prospective tenants. The following other tenants are excluded from this  
66 Listing until \_\_\_\_\_ [INSERT DATE]:  
67 These other tenants are no longer excluded from this Listing after the specified date unless, on or before the specified date, Owner has  
68 either entered into a written Rental Agreement with the tenants or rented the Premises to the tenants.

69 **BROKER'S COMMISSION** Owner agrees to pay Broker a commission in the amount of \_\_\_\_\_  
70 \_\_\_\_\_, which shall be due and payable \_\_\_\_\_ if (a)  
71 Owner rents or enters into a Rental Agreement as to the Premises or as to a rental unit constituting a part of the Premises; or (b) a tenant is  
72 Procured for the Premises or as to a rental unit constituting a part of the Premises by Broker, by Owner, or by any other person, at no less  
73 than the rent and on substantially the same terms set forth in this Listing even if Owner does not accept this tenant's offer. (See lines xxx-xxx  
74 regarding Procurement.)

75 ■ **COMPENSATION TO OTHERS:** Broker offers the following commission to cooperating brokers:  
76 \_\_\_\_\_ (Exceptions if any):  
77 \_\_\_\_\_

78 **TERMINATION FEE** If this Listing is terminated because of a sale, exchange or other transfer of legal or equitable title to the Premises,  
79 Owner agrees to pay Broker a termination fee in the amount of \_\_\_\_\_  
80 \_\_\_\_\_, which shall be reduced by any commissions paid to Broker in connection with the Owner's sale, exchange,  
81 option, or other transfer.

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82 ■ **TERMINATION OF LISTING:** The Parties agree that this Listing shall terminate upon the sale, exchange or other transfer of legal  
83 or equitable title to the Premises. Neither Owner nor Broker has the legal right to unilaterally terminate this Listing absent a material  
84 breach of contract by the other party. Seller understands that the parties to the Listing are Owner and the Broker (firm). Agents  
85 (salespersons) for Broker (firm) do not have the authority to enter into a mutual agreement to terminate the Listing, amend the  
86 commission amount or shorten the term of this Listing, without the written consent of the agent(s)' supervising broker. Owner and  
87 Broker agree that any termination of this Listing by either party before the date stated on line xxx shall be indicated to the other Party  
88 in writing and shall not be effective until delivered to the other Party in accordance with lines xxx-xxx. CAUTION: Early termination of  
89 this Listing may be a breach of contract, causing the terminating Party to potentially be liable for damages.

90 ■ **EXTENSION OF LISTING:** The Listing term is extended for a period of one year as to any Protected Tenant. Upon receipt of a  
91 written request from Owner or a broker who has listed the Premises, Broker agrees to promptly deliver to Owner a written list of those  
92 tenants known by Broker to whom the extension period applies. Should this Listing be terminated by Owner prior to the expiration of  
93 the term stated in this Listing, this Listing shall be extended for Protected Tenants, on the same terms, for one year after the Listing is  
94 terminated.

95 The Listing term is extended for a period of one year as to any tenant who personally or through any person acting for such tenant either  
96 negotiated regarding the Lease of the Premises or submitted a written letter of intent or Lease during the term of this Listing (protected  
97 tenant). If the extension is based on negotiation, the extension shall be effective only if the tenant's name is delivered to Owner, in writing, no  
98 later than three days after the expiration of the Listing, unless Owner was directly involved in discussions of the potential terms upon which  
99 tenant might acquire a Leasehold interest in the Premises. The requirement of this Listing to deliver the tenant's name in order to make the  
100 extension of the Listing term effective also may be fulfilled as follows: 1) If the Listing is effective only as to certain individuals who are  
101 identified in the Listing, the identification of the individuals in the Listing shall fulfill the delivery of the tenant's name requirement and 2) if the  
102 tenant has requested that the tenant's identity remain confidential, delivery of a notice identifying the broker with whom the tenant negotiated  
103 and the date(s) of any showings or other negotiations shall fulfill the delivery of the tenant's name requirement. "Negotiated" for the purpose  
104 of this paragraph means to discuss the potential terms upon which tenant might acquire a Leasehold interest in the Premises or to attend an  
105 individual showing of the Premises. "Submitted" for the purposes of this paragraph means that a written letter of intent or Lease has been  
106 delivered to Owner or Broker.

107 **ATTORNEY FEES** Should litigation arise between the Parties in connection with this Agreement, the prevailing Party shall have the right  
108 to reasonable attorney's fees.

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

112 ■ **BROKER DISCLOSURE TO CLIENTS:**  
113 **UNDER WISCONSIN LAW, A BROKER OWES CERTAIN DUTIES TO ALL PARTIES TO A TRANSACTION:**

- 114 (a) The duty to provide brokerage services to you fairly and honestly.
- 115 (b) The duty to exercise reasonable skill and care in providing brokerage services to you.
- 116 (c) The duty to provide you with accurate information about market conditions within a reasonable time if you request it, unless  
117 disclosure of the information is prohibited by law.
- 118 (d) The duty to disclose to you in writing certain material adverse facts about a property, unless disclosure of the information is  
119 prohibited by law. (See Lines xxx-xxx)
- 120 (e) The duty to protect your confidentiality. Unless the law requires it, the broker will not disclose your confidential information or the  
121 confidential information of other parties. (See Lines xxx-xxx)
- 122 (f) The duty to safeguard trust funds and other property the broker holds.
- 123 (g) The duty, when negotiating, to present contract proposals in an objective and unbiased manner and disclose the advantages  
124 and disadvantages of the proposals.

125 ■ **BECAUSE YOU HAVE ENTERED INTO AN AGENCY AGREEMENT WITH A BROKER, YOU ARE THE BROKER'S CLIENT. A**  
126 **BROKER OWES ADDITIONAL DUTIES TO A CLIENT:**

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

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129 (b) The broker must provide you with all material facts affecting the transaction, not just adverse facts.  
 130 (c) The broker will fulfill the broker's obligations under the agency agreement and fulfill your lawful requests that are within the scope  
 131 of the agency agreement.  
 132 (d) The broker will negotiate for you, unless you reLease the broker from this duty.  
 133 (e) The broker will not place the broker's interests ahead of your interests. The broker will not, unless required by law, give information or  
 134 advice to other parties who are not the broker's clients, if giving the information or advice is contrary to your interests.  
 135 (f) If you become involved in a transaction in which another party is also the broker's client (a "multiple representation relationship"),  
 136 different duties may apply.  
 137 ■ **ADVERSE FACT:** An "adverse fact" means any of the following:  
 138 (a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:  
 139 1) Significantly and adversely affecting the value of the Premises;  
 140 2) significantly reducing the structural integrity of improvements to real estate; or  
 141 3) presenting a significant health risk to occupants of the Premises.  
 142 (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  
 143 contract or agreement made concerning the transaction.  
 144 ■ **MATERIAL ADVERSE FACT:** A "material adverse fact" means an adverse fact that a party indicates is of such significance, or  
 145 that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would  
 146 affect the party's decision to enter into a contract or agreement concerning a transaction or affects or would affect the party's decision  
 147 about the terms of such a contract or agreement.  
 148 ■ **MULTIPLE REPRESENTATION RELATIONSHIPS AND DESIGNATED AGENCY:**  
 149 ■ A multiple representation relationship exists if a broker has an agency agreement with more than one client who is a party in the  
 150 same transaction. In a multiple representation relationship, if all of the broker's clients in the transaction consent, the broker may  
 151 provide services to the clients through designated agency.  
 152 ■ Designated agency means that different salespersons employed by the broker will negotiate on behalf of you and the other client or  
 153 clients in the transaction, and the broker's duties will remain the same. Each salesperson will provide information, opinions, and  
 154 advice to the client for whom the salesperson is negotiating, to assist the client in the negotiations. Each client will be able to  
 155 receive information, opinions, and advice that will assist the client, even if the information, opinions, or advice gives the client  
 156 advantages in the negotiations over the broker's other clients. A salesperson will not reveal any of your confidential information to  
 157 another party unless required to do so by law.  
 158 ■ If a designated agency relationship is not in effect you may authorize or reject a multiple representation relationship. If you  
 159 authorize a multiple representation relationship the broker may provide brokerage services to more than one client in a transaction  
 160 but neither the broker nor any of the broker's salespersons may assist any client with information, opinions, and advice which may  
 161 favor the interests of one client over any other client. If you do not consent to a multiple representation relationship the broker will  
 162 not be allowed to provide brokerage services to more than one client in the transaction.

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

164 \_\_\_\_\_ I consent to designated agency.  
 165 \_\_\_\_\_ I consent to multiple representation relationships, but I do not consent to designated agency.  
 166 \_\_\_\_\_ I reject multiple representation relationships.

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

173 ■ **SUBAGENCY:** The broker may, with your authorization in the agency agreement, engage other brokers who assist your broker by  
 174 providing brokerage services for your benefit. A subagent will not put the subagent's own interests ahead of your interests. A subagent will  
 175 not, unless required by law, provide advice or opinions to other parties if doing so is contrary to your interests.

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

180 ■ **CONFIDENTIALITY NOTICE TO CLIENTS:** Broker will keep confidential any information given to Broker in confidence, or any  
 181 information obtained by Broker that he or she knows a reasonable person would want to be kept confidential, unless the information  
 182 must be disclosed by law or you authorize Broker to disclose particular information. Broker shall continue to keep the information  
 183 confidential after Broker is no longer providing brokerage services to you.

184 The following information is required to be disclosed by law:  
 185 1) Material adverse facts, as defined in section 452.01(5g) of the Wisconsin statutes (lines xxx-xxx).  
 186 2) Any facts known by the Broker that contradict any information included in a written inspection report on the property or real  
 187 estate that is the subject of the transaction.

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

190 **CONFIDENTIAL INFORMATION:**  
 191 \_\_\_\_\_  
 192 \_\_\_\_\_

193 **NON-CONFIDENTIAL INFORMATION** (The following may be disclosed by Broker):  
 194 \_\_\_\_\_  
 195 \_\_\_\_\_

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

199 **DELIVERY:** Delivery of documents or written notices related to this Listing may only be accomplished by:  
 200 1) giving the document or written notice personally to the Party;  
 201 2) depositing the document or written notice postage or fees prepaid or charged to an account in the U.S. Mail or a commercial delivery  
 202 system, addressed to the Party, at the Party's address (See lines xxx, xxx and xxx.);

203 3) transmitting the document or written notice to the party's fax number (See lines xxx, xx and xxx.);  
 204 4) electronically transmitting the document or written notice to the Party's e-mail address. If this is a consumer transaction where the  
 205 property being rented or Leased or the rental proceeds are used primarily for personal, family or household purposes, each consumer  
 206 providing an e-mail address has first consented electronically to the use of electronic documents, e-mail delivery and electronic signatures

207 in the transaction, as required by federal law. (See lines xxx, xx and xxx.); or  
 208 5) as otherwise agreed in additional provisions on lines xxx-xxx or in an addendum to this Listing.  
 209 **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  
 210 treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the  
 211 premises, items specifically adapted to the premises, and items customarily treated as fixtures, including, but not limited to, all:  
 212 garden bulbs; plants; shrubs and trees; screen and storm doors and windows; electric lighting fixtures; window shades; curtain and  
 213 traverse rods; blinds and shutters; central heating and cooling units and attached equipment; water heaters and treatment systems;  
 214 sump pumps; attached or fitted floor coverings; awnings; attached antennas, garage door openers and remote controls; installed  
 215 security systems; central vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances;  
 216 ceiling fans; fences; storage buildings on permanent foundations and docks/piers on permanent foundations.  
 217 **CAUTION: Exclude any Fixtures to be retained by Seller or which are rented (e.g., water softener or other water**  
 218 **conditioning systems, home entertainment and satellite dish components, L.P. tanks, etc.) on lines 11-14 and in the offer to**  
 219 **purchase.**  
 220 **PROCURE:** A buyer is procured when, during the term of the Listing, an enforceable contract of sale is entered into between the Seller and  
 221 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  
 222 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  
 223 the buyer's obligations under the written offer. (See lines 46-49)  
 224 **LEASE:** "Lease" means an agreement, whether oral or written, for transfer of possession of real property, or both real and personal  
 225 property, for a definite period of time. A Lease is for a definite period of time if it has a fixed commencement date and a fixed expiration date  
 226 or if the commencement and expiration can be ascertained by reference to some event, such as completion of a building. An agreement for  
 227 transfer of possession of only personal property is not a Lease.  
 228 **PROCURE:** A tenant is procured when, during the term of the Listing, an enforceable Rental Agreement is entered into between the Owner  
 229 and the tenant or when a ready, willing and able tenant submits to the Owner or the Listing Broker a written Rental Agreement at the rent  
 230 and on substantially the terms specified in this Listing. A tenant is ready, willing and able when the tenant submitting the written Rental  
 231 Agreement has the ability to complete the tenant's obligations under the written Rental Agreement. (See lines xx-xx)  
 232 **PROPERTY:** Unless otherwise stated, "Property", means the real estate described at lines 2-4.  
 233 **PROTECTED TENANT:** Means a tenant who personally, or through any person acting for such tenant, during the term of the Listing: 1)  
 234 delivers to Owner or Broker a written rental proposal or letter of intent regarding the Premises **[OR A RENTAL UNIT WITHIN THE**  
 235 **PREMISES??]**; 2) negotiates directly with Owner by discussing with Owner the potential terms upon which tenant might acquire a  
 236 Leasehold **OR RENTAL** interest in the Premises **[OR A RENTAL UNIT WITHIN THE PREMISES??]**; or 3) attends an individual showing of  
 237 the Premises **[OR A RENTAL UNIT WITHIN THE PREMISES??]** or discusses with Broker or cooperating brokers the potential terms upon  
 238 which tenant might acquire a **leasehold or rental** interest in the Premises **[OR A RENTAL UNIT WITHIN THE PREMISES??]**, but only if  
 239 Broker delivers the tenant's name to Owner, in writing, no later than three days after the expiration of the Listing. The requirement in 3), to  
 240 deliver the tenant's name to Owner in writing, may be fulfilled as follows: a) If the Listing is effective only as to certain individuals who are  
 241 identified in the Listing, by the identification of the individuals in the Listing; or, b) if a tenant has requested that the tenant's identity remain  
 242 confidential, by delivery of a written notice identifying the broker with whom the buyer negotiated and the date(s) of any showings or other  
 243 negotiations.  
 244 **RENTAL AGREEMENT:** "Rental Agreement" means an oral or written agreement between a landlord and tenant, for the rental or Lease of  
 245 a specific dwelling unit or premises, in which the landlord and tenant agree on the essential terms of the tenancy, such as rent. Rental  
 246 Agreement includes a Lease. Rental Agreement does not include an agreement to enter into a Rental Agreement in the future.

247 **ADDITIONAL PROVISIONS** \_\_\_\_\_  
 248 \_\_\_\_\_  
 249 \_\_\_\_\_  
 250 \_\_\_\_\_  
 251 \_\_\_\_\_

252 **ADDENDA** The attached \_\_\_\_\_ is/are made part of this Listing.  
 253 **CAUTION: IF SIGNED, THIS LISTING CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BROKERS MAY PROVIDE A**  
 254 **GENERAL EXPLANATION OF THE PROVISIONS OF THIS LISTING OR OTHER REAL ESTATE CONTRACTS, BUT ARE**  
 255 **PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS LISTING OR ANY**  
 256 **OTHER REAL ESTATE CONTRACT. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED. OWNER SHOULD**  
 257 **CONSULT OTHER EXPERTS AS APPROPRIATE, FOR EXAMPLE, APPRAISERS, TAX ADVISORS, OR INSPECTORS IF SERVICES**  
 258 **BEYOND BROKER'S MARKETING SERVICES ARE REQUIRED.**  
 259 **■ NOTICE ABOUT SEX OFFENDER REGISTRY:** You may obtain information about the sex offender registry and persons  
 260 registered with the registry by contacting the Wisconsin Department of Corrections on the Internet at <http://www.widocoffenders.org>  
 261 or by telephone at (608)240-5830.  
 262 **■ TERM OF THE CONTRACT:** From the \_\_\_\_\_ day of \_\_\_\_\_, up to and  
 263 including midnight of the \_\_\_\_\_ day of \_\_\_\_\_.  
 264 **■ READING/RECEIPT: BY SIGNING BELOW, OWNER ACKNOWLEDGES RECEIPT OF A COPY OF THIS LISTING CONTRACT**  
 265 **AND THAT HE/SHE HAS READ ALL FIVE?? PAGES AS WELL AS ANY ADDENDA AND ANY OTHER DOCUMENTS**  
 266 **INCORPORATED INTO THE LISTING.**  
 267 **NOTE: a Lease or Rental Agreement for a portion of the Premises does not terminate the listing as to any remaining part of the**  
 268 **Premises included in this Listing, including personal property and equipment.**

269 (x) \_\_\_\_\_  
 270 Owner's Signature ▲ \_\_\_\_\_ Print Name Here: ▲ \_\_\_\_\_ Date ▲ \_\_\_\_\_  
 271 \_\_\_\_\_  
 272 Owner's Address ▲ \_\_\_\_\_ Owner's Phone # ▲ \_\_\_\_\_  
 273 \_\_\_\_\_  
 274 Owner's Fax # ▲ \_\_\_\_\_ Owner's E-Mail Address ▲ \_\_\_\_\_  
 275 (x) \_\_\_\_\_  
 276 Owner's Signature ▲ \_\_\_\_\_ Print Name Here: ▲ \_\_\_\_\_ Date ▲ \_\_\_\_\_

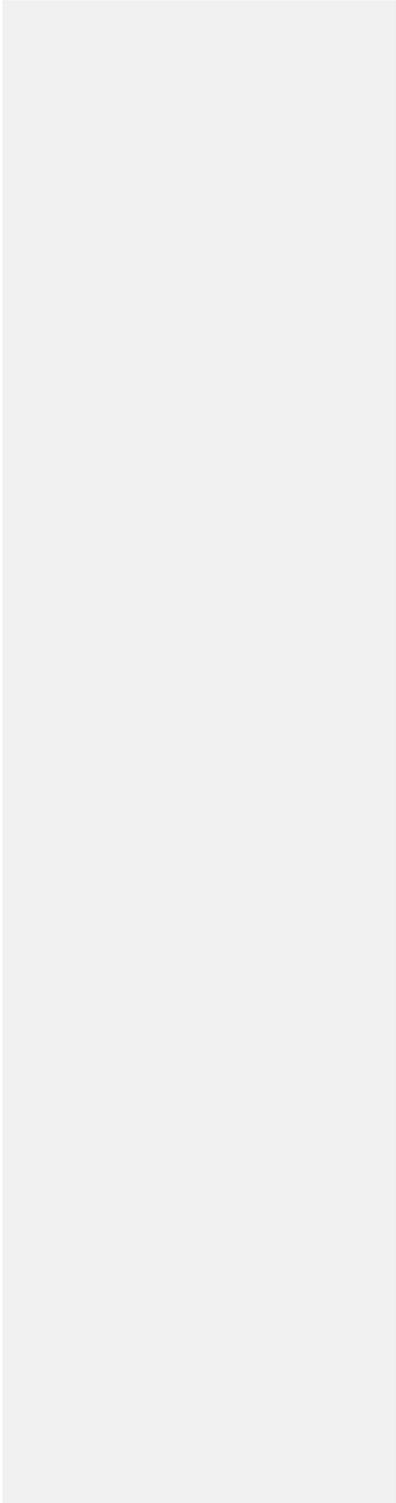
277 \_\_\_\_\_  
278 Owner's Address ▲ Owner's Phone # ▲

279 \_\_\_\_\_  
280 Owner's Fax # ▲ Owner's E-Mail Address ▲

281 (x) \_\_\_\_\_  
282 Agent for Broker ▲ Print Name Here: ▲ Broker/Firm Name ▲ Date ▲

283 \_\_\_\_\_  
284 Broker/Firm Address ▲ Broker/Firm Phone # ▲

285 \_\_\_\_\_  
286 Broker/Firm Fax # ▲ Broker/Firm E-Mail Address ▲



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