# Index

References are to sections unless otherwise indicated.

# A

**Aboveground Storage Tank** PECFA, 9.82 Regulation of, 9.78–.82

#### Acceptance

Generally, 1.16 As-is purchase, 1.41 Environmental matters, 1.43, 9.110 Real estate condition report, 1.44 Reliance on warranties, 1.40 Time limit, 1.39

# **Accounts Receivable**

See Assignment

#### Adjoining Parcels See Contingencies

Affidavit Construction Work and Tenants Affidavit, 1.66

#### Agency See Brokerage

Air Pollution See Clean Air Act

# Amendment

Contract of sale, 1.46–.48 —form, 1.59 Listing contract, 1.12 —form, 1.15

Annexation See Contingencies

# Appraisal

*See also* Contingencies Residential property, 1.123 Secondary financing, 1.19

# Asbestos Regulation, 9.95

Removal of, 9.95

As-Is Purchase See also Disclosure, Environmental problems; Warranties and Representations Generally, 1.41, 4.74 Environmental liability, 9.33, 9.70, 9.114

## Assessment

*See also* Warranties and Representations Condominium, 2.5, 2.11 Credit for, 1.87

# Assignment

Accounts receivable, 5.46, 5.125 Business name, 5.47 Buyer's right, 4.71, 5.94 Contracts, 5.97, 5.121, 5.123 Forms —guaranties, 5.160 —leases, 1.56, 5.156, 5.161 —maintenance agreements, 5.159 Guaranties, 5.126, 5.148 Leases, 5.121, 5.143 Licenses and permits, 5.48, 5.127 Maintenance contracts, 5.146

# B

Bill of Sale Generally, 1.76, 5.140 Form, 1.109

**Boundary Map** See also Contingencies Generally, 3.12, 4.44

Broker See Brokerage; Commission

# Brokerage

*See also* Disclosure Agency, 1.10, 4.21, 5.34–.35 Commission, 1.9, 1.11, 4.20, 4.73, 5.96 Firm, 1.10

# Forms —amendment, 1.15 —business listing contract, 5.37 —buyer agency contract, 4.21 —buyer agency agreement, 4.22–.23 —commercial listing contract, 5.36 —condominium listing contract, 2.20 —residential listing contract, 1.14 —vacant land listing contract, 3.31

**Building Codes** See Warranties and Representations

Business Name See Assignment

Buyer Agency See Brokerage

## С

# CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980) Generally, 9.3, 9.5 Brownfields initiatives, 9.36 Cleanup and recovery of costs, 9.24–.29 —contribution claims, 9.29 —joint and several liability, 9.28 Defenses to liability and reallocation of financial responsibility, 9.30–.34 —indemnification, 9.33 —innocent landowner defense, 9.32 Exemptions from liability, 9.35

Checklists

Condominium, 2.3, 2.4 Improved commercial property, 5.3, 5.4 Land contract, 6.3, 6.4 Option to purchase, 7.3, 7.4 Residential property —closing, 1.125, 1.126 —financing, 1.65, 1.66 —listing, 1.13 —offer to purchase, 1.49, 1.50 —postclosing matters, 1.134, 1.135 —preclosing matters, 1.96, 1.97 —preliminary matters, 1.4, 1.5 Unimproved development property, 4.3, 4.4 Vacant land, 3.3, 3.4

Potentially responsible parties, 9.6–.23

Clean Air Act Generally, 9.89

## Closing

Generally, 1.122–.128 Postponement, 4.79, 5.101

# **Closing Statement**

Generally, 1.87 Form, 1.116

## **Commercial Property, Improved**

See also Contingencies; Warranties and Representations Generally, ch. 5 Development entity, 5.22–.29 Financing, 5.21 Operating statements, 5.15 Option to purchase, 5.8

# Commission

*See also* Brokerage Generally, 1.11, 4.20 Home for sale by owner, 1.7 Liability for, 4.73, 5.96

# Condominium

Generally, ch. 2 Assessment, 2.5, 2.11 Deed, 2.17, 2.23 Disclosure, 2.6, 2.9, 2.13, 2.17 Insurance, 2.17 Land contract, 2.16, 2.22 Listing contract, 2.6, 2.20 Notice to tenants, 2.6, 2.12 Offer to purchase, 2.7, 2.21 Right of first refusal, 2.17

#### **Construction Lien**

See also Contingencies; Warranties and Representations Generally, 1.40, 4.102 Affidavit, Construction Work and Tenants, 1.113 Condominium, 2.5

# Contingencies

Acquisition of adjoining parcel, 4.45, 5.64 Annexation, 4.48 Appraisal, 1.21, 4.43, 5.61 Construction, commencement of, 2.10 Defects, 4.75 Easement, 4.45 Environmental assessment, 1.28, 3.13, 4.50, 5.62, 5.137, 9.106–.108 Extension of, 1.46–.48 Financing -developed commercial property, 5.60 -residential property, 1.19, 1.64, 1.67 -unimproved development property, 4.42 Floodplain, 4.55 Inspection, 1.26, 1.29, 4.75, 5.62 Land division ordinance, 1.36 Leases and contracts, 5.65 Licenses and permits, 1.33, 3.17, 4.47, 5.66-.67 Percolation test, 4.51 Purchase of fuel, 1.45 Ratification. 5.69 Real estate condition report, 1.24 Receipt of map or survey, 1.42, 4.44, 5.63 Recorded restrictions, 4.49 Rezoning, 1.32 Sale of existing home, 1.20 Seller financing, 1.64, 1.67 Subdivision regulations, 1.34 Subsoil, 4.53 Utilities, 3.17-.18, 4.54 Void, 4.24 Waiver, 1.46-.48 Water quality, 1.27, 3.19, 4.52 Zoning, 1.32, 4.46, 5.68

#### Contracts

Assignment of, 5.97, 5.123

#### **Conveyance of Title**

Generally, 1.124, 4.7 Authority, 4.69, 5.91 Gifts, 8.20 Marital Property Act, 8.18–.19 Real estate transfer fee, 1.82

#### Corporation

As development entity, 5.26–.27 Ratification of offer to purchase, 4.68, 5.69, 5.91

#### Counteroffer

Generally, 1.38, 4.24 Form, 1.58 Sale contingent on land contract, 6.10

**Covenant** See Easement; Restrictions

# D

**Damages** Buyer's default, 5.99 Identity theft, 1.130

#### Deed

See also Homestead Generally, 1.76 Forms —condominium, 2.23 —guardian's, 1.106 —personal representative's, 1.107 —quitclaim, 1.105 —trustee's, 1.108 —warranty, 1.103–.104

#### **Deed and Mortgage Back**

Generally, 6.2

#### Default

Commercial offer to purchase, 5.99 Land contract, 6.14 Underlying mortgage, 6.13

## **Development Entity**

C corporation, 5.26 Limited liability company, 5.28 Limited liability partnership, 5.29 Partnership, 5.24–.25 S corporation, 5.27 Sole proprietorship, 5.23

#### Disclosure

See also Real Estate Condition Report As-is purchase, 1.41, 4.74 Attorney's responsibility, 9.115 Condominium, 2.6, 2.9, 2.13, 2.17 Environmental problems, 1.28, 1.43, 9.93–.103, 9.109–.115 —due diligence investigation, 9.96 Limitation on warranties, 5.110 Real estate licensee's duty, 1.41, 9.114 Seller's duty, 1.24, 1.41, 9.93–.103, 9.109–.110 Vacant land, 1.24, 3.2, 3.33

#### **Document Clip**

Generally, 1.132 Buyer, 1.138 Seller, 1.139

### Documents

Recording and Social Security numbers, 1.130

#### **Dual Agency** *See* Brokerage

# Е

#### **Earnest Money** Credit for, 1.87

Credit 101, 1.87

# Easement

See also Contingencies; Warranties and Representations Adjacent parcel, 4.45, 4.77 Presale modification, 4.7

# Electromagnetic Fields

Residential real estate, 9.99

Emergency Planning and Community Right-to-Know Act Chemical accident preparedness, 9.89

# **Environmental Issues**

See also Contingencies; Liability; Warranties and Representations Generally, ch. 9 Assessment, 3.13, 4.50, 5.62, 5.137, 9.106-.108 Compliance and permits, 9.85-.92 Residential, 9.1 -asbestos, 9.95 -electromagnetic fields, 9.99 -endangered or invasive species, 9.102 -lead, 9.97 -mold, 9.101 -oil tanks, 9.83 -petroleum, 9.82 -radon, 9.98 -toxic substances, 9.100 -vapor intrusion, 9.102 -vermiculite, 9.96

# Escrow

Generally, 1.87, 1.95 Form, 1.119

# **Estoppel Certificate**

From contracting parties, 5.117 From tenant, 5.116

Exclusive Agency See Brokerage

# F

# Financing

*See also* Contingencies Assumable mortgage, 4.38, 5.56 Condominium, 2.14–.16 Forms —condominium land contract, 2.14 —land contract, 6.21 Joint venture, 4.100 Land contract, 6.2 Nonrecourse financing, 4.40, 5.58 Regulatory limits, 4.101 Release from lien, 4.91–.94, 4.102 Residential property, 1.62–.67 Seller financing, 3.27, 4.39, 4.89, 5.57 Substitute collateral, 4.96 Unimproved development property, 4.15, 4.38, 4.88, 4.99 Vacant land, 3.25–.27, 4.32–.35

# FIRPTA (Foreign Investor Responsible Person Tax Affidavit)

Generally, 1.90 Forms, 1.120–.121

# Floodplain

See also Contingencies; Shoreland; Warranties and Representations Generally, 1.81, 9.72–.75

# FSBO (For Sale by Owner)

Generally, 1.7

**Fuel** Purchase of, 1.45

G

**Green Tier** Generally, 9.92

Guaranties See Assignment

# H

Hazardous Substances Generally, 9.4–.60 Federal Superfund Law, 9.4–.36 PECFA program, 9.82 Wisconsin Brownfields initiatives, 9.55–.59 Wisconsin cleanup regulations, 9.60 Wisconsin Mini-Superfund Law, 9.50–.54 Wisconsin Spill Law, 9.37–.54

### **Hazardous Waste**

See also Hazardous Substances; Landfill; Liability Generally, 9.11, 9.18, 9.21, 9.45, 9.54, 9.84, 9.91 Cleanup, 9.60 Storage facility, 9.91

**Historic Status** 

See Warranties and Representations

#### Homestead

Conveyance by spouses, 1.16, 1.74, 8.18 Marital property presumption, 8.25 Title to real property, 1.70, 1.74

I

#### Income Tax

Generally, 1.88, 5.30 Corporation, 5.26–.27 FIRPTA, 1.90, 1.120–.121 Foreign seller, 1.90, 1.120–.121 Limited liability company, 5.28 Limited liability partnership, 5.29 Partnership, 5.24–.25 Real estate investments, 4.18, 5.30 Reporting gain on sale, 1.89 Sole proprietorship, 5.23 Unimproved development property, 4.103

### Indemnification

Expenses for development effort, 4.78 Expenses for tests, 4.72, 5.111 Operation of business, 5.95

#### **Inspection and Testing**

See also Contingencies; Warranties and Representations Buyer's access, 5.113

#### Insurance

See also Warranties and Representations Condominium, 2.17

#### J

**Joint Tenancy** Marital property, 8.26

Joint Venture Generally, 4.100, 5.133

#### L

#### Land Contract

Generally, ch. 6 Foreclosure, 6.2, 6.5 Forms —condominium, 2.22 —standard, 6.21 Mortgagee's consent, 6.13

#### Landfill

Generally, 9.84

#### Lead

Residential real estate, 1.25, 9.97

#### Leases

See also Assignment; Contingencies; Warranties and Representations Estoppel letter, 5.144, 5.157 Notice to tenants, 1.86, 5.158 Security deposit, 5.143, 5.156

#### Letter of Intent

*See also* Option to Purchase Commercial property, 5.8

## Liability

Air pollution, 9.89 As-is purchase, 9.33, 9.70, 9.110, 9.114 Broker's misrepresentation, 1.10 Commission, 4.73 Common law, for remediating contaminated property, 9.61-.71 Due diligence investigation, 9.105, 9.108 Economic loss doctrine, 9.68 Environmental contamination -attorney, 9.115 -buyer, 9.44-.49, 9.109 -common law, 9.61-.71 -landlord, 9.94-.95, 9.112 -lender, 9.44-.49, 9.111 -real estate licensee, 9.114 -seller, 9.95, 9.110 -tenant, 9.113 -tort causes of action, 9.63-.68 Hazardous waste, 9.91 Land recycling law, 9.41, 9.59 Mini-Superfund Law, 9.50-.54 Property condition, 1.7 Real estate condition report, 1.24, 1.57 Release from underground storage tank, 9.83 Release of hazardous substances -cost recovery, 9.29 -contribution claims, 9.29

government response actions, 9.25
indemnification, 9.33
injunctions, 9.26
innocent landowner defense, 9.32, 9.41, 9.54, 9.107, 9.109
joint and several, 9.28
parties responsible, 9.6–.23, 9.41, 9.52, 9.90
reporting requirement, 9.38, 9.42
spill law, 9.37–.54
unilateral administrative orders, 9.26
Vacant-land disclosure report, 1.24, 3.2, 3.33
Water pollution, 9.86

#### Licenses and Permits

See also Assignment; Contingencies; Warranties and Representations Application for, 5.98

#### **Limited Liability Company**

As development entity, 5.28

# Limited Liability Partnership

As development entity, 5.29

# **Listing Contract**

See also Brokerage Generally, 1.9, 1.11, 4.20, 5.32–.33 Amendment, 1.12 Contingency for land contract, 6.6 Exclusive agency contract, 5.34 Forms —amendment, 1.15 —business, 5.37 —commercial, 5.36 —condominium, 2.12 —residential, 1.14 —vacant land, 3.31 Open-listing contract, 5.35

# Μ

Marital Property Generally, ch. 8 Agreement, 1.74, 8.34 Conveyance by spouses, 1.16 Deferred, 8.9 Individual, 8.31 Mixed, 8.16 Predetermination date, 8.7–.10 Postdetermination date, 8.11–.15 Reclassification, 8.32 Statutory presumptions, 8.23–.28 Survivorship, 8.30, 8.39 Title to real property, 1.70, 1.74 Unilateral statement, 8.33

Mechanic's Lien See Construction Lien

# Mini-Superfund Law Generally, 9.50–.54

**Mortgage** Satisfaction, 1.77

Mortgage Inspection Map See also Contingencies Generally, 4.44

#### Ν

Nonexclusive Agency See Brokerage

**Notice** To tenants, 1.86, 2.12

#### 0

Occupancy Agreement, 1.85 Certificate, 1.84 Notice to tenants, 1.86, 2.6, 2.12

## **Offer to Purchase**

See also Amendment; Contingencies; Counteroffer; Warranties and Representations Assignment, 5.94 Addendums, 1.52-.55 Binding effect, 5.92, 5.107 Damage to property before closing, 5.102 Escape clause, 1.59 Expense of litigation, 4.86, 5.109 Extent of agreement, 4.82, 4.84, 5.105 Forms -business, 5.129 -commercial, 5.128 -condominium, 2.21 -residential, 1.51 -vacant land, 3.32 Limitation on warranties, 5.110 Property description, 3.9 Reliance on warranties, 4.74, 5.103 Survival of warranties, 5.104 Typewritten or handwritten provisions, 4.85, 5.108

**Operating Statements** *See* Warranties and Representations

**Opinion** Counsel, 4.83, 4.87

#### **Option to Purchase**

Generally, ch. 7 Commercial property, 5.8 Form, 7.5

## Р

**Partnership** As development entity, 5.24–.25, 5.29

# PECFA

Generally, 9.82

#### Percolation

See Contingencies; Warranties and Representations

#### **Personal Property**

Bill of sale, 1.76, 5.140 —form, 1.109 Commercial property, 5.13, 5.42 Maintenance of, 5.114 Security agreement, 5.152 Security interests, 1.75, 5.141 UCC forms, 5.153–.155 Warranty on, 5.81–.82

# Pesticides

Residential real estate, 9.100

### Petroleum

PECFA, 9.82

#### **Prepayment** Land contract, 6.14

**Property Damages** Improved commercial property, 5.102

**Property Map** Vacant land, 3.12

**Public Improvements** See Warranties and Representations

**Purchase Price** Improved commercial property, 5.50–.54 Unimproved development property, 4.31–.36

# R

**Radon** Generally, 9.98

#### **Real Estate Condition Report**

Generally, 1.24, 1.44, 1.57, 9.109 Condominium, 2.9 Form, 1.57 Home for sale by owner, 1.7

## **Real Estate Taxes**

Generally, 1.80 Proration, 1.87, 4.37

## **Real Estate Transfer Return**

*See also* Transfer Fee Generally, 1.82 Land contract, 2.16 Lottery credit, 1.82

# **Real Property**

Appraisal, 1.21 Contiguity, 4.96 Damage to, 5.102 Dedicated areas, 4.97 Description, 3.9, 4.26 Condition at closing, 1.29 Inspection, 1.26 Maintenance of, 5.114 Property map, 4.44 Real estate condition report, 1.24, 1.57

# Recordation

Credit for, 1.87 Marital property agreement, 8.19, 8.34 Ownership of real property, 1.130, 5.106

#### Rent

See Leases

**Rental Unit Energy Efficiency Standards** Repeal, 5.9, 5.100, 5.138

**Representations** See Warranties and Representations

**Rescission** Offer to purchase, 1.24

Restrictions See also Contingencies; Easement; Warranties and Representations Adjacent parcel, 4.76 Property tax, lottery credit, 1.82 Reporting gain on sale, 1.89

**Tenants in Common** Marital property presumption, 8.27

**Time** Fulfilling contingency, 4.80 Postponement of closing, 4.79, 5.101

**Title** See also Marital Property Objections to, 4.27–.29

**Title Insurance** Generally, 1.71–.73, 4.29 Exception —construction lien, 1.78 Lien or encumbrance during land contract, 6.19 Sample title insurance commitment, 1.102, 1.137 Seller as named insured, 4.106

**Transfer Fee** See also Real Estate Transfer Return Land contract, 6.15 Option to purchase, 7.2

#### U

**Underground Storage Tank** Administration and operation, 9.80 PECFA, 9.82 Regulation of, 9.78–.82 Requirements, 9.81

**Unimproved Development Property** Generally, ch. 4

#### Utilities

See also Contingencies; Warranties and Representations Closing prorations, 1.92 Unimproved development property, 4.7c

#### v

Vacant Land Generally, ch. 3, ch. 4 Contingencies and conditions, 3.10–.19 Disclosure report, 1.24, 3.2, 3.33 Financing, 3.25–.27 Listing contract, 3.31 Offer to purchase, 3.32

#### S

Security Deposit See Leases

**Shoreland** See also Floodplain Zoning district, 9.73, 9.75

Social Security Number *See* Documents

**Sole Proprietorship** As development entity, 5.23

Solid Waste See also Liability Generally, 9.91

**Special Assessment** See Warranties and Representations

Spill Law Generally, 9.38 Exemption, 9.44–.49 Land recycling law, 9.41, 9.59 Liability, 9.41, 9.59

**Statute of Frauds** Generally, 7.2

**Storm Water** Regulation of, 9.87

**Subsoil** See Contingencies; Warranties and Representations

Superfund See CERCLA

**Survey Map** See also Contingencies Generally, 4.44

## Т

Tanks See Aboveground Storage Tank; Underground Storage Tank

**Taxes** See also Income Taxes; Real Estate Taxes FIRPTA, 1.90, 1.120–.121 Percolation, 3.14 Property description, 3.9 —listing contract, 3.31 —offer to purchase, 3.32 Special assessments, 3.31 Use-value assessments, 3.31 Warranties and representations, 3.20–.24

# W

Warranties and Representations Access, 4.67 Agreements, 5.83 As-is purchase, 1.41, 4.74 Assessments, 1.80, 5.80 Authority to convey property, 4.69, 5.91 Authority to execute binding contract, 4.69, 5.92 Building codes, 1.35 Building orders, 1.80 Condition at closing, 1.29 Condominium documents, 2.9 Contracts, 5.84 Developability, 3.6, 4.12 Easements and restrictions, 4.58, 5.73-.74 Employee information, 5.90 Environmental conditions, 1.28, 1.43, 1.57, 3.13, 3.2, 3.33, 4.24, 9.97-.101 Floodplain, 1.81, 4.61, 5.78 Historic status, 5.79 Insurance, 5.89 Licenses and permits, 5.85 Liens, 5.86 Limitation on, 1.40, 4.24, 4.75, 5.110 Mortgagee's consent to land contract, 6.13 Notice to tenants, 2.12 Operating statements, 5.88 Ordinances, orders, and regulations, 5.77

Outstanding financing, 5.87 Percolation, 3.22, 4.65 Personal property, 5.81-.82 Plan approval, 3.16, 4.62 Public improvements, 4.63 Real estate condition report, 1.24 Reassessments, 1.80 Reliance on, 1.40, 4.75, 5.103 Septic system, 1.27 Special assessments, 1.80, 4.63 Structural and nonstructural conditions, 5.71 Subsoil, 3.23, 4.64 Survival after closing, 4.81, 5.104 Taxes, 1.80 Utilities, 3.5, 3.21, 4.12, 4.57, 4.58, 5.72 Violations, 4.60, 5.76 Water quality, 1.27, 3.24, 4.66 Zoning, 1.31, 4.13, 4.59, 5.75

# Water Resources

*See also* Wetlands Liability for pollution, 9.86

#### Weatherization

Repeal of rental standards, 5.9, 5.100, 5.138

#### Wetlands

Generally, 1.81, 9.73 Forms, 1.53 Clean Water Act, 9.74 Permit for discharging fill, 9.74 Zoning district, 9.75

## Z

**Zoning** See Contingencies; Warranties and Representations