



VIRTUAL/TELECONFERENCE
REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL
Virtual, 4822 Madison Yards Way, Madison, WI 53705
Contact: Adam Barr (608) 266-2112
January 20, 2022

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 December 8, 2021 (2-3)**
- C. Reminders – Scheduling Concerns
- D. Introductions, Announcements, and Recognition
- E. Administrative Matters**
 - 1. Department, Staff and Council Updates
 - 2. Annual Policy Review **(4-6)**
 - 3. Real Estate Examining Board Update
- F. Review of Real Estate Contractual Forms for Revision – Discussion and Consideration**
 - 1. **WB-24 – Option to Purchase (7-24)**
 - a. WB-24 Draft
- G. Next Steps**
- H. Public Comments**

ADJOURNMENT

NEXT MEETING: FEBRUARY 9, 2022

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. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
REAL ESTATE CONTRACTUAL FORMS ADVISORY COUNCIL
MEETING MINUTES
DECEMBER 8, 2021**

PRESENT: Joseph Busch (*excused at 1:35 p.m.*), Casey Clickner, Debra Conrad, John Drzewiecki, Sonya Mays, Kim Moermond, Angela Rowland (*excused at 11:40 a.m.*), Jonathan Sayas, Pamela Widen

EXCUSED: Michael Gordon, Cori Lamont, Laura Peck, Thomas Weber, Jr.

STAFF: Adam Barr, Executive Director; Megan Glaeser, Bureau Assistant; and other DSPS Staff

CALL TO ORDER

Sonya Mays, Chairperson, called the meeting to order at 9:32 a.m. A quorum of nine (9) members was confirmed.

ADOPTION OF AGENDA

MOTION: Pamela Widen moved, seconded by Joseph Busch, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES FROM SEPTEMBER 16, 2021

MOTION: Jonathan Sayas moved, seconded by Debra Conrad, to approve the minutes of September 16, 2021 as published. Motion carried unanimously.

INTRODUCTIONS, ANNOUNCEMENTS AND RECOGNITION

Recognition of Robert Larson, Real Estate Examining Board Representative

MOTION: Jonathan Sayas moved, seconded by Pamela Widen, to recognize and thank Robert Larson for his years of service to the Real Estate Contractual Forms Advisory Council, the Real Estate Examining Board, and the State of Wisconsin. Motion carried unanimously.

(Angela Rowland was excused at 11:40 a.m.)

(Joseph Busch was excused at 1:35 p.m.)

ADJOURNMENT

MOTION: Pamela Widen moved, seconded by Casey Clickner, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:11 p.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Kimberly Wood, Program Assistant Supervisor-Adv. on behalf of Division of Policy Development Executive Directors		2) Date when request submitted: 12/13/2021 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date: First Meeting of 2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Annual Policy Review	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: Please be advised of the following Annual Policy Review items: <ol style="list-style-type: none"> 1. Attendance/Quorum: Thank you for your service and for your commitment to meeting attendance. If you cannot attend a meeting or if you have scheduling conflicts impacting your attendance, please let us know ASAP. Timely notification is appreciated as quorum is required for our Boards, Sections and Councils to meet pursuant to Open Meetings Law. 2. Walking Quorum: Board/Section/Council members must not collectively discuss the body's business outside of a properly noticed meeting. Should several members of a body do so, the members could be violating the open meetings law. 3. Agenda Deadlines: Please communicate agenda topics to your Executive Director before the agenda submission deadline which is at 12:00 pm, 8 business days prior to a meeting. (Attachment: Timeline of a Meeting) 4. Travel Voucher and Per Diem Submissions: Please submit all Per Diem and Reimbursement claims to DSPS within 30 days of the close of each month in which expenses are incurred. (Attachments: Per Diem Example, Travel Voucher Example) 5. Lodging Accommodations/Hotel Cancellation Policy: Lodging accommodations are available to eligible members. Standard eligibility: member must leave home before 6:00 a.m. to attend a meeting by the scheduled start time. <ul style="list-style-type: none"> • If a member cannot attend a meeting it is their responsibility to cancel their reservation within the applicable cancellation timeframe. If a meeting is changed to occur remotely or is cancelled or rescheduled DSPS staff will cancel or modify reservations as appropriate. 6. Inclement Weather Policy: In the event of inclement weather the agency may change a meeting from an in-person venue to one that is executed remotely. 			
11) Authorization			
Kimberly Wood		12/13/2021	
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be saved with any other documents submitted to the Agenda Items folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

Timeline of a Meeting

8 business days prior to the meeting: All agenda materials are due to the Department by 12:00 pm, 8 business days prior to the meeting date.

7 business days prior to the meeting: The draft agenda page is due to the Executive Director. The Executive Director transmits to the Chair for review and approval.

5 business days prior to the meeting: The approved agenda is returned to the Bureau Assistant for agenda packet production and compilation.

4 business days prior to the meeting: Agenda packets are posted on the DSPS Board SharePoint site and on the Department website.

Agenda Item Examples:

- Approval of the Agenda and Minutes (from the last meeting)
- Open Session Items
 - Public Hearings (on Admin Rules)
 - Administrative Matters
 - Legislation and Policy Matters
 - Administrative Rules Matters
 - Credentialing Matters
 - Education and Exam Issues
 - Public Agenda Requests
 - Current Issues Affecting the Profession
 - Public Comments
- Closed Session items
 - Deliberations on Proposed Disciplinary Actions
 - Stipulations
 - Administrative Warnings
 - Case Closings
 - Monitoring Matters
 - Professional Assistance Procedure (PAP) Issues
 - Proposed Final Decisions and Orders
 - Orders Fixing Costs/Matters Relating to Costs
 - Credentialing Matters
 - Education and Exam Issues

Thursday of the Week Prior to the Meeting: Agendas are published for public notice on the Public Notices and Meeting Minutes website: publicmeetings.wi.gov.

1 business day after the Meeting: "Action" lists are distributed by staff detailing board actions on closed session business.

5 business days after the Meeting: "To Do" lists are distributed to staff to ensure that board decisions are acted on and/or implemented within the appropriate divisions in the Department. Minutes approved by the board are published on the Department's website.

Travel Voucher

Staple Receipts Face Up On Backside

Safety & Professional Services														
Department/ Division		Example Examining Board			Emp ID 100012345		Z							
State Officer/Employee Name		Mary Sunshine			Address 2424 Happy Road									
Mo/Yr		From/To:			City Pleasant Prairie		State WI		Zip-Code		53158			
FY	FUND	BUSINESS UNIT	DEPART	APPR CLASS	OBJECT	PROJECT			BALANCE SHEET ACCT	REPORTING CATEGORY	PROJECT NUMBER	AMOUNT		
2021	10000	16500	1651300200	12100	7340000	16500P1<BRD ID>						DEBIT	CREDIT	
				12800		16500P2<TRD ID>								
				22100										
											TOTALS			

Official Business		Travel Points		HDQS-TIME		Personal Vehicle	Lodging	Meals, including tips			Other Allowable Expenses		Total Allowable Expenses	
Date	Purpose of Trip	From	To	Depart	Return	Miles		Morning	Noon	Evening	Item	Amount	Taxable	Non-Taxable
Use	Board Meeting	Home base	Madison	Report times you left		Miles	P-card	\$8.00	\$10.00	\$20.00			Report	Report
separate		Madison	Home base	and returned home if		must be		Maximum in-state amounts					meal cost	meal cost
lines for	You must identify			meals are claimed		split.	Enter		or				here if there	here if there
each leg	the purpose of					Cannot	"P-card"	\$10.00	\$15.00	\$25.00			is NO	IS an
of your	your trip.					place	when hotel	Maximum out-of-state amounts					overnight	overnight
trip.						roundtrip	is provided						stay.	stay.
						total on	by DSPS	Must leave	Must leave	Must return				
						one line.		home	home	home after				
								before	before	7:00 p.m.				
								6:00 a.m.	10:30 a.m.					
									and return					
									home after					
									2:30 p.m.					
LEGEND:		Staff can fill in these areas.					Board Member MUST fill in these areas							
*Item billed directly to the state agency				Sub-Totals										
								Mileage Costs						
								Miles at	0.510 cents/mile				Totals	
												Total Expenditure		
												Less Travel Advance		
												Net Amount Due		

Claimant's Statement § 16.53 Wisconsin Statutes

I declare, under penalties, that all claimed travel expenses are true and correct and are in conformity with Wisconsin statute 16.53 and related agreements. This claim represents reasonable and actual expenses necessarily incurred by me personally in the performance of official duties and no portion was previously reimbursed to me by the State or any other source.

I certify that all expenses on this voucher conform to statutory, departmental or applicable collective bargaining provisions, and were necessary in the official performance of duties required by the State. Expenditures are determined to be reasonable and proper, and that sufficient funds are available to pay this claim.

Date _____ Claimant's Signature _____

I certify that this travel claim is reasonable, proper, and in conformity with applicable statutes, travel schedule amounts, and/or collective bargaining agreements.

Agency Head or Authorized Representative _____

Date _____ Supervisor's Signature _____

Audited in accordance with S. 16.53 Wisconsin Statutes and allowed by the provisions of chapter 20.

OPTION TO PURCHASE REVISIONS

To: DSPS Real Estate Contractual Forms Advisory Committee
From: WRA Forms Committee
Date: January 12, 2021
RE: **WB-24 Option to Purchase**

WB-24 Option to Purchase

RECAP:

1. Reordering the subsections under Option Terms, lines 10-24 was done. Is this acceptable?
2. Recording of the option at lines 61-65. The language was modified to make clear it is the parties – and their attorneys -- and not the licensees who would provide any legal description and notarized signatures should the parties choose to record the option or a memorandum thereof.
3. Line 82: Material Breach of Lease is Default under Option. The WRA Forms Committee thought if the breach is serious enough to terminate the lease or if it is a failure to make payments, then it should be an option default. The DSPS Forms Council left the language as shown.
4. Lines 92-104: Condition Reports. These lines were updated to more closely match the language in the offers with respect to the RECR and VLDR.
5. Lines 191-193 – New subsection for Seller Changes Prohibited
 - SELLER CHANGES PROHIBITED: The Parties agree that Seller shall not rezone the Property or create any additional liens or encumbrances on title after Seller grants this Option without Buyer’s written consent except for liens and encumbrances that will be removed at closing.

Title evidence discussion, lines 197-227

These lines show in tracking some of the proposed changes/language under consideration the DSPS Forms Council was looking at. There was discussion about whether the title should be provided in stages, for instance, insure the option interest for the buyer at first stage and then in the second stage provide a title commitment for the fee interest in the property after the option is exercised in preparation for the purchase. The second stage would seem to be more akin to what happens in an offer to purchase situation. Related questions would be should the WB-24 be drafted to make this happen, strongly push the option buyer in that direction, or just suggest the option buyer use a two-stage approach. Another question is who pays for each stage if there are two stages and two different title commitments.

A possibility might be to have a title commitment for the option interest and if the option is exercised then that is cancelled and a title commitment for the property purchase is issued.

The WRA Forms Committee expressed some interest in having a title report or an initial title commitment for the option as the first step (cancellable) and then a title commitment if the option is exercised. Conversations may be needed with title companies as to what makes the most sense if there is interest in modifying how title it handled within the option.

The WRA reached out to the general counsel from a few title companies and received the following input/suggestions.

I fully agree that it would be best practice to have a title commitment obtained at the time of the Grant of the Option and then again at the time that the Option is exercised (which of course could be some months or even years later). What if the language was revised as follows:

■ DELIVERY OF MERCHANTABLE TITLE: The required title insurance commitment shall be delivered to Buyer's attorney or Buyer not more than _____ days ("15" if left blank) after Seller grants this Option AND AFTER BUYER EXERCISES THIS OPTION showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines xxx-xxx, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions.

Cheri Hipenbecker, General Counsel
Knight Barry Title Group

Thank you for giving me the opportunity to look at this. To me, there are two separate issues here:

1. Is the consumer seeking insurance for the Option? We do sell title insurance that the Option is enforceable. If that is what the committee is thinking about, I would change the Caution to "Note: Title insurance may be purchased guaranteeing enforceability of the Option. The title commitment reviewed prior to executing the Option Agreement can be converted to a Title Policy."
2. Is the title insurance section telling the consumer about title insurance once they close on the purchase? If that is the goal, then I would tweak the Caution language slightly, to say "Title Insurance may be obtained for the execution on this Option and a separate Title Insurance Commitment should be requested at that time."

I hope that was helpful. If I were to suggest one change it would be to make it clear that title insurance can be obtained for both the Option and the Execution.

Brad L.F. Hoeschen
VP | Old Republic National Title Insurance Company

Suggestion submitted to DSPS – requires seller to provide title insurance commitment after granting of the option and again before closing; allows buyer to get out if the first title evidence after the granting of the option is not acceptable and objections cannot be remedied.

TITLE EVIDENCE: Seller shall give evidence of title, for granting of option and for closing, in the form of an owner's policy of title insurance in the amount of the purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall pay all costs of providing title evidence to Buyer for granting of option (Lines xxx-xxx) and for closing (Lines xxx-xxx). Buyer shall pay the costs of providing the title evidence required by Buyer's lender and recording the deed or other conveyance.

PROVISION OF MERCHANTABLE TITLE FOR GRANTING OF OPTION: The required title insurance commitment shall be delivered to Buyer's attorney or Buyer not more than _____ days ("15" if left blank) after Seller grants this Option showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines xxx-xxx, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions.

TITLE NOT ACCEPTABLE FOR GRANTING OF OPTION: If title is not acceptable for granting of Option, Buyer shall notify Seller in writing of objections to title within _____ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In such event, Seller shall have _____ days ("15" if left blank), from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections within 15 days. If Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof to deliver written notice waiving the objections. If Buyer does not waive the objections, this Option shall be terminated and Buyer's option fee shall/shall not be returned ("shall" if neither is chosen).

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

TITLE NOT ACCEPTABLE FOR CLOSING: If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by the time set for closing. Seller shall have a reasonable time, but not exceeding 15 days, from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections, and the time for closing shall be extended as necessary for this purpose. If Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof to deliver written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Option shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

Information regarding option policy:

The option grant is a right to property and some insurers will insure the option.

<https://agentstitle.com/UM/NetHelp/default.htm?url=WordDocuments%2Foptionstopurchaseunderwritingguidelines.htm>

The WRA Forms Committee looked at various configurations including one where the seller provides title commitment only after the option exercised and the buyer may or may not get an option title commitment after the option is granted, at their discretion. They also looked at an approach where the seller provides

a title commitment after option granted and again after the option exercised. But their recommendation is a configuration where there are some options within the option regarding the front-end title evidence.

The idea is to let the parties choose if there will be a front-end title commitment and who should pay for it. They looked at the title provisions in the Land Contract for a bit of their inspiration. And then the existing title provisions in the WB-24 draft require the seller, at the seller's cost, to provide title evidence after the buyer exercises the option and then it all becomes more akin to what happens in the offers. The Seller Changes Prohibited was placed between the provisions relating to any title evidence provided upon the granting of the option and the title evidence the seller provides upon the buyer's exercise of the option – it provides a nice division and transition.

TITLE UPON GRANTING OF OPTION

If the box at line xxx is not checked, no title evidence shall be provided by Seller upon the granting of this Option.

Seller shall provide title evidence to Buyer or Buyer's attorney not more than ___ days ("15" if left blank) after Seller grants this Option showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines xxx-xxx, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions. (Seller)(Buyer) [STRIKE ONE] ("Buyer" if neither is stricken) shall pay for this title evidence.

■ **TITLE NOT ACCEPTABLE UPON GRANTING OF OPTION:** If title evidence provided by Seller after the granting of this Option is not acceptable, Buyer shall notify Seller in writing of Buyer's objections to title within ___ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. Seller shall have ___ days ("15" if left blank), from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections within 15 days. If Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof to deliver written notice waiving the objections. If Buyer does not waive the objections, Buyer shall deliver written notice to Seller terminating this Option and Buyer's option fee (shall)(shall not) [STRIKE ONE] be returned ("shall" if neither is stricken) to Buyer. This does not preclude Buyer from later objecting to title after this Option is exercised.

■ **SELLER CHANGES PROHIBITED:** The Parties agree that Seller shall not rezone the Property or create any additional liens or encumbrances on title after Seller grants this Option without Buyer's written consent except for liens and encumbrances that will be removed at closing.

TITLE UPON EXERCISE OF OPTION

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

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

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

■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of Buyer's objections to title by the time set for closing. Seller shall have ___ days ("15" if left blank), from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections and the time for closing shall be extended as necessary for this purpose. If Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof to deliver written notice waiving the objections, and the time for closing shall be extended

accordingly. If Buyer does not waive the objections, Buyer shall deliver written notice to Seller terminating this Option and Buyer's option fee (shall)(shall not) [STRIKE ONE] be returned ("shall not" if neither is stricken) to Buyer. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

General Discussion Items (Notes from prior meeting – no action required)

Other topics to consider and comment about:

1. Do you ever use timeshare forms in time share real estate transactions? Specifically, there is a WB-26 Timeshare Contract Sale by Developer and a WB-27 Timeshare Contract Sale by Non-Developer available from the DSPS.

The WRA Forms Committee didn't have anyone who uses these forms. The issue for discussion is whether these forms should be discontinued.

2. The Northwoods Association made the request to split the rental provisions out of the WB-36 and create a separate form for rentals. Do we believe that should be done or is the status quo manageable?

Some members of the WRA Forms Committee thought it would be helpful to remove the rental provisions from the WB-36 while others thought it was fine the way it is.

3. What other WB forms should be revised and why?

The WRA Forms Committee did not have any suggestions at this time.

OptionWB-24RevisionDSPS1-20-22

TITLE EVIDENCE: Seller shall give evidence of title, for granting of option and for closing, in the form of an owner's policy of title insurance in the amount of the purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall pay all costs of providing title evidence to Buyer for granting of option (Lines xxx-xxx) and for closing (Lines xxx-xxx). Buyer shall pay the costs of providing the title evidence required by Buyer's lender and recording the deed or other conveyance.

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TITLE NOT ACCEPTABLE FOR CLOSING: If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by the time set for closing. Seller shall have a reasonable time, but not exceeding 15 days, from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections, and the time for closing shall be extended as necessary for this purpose. If Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof to deliver written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Option shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

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I fully agree that it would be best practice to have a title commitment obtained at the time of the Grant of the Option and then again at the time that the Option is exercised (which of course could be some months or even years later). What if the language was revised as follows:

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Cheri Hipenbecker, General Counsel

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1. Is the consumer seeking insurance for the Option? We do sell title insurance that the Option is enforceable. If that is what the committee is thinking about, I would change the Caution to "Note: Title insurance may be purchased guaranteeing enforceability of the Option. The title commitment reviewed prior to executing the Option Agreement can be converted to a Title Policy."
2. Is the title insurance section telling the consumer about title insurance once they close on the purchase? If that is the goal, then I would tweak the Caution language slightly, to say "Title Insurance may be obtained for the execution on this Option and a separate Title Insurance Commitment should be requested at that time."

I hope that was helpful. If I were to suggest one change it would be to make it clear that title insurance can be obtained for both the Option and the Execution.

Brad L.F. Hoeschen

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TITLE EVIDENCE

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

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

■ **SELLER CHANGES PROHIBITED:** The Parties agree that Seller shall not rezone the Property or create any additional liens or encumbrances on title after Seller grants this Option without Buyer's written consent except for liens and encumbrances that will be removed at closing.

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

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

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

■ **DELIVERY OF MERCHANTABLE TITLE:** The required title insurance commitment shall be delivered to Buyer's attorney or Buyer not more than _____ days ("15" if

left blank) after Seller grants this Option showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines xxx-xxx, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions.

CAUTION: Buyer should consider obtaining an update of the title commitment prior to exercising this Option and prior to closing to confirm title status.

■ TITLE NOT ACCEPTABLE FOR CLOSING: If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title within _____ days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In such event, Seller shall have _____ days ("15" if left blank), from Buyer's delivery of the notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections by the time set for closing. If Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof to deliver written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Option shall be **terminated and buyers option fee (shall)(shall not) [STRIKE ONE] be returned ("shall not" if neither is chosen).** Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

WB-24 OPTION TO PURCHASE

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

3 The Seller (Optionor), _____, hereby grants to
4 the Buyer (Optionee), _____,

5 an option to purchase (Option) the Property known as [Street Address] _____,
6 _____ in the _____

7 of _____, County of _____, Wisconsin, on the following terms:
8 **~~DEADLINE FOR GRANT OF OPTION~~** This Option is void unless a copy of the Option, or separate but identical copies,
9 is/are signed by all Sellers and delivered to Buyer on or before _____ (Time is of the Essence).

10 **OPTION TERMS**

11 ■ **INITIAL OPTION FEE:** A nonrefundable option fee of \$ _____ will be paid by Buyer to Seller within
12 _____ days of the later of: (i) the granting of this Option, or (ii) the deadline for execution of a lease if line **xxx** of this Option
13 is checked.

14 ■ **EXERCISE DEADLINE:** This Option may only be exercised if Buyer delivers written notice to Seller no later than
15 midnight on _____ unless extended per lines 15-17.

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

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

22 **CAUTION: If the option fees are to be paid into the listing firm's trust account or to a third party, specify in additional**
23 **provisions at lines **xxx-xxx** or **xxx-xxx** or in a separate agreement attached per line **xxx**. An escrow agreement should**
24 **be drafted by the Parties or an attorney.**

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

26 ■ **PURCHASE PRICE:** _____ Dollars
27 (\$ _____) will be paid in cash or equivalent at closing unless otherwise agreed in writing.

28 ■ **INCLUDED IN PURCHASE PRICE:** Included in the purchase price is the Property, all Fixtures on the Property as of
29 the date on line 1 of this Option (unless excluded at lines **xx-xx**), and the following additional items:
30 _____
31 _____

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

34 ■ **NOT INCLUDED IN PURCHASE PRICE:** Not included in purchase price is Seller's personal property (unless
35 included at lines **xx-xx**) and the following: _____
36 _____

37 **CAUTION: Identify trade fixtures owned by tenant, if applicable, and Fixtures that are on the Property (see lines**
38 ****xx-xx**) to be excluded by Seller or that are rented (e.g., water softeners or other water treatment systems, LP**
39 **tanks, etc.) and will continue to be owned by the lessor.**

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

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

53 **CAUTION: Consider an agreement which addresses responsibility for clearing the Property of personal property and**
54 **debris, if applicable.**

55 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) payment of option fees; (2) payment of extension fees;
56 (3) Seller's grant of this Option; (4) Buyer's exercise of this Option; (5) occupancy; (6) date of closing; **~~STRIKE AS~~**
57 **~~APPLICABLE~~** and all other dates and Deadlines in this Option except: _____

58 _____. If "Time is of the Essence" applies to a date or Deadline,

59 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
60 date or Deadline, then performance within a reasonable time of the date or Deadline is allowed before a breach occurs.

61 **RECORDING OF OPTION** Buyer (may) (may not) STRIKE ONE record this Option at Buyer's expense.
62 Buyer (may) (may not) STRIKE ONE ("may" if neither is stricken) record a separate instrument evidencing this Option at
63 Buyer's expense. If recording this Option or a separate instrument evidencing this Option, the parties agree to provide the
64 applicable legal description and authenticated or acknowledged signatures as may be required.

65 **CAUTION: Failure to record may give persons with subsequent interests in the Property priority over this Option.**
66 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights
67 under the lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written)
68 (oral) STRIKE ONE lease(s), if any, are _____

69 _____
70 Insert additional terms, if any, at lines xxx-xxx or xxx-xxx or attach as an addendum per line xxx.

71 **LEASE-OPTION PROVISIONS** CHECK BOX ON LINE xxx OR xxx, IF APPLICABLE:
72 Concurrent with the granting of the Option, Seller and Buyer have entered into a written lease for the Property.
73 This Option is contingent upon Seller and Buyer, within _____ days from the granting of this Option,
74 entering into a written lease for the Property with minimum terms which shall include: term from _____
75 to _____ and an initial rent of _____ per month or this Option shall be null and void.

76 CHECK ANY OF THE FOLLOWING THAT APPLY, IF LINE xxx OR xxx WAS CHECKED ABOVE:
77 In the event that this Option is timely exercised, \$ _____ of each monthly rent payment of
78 \$ _____ shall be applied to the purchase price while the balance shall be deemed solely rent
79 that is retained by Seller.

80 **NOTE: Lenders may not recognize a credit for rent paid under a lease.**
81 Buyer may not exercise this Option unless Buyer is current with all rent.
82 Any material breach of the lease by Buyer shall also constitute a default under this Option.
83

84 **PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that, as of the date Seller grants this Option,
85 Seller has no notice or knowledge of any Defects (lines xx-xx) other than those identified in Seller's disclosure report
86 dated _____ or, if applicable, Real Estate Condition Report dated _____, or, if applicable,
87 Vacant Land Disclosure Report dated _____, which was/were received by Buyer prior to Buyer signing
88 this Option and which is/are made a part of this Option by reference COMPLETE DATES OR STRIKE AS APPLICABLE
89 and _____

90 _____
91 INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE OR CONDITION REPORT(S)

92 **CAUTION: Wisconsin law requires owners of property that includes one-to-four dwelling units to provide Buyers**
93 **with a Real Estate Condition Report as provided in Wis. Stat. § 709.03. If the Property does not include any**
94 **buildings, a Vacant Land Disclosure Report containing the disclosures provided in Wis. Stat. § 709.033 may be**
95 **required. Excluded from these requirements are sales of property with 1-4 dwelling units that has never been**
96 **inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed fiduciaries, for**
97 **example, personal representatives who have never occupied the Property. The law provides: "§ 709.02**
98 **Disclosure . . . the owner of the property shall furnish, not later than 10 days after acceptance of an option**
99 **contract. . . , to the prospective buyer of the property a completed copy of the report . . . A prospective buyer who**
100 **does not receive a report within the 10 days may, within two business days after the end of that 10-day period,**
101 **rescind the option contract. . . by delivering a written notice of rescission to the owner or the owner's agent."**
102 **Buyer may also have certain rescission rights if a Real Estate Condition Report or Vacant Land Disclosure Report**
103 **disclosing defects is furnished before expiration of the 10 days, but after the Option is submitted to Seller. Buyer**
104 **should review the report form or consult with an attorney for additional information regarding rescission rights.**
105 Seller agrees to notify Buyer in writing of any Defect which Seller becomes aware of after Seller's granting of, but prior to
106 Buyer's exercise of this Option, which is materially inconsistent with the above representations. For purposes of this
107 provision (lines xxx-xxx), Defect does not include structural, mechanical or other conditions of which the Buyer has actual
108 knowledge or written notice or which Buyer discovers prior to the exercise of this Option.

109 **BUYER DUE DILIGENCE** Prior to the granting or exercising of this Option, Buyer may wish to perform certain authorized
110 inspections, investigations and testing of the Property. Buyer shall provide for any specific inspections, investigations or
111 tests Buyer intends to perform as part of Buyer's due diligence items on lines xxx-xxx, xxx-xxx, or xxx-xxx or attach as an
112 addendum per line xxx. In addition, Buyer may need to obtain and review documents relevant to financing approval,
113 appraisals, or perform general due diligence activities for the transaction, including but not limited to: business records,
114 condominium documents, maps or other information, municipal and zoning ordinances, recorded building and use
115 restrictions, covenants and easements of record, as they may prohibit or restrict certain uses and improvements for the
116 Property. Buyer may also need to obtain or verify certain permits, zoning variances, other governmental or private
117 approvals, environmental audits and subsoil tests, required road improvements, utility hook-up and installation costs, or

118 other development related costs and fees, in order to fully determine the feasibility of any proposed or planned
119 development of the Property. Seller agrees to cooperate with Buyer as necessary to complete any due diligence items or
120 any authorized investigations, testing and inspections as provided for in this Option, without cost to Seller, unless
121 otherwise agreed by the Parties in writing.

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

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

139 List inspections (e.g., home, roof, foundation, septic) here: _____

140 _____

141 List tests (e.g., radon, lead-based paint, well water) here: _____

142 _____

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

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

147 **CLOSING** This transaction is to be closed (within _____ days after the exercise of this
148 Option) (no later than _____) **STRIKE AND COMPLETE AS APPLICABLE** at the
149 place selected by Seller, unless otherwise agreed by the Parties in writing. If the date for closing falls on Saturday, Sunday,
150 or a federal or a state holiday, the closing date shall be the next Business Day.

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

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

158 _____

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

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

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

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

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

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

168 _____

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

173 Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes
174 on the actual tax bill for the year of closing, with Buyer and Seller each owing his or her pro-rata share. Buyer shall,
175 within 5 days of receipt, forward a copy of the bill to the forwarding address Seller agrees to provide at closing. The
176 Parties shall re-prorate within 30 days of Buyer's receipt of the actual tax bill. Buyer and Seller agree this is a post-

177 closing obligation and is the responsibility of the Parties to complete, not the responsibility of the real estate Firms in
178 this transaction.

179 **TITLE EVIDENCE**

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

187 _____
188 _____ (insert other allowable exceptions from title, if any),
189 which constitutes merchantable title for purposes of this transaction. Seller, at Seller’s cost, shall complete and execute
190 the documents necessary to record the conveyance and pay the Wisconsin Real Estate Transfer Fee.

191 ■ **SELLER CHANGES PROHIBITED:** The Parties agree that Seller shall not rezone the Property or create any additional
192 liens or encumbrances on title after Seller grants this Option without Buyer’s written consent except for liens and
193 encumbrances that will be removed at closing.

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

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

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

207 ■ **DELIVERY OF MERCHANTABLE TITLE:** The required title insurance commitment shall be delivered to Buyer’s
208 attorney or Buyer not more than _____ days (“15” if left blank) after Seller grants this Option showing title to the
209 Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines ~~xxx-xxx~~,
210 subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and
211 exceptions.

212 **CAUTION: Buyer should consider obtaining an update of the title commitment-prior to exercising this Option**
213 **and prior to closing to confirm title status.**

214 _____
215 **desired by buyer beyond what seller is obligated to provide**
216 **Parties should contact the title company to discuss timeframe of commitment, termination and any additional**
217 **charges that may be applicable for commitment updates and extensions.**

218 _____
219 ■ **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of
220 objections to title within _____ days (“15” if left blank) after delivery of the title commitment to Buyer or Buyer’s
221 attorney. In such event, Seller shall have _____ days (“15” if left blank), from Buyer’s delivery of the notice stating
222 title objections, to deliver notice to Buyer stating Seller’s election to remove the objections by the time set for closing. If
223 Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof to deliver written notice
224 waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this
225 Option shall be terminated and buyers option fee (shall)(shall not) ~~STRIKE ONE~~ be returned (“shall not” if neither is
226 stricken) null and void. Providing title evidence acceptable for closing does not extinguish Seller’s obligations to give
227 merchantable title to Buyer.

228 ■ **SPECIAL ASSESSMENTS/OTHER EXPENSES:** Special assessments, if any, levied or for work actually commenced
229 prior to the date this Option is exercised shall be paid by Seller no later than closing. All other special assessments shall
230 be paid by Buyer. “Levied” means the local municipal governing body has adopted and published a final resolution
231 describing the planned improvements and the assessment of benefits.

232 **CAUTION: Consider a special agreement if area assessments, property owners association assessments, special**
233 **charges for current services under Wis. Stat. § 66.0627 or other expenses are contemplated. “Other expenses”**
234 **are one-time charges or ongoing use fees for public improvements (other than those resulting in special**
235 **assessments) relating to curb, gutter, street, sidewalk, municipal water, sanitary and storm water and storm**

236 **sewer (including all sewer mains and hook-up/connection and interceptor charges), parks, street lighting and**
 237 **street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).**

238 **DEFINITIONS**

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

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

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

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

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

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

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

259 **INCLUSION OF OPTIONAL PROVISIONS** Terms of this Offer that are preceded by an OPEN BOX () are part of
 260 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.

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

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

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

271 **MAINTENANCE** Seller shall maintain the Property and all personal property included in the purchase price until the
 272 earlier of closing or Buyer's occupancy, in materially the same condition it was in as of the date Buyer exercises this
 273 Option, except for ordinary wear and tear and changes agreed upon by Parties.

274 **PROPERTY DAMAGE BETWEEN EXERCISE OF OPTION AND CLOSING** If, prior to closing, the Property is damaged
 275 in an amount of not more than five percent of the purchase price, other than normal wear and tear, Seller shall promptly
 276 notify Buyer in writing, and will be obligated to and restore the Property to materially the same condition that it was on the
 277 day this Option was exercised. Seller shall provide Buyer with copies of all required permits and lien waivers for the
 278 lienable repairs no later than closing. If the amount of damage exceeds five percent of the purchase price, Seller shall
 279 promptly notify Buyer in writing of the damage and this Option may be canceled at the option of Buyer. Should Buyer elect
 280 to carry out this Option despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the
 281 damage to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such
 282 policy, if any. However, if this sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall
 283 be held in trust for the sole purpose of restoring the Property.

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

291 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in
 292 this Option at lines xxx-xxx or xxx-xxx or in an addendum attached per line xxx. At time of Buyer's occupancy, Property
 293 shall be in broom swept condition and free of all debris and personal property except for personal property belonging to

294 current tenants, or that sold to Buyer or left with Buyer's consent. Occupancy shall be given subject to tenant's rights, if
295 any.

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

299 If Buyer defaults, Seller may:
300 (1) sue for specific performance if Buyer has exercised this Option; or
301 (2) terminate the Option and may sue for actual damages.

302 If Seller defaults, Buyer may:
303 (1) sue for specific performance; or
304 (2) terminate the Option and may sue for actual damages.

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

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

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

318 **ADDITIONAL PROVISIONS** _____
319 _____
320 _____
321 _____
322 _____
323 _____
324 _____
325 _____
326 _____
327 _____
328 _____
329 _____
330 _____

331 _____
332 **CONDOMINIUM UNITS**

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

335 If the Property is a residential condominium unit, Seller must comply with the following:
336 ■ **CONDOMINIUM DISCLOSURE MATERIALS:** Seller agrees to deliver to Buyer, within 10 days of Buyer exercising this
337 Option, current and accurate copies of the condominium disclosure materials required by Wis. Stat. § 703.33. The
338 condominium disclosure materials include a copy of the following and any amendments to any of these [except as may
339 be limited for small condominiums with no more than 12 units per Wis. Stat. § 703.365(1)(b) and (8)]: (a) proposed or
340 existing declaration, bylaws and any rules or regulations, and an index of the contents; (b) proposed or existing articles
341 of incorporation of the association, if it is or is to be incorporated; (c) proposed or existing management contract,
342 employment contract or other contract affecting the use, maintenance or access of all or part of the condominium; (d)
343 projected annual operating budget for the condominium including reasonable details concerning the estimated monthly
344 payments by the purchaser for assessments and other monthly charges; (e) leases to which unit owners or the association
345 will be a party; (f) general description of any contemplated expansion of condominium including each stage of expansion
346 and the maximum number of units that can be added to the condominium; (g) unit floor plan showing location of common
347 elements and other facilities available to unit owners; (h) the executive summary.
348 ■ **BUYER RESCISSION RIGHTS:** As provided in Wis. Stat. § 703.33(4)(a), Buyer may, within 5 business days after
349 receipt of all the required disclosure documents or following notice of any material changes in the required disclosure
350 documents, rescind this Option by written notice delivered to Seller. If the disclosure materials are delivered to Buyer and
351 Buyer does not receive all of the disclosure documents, Buyer may, within 5 business days after Buyer's receipt of the
352 disclosure materials, either rescind the Option or request any missing documents. Seller has 5 business days after receipt
353 of Buyer's request for missing documents to deliver the requested documents. Buyer may rescind the sale within 5

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

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

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

364 **CONTINGENCY FOR ADDITIONAL CONDOMINIUM INFORMATION:** This Offer is contingent upon Seller delivering to
365 Buyer, at Seller's expense, within 10 days of Buyer exercising this Option the information listed below that exists as of the date on
366 line 1 of this Option:

- 367 ♦ The Condominium Association's financial statements for the 2 two years.
- 368 ♦ The minutes of the last 3 Unit owners' meetings.
- 369 ♦ The minutes of Condominium board meetings during the 12 months prior to acceptance of this Offer.
- 370 ♦ Information about contemplated or pending Condominium special assessments.
- 371 ♦ The Association's certificate of insurance.
- 372 ♦ A statement from the Association indicating the balance of reserve accounts controlled by the Association.
- 373 ♦ Any Common Element inspection reports (e.g. roof, swimming pool, elevator and parking garage inspections, etc.) held
374 by the Association.
- 375 ♦ Information regarding any pending litigation involving the Association.
- 376 ♦ The Declaration, bylaws, budget and/or most recent financial statement of any master association or Additional
377 Association the Unit may be part of.
- 378 ♦ Other: _____

379 (hereinafter collectively the "listed materials").

380 **NOTE: Because not all of the listed materials may exist or be available from the Condominium Association, Seller may**
381 **wish to verify availability prior to Seller's granting of this Option.**

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

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

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

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

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

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

405 Seller hereby represents that Seller is a non-Foreign Person, unless (1) Seller represents Seller is a Foreign Person in a
406 condition report incorporated in this Offer per lines 105-108, or (2) no later than 10 days after acceptance, Seller delivers
407 notice to Buyer that Seller is a Foreign Person, in which cases the provisions on lines 530-532 apply.

408 **IF SELLER IS A NON-FOREIGN PERSON.** Seller shall, no later than closing, execute and deliver to Buyer, or a qualified
409 substitute (attorney or title company as stated in IRC § 1445), a sworn certification under penalties of perjury of Seller's
410 non-foreign status in accordance with IRC § 1445. If Seller fails to timely deliver certification of Seller's non-foreign status,
411 Buyer shall: (1) withhold the amount required to be withheld pursuant to IRC § 1445; or, (2) declare Seller in default of
412 this Offer and proceed under lines 494-501.

413 **IF SELLER IS A FOREIGN PERSON.** If Seller has represented that Seller is a Foreign Person, Buyer shall withhold the
414 amount required to be withheld pursuant to IRC § 1445 at closing unless the Parties have amended this Offer regarding
415 amounts to be withheld, any withholding exemption to be applied, or other resolution of this provision.

416 **COMPLIANCE WITH FIRPTA.** Buyer and Seller shall complete, execute, and deliver, on or before closing, any
417 instrument, affidavit, or statement needed to comply with FIRPTA, including withholding forms. If withholding is required
418 under IRC § 1445, and the net proceeds due Seller are not sufficient to satisfy the withholding required in this transaction,
419 Seller shall deliver to Buyer, at closing, the additional funds necessary to satisfy the applicable withholding requirement.
420 Seller also shall pay to Buyer an amount not to exceed \$1,000 for actual costs associated with the filing and administration
421 of forms,
422 affidavits, and certificates necessary for FIRPTA withholding and any withholding agent fees.

423 **Any representations made by Seller with respect to FIRPTA shall survive the closing and delivery of the deed.**
424 Firms, Agents, and Title Companies are not responsible for determining FIRPTA status or whether any FIRPTA exemption
425 applies. The Parties are advised to consult with their respective independent legal counsel and tax advisors regarding
426 FIRPTA. **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Option, delivery of
427 documents and written notices to a Party shall be effective only when accomplished by one of the authorized methods specified
428 at lines xxx-xxx.

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

431 Name of Seller's recipient for delivery, if any: _____
432 Name of Buyer's recipient for delivery, if any: _____

433 (2) **Fax:** fax transmission of the document or written notice to the following number:
434 Seller: (_____) _____ Buyer: (_____) _____

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

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

440 Address for Seller: _____
441 Address for Buyer: _____

442 (5) **Email:** electronically transmitting the document or written notice to the email address.
443 Email Address for Seller: _____
444 Email Address for Buyer: _____

445 **PERSONAL DELIVERY/ACTUAL RECEIPT** Personal delivery to, or Actual Receipt by, any named Buyer or Seller
446 constitutes personal delivery to, or Actual Receipt by, all Buyers or Sellers. **ADDENDA:** The attached
447 _____ is/are made part of this Option.

448 **ADDITIONAL PROVISIONS** _____
449 _____
450 _____
451 _____
452 _____

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

458 This Option was drafted by [Licensee and Firm] _____
459 _____ on _____.

460 Buyer Entity Name (if any): _____

461 (x) _____
462 Buyer's/Authorized Signature ▲ Print Name/Title Here ► _____ Date ▲ _____

463 (x) _____
464 Buyer's/Authorized Signature ▲ Print Name/Title Here ► _____ Date ▲ _____

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

469 Seller Entity Name (if any): _____

470 (x) _____
471 Seller's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

472 ((x)) _____
473 Seller's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

474 This Option was presented to Seller by [Licensee and Firm] _____
475 _____ on _____ at _____ a.m./p.m.

476 This Option is rejected _____ This Option is countered _____
477 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

478 **NOTE: Parties wishing to counter this Option should draft a new Option (WB-24) or draft a Counter-Offer (WB-44) to**
479 **reference this Option.**

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

482 Buyer Entity Name (if any): _____

483 (x) _____
484 Buyer's/Authorized Signature ▲ Print Name/Title Here ► Date ▲

485 (x) _____
486 Buyer's/Authorized Signature ▲ Print Name/Title Here ► Date ▲