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**REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL**  
**Room N208, 4822 Madison Yards Way, 2<sup>nd</sup> Floor, Madison, WI 53705**  
**Contact: Christian Albouras (608) 266-2112**  
**February 12, 2020**

*The following agenda describes the issues that the Council 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 record of the actions and deliberations of the Council.*

**AGENDA**

**9:30 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A. Adoption of Agenda (1)**
- B. Approval of Minutes of January 16, 2020 (2)**
- C. Administrative Matters**
  - 1. Department, Staff and Council Updates
  - 2. Real Estate Examining Board Update
- D. Review of Real Estate Contractual Forms for Revision – Discussion and Consideration**
  - 1. **WB-11 – Residential Offer to Purchase (3-41)**
    - a. FIRPTA
  - 2. **WB-14 – Residential Condominium Offer to Purchase (42-48, 53-64)**
    - a. WB-14 Draft
    - b. State Bar Condominium Deed
  - 3. **WB-13 – Vacant Land Offer to Purchase (48-52, 65-76)**
    - a. WB-13 Draft
- E. Public Comments**

**ADJOURNMENT**

**NEXT MEETING: APRIL 8, 2020**

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MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL  
MEETING MINUTES  
JANUARY 16, 2020**

**PRESENT:** Joseph Busch, Debra Conrad, John Drzewiecki, Kim Moermond (*arrived at 10:53 a.m.*), Laura Peck, Angela Rowland (*excused at 2:11 p.m.*), Jonathan Sayas, Thomas Weber, Jr., Pamela Widen

**EXCUSED:** Casey Clickner, Michael Gordon, Cori Lamont, Robert Webster

**STAFF:** Debra Sybell, Executive Director; Megan Glaeser, Bureau Assistant; and other DSPS Staff

**CALL TO ORDER**

Debra Sybell, Executive Director, called the meeting to order at 9:52 a.m. A quorum was confirmed with eight (8) members present.

**ADOPTION OF AGENDA**

**MOTION:** Laura Peck moved, seconded by Pamela Widen, to adopt the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES FROM DECEMBER 11, 2019**

**MOTION:** Debra Conrad moved, seconded by Jonathan Sayas, to approve the minutes of December 11, 2019 as published. Motion carried unanimously.

*(Kim Moermond arrived at 10:53 a.m.)*

*(Angela Rowland was excused at 2:11 p.m.)*

**ADJOURNMENT**

**MOTION:** Pamela Widen moved, seconded by Thomas Weber, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:49 p.m.

**OFFER TO PURCHASE REVISIONS**

To: DSPS Real Estate Contractual Forms Advisory Committee  
From: WRA Forms Committee  
Date: February 7, 2020  
RE: **Possible WB-11 Residential Offer to Purchase TAKE 2**

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There has been conversation about making some changes to the 2020 WB-11 Residential Offer to Purchase that is now out on the street as a mandatory use. This was discussed at the meeting of the DSPS Real Estate Contractual Forms Advisory Committee on January 16, 2020 and December 11, 2019, and the WRA Forms Committee on February 6, 2020 and December 19, 2019, but no action has been taken yet and they will look at this again in February.

If there is a WB-11 Residential Offer to Purchase TAKE 2, we may wish to keep an eye on the optional and mandatory use dates. June 1/August 1? Here are some other tweaks that for the most part have been considered and approved. These are shown in blue on the accompanying WB-11.

**ALL THREE OFFER DRAFTS HAVE HIGHLIGHTED IN GRAY OR BLUE -- AND IN TRACKING -- SOME TERMINOLGY CORRECTIONS OR PROPOSED CHANGES SO IF YOU SEE ANYTHING MARKED IN THIS MANNER AND IT IS NOT ACCEPTABLE TO YOU PLEASE CALL IT OUT. SOME OF THESE ARE IN THE WB-11, THINGS LIKE USING THE WORD "THAT" INSTEAD OF "WHICH," AND SO FORTH. PLEASE DECIDE HOW THESE SHOULD BE HANDLED OR THEY ALL WILL JUST BE CONSIDERED AS ACCEPTED GOING FORWARD.**

**Fixtures definition (lines 27-37) – Pet Containment Systems and Collars**

Line 36 now refers to the following as being fixtures: “ceiling fans; fences; in-ground pet containment systems, including receiver components-(but not the collars); storage buildings on permanent foundations.” There is a concern that one cannot readily obtain new collars with the appropriate chips in them to match and work with the installed system and that the language “(but not the collars)” should be removed. This would mean, however, that the WB-1 Residential Listing Contract and the WB-11 Residential Offer to Purchase would have slightly definitions of fixtures.

**The DSPS Committee made the change shown above in tracking and shown in the draft. The WRA Forms Committee found this acceptable.**

**Closing (lines 48-51)**

**Should this be reworded to refer to “Saturday, Sunday,” instead of “weekend”?**

**CLOSING** This transaction is to be closed on \_\_\_\_\_ at the place selected by Seller, unless otherwise agreed by the Parties in writing. If the date for closing falls on a weekend Saturday, Sunday, or a federal or a state holiday, the closing date shall be the next Business Day.

**Both committees have agreed.**

## **Earnest Money (lines 61-64)**

**Should the provision in the existing 2020 WB-11 be reworded to address the situation when there is a listing firm that does not have/use a trust account?**

**Choice A:** ■ EARNEST MONEY of \$ \_\_\_\_\_ will be mailed, or commercially, electronically or personally delivered within \_\_\_\_\_ days ("5" if left blank) after acceptance. All earnest money shall be delivered to and held by (listing Firm) (~~Buyer's cooperating agent's Firm~~) (third party identified as \_\_\_\_\_) **STRIKE THOSE NOT APPLICABLE** (listing Firm if none chosen; **if no listing Firm, or if listing Firm has no trust account,** then ~~Buyer's the cooperating agent's Firm~~; if no Firm then Seller).

- ❖ **The WRA Forms Committee is in favor of the changes shown above in tracking. They also commented that a listing firm with no trust account should put everyone on notice the firm has no trust account. If they receive a check, they will have to open a trust account unless the offer was appropriately modified before that occurred. After the February 6 meeting the WRA Forms Committee continues to support this version of the provision.**

## **Draft of the DSPS Committee January 16:**

**Choice B:** ■ EARNEST MONEY of \$ \_\_\_\_\_ will be mailed, or commercially, electronically or personally delivered within \_\_\_\_\_ days ("5" if left blank) after acceptance. All earnest money shall be delivered to and held by (listing Firm) (~~Buyer's drafting agent's Firm~~) (third party identified as \_\_\_\_\_) **STRIKE THOSE NOT APPLICABLE** (~~listing drafting agent's Firm~~ if none chosen; **if no listing drafting agent's Firm, then listing Firm,** ~~then Buyer's agent's Firm~~; if no Firm then Seller).

### 1. Terminology: how to best refer to the cooperating agent's firm?

The DSPS Forms Committee made the changes shown above to refer to the "drafting agent's Firm" instead of the "cooperating agent's Firm," thinking that might be more accurate or easier to understand. However, that is a term that has not been previously used in the forms. Maybe it could refer to "Firm for the agent working with Buyer."

### 2. Default: who holds earnest money when parties fail to choose?

The first default was also changed from the listing Firm to the drafting agent's Firm. Part of the rationale was that the drafting agent knows if they have a trust account or not. A drafting agent may not know if the listing Firm does. The drafting Firm default places power in the drafting agent to have earnest money.

That switch may be problematic, however, because all of the existing license law rules and listing contracts were built on the assumption the listing firm would hold the earnest money. Presumably DSPS prefers defaulting to real estate firms because they are regulated.

One particular area of concern if the drafting agent's Firm is the default is in Wis. Admin. Code § REEB 18.09(3), which could be interpreted to allow the drafting agent/co-broke to "pay itself" at closing.

### **(3) Withdrawal of commissions.**

**(a)** A firm shall withdraw commissions or fees earned by the firm from real estate trust accounts maintained by the firm within 24 hours after transactions are consummated or terminated, or after the commissions or fees are earned in accordance with the contract involved.

It would be concerning if a co-broke could just pay itself from the earnest money, even if the listing firm disagrees. Another unintended consequence might be that such a switch could effectively nullify the listing contract provisions providing for the listing firm to receive up to ½ of the earnest money, if the

transaction does not close and the earnest money is awarded to the seller. If the default is switched, how would a listing firm get this implemented?

❖ **What does the DSPS Forms Committee prefer – Choice a or choice B? What language is best?**

### **Inspection Contingency (lines 221-222) – Permits as part of Right to Cure**

curing the Defects in a good and workmanlike manner ~~including obtaining applicable permits where required;~~  
delivering to Buyer a written report detailing the work done ~~and documenting compliance with permit requirements-~~ no later than three days prior to closing.

**Both Forms Committee are in favor removing the references to permits shown above in tracking, noting that some municipalities don't have any permits.**

### **Radon Testing Contingency (lines 231-251)**

**Should this be reworded to refer to average level radon testing and to give Buyer the ability to hire the contractor to install the radon mitigation system?**

The reference to the average radon level if there are multiple readings appears in the WRA's Addendum A and in other addenda.

The change in the right to cure would allow the buyer to have input or control over where the radon mitigation system is installed and sets a cap for the seller's monetary involvement. Not clear if contractors will install systems on property not owned by the person hiring them and if the seller wishing to cede control over their property in this manner.

**RADON TESTING CONTINGENCY:** This Offer is contingent upon Buyer obtaining a current written report of the results of a radon test at the Property performed by a qualified third party in a manner consistent with applicable EPA and Wisconsin Department of Health Services (DHS) protocols and standards indicating the radon **level, or the average level if testing involves multiple readings, is** less than 4.0 picoCuries per liter (pCi/L), at (Buyer's) (Seller's) **STRIKE ONE** ("Buyer's" if neither is stricken) expense.

This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("20" if left blank) after acceptance delivers to Seller a written copy of the radon test results report indicating a radon level of 4.0 pCi/L or higher and written notice objecting to the radon level in the report.

■ **RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure.

If Seller has the right to cure, Seller may satisfy this contingency by:

(1) delivering a written notice of Seller's election to cure within 10 days after delivery of Buyer's notice; and,

(2) ~~(Seller hiring) (Seller allowing Buyer to hire) [STRIKE ONE] ("Seller hiring" if neither is stricken) a qualified contractor to install installing~~ a radon mitigation system in conformance with EPA standards in a good and workmanlike manner and ~~by giving Buyer who will give the Parties~~ a report of the work done and a post remediation test report indicating a radon level of less than 4.0 pCi/L no later than three days prior to closing. ~~If Buyer hires the contractor Seller will pay up to \$ \_\_\_\_\_ at closing for the radon system installation and Buyer will pay all excess costs of installation.~~

This Offer shall be null and void if Buyer timely delivers the above written notice and report to Seller and:

(1) Seller does not have the right to cure; or

(2) Seller has the right to cure but:

(a) Seller delivers written notice that Seller will not cure; or

(b) Seller does not timely deliver the notice of election to cure.

- ❖ On December 19 the WRA Forms Committee was in favor adding the language for average level testing results but was not in favor of the seller allowing the buyer to hire the radon mitigation contractor. They were happy to rely on the best judgment of the installer for placement and to keep the costs contained. They prefer to keep this simple and basic. Brokers will still be able to have addenda with different versions of the radon testing contingency. What does the DSPS Committee think?
- ❖ The DSPS Forms Committee decided on January 16 to remove the reference to average testing results, in other words the EPA Protocol average. Since it already refers to EPA protocols and standards it was believed this can be figured out on the test report without additional language. They were not in favor of the additional language suggested above and below. In other words, they were in favor of leaving the Radon Testing Contingency as it now reads in the 2020 WB-11.
- ❖ On February 6 the WRA Forms Committee came back and once again asserted it was helpful for consumers looking at radon reports to have language indicating the contingency was going to be based on the average level. consumer will not know about EPA Protocol averages. They would like the language referring to averages put back in to avoid consumers thinking they and pick and choose numbers if they receive a report with multiple readings reported. They continue to not be in favor of the other proposed changes.

Another alternative:

- (1) delivering a written notice of Seller's election to cure within 10 days after delivery of Buyer's notice; and either
- (a) having a qualified contractor install a radon mitigation system in conformance with EPA standards in a good and workmanlike manner and by giving Buyer a report of the work done and a post remediation test report indicating a radon level of less than 4.0 pCi/L no later than three days prior to closing, or
- (a)(b) \_\_\_\_\_ electing to pay up to \$ \_\_\_\_\_ at closing so Buyer can have a qualified contractor install a radon mitigation system in conformance with EPA standards in a good and workmanlike manner, provided Buyer gives Seller a report of the work done and a post remediation test report indicating a radon level of less than 4.0 pCi/L no later than three days prior to closing.

- ❖ The WRA Forms Committee is not in favor of this alternative, citing concerns with providing a credit as a problem with the lender, and liability insurance. What does the DSPS Committee think? Agreed.

### **Deadlines (line 445) – Central Standard Time or Central Time?**

**Should this be reworded to say, “Central Time” rather than “Central Standard Time”?**

Line 445 presently indicates: Midnight” is defined as 11:59 p.m. Central Standard Time.

The term Central Time (CT) is often used to denote the local time in areas observing either [Central Standard Time \(CST\)](#) or [Central Daylight Time \(CDT\)](#).

Central Standard Time is 6 hours behind [Coordinated Universal Time \(UTC\)](#).

Central Daylight Time is 5 hours behind [UTC](#).

In locations observing [Daylight Saving Time \(DST\)](#) during part of the year, Central Time is not static but switches between CST and CDT.

*Greenwich Mean Time (GMT) is often interchanged or confused with Coordinated Universal Time (UTC). But GMT is a time zone and UTC is a time standard.*

Central Standard Time is fixed while Central time fluctuates – someone please remind if this is why we used Central Standard Time!

**The WRA Forms Committee said to leave this as is – Central Standard Time.** Since the WRA Forms Committee meeting, the WRA heard from a commercial broker who was adamant that it should be “Central Time.” Another possibility may be to refer to “Wisconsin time.”

**The DSPS Committee said to say Central Time to remove controversy. Is the WRA Forms Committee will go along with this.**

### **Definitions (lines 450) – add definition of “Party”?**

**Should this definition be added in the Definitions section on lines 432-451?**

■ **PARTY:** “Party” means the Buyer or the Seller; “Parties” refers to both Buyer and Seller.

**The WRA Forms Committee said to add this definition. The DSPS Committee agrees.**

### **Maintenance (lines 466-468)**

**Should this be reworded to make this consistent with other provisions that refer to the date on line 1 of the Offer?**

**MAINTENANCE** Seller shall maintain the Property and all personal property included in the purchase price until the earlier of closing or Buyer’s occupancy, in materially the same condition ~~as of the date of acceptance-it was in~~ as of the date on line 1 of this Offer, except for ordinary wear and tear and changes agreed upon by Parties.

❖ **The DSPS Forms Committee made the modification shown above in tracking to add the reference to agreed-upon changes. The WRA Forms Committee agrees.**

### **FIRPTA (lines 516-536)**

Some brokers believe there are “problems” with the FIRPTA provision with regard to the 15-day timeframe and the buyer right to rescission. There is some discussion whether removing these features would be necessary and/or the best way to address the security concerns: risks involved if a seller certification that includes a Social Security Number is transmitted in an insecure manner. Some are in favor of having the seller certification done at or just before closing – directly with the title company which would then provide the qualified substitute certification to the buyer and thus ensure the buyer is protected from any withholding responsibility or liability. One possible downside is the buyer may not find out definitively until closing that the seller is a foreign person and thus the closing would be delayed to arrange for 15% withholding from the seller proceeds in accordance with IRS § 1445 or to find and document another exception under FIRPTA.

### **Choice A:**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the total “Amount Realized” in the sale if the transferor (Seller) is a “Foreign Person” and no exception from FIRPTA withholding applies. A “Foreign Person” is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate. The “Amount

Realized” is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer.

**CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.**

Seller hereby represents that Seller is not a Foreign Person. Buyer and Seller agree to comply with FIRPTA requirements under IRC § 1445. ~~No later than 15 days prior to the closing, if Seller is not a Foreign Person, Seller shall, no later than closing, execute and deliver to Buyer, or a qualified substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller’s non-foreign status in accordance with IRC § 1445. Any representations made by Seller with respect to this issue shall survive the closing and delivery of the deed. If Seller is a Foreign Person or Seller fails to deliver certification of Seller’s non-foreign status, Buyer shall be entitled to either: (1) withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable to Seller under this Offer; or, (2) terminate this Offer by written notice to Seller prior to closing.~~ Buyer and Seller shall complete, execute, and deliver, on or before closing, any other instrument, affidavit, or statement needed to comply with FIRPTA, including withholding forms.

Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding FIRPTA.

➤ **Is this satisfactory?**

There was also discussion by the DSPS Forms Committee that the FIRPTA provision should not assume the seller is not a Foreign Person and instead the seller would deliver notice to the buyer within 10 days of acceptance indicating whether or not the seller is a Foreign Person. If no, then they would be directed to furnish the certificate before or at closing. If yes, then there should be some guidance what the seller should do.

The DSPS Forms Committee is basically saying perhaps a bit more of a rewrite is best – back to the drawing board -- and talked about how everyone should submit the language they preferred and/or submit language from other states, etc. where this is addressed.

**Choice B (DSPS):**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the total “Amount Realized” in the sale if the transferor (Seller) is a “Foreign Person” and no exception from FIRPTA withholding applies. A “Foreign Person” is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate. The “Amount Realized” is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer.

**CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.**

Seller ~~shall deliver written notice to Buyer not later than 10 days after acceptance, hereby represents that indicating whether~~ Seller is ~~or is~~ not a Foreign Person. Buyer and Seller agree to comply with FIRPTA requirements under IRC § 1445. ~~No later than 15 days prior to the closing, if Seller is not a Foreign Person, Seller shall, no later than closing, execute and deliver to Buyer, or a qualified substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller’s non-foreign status in accordance with IRC § 1445. Any representations made by Seller with respect to this issue shall survive the closing and delivery of the deed. If Seller fails to timely provide written notice of Seller’s status or if Seller is a Foreign Person deliver certification of Seller’s non-foreign status, Buyer shall be entitled to either: (1) withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable to Seller under this Offer; or, (2) terminate this Offer by written notice to Seller~~

~~prior to closing~~. Buyer and Seller shall complete, execute, and deliver, on or before closing, any other instrument, affidavit, or statement needed to comply with FIRPTA, including withholding forms. Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding FIRPTA.

### **Choice C (WRA):**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the total “Amount Realized” in the sale if the transferor (Seller) is a “Foreign Person” and no exception from FIRPTA withholding applies. A “Foreign Person” is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate. The “Amount Realized” is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer.

**CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.**

Buyer and Seller agree to comply with FIRPTA requirements under IRC § 1445.

### **Seller hereby represents that Seller is not a Foreign Person.**

~~No later than 15 days prior to the closing~~; If Seller ~~is not a Foreign Person~~, Seller shall, ~~no later than closing~~, execute and deliver to Buyer, or a qualified substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller’s non-foreign status in accordance with IRC § 1445. Any representations made by Seller with respect to this issue shall survive the closing and delivery of the deed. If Seller ~~is a Foreign Person or Seller~~ fails to deliver certification of Seller’s non-foreign status, Buyer shall be entitled to either: (1) withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable to Seller under this Offer; or, (2) terminate this Offer by written notice to Seller prior to closing. Buyer and Seller shall complete, execute, and deliver, on or before closing, any other instrument, affidavit, or statement needed to comply with FIRPTA, including withholding forms.

Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding FIRPTA.

### **❖ The WRA Forms Committee was in favor of Choice C. What does the DSPS Forms Committee think?**

**FLORIDA CONTRACT LANGUAGE**, lines 236-242 AND 610-638:

- (i) **FIRPTA TAX WITHHOLDING:** Seller shall inform Buyer in writing if Seller is a “foreign person” as defined by the Foreign Investment in Real Property Tax Act (“FIRPTA”). Buyer and Seller shall comply with FIRPTA, which may require Seller to provide additional cash at Closing. If Seller is not a “foreign person”, Seller can provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform Buyer and Closing Agent that no withholding is required. See STANDARD V for further information pertaining to FIRPTA. Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective rights, obligations, reporting and withholding requirements pursuant to FIRPTA.

**V. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (“FIRPTA”):** If a seller of U.S. real property is a “foreign person” as defined by FIRPTA, Section 1445 of the Internal Revenue Code requires the buyer of the real property to withhold up to 15% of the amount realized by the seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding. Due to the complexity and potential risks of FIRPTA, Buyer and Seller

should seek legal and tax advice regarding compliance, particularly if an “exemption” is claimed on the sale of residential property for \$300,000 or less.

(i) No withholding is required under Section 1445 if the Seller is not a “foreign person,” provided Buyer accepts proof of same from Seller, which may include Buyer’s receipt of certification of non-foreign status from Seller, signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller’s name, U.S. taxpayer identification number and home address (or office address, in the case of an entity), as provided for in 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold the applicable percentage of the amount realized by Seller on the transfer and timely remit said funds to the IRS.

(ii) If Seller has received a Withholding Certificate from the IRS which provides for reduced or eliminated withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced sum, if any required, and timely remit said funds to the IRS.

(iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and has provided to Buyer the notice required by 26 CFR 1.1445-1(c)(2)(i)(B) but no Withholding Certificate has been received as of Closing, Buyer shall, at Closing, withhold the applicable percentage of the amount realized by Seller on the transfer and, at Buyer’s option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at Seller’s expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the parties, to be subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to the IRS if the Seller’s application is rejected or upon terms set forth in the escrow agreement.

(iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this transaction, Seller shall deliver to Buyer, at Closing, the additional COLLECTED funds necessary to satisfy the applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for disbursement in accordance with the final determination of the IRS, as applicable.

(v) Upon remitting funds to the IRS pursuant to this STANDARD, Buyer shall provide Seller copies of IRS Forms 8288 and 8288-A, as filed.

### **\$300,000 Exemption Checkbox Proposal:**

Another suggestion was submitted with regard to adding language concerning the \$300,000 exemption. The idea is to use the following as a check box provision appearing after the FIRPTA provision:

This property is being acquired for a price of not more than \$300,000 by an individual for residential use. Buyer or a member of his/her family ~~will has definite plans to~~ reside at the property for at least 50% of the ~~time-number of days the property is used by any person for during each of the first two 12-month periods the first 2 years after closing following transfer.~~ Buyer waives Seller's requirement to provide a sworn certification of non-foreign status.

[this shows the original idea submitted with modifications in tracking] There is market data for various counties around the state showing prices under \$300,000. For example, Milwaukee County had 9,135 year to date sales through November of 2019 with a median sales price of \$175,000. It is asserted the proposed provision it would save time and resources and also provide a safety net for sensitive data by avoiding the need to provide Social Security numbers in the certificates.

❖ **The DSPS Committee was not in favor of this. What does the WRA Forms Committee think?**

### **Line 558 – line for writing in email addresses:**

The observation was made that given that both the seller’s and buyer’s email addresses are to all be written into line 558 and that sometimes there are multiple email addresses or email addresses that are too long to fit, the request is being made to add a line for stating email addresses and remove one blank line from Additional Provisions.

❖ **What does the DSPS Forms Committee think?**

OfferWB-11TAKE2dsps2-12-20

## **FIRPTA Excerpts from memos for both WRA and DSPS last April/May/June (2019)**

### **Request for FIRPTA Provision – Lines 524-543:**

The disposition of a U.S. real property interest by a foreign person (the transferor) (for example, a non-resident alien) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding. Persons purchasing U.S. real property interests (transferees) from foreign persons, certain purchasers' agents, and settlement officers are required to withhold 15% of the amount realized on the disposition (special rules for foreign corporations). <https://www.irs.gov/individuals/international-taxpayers/firpta-withholding>

Exceptions to FIRPTA withholding: <https://www.irs.gov/individuals/international-taxpayers/exceptions-from-firpta-withholding> includes residential property purchased for less than \$300,000 and used as a home.

➤ **Both Committees have agreed they will work from Option #5 below.**

### **Option #1:**

FEDERAL TAX REQUIREMENT: If Seller is a "foreign person", as defined by applicable law, or if Seller fails to deliver an affidavit that Seller is not a "foreign person", then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax form.

The Wisconsin Land Title Association has also requested that a FIRPTA provision be included. This is based on the Minnesota provision and perhaps too detailed, but it does make the point that the parties will need to complete an affidavit and provide their Social Security numbers on or before closing: **Option #2:**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must be notified in writing and must withhold tax if the transferor (Seller) is a foreign person and no exceptions from FIRPTA withholding apply. Buyer and Seller agree to comply with FIRPTA requirements under IRC § 1445. Seller shall represent and warrant, under penalties of perjury, whether Seller is a "foreign person," as defined in FIRPTA, prior to closing. Any representations made by Seller with respect to this issue shall survive the closing and delivery of the deed. Buyer and Seller shall complete, execute, and deliver, on or before closing, any instrument, affidavit, or statement reasonably necessary to comply with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or Social Security numbers. Due to the complexity and potential risks of failing to comply with FIRPTA, including Buyer's responsibility for withholding the applicable tax, Buyer and Seller should seek appropriate legal and tax advice regarding FIRPTA compliance, as the respective licensees representing or assisting either party will be unable to assure either party whether the transaction is exempt from FIRPTA withholding requirements.

Another version: **Option #3:**

**Compliance with Foreign Investment in Real Property Tax Act of 1980 (FIRPTA):** The Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) requires persons purchasing U.S. real property interests (transferees) from foreign persons, certain purchasers' agents, and settlement officers to withhold 15% of the amount realized on the disposition (special rules for foreign corporations). <https://www.irs.gov/individuals/international-taxpayers/firpta-withholding>. Exceptions to this withholding

include residential property used as a home that sells for less than \$300,000.  
<https://www.irs.gov/individuals/international-taxpayers/exceptions-from-firpta-withholding>.

Section 1445 of the Internal Revenue Code (IRC) provides a transferee (Buyer) of a United States real property interest must be notified in writing and must withhold tax if the transferor (Seller) is a foreign person and no exceptions from FIRPTA withholding apply.

The Parties agree to comply with FIRPTA requirements under IRC § 1445. Seller shall represent and warrant, under penalties of perjury, whether Seller is a “foreign person,” as defined in FIRPTA, prior to closing. Any representations made by Seller with respect to this issue shall survive the closing and delivery of the deed. The Parties shall complete, execute, and deliver, on or before closing, any instrument, affidavit, or statement reasonably necessary to comply with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or Social Security numbers.

Due to the complexity and potential risks of failing to comply with FIRPTA, including Buyer’s responsibility for withholding the applicable tax, the Parties should seek appropriate legal and tax advice regarding FIRPTA compliance, as the respective firm and its agent are unable to assure either Party whether the transaction is exempt from FIRPTA withholding requirements.

Another version: **Option #4:**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must deduct and withhold a 15% tax on the total Amount Realized in the transaction if the transferor (Seller) is a Foreign Person and no exception from FIRPTA withholding applies. A Foreign Person is a nonresident alien individual, foreign corporation that has not made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate. The Amount Realized is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer.

If Seller (is)(is not) ~~STRIKE ONE~~ a foreign person, and Seller shall provide a sworn affidavit under penalties of perjury prior to closing confirming this status and furnishing Seller’s Social Security number or taxpayer identification number. If Seller is a Foreign Person and Buyer fails to withhold, Buyer may be held liable for the tax.

➤ **The DSPS made the modifications shown above in tracking.**

### **Option #5.**

**The WRA Forms Committee suggested the following to provide more protection for the buyer and the DSPS Committee also favored this version – they made additional modifications to the language:**

➤ **The WRA wants there to be no choices to be made in the provision so this was further modified and now appears in the draft at lines 315-325:**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must deduct and withhold a 15% tax on the total Amount Realized in the transaction if the transferor (Seller) is a Foreign Person and no exception from FIRPTA withholding applies. A Foreign Person is a nonresident alien individual, foreign corporation that has not made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate. The Amount Realized is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer.

~~Seller warrants and represents Seller (is)(is not) STRIKE ONE (“is not” if neither is stricken) a foreign person. If Seller (is)(is not) STRIKE ONE a foreign person, and Seller shall provide a sworn affidavit under penalties of perjury prior to closing confirming this Seller’s status in conformance with IRC § 1445(b)(2) and furnishing Seller’s Social Security number or taxpayer identification number. If Seller is a Foreign Person and Buyer fails to withhold, Buyer may be held liable for the tax. Firms or real estate agents are not responsible for determining whether FIRPTA applies. The Parties may wish to consult independent legal counsel or tax advisors.~~

- The DSPS Committee discussed who would provide the affidavit and who is responsible to see that it is done. Many title companies will not and certainly it should not be the licensees – buyer’s attorney perhaps? There was also discussion of whether the WRA should offer a form for this purpose. Would we want this done? There are forms available online from title companies and other sources that are essentially the same. The DSPS Committee intends to discuss this more at their next meeting on January 23. They were interested in knowing what was done in other states. See, for instance, Knight Barry’s Minnesota forms at <https://www.knightbarry.com/Forms/MN-Forms.aspx>
- The WRA Forms Committee also discussed whether the WRA should have a form for the Certificate of Non-Foreign Status. Many are uneasy with the form, in part because it includes a TIN/Social Security number, but if the language above is adopted there may be no other reliable way for the Sellers to complete and submit the form before closing because not all title companies are on board to work with this.
- On January 23 the DSPS Committee elected to pass this until next time based on the conversation from that committee that they thought there were other ways to handle this in other states, etc. Those DSPS Committee members will be responsible to bring forward their other proposals and the WRA Forms Committee is not expected to do anything further. However, please note the significant comments that were made:
  1. The suggestion was made to move this provision above the signature lines so it would not be missed by the parties.
  2. The affidavit of the seller needs to be submitted to the closing agent/title company BEFORE closing so there are no last-minute surprises. If the seller is a foreign person additional paperwork needs to be done.
  3. The latest word from the WLTA attorneys is they would prefer an affirmative statement in the offer as to whether the seller is or is not a foreign person. This would provide a heads-up as to what was coming and what would be required for closing.

Another suggestion for review from Arizona: **Option #6:**

**FOREIGN SELLERS:** The Foreign Investment in Real Property Tax Act (“FIRPTA”) is applicable if Seller is a non-resident alien individual, foreign corporation, foreign partnership, foreign trust or foreign estate (“Foreign Person”). Seller agrees to complete, sign, and deliver to Escrow Company a certificate indicating whether Seller is a Foreign Person. FIRPTA requires that a foreign seller may have federal income taxes up to 15% of the purchase price withheld, unless an exception applies. Seller is responsible for obtaining independent legal and tax advice.

Another suggestion: **Option #7:**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** Section 1445 of the Internal Revenue Code (IRC) applies to certain transactions where the Seller is a “Foreign Person,” who under that law is a nonresident alien individual, foreign corporation that has not made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or

foreign estate, and requires the transferee (Buyer) to pay or withhold a 15% tax on the total Amount Realized in the transaction if the transferor (Seller) is a Foreign Person and no exception from FIRPTA withholding applies. The Amount Realized is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer.

**CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer may be held directly liable by the United States Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.** Seller agrees to provide a sworn affidavit, or equivalent document, under penalty of perjury, prior to closing confirming whether or not Seller is a Foreign Person and furnish identification as necessary to any closing entity to confirm same, and Buyer agrees to pay or cause to be withheld at closing the amount, if any, as may be required under FIRPTA. Firms or real estate agents are not responsible for determining whether FIRPTA applies. The parties may wish to consult independent legal counsel or tax advisors.

**FIRPTA Proposed by Jonathan Sayas (different from the WLTA proposals following below!)**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must deduct and withhold a tax on the total Amount Realized in the transaction if the transferor (Seller) is a Foreign Person and no exception from FIRPTA withholding applies. The Amount Realized is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer. A Foreign Person is a nonresident alien individual, foreign corporation that has not made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate.

Seller agrees to provide Buyer ~~at~~before closing, a qualifying Certification of Non-Foreign Status or other evidence that this transaction is exempt from FIRPTA withholding. In the event this transaction is not exempt, the parties agree to execute the necessary documentation and IRS tax forms to comply with FIRPTA and agrees the required withholding funds shall be paid to the IRS at closing. Firms or real estate agents are not responsible for determining whether FIRPTA applies. The Parties may wish to consult independent legal counsel or tax advisors.

**CAUTION: Under this law if Seller is a Foreign Person and transaction is not exempt from withholding, and Buyer does not pay or withhold the tax amount, Buyer may be held directly liable by the United States Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.**

**3 drafts of FIRPTA REVISIONS: to be placed at end of offer above signature lines**

**1<sup>st</sup> Draft:**

This Offer is made by Buyer with the express understanding and condition that Seller is not a Foreign person, is not a nonresident alien individual and is not a foreign corporation that has made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate. If any of the above representations are not true, seller **MUST** counter this offer and agrees that proceeds of this transaction may be subject to FIRPTA withholding.

The above statement is true. \_\_\_\_\_

The above statement is not true, this Offer is countered. \_\_\_\_\_

582 (x) \_\_\_\_\_  
583 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_  
584 (x) \_\_\_\_\_  
585 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_  
586 This Offer was presented to Seller by [Licensee and Firm] \_\_\_\_\_

**2<sup>nd</sup> Draft:**

This Offer is made by Buyer with the express understanding and condition that Seller is not a Foreign person, is not a nonresident alien individual and is not a foreign corporation that has made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate. If any of the above representations are not true, seller MUST counter this offer **affirmatively verifying Seller's status with respect to FIRPTA laws** and agrees that proceeds of this transaction may be subject to FIRPTA withholding.

The above statement is true. \_\_\_\_\_  
The above statement is not true, this Offer is countered **to include Seller's FIRPTA status with respect to Section 1445 of the Internal Revenue Code (IRC).** \_\_\_\_\_

582 (x) \_\_\_\_\_  
583 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_  
584 (x) \_\_\_\_\_  
585 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_  
586 This Offer was presented to Seller by [Licensee and Firm] \_\_\_\_\_

**3<sup>rd</sup> Draft:**

This Offer is made by Buyer with the express understanding and condition that Seller is not a Foreign person, is not a nonresident alien individual and is not a foreign corporation that has made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate. If any of the above representations are not true, seller MUST counter this offer **affirmatively verifying Seller's status with respect to FIRPTA laws** and agrees that proceeds of this transaction may be subject to FIRPTA withholding.

The above statement is true. **Seller further agrees to provide certification no later than 3 days prior to closing.** \_\_\_\_\_

The above statement is not true, this Offer is countered **to include Seller's FIRPTA status with respect to Section 1445 of the Internal Revenue Code (IRC). Seller agrees to provide certification no later than 3 days prior to closing** \_\_\_\_\_

582 (x) \_\_\_\_\_  
583 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_  
584 (x) \_\_\_\_\_  
585 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_  
586 This Offer was presented to Seller by [Licensee and Firm] \_\_\_\_\_

**Wisconsin Land Title Most Recent Requests cover letter:**

Attorney Conrad –

On behalf of the WLTA please see the attached memo regarding the title provisions of the offer to purchase. The WLTA would also request that should any FIRPTA provision be inserted into the offer to purchase:

1. That the provision contain a clear representation as to whether the Seller is a non-resident alien, foreign corporation, foreign trust, foreign estate or other foreign entity (as defined in the Internal Revenue Code and Income Tax Regulations).
2. That any Certification of Non-Foreign Status be provided in advance of the deadline for closing.
3. That the provision clarifies a title agent involved in the transaction, is not required to act as a withholding agent for the Buyer, nor is responsible for compliance with any FIRPTA provision.
4. That if the above provisions would **not** be included in the offer to purchase, the WLTA would be agreeable to having no FIRPTA provision in the offer to purchase (status quo), or in the alternative, a very generic warning that the parties may be subject to FIRPTA and are responsible for compliance with same.

Thank you for considering the feedback from the WLTA.

Jonathan M. Sayas  
Wisconsin Underwriting Counsel  
Stewart Title Guaranty Company

**SEE ATTACHED MEMO REGARDING TITLE ISSUES**

**So, there are lots of ideas and no clear solutions and not everyone will be happy with any choice that is made!**

- 1. Do nothing**
- 2. Use language proposed for the end of the offer (seller certifications in all transactions)**
- 3. Use warning language only (would have to create because what we have all ends up with the seller agreeing to take action)**
- 4. Use one of the options**

**Most provisions include language that the seller agrees to provide the certification so that means a step would be added to all transactions.**

- ★ **The following rough draft provision is based upon the discussion of the WRA Forms Committee on March 14 and assumes the WRA would create a form for sellers to use for the certification of foreign/non-foreign status. The provision would be placed near the end of the form.**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must deduct and withhold a 15% tax on the total amount realized in the transaction if the transferor (Seller) is a Foreign Person and no exception from FIRPTA withholding applies. A Foreign Person is a nonresident alien individual, foreign corporation that has not made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate. If Seller is a Foreign Person, and Buyer does not withhold the tax, Buyer may be held directly liable by the United States Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.

This Offer is made with the express understanding that Seller is not a Foreign Person. If Seller is a Foreign Person, Seller must counter this Offer and **affirmatively confirm Seller's status with respect to FIRPTA laws** and Seller acknowledges proceeds of this transaction may be subject to FIRPTA withholding. Firms or real estate agents are not responsible for determining whether FIRPTA applies. The parties may wish to consult independent legal counsel or tax advisors.

Seller is not a Foreign Person. **Seller shall provide a qualifying certification of non-foreign status to the closing agent no later than 3 days prior to closing.**

\_\_\_\_\_  
Seller's Initials ▲                      Date ▲                      Seller's Initials ▲                      Date ▲

Seller is a Foreign Person, and this Offer is countered. **Seller shall provide a qualifying certification of foreign status to the closing agent no later than 3 days prior to closing.**

\_\_\_\_\_  
Seller's Initials ▲                      Date ▲                      Seller's Initials ▲                      Date ▲

- ★ The following is an alternate draft with the notion that a counter-offer may not be necessary. It again assumes the WRA would create a form for sellers to use for the certification of foreign/non-foreign status. The provision is shown in the draft near the end of the form:

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must deduct and withhold a 15% tax on the total amount realized in the transaction if the transferor (Seller) is a Foreign Person and no exception from FIRPTA withholding applies. A Foreign Person is a nonresident alien individual, foreign corporation that has not made an election under section 897(i) of the IRC to be treated as a domestic corporation, foreign partnership, foreign trust, or foreign estate. If Seller is a Foreign Person, and Buyer does not withhold the tax, Buyer may be held directly liable by the United States Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.

This Offer is made with the express understanding that Seller is not a Foreign Person. If Seller is a Foreign Person or if Seller does not provide certification of Seller's status, Seller acknowledges proceeds of this transaction may be subject to FIRPTA withholding. Firms or real estate agents are not responsible for determining whether FIRPTA applies. The parties may wish to consult independent legal counsel or tax advisors.

**Seller is not a Foreign Person. Seller shall provide a qualifying certification of non-foreign status to the closing agent no later than 3 days prior to closing.**

\_\_\_\_\_  
Seller's Initials ▲                      Date ▲                      Seller's Initials ▲                      Date ▲

**Seller is a Foreign Person. Seller shall provide a qualifying certification of foreign status to the closing agent no later than 3 days prior to closing.**

\_\_\_\_\_  
Seller's Initials ▲                      Date ▲                      Seller's Initials ▲                      Date ▲

The WRA Forms Committee believes that the process should protect the parties first and the brokers second. It was suggested that the foreign/nonforeign status of sellers should be gathered in the listing contracts.

- ★ Note that the certification forms include the seller's TIN/Social Security number and the FIRPTA information seems to indicate the certification would go to the buyer to prove to the buyer they don't have to withhold – it is the buyer's insurance policy – and there is indication the buyer should hold the certification for 5 years.

**April 3, 2019: The DSPS Forms Committee** discussed this at some length and the following is what they agreed to (lines 524-543 of the draft). This version assumes the seller is not a foreign person and the seller will have to counter if they are. The seller nonetheless is required to provide a sworn certification of seller's non-foreign status because that is the only way under the tax code the buyer has "the insurance policy" protecting them from any liability to the IRS. It was discovered that this could be delivered to a "qualified substitute" who is responsible for the closing. This may include a title company or an attorney but does not include the either party's agent. It seems the seller appoints the qualified substitute (this may need further confirmation). That would mean the certificate with the Social Security number in it does not have to be delivered to the buyer necessarily, at least not at first. The qualified substitute gives the buyer a statement, under penalties of perjury, that the certificate is in the possession of the qualified substitute. The qualified substitute is to hold the certificate for six years unless the IRS requires the buyer to produce it to prove the exemption from withholding. This provides some relief to those real estate licensees concerned about transmission and holding of documents with Social Security numbers in them. Again, to protect buyers in transaction that is the only way to eliminate liability assuming the buyer does not have knowledge that the certificate or the qualified substitute's statement is false. This also assumes the WRA will create a form for the certificate of non-foreign status.

If the seller does not deliver a certificate at least 15 days before closing the buyer can either withhold from the proceeds pursuant IRC procedures or give notice terminating the offer. If a seller does not provide a Social Security number or an ITIN, the seller is not in violation of the IRC and the buyer becomes obligated to withhold. There are other exemptions from withholding but it was thought best to leave that for the sellers and their attorneys to submit proper notice and proof and get the buyer to agree to such an alternate resolution, likely in a counter-offer or offer amendment.

**NEW!!! – DSPS Forms Council did not have this information to work from:**

**26 CFR § 1.1445-2 - Situations in which withholding is not required under section 1445(a).**

***(d) Exceptions to requirement of withholding -***

**(1) Purchase of residence for \$300,000 or less.** No withholding is required under section 1445(a) if one or more individual transferees acquire a U.S. real property interest for use as a residence and the amount realized on the transaction is \$300,000 or less. For purposes of this section, a U.S. real property interest is acquired for use as a residence if on the date of the transfer the transferee (or transferees) has definite plans to reside at the property for at least 50 percent of the number of days that the property is used by any person during each of the first two 12-month periods following the date of the transfer. The number of days that the property will be vacant is not taken into account in determining the number of days such property is used by any person. A transferee shall be considered to reside at a property on any day on which a member of the transferee's family, as defined in section 267(c)(4), resides at the property. No form or other document need be filed with the Internal Revenue Service to establish a transferee's entitlement to rely upon the exception provided by this paragraph (d)(1). A transferee who fails to withhold in reliance upon this exception, but who does not in fact reside at the property for the minimum number of days set forth above, shall be liable for the failure to withhold (if the transferor was a foreign person and did not pay the full U.S. tax due on any gain recognized upon the transfer). However, if the transferee establishes that the failure to reside the minimum number of days was caused by a change in circumstances that could not reasonably have been anticipated at the time of the transfer, then the transferee shall not be liable for the failure to withhold.

The exception provided by paragraph (d)(1) does not apply in any case where the transferee is other than an individual even if the property is acquired for or on behalf of an individual who will use

the [property](#) as a residence. However, this [exception](#) applies regardless of the organizational structure of the transferor (i.e., regardless of whether the transferor is an individual, [partnership](#), [trust](#), [corporation](#), [etc.](#)).

- **Should something based on this information be worked into the provision? Perhaps a check box the buyer may check when drafting the offer indicating the buyer will rely upon the \$300,000 or less purchase price/buyer owner occupies exemption and will not withhold?**

**FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the total "Amount Realized" in the sale if the transferor (Seller) is a "Foreign Person" and no exception from FIRPTA withholding applies. A "Foreign Person" is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate. The "Amount Realized" is the sum of the cash paid, the fair market value of other property transferred, and the amount of any liability assumed by Buyer.

**CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed upon the Property.**

Seller hereby represents that Seller is not a Foreign Person. Buyer and Seller agree to comply with FIRPTA requirements under IRC § 1445. No later than 15 days prior to the closing, Seller shall execute and deliver to Buyer, or a qualified substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller's non-foreign status in accordance with IRC § 1445 including Seller's Social Security number or taxpayer identification number. Any representations made by Seller with respect to this issue shall survive the closing and delivery of the deed. If Seller fails to deliver certification of Seller's non-foreign status, Buyer shall be entitled to either: (1) withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable to Seller under this Offer; or, (2) terminate this Offer by written notice to Seller prior to closing. Buyer and Seller shall complete, execute, and deliver, on or before closing, any other instrument, affidavit, or statement needed to comply with FIRPTA, including withholding forms.

Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors.

- **Is this acceptable or are there other suggestions and ideas?**

**WB-11 RESIDENTIAL OFFER TO PURCHASE**

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

3 The Buyer, \_\_\_\_\_,  
4 offers to purchase the Property known as [Street Address] \_\_\_\_\_

5 \_\_\_\_\_  
6 in the \_\_\_\_\_ of \_\_\_\_\_, County  
7 of \_\_\_\_\_ Wisconsin (insert additional description, if any, at lines 537-542 or  
8 in an addendum per line 563), on the following terms:

9 **PURCHASE PRICE** The purchase price is \_\_\_\_\_  
10 \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

11 **INCLUDED IN PURCHASE PRICE** Included in purchase price is the Property, all Fixtures on the Property as of the date  
12 stated on line 1 of this Offer (unless excluded at lines 20-23), and the following additional items: \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

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

19 **NOT INCLUDED IN PURCHASE PRICE** Not included in purchase price is Seller's personal property (unless included at  
20 lines 12-16) and the following: \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24 **CAUTION: Identify Fixtures that are on the Property (see lines 27-37) to be excluded by Seller or which that are**  
25 **rented (e.g., water softeners or other water treatment systems, LP tanks, etc.) and will continue to be owned by**  
26 **the lessor.**

27 "Fixture" is defined as an item of property which is physically attached to or so closely associated with land, buildings or  
28 improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not easily  
29 removable without damage to the premises, items specifically adapted to the premises and items customarily treated as  
30 fixtures, including, but not limited to, all: garden bulbs; plants; shrubs and trees; screen and storm doors and windows;  
31 electric lighting fixtures; window shades; curtain and traverse rods; blinds and shutters; central heating and cooling units  
32 and attached equipment; water heaters, water softeners and treatment systems; sump pumps; attached or fitted floor  
33 coverings; awnings; attached antennas and satellite dishes (but not the component parts); audio/visual wall mounting  
34 brackets (but not the audio/visual equipment); garage door openers and remote controls; installed security systems; central  
35 vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans;  
36 fences; in-ground pet containment systems, including receiver components (but not the collars); storage buildings on  
37 permanent foundations and docks/piers on permanent foundations.

38 **CAUTION: Exclude any Fixtures to be retained by Seller or which that are rented (e.g., water softeners or other**  
39 **water treatment systems, LP tanks, etc.) on lines 20-23 or at lines 537-542 or in an addendum per line 563).**

40 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer  
41 on or before \_\_\_\_\_. Seller may keep the  
42 Property on the market and accept secondary offers after binding acceptance of this Offer.

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

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

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

48 **CLOSING** This transaction is to be closed on \_\_\_\_\_  
49 \_\_\_\_\_ at the place selected by Seller,  
50 unless otherwise agreed by the Parties in writing. If the date for closing falls on Saturday, Sunday, or a federal or a state  
51 holiday, the closing date shall be the next Business Day.

52 **CAUTION: To reduce the risk of wire transfer fraud, any wiring instructions received should be independently**  
53 **verified by phone or in person with the title company, financial institution, or entity directing the transfer. The real**  
54 **estate licensees in this transaction are not responsible for the transmission or forwarding of any wiring or money**  
55 **transfer instructions.**

**EARNEST MONEY**

57 ■ EARNEST MONEY of \$ \_\_\_\_\_ accompanies this Offer.

58 If Offer was drafted by a licensee, receipt of the earnest money accompanying this Offer is acknowledged.

59 ■ EARNEST MONEY of \$ \_\_\_\_\_ will be mailed, or commercially, electronically  
60 or personally delivered within \_\_\_\_\_ days ("5" if left blank) after acceptance.

61 All earnest money shall be delivered to and held by (listing Firm) (Buyer's cooperating/drafting agent's Firm) (third party  
62 identified as \_\_\_\_\_) **STRIKE THOSE NOT APPLICABLE** (listing  
63 drafting agent's Firm if none chosen; if no listing Firm,; or if no listing/drafting agent's Firm has no trust account, then Buyer's  
64 the cooperating agent's listing Firm; if no Firm then Seller).

65 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise agreed in writing.

66 ■ HELD BY: Earnest money shall be delivered in accordance with lines 59-60 and held in the account of the party-person  
67 identified on lines 61-63. If earnest money is held by a Firm, the Firm will hold the earnest money until applied to the  
68 purchase price or disbursed as provided at lines 71-91.

69 **CAUTION: Should persons other than a Firm hold earnest money, an escrow agreement should be drafted by the**  
70 **Parties or an attorney as lines 71-91 do not apply. If someone other than Buyer pays earnest money, consider a**  
71 **special disbursement agreement.**

72 ■ **DISBURSEMENT IF EARNEST MONEY HELD BY A FIRM:** If negotiations do not result in an accepted offer and the  
73 earnest money is held by a Firm, the earnest money shall be promptly disbursed (after clearance from payer's depository  
74 institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest money shall  
75 be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according  
76 to a written disbursement agreement signed by all Parties to this Offer. If said disbursement agreement has not been  
77 delivered to the Firm holding the earnest money within 60 days after the date set for closing, that Firm may disburse the  
78 earnest money: (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer or Seller;  
79 (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court order; (4)  
80 upon authorization granted within this Offer; or (5) any other disbursement required or allowed by law. The Firm may retain  
81 legal services to direct disbursement per (1) or to file an interpleader action per (2) and the Firm may deduct from the  
82 earnest money any costs and reasonable attorneys' fees, not to exceed \$250, prior to disbursement.

83 ■ **LEGAL RIGHTS/ACTION:** The Firm's disbursement of earnest money does not determine the legal rights of the Parties  
84 in relation to this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by the Firm holding the earnest  
85 money. At least 30 days prior to disbursement per (1), (4) or (5) above, where the Firm has knowledge that either Party  
86 disagrees with the disbursement, the Firm shall send Buyer and Seller written notice of the intent to disburse by certified  
87 mail. If Buyer or Seller disagree with the Firm's proposed disbursement, a lawsuit may be filed to obtain a court order  
88 regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the sale of  
89 residential property with one-to-four dwelling units. Buyer and Seller should consider consulting attorneys regarding their  
90 legal rights under this Offer in case of a dispute. Both Parties agree to hold the Firm harmless from any liability for good  
91 faith disbursement of earnest money in accordance with this Offer or applicable Department of Safety and Professional  
92 Services regulations concerning earnest money. See Wis. Admin. Code Ch. REEB 18.

93 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3)  
94 occupancy; (4) date of closing; (5) contingency Deadlines **STRIKE AS APPLICABLE** and all other dates and Deadlines in  
95 this Offer except: \_\_\_\_\_

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

99 **REAL ESTATE CONDITION REPORT** Wisconsin law requires owners of property ~~which that~~ includes one-to-four dwelling  
100 units to provide Buyers with a Real Estate Condition Report. Excluded from this requirement are sales of property that has  
101 never been inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed fiduciaries, (for  
102 example, personal representatives who have never occupied the Property). The form of the Report is found in Wis. Stat. §  
103 709.03. The law provides: "§ 709.02 Disclosure . . . the owner of the property shall furnish, not later than 10 days after  
104 acceptance of the contract of sale . . . , to the prospective Buyer of the property a completed copy of the report . . . A  
105 prospective Buyer who does not receive a report within the 10 days may, within two business days after the end of that 10-  
106 day period, rescind the contract of sale . . . by delivering a written notice of rescission to the owner or the owner's agent."  
107 Buyer may also have certain rescission rights if a Real Estate Condition Report disclosing defects is furnished before  
108 expiration of the 10 days, but after the Offer is submitted to Seller. Buyer should review the report form or consult with an  
109 attorney for additional information regarding rescission rights.

110 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that as of the date of acceptance Seller has  
111 no notice or knowledge of Conditions Affecting the Property or Transaction (lines 116-178) other than those identified in  
112 Seller's Real Estate Condition Report dated \_\_\_\_\_, which was received by Buyer prior to Buyer signing  
113 this Offer and which is made a part of this Offer by reference **COMPLETE DATE OR STRIKE AS APPLICABLE** and  
114 \_\_\_\_\_  
115 \_\_\_\_\_

INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT

116 \_\_\_\_\_  
117 “Conditions Affecting the Property or Transaction” are defined to include:

118 a. Defects in the roof, basement or foundation (including cracks, seepage and bulges), electrical system, or part of the  
119 plumbing system (including the water heater, water softener and swimming pool); or basement, window, or plumbing leaks;  
120 overflow from sinks, bathtubs, or sewers; or other water or moisture intrusions or conditions.

121 b. Defects in heating and air conditioning system (including the air filters and humidifiers); in a wood burning stove or  
122 fireplace; or caused by a fire in a stove or fireplace or elsewhere on the Property.

123 c. Defects related to smoke detectors or carbon monoxide detectors, or a violation of applicable state or local smoke  
124 detector or carbon monoxide detector laws.

125 d. Defects in any structure, or mechanical equipment included as Fixtures or personal property.

126 e. Rented items located on the Property such as a water softener or other water conditioner system.

127 f. Defects caused by unsafe concentrations of, or unsafe conditions on the Property relating to radon, radium in water  
128 supplies, lead in paint, soil or water supplies, unsafe levels of mold, asbestos or asbestos-containing materials or other  
129 potentially hazardous or toxic substances on the Property; manufacture of methamphetamine or other hazardous or toxic  
130 substances on the Property; or high voltage electric (100 KV or greater) or steel natural gas transmission lines located on  
131 but not directly serving the Property.

132 **NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential**  
133 **properties built before 1978.**

134 g. Defects caused by unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic  
135 substances on neighboring properties.

136 f. The Property is served by a joint well; Defects related to a joint well serving the Property; or Defects in a well on the  
137 Property or in a well that serves the Property, including unsafe well water.

138 g. A septic system or other private sanitary disposal system serves the Property; Defects in the septic system or other  
139 sanitary disposal system on the Property; or any out-of-service septic system serving the Property not closed or abandoned  
140 according to applicable regulations.

141 h. Underground or aboveground fuel storage tanks on or previously located on the Property; or Defects in the underground  
142 or aboveground fuel storage tanks on or previously located on the Property. (The owner, by law, may have to register the  
143 tanks with the Department of Agriculture, Trade and Consumer Protection at P.O. Box 8911, Madison, Wisconsin, 53708,  
144 whether the tanks are in use or not. Department regulations may require closure or removal of unused tanks.)

145 i. “LP” tank on the Property (specify in the additional information whether the tank is owned or leased); or Defects in an  
146 “LP” tank on the Property.

147 j. Notice of property tax increases, other than normal annual increases, or pending Property reassessment; remodeling  
148 that may increase the Property's assessed value; pending special assessments; or Property is within a special purpose  
149 district, such as a drainage district, that has authority to impose assessments.

150 k. Proposed construction of a public project that may affect use of the Property; Property additions or remodeling affecting  
151 Property structure or mechanical systems during Seller's ownership without required permits; or any land division involving  
152 the Property without required state or local permits.

153 l. The Property is part of or subject to a subdivision homeowners' association; or the Property is not a condominium unit  
154 and there are common areas associated with the Property that are co-owned with others.

155 m. Any zoning code violations with respect to the Property; the Property or any portion thereof is located in a floodplain,  
156 wetland or shoreland zoning area; or the Property is subject to a shoreland mitigation plan required by Wisconsin  
157 Department of Natural Resources (DNR) rules that obligates the Property owner to establish or maintain certain measures  
158 related to shoreland conditions, enforceable by the county.

159 n. Nonconforming uses of the Property; conservation easements, restrictive covenants or deed restrictions on the  
160 Property; or nonowners having rights to use part of the Property, including, but not limited to, rights-of-way and easements  
161 other than recorded utility easements.

162 o. All or part of the Property has been assessed as agricultural land; has been assessed a use-value assessment  
163 conversion charge; or payment of a use-value assessment conversion charge has been deferred.

164 p. All or part of the Property is subject to, enrolled in, or in violation of a farmland preservation agreement, Forest Crop  
165 Law, Managed Forest Law, the Conservation Reserve Program, or a comparable program.

166 q. A dam is totally or partially located on the Property; or an ownership interest in a dam not located on the Property will  
167 be transferred with the Property because the dam is owned by a homeowners' association, lake district, or similar group of  
168 which the Property owner is a member.

169 r. No legal access to the Property; or boundary or lot line disputes, encroachments or encumbrances (including a joint  
170 driveway) affecting the Property.

171 s. Federal, state, or local regulations requiring repairs, alterations or corrections of an existing condition; or any insurance  
172 claims relating to damage to the Property within the last five years.

173 t. A pier attached to the Property not in compliance with state or local pier regulations.

174 u. Current or previous termite, powder-post beetle or carpenter ant infestations or Defects caused by animal, reptile, or  
175 other insect infestations.

176 v. Structure on the Property designated as an historic building; all or any part of the Property in an historic district; or one  
177 or more burial sites on the Property.

178 w. Other Defects affecting the Property.

Property Address: \_\_\_\_\_

Page 4 of 10, WB-11

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

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

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

194  **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines 179-193).

195 (1) This Offer is contingent upon a Wisconsin registered or Wisconsin licensed home inspector performing a home inspection  
196 of the Property after the date on line 1 of this Offer ~~which that~~ discloses no Defects.

197 (2) This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing an  
198 inspection of \_\_\_\_\_

199 \_\_\_\_\_ (list any Property component(s)  
200 to be separately inspected, e.g., swimming pool, roof, foundation, chimney, etc.) which discloses no Defects.

201 (3) Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection, provided  
202 they occur prior to the Deadline specified at line 207. Inspection(s) shall be performed by a qualified independent  
203 inspector or independent qualified third party.

204 Buyer shall order the inspection(s) and be responsible for all costs of inspection(s).

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

207 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("15" if left blank) after acceptance, delivers  
208 to Seller a copy of the written inspection report(s) dated after the date on line 1 of this Offer and a written notice listing the  
209 Defect(s) identified in those report(s) to which Buyer objects (Notice of Defects).

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

211 For the purposes of this contingency, Defects do not include structural, mechanical or other conditions the nature and extent  
212 of which Buyer had actual knowledge or written notice before signing this Offer.

213 **NOTE: "Defect" as defined on lines 449-451 means a condition that would have a significant adverse effect on the**  
214 **value of the Property; that would significantly impair the health or safety of future occupants of the Property; or**  
215 **that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life**  
216 **of the premises.**

217 **■ RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure the Defects.

218 If Seller has the right to cure, Seller may satisfy this contingency by:

219 (1) delivering written notice to Buyer within \_\_\_\_\_ ("10" if left blank) days after Buyer's delivery of the Notice of Defects  
220 stating Seller's election to cure Defects;

221 (2) curing the Defects in a good and workmanlike manner; and

222 (3) delivering to Buyer a written report detailing the work done no later than three days prior to closing.

223 This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s) and:

224 (1) Seller does not have the right to cure; or

225 (2) Seller has the right to cure but:

226 (a) Seller delivers written notice that Seller will not cure; or

227 (b) Seller does not timely deliver the written notice of election to cure.

Property Address: \_\_\_\_\_

Page 5 of 10, WB-11

228  **RADON TESTING CONTINGENCY:** This Offer is contingent upon Buyer obtaining a current written report of the  
229 results of a radon test at the Property performed by a qualified third party in a manner consistent with applicable EPA and  
230 Wisconsin Department of Health Services (DHS) protocols and standards **indicating the radon level—, is less than 4.0**  
231 **picoCuries per liter (pCi/L),** at (Buyer's) (Seller's) **STRIKE ONE** ("Buyer's" if neither is stricken) expense.

232 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("20" if left blank) after acceptance delivers  
233 to Seller a written copy of the radon test results report indicating a radon level of 4.0 pCi/L or higher and written notice  
234 objecting to the radon level in the report.

235 ■ **RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** (“shall” if neither is stricken) have the right to cure.

236 If Seller has the right to cure, Seller may satisfy this contingency by:

237 (1) delivering a written notice of Seller's election to cure within 10 days after delivery of Buyer's notice; and,

238 (2) installing a radon mitigation system in conformance with EPA standards in a good and workmanlike manner and by  
239 giving Buyer a report of the work done and a post remediation test report indicating a radon level of less than 4.0 pCi/L  
240 no later than three days prior to closing.

241 This Offer shall be null and void if Buyer timely delivers the above written notice and report to Seller and:

242 (1) Seller does not have the right to cure; or

243 (2) Seller has the right to cure but:

244 (a) Seller delivers written notice that Seller will not cure; or

245 (b) Seller does not timely deliver the notice of election to cure.

246 **IF LINE 249 IS NOT MARKED OR IS MARKED N/A LINES 298-309 APPLY.**

247  **FINANCING COMMITMENT CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written  
248 \_\_\_\_\_ [loan type or specific lender, if any] first mortgage loan commitment as described  
249 below, within \_\_\_\_\_ days after acceptance of this Offer. The financing selected shall be in an amount of not less than \$  
250 \_\_\_\_\_ for a term of not less than \_\_\_\_\_ years, amortized over not less than \_\_\_\_\_ years. Initial  
251 monthly payments of principal and interest shall not exceed \$ \_\_\_\_\_. Buyer acknowledges that lender's  
252 required monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance  
253 premiums, and private mortgage insurance premiums. The mortgage shall not include a prepayment premium. Buyer agrees  
254 to pay discount points in an amount not to exceed \_\_\_\_\_% (“0” if left blank) of the loan. If Buyer is using multiple loan  
255 sources or obtaining a construction loan or land contract financing, describe at lines 537-542 or in an addendum attached  
256 per line 563. Buyer agrees to pay all customary loan and closing costs, wire fees, and loan origination fees, to promptly  
257 apply for a mortgage loan, and to provide evidence of application promptly upon request of Seller. Seller agrees to allow  
258 lender's appraiser access to the Property.

259 ■ **LOAN AMOUNT ADJUSTMENT:** If the purchase price under this Offer is modified, any financed amount, unless otherwise  
260 provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments  
261 shall be adjusted as necessary to maintain the term and amortization stated above.

262 **CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 265 or 266.**

263  **FIXED RATE FINANCING:** The annual rate of interest shall not exceed \_\_\_\_\_%.

264  **ADJUSTABLE RATE FINANCING:** The initial interest rate shall not exceed \_\_\_\_\_%. The initial interest rate  
265 shall be fixed for \_\_\_\_\_ months, at which time the interest rate may be increased not more than \_\_\_\_\_% (“2” if  
266 left blank) at the first adjustment and by not more than \_\_\_\_\_% (“1” if left blank) at each subsequent adjustment.  
267 The maximum interest rate during the mortgage term shall not exceed the initial interest rate plus \_\_\_\_\_% (“6” if  
268 left blank). Monthly payments of principal and interest may be adjusted to reflect interest changes.

269 ■ **SATISFACTION OF FINANCING COMMITMENT CONTINGENCY:** If Buyer qualifies for the loan described in this Offer  
270 or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of a written loan commitment.

271 This contingency shall be satisfied if, after Buyer's review, Buyer delivers to Seller a copy of a written loan commitment  
272 (even if subject to conditions) that is:

273 (1) signed by Buyer; or

274 (2) accompanied by Buyer's written direction for delivery.

275 Delivery of a loan commitment by Buyer's lender or delivery accompanied by a notice of unacceptability shall not satisfy  
276 this contingency.

277 **CAUTION: The delivered loan commitment may contain conditions Buyer must yet satisfy to obligate the lender to  
278 provide the loan. Buyer understands delivery of a loan commitment removes the Financing Commitment  
279 Contingency from the Offer and shifts the risk to Buyer if the loan is not funded.**

280 ■ **SELLER TERMINATION RIGHTS:** If Buyer does not deliver a loan commitment on or before the Deadline on line 251.  
281 Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of  
282 written loan commitment from Buyer.

283 ■ **FINANCING COMMITMENT UNAVAILABILITY:** If a financing commitment is not available on the terms stated in this  
284 Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall  
285 promptly deliver written notice to Seller of same including copies of lender(s)' rejection letter(s) or other evidence of  
286 unavailability.

Property Address: \_\_\_\_\_

Page 6 of 10, WB-11

287  **SELLER FINANCING:** Seller shall have 10 days after the earlier of:

288 (1) Buyer delivery of written notice of evidence of unavailability as noted in lines 285-288; or

289 (2) the Deadline for delivery of the loan commitment set on line 251

290 to deliver to Buyer written notice of Seller's decision to finance this transaction with a note and mortgage under the same  
291 terms set forth in this Offer, and this Offer shall remain in full force and effect, with the time for closing extended accordingly.

292 If Seller's notice is not timely given, the option for Seller to provide financing shall be considered waived. Buyer agrees to  
293 cooperate with and authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit  
294 worthiness for Seller financing.

295 **IF THIS OFFER IS NOT CONTINGENT ON FINANCING COMMITMENT** Within \_\_\_\_\_ days ("7" if left blank) after

296 acceptance, Buyer shall deliver to Seller either:

297 (1) reasonable written verification from a financial institution or third party in control of Buyer's funds that Buyer has, at  
298 the time of verification, sufficient funds to close; or

299 (2) \_\_\_\_\_  
300 \_\_\_\_\_ [Specify documentation Buyer agrees to deliver to Seller].

301 If such written verification or documentation is not delivered, Seller has the right to terminate this Offer by delivering written  
302 notice to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written verification. Buyer may or may not obtain  
303 mortgage financing but does not need the protection of a financing contingency. Seller agrees to allow Buyer's appraiser  
304 access to the Property for purposes of an appraisal. Buyer understands and agrees that this Offer is not subject to the  
305 appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of access  
306 for an appraisal constitute a financing commitment contingency.

307  **APPRAISAL CONTINGENCY:** This Offer is contingent upon Buyer or Buyer's lender having the Property appraised  
308 at Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report dated  
309 subsequent to the date stated on line 1 of this Offer, indicating an appraised value for the Property equal to or greater than  
310 the agreed upon purchase price.

311 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days after acceptance, delivers to Seller a copy  
312 of the appraisal report indicating an appraised value ~~not equal to or greater~~ less than the agreed upon purchase price, and  
313 a written notice objecting to the appraised value.

314  **RIGHT TO CURE:** Seller (shall) (shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure.

315 If Seller has the right to cure, Seller may satisfy this contingency by delivering written notice to Buyer adjusting the purchase  
316 price to the value shown on the appraisal report within \_\_\_\_\_ days ("5" if left blank) after Buyer's delivery of the appraisal  
317 report and the notice objecting to the appraised value. Seller and Buyer agree to promptly execute an amendment initiated  
318 by either Party after delivery of Seller's notice, solely to reflect the adjusted purchase price.

319 This Offer shall be null and void if Buyer makes timely delivery of the notice objecting to appraised value and the written  
320 appraisal report and:

321 (1) Seller does not have the right to cure; or

322 (2) Seller has the right to cure but:

323 (a) Seller delivers written notice that Seller will not adjust the purchase price; or

324 (b) Seller does not timely deliver the written notice adjusting the purchase price to the value shown on the appraisal  
325 report.

326 **NOTE: An executed FHA, VA or USDA Amendatory clause may supersede this contingency.**

327  **CLOSING OF BUYER'S PROPERTY CONTINGENCY:** This Offer is contingent upon the closing of the sale of  
328 Buyer's property located at \_\_\_\_\_  
329 no later than \_\_\_\_\_ (the Deadline). If closing does not occur by the Deadline, this

330 Offer shall become null and void unless Buyer delivers to Seller, on or before the Deadline, reasonable written verification  
331 from a financial institution or third party in control of Buyer's funds that Buyer has, at the time of verification, sufficient funds  
332 to close or proof of bridge loan financing, along with a written notice waiving this contingency. Delivery of verification or  
333 proof of bridge loan shall not extend the closing date for this Offer.

334  **BUMP CLAUSE:** If Seller accepts a bona fide secondary offer, Seller may give written notice to Buyer that another  
335 offer has been accepted. If Buyer does not deliver to Seller the documentation listed below within \_\_\_\_\_ hours ("72" if  
336 left blank) after Buyer's Actual Receipt of said notice, this Offer shall be null and void. Buyer must deliver the following:

337 (1) Written waiver of the Closing of Buyer's Property Contingency if line 330 is marked;

338 (2) Written waiver of \_\_\_\_\_  
339 \_\_\_\_\_ (name other contingencies, if any); and

340 (3) Any of the following checked below:

341  Proof of bridge loan financing.

342  Proof of ability to close from a financial institution or third party in control of Buyer's funds which shall provide  
343 Seller with reasonable written verification that Buyer has, at the time of verification, sufficient funds to close.

344 Other: \_\_\_\_\_

345 \_\_\_\_\_  
346 [insert other requirements, if any (e.g., payment of additional earnest money, etc.)]

Property Address: \_\_\_\_\_

347  **SECONDARY OFFER:** This Offer is secondary to a prior accepted offer. This Offer shall become primary upon  
348 delivery of written notice to Buyer that this Offer is primary. Unless otherwise provided, Seller is not obligated to give Buyer  
349 notice prior to any Deadline, nor is any particular secondary buyer given the right to be made primary ahead of other  
350 secondary buyers. Buyer may declare this Offer null and void by delivering written notice of withdrawal to Seller prior to  
351 delivery of Seller's notice that this Offer is primary. Buyer may not deliver notice of withdrawal earlier than \_\_\_\_\_ days ("7"  
352 if left blank) after acceptance of this Offer. All other Offer Deadlines ~~which that~~ run from acceptance shall run from the time  
353 this Offer becomes primary.

354 **HOMEOWNERS ASSOCIATION** If this Property is subject to a homeowners association, Buyer is aware the Property may  
355 be subject to periodic association fees after closing and one-time fees resulting from transfer of the Property. Any one-time  
356 fees resulting from transfer of the Property shall be paid at closing by (Seller) (Buyer) **STRIKE ONE** ("Buyer" if neither is  
357 stricken).

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

361 \_\_\_\_\_  
362 **CAUTION: Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.**  
363 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.

364 Real estate taxes shall be prorated at closing based on **CHECK BOX FOR APPLICABLE PRORATION FORMULA**:  
365  The net general real estate taxes for the preceding year, or the current year if available (Net general real estate  
366 taxes are defined as general property taxes after state tax credits and lottery credits are deducted). **(NOTE: THIS CHOICE**  
367 **APPLIES IF NO BOX IS CHECKED)**.

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

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

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

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

381 **TITLE EVIDENCE**

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

388 \_\_\_\_\_  
389 \_\_\_\_\_ (insert other allowable exceptions from title, if any)

390 **which-that** constitutes merchantable title for purposes of this transaction. Seller, **at Seller's cost**, shall complete and execute  
391 the documents necessary to record the conveyance **at Seller's cost** and pay the Wisconsin Real Estate Transfer Fee.

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

395 ■ **TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of  
396 the purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall  
397 pay all costs of providing title evidence to Buyer. Buyer shall pay the costs of providing the title evidence required by Buyer's  
398 lender and recording the deed or other conveyance.

399 ■ **GAP ENDORSEMENT:** Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's)(Buyer's)  
400 **STRIKE ONE** ("Seller's" if neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded  
401 after the commitment date of the title insurance commitment and before the deed is recorded, subject to the title insurance  
402 policy conditions, exclusions and exceptions, provided the title company will issue the coverage. If a gap endorsement or  
403 equivalent gap coverage is not available, Buyer may give written notice that title is not acceptable for closing (see lines **413-**  
404 **419**).

Property Address: \_\_\_\_\_ Page 8 of 10, WB-11

405 ■ **DELIVERY OF MERCHANTABLE TITLE:** The required title insurance commitment shall be delivered to Buyer's attorney  
406 or Buyer not less than 5 business days before closing, showing title to the Property as of a date no more than 15 days  
407 before delivery of such title evidence to be merchantable per lines 386-394, subject only to liens **which-that** will be paid out  
408 of the proceeds of closing and standard title insurance requirements and exceptions, **as appropriate**.

409 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of  
410 objections to title by the time set for closing. **In such event**, Seller shall have a reasonable time, but not exceeding 15 days,  
411 to remove the objections, and the time for closing shall be extended as necessary for this purpose. **In the event that** Seller  
412 is unable to remove said objections, Buyer shall have five days from receipt of notice thereof, to deliver written notice waiving  
413 the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Offer

414 shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give  
415 merchantable title to Buyer.

416 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced  
417 prior to the date stated on line 1 of this Offer shall be paid by Seller no later than closing. All other special assessments  
418 shall be paid by Buyer. "Levied" means the local municipal governing body has adopted and published a final resolution  
419 describing the planned improvements and the assessment of benefits.

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

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

430 \_\_\_\_\_  
431 \_\_\_\_\_. Insert additional terms, if any, at lines 537-542 or attach as an addendum per line 563.

### 432 **DEFINITIONS**

433 ■ **ACTUAL RECEIPT:** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document  
434 or written notice physically in the Party's possession, regardless of the method of delivery. If the document or written notice  
435 is electronically delivered, Actual Receipt shall occur when the Party opens the electronic transmission.

436 ■ **BUSINESS DAY:** "Business Day" means a calendar day other than Saturday, Sunday, any legal public holiday under  
437 Wisconsin or Federal law, and any other day designated by the President such that the postal service does not receive  
438 registered mail or make regular deliveries on that day.

439 ■ **DEADLINES:** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by  
440 excluding the day the event occurred and by counting subsequent calendar days. The Deadline expires at Midnight on the  
441 last day. Additionally, Deadlines expressed as a specific number of Business Days are calculated in the same manner  
442 except that only Business Days are counted while other days are excluded. Deadlines expressed as a specific number of  
443 "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by  
444 counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific  
445 event, such as closing, expire at Midnight of that day. "Midnight" is defined as 11:59 p.m. Central Time.

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

449 ■ **FIRM:** "Firm" means a licensed sole proprietor broker or a licensed broker business entity.

450 ■ **PARTY:** "Party" means the Buyer or the Seller; "Parties" refers to both Buyer and Seller.

451 ■ **PROPERTY:** Unless otherwise stated, "Property" means the real estate described at lines 4-8.

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

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

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

459 **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of  
460 the Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the  
461 transaction as defined by the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession  
462 data to multiple listing service sold databases; (iii) provide active listing, pending sale, closed sale and financing concession  
463 information and data, and related information regarding seller contributions, incentives or assistance, and third party gifts,  
464 to appraisers researching comparable sales, market conditions and listings, upon inquiry; and (iv) distribute copies of this  
465 Offer to the seller, or seller's agent, of another property ~~which that~~ Seller intends on purchasing.

Property Address: \_\_\_\_\_

Page 9 of 10, WB-11

466 **MAINTENANCE** Seller shall maintain the Property and all personal property included in the purchase price until the earlier  
467 of closing or Buyer's occupancy, in materially the same condition as of the date of acceptance it was in as of the date on  
468 line 1 of this Offer, except for ordinary wear and tear and changes agreed upon by Parties.

469 **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING** If, prior to closing, the Property is damaged in an  
470 amount not more than five percent of the purchase price, other than normal wear and tear, Seller shall promptly notify Buyer  
471 in writing, and will be obligated to restore the Property to materially the same condition it was in at as of the date on line 1  
472 of this Offer. Seller shall provide Buyer with copies of all required permits and lien waivers for the lienable repairs no later  
473 than closing. If the amount of damage exceeds five percent of the purchase price, Seller shall promptly notify Buyer in

474 writing of the damage and this Offer may be ~~canceled-terminated~~ at option of Buyer. Should Buyer elect to carry out this  
475 Offer despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the damage to the Property,  
476 plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy, if any. However, if this  
477 sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust for the sole purpose  
478 of restoring the Property.

479 **BUYER'S PRE-CLOSING WALK-THROUGH** Within three days prior to closing, at a reasonable time pre-approved by  
480 Seller or Seller's agent, Buyer shall have the right to walk through the Property to determine that there has been no  
481 significant change in the condition of the Property, except for ordinary wear and tear and changes approved-agreed upon  
482 by BuyerParties, and that any defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

483 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in  
484 this Offer at lines 537-542 or in an addendum attached per line 563, or lines 430-434 if the Property is leased. At time of  
485 Buyer's occupancy, Property shall be in broom swept condition and free of all debris, refuse, and personal property except  
486 for personal property belonging to current tenants, or ~~that~~ sold to Buyer or left with Buyer's consent. Occupancy shall be  
487 given subject to tenant's rights, if any.

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

491 If Buyer defaults, Seller may:

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

495 If Seller defaults, Buyer may:

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

498 In addition, the Parties may seek any other remedies available in law or equity. The Parties understand that the availability  
499 of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts. If either Party  
500 defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above.  
501 By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the  
502 arbitration agreement.

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

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

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

514 **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC)  
515 provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the  
516 total "Amount Realized" in the sale if the transferor (Seller) is a "Foreign Person" and no exception from FIRPTA withholding  
517 applies. A "Foreign Person" is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign  
518 estate. The "Amount Realized" is the sum of the cash paid, the fair market value of other property transferred, and the  
519 amount of any liability assumed by Buyer.

520 **CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer**  
521 **may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed**  
522 **upon the Property.**

523 Seller hereby represents that Seller is not a Foreign Person. Buyer and Seller agree to comply with FIRPTA requirements  
524 under IRC § 1445. No later than 15 days prior to the closing, Seller shall execute and deliver to Buyer, or a qualified  
525 substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller's

Property Address: \_\_\_\_\_ Page 10 of 10, WB-11

526 non-foreign status in accordance with IRC § 1445. Any representations made by Seller with respect to this issue shall  
527 survive the closing and delivery of the deed. If Seller fails to deliver certification of Seller's non-foreign status, Buyer shall  
528 be entitled to either: (1) withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable  
529 to Seller under this Offer; or, (2) terminate this Offer by written notice to Seller prior to closing. Buyer and Seller shall  
530 complete, execute, and deliver, on or before closing, any other instrument, affidavit, or statement needed to comply with  
531 FIRPTA, including withholding forms.

532 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption  
533 applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding  
534 FIRPTA.

535 **ADDITIONAL PROVISIONS/CONTINGENCIES** \_\_\_\_\_  
536 \_\_\_\_\_  
537 \_\_\_\_\_  
538 \_\_\_\_\_  
539 \_\_\_\_\_  
540 \_\_\_\_\_

541 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and  
542 written notices to a Party shall be effective only when accomplished by one of the authorized methods specified at lines  
543 546-560.

544 (1) **Personal**: giving the document or written notice personally to the Party, or the Party's recipient for delivery if named at  
545 line 548 or 549.

546 Name of Seller's recipient for delivery, if any: \_\_\_\_\_

547 Name of Buyer's recipient for delivery, if any: \_\_\_\_\_

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

549 Seller: (\_\_\_\_\_) Buyer: (\_\_\_\_\_) \_\_\_\_\_

550  (3) **Commercial**: depositing the document or written notice, fees prepaid or charged to an account, with a  
551 commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery, for delivery to the Party's  
552 address at line 557 or 558.

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

555 Address for Seller: \_\_\_\_\_

556 Address for Buyer: \_\_\_\_\_

557  (5) **Email**: electronically transmitting the document or written notice to the email address.

558 Seller: \_\_\_\_\_ Buyer: \_\_\_\_\_

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

561  **ADDENDA**: The attached \_\_\_\_\_ is/are made part of this Offer.

562 This Offer was drafted by [Licensee and Firm] \_\_\_\_\_  
563 \_\_\_\_\_

564 (x) \_\_\_\_\_  
565 Buyer's Signature ▲ Print Name Here ► Date ▲

566 (x) \_\_\_\_\_  
567 Buyer's Signature ▲ Print Name Here ► Date ▲

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

572 (x) \_\_\_\_\_  
573 Seller's Signature ▲ Print Name Here ► Date ▲

574 (x) \_\_\_\_\_  
575 Seller's Signature ▲ Print Name Here ► Date ▲

576 This Offer was presented to Seller by [Licensee and Firm] \_\_\_\_\_  
577 \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

578 This Offer is rejected \_\_\_\_\_ This Offer is countered [See attached counter] \_\_\_\_\_  
579 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

2017 Version FIRPTA TAX WITHHOLDING: If any SELLER is a "foreign person" as defined by the Foreign Investment in 501 Real Property Tax Act, the BUYER and SELLER shall comply with the Act, which may require SELLER to provide additional funds at closing. SELLER agrees to disclose to the closing attorney/settlement agent at least 10 days before closing if any SELLER is not a U.S. citizen or resident alien.

2018 Version

(i) FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"): Seller shall inform Buyer in writing if Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller shall comply with FIRPTA, which may require Seller to provide additional cash at Closing. If Seller is not a "foreign person", Seller can provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform Buyer and Closing Agent that no withholding is required. See STANDARD V for further information pertaining to FIRPTA. Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective rights, obligations, reporting and withholding requirements pursuant to FIRPTA. (j) SELLER

V. FIRPTA TAX WITHHOLDING: If a seller of U.S. real property is a "foreign person" as defined by FIRPTA, Section 1445 of the Internal Revenue Code ("Code") requires the buyer of the real property to withhold up to 15% of the amount realized by the seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding. (i) No withholding is required under Section 1445 of the Code if the Seller is not a "foreign person". Seller can provide proof of non-foreign status to Buyer by delivery of written certification signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller's name, U.S. taxpayer identification number and home address (or office address, in the case of an entity), as provided for in 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold the applicable percentage of the amount realized by Seller on the transfer and timely remit said funds to the IRS. (ii) If Seller is a foreign person and has received a Withholding Certificate from the IRS which provides for reduced or eliminated withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced sum required, if any, and timely remit said funds to the IRS. (iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and has provided to Buyer the notice required by 26 CFR 1.1445-1(c) (2)(i)(B) but no Withholding Certificate has been received as of Closing, Buyer shall, at Closing, withhold the applicable percentage of the amount realized by Seller on the transfer and, at Buyer's option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at Seller's expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the Serial#:

064047-900152-0726133 STANDARDS FOR REAL ESTATE TRANSACTIONS

("STANDARDS") CONTINUED Buyer's Initials \_\_\_\_\_ Page 11 of 12 Seller's Initials \_\_\_\_\_ FloridaRealtors/FloridaBar-ASIS-5 Rev.4/17 © 2017 Florida

Realtors® and The Florida Bar. All rights reserved. parties, to be subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to the IRS if the Seller's application is rejected or upon terms set forth in the escrow agreement. (iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this transaction, Seller shall deliver to Buyer, at Closing, the additional COLLECTED funds necessary to satisfy the applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for disbursement in accordance with the final determination of the IRS, as applicable. 555 556 557 558 (v) Upon remitting funds to



# FAQ for FIRPTA

This FAQ is for general orientation purposes only, and does not constitute, and should not be relied upon as, any legal or tax advice. Real estate agents and Firms are not permitted by state or federal law to provide legal or tax advice regarding FIRPTA, or any other tax or legal matter. The parties are directed to consult their own legal and/or tax advisors with any questions about FIRPTA or any issues herein.

## 1. What is FIRPTA?

FIRPTA stands for Foreign Investment In Real Property Tax Act (26 USC §1445). It is a tax law designed to ensure payment of tax to the Internal Revenue Service (IRS), as may be due, when US property is sold by any “foreign person”. “Foreign person” under FIRPTA may include individuals and entities. FIRPTA allows for the withholding of 15% of the amount realized (sales price in most cases), which would then be remitted to the IRS, unless the Seller can demonstrate an exemption under FIRPTA or qualifying statement from the IRS indicating relief from withholding or the specific amount owed.

## 2. What does FIRPTA require the seller to do at the closing of their real estate sale?

If the seller is a “foreign person” under FIRPTA, and cannot demonstrate eligibility for an exemption under FIRPTA or obtain a qualifying statement from the IRS indicating that withholding is not required, FIRPTA calls for the withholding of 15% of the amount realized to be remitted to the IRS (amount subject to withholding may vary by amount realized in certain residential transactions over \$300,000).

A Seller that is not a “foreign person” would not be subject to any withholding under FIRPTA **unless** said Seller fails or refuses to provide a sworn certification under penalty of perjury, as required under FIRPTA, that said Seller is not a “foreign person” (e.g., Certification of Non-Foreign Status). That certification is required under FIRPTA prior to closing and would be handled by the closing agent or qualified substitute.

## 3. How can Buyer become liable for unpaid taxes by a “foreign” seller?

FIRPTA provides that if the taxes are not paid upon the sale of property by a “foreign person,” or if the indicated withholding is not done by Buyer at closing, and if no exemption applies, **Buyer may be held directly liable by the IRS** for the unpaid tax and a tax lien may be placed on the purchased property. It is therefore important that Buyer ensure that any amounts owing or to be withheld under FIRPTA are paid/withheld. Or, in the case of a non-foreign seller, Buyer would want to ensure that seller has executed the FIRPTA-compliant certification of Seller’s non-foreign status, which under FIRPTA would be due by closing and would typically then be retained by the qualified substitute, on Buyer’s behalf.

## 4. What is example of an exemption under FIRPTA applicable to a “foreign person”?

FIRPTA withholding does not apply if the seller is a not a “foreign person” and if seller completes a FIRPTA-compliant certification of seller’s non-foreign status.

Another exemption available is when the property is residential, the amount realized for the property does not exceed \$300,000, and the buyers (individual or individuals) intend to use the property as a residence for the requisite period, as defined under FIRPTA. Agents and Firms do not determine eligibility for any exemption.

Another exemption is if the “foreign person” seller can obtain a qualifying statement from the IRS stating that no withholding is required in that case or determining if a lesser amount should be withheld. Any “foreign person” seller seeking such exemption or lesser withholding is responsible for obtaining said documentation from the IRS directly. Obtaining such documentation completed may take 90 days or more, depending, so it may be that even if eligible, a “foreign person” seller would need to submit to withholding at closing and then apply for refund from the IRS after closing. Real estate agents and Firms, and title companies, are not involved in applying for or advising about any such applications or exemptions.

First Weber, Inc. (Not intended as legal or tax advice. Consult your own legal counsel or tax advisor with any questions about FIRPTA or any issues addressed above.)

## **5. Why does First Weber recommend that all sellers consider including or countering to include the FIRPTA Addendum?**

No real estate agents or Firms may provide legal or tax advice, and no such advice is given or intended here, or through recommendation of any Addendum or other provisions. However, the recommended provisions in the FIRPTA Addendum are intended to apply as follows, depending on the seller's status:

If Seller is a "foreign person" under FIRPTA: The WB-11 as drafted includes representation that the Seller is not a "foreign person" under FIRPTA. So, if Seller is a "foreign person," Seller would have to address that language. That would typically be done with a Counter-Offer, or if a correcting provision were included in the Offer. If notification of Seller's status is promptly disclosed, it would be recommended the parties consider removal of the buyer termination right premised upon lack of certification.

If Seller is not a "foreign person" under FIRPTA: Although not directly subject to FIRPTA, non-foreign sellers are to provide a FIRPTA-compliant certification to be retained by Buyer or on Buyer's behalf. Prompt notification is recommended as preferable, and if done per the FIRPTA Addendum it would satisfy (remove) the 15 day prior to closing delivery requirement imposed in the WB-11, but not required under FIRPTA law. Per the FIRPTA Addendum and per FIRPTA requirements, the closing agent or qualified substitute, as defined under FIRPTA, would require a sworn certification with Social Security number or Tax Identification Number for each such seller (e.g., Certification of Non-Foreign Status), and that certification would then typically be maintained by the qualified substitute, on behalf of buyer, for proof of exemption.

The parties are always encouraged to consult their own independent counsel and/or tax advisers and may negotiate and modify any provisions in their offer, including "recommended" provisions. And such provisions, even if "recommended," are not required and may not apply to the circumstances of the parties in any given situation.

## **6. Why is the Protect Sensitive Information provision added?**

This provision is added because FIRPTA does not require Social Security numbers and Tax Identification Numbers be given to, or transmitted by, real estate agents or Firms. Such sensitive information is required under FIRPTA to satisfy, for example, the Non-Foreign Status certification, which per above is to be handled solely by the closing agent or qualified substitute as defined under FIRPTA. We therefore recommend such sensitive information be provided only to the closing agent or qualified substitute. Due to cybersecurity concerns, the parties should only transmit such information by secure means, and not by email, and the parties are therefore asked to respect the real estate agent and Firm's policy of not obtaining, retaining, transmitting or forwarding such sensitive information. Hence the recommended provision which would invalidate any such delivery if made to the real estate agents or Firms involved.

## **7. What if the parties do not agree to the terms recommended in the FIRPTA Addendum?**

That is up to the parties. But if the Seller does not provide the recommended certification of status and secure the accompanying provision modifications, Seller would have to contact a closing agent or qualified substitute directly and execute whatever conforming certification they provide. And, without modification of the referenced Offer provisions, the Sellers could face deadlines or termination rights, as referenced in the FIRPTA Addendum. It is therefore recommended Seller at least consider inclusion of the notification certifications and FIRPTA Addendum, and the parties may negotiate and modify, or reject, as they see fit.

Buyers may also consider the FIRPTA Addendum for submission of an offer, if Buyers believe addressing such issues may make Buyers' offer more attractive. That, of course, is entirely up to the Buyers.

## **8. What is a closing agent or "qualified substitute"?**

The term qualified substitute as used here means the attorney or entity agreeing to handle the closing. Please note that title companies have no obligation to accommodate the paperwork or withholding associated with FIRPTA without consenting to do so, and are not responsible for verifying Seller or Buyer status or certification representations, or applicability of any claimed exemption, unless expressly agreeing to do so. The qualified substitute would typically be engaged to hold any certification, such as certification of non-foreign status, on behalf of Buyer.

First Weber, Inc. (Not intended as legal or tax advice. Consult your own legal counsel or tax advisor with any questions about FIRPTA or any issues addressed above.)

**9. Must each non-foreign seller execute a Certification of Non-Foreign Status?**

Yes, the identity of each non-foreign seller must be certified under FIRPTA.

For “foreign person” sellers, each is requested to certify that party’s “foreign person” status under FIRPTA, and each such “foreign person” is subject to withholding, even for fractional interest in a property (although such determinations may be handled by the closing agent or qualified substitute, but not by real estate agents or Firms).

**10. Would Buyer have to execute any certification or affidavit?**

Yes, it is possible, to confirm eligibility of an exemption, that Buyer may be required under the FIRPTA provision in the WB-11 to execute a certification or affidavit, for example, to confirm intended residence of the property being purchased.

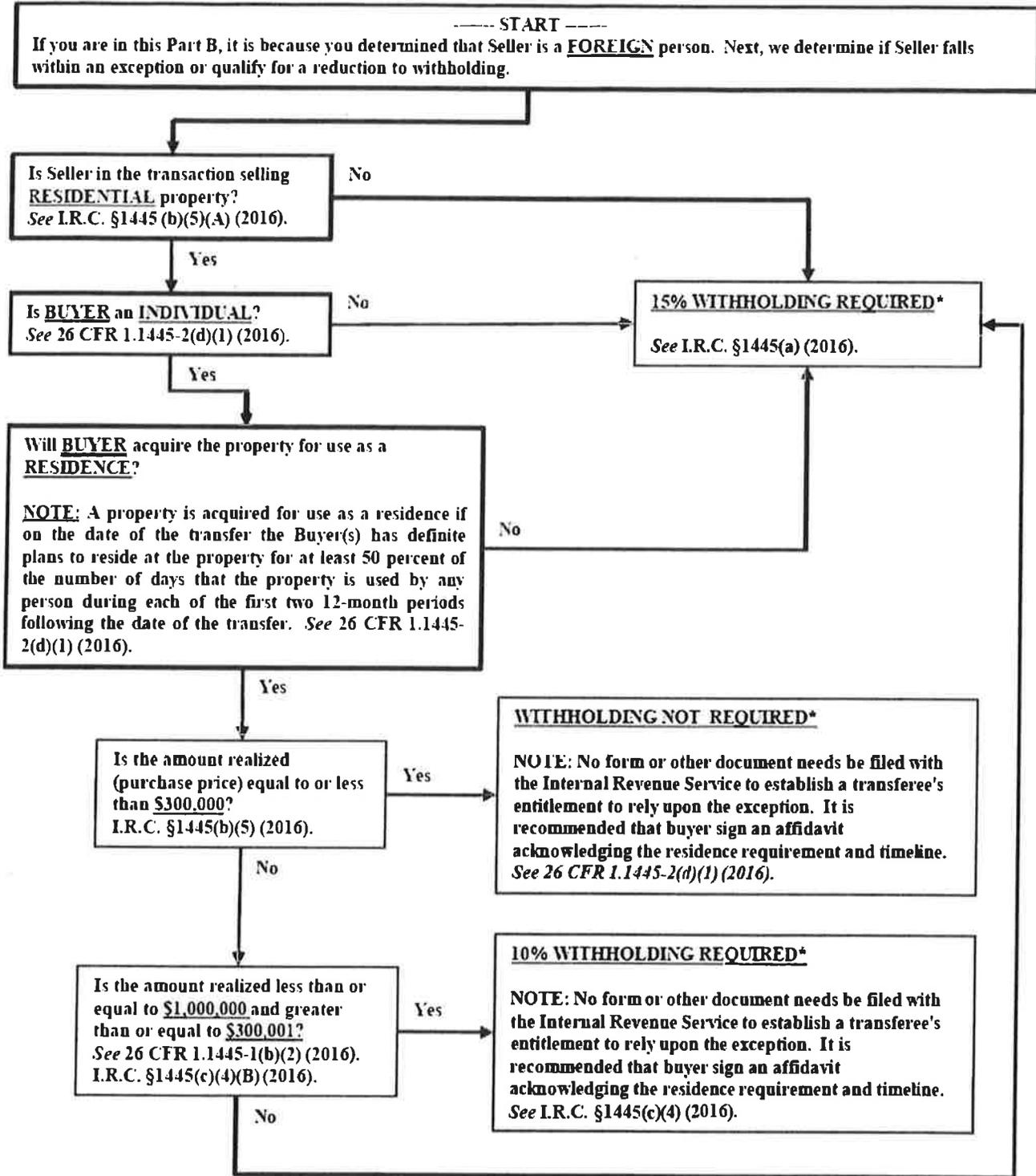
**11. What if the Seller’s certification is false?**

We cannot advise on the various scenarios that could play out, but the certification is not valid if the Buyer has actual knowledge it is false or receives notice from an agent or the qualified substitute that the certification is false. There is a duty to report notice or actual knowledge of any falsehood.

**12. May real estate agents, closing agents and title companies determine if FIRPTA withholding is required?**

No. Real estate agents, closing agents and title companies are not permitted by state or federal law to provide legal or tax advice regarding FIRPTA or any other tax or legal matter.

# FIRPTA Paradigm: Part B — Residential Exceptions



**\*TAX AND LEGAL DISCLAIMER:** This material (paradigm) has been prepared for information purposes only (use as a guide) in connection with the disposition (sale) of real estate property (as opposed to an interest in a real estate holding entity) between unrelated parties and is not intended to provide, and should not be relied on for tax, legal, or accounting advice. You should consult your tax, legal, or accounting advisors before engaging in any transaction involving this issue.

Source: Florida Bar Journal, Vol. 92, No. 4, April 2018 (<https://www.floridabar.org/the-florida-bar-journal/to-withhold-or-not-to-withhold-that-is-the-question-a-step-by-step-approach-to-the-firpta-income-tax-withholding/>).



FIRPTA OFFER CONTINGENCY

for use with WB-12, WB-13, WB-14, WB-15, WB-16 and WB-17; and the 7/2011 WB-11.

NOTE: This Addendum is for optional use with all Offers to Purchase except the 1/1/20 WB-11 Residential Offer to Purchase. Do not use if drafting a WB-11 form that has a mandatory use date of 1/1/20.

- 1 Offer to Purchase Dated:
2 Property Address:
3 Buyer:

4 FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA) Section 1445 of the Internal
5 Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must pay
6 or withhold as a tax up to 15% of the total Amount Realized in the sale if the transferor (Seller) is a
7 Foreign Person and no exception from FIRPTA withholding applies. A Foreign Person is a nonresident
8 alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate. The Amount
9 Realized is the sum of the cash paid, the fair market value of other property transferred, and the amount
10 of any liability assumed by Buyer.

11 CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax
12 amount, Buyer may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax
13 and a tax lien may be placed upon the Property.

14 Seller hereby represents that Seller is not a Foreign Person. Buyer and Seller agree to comply with
15 FIRPTA requirements under IRC § 1445. No later than 15 days prior to the closing, Seller shall execute
16 and deliver to Buyer, or a qualified substitute (attorney or title company as stated in IRC § 1445), a sworn
17 certification under penalties of perjury of Seller's non-foreign status in accordance with IRC § 1445. Any
18 representations made by Seller with respect to this issue shall survive the closing and delivery of the deed.
19 If Seller fails to deliver certification of Seller's non-foreign status, Buyer shall be entitled to either: (1)
20 withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable to
21 Seller under this Offer; or, (2) terminate this Offer by written notice to Seller prior to closing. Buyer and
22 Seller shall complete, execute, and deliver, on or before closing, any other instrument, affidavit, or
23 statement needed to comply with FIRPTA, including withholding forms.

24 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any
25 FIRPTA exemption applies. The Parties are advised to consult with their respective independent legal
26 counsel and tax advisors regarding FIRPTA.

27 Date: Date:
28 Buyer Seller
29 Buyer Seller

**SELLER CERTIFICATION OF NON-FOREIGN STATUS**

1 Property Address: \_\_\_\_\_  
2 \_\_\_\_\_

3 Section 1445 of the Internal Revenue Code provides that a transferee (Buyer) of a United States real  
4 property interest must withhold tax if the transferor (Seller) is a foreign person.

5 To inform \_\_\_\_\_  
6 \_\_\_\_\_ (Buyer) that withholding of tax is not required upon  
7 the disposition of a United States real property interest by \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_ (Seller), the undersigned hereby certifies the following on behalf of the Seller:

- 10 1. Seller is not a foreign person, foreign corporation, foreign partnership, foreign trust, or foreign  
11 estate, as those terms are defined in the Internal Revenue Code and Income Tax Regulations.
- 12 2. Seller's United States Taxpayer Identification Number (Social Security Number or Employer  
13 Identification Number) is legally valid and Seller certifies that Seller  
14 will provide directly to Closing Agent or Qualified Substitute. \*
- 15 3. Seller's address is \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_.
- 18 4. Seller understands Buyer may disclose this certification to the Internal Revenue Service and any  
19 false statement contained herein could be punished by fine, imprisonment, or both.

20 **Under penalties of perjury I declare that I have examined this certification and to the best**  
21 **of my knowledge and belief it is true, correct, and complete, and I further declare that I**  
22 **have authority to sign this document on behalf of Seller.**

23 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

24 \_\_\_\_\_ (Seller signature)  
25 Print name: \_\_\_\_\_

26 \_\_\_\_\_ (Seller signature)  
27 Print name: \_\_\_\_\_

28 Seller Entity Name (if any): \_\_\_\_\_  
29 Print Name Here ▲

30 (x) \_\_\_\_\_  
31 Authorized Signature ▲ Print Name & Title Here ► \_\_\_\_\_

\*ADDED: [This document provides notification of Non-Foreign Status. Do not input Social Security or Tax Identification Number on this form. Seller will provide that information directly to the Qualified Substitute or the Closing Agent by secure means. Do not send Social Security or Tax Identification Number to real estate agents or real estate firm and do not send that information by email or other electronic means.]

## **CERTIFICATION OF FOREIGN STATUS UNDER FIRPTA**

The purpose of this Certification is to notify Buyer of Seller's/Sellers' status under FIRPTA (Section 1445 of the Internal Revenue Code) with regard to a prospective real estate transaction involving the Property identified below.

This Certification is to be completed by each and any Seller to which it applies.

**PROPERTY ADDRESS:**

\_\_\_\_\_

**SELLER NAME(S) & ADDRESS(ES):**

Seller's Name: \_\_\_\_\_

Seller's Address: \_\_\_\_\_

Seller's Name: \_\_\_\_\_

Seller's Address: \_\_\_\_\_

**CERTIFICATION OF FOREIGN STATUS:**

Seller certifies that Seller **IS** a "foreign person" as defined in the FIRPTA law.

Seller understands Buyer may disclose this certification to the Internal Revenue Service and any false statement contained herein could be punished by fine, imprisonment, or both.

**Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Seller.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Seller: \_\_\_\_\_

Seller: \_\_\_\_\_

**STIPULATIONS ON CERTIFICATION**

Each Seller making this certification additionally certifies Seller will complete, prior to closing, any other documentation as may be required under FIRPTA or by the closing agent or qualified substitute, as defined under FIRPTA, and will fully comply with FIRPTA, including all withholding requirements, if applicable.

# FIRPTA ADDENDUM

1 Offer to Purchase Dated: \_\_\_\_\_

2 Property Address: \_\_\_\_\_

3 The provisions of this Addendum modify or replace the corresponding provisions in the Offer or in any other  
4 addendum. The parties acknowledge the agents and Firm involved are providing no legal advice regarding  
5 interpretation or implementation of FIRPTA and/or the legality, appropriateness, sufficiency, or enforceability of any  
6 provision in this Addendum. The provisions may be modified or supplanted as the parties see fit and the parties are  
7 advised to consult their own legal counsel for any questions about FIRPTA or provisions of this Addendum.

8 Each Seller agrees to provide certification of Seller's status as "foreign" or "non-foreign" under FIRPTA (not including  
9 Seller's Social Security number or Tax Identification Number), within \_\_\_\_\_ days ("10" if left blank) after binding  
10 acceptance or inclusion of this Addendum, whichever is later. Each such Seller not providing such a certification shall  
11 be treated as having "Foreign Status" below. The provisions below apply depending upon Seller's and/or Sellers'  
12 certified status(es), or as indicated for all Offers, as follows:

13 **Non-Foreign Status:** If Seller, or one or more Sellers, certifies that Seller is NOT a "foreign person" under FIRPTA, the following  
14 applies to this Offer:

- 15 1. Each such Seller agrees to complete a FIRPTA-compliant certification when and as due under FIRPTA, including  
16 Seller's Social Security number or Tax Identification Number, as may be required under FIRPTA or by the closing agent  
17 or qualified substitute, no later than closing, and Buyer acknowledges this satisfies any delivery of certification  
18 requirement otherwise stated in the Offer.
- 19 2. The parties agree the FIRPTA-compliant certification will be executed by Seller directly with the closing agent or  
20 qualified substitute and not delivered to real estate agents or firms involved. The parties agree no Social Security  
21 number or Tax Identification Number will be provided, sent or copied to the real estate agents or firms involved.

22 **Foreign Status:** If Seller, or one or more Sellers, certifies that Seller IS a "foreign person" under FIRPTA (or fails to provide  
23 such certification of status, per above) the following applies to this Offer:

- 24 1. Any representation of Seller status (at line 525 of the WB-11 or equivalent provision in any addendum or additional  
25 provision) is modified to state Seller is a "foreign person" under FIRPTA.
- 26 2. Seller reaffirms Seller will comply with all requirements of FIRPTA, including any withholding requirements, as may be  
27 applicable. Seller further agrees that in the event net proceeds due Seller are insufficient to meet withholding  
28 requirement(s), Seller shall transfer to Buyer or closing agent, at closing, any additional funds necessary to satisfy the  
29 applicable requirement, and said funds shall be remitted to the IRS to meet any withholding requirement, as applicable.

30 **Applicable to Both Foreign & Non-Foreign Status:** The parties agree the provisions "*No later than 15 days prior to the*  
31 *closing*" at line 526 of the WB-11 and buyer termination right at line 531 of the WB-11 (and/or in both instances also in the  
32 equivalent language in any addendum or additional provisions), are removed from this Offer.

33  
34 Date: \_\_\_\_\_ Date: \_\_\_\_\_

35 \_\_\_\_\_  
36 Buyer Seller

37 \_\_\_\_\_  
38 Buyer Seller

## TOMS FIRPTA preference

4 ■ FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA) Section 1445 of the Internal  
5 Revenue Code (IRC) provides that a transferee (Buyer) of a United States real property interest must pay  
6 or withhold as a tax up to 15% of the total "Amount Realized" in the sale if the transferor (Seller) is a  
7 "Foreign Person" and no exception from FIRPTA withholding applies. A "Foreign Person" is a nonresident  
8 alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate. The "Amount  
9 Realized" is the sum of the cash paid, the fair market value of other property transferred, and the amount  
10 of any liability assumed by Buyer.

11 CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax  
12 amount, Buyer may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax  
13 and a tax lien may be placed upon the Property.

14 Seller hereby represents that Seller is not a Foreign Person. Buyer and Seller agree to comply with  
15 FIRPTA requirements under IRC § 1445. No later than 15 days prior to the closing, Seller shall execute  
16 and deliver to Buyer, or a qualified substitute (attorney or title company as stated in IRC § 1445), a sworn  
17 certification under penalties of perjury of Seller's non-foreign status in accordance with IRC § 1445. Any  
18 representations made by Seller with respect to this issue shall survive the closing and delivery of the deed.  
19 If Seller fails to deliver certification of Seller's non-foreign status, Buyer shall be entitled to either: (1)  
20 withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable to  
21 Seller under this Offer, or, (2) terminate this Offer by written notice to Seller prior to closing. Buyer and  
22 Seller shall complete, execute, and deliver, on or before closing, any other instrument, affidavit, or  
23 statement needed to comply with FIRPTA, including withholding forms.

24 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any  
25 FIRPTA exemption applies. The Parties are advised to consult with their respective independent legal  
26 counsel and tax advisors regarding FIRPTA.

8 Each Seller agrees to provide certification of Seller's status as "foreign" or "non-foreign" under FIRPTA (not including  
9 Seller's Social Security number or Tax Identification Number), within \_\_\_\_\_ days ("10" if left blank) after binding  
10 acceptance or inclusion of this Addendum, whichever is later. Each such Seller not providing such a certification shall  
11 be treated as having "Foreign Status" below. The provisions below apply depending upon Seller's and/or Sellers'  
12 certified status(es), or as indicated for all Offers, as follows:

13 Non-Foreign Status: If Seller, or one or more Sellers, certifies that Seller is NOT a "foreign person" under FIRPTA, the following  
14 applies to this Offer:

15 1. Each such Seller agrees to complete a FIRPTA-compliant certification when and as due under FIRPTA, including  
16 Seller's Social Security number or Tax Identification Number, as may be required under FIRPTA or by the closing agent  
17 or qualified substitute, no later than closing, and Buyer acknowledges this satisfies any delivery of certification  
18 requirement otherwise stated in the Offer.

19 2. The parties agree the FIRPTA compliant certification will be executed by Seller directly with the closing agent or  
20 qualified substitute and not delivered to real estate agents or firms involved. The parties agree no Social Security  
21 number or Tax Identification Number will be provided, sent or copied to the real estate agents or firms involved.

22 Foreign Status: If Seller, or one or more Sellers, certifies that Seller IS a "foreign person" under FIRPTA (or fails to provide  
23 such certification of status, per above) the following applies to this Offer:

24 1. Any representation of Seller status (at line 525 of the WB-11 or equivalent provision in any addendum or additional  
25 provision) is modified to state Seller is a "foreign person" under FIRPTA.

26 2. Seller reaffirms Seller will comply with all requirements of FIRPTA, including any withholding requirements, as may be  
27 applicable. Seller further agrees that in the event net proceeds due Seller are insufficient to meet withholding  
28 requirement(s), Seller shall transfer to Buyer or closing agent, at closing, any additional funds necessary to satisfy the  
29 applicable requirement, and said funds shall be remitted to the IRS to meet any withholding requirement, as applicable.

## OFFER TO PURCHASE REVISIONS

To: DSPS Real Estate Contractual Forms Advisory Committee  
From: WRA Forms Committee  
Date: February 7, 2020  
RE: **WB-14 Residential Condominium Offer to Purchase and WB-13 Vacant Land Offer to Purchase**

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The DSPS Real Estate Contractual Forms Advisory Committee did not work on these forms during its January 16, 2020 meeting, nor did the WRA Forms Committee during its February 6 meeting.

The WB-14\_DraftC-Jan2020 contains provisions agreed to by both the WRA Forms Committee during its August 29, September 19, 2019, and December 19, 2019 meetings and the DSPS Real Estate Contractual Forms Advisory Committee during its September 11, November 12 and December 11, 2019 meetings. The WB-13\_DraftJan2020 draft is the current draft in creating an updated WB-13 offer in the transactional flow sequence.

The substantive content from the 2011 condo offer and the 2011 vacant land offer, respectively, have been placed, in tracking, into a fairly final updated WB-11. In addition there are some grammatical and language changes noted in tracking that did not make it into the revised WB-11 because of the tight time frame in the WB-11 review process, but which may be considered for the updated versions of the WB-14, WB-13 and other offers, if you believe that is useful to adopt the streamlined language.

Reading these drafts carefully and calling out any glitch or issue is extremely helpful as we proceed to review and modify the substantive content and its placement in the flow of the offer, discuss additional provisions to be added, etc.

**ALL THREE OFFER DRAFTS HAVE HIGHLIGHTED IN GRAY OR BLUE -- AND IN TRACKING -- SOME TERMINOLGY CORRECTIONS OR PROPOSED CHANGES SO IF YOU SEE ANYTHING MARKED IN THIS MANNER AND IT IS NOT ACCEPTABLE TO YOU PLEASE CALL IT OUT. SOME OF THESE ARE IN THE WB-11, THINGS LIKE USING THE WORD "THAT" INSTEAD OF "WHICH," AND SO FORTH. PLEASE DECIDE HOW THESE SHOULD BE HANDLED OR THEY ALL WILL JUST BE CONSIDERED AS ACCEPTED GOING FORWARD.**

Please note that both drafts show a proposed optional use date of May 1, 2020 and a mandatory use date of July 1, 2020. If those dates are satisfactory the Committee may wish to look at the meeting calendar and establish target dates for this Committee's completion of its revisions and for finalization and approval by the REEB.

## **WB-14 Residential Condominium Offer to Purchase**

**Lines 62-65**

**CLOSING** This transaction is to be closed on \_\_\_\_\_ at the place selected by Seller, unless otherwise agreed by the Parties in writing. If the date for closing falls on a **weekend Saturday, Sunday**, or a federal or a state holiday, the closing date shall be the next Business Day.

**NOTE: this change is not in the WB-11 as of this moment**  
Change made and agreed to by both Committees.

Lines 75-77

### **Earnest Money**

**Should this be reworded to address the situation when there is a listing firm that does not have/use a trust account?**

■ EARNEST MONEY of \$ \_\_\_\_\_ will be mailed, or commercially, electronically or personally delivered within \_\_\_\_\_ days ("5" if left blank) after acceptance. All earnest money shall be delivered to and held by (listing Firm) (~~Buyer's cooperating agent's Firm~~) (third party identified as \_\_\_\_\_) **STRIKE THOSE NOT APPLICABLE** (listing Firm if none chosen; if no listing Firm, or if listing Firm has no trust account, then ~~Buyer's the cooperating agent's Firm~~; if no Firm then Seller).

- ❖ **The WRA Forms Committee is in favor of the changes shown above in tracking. They also commented that a listing firm with no trust account should put everyone on notice the firm has no trust account. If they receive a check, they will have to open a trust account unless the offer was appropriately modified before that occurred.**
- ❖ **What does the DSPS Committee think?**

Lines 106-111

**TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; (4) date of closing; (5) contingency Deadlines; **(6) delivery of Condominium disclosure materials (see lines xxx-xxx)** **STRIKE AS APPLICABLE** and all other dates and Deadlines in this Offer except: \_\_\_\_\_.

Change made and agreed to by both Committees.

Lines 113-116

**CONDOMINIUM DISCLOSURE MATERIALS** Seller agrees to deliver to Buyer, within 10 days after acceptance of Offer, current and accurate copies of the Condominium disclosure materials required by Wis. Stat. § 703.33. The Condominium disclosure materials include a copy of the following and any amendments to any of these [except as may be limited for **Small Condominiums per Wis. Stat. § 703.365**]:

Change made and agreed to by both Committees.

Lines 137-152

### **Buyer Rescission Rights**

■ **BUYER RESCISSION RIGHTS:** As provided in Wis. Stat. § 703.33(4)(a), Buyer may, within 5 business days after receipt of all the required disclosure documents or **following notice of any material changes in the required disclosure documents**, rescind this Offer by written notice delivered to Seller. If the disclosure materials are delivered to Buyer and Buyer does not receive all of the disclosure documents, Buyer may, within 5 business days after Buyer's receipt of the disclosure materials, either rescind the Offer or request any missing documents. Seller has 5 business days after receipt of Buyer's request for missing documents to deliver the requested documents. Buyer may rescind the sale within 5 business days after

the earlier of Buyer's receipt of requested missing documents or the deadline for Seller's delivery of the documents [Wis. Stat. § 703.33(4)(b)]. Any document delivered to Buyer may not be changed or amended following delivery if the change or amendment would materially affect the rights of Buyer without first obtaining approval of Buyer. A copy of any such amendments shall be delivered promptly to Buyer.

The Parties agree that the 5 business days begin upon the earlier of: (1) Buyer's Actual Receipt of the disclosure materials, requested missing documents or material changes or (2) upon the deadline for Seller's delivery of the disclosure materials or the requested missing documents.

Change made and agreed to by both Committees.

#### Lines 153-154

**NEW IDEA:** Insert the following language (from lines 235-236 of the 2011 WB-14) at lines 153-4 immediately preceding the contingency for additional condominium information – as a transition:

In addition to review of the disclosure materials required to be provided by Wis. Stat. § 703.33, Buyer may wish to consider reviewing other Condominium materials as may be available.

- ❖ **The WRA Forms Committee is in favor of this addition. What does the DSPS Committee think?**

#### Lines 155-181

##### **Additional Condominium Issues**

Should this be a contingency along the following lines?

**CONTINGENCY FOR ADDITIONAL CONDOMINIUM INFORMATION:** This Offer is contingent upon Seller delivering to Buyer, at Seller's expense, within 10 days after acceptance of Offer, but no later than 15 days prior to closing, the following information: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

[list other materials to be delivered to Buyer, e.g., the Condominium Association's financial statements for the last two years, the minutes of the last 3 Unit owners' meetings, the minutes of Condominium board meetings during the 12 months prior to acceptance, information about contemplated or pending Condominium special assessments, the Association's certificate of insurance, a statement from the Association indicating the balance of reserve accounts controlled by the Association, a statement from the Association of the amount of any unpaid assessments on the Unit (per Wis. Stat. § 703.165), any Common Element inspection reports (e.g. roof, swimming pool, elevator and parking garage inspections, etc.), any pending litigation involving the Association, the Declaration, bylaws, budget and/or most recent financial statement of any master association or Additional Association the Unit may be part of , etc.] (hereinafter the "listed materials").

**NOTE:** Because not all of the listed materials may exist or be available from the Condominium Association, Seller may wish to verify availability prior to acceptance if the Offer is contingent upon Seller providing these materials to Buyer.

■ **BUYER RESCISSION RIGHTS:** Buyer may, within 5 business days after receipt of all the listed materials rescind this Offer by written notice delivered to Seller. If the materials are delivered to Buyer and Buyer does not receive all of the listed materials, Buyer may, within 5 business days after Buyer's receipt of the materials, either rescind the Offer or request any missing materials. Seller has 5 business days after receipt of Buyer's request for missing listed materials to deliver the requested materials. Buyer may rescind the sale within 5 business days after the earlier of Buyer's receipt of requested missing materials or the deadline for Seller's delivery of the materials.

The DSFS Forms Committee suggested the provision be reconfigured along the following lines although there were two committee members who are not in favor of this at the last meeting on Nov. 12 because they believe it will create additional responsibilities and work for listing agents. The following shows the language for rescission rights when there are material changes and the addition of the word “current.”

**CONTINGENCY FOR ADDITIONAL CONDOMINIUM INFORMATION:** This Offer is contingent upon Seller delivering to Buyer, at Seller’s expense, within 10 days after acceptance of this Offer, ~~but no later than 15 days prior to closing,~~ the **current** information listed below **that exists** **STRIKE AND COMPLETE AS APPLICABLE:**

- ◆ the Condominium Association’s financial statements for the last two years
- ◆ the minutes of the last 3 Unit owners’ meetings
- ◆ the minutes of Condominium board meetings during the 12 months prior to acceptance of this Offer
- ◆ information about contemplated or pending Condominium special assessments
- ◆ the Association’s certificate of insurance
- ◆ a statement from the Association indicating the balance of reserve accounts controlled by the Association
- ◆ a statement from the Association of the amount of any unpaid assessments on the Unit (per Wis. Stat. § 703.165)
- ◆ any Common Element inspection reports (e.g. roof, swimming pool, elevator and parking garage inspections, etc.) held by the Association
- ◆ information regarding any pending litigation involving the Association
- ◆ the Declaration, bylaws, budget and/or most recent financial statement of any master association or Additional Association the Unit may be part of
- ◆ other: \_\_\_\_\_

(hereinafter collectively the “listed materials”).

**NOTE:** Because not all of the listed materials may exist or be available from the Condominium Association, Seller may wish to verify availability prior to acceptance of the Offer.

■ **BUYER RESCISSION RIGHTS:** Buyer may, within 5 business days after receipt of all the listed materials or following notice of any material changes in these materials, rescind this Offer by written notice delivered to Seller. If the materials are delivered to Buyer and Buyer does not receive all of the listed materials, Buyer may, within 5 business days after Buyer’s receipt of the materials, either rescind the Offer or request any missing materials in writing. Seller has 5 business days after receipt of Buyer’s request for missing listed materials to deliver the requested materials. Buyer may rescind the sale within 5 business days after the earlier of Buyer’s receipt of requested missing materials or the deadline for Seller’s delivery of the materials. Any listed materials delivered to Buyer may not be changed or amended following delivery if the change or amendment would materially affect the rights of Buyer without first obtaining approval of Buyer. A copy of any such amendments shall be delivered promptly to Buyer.

**The Parties agree that the 5 business days begin upon the earlier of: (1) Buyer’s Actual Receipt of the listed materials, requested missing materials or material changes or (2) upon the deadline for Seller’s delivery of the listed materials or requested missing materials.**

The rescission rights are repeated because although they are substantially similar, they are not identical to the statutory rescission rights, which are tied to the index and cover page. The listed materials are not.

The WRA Forms Committee wasn’t sure they were in favor of this – at an impasse. Some are fine with this while others wondered if the buyer rescission rights were too much/too strong. One suggestion is to make it straightforward and just have rescission rights if not received – no request for missing documents and no obligation to provide materially changed documents and no right to rescind for changed documents. One suggestion was to make the buyer responsible to obtain.

The WRA Forms Committee noted that condo associations will be likely to just say they don't have documents if asked and the provision will put a burden on the seller to get everything.

The following is a compromise version fashioned by the DSPS Forms Council, changing "current" to "as of the date on line 1 of the Offer," removing the item for the association's § 703.165 statement of unpaid assessments because that will be requested elsewhere for closing, and removing the references for amended or updated information:

**CONTINGENCY FOR ADDITIONAL CONDOMINIUM INFORMATION:** This Offer is contingent upon Seller delivering to Buyer, at Seller's expense, within 10 days after acceptance of this Offer, but no later than 15 days prior to closing, the information listed below **that exists as of the date on line 1 of this Offer**. ~~STRIKE AND COMPLETE AS APPLICABLE:~~

- ◆ the Condominium Association's financial statements for the last two years
- ◆ the minutes of the last 3 Unit owners' meetings
- ◆ the minutes of Condominium board meetings during the 12 months prior to acceptance of this Offer
- ◆ information about contemplated or pending Condominium special assessments
- ◆ the Association's certificate of insurance
- ◆ a statement from the Association indicating the balance of reserve accounts controlled by the Association
- ~~◆ a statement from the Association of the amount of any unpaid assessments on the Unit (per Wis. Stat. § 703.165)~~
- ◆ any Common Element inspection reports (e.g. roof, swimming pool, elevator and parking garage inspections, etc.) held by the Association
- ◆ information regarding any pending litigation involving the Association
- ◆ the Declaration, bylaws, budget and/or most recent financial statement of any master association or Additional Association the Unit may be part of
- ◆ other: \_\_\_\_\_

(hereinafter collectively the "listed materials").

**NOTE:** Because not all of the listed materials may exist or be available from the Condominium Association, Seller may wish to verify availability prior to acceptance of the Offer.

■ **BUYER RESCISSION RIGHTS:** ~~Buyer may, within 5 business days after receipt of all the listed materials rescind this Offer by written notice delivered to Seller. If the materials are delivered to Buyer and Buyer does not receive all of the listed materials, Buyer may, within 5 business days after Buyer's receipt of the materials, either rescind the Offer or request any missing materials in writing. Seller has 5 business days after receipt of Buyer's request for missing listed materials to deliver the requested materials. Buyer may rescind the sale within 5 business days after the earlier of Buyer's receipt of requested missing materials or the deadline for Seller's delivery of the materials.~~

**The Parties agree that the 5 business days begin upon the earlier of: (1) Buyer's Actual Receipt of the listed materials, or requested missing materials or material changes or (2) upon the deadline for Seller's delivery of the listed materials or requested missing materials.**

❖ **The WRA Forms Committee is in favor of this version. What does the DSPS Committee think -- one last review?**

## Limited Common Elements Dilemma

The DSPS Forms Council decided in favor of having the WB-14 references use the language form number 2 above: “any Limited Common Elements that may be used only by the owner of the Condominium Unit being transferred.” The WRA Forms Committee agreed.

#### Lines 208-211

■ **SMALL CONDOMINIUM:** Wis. Stat. § 703.02(14m) provides that, “Small Condominium” means a Condominium with no more than 12 Units. Small Condominiums are subject to all provisions in Wis. Stat. Ch. 703, including the provisions for disclosure materials, unless optional provisions in Wis. Stat. § 703.365 for a simplified Condominium are adopted in the Declaration for the Small Condominium.

**Both Committees agree.**

#### Lines 360-378

**RADON TESTING CONTINGENCY:** This Offer is contingent upon Buyer obtaining a current written report of the results of a radon test of the Unit performed by a qualified third party in a manner consistent with applicable EPA and Wisconsin Department of Health Services (DHS) protocols and standards indicating the radon level is less than 4.0 picoCuries per liter (pCi/L), at (Buyer's) (Seller's) **STRIKE ONE** (“Buyer's” if neither is stricken) expense.

This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days (“20” if left blank) after acceptance delivers to Seller a written copy of the radon test results report indicating a radon level of 4.0 pCi/L or higher and written notice objecting to the radon level in the report.

■ **RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** (“shall” if neither is stricken) have the right to cure.

If Seller has the right to cure, Seller may satisfy this contingency by

(1) delivering a written notice of Seller's election to cure within 10 days after delivery of Buyer's notice; and,

(2) installing a radon mitigation system in conformance with EPA standards in a good and workmanlike manner and by giving Buyer a report of the work done and a post remediation test report indicating a radon level of less than 4.0 pCi/L no later than three days prior to closing.

This Offer shall be null and void if Buyer timely delivers the above written notice and report to Seller and

(1) Seller does not have the right to cure; or

(2) Seller has the right to cure but:

(a) Seller delivers written notice that Seller will not cure or

(b) Seller does not timely deliver the notice of election to cure.

**NOTE: See the other Radon Testing Contingency suggestions, as well as the other changes discussed in the WB-11 memo. Would those modifications be appropriate here – and in all updated offers going forward?**

#### Lines 547-560

##### **Special Assessments**

Need a different definition of “levied” for condominium associations. There is a quick attempt in tracking in the draft. There does not seem to be a definition or specific explanation in the statutes other than the statutory references shown above.

DSPS Forms Council made additional modifications on December 11:

■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, including those by any Condominium or Additional Association, levied or for work actually commenced prior to the date stated on line 1 of this Offer shall be paid by Seller no later than closing. All other special assessments shall be paid by Buyer. “Levied” with regard to municipal special assessments means the local municipal governing

body has adopted and published a final resolution describing the planned improvements and the assessment of benefits. “Levied” with regard to Condominium special assessments means the Association has adopted a resolution imposing fees on the Units, other than regular Association fees, for special projects or expenses.

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

- ❖ **The WRA Forms Committee is in favor of this addition. What does the DSPS Committee think -- one last review? And should this go in the other offers?**

**Lines 600-616**

### **Maintenance and Property Damage Between Acceptance and Closing, Lines 610-612:**

**MAINTENANCE** Seller shall maintain the Unit and any Limited Common Elements that may be used only by the owner of the Condominium Unit being transferred the Property and all personal property included in the purchase price until the earlier of closing or Buyer’s occupancy, in materially the same condition it was in as of the date on line 1 of this Offer, except for ordinary wear and tear and changes agreed upon by the Parties.

- Should the reference to “Property” be changed to instead say: “the Unit and any Limited Common Elements that may be used only by the owner of the Condominium Unit being transferred?” See above

## **WB-13 Vacant Land Offer to Purchase**

The provisions from the 2011 vacant land offer are shown as part of the draft but are no longer in tracking.

- ❖ **Double check whether “conditions affecting the Property and transaction” on Lines 115-197 substantially match the content of the VLDR in Wis. Stat. § 709.033 and to see if there are typos or grammatical errors.**

### **Lines 211-248: Government Programs, etc.**

The information here was reviewed and a few corrections were made to the information and the links.

- **Does anyone else have any corrections regarding these provisions – or any suggested additions or deletions?**

### **Proposed Use Contingencies, Lines 259-304:**

Often licensees comment this section is hard to understand and work with. What clarifications might be made?

One comment is that the Buyer obtains the reports but who is paying is left as a choice. It would be preferred that the party who obtains the reports pays for the report because the current format gives the buyer a blank check if the seller pays. One sample of some language that might be worked in to improve upon this concern: “(Buyer)(Seller) [STRIKE ONE] (“Seller” if neither stricken) shall be responsible for obtaining the report(s) and documentation, including all costs.” This makes the provision shorter and maybe clearer, but the possible drawback is that it assumes that one party will obtain all of the reports – is that a problem?

➤ **What does Forms Council think of this idea? This was roughly implemented in the second version of the Proposed Use Contingencies below.**

Other comments indicate this is difficult to explain so any clarification ideas are most welcome!

Below is a new spin on the Proposed Use Contingencies that calls for the same party (still is choice of buyer or seller) to be responsible for obtaining and paying for all reports. Is this workable or is it important to have a choice for each sub-contingency as to who is obtaining and paying for reports, etc.? It is repeated below without the tracking. Or could this be done in a way where each sub-contingency is marked Buyer or Seller with regard to obtaining / paying?

**ZONING CLASSIFICATION CONFIRMATION:** ~~This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) [STRIKE ONE] (Seller"Buyer's" if neither is stricken) shall obtain and pay the costs of expense,~~ verification that the Property is zoned \_\_\_\_\_ and that the Property's zoning allows the Buyer's proposed use described at lines xxx-xxx.

#### PROPOSED MODIFICATIONS

**PROPOSED USE CONTINGENCIES:** Buyer is purchasing the Property for the purpose of: \_\_\_\_\_

\_\_\_\_\_ [insert proposed use and type and size of building, if applicable; e.g. three bedroom single family home]. ~~This Offer is contingent upon obtaining the reports or documentation required by the optional provisions checked on lines xxx-xxx below.~~ The optional provisions checked on lines xxx-xxx shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days after acceptance, delivers (1) written notice to Seller specifying those items that cannot be satisfied and (2) written evidence substantiating why each specific item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingencies checked at lines xxx-xxx. ~~(Buyer)(Seller) [STRIKE ONE] ("Seller" if neither stricken) shall be responsible for obtaining the report(s) and documentation, including all costs. If Seller is obtaining the report(s) the reports must be delivered to Buyer no later than \_\_\_\_\_ days after acceptance. This Offer shall be null and void if Buyer delivers notice to Seller, within 5 days of the deadline for Seller's delivery of the report(s), stating Seller failed to timely deliver report(s) [if Seller was responsible to provide the report(s)].~~

**ZONING CLASSIFICATION CONFIRMATION:** ~~This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) [STRIKE ONE] ("Buyer's" if neither is stricken) expense,~~ verification that the Property is zoned \_\_\_\_\_ and that the Property's zoning allows the Buyer's proposed use described at lines xxx-xxx.

**SUBSOILS:** ~~This offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) [STRIKE ONE] ("Buyer's" if neither is stricken) expense,~~ written evidence from a qualified soils expert that the Property is free of any subsoil condition that would make the proposed use described at lines xxx-xxx impossible or significantly increase the costs of such development.

**PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM (POWTS) SUITABILITY:** ~~This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) [STRIKE ONE] ("Buyer's" if neither is~~

~~stricken) expense, W~~written evidence from a certified soils tester that (a) the soils at the Property locations selected by Buyer, and (b) all other conditions that must be approved, meet the legal requirements in effect on the date of this Offer to obtain a permit for a POWTS for use of the Property as stated on lines xxx-xxx. The POWTS (septic system) allowed by the written evidence must be one of the following POWTS that is approved by the State for use with the type of property identified at lines xxx-xxx **CHECK ALL THAT APPLY**:  conventional in-ground;  mound;  at grade;  in-ground pressure distribution;  holding tank;  other: \_\_\_\_\_.

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

**APPROVALS:** ~~This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, P~~permits, approvals and licenses, as appropriate, or the final discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses, for the following items related to Buyer's proposed use: \_\_\_\_\_.

**UTILITIES:** ~~This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, W~~written verification of the location of the following utility service connections (e.g., on the Property, at the lot line, across the street, etc.) **CHECK AND COMPLETE AS APPLICABLE**:

electricity \_\_\_\_\_;  gas \_\_\_\_\_;  sewer \_\_\_\_\_;  
 water \_\_\_\_\_;  telephone \_\_\_\_\_;  cable \_\_\_\_\_;  
 other \_\_\_\_\_.

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

**LAND USE APPROVAL:** This Offer is contingent upon ~~(Buyer)(Seller) [STRIKE ONE] ("Seller" if neither stricken) obtaining the following permit(s), including all costs: Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, a~~  rezoning;  conditional use permit;  license;  variance;  building permit;  occupancy permit;  other \_\_\_\_\_ **CHECK ALL THAT APPLY**, and delivering written notice to Seller if the item cannot be obtained, all within \_\_\_\_\_ days of acceptance for the Property for its proposed use described at lines xxx-xxx.

**PROPOSED USE CONTINGENCIES:** Buyer is purchasing the Property for the purpose of: \_\_\_\_\_

\_\_\_\_\_ [insert proposed use and type and size of building, if applicable; e.g. three bedroom single family home]. This Offer is contingent upon obtaining the reports or documentation required by the optional provisions checked on lines xxx-xxx below. The optional provisions checked on lines xxx-xxx shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days after acceptance, delivers (1) written notice to Seller specifying those items that cannot be satisfied and (2) written evidence substantiating why each specific item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingencies checked at lines xxx-xxx. (Buyer)(Seller) [STRIKE ONE] ("Seller" if neither stricken) shall be responsible for obtaining the report(s) and documentation, including all costs. If Seller is obtaining the report(s) the reports must be delivered to Buyer no later than \_\_\_ days after acceptance. This Offer shall be null and void if Buyer delivers notice to Seller, within 5 days of the deadline for Seller's delivery of the report(s), stating Seller failed to timely deliver report(s) [if Seller was responsible to provide the report(s)].

**ZONING CLASSIFICATION CONFIRMATION:** Verification that the Property is zoned \_\_\_\_\_ and that the Property's zoning allows the Buyer's proposed use described at lines xxx-xxx.

**SUBSOILS:** Written evidence from a qualified soils expert that the Property is free of any subsoil condition that would make the proposed use described at lines xxx-xxx impossible or significantly increase the costs of such development.

**PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM (POWTS) SUITABILITY:** Written evidence from a certified soils tester that (a) the soils at the Property locations selected by Buyer, and (b) all other conditions that must be approved, meet the legal requirements in effect on the date of this Offer to obtain a permit for a POWTS for use of the Property as stated on lines xxx-xxx. The POWTS (septic system) allowed by the written evidence must be one of the following POWTS that is approved by the State for use with the type of property identified at lines xxx-xxx **CHECK ALL THAT APPLY:**  conventional in-ground;  mound;  at grade;  in-ground pressure distribution;  holding tank;  other: \_\_\_\_\_.

**EASEMENTS AND RESTRICTIONS:** Copies of all public and private easements, covenants and restrictions affecting the Property and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase the costs of the proposed use or development identified at lines xxx-xxx.

**APPROVALS:** Permits, approvals and licenses, as appropriate, or the final discretionary action by the granting authority prior to the issuance of such permits, approvals and licenses, for the following items related to Buyer's proposed use: \_\_\_\_\_.

**UTILITIES:** Written verification of the location of the following utility service connections (e.g., on the Property, at the lot line, across the street, etc.) **CHECK AND COMPLETE AS APPLICABLE:**

electricity \_\_\_\_\_;  gas \_\_\_\_\_;  sewer \_\_\_\_\_;  
 water \_\_\_\_\_;  telephone \_\_\_\_\_;  cable \_\_\_\_\_;  
 other \_\_\_\_\_.

**ACCESS TO PROPERTY:** Written verification that there is legal vehicular access to the Property from public roads.

**LAND USE APPROVAL:** This Offer is contingent upon "(Buyer)(Seller) [STRIKE ONE] ("Seller" if neither stricken) obtaining the following permit(s), including all costs: a  rezoning;  conditional use permit;  license;  variance;  building permit;  occupancy permit;  other \_\_\_\_\_ **CHECK ALL THAT APPLY**], and delivering written notice to Seller if the item cannot be obtained, all within \_\_\_\_\_ days of acceptance for the Property for its proposed use described at lines xxx-xxx.

### Map of the Property, Lines 305-322:

**MAP OF THE PROPERTY:** This Offer is contingent upon (Buyer obtaining) (Seller providing) **STRIKE ONE** ("Seller providing" if neither is stricken) a Map of the Property dated subsequent to the date of acceptance of this Offer prepared by a registered land surveyor, within \_\_\_\_\_ days ("20" if left blank) of acceptance, at (Buyer's) (Seller's) **STRIKE ONE** ("Seller's" if neither is stricken) expense. The map shall show minimum of \_\_\_\_\_ acres, maximum of \_\_\_\_\_ acres, the legal description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements, if any, and: \_\_\_\_\_

**STRIKE AND COMPLETE**  
**AS APPLICABLE** Additional map features that may be added include, but are not limited to: staking of all corners of the Property; identifying dedicated and apparent streets; lot dimensions; total acreage or square footage; easements or rights-of-way.

**CAUTION: Consider the cost and the need for map features before selecting them. Also consider the time required to obtain the map when setting the deadline.**

This contingency shall be deemed satisfied unless Buyer, within five days of the deadline for delivery of said map, delivers to Seller a copy of the map and a written notice which identifies: (1) the significant

encroachment; (2) information materially inconsistent with prior representations; or (3) failure to meet requirements stated within this contingency. Upon delivery of Buyer's notice, this Offer shall be null and void. If Seller was responsible to provide the map, this Offer shall be null and void if Buyer delivers notice to Seller within three days ~~of-after~~ the delivery deadline stating Seller failed to deliver the map.

Suggestion has been made to change the last sentence to provide:

If Seller was responsible to provide the map, this Offer shall be null and void if Buyer delivers notice to Seller ~~within three days of the delivery deadline~~ stating Seller failed to deliver the map by the delivery deadline.

The intent is to not constrict the Buyer to just a 3-day time frame for giving notice and gives the Buyer unrestricted time for giving the notice. That way the buyer can allow the seller to come up with the map late if there are delays with the surveyor, weather conditions, etc.

- ❖ **The WRA Forms Committee was in favor of creating a timeframe longer than three days but thought allowing the seller the ability to make the offer null and void all the way up to closing was too long. What does the DSPS Committee think?**

Another suggestion was to add a place to write in the tax pin or parcel number on the last page – or maybe in the beginning near the property description because it helps describe vacant land that may not always have an address.

- **What other changes or additions to provisions should be made in the WB-13? Does anyone have experience with any of the provisions in this contract?**

**IF THERE ARE NOT OTHER MODIFIECATIONS NEEDED IN THE WB-14 CONDOMINIUM OFFER OR THE WB-13 VACANT LAND OFFER, WE CAN START THE REVIEW OF THE WB-15 COMMERCIAL OFFER FOR NEXT TIME!!**

OfferWB-14WB-13Revisiondps2-12-20

**WB-14 RESIDENTIAL CONDOMINIUM OFFER TO PURCHASE**

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

3 The Buyer, \_\_\_\_\_,  
4 offers to purchase the Property known as [Street Address] \_\_\_\_\_

5 \_\_\_\_\_  
6 in the \_\_\_\_\_ of \_\_\_\_\_, County

7 of \_\_\_\_\_ of \_\_\_\_\_ Wisconsin, particularly described as Unit: \_\_\_\_\_ (Building \_\_\_\_\_  
8 \_\_\_\_\_) of \_\_\_\_\_ Condominium

9 (insert additional description, if any, at lines xxx-xxx or attach as an addendum per line xxx), on the following terms:

10 **PURCHASE PRICE** The purchase price is \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

11 \_\_\_\_\_  
12 **INCLUDED IN PURCHASE PRICE** Included in purchase price is (1) the Property, (2) Seller's interest in the Common  
13 Elements and Limited Common Elements (see lines xx-xx and xxx-xxx) appurtenant to the Unit, together with and subject  
14 to the rights, interests, obligations and limitations as set forth in the Condominium Declaration and plat (and all amendments  
15 thereto); (3) Seller's interests in any common surplus and reserves in the Condominium allocated to the Property, (4) all  
16 Fixtures on the Property as of the date stated on line 1 of this Offer (unless excluded at lines xx-xx), and (5) the following  
17 additional items: \_\_\_\_\_

18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_

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

23 **NOT INCLUDED IN PURCHASE PRICE** Not included in purchase price is Seller's personal property (unless included at  
24 lines xx-xx) and the following: \_\_\_\_\_

25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_

28 **CAUTION: Identify Fixtures that are on the Property (see lines xx-xx) to be excluded by Seller or that are rented  
29 (e.g., water softeners or other water treatment systems, LP tanks, etc.) and will continue to be owned by the  
30 lessor.**

31 "Fixture" is defined as an item of property that is physically attached to or so closely associated with land, buildings or  
32 improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not easily  
33 removable without damage to the premises, items specifically adapted to the premises and items customarily treated as  
34 fixtures, including, but not limited to, all: garden bulbs; plants; shrubs and trees; screen and storm doors and windows;  
35 electric lighting fixtures; window shades; curtain and traverse rods; blinds and shutters; central heating and cooling units  
36 and attached equipment; water heaters, water softeners and treatment systems; sump pumps; attached or fitted floor  
37 coverings; awnings; attached antennas and satellite dishes (but not the component parts); audio/visual wall mounting  
38 brackets (but not the audio/visual equipment); garage door openers and remote controls; installed security systems; central  
39 vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans;  
40 fences; in-ground pet containment systems, including receiver components (but not the collars); storage buildings on  
41 permanent foundations and docks/piers on permanent foundations.

42 **CAUTION: Exclude any Fixtures to be retained by Seller or that are rented (e.g., water softeners or other water  
43 treatment systems, LP tanks, etc.) on lines xx-xx or at lines xxx-xxx or in an addendum per line xxx).**

44 **STORAGE, PARKING AND FEES**

45 ■ **STORAGE UNIT:** A storage unit (is) (is not) **STRIKE ONE** included in the purchase price. Storage unit number: \_\_\_\_\_.

46 ■ **PARKING:** The parking for the Unit is \_\_\_\_\_. The parking fee is \$ \_\_\_\_\_.

47 ■ **ASSOCIATION FEE:** The Association fee for the Property is \$ \_\_\_\_\_ per \_\_\_\_\_.

48 ■ **UNIT TRANSFER FEE:** Buyer is aware the Property may be subject to one-time fee(s) resulting from transfer of the  
49 Property. Any fee(s) resulting from transfer of the Property shall be paid at closing by (Seller) (Buyer) **STRIKE ONE** ("Buyer"  
50 if neither is stricken).

51 **NOTE: The Association may charge fees at or subsequent to closing which may include Additional Association, reserves,  
52 administrative or other fees. Buyer is advised to review the Condominium disclosure materials including, but not limited to,  
53 current financial disclosure statements and other Condominium materials described on lines xxx-xxx, as relevant.**

54 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer  
55 on or before \_\_\_\_\_.

56 Seller may keep the  
57 Property on the market and accept secondary offers after binding acceptance of this Offer.

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

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

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

62 **CLOSING** This transaction is to be closed on \_\_\_\_\_  
63 \_\_\_\_\_ at the place selected by Seller,  
64 unless otherwise agreed by the Parties in writing. If the date for closing falls on a Saturday, Sunday, or a federal or a state  
65 holiday, the closing date shall be the next Business Day.

66 **CAUTION: To reduce the risk of wire transfer fraud, any wiring instructions received should be independently**  
67 **verified by phone or in person with the title company, financial institution, or entity directing the transfer. The real**  
68 **estate licensees in this transaction are not responsible for the transmission or forwarding of any wiring or money**  
69 **transfer instructions.**

Property Address: \_\_\_\_\_ Page 2 of 10, WB-11

70 **EARNEST MONEY**

71 ■ EARNEST MONEY of \$ \_\_\_\_\_ accompanies this Offer.

72 If Offer was drafted by a licensee, receipt of the earnest money accompanying this Offer is acknowledged.

73 ■ EARNEST MONEY of \$ \_\_\_\_\_ will be mailed, or commercially, electronically  
74 or personally delivered within \_\_\_\_\_ days ("5" if left blank) after acceptance.

75 All earnest money shall be delivered to and held by (listing Firm) (~~Buyer's cooperating agent's Firm~~) (third party identified  
76 as \_\_\_\_\_) **STRIKE THOSE NOT APPLICABLE** (listing Firm if none  
77 chosen; if no listing Firm, or if listing firm has no trust account, then ~~Buyer's the cooperating agent's~~ Firm; if no Firm, then  
78 Seller).

79 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise agreed in writing.

80 ■ HELD BY: Earnest money shall be delivered in accordance with lines ~~xx-xx~~ and held in the account of the person identified  
81 on lines ~~xx-xx~~. If earnest money is held by a Firm the Firm will hold the earnest money until applied to the purchase price  
82 or disbursed as provided at lines ~~xx-xx~~.

83 **CAUTION: Should persons other than a Firm hold earnest money, an escrow agreement should be drafted by the**  
84 **Parties or an attorney as lines ~~xx-xx~~ do not apply. If someone other than Buyer pays earnest money, consider a**  
85 **special disbursement agreement.**

86 ■ **DISBURSEMENT IF EARNEST MONEY HELD BY A FIRM:** If negotiations do not result in an accepted offer and the  
87 earnest money is held by a Firm, the earnest money shall be promptly disbursed (after clearance from payer's depository  
88 institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest money shall  
89 be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according  
90 to a written disbursement agreement signed by all Parties to this Offer. If said disbursement agreement has not been  
91 delivered to the Firm holding the earnest money within 60 days after the date set for closing, that Firm may disburse the  
92 earnest money: (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer or Seller;  
93 (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court order; (4)  
94 upon authorization granted within this Offer; or (5) any other disbursement required or allowed by law. The Firm may retain  
95 legal services to direct disbursement per (1) or to file an interpleader action per (2) and the Firm may deduct from the  
96 earnest money any costs and reasonable attorneys' fees, not to exceed \$250, prior to disbursement.

97 ■ **LEGAL RIGHTS/ACTION:** The Firm's disbursement of earnest money does not determine the legal rights of the Parties  
98 in relation to this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by the Firm holding the earnest  
99 money. At least 30 days prior to disbursement per (1), (4) or (5) above, where the Firm has knowledge that either Party  
100 disagrees with the disbursement, the Firm shall send Buyer and Seller written notice of the intent to disburse by certified  
101 mail. If Buyer or Seller disagree with the Firm's proposed disbursement, a lawsuit may be filed to obtain a court order  
102 regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the sale of  
103 residential property with one-to-four dwelling units. Buyer and Seller should consider consulting attorneys regarding their  
104 legal rights under this Offer in case of a dispute. Both Parties agree to hold the Firm harmless from any liability for good  
105 faith disbursement of earnest money in accordance with this Offer or applicable Department of Safety and Professional  
106 Services regulations concerning earnest money. See Wis. Admin. Code Ch. REEB 18.

107 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3)  
108 occupancy; (4) date of closing; (5) contingency Deadlines; (6) delivery of Condominium disclosure materials (see lines xxx-  
109 xxx) **STRIKE AS APPLICABLE** and all other dates and Deadlines in this Offer except: \_\_\_\_\_  
110 \_\_\_\_\_. If "Time is of the Essence" applies to a date or Deadline,  
111 failure to perform by the exact date or Deadline is a breach of contract. If "Time is of the Essence" does not apply to a date  
112 or Deadline, then performance within a reasonable time of the date or Deadline is allowed before a breach occurs.

113 **CONDOMINIUM DISCLOSURE MATERIALS** Seller agrees to deliver to Buyer, within 10 days after acceptance of Offer,  
114 current and accurate copies of the Condominium disclosure materials required by Wis. Stat. § 703.33. The Condominium  
115 disclosure materials include a copy of the following and any amendments to any of these [except as may be limited for  
116 Small Condominiums per Wis. Stat. § 703.365]:

117 (a) proposed or existing Declaration, bylaws and any rules or regulations, and an index of the contents;

- 118 (b) proposed or existing articles of incorporation of the Association, if it is or is to be incorporated;  
119 (c) proposed or existing management contract, employment contract or other contract affecting the use, maintenance  
120 or access of all or part of the Condominium;  
121 (d) projected annual operating budget for the Condominium including reasonable details concerning the estimated  
122 monthly payments by the purchaser for assessments and other monthly charges;  
123 (e) leases to which Unit owners or the Association will be a party;  
124 (f) general description of any contemplated expansion of Condominium including each stage of expansion and the  
125 maximum number of Units that can be added to the Condominium;  
126 (g) Unit floor plan and map showing location of Common Elements and other facilities available to Unit owners;  
127 (h) the executive summary.

128 ■ **CONVERSION CONDOMINIUMS:** If the Condominium was an occupied structure prior to the recording of the  
129 Condominium Declaration, it is a "conversion Condominium," and the "Condominium disclosure materials" for a conversion  
130 Condominium with five or more Units also include:

- 131 (1) a declarant's statement based on an independent engineer's or architect's report describing the present condition  
132 of structural, mechanical and electrical installations;  
133 (2) a statement of the useful life of the items covered in (1), unless a statement that no representations are being made  
134 is provided, and  
135 (3) a list of notices of uncured code or other municipal violations, including an estimate of the costs of curing the  
136 violations.

137 ■ **BUYER RESCISSION RIGHTS:** As provided in Wis. Stat. § 703.33(4)(a), Buyer may, within 5 business days after receipt  
138 of all the required disclosure documents or following notice of any material changes in the required disclosure documents,  
139 rescind this Offer by written notice delivered to Seller. If the disclosure materials are delivered to Buyer and Buyer does not  
140 receive all of the disclosure documents, Buyer may, within 5 business days after Buyer's receipt of the disclosure materials,  
141 either rescind the Offer or request any missing documents. Seller has 5 business days after receipt of Buyer's request for  
142 missing documents to deliver the requested documents. Buyer may rescind the sale within 5 business days after the earlier  
143 of Buyer's receipt of requested missing documents or the deadline for Seller's delivery of the documents [Wis. Stat. §  
144 703.33(4)(b)]. Any document delivered to Buyer may not be changed or amended following delivery if the change or  
145 amendment would materially affect the rights of Buyer without first obtaining approval of Buyer. A copy of any such  
146 amendments shall be delivered promptly to Buyer.

147 **The Parties agree that the 5 business days begin upon the earlier of: (1) Buyer's Actual Receipt of the disclosure**  
148 **materials, requested missing documents or material changes or (2) upon the deadline for Seller's delivery of the**  
149 **disclosure materials or the requested missing documents.**

150 **NOTE: BUYER SHOULD READ ALL DOCUMENTS CAREFULLY. LICENSEES MAY PROVIDE A GENERAL**  
151 **EXPLANATION OF THE DOCUMENTS BUT ARE PROHIBITED BY LAW FROM GIVING LEGAL ADVICE OR**  
152 **OPINIONS.**

153 In addition to review of the disclosure materials required to be provided by Wis. Stat. § 703.33, Buyer may wish to consider  
154 reviewing other Condominium materials as may be available.

155 **CONTINGENCY FOR ADDITIONAL CONDOMINIUM INFORMATION:** This Offer is contingent upon Seller  
156 delivering to Buyer, at Seller's expense, within 10 days after acceptance of this Offer the current information listed below  
157 that exists as of the date on line 1 of this Offer:

- 158 ◆ the Condominium Association's financial statements for the last two years  
159 ◆ the minutes of the last 3 Unit owners' meetings  
160 ◆ the minutes of Condominium board meetings during the 12 months prior to acceptance of this Offer  
161 ◆ information about contemplated or pending Condominium special assessments  
162 ◆ the Association's certificate of insurance  
163 ◆ a statement from the Association indicating the balance of reserve accounts controlled by the Association  
164 ◆ any Common Element inspection reports (e.g. roof, swimming pool, elevator and parking garage inspections, etc.)  
165 held by the Association  
166 ◆ information regarding any pending litigation involving the Association  
167 ◆ the Declaration, bylaws, budget and/or most recent financial statement of any master association or Additional  
168 Association the Unit may be part of  
169 ◆ other:

170 (hereinafter collectively the "listed materials").

171 **NOTE:** Because not all of the listed materials may exist or be available from the Condominium Association, Seller may wish  
172 to verify availability prior to acceptance of the Offer.

173 ■ **BUYER RESCISSION RIGHTS:** Buyer may, within 5 business days after receipt of all the listed materials rescind this  
174 Offer by written notice delivered to Seller. If the materials are delivered to Buyer and Buyer does not receive all of the listed  
175 materials, Buyer may, within 5 business days after Buyer's receipt of the materials, either rescind the Offer or request any  
176 missing materials in writing. Seller has 5 business days after receipt of Buyer's request for missing listed materials to deliver  
177 the requested materials. Buyer may rescind the sale within 5 business days after the earlier of Buyer's receipt of requested  
178 missing materials or the deadline for Seller's delivery of the materials.

179 **The Parties agree that the 5 business days begin upon the earlier of: (1) Buyer's Actual Receipt of the listed**  
180 **materials or requested missing materials or (2) upon the deadline for Seller's delivery of the listed materials or**  
181 **requested missing materials.**

182 ■ **ASSOCIATION:** Wis. Stat. § 703.02(1m) provides that, "Association' means all of a Condominium's Unit owners acting  
183 as a group, either through a nonstock corporation or an unincorporated association, in accordance with its bylaws and  
184 declaration." The Association is the entity that the Unit owners typically use to act together as a group to manage and  
185 maintain the Condominium property and finances. Every Unit owner is automatically a member of the Association, which  
186 adopts budgets and sets the amounts of the fees or assessments paid by the Unit owners.

187 ■ **ADDITIONAL ASSOCIATION:** Refers to any community, neighborhood, subdivision, master or umbrella association with  
188 the power to levy fees or assessments on the Property owner.

189 ■ **COMMON ELEMENTS:** Wis. Stat. § 703.02(2) provides that, "Common Elements' mean all of a Condominium except  
190 its units." In a typical residential Condominium project, the Common Elements may include the land, structural and common  
191 parts of buildings (entranceway, halls, elevator, meeting room, etc.), landscaping, roads, any outside parking areas, outdoor  
192 lighting, any recreational facilities (swimming pool, tennis courts, clubhouse, etc.) and all other common areas and  
193 amenities. The Common Elements are owned collectively by all of the Unit owners. For example, in a Condominium with  
194 100 Units, each Unit owner may own a one percent interest in all Common Elements. Thus, the Unit owner would own an  
195 undivided one percent interest in the tennis courts, road, parking lot, etc.

196 ■ **CONDOMINIUM:** Wis. Stat. § 703.02(4) provides that, "Condominium' means property subject to a Condominium  
197 Declaration established under this chapter" [Wis. Stat. Ch. 703].

198 ■ **DECLARATION:** Wis. Stat. § 703.02(8) provides that, "Declaration' means the instrument by which a property becomes  
199 subject to this chapter, and that declaration as amended from time to time." The Declaration is a written document that  
200 creates a Condominium from one or more parcels of real estate. The owner declares his or her property to be a  
201 Condominium. The Declaration divides the property into Units, which are individually owned, and the Common Elements,  
202 which are owned in common by all of the Unit owners together.

203 ■ **LIMITED COMMON ELEMENTS:** Wis. Stat. § 703.02(10) provides that, "Limited Common Element' means a Common  
204 Element identified in a Declaration or on a Condominium plat as reserved for the exclusive use of one or more but less than  
205 all of the Unit owners." A Unit owner does not own a Limited Common Element, except for the percentage interest in the  
206 Common Elements, but is the only one who may use it, either alone or with others (but not all Unit owners). This exclusive  
207 use may be subject to restrictions stated in the Declaration or the Condominium rules. Limited Common Elements may  
208 include a storage area, patio, balcony, garage parking space or a boat slip.

209 ■ **SMALL CONDOMINIUM:** Wis. Stat. § 703.02(14m) provides that, "Small Condominium" means a Condominium with no  
210 more than 12 Units. Small Condominiums are subject to all provisions in Wis. Stat. Ch. 703, including the provisions for  
211 disclosure materials, unless optional provisions in Wis. Stat. § 703.365 for a simplified Condominium are adopted in the  
212 Declaration for the Small Condominium.

213 ■ **UNIT:** Wis. Stat. § 703.02(15) provides, "Unit' means a part of a Condominium intended for any type of independent use,  
214 including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on  
215 one or more floors, or parts thereof, in a building. A Unit may include 2 or more noncontiguous areas." The Unit owner is  
216 entitled to exclusive ownership and possession of his or her Unit. A Unit is not necessarily limited to an apartment-like  
217 concept and may also be a freestanding house, a structure plus surrounding land, or land similar to a lot. Units may also  
218 include a separate area that is some distance away from the basic individual dwelling area. For example, a Unit may be  
219 defined to include a storage area, patio, garage parking space or a boat slip. What is included in a given Unit depends on  
220 how the term "Unit" is defined in the Condominium Declaration and plat.

221 **REAL ESTATE CONDITION REPORT** Wisconsin law requires owners of property that includes one-to-four dwelling units  
222 to provide Buyers with a Real Estate Condition Report. Excluded from this requirement are sales of property that has never  
223 been inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed fiduciaries, (for example,  
224 personal representatives who have never occupied the Property). The form of the Report is found in Wis. Stat. § 709.03.  
225 The law provides: "§ 709.02 Disclosure . . . the owner of the property shall furnish, not later than 10 days after acceptance  
226 of the contract of sale . . . , to the prospective Buyer of the property a completed copy of the report . . . A prospective Buyer  
227 who does not receive a report within the 10 days may, within two business days after the end of that 10-day period, rescind  
228 the contract of sale . . . by delivering a written notice of rescission to the owner or the owner's agent." Buyer may also have  
229 certain rescission rights if a Real Estate Condition Report disclosing defects is furnished before expiration of the 10 days,  
230 but after the Offer is submitted to Seller. Buyer should review the report form or consult with an attorney for additional  
231 information regarding rescission rights. Wis. Stat. § 709.03 provides that when the Property is a Condominium Unit, the  
232 property to which the Real Estate Condition Report applies is the Condominium Unit, the Common Elements of the  
233 Condominium and any Limited Common Elements that may be used only by the owner of the Condominium Unit being  
234 transferred. Wis. Stat. § 709.02 requires that Seller also furnish a Condominium addendum to the Real Estate Condition  
235 Report and a copy of the executive summary along with the Real Estate Condition Report.

236 **NOTE: Small Condominiums may not be required to have an executive summary per Wis. Stat. § 703.365.**

237 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that as of the date of acceptance Seller has  
238 no notice or knowledge of Conditions Affecting the Property or Transaction (lines xxx-xxx) with regard to the Unit,  
239 Condominium Common Elements and Limited Common Elements that may be used only by the owner of the Condominium  
240 Unit being transferred, other than those identified in Seller's Real Estate Condition Report dated

241 \_\_\_\_\_, which was received by Buyer prior to Buyer signing this Offer and which is made a part  
242 of this Offer by reference **COMPLETE DATE OR STRIKE AS APPLICABLE** and \_\_\_\_\_  
243 \_\_\_\_\_

Property Address: \_\_\_\_\_

Page 3 of 10, WB-11

244 **INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT**

245 "Conditions Affecting the Property or Transaction" are defined to include:

246 a. Defects in the roof, basement or foundation (including cracks, seepage and bulges), electrical system, or part of the  
247 plumbing system (including the water heater, water softener and swimming pool); or basement, window, or plumbing leaks;  
248 overflow from sinks, bathtubs, or sewers; or other water or moisture intrusions or conditions.

249 b. Defects in heating and air conditioning system (including the air filters and humidifiers); in a wood burning stove or  
250 fireplace; or caused by a fire in a stove or fireplace or elsewhere on the Property.

251 c. Defects related to smoke detectors or carbon monoxide detectors, or a violation of applicable state or local smoke  
252 detector or carbon monoxide detector laws.

253 d. Defects in any structure, or mechanical equipment included as Fixtures or personal property.

254 e. Rented items located on the Property such as a water softener or other water conditioner system.

255 f. Defects caused by unsafe concentrations of, or unsafe conditions on the Property relating to, radon, radium in water  
256 supplies, lead in paint, soil or water supplies, unsafe levels of mold, asbestos or asbestos-containing materials or other  
257 potentially hazardous or toxic substances on the Property; manufacture of methamphetamine or other hazardous or toxic  
258 substances on the Property; or high voltage electric (100 KV or greater) or steel natural gas transmission lines located on  
259 but not directly serving the Property.

260 **NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential**  
261 **properties built before 1978.**

262 g. Defects caused by unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic  
263 substances on neighboring properties.

264 f. The Property is served by a joint well; Defects related to a joint well serving the Property; or Defects in a well on the  
265 Property or in a well that serves the Property, including unsafe well water.

266 g. A septic system or other private sanitary disposal system serves the Property; Defects in the septic system or other  
267 sanitary disposal system on the Property; or any out-of-service septic system serving the Property not closed or abandoned  
268 according to applicable regulations.

269 h. Underground or aboveground fuel storage tanks on or previously located on the Property; or Defects in the underground  
270 or aboveground fuel storage tanks on or previously located on the Property. (The owner, by law, may have to register the  
271 tanks with the Department of Agriculture, Trade and Consumer Protection at P.O. Box 8911, Madison, Wisconsin, 53708,  
272 whether the tanks are in use or not. Department regulations may require closure or removal of unused tanks.)

273 i. "LP" tank on the Property (specify in the additional information whether the tank is owned or leased); or Defects in an  
274 "LP" tank on the Property.

275 j. Notice of property tax increases, other than normal annual increases, or pending Property reassessment; remodeling  
276 that may increase the Property's assessed value; pending special assessments; or Property is within a special purpose  
277 district, such as a drainage district, that has authority to impose assessments.

278 k. Proposed construction of a public project that may affect use of the Property; Property additions or remodeling affecting  
279 Property structure or mechanical systems during Seller's ownership without required permits; or any land division involving  
280 the Property without required state or local permits.

281 l. The Property is part of or subject to a subdivision homeowners' association; or the Property is not a condominium unit  
282 and there are common areas associated with the Property that are co-owned with others.

283 m. Any zoning code violations with respect to the Property; the Property or any portion thereof is located in a floodplain,  
284 wetland or shoreland zoning area; or the Property is subject to a shoreland mitigation plan required by Wisconsin  
285 Department of Natural Resources (DNR) rules that obligates the Property owner to establish or maintain certain measures  
286 related to shoreland conditions, enforceable by the county.

287 n. Nonconforming uses of the Property; conservation easements, restrictive covenants or deed restrictions on the  
288 Property; or nonowners having rights to use part of the Property, including, but not limited to, rights-of-way and easements  
289 other than recorded utility easements.

290 o. All or part of the Property has been assessed as agricultural land; has been assessed a use-value assessment  
291 conversion charge; or payment of a use-value assessment conversion charge has been deferred.

292 p. All or part of the Property is subject to, enrolled in, or in violation of a farmland preservation agreement, Forest Crop  
293 Law, Managed Forest Law, the Conservation Reserve Program, or a comparable program.

294 q. A dam is totally or partially located on the Property; or an ownership interest in a dam not located on the Property will  
295 be transferred with the Property because the dam is owned by a homeowners' association, lake district, or similar group of  
296 which the Property owner is a member.

297 r. No legal access to the Property; or boundary or lot line disputes, encroachments or encumbrances (including a joint  
298 driveway) affecting the Property.

299 s. Federal, state, or local regulations requiring repairs, alterations or corrections of an existing condition; or any insurance  
300 claims relating to damage to the Property within the last five years.

301 t. A pier attached to the Property not in compliance with state or local pier regulations.

302 u. Current or previous termite, powder-post beetle or carpenter ant infestations or Defects caused by animal, reptile, or  
303 other insect infestations.

304 v. Structure on the Property designated as an historic building; all or any part of the Property in an historic district; or one  
305 or more burial sites on the Property.

306 w. Other Defects affecting the Property.

Property Address: \_\_\_\_\_ Page 4 of 10, WB-11

307 **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific contingencies are included as a  
308 part of this Offer. An "inspection" is defined as an observation of the Unit and any Limited Common Elements that may be  
309 used only by the owner of the Condominium Unit being transferred which does not include an appraisal or testing of the  
310 Property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source,  
311 which are hereby authorized. A "test" is defined as the taking of samples of materials such as soils, water, air or building  
312 materials from the Unit for laboratory or other analysis of these materials. Seller agrees to allow Buyer's inspectors, testers  
313 and appraisers reasonable access to the Unit and any Limited Common Elements that may be used only by the owner of  
314 the Condominium Unit being transferred upon advance notice, if necessary, to satisfy the contingencies in this Offer. Buyer  
315 or licensees or both may be present at all inspections and testing. Except as otherwise provided, Seller's authorization for  
316 inspections does not authorize Buyer to conduct testing of the Unit and any Limited Common Elements that may be used  
317 only by the owner of the Condominium Unit being transferred.

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

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

325  **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines xxx-xxx).

326 (1) This Offer is contingent upon a Wisconsin registered or Wisconsin licensed home inspector performing a home inspection  
327 of the Unit and any Limited Common Elements that may be used only by the owner of the Condominium Unit being  
328 transferred after the date on line 1 of this Offer that discloses no Defects.

329 (2) This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing an  
330 inspection of \_\_\_\_\_

331 \_\_\_\_\_ (list any Property component(s)  
332 to be separately inspected, e.g., swimming pool, roof, foundation, chimney, etc.) that discloses no Defects.

333 (3) Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection, provided  
334 they occur prior to the Deadline specified at line xxx. Inspection(s) shall be performed by a qualified independent  
335 inspector or independent qualified third party.

336 Buyer shall order the inspection(s) and be responsible for all costs of inspection(s).

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

339 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("15" if left blank) after acceptance, delivers  
340 to Seller a copy of the written inspection report(s) dated after the date on line 1 of this Offer and a written notice listing the  
341 Defect(s) identified in those report(s) to which Buyer objects (Notice of Defects).

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

343 For the purposes of this contingency, Defects do not include structural, mechanical or other conditions the nature and extent  
344 of which Buyer had actual knowledge or written notice before signing this Offer.

345 **NOTE: "Defect" as defined on lines xxx-xxx means a condition that would have a significant adverse effect on the**  
346 **value of the Property; that would significantly impair the health or safety of future occupants of the Property; or**  
347 **that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life**  
348 **of the premises.**

349 **RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure the Defects.

350 If Seller has the right to cure, Seller may satisfy this contingency by:

351 (1) delivering written notice to Buyer within \_\_\_\_\_ ("10" if left blank) days after Buyer's delivery of the Notice of Defects  
352 stating Seller's election to cure Defects;

353 (2) curing the Defects in a good and workmanlike manner; and

354 (3) delivering to Buyer a written report detailing the work done no later than three days prior to closing.

355 This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s) and:

356 (1) Seller does not have the right to cure; or

357 (2) Seller has the right to cure but:

358 (a) Seller delivers written notice that Seller will not cure; or

359 (b) Seller does not timely deliver the written notice of election to cure.

Property Address: \_\_\_\_\_ Page 5 of 10, WB-11

360  **RADON TESTING CONTINGENCY:** This Offer is contingent upon Buyer obtaining a current written report of the  
361 results of a radon test within the Unit performed by a qualified third party in a manner consistent with applicable EPA and  
362 Wisconsin Department of Health Services (DHS) protocols and standards indicating the radon level, or the average level if  
363 testing involves multiple readings, is less than 4.0 picoCuries per liter (pCi/L), at (Buyer's) (Seller's) **STRIKE ONE** ("Buyer's"  
364 if neither is stricken) expense.

365 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("20" if left blank) after acceptance delivers  
366 to Seller a written copy of the radon test results report indicating a radon level of 4.0 pCi/L or higher and written notice  
367 objecting to the radon level in the report.

368 ■ **RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure.

369 If Seller has the right to cure, Seller may satisfy this contingency by

370 (1) delivering a written notice of Seller's election to cure within 10 days after delivery of Buyer's notice; and,

371 (2) installing a radon mitigation system in conformance with EPA standards in a good and workmanlike manner and by  
372 giving Buyer a report of the work done and a post remediation test report indicating a radon level of less than 4.0 pCi/L  
373 no later than three days prior to closing.

374 This Offer shall be null and void if Buyer timely delivers the above written notice and report to Seller and:

375 (1) Seller does not have the right to cure; or

376 (2) Seller has the right to cure but:

377 (a) Seller delivers written notice that Seller will not cure; or

378 (b) Seller does not timely deliver the notice of election to cure.

379 **IF LINE xxx IS NOT MARKED OR IS MARKED N/A LINES xxx-xxx APPLY.**

380  **FINANCING COMMITMENT CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written  
381 \_\_\_\_\_ [loan type or specific lender, if any] first mortgage loan commitment as described  
382 below, within \_\_\_\_\_ days after acceptance of this Offer. The financing selected shall be in an amount of not less than \$  
383 \_\_\_\_\_ for a term of not less than \_\_\_\_\_ years, amortized over not less than \_\_\_\_\_ years. Initial  
384 monthly payments of principal and interest shall not exceed \$ \_\_\_\_\_. Buyer acknowledges that lender's  
385 required monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance  
386 premiums, and private mortgage insurance premiums. The mortgage shall not include a prepayment premium. Buyer agrees  
387 to pay discount points in an amount not to exceed \_\_\_\_\_% ("0" if left blank) of the loan. If Buyer is using multiple loan  
388 sources or obtaining a construction loan or land contract financing, describe at lines xxx-xxx or in an addendum attached  
389 per line xxx. Buyer agrees to pay all customary loan and closing costs, wire fees, and loan origination fees, to promptly  
390 apply for a mortgage loan, and to provide evidence of application promptly upon request of Seller. Seller agrees to allow  
391 lender's appraiser access to the Property.

392 ■ **LOAN AMOUNT ADJUSTMENT:** If the purchase price under this Offer is modified, any financed amount, unless otherwise  
393 provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments  
394 shall be adjusted as necessary to maintain the term and amortization stated above.

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

396  **FIXED RATE FINANCING:** The annual rate of interest shall not exceed \_\_\_\_\_%.

397  **ADJUSTABLE RATE FINANCING:** The initial interest rate shall not exceed \_\_\_\_\_%. The initial interest rate  
398 shall be fixed for \_\_\_\_\_ months, at which time the interest rate may be increased not more than \_\_\_\_\_% ("2" if  
399 left blank) at the first adjustment and by not more than \_\_\_\_\_% ("1" if left blank) at each subsequent adjustment.  
400 The maximum interest rate during the mortgage term shall not exceed the initial interest rate plus \_\_\_\_\_% ("6" if  
401 left blank). Monthly payments of principal and interest may be adjusted to reflect interest changes.

402 ■ **SATISFACTION OF FINANCING COMMITMENT CONTINGENCY:** If Buyer qualifies for the loan described in this Offer  
403 or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of a written loan commitment.

404 This contingency shall be satisfied if, after Buyer's review, Buyer delivers to Seller a copy of a written loan commitment  
405 (even if subject to conditions) that is:

406 (1) signed by Buyer; or,

407 (2) accompanied by Buyer's written direction for delivery.

408 Delivery of a loan commitment by Buyer's lender or delivery accompanied by a notice of unacceptability shall not satisfy  
409 this contingency.

410 **CAUTION: The delivered loan commitment may contain conditions Buyer must yet satisfy to obligate the lender to**  
411 **provide the loan. Buyer understands delivery of a loan commitment removes the Financing Commitment**  
412 **Contingency from the Offer and shifts the risk to Buyer if the loan is not funded.**

413 ■ **SELLER TERMINATION RIGHTS:** If Buyer does not deliver a loan commitment on or before the Deadline on line xxx,  
414 Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of  
415 written loan commitment from Buyer.

416 ■ **FINANCING COMMITMENT UNAVAILABILITY:** If a financing commitment is not available on the terms stated in this  
417 Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall  
418 promptly deliver written notice to Seller of same including copies of lender(s)' rejection letter(s) or other evidence of  
419 unavailability.

Property Address: \_\_\_\_\_

Page 6 of 10, WB-11

420  **SELLER FINANCING:** Seller shall have 10 days after the earlier of:

421 (1) Buyer delivery of written notice of evidence of unavailability as noted in lines xxx-xxx; or

422 (2) the Deadline for delivery of the loan commitment on line xxx.

423 to deliver to Buyer written notice of Seller's decision to finance this transaction with a note and mortgage under the same  
424 terms set forth in this Offer, and this Offer shall remain in full force and effect, with the time for closing extended accordingly.  
425 If Seller's notice is not timely given, the option for Seller to provide financing shall be considered waived. Buyer agrees to  
426 cooperate with and authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit  
427 worthiness for Seller financing.

428 **IF THIS OFFER IS NOT CONTINGENT ON FINANCING COMMITMENT** Within \_\_\_\_\_ days ("7" if left blank) after  
429 acceptance, Buyer shall deliver to Seller either:

430 (1) reasonable written verification from a financial institution or third party in control of Buyer's funds that Buyer has, at  
431 the time of verification, sufficient funds to close; or

432 (2) \_\_\_\_\_  
433 \_\_\_\_\_ [Specify documentation Buyer agrees to deliver to Seller].

434 If such written verification or documentation is not delivered, Seller has the right to terminate this Offer by delivering written  
435 notice to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written verification. Buyer may or may not obtain  
436 mortgage financing but does not need the protection of a financing contingency. Seller agrees to allow Buyer's appraiser  
437 access to the Property for purposes of an appraisal. Buyer understands and agrees that this Offer is not subject to the  
438 appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of access  
439 for an appraisal constitute a financing commitment contingency.

440  **APPRAISAL CONTINGENCY:** This Offer is contingent upon Buyer or Buyer's lender having the Property appraised  
441 at Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report dated  
442 subsequent to the date stated on line 1 of this Offer, indicating an appraised value for the Property equal to or greater than  
443 the agreed upon purchase price.

444 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days after acceptance, delivers to Seller a  
445 copy of the appraisal report indicating an appraised value ~~not equal to or greater~~ less than the agreed upon purchase  
446 price, and a written notice objecting to the appraised value.

447  **RIGHT TO CURE:** Seller (shall) (shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure.

448 If Seller has the right to cure, Seller may satisfy this contingency by delivering written notice to Buyer adjusting the purchase  
449 price to the value shown on the appraisal report within \_\_\_\_\_ days ("5" if left blank) after Buyer's delivery of the appraisal  
450 report and the notice objecting to the appraised value. Seller and Buyer agree to promptly execute an amendment initiated  
451 by either party after delivery of Seller's notice, solely to reflect the adjusted purchase price.

452 This Offer shall be null and void if Buyer makes timely delivery of the notice objecting to appraised value and the written  
453 appraisal report and:

454 (1) Seller does not have the right to cure or

455 (2) Seller has the right to cure but:

456 (a) Seller delivers written notice that Seller will not adjust the purchase price or

457 (b) Seller does not timely deliver the written notice adjusting the purchase price to the value shown on the appraisal  
458 report.

459 **NOTE: An executed FHA, VA or USDA Amendatory clause may supersede this contingency.**

460  **CLOSING OF BUYER'S PROPERTY CONTINGENCY:** This Offer is contingent upon the closing of the sale of  
461 Buyer's property located at \_\_\_\_\_  
462 no later than \_\_\_\_\_ (the Deadline). If closing does not occur by the Deadline, this Offer shall  
463 become null and void unless Buyer delivers to Seller, on or before the Deadline, reasonable written verification from a  
464 financial institution or third party in control of Buyer's funds that Buyer has, at the time of verification, sufficient funds to close  
465 or proof of bridge loan financing, along with a written notice waiving this contingency. Delivery of verification or proof of  
466 bridge loan shall not extend the closing date for this Offer.

467  **BUMP CLAUSE:** If Seller accepts a bona fide secondary offer, Seller may give written notice to Buyer that another  
468 offer has been accepted. If Buyer does not deliver to Seller the documentation listed below within \_\_\_\_\_ hours ("72" if  
469 left blank) after Buyer's Actual Receipt of said notice, this Offer shall be null and void. Buyer must deliver the following:

470 (1) Written waiver of the Closing of Buyer's Property Contingency if line **xxx** is marked;

471 (2) Written waiver of \_\_\_\_\_  
472 \_\_\_\_\_ (name other contingencies, if any); and

473 (3) Any of the following checked below:

474  Proof of bridge loan financing

475  -Proof of ability to close from a financial institution or third party in control of Buyer's funds which shall provide  
476 Seller with reasonable written verification that Buyer has, at the time of verification, sufficient funds to close.

477 Other: \_\_\_\_\_

478 \_\_\_\_\_  
479 [insert other requirements, if any (e.g., payment of additional earnest money, etc.)]

Property Address: \_\_\_\_\_ Page 7 of 10, WB-11

480  **SECONDARY OFFER:** This Offer is secondary to a prior accepted offer. This Offer shall become primary upon  
481 delivery of written notice to Buyer that this Offer is primary. Unless otherwise provided, Seller is not obligated to give Buyer  
482 notice prior to any Deadline, nor is any particular secondary buyer given the right to be made primary ahead of other  
483 secondary buyers. Buyer may declare this Offer null and void by delivering written notice of withdrawal to Seller prior to

484 delivery of Seller's notice that this Offer is primary. Buyer may not deliver notice of withdrawal earlier than \_\_\_\_\_ days ("7"  
485 if left blank) after acceptance of this Offer. All other Offer Deadlines that run from acceptance shall run from the time this  
486 Offer becomes primary.

487 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing values:  
488 real estate taxes, rents, prepaid insurance (if assumed), private and municipal charges, **Condominium Association fees,**  
489 **Additional Association fees,** fuel and \_\_\_\_\_

490 \_\_\_\_\_  
491 **CAUTION: Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.**  
492 Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.  
493 Real estate taxes shall be prorated at closing based on **CHECK BOX FOR APPLICABLE PRORATION FORMULA:**  
494  The net general real estate taxes for the preceding year, or the current year if available (Net general real estate  
495 taxes are defined as general property taxes after state tax credits and lottery credits are deducted). **(NOTE: THIS CHOICE**  
496 **APPLIES IF NO BOX IS CHECKED.)**  
497  Current assessment times current mill rate (current means as of the date of closing).  
498  Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior  
499 year, or current year if known, multiplied by current mill rate (current means as of the date of closing).  
500

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

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

510 **TITLE EVIDENCE**

511 ■ **CONVEYANCE OF TITLE: Upon payment of the purchase price, Seller shall convey the Property by warranty deed**  
512 **(trustee's deed if Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as**  
513 **provided herein), free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements**  
514 **entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use**  
515 **restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's Real Estate**  
516 **Condition Report and in this Offer, general taxes levied in the year of closing, Wisconsin Condominium Ownership Act,**  
517 **Condominium Declaration and plat, Association articles of incorporation, bylaws and **rules,** amendments to the above and**  
518 \_\_\_\_\_

519 \_\_\_\_\_ (insert other allowable exceptions from title, if any)  
520 **which that constitutes** merchantable title for purposes of this transaction. Seller, at Seller's cost, shall complete and execute  
521 the documents necessary to record the conveyance and pay the Wisconsin Real Estate Transfer Fee.

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

525 ■ **TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of  
526 the purchase price on a current ALTA form **(including the ALTA Condominium endorsement or equivalent)** issued by an  
527 insurer licensed to write title insurance in Wisconsin. Seller shall pay all costs of providing title evidence to Buyer. Buyer  
528 shall pay the costs of providing the title evidence required by Buyer's lender and recording the deed or other conveyance.

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

Property Address: \_\_\_\_\_

Page 8 of 10, WB-11

535 ■ **DELIVERY OF MERCHANTABLE TITLE:** The required title insurance commitment shall be delivered to Buyer's attorney  
536 or Buyer not less than 5 business days before closing, showing title to the Property as of a date no more than 15 days  
537 before delivery of such title evidence to be merchantable per **lines xxx-xxx,** subject only to **liens which that will** be paid out  
538 of the proceeds of closing and standard title insurance requirements and **exceptions, as appropriate.**

539 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of  
540 objections to title by the time set for **closing. In such event, Seller** shall have a reasonable time, but not exceeding 15 days,  
541 to remove the objections, and the time for closing shall be extended as necessary for this **purpose. In the event that** Seller  
542 is unable to remove said objections, Buyer shall have five days from receipt of notice thereof, to deliver written notice waiving  
543 the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Offer

544 shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give  
545 merchantable title to Buyer.

546 ■ **UNPAID CONDOMINIUM ASSESSMENTS:** All unpaid assessments shall be paid by Seller no later than closing.

547 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, including those by any **Condominium or**  
548 **Additional Association**, levied or for work actually commenced prior to the date stated on line 1 of this Offer shall be paid by  
549 Seller no later than closing. All other special assessments shall be paid by Buyer. "Levied" with regard to municipal special  
550 assessments means the local municipal governing body has adopted and published a final resolution describing the planned  
551 improvements and the assessment of benefits. "Levied" with regard to Condominium special assessments means the  
552 Association has adopted a resolution imposing fees on the Units, other than regular Association fees, for special projects  
553 or expenses.

554 **CAUTION: Consider a special agreement if special assessments are payable in multiple payments over a period of**  
555 **years, or if area assessments, property owners association assessments, Condominium Association special**  
556 **assessments, special charges for current services under Wis. Stat. § 66.0627 or other expenses are contemplated.**  
557 "Other expenses" are one-time charges or ongoing use fees for public improvements (other than those resulting  
558 in special assessments) relating to curb, gutter, street, sidewalk, municipal water, sanitary and storm water and  
559 storm sewer (including all sewer mains and hook-up/connection and interceptor charges), parks, street lighting  
560 and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).

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

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

### 566 **DEFINITIONS**

567 ■ **ACTUAL RECEIPT:** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document  
568 or written notice physically in the Party's possession, regardless of the method of delivery. If the document or written notice  
569 is electronically delivered, Actual Receipt shall occur when the Party opens the electronic transmission.

570 ■ **BUSINESS DAY:** "Business Day" means a calendar day other than Saturday, Sunday, any legal public holiday under  
571 Wisconsin or Federal law, and any other day designated by the President such that the postal service does not receive  
572 registered mail or make regular deliveries on that day.

573 ■ **DEADLINES:** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by  
574 excluding the day the event occurred and by counting subsequent calendar days. The Deadline expires at Midnight on the  
575 last day. Additionally, Deadlines expressed as a specific number of Business Days are calculated in the same manner  
576 except that only Business Days are counted while other days are excluded. Deadlines expressed as a specific number of  
577 "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by  
578 counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific  
579 event, such as closing, expire at Midnight of that day. "Midnight" is defined as 11:59 p.m. **Central Standard Time.**

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

583 ■ **FIRM:** "Firm" means a licensed sole proprietor broker or a licensed broker business entity.

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

585 ■ **PARTY:** "Party" means the Buyer or the Seller; "Parties" refers to both Buyer and Seller.

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

588 **PROPERTY DIMENSIONS AND SURVEYS** Buyer acknowledges that any **land, Unit,** building or room dimensions, or total  
589 acreage or **building or Unit** square footage figures, provided to Buyer by Seller or by a Firm or its agents, may be approximate  
590 because of rounding, formulas used or other reasons, unless verified by survey or other means.

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

593 **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of  
594 the Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the  
595 transaction as defined by the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession  
596 data to multiple listing service sold databases; (iii) provide active listing, pending sale, closed sale and financing concession  
597 information and data, and related information regarding seller contributions, incentives or assistance, and third party gifts,  
598 to appraisers researching comparable sales, market conditions and listings, upon inquiry; and (iv) distribute copies of this  
599 Offer to the seller, or seller's **agent, of another property which that Seller** intends on purchasing.

Property Address: \_\_\_\_\_ Page 9 of 10, WB-11

600 **MAINTENANCE** Seller shall maintain **the Unit and any Limited Common Elements that may be used only by the owner of**  
601 **the Condominium Unit being transferred the Property** and all personal property included in the purchase price until the

602 earlier of closing or Buyer's occupancy, in materially the same condition it was in as of the date on line 1 of this Offer, except  
603 for ordinary wear and tear and changes agreed upon by the Parties.

604 **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING** If, prior to closing, the Unit and any Limited Common  
605 Elements that may be used only by the owner of the Condominium Unit being transferred is damaged in an amount not  
606 more than five percent of the purchase price, other than normal wear and tear, Seller shall promptly notify Buyer in writing,  
607 and will be obligated to restore the Unit and any Limited Common Elements that may be used only by the owner of the  
608 Condominium Unit being transferred to materially the same condition it was in as of the date on line 1 of this Offer. Seller  
609 shall provide Buyer with copies of all required permits and lien waivers for the lienable repairs no later than closing. If the  
610 amount of damage exceeds five percent of the purchase price, Seller shall promptly notify Buyer in writing of the damage  
611 and this Offer may be terminated at option of Buyer. Should Buyer elect to carry out this Offer despite such damage, Buyer  
612 shall be entitled to the insurance proceeds, if any, relating to the damage to the Unit and any Limited Common Elements  
613 that may be used only by the owner of the Condominium Unit being transferred, plus a credit towards the purchase price  
614 equal to the amount of Seller's deductible on such policy, if any. However, if this sale is financed by a land contract or a  
615 mortgage to Seller, any insurance proceeds shall be held in trust for the sole purpose of restoring the Unit and any Limited  
616 Common Elements that may be used only by the owner of the Condominium Unit being transferred.

617 **BUYER'S PRE-CLOSING WALK-THROUGH** Within three days prior to closing, at a reasonable time pre-approved by  
618 Seller or Seller's agent, Buyer shall have the right to walk through the Unit and any Limited Common Elements that may be  
619 used only by the owner of the Condominium Unit being transferred to determine that there has been no significant change  
620 in the condition of the Unit and any Limited Common Elements that may be used only by the owner of the Condominium  
621 Unit being transferred, except for ordinary wear and tear and changes approved by Buyer, and that any defects Seller has  
622 agreed to cure have been repaired in the manner agreed to by the Parties.

623 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in  
624 this Offer at lines xxx-xxx or in an addendum attached per line xxx, or lines xxx-xxx if the Property is leased. At time of  
625 Buyer's occupancy, the Unit and any Limited Common Elements that may be used only by the owner of the Condominium  
626 Unit being transferred shall be in broom swept condition and free of all debris, refuse, and personal property except for  
627 personal property belonging to current tenants, or that sold to Buyer or left with Buyer's consent. Occupancy shall be given  
628 subject to tenant's rights, if any.

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

632 If Buyer defaults, Seller may:

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

636 If Seller defaults, Buyer may:

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

639 In addition, the Parties may seek any other remedies available in law or equity. The Parties understand that the availability  
640 of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts. If either Party  
641 defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined above.  
642 By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered by the  
643 arbitration agreement.

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

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

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

655 **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC)  
656 provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the  
657 total "Amount Realized" in the sale if the transferor (Seller) is a "Foreign Person" and no exception from FIRPTA withholding  
658 applies. A "Foreign Person" is a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign  
659 estate. The "Amount Realized" is the sum of the cash paid, the fair market value of other property transferred, and the  
660 amount of any liability assumed by Buyer.

661 **CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer**  
662 **may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed**  
663 **upon the Property.**

664 Seller hereby represents that Seller is not a Foreign Person. Buyer and Seller agree to comply with FIRPTA requirements  
665 under IRC § 1445. **No later than 15 days prior to the closing**, Seller shall execute and deliver to Buyer, or a qualified  
666 substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller's

Property Address: \_\_\_\_\_ Page 10 of 10, WB-11

667 non-foreign status in accordance with IRC § 1445. Any representations made by Seller with respect to this issue shall  
668 survive the closing and delivery of the deed. If Seller fails to deliver certification of Seller's non-foreign status, Buyer shall  
669 be entitled to either: (1) withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise payable  
670 to Seller under this Offer; or, **(2) terminate this Offer by written notice to Seller prior to closing**. Buyer and Seller shall  
671 complete, execute, and deliver, on or before closing, any other instrument, affidavit, or statement needed to comply with  
672 FIRPTA, including withholding forms.

673 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption  
674 applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding  
675 FIRPTA.

676 **ADDITIONAL PROVISIONS/CONTINGENCIES** \_\_\_\_\_  
677 \_\_\_\_\_  
678 \_\_\_\_\_

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

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

684 Name of Seller's recipient for delivery, if any: \_\_\_\_\_

685 Name of Buyer's recipient for delivery, if any: \_\_\_\_\_

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

687 Seller: (\_\_\_\_\_) \_\_\_\_\_ Buyer: (\_\_\_\_\_) \_\_\_\_\_

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

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

693 Address for Seller: \_\_\_\_\_

694 Address for Buyer: \_\_\_\_\_

695  (5) **Email**: electronically transmitting the document or written notice to the email address.

696 Seller: \_\_\_\_\_ Buyer: \_\_\_\_\_

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

699  **ADDENDA**: The attached \_\_\_\_\_ is/are made part of this Offer.

700 This Offer was drafted by [Licensee and Firm] \_\_\_\_\_  
701 \_\_\_\_\_

702 (x) \_\_\_\_\_  
703 Buyer's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

704 (x) \_\_\_\_\_  
705 Buyer's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

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

710 (x) \_\_\_\_\_  
711 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

712 (x) \_\_\_\_\_  
713 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

714 This Offer was presented to Seller by [Licensee and Firm] \_\_\_\_\_  
715 \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

716 This Offer is rejected \_\_\_\_\_ This Offer is countered [See attached counter] \_\_\_\_\_  
717 Seller Initials ▲ Date ▲ \_\_\_\_\_ Seller Initials ▲ Date ▲ \_\_\_\_\_

**WB-13 VACANT LAND OFFER TO PURCHASE**

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

3 The Buyer, \_\_\_\_\_,  
4 offers to purchase the Property known as [Street Address] \_\_\_\_\_  
5 \_\_\_\_\_  
6 in the \_\_\_\_\_ of \_\_\_\_\_, County  
7 of \_\_\_\_\_ Wisconsin (insert additional description, if any, at lines xxx-xxx or  
8 attach as an addendum per line xxx), on the following terms:

9 **PURCHASE PRICE** The purchase price is \_\_\_\_\_  
10 \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

11 **INCLUDED IN PURCHASE PRICE** Included in purchase price is the Property, all Fixtures on the Property as of the date  
12 stated on line 1 of this Offer (unless excluded at lines xx-xx), and the following additional item: \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

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

19 **NOT INCLUDED IN PURCHASE PRICE** Not included in purchase price is Seller's personal property (unless included at  
20 lines xx-xx) and the following: \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24 **CAUTION: Identify Fixtures that are on the Property (see lines xx-xx) to be excluded by Seller or that are rented**  
25 **and will continue to be owned by the lessor.**

26 "Fixture" is defined as an item of property which is physically attached to or so closely associated with land so as to be  
27 treated as part of the real estate, including, without limitation, physically attached items not easily removable without  
28 damage to the premises, items specifically adapted to the premises and items customarily treated as fixtures, including,  
29 but not limited to, all: perennial crops, garden bulbs; plants; shrubs and trees; fences; storage buildings on permanent  
30 foundations and docks/piers on permanent foundations.

31 **CAUTION: Exclude any Fixtures to be retained by Seller or that are rented on lines xx-xx or at lines xxx-xxx or in**  
32 **an addendum per line xxx.**

33 **NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are**  
34 **included/excluded. Annual crops are not part of the purchase price unless otherwise agreed.**

35 **ZONING: Seller represents the Property is zoned:** \_\_\_\_\_

36 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to  
37 Buyer on or before \_\_\_\_\_. Seller may keep  
38 the Property on the market and accept secondary offers after binding acceptance of this Offer.

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

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

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

44 **CLOSING** This transaction is to be closed on \_\_\_\_\_  
45 \_\_\_\_\_ at the place selected by Seller,  
46 unless otherwise agreed by the Parties in writing. If the date for closing falls on a **weekend Saturday, Sunday**, or a federal  
47 or a state holiday, the closing date shall be the next Business Day.

48 **CAUTION: To reduce the risk of wire transfer fraud, any wiring instructions received should be independently**  
49 **verified by phone or in person with the title company, financial institution, or entity directing the transfer. The**  
50 **real estate licensees in this transaction are not responsible for the transmission or forwarding of any wiring or**  
51 **money transfer instructions.**

Property Address: \_\_\_\_\_ Page 2 of 10, WB-13

52 **EARNEST MONEY**

53 **EARNEST MONEY** of \$ \_\_\_\_\_ accompanies this Offer.  
54 If Offer was drafted by a licensee, receipt of the earnest money accompanying this Offer is acknowledged.

55 ■ EARNEST MONEY of \$ \_\_\_\_\_ will be mailed, or commercially, electronically  
56 or personally delivered within \_\_\_\_\_ days ("5" if left blank) after acceptance.

57 All earnest money shall be delivered to and held by (listing Firm) (~~Buyer's cooperating agent's Firm~~) (third party identified  
58 as \_\_\_\_\_) **STRIKE THOSE NOT APPLICABLE** (listing Firm if none  
59 chosen; if no listing Firm, ~~or if listing firm has no trust account~~, then ~~Buyer's cooperating agent's Firm~~; if no Firm then  
60 Seller).

61 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise agreed in writing.

62 ■ **HELD BY:** Earnest money shall be delivered in accordance with lines ~~xx-xx~~ and held in the account of the ~~party-person~~  
63 identified on lines ~~xx-xx~~. If earnest money is held by a Firm the Firm will hold the earnest money until applied to the  
64 purchase price or disbursed as provided at lines ~~xx-xx~~.

65 **CAUTION: Should persons other than a Firm hold earnest money, an escrow agreement should be drafted by the**  
66 **Parties or an attorney as lines ~~xx-xx~~ do not apply. If someone other than Buyer pays earnest money, consider a**  
67 **special disbursement agreement.**

68 ■ **DISBURSEMENT IF EARNEST MONEY HELD BY A FIRM:** If negotiations do not result in an accepted offer and the  
69 earnest money is held by a Firm, the earnest money shall be promptly disbursed (after clearance from payer's depository  
70 institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest money  
71 shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed  
72 according to a written disbursement agreement signed by all Parties to this Offer. If said disbursement agreement has not  
73 been delivered to the Firm holding the earnest money within 60 days after the date set for closing, that Firm may disburse  
74 the earnest money: (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer or  
75 Seller; (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court  
76 order; (4) upon authorization granted within this Offer; or (5) any other disbursement required or allowed by law. The Firm  
77 may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and the Firm may deduct  
78 from the earnest money any costs and reasonable attorneys' fees, not to exceed \$250, prior to disbursement.

79 ■ **LEGAL RIGHTS/ACTION:** The Firm's disbursement of earnest money does not determine the legal rights of the Parties  
80 in relation to this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by the Firm holding the  
81 earnest money. At least 30 days prior to disbursement per (1), (4) or (5) above, where the Firm has knowledge that either  
82 Party disagrees with the disbursement, the Firm shall send Buyer and Seller written notice of the intent to disburse by  
83 certified mail. If Buyer or Seller disagree with the Firm's proposed disbursement, a lawsuit may be filed to obtain a court  
84 order regarding disbursement. Small Claims Court has jurisdiction over all earnest money disputes arising out of the sale  
85 of residential property with one-to-four dwelling units. Buyer and Seller should consider consulting attorneys regarding  
86 their legal rights under this Offer in case of a dispute. Both Parties agree to hold the Firm harmless from any liability for  
87 good faith disbursement of earnest money in accordance with this Offer or applicable Department of Safety and  
88 Professional Services regulations concerning earnest money. See Wis. Admin. Code Ch. REEB 18.

89 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3)  
90 occupancy; (4) date of closing; (5) contingency Deadlines **STRIKE AS APPLICABLE** and all other dates and Deadlines in  
91 this Offer except: \_\_\_\_\_

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

95 **REAL ESTATE CONDITION REPORT** Wisconsin law requires owners of property ~~which-that~~ includes one-to-four  
96 dwelling units to provide Buyers with a Real Estate Condition Report. Excluded from this requirement are sales of property  
97 that has never been inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed  
98 fiduciaries, (for example, personal representatives who have never occupied the Property). The form of the Report is  
99 found in Wis. Stat. § 709.03. The law provides: "§ 709.02 Disclosure . . . the owner of the property shall furnish, not later  
100 than 10 days after acceptance of the contract of sale . . . , to the prospective Buyer of the property a completed copy of the  
101 report . . . A prospective Buyer who does not receive a report within the 10 days may, within two business days after the  
102 end of that 10-day period, rescind the contract of sale . . . by delivering a written notice of rescission to the owner or the  
103 owner's agent." Buyer may also have certain rescission rights if a Real Estate Condition Report disclosing defects is  
104 furnished before expiration of the 10 days, but after the Offer is submitted to Seller. Buyer should review the report form or  
105 consult with an attorney for additional information regarding rescission rights.

106 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that as of the date of acceptance Seller has  
107 no notice or knowledge of Conditions Affecting the Property or Transaction (lines ~~xxx-xxx~~) other than those identified in  
108 Seller's Real Estate Condition Report dated \_\_\_\_\_, which was received by Buyer prior to Buyer  
109 signing this Offer and ~~which-that~~ is made a part of this Offer by reference **COMPLETE DATE OR STRIKE AS**  
110 **APPLICABLE** and

111 \_\_\_\_\_  
112 \_\_\_\_\_

Property Address: \_\_\_\_\_ Page 3 of 10, WB-11

113 **INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT**  
114 "Conditions Affecting the Property or Transaction" are defined to include:

- 115 a. Flooding, standing water, drainage problems, or other water problems on or affecting the Property.
- 116 b. Impact fees or another condition or occurrence that would significantly increase development costs or reduce the
- 117 value of the property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.
- 118 c. Brownfields (abandoned, idled, or underused land that may be subject to environmental contamination) or other
- 119 contaminated land on the property, or that contaminated soils on the property have been cleaned up under the Petroleum
- 120 Environmental Cleanup Fund Act (PECFA), a Wisconsin Department of Natural Resources (DNR) remedial or cleanup
- 121 program, the DATCP Agricultural Chemical Cleanup Program, or other similar program.
- 122 d. Subsoil conditions that would significantly increase the cost of development, including, but not limited to, subsurface
- 123 foundations or waste material; any type of fill; dumpsites where pesticides, herbicides, fertilizer, or other toxic or
- 124 hazardous materials or containers for these materials were disposed of in violation of manufacturer or government
- 125 guidelines or other laws regulating such disposal; high groundwater; adverse soil conditions, such as low load-bearing
- 126 capacity, earth or soil movement, settling, upheavals, or slides; excessive rocks or rock formations; or other soil problems.
- 127 e. Material violation of an environmental rule or other rule or agreement regulating the use of the Property.
- 128 f. Defects caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, lead in
- 129 paint, soil or water supplies, unsafe levels of mold, asbestos or asbestos-containing materials or other potentially
- 130 hazardous or toxic substances on the Property; manufacture of methamphetamine or other hazardous or toxic substances
- 131 on the Property; or high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not
- 132 directly serving the Property.

133 **NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential**

134 **properties built before 1978.**

- 135 g. Defects caused by unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic
- 136 substances on neighboring properties.
- 137 h. The Property is served by a joint well; Defects related to a joint well serving the Property; or Defects in a well on the
- 138 Property or in a well that serves the Property, including unsafe well water due to contaminants such as coliform, nitrates,
- 139 or atrazine, or any out-of-service wells or cisterns that are required to be abandoned (see § NR 812.26, Wis. Adm. Code)
- 140 but that are not closed or abandoned according to applicable regulations.
- 141 i. Defects in any septic system or other private sanitary disposal system on the Property; or any out-of-service septic
- 142 system serving the Property not closed or abandoned according to applicable regulations.
- 143 j. Underground or aboveground fuel storage tanks on or previously located on the Property for storage of flammable or
- 144 combustible liquids including, but not limited to, gasoline or heating oil; or Defects in the underground or aboveground fuel
- 145 storage tanks on or previously located on the Property. Defects in underground or aboveground fuel storage tanks may
- 146 include items such as abandoned tanks not closed in conformance with applicable local, state, and federal law; leaking;
- 147 corrosion; or failure to meet operating standards. (The owner, by law, may have to register the tanks with the Department
- 148 of Agriculture, Trade and Consumer Protection at P.O. Box 8911, Madison, Wisconsin, 53708, whether the tanks are in
- 149 use or not. Department regulations may require closure or removal of unused tanks.)
- 150 k. "LP" tank on the Property (specify in the additional information whether the tank is owned or leased); or Defects in an
- 151 "LP" tank on the Property.
- 152 l. Notice of property tax increases, other than normal annual increases, or pending Property tax reassessment;
- 153 remodeling that may increase the Property's assessed value; pending special assessments; or Property is within a special
- 154 purpose district, such as a drainage district, that has authority to impose assessments.
- 155 m. Proposed, planned, or commenced public improvements or public construction projects that may result in special
- 156 assessments or that may otherwise materially affect the property or the present use of the Property; Property additions or
- 157 remodeling affecting Property structure or mechanical systems during Seller's ownership without required permits; or any
- 158 land division involving the Property without required state or local permits.
- 159 n. The Property is part of or subject to a subdivision homeowners' association; or the Property is not a condominium unit
- 160 and there are common areas associated with the Property that are co-owned with others.
- 161 o. Any zoning code violations with respect to the Property; the Property or any portion thereof is located in a floodplain,
- 162 wetland or shoreland zoning area under local, state or federal regulations; or the Property is subject to a mitigation plan
- 163 required by Wisconsin Department of Natural Resources (DNR) rules related to county shoreland zoning ordinances, that
- 164 obligates the Property owner to establish or maintain certain measures related to shoreland conditions, enforceable by the
- 165 county.
- 166 p. Nonconforming uses of the Property (a nonconforming use is a use of land, a dwelling, or a building that existed
- 167 lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in
- 168 the current ordinance); conservation easements (a conservation easement is a legal agreement in which a property owner
- 169 conveys some of the rights associated with ownership of his or her property to an easement holder such as a
- 170 governmental unit or a qualified nonprofit organization to protect the natural habitat of fish, wildlife, or plants or a similar
- 171 ecosystem, preserve areas for outdoor recreation or education, or for similar purposes); restrictive covenants or deed
- 172 restrictions on the Property; or nonowners having rights to use part of the Property, including, but not limited to,
- 173 rights-of-way and easements other than recorded utility easements.
- 174 q. All or part of the Property has been assessed as agricultural land; has been assessed a use-value assessment
- 175 conversion charge; or payment of a use-value assessment conversion charge has been deferred.
- 176 r. All or part of the Property is subject to, enrolled in, or in violation of a farmland preservation agreement, Forest Crop
- 177 Law, Managed Forest Law, the Conservation Reserve Program, or a comparable program.

178 s. A dam is totally or partially located on the Property; or an ownership interest in a dam not located on the Property will  
179 be transferred with the Property because the dam is owned collectively by a homeowners' association, lake district, or  
180 similar group of which the Property owner is a member.

181 t. No legal access to the Property; or boundary or lot line disputes, encroachments or encumbrances (including a joint  
182 driveway) affecting the Property. Encroachments often involve some type of physical object belonging to one person but  
183 partially located on or overlapping on land belonging to another; such as, without limitation, fences, houses, garages,  
184 driveways, gardens, and landscaping. Encumbrances include, without limitation, a right or claim of another to a portion of  
185 the Property or to the use of the Property such as a joint driveway, liens, and licenses.

186 u. Government agency, court order, or federal, state, or local regulations requiring repair, alteration or correction of an  
187 existing condition.

188 v. A pier attached to the Property not in compliance with state or local pier regulations.

189 w. Material damage from fire, wind, flood, earthquake, expansive soil, erosion, or landslide.

190 x. Significant odor, noise, water diversion, water intrusion, or other irritants emanating from neighboring property.

191 y. Significant crop damage from disease, insects, soil contamination, wildlife, or other causes; diseased or dying trees  
192 or shrubs; or substantial injuries or disease in livestock on the property or neighboring property.

193 z. Animal, reptile, or other insect infestations; drainage easement or grading problems; excessive sliding; or any other  
194 Defect or material condition.

195 aa. Archeological artifacts, mineral rights, orchards, or endangered species, or one or more burial sites on the Property.

196 bb. Other Defects affecting the Property such as any agreements that bind subsequent owners of the property, such as a  
197 lease agreement or an extension of credit from an electric cooperative.

Property Address: \_\_\_\_\_

Page 4 of 10, WB-143

198  **GOVERNMENT PROGRAMS:** Seller shall deliver to Buyer, within \_\_\_\_\_ days of-after acceptance of this Offer,  
199 a list of all federal, state, county, and local conservation, farmland, environmental, or other land use programs,  
200 agreements, restrictions, or conservation easements, which apply to any part of the Property (e.g., farmland preservation  
201 agreements, farmland preservation or exclusive agricultural zoning, use value assessments, Forest Crop, Managed  
202 Forest, Conservation Reserve Program, wetland mitigation, shoreland zoning mitigation plan or comparable programs),  
203 along with disclosure of any penalties, fees, withdrawal charges, or payback obligations pending, or currently deferred, if  
204 any. This contingency will be deemed satisfied unless Buyer delivers to Seller, within **seven (7) days of-after Buyer's**  
205 **Actual Receipt of said list and disclosure, or the deadline for delivery, whichever is earlier**, a notice terminating this Offer  
206 based upon the use restrictions, program requirements, and/or amount of any penalty, fee, charge, or payback obligation.

207 **CAUTION: If Buyer does not terminate this Offer, Buyer is hereby agreeing that Buyer will continue in such**  
208 **programs, as may apply, and Buyer agrees to reimburse Seller should Buyer fail to continue any such program**  
209 **such that Seller incurs any costs, penalties, damages, or fees that are imposed because the program is not**  
210 **continued after sale. The Parties agree this provision survives closing.**

211  **MANAGED FOREST LAND:** All, or part, of the Property is managed forest land under the Managed Forest Law  
212 (MFL). This designation will continue after closing. Buyer is advised as follows: The MFL is a landowner incentive program  
213 that encourages sustainable forestry on private woodlands by reducing and deferring property taxes. Orders designating  
214 lands as managed forest lands remain in effect for 25 or 50 years. When ownership of land enrolled in the MFL program  
215 changes, the new owner must sign and file a report of the change of ownership on a form provided by the Department of  
216 Natural Resources and pay a fee. By filing this form, the new owner agrees to the associated MFL management plan and  
217 the MFL program rules. The DNR Division of Forestry monitors forest management plan compliance. Changes you make  
218 to property that is subject to an order designating it as managed forest land, or to its use, may jeopardize your benefits  
219 under the program or may cause the property to be withdrawn from the program and may result in the assessment of  
220 penalties. For more information call the local DNR forester or **visit <https://dnr.wi.gov/>**.

221 **FENCES:** Wis. Stat. § 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equal shares  
222 where one or both of the properties is used and occupied for farming or grazing purposes.

223 **CAUTION: Consider an agreement addressing responsibility for fences if Property or adjoining land is used and**  
224 **occupied for farming or grazing purposes.**

225 **USE VALUE ASSESSMENTS:** The use value assessment system values agricultural land based on the income that  
226 would be generated from its rental for agricultural use rather than its fair market value. When a person converts  
227 agricultural land to a non-agricultural use (e.g., residential or commercial development), that person may owe a  
228 conversion charge. To obtain more information about the use value law or conversion charge, contact the Wisconsin  
229 Department of Revenue's **Equalization Section Bureau** or visit <http://www.revenue.wi.gov/>.

230 **FARMLAND PRESERVATION:** Rezoning a property zoned farmland preservation to another use or the early termination  
231 of a farmland preservation agreement or removal of land from such an agreement can trigger payment of a conversion fee  
232 equal to 3 times the class 1 "use value" of the land. Contact the Wisconsin Department of Agriculture, Trade and  
233 Consumer Protection Division of Agricultural Resource Management or visit <http://www.datcp.state.wi.us/> for more  
234 information.

235 **CONSERVATION RESERVE PROGRAM (CRP):** The CRP encourages farmers, through contracts with the U.S.  
236 Department of Agriculture, to stop growing crops on highly erodible or environmentally sensitive land and instead to plant  
237 a protective cover of grass or trees. CRP contracts run for 10 to 15 years, and owners receive an annual **rent as well as**  
238 **certain incentive payments and cost share assistance for plus one-half of the cost of estab**lishing permanent ground  
239 cover. Removing lands from the CRP in breach of a contract can be quite costly. For more information call the state Farm  
240 Service Agency office or visit <http://www.fsa.usda.gov/>.

241 **SHORELAND ZONING ORDINANCES:** All counties must adopt shoreland zoning ordinances that meet or are more  
242 restrictive than Wis. Admin. Code Chapter NR 115. County shoreland zoning ordinances apply to all unincorporated land

243 within 1,000 feet of a navigable lake, pond or flowage or within 300 feet of a navigable river or stream and establish  
244 minimum standards for building setbacks and height limits, cutting trees and shrubs, lot sizes, water runoff, impervious  
245 surface standards (that may be exceeded only if a mitigation plan is adopted) and repairs to nonconforming structures.  
246 Buyers must conform to any existing mitigation plans. For more information call the county zoning office or visit  
247 <https://dnr.wi.gov/>. <http://www.dnr.state.wi.us/>. Buyer is advised to check with the applicable city, town or village for  
248 additional shoreland zoning or shoreland-wetland zoning restrictions, if any.

249 **PROPERTY DEVELOPMENT WARNING** If Buyer contemplates developing Property for a use other than the current use,  
250 there are a variety of issues that should be addressed to ensure the development or new use is feasible. Municipal and  
251 zoning ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements  
252 or uses and therefore should be reviewed. Building permits, zoning variances, Architectural Control Committee approvals,  
253 estimates for utility hook-up expenses, special assessments, changes for installation of roads or utilities, environmental  
254 audits, subsoil tests, or other development related fees may need to be obtained or verified in order to determine the  
255 feasibility of development of, or a particular use for, a property. Optional contingencies that allow Buyer to investigate  
256 certain of these issues can be found at lines xxx-xxx and Buyer may add contingencies as needed in addenda (see line  
257 xxx). Buyer should review any plans for development or use changes to determine what issues should be addressed in  
258 these contingencies.

259  **PROPOSED USE CONTINGENCIES:** Buyer is purchasing the Property for the purpose of: \_\_\_\_\_  
260 \_\_\_\_\_

261 \_\_\_\_\_  
262 [insert proposed use and type and size of building, if applicable; e.g. three bedroom single family home]. The optional  
263 provisions checked on lines xxx-xxx shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days after acceptance,  
264 delivers written notice to Seller specifying those items that cannot be satisfied and written evidence substantiating why  
265 each specific item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null  
266 and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingencies checked at lines xxx-xxx.

267  **ZONING CLASSIFICATION CONFIRMATION:** This Offer is contingent upon Buyer obtaining, at (Buyer's)  
268 (Seller's) **STRIKE ONE** ("Buyer's" if neither is stricken) expense, verification that the Property is zoned \_\_\_\_\_  
269 \_\_\_\_\_ and that the Property's zoning allows the Buyer's proposed use described at lines xxx-xxx.

270  **SUBSOILS:** This offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) **STRIKE ONE** ("Buyer's" if  
271 neither is stricken) expense, written evidence from a qualified soils expert that the Property is free of any subsoil  
272 condition that would make the proposed use described at lines xxx-xxx impossible or significantly increase the costs  
273 of such development.

274  **PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM (POWTS) SUITABILITY:** This Offer is contingent  
275 upon Buyer obtaining, at (Buyer's) (Seller's) **STRIKE ONE** ("Buyer's" if neither is stricken) expense, written evidence  
276 from a certified soils tester that (a) the soils at the Property locations selected by Buyer, and (b) all other conditions  
277 that must be approved, meet the legal requirements in effect on the date of this Offer to obtain a permit for a POWTS  
278 for use of the Property as stated on lines xxx-xxx. The POWTS (septic system) allowed by the written evidence must  
279 be one of the following POWTS that is approved by the State for use with the type of property identified at lines xxx-

280 xxx **CHECK ALL THAT APPLY:**  conventional in-ground;  mound;  at grade;  in-ground pressure distribution;  
281  holding tank;  other: \_\_\_\_\_.

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

286  **APPROVALS:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) **STRIKE ONE** ("Buyer's" if  
287 neither is stricken) expense, permits, approvals and licenses, as appropriate, or the final discretionary action by the  
288 granting authority prior to the issuance of such permits, approvals and licenses, for the following items related to  
289 Buyer's proposed use: \_\_\_\_\_  
290 \_\_\_\_\_.

291  **UTILITIES:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) **STRIKE ONE** ("Buyer's" if  
292 neither is stricken) expense, written verification of the location of the following utility service connections (e.g., on the  
293 Property, at the lot line, across the street, etc.) **CHECK AND COMPLETE AS APPLICABLE:**

294  electricity \_\_\_\_\_;  gas \_\_\_\_\_;  sewer \_\_\_\_\_;  
295  water \_\_\_\_\_;  telephone \_\_\_\_\_;  cable \_\_\_\_\_;  
296  other \_\_\_\_\_.

297  **ACCESS TO PROPERTY:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) **STRIKE ONE**  
298 ("Buyer's" if neither is stricken) expense, written verification that there is legal vehicular access to the Property from  
299 public roads.

300  **LAND USE APPROVAL:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) **STRIKE ONE**  
301 ("Buyer's" if neither is stricken) expense, a  rezoning;  conditional use permit;  license;  variance;  building  
302 permit;  occupancy permit;  other \_\_\_\_\_ **CHECK ALL THAT APPLY,**  
303 and delivering written notice to Seller if the item cannot be obtained, all within \_\_\_\_\_ days of/after acceptance for the  
304 Property for its proposed use described at lines xxx-xxx.

305  **MAP OF THE PROPERTY:** This Offer is contingent upon (Buyer obtaining) (Seller providing) ~~STRIKE ONE~~ ("Seller  
306 providing" if neither is stricken) a Map of the Property dated subsequent to the date of acceptance of this Offer prepared  
307 by a registered land surveyor, within \_\_\_\_\_ days ("**20**" if left blank) ~~of-after~~ acceptance, at (Buyer's) (Seller's) ~~STRIKE~~  
308 ~~ONE~~ ("Seller's" if neither is stricken) expense. The map shall show minimum of \_\_\_\_\_ acres, maximum of  
309 \_\_\_\_\_ acres, the legal description of the Property, the Property's boundaries and dimensions, visible  
310 encroachments upon the Property, the location of improvements, if any, and: \_\_\_\_\_  
311 \_\_\_\_\_

312 **~~STRIKE AND COMPLETE AS APPLICABLE~~**

313 Additional map features that may be added include, but are not limited to: staking of all corners of the Property; identifying  
314 dedicated and apparent streets; lot dimensions; total acreage or square footage; easements or rights-of-way.

315 **CAUTION: Consider the cost and the need for map features before selecting them. Also consider the time**  
316 **required to obtain the map when setting the deadline.**

317 This contingency shall be deemed satisfied unless Buyer, within **five days of-after the deadline for delivery** of said map,  
318 delivers to Seller a copy of the map and a written notice which identifies: (1) the significant encroachment; (2) information  
319 materially inconsistent with prior representations; or (3) failure to meet requirements stated within this contingency. Upon  
320 delivery of Buyer's notice, this Offer shall be null and void. **If Seller was responsible to provide the map, this Offer shall be**  
321 **null and void if Buyer delivers notice to Seller ~~within three days of the delivery deadline~~ stating Seller failed to deliver the**  
322 **map by the delivery deadline.**

323 **~~INSPECTIONS AND TESTING~~** Buyer may only conduct inspections or tests if specific contingencies are included as a  
324 part of this Offer. An "inspection" is defined as an observation of the Property, which does not include an appraisal or  
325 testing of the Property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used  
326 as a fuel source, which are hereby authorized. A "test" is defined as the taking of samples of materials such as soils,  
327 water, air or building materials from the Property for laboratory or other analysis of these materials. Seller agrees to allow  
328 Buyer's inspectors, testers and appraisers reasonable access to the Property upon advance notice, if necessary, to satisfy  
329 the contingencies in this Offer. Buyer or licensees or both may be present at all inspections and testing. Except as  
330 otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property.

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

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

338  **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines ~~xxx-xxx~~).

339 (1) This Offer is contingent upon a Wisconsin registered or Wisconsin licensed home inspector performing a home  
340 inspection of the Property after the date on line 1 of this Offer ~~which-that~~ discloses no Defects.

341 (2) This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing  
342 an inspection of \_\_\_\_\_

343 \_\_\_\_\_ (list any Property component(s)  
344 to be separately inspected, e.g., swimming pool, roof, foundation, chimney, etc.) ~~which-that~~ discloses no Defects.

345 (3) Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection,  
346 provided they occur prior to the ~~De~~adline specified at line ~~xxx~~. Inspection(s) shall be performed by a qualified  
347 independent inspector or independent qualified third party.

348 Buyer shall order the inspection(s) and be responsible for all costs of inspection(s).

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

351 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days ("**15**" if left blank) after acceptance,  
352 delivers to Seller a copy of the written inspection report(s) dated after the date on line 1 of this Offer and a written notice  
353 listing the Defect(s) identified in those report(s) to which Buyer objects (Notice of Defects).

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

355 For the purposes of this contingency, Defects do not include structural, mechanical or other conditions the nature and  
356 extent of which Buyer had actual knowledge or written notice before signing this Offer.

357 **NOTE: "Defect" as defined on lines ~~xxx-xxx~~ means a condition that would have a significant adverse effect on the**  
358 **value of the Property; that would significantly impair the health or safety of future occupants of the Property; or**  
359 **that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life**  
360 **of the premises.**

361 **■ RIGHT TO CURE:** Seller (shall)(shall not) ~~STRIKE ONE~~ ("shall" if neither is stricken) have the right to cure the Defects.  
362 If Seller has the right to cure, Seller may satisfy this contingency by:

363 (1) delivering written notice to Buyer within \_\_\_\_\_ ("**10**" if left blank) days after Buyer's delivery of the Notice of  
364 Defects stating Seller's election to cure Defects;

365 (2) curing the Defects in a good and workmanlike ~~manner including obtaining applicable permits where required~~; and

366 (3) delivering to Buyer a written report detailing the work done **and documenting compliance with permit requirements**  
367 no later than three days prior to closing.

368 This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s)  
369 and:

370 (1) Seller does not have the right to cure; or

371 (2) Seller has the right to cure but:

372 (a) Seller delivers written notice that Seller will not cure; or

373 (b) Seller does not timely deliver the written notice of election to cure.

374 **IF LINE xxx IS NOT MARKED OR IS MARKED N/A LINES xxx-xxx APPLY.**

375  **FINANCING COMMITMENT CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written  
376 \_\_\_\_\_ [loan type or specific lender, if any] first mortgage loan commitment as described  
377 below, within \_\_\_\_\_ days after acceptance of this Offer. The financing selected shall be in an amount of not less than  
378 \$ \_\_\_\_\_ for a term of not less than \_\_\_\_\_ years, amortized over not less than \_\_\_\_\_ years.  
379 Initial monthly payments of principal and interest shall not exceed \$ \_\_\_\_\_. Buyer acknowledges that  
380 lender's required monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard  
381 insurance premiums, and private mortgage insurance premiums. The mortgage shall not include a prepayment premium.  
382 Buyer agrees to pay discount points in an amount not to exceed \_\_\_\_\_% ("0" if left blank) of the loan. If Buyer is using  
383 multiple loan sources or obtaining a construction loan or land contract financing, describe at lines xxx-xxx or in an  
384 addendum attached per line xxx. Buyer agrees to pay all customary loan and closing costs, wire fees, and loan origination  
385 fees, to promptly apply for a mortgage loan, and to provide evidence of application promptly upon request of Seller. Seller  
386 agrees to allow lender's appraiser access to the Property.

387 ■ **LOAN AMOUNT ADJUSTMENT:** If the purchase price under this Offer is modified, any financed amount, unless  
388 otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the  
389 monthly payments shall be adjusted as necessary to maintain the term and amortization stated above.

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

391  **FIXED RATE FINANCING:** The annual rate of interest shall not exceed \_\_\_\_\_%.

392  **ADJUSTABLE RATE FINANCING:** The initial interest rate shall not exceed \_\_\_\_\_%. The initial interest rate  
393 shall be fixed for \_\_\_\_\_ months, at which time the interest rate may be increased not more than \_\_\_\_\_% ("2"  
394 if left blank) at the first adjustment and by not more than \_\_\_\_\_% ("1" if left blank) at each subsequent  
395 adjustment. The maximum interest rate during the mortgage term shall not exceed the initial interest rate plus  
396 \_\_\_\_\_% ("6" if left blank). Monthly payments of principal and interest may be adjusted to reflect interest changes.

397 ■ **SATISFACTION OF FINANCING COMMITMENT CONTINGENCY:** If Buyer qualifies for the loan described in this Offer  
398 or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of a written loan commitment.  
399 This contingency shall be satisfied if, after Buyer's review, Buyer delivers to Seller a copy of a written loan commitment  
400 (even if subject to conditions) that is:

401 (1) signed by Buyer; or,

402 (2) accompanied by Buyer's written direction for delivery.

403 Delivery of a loan commitment by Buyer's lender or delivery accompanied by a notice of unacceptability shall not satisfy  
404 this contingency.

405 **CAUTION: The delivered loan commitment may contain conditions Buyer must yet satisfy to obligate the lender  
406 to provide the loan. Buyer understands delivery of a loan commitment removes the Financing Commitment  
407 Contingency from the Offer and shifts the risk to Buyer if the loan is not funded.**

408 ■ **SELLER TERMINATION RIGHTS:** If Buyer does not deliver a loan commitment on or before the Deadline on line xxx.  
409 Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of  
410 written loan commitment from Buyer.

411 ■ **FINANCING COMMITMENT UNAVAILABILITY:** If a financing commitment is not available on the terms stated in this  
412 Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall  
413 promptly deliver written notice to Seller of same including copies of lender(s)' rejection letter(s) or other evidence of  
414 unavailability.

Property Address: \_\_\_\_\_ Page 6 of 10, WB-11

415  **SELLER FINANCING:** Seller shall have 10 days after the earlier of:

416 (1) Buyer delivery of written notice of evidence of unavailability as noted in lines xxx to xxx or

417 (2) the Deadline for delivery of the loan commitment on line xxx, to deliver to Buyer written notice of Seller's decision to  
418 finance this transaction with a note and mortgage under the same terms set forth in this Offer, and this Offer shall  
419 remain in full force and effect, with the time for closing extended accordingly.

420 If Seller's notice is not timely given, the option for Seller to provide financing shall be considered waived. Buyer agrees to  
421 cooperate with and authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit  
422 worthiness for Seller financing.

423 **IF THIS OFFER IS NOT CONTINGENT ON FINANCING COMMITMENT** Within \_\_\_\_\_ days ("7" if left blank) after  
424 acceptance, Buyer shall deliver to Seller either:

425 (1) reasonable written verification from a financial institution or third party in control of Buyer's funds that Buyer has, at  
426 the time of verification, sufficient funds to close; or

427 (2) \_\_\_\_\_  
428 \_\_\_\_\_ [Specify documentation Buyer agrees to deliver to Seller].  
429 If such written verification or documentation is not delivered, Seller has the right to terminate this Offer by delivering  
430 written notice to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written verification. Buyer may or may not  
431 obtain mortgage financing but does not need the protection of a financing contingency. Seller agrees to allow Buyer's  
432 appraiser access to the Property for purposes of an appraisal. Buyer understands and agrees that this Offer is not subject  
433 to the appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of  
434 access for an appraisal constitute a financing commitment contingency.

435  **APPRAISAL CONTINGENCY:** This Offer is contingent upon Buyer or Buyer's lender having the Property  
436 appraised at Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report  
437 dated subsequent to the date stated on line 1 of this Offer, indicating an appraised value for the Property equal to or  
438 greater than the agreed upon purchase price.

439 This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days after acceptance, delivers to Seller a  
440 copy of the appraisal report indicating an appraised value ~~not equal to or greater less~~ than the agreed upon purchase  
441 price, and a written notice objecting to the appraised value.

442  **RIGHT TO CURE:** Seller (shall) (shall not) **STRIKE ONE** ("shall" if neither is stricken) have the right to cure.

443 If Seller has the right to cure, Seller may satisfy this contingency by delivering written notice to Buyer adjusting the  
444 purchase price to the value shown on the appraisal report within \_\_\_\_\_ days ("5" if left blank) after Buyer's delivery of  
445 the appraisal report and the notice objecting to the appraised value. Seller and Buyer agree to promptly execute an  
446 amendment initiated by either party after delivery of Seller's notice, solely to reflect the adjusted purchase price.

447 This Offer shall be null and void if Buyer makes timely delivery of the notice objecting to appraised value and the written  
448 appraisal report and:

449 (1) Seller does not have the right to cure; or

450 (2) Seller has the right to cure but:

451 (a) Seller delivers written notice that Seller will not adjust the purchase price; or

452 (b) Seller does not timely deliver the written notice adjusting the purchase price to the value shown on the appraisal  
453 report.

454 **NOTE: An executed FHA, VA or USDA Amendatory clause may supersede this contingency.**

455  **CLOSING OF BUYER'S PROPERTY CONTINGENCY:** This Offer is contingent upon the closing of the sale of  
456 Buyer's property located at \_\_\_\_\_

457 no later than \_\_\_\_\_ (the Deadline). If closing does not occur by the Deadline, this Offer  
458 shall become null and void unless Buyer delivers to Seller, on or before the Deadline, reasonable written verification from  
459 a financial institution or third party in control of Buyer's funds that Buyer has, at the time of verification, sufficient funds to  
460 close or proof of bridge loan financing, along with a written notice waiving this contingency. Delivery of verification or proof  
461 of bridge loan shall not extend the closing date for this Offer.

462  **BUMP CLAUSE:** If Seller accepts a bona fide secondary offer, Seller may give written notice to Buyer that another  
463 offer has been accepted. If Buyer does not deliver to Seller the documentation listed below within \_\_\_\_\_ hours ("72" if  
464 left blank) after Buyer's Actual Receipt of said notice, this Offer shall be null and void. Buyer must deliver the following:

465 (1) Written waiver of the Closing of Buyer's Property Contingency if line **xxx** is marked;

466 (2) Written waiver of \_\_\_\_\_ (name other contingencies, if any); and

467 (3) Any of the following checked below:

468  Proof of bridge loan financing.

469  Proof of ability to close from a financial institution or third party in control of Buyer's funds which shall provide  
470 Seller with reasonable written verification that Buyer has, at the time of verification, sufficient funds to close.

471 Other: \_\_\_\_\_

472 \_\_\_\_\_

473 [insert other requirements, if any (e.g., payment of additional earnest money, etc.)]

Property Address: \_\_\_\_\_ Page 7 of 10, WB-11

475  **SECONDARY OFFER:** This Offer is secondary to a prior accepted offer. This Offer shall become primary upon  
476 delivery of written notice to Buyer that this Offer is primary. Unless otherwise provided, Seller is not obligated to give  
477 Buyer notice prior to any Deadline, nor is any particular secondary buyer given the right to be made primary ahead of  
478 other secondary buyers. Buyer may declare this Offer null and void by delivering written notice of withdrawal to Seller prior  
479 to delivery of Seller's notice that this Offer is primary. Buyer may not deliver notice of withdrawal earlier than \_\_\_\_\_ days  
480 ("seven" if left blank) after acceptance of this Offer. All other Offer Deadlines ~~which are that~~ run from acceptance shall run  
481 from the time this Offer becomes primary.

482 **HOMEOWNERS ASSOCIATION** If this Property is subject to a homeowners association, Buyer is aware the Property  
483 may be subject to periodic association fees after closing and one-time fees resulting from transfer of the Property. Any  
484 one-time fees resulting from transfer of the Property shall be paid at closing by (Seller) (Buyer) **STRIKE ONE** ("Buyer" if  
485 neither is stricken).

486 **CLOSING PRORATIONS** The following items, if applicable, shall be prorated at closing, based upon date of closing  
487 values: real estate taxes, rents, prepaid insurance (if assumed), private and municipal charges, property owners or

488 homeowners association assessments, fuel and \_\_\_\_\_

489 \_\_\_\_\_

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

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

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

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

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

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

499

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

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

#### 510 **TITLE EVIDENCE**

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

517 \_\_\_\_\_

518 \_\_\_\_\_ (insert other allowable exceptions  
519 from title, if any) ~~which that~~ constitutes merchantable title for purposes of this transaction. Seller, ~~at Seller's cost,~~ shall  
520 complete and execute the documents necessary to record the conveyance ~~at Seller's cost~~ and pay the Wisconsin Real  
521 Estate Transfer Fee.

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

525 **■ TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of  
526 the purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall  
527 pay all costs of providing title evidence to Buyer. Buyer shall pay the costs of providing the title evidence required by  
528 Buyer's lender and recording the deed or other conveyance.

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

Property Address: \_\_\_\_\_

Page 8 of 10, WB-11

534 ~~xxx-xxx~~).

535 **■ DELIVERY OF MERCHANTABLE TITLE:** The required title insurance commitment shall be delivered to Buyer's  
536 attorney or Buyer not less than 5 business days before closing, showing title to the Property as of a date no more than 15  
537 days before delivery of such title evidence to be merchantable per ~~lines xxx-xxx,~~ subject only to liens ~~which that~~ will be  
538 paid out of the proceeds of closing and standard title insurance requirements and exceptions, ~~as appropriate.~~

539 **■ TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of  
540 objections to title by the time set for closing. ~~In such event,~~ Seller shall have a reasonable time, but not exceeding 15  
541 days, to remove the objections, and the time for closing shall be extended as necessary for this purpose. ~~In the event~~  
542 ~~that~~ Seller is unable to remove said objections, Buyer shall have five days from receipt of notice thereof, to deliver written  
543 notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the  
544 objections, this Offer shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's  
545 obligations to give merchantable title to Buyer.

546 **■ SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced  
547 prior to the date stated on line 1 of this Offer shall be paid by Seller no later than closing. All other special assessments

548 shall be paid by Buyer. "Levied" means the local municipal governing body has adopted and published a final resolution  
549 describing the planned improvements and the assessment of benefits.

550 **CAUTION: Consider a special agreement if ~~special assessments are payable in multiple payments over a period~~**  
551 **~~of years, or if~~ area assessments, property owners association assessments, special charges for current services**  
552 **under Wis. Stat. § 66.0627 or other expenses are contemplated. "Other expenses" are one-time charges or**  
553 **ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb,**  
554 **gutter, street, sidewalk, municipal water, sanitary and storm water and storm sewer (including all sewer mains**  
555 **and hook-up/connection and interceptor charges), parks, street lighting and street trees, and impact fees for**  
556 **other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).**

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

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

## 562 **DEFINITIONS**

563 ■ **ACTUAL RECEIPT:** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document  
564 or written notice physically in the Party's possession, regardless of the method of delivery. If the document or written  
565 notice is electronically delivered, Actual Receipt shall occur when the Party opens the electronic transmission.

566 ■ **BUSINESS DAY:** "Business Day" means a calendar day other than Saturday, Sunday, any legal public holiday under  
567 Wisconsin or Federal law, and any other day designated by the President such that the postal service does not receive  
568 registered mail or make regular deliveries on that day.

569 ■ **DEADLINES:** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by  
570 excluding the day the event occurred and by counting subsequent calendar days. The Deadline expires at Midnight on the  
571 last day. Additionally, Deadlines expressed as a specific number of Business Days are calculated in the same manner  
572 except that only Business Days are counted while other days are excluded. Deadlines expressed as a specific number of  
573 "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and  
574 by counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a  
575 specific event, such as closing, expire at Midnight of that day. "Midnight" is defined as 11:59 p.m. ~~Central Standard Time~~.

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

579 ■ **FIRM:** "Firm" means a licensed sole proprietor broker or a licensed broker business entity.

580 ■ **PARTY:** "Party" means the Buyer or the Seller; "Parties" refers to both the buyer and the Seller.

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

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

584 **PROPERTY DIMENSIONS AND SURVEYS** Buyer acknowledges that any land, ~~building or room~~ dimensions, or total  
585 acreage or ~~building~~-square footage figures, provided to Buyer by Seller or by a Firm or its agents, may be approximate  
586 because of rounding, formulas used or other reasons, unless verified by survey or other means.

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

589 **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of  
590 the Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the  
591 transaction as defined by the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession  
592 data to multiple listing service sold databases; (iii) provide active listing, pending sale, closed sale and financing  
593 concession information and data, and related information regarding seller contributions, incentives or assistance, and third  
594 party gifts, to appraisers researching comparable sales, market conditions and listings, upon inquiry; and (iv) distribute  
595 copies of this Offer to the ~~seller, or seller's agent, of another property which that~~ Seller intends on purchasing.

Property Address: \_\_\_\_\_ Page 9 of 10, WB-11

596 **MAINTENANCE** Seller shall maintain the Property and all personal property included in the purchase price until the  
597 earlier of closing or Buyer's occupancy, in materially the same condition ~~acceptance~~ it was in as of the date on line 1 ~~as of~~  
598 ~~the date of acceptance~~ of this Offer, except for ordinary wear and tear.

599 **PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING** If, prior to closing, the Property is damaged in an  
600 amount not more than five percent of the purchase price, other than normal wear and tear, Seller shall promptly notify  
601 Buyer in writing, and will be obligated to restore the Property to materially the same condition it was in ~~at-as of~~ the date on  
602 line 1 of this Offer. Seller shall provide Buyer with copies of all required permits and lien waivers for the lienable repairs no  
603 later than closing. If the amount of damage exceeds five percent of the purchase price, Seller shall promptly notify Buyer  
604 in writing of the damage and this Offer may be ~~canceled-terminated~~ at option of Buyer. Should Buyer elect to carry out this  
605 Offer despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the damage to the  
606 Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy, if any.

607 However, if this sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust  
608 for the sole purpose of restoring the Property.

609 **BUYER'S PRE-CLOSING WALK-THROUGH** Within three days prior to closing, at a reasonable time pre-approved by  
610 Seller or Seller's agent, Buyer shall have the right to walk through the Property to determine that there has been no  
611 significant change in the condition of the Property, except for ordinary wear and tear and changes approved by Buyer, and  
612 that any defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

613 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in  
614 this Offer at lines xxx-xxx or in an addendum attached per line xxx, or lines xxx-xxx if the Property is leased. At time of  
615 Buyer's occupancy, Property shall be free of all debris, refuse, and personal property except for personal property  
616 belonging to current tenants, or ~~that~~ sold to Buyer or left with Buyer's consent. Occupancy shall be given subject to  
617 tenant's rights, if any.

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

621 If Buyer defaults, Seller may:

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

625 If Seller defaults, Buyer may:

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

628 In addition, the Parties may seek any other remedies available in law or equity. The Parties understand that the availability  
629 of any judicial remedy will depend upon the circumstances of the situation and the discretion of the courts. If either Party  
630 defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of the remedies outlined  
631 above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes covered  
632 by the arbitration agreement.

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

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

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

644 **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)** Section 1445 of the Internal Revenue Code (IRC)  
645 provides that a transferee (Buyer) of a United States real property interest must pay or withhold as a tax up to 15% of the  
646 total "Amount Realized" in the sale if the transferor (Seller) is a "Foreign Person" and no exception from FIRPTA  
647 withholding applies. A "Foreign Person" is a nonresident alien individual, foreign corporation, foreign partnership, foreign  
648 trust, or foreign estate. The "Amount Realized" is the sum of the cash paid, the fair market value of other property  
649 transferred, and the amount of any liability assumed by Buyer.

650 **CAUTION: Under this law if Seller is a Foreign Person, and Buyer does not pay or withhold the tax amount, Buyer  
651 may be held directly liable by the U.S. Internal Revenue Service for the unpaid tax and a tax lien may be placed  
652 upon the Property.**

653 Seller hereby represents that Seller is not a Foreign Person. Buyer and Seller agree to comply with FIRPTA requirements  
654 under IRC § 1445. **No later than 15 days prior to the closing,** Seller shall execute and deliver to Buyer, or a qualified  
655 substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller's

Property Address: \_\_\_\_\_ Page 10 of 10, WB-11

656 non-foreign status in accordance with IRC § 1445. Any representations made by Seller with respect to this issue shall  
657 survive the closing and delivery of the deed. If Seller fails to deliver certification of Seller's non-foreign status, Buyer shall  
658 be entitled to either: (1) withhold the amount required to be withheld pursuant to IRC § 1445 from amounts otherwise  
659 payable to Seller under this Offer; or, (2) terminate this Offer by written notice to Seller prior to closing. Buyer and Seller  
660 shall complete, execute, and deliver, on or before closing, any other instrument, affidavit, or statement needed to comply  
661 with FIRPTA, including withholding forms.

662 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA  
663 exemption applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors  
664 regarding FIRPTA.

665 **ADDITIONAL PROVISIONS/CONTINGENCIES** \_\_\_\_\_  
666 \_\_\_\_\_

667 \_\_\_\_\_  
668 \_\_\_\_\_  
669 \_\_\_\_\_

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

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

675 Name of Seller's recipient for delivery, if any: \_\_\_\_\_

676 Name of Buyer's recipient for delivery, if any: \_\_\_\_\_

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

678 Seller: (\_\_\_\_\_) \_\_\_\_\_ Buyer: (\_\_\_\_\_) \_\_\_\_\_

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

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

684 Address for Seller: \_\_\_\_\_

685 Address for Buyer: \_\_\_\_\_

686  (5) **Email**: electronically transmitting the document or written notice to the email address.

687 **Seller:** \_\_\_\_\_ **Buyer:** \_\_\_\_\_

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

690  **ADDENDA**: The attached \_\_\_\_\_ is/are made part of this Offer.

691 This Offer was drafted by [Licensee and Firm] \_\_\_\_\_

692 \_\_\_\_\_

693 (x) \_\_\_\_\_  
694 Buyer's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

695 (x) \_\_\_\_\_  
696 Buyer's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

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

701 (x) \_\_\_\_\_  
702 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

703 (x) \_\_\_\_\_  
704 Seller's Signature ▲ Print Name Here ► \_\_\_\_\_ Date ▲ \_\_\_\_\_

705 This Offer was presented to Seller by [Licensee and Firm] \_\_\_\_\_

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

707 This Offer is rejected \_\_\_\_\_ This Offer is countered [See attached counter] \_\_\_\_\_  
708 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲