TEXAS REALTORS

TACS 3: Commercial Real Estate Marketing & Negotiation



TEXAS ACCREDITED COMMERCIAL SPECIALIST

TEXAS REALTORS

Professional Development

Texas REALTORS® strives to be the leading educational resource for REALTORS® in Texas by providing up-to-date and informative courses, training sessions and education-related services necessary to succeed in the real estate industry. We believe in developing and certifying the highest quality educational programs that allow members to increase their knowledge base, enhance their professional stature, and better service their clients. We recognize our responsibility to our members and their educational needs, to the state of Texas in which we do business, and to the public. While all Texas REALTORS® are licensees, only voluntary members of Texas REALTORS® may call themselves Texas REALTORS® and proudly display the REALTOR® name and logo. Within the REALTOR® organization you will find many opportunities for networking and building relationships, marketing tools, volunteer opportunities, legal tools, real estate transaction management software, and a variety of money-saving member benefits and services.

Visit www.TexasRealEstate.com for more information.

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Course Policies

TREC credit requirements

To ensure your attendance is documented, please be seated when the class begins each day and return on time from lunch and any breaks extended by the instructor.

This course satisfies 30 hours of SAE or current elective hours of CE credit. To receive either type of credit you must attend all class hours and pass your exam with a 70% score. No partial CE credit will be issued. To receive course credit, send a copy of your certificate of completion to TREC at least 10 days in advance of your license renewal date.

TREC Fitness Determination

Before you apply for a license, you can request that TREC determine whether your moral character meets their qualifications for honesty, trustworthiness, and integrity. If you have any criminal offenses, unpaid judgements, had disciplinary action taken against a professional or occupational license, or performed unlicensed activity, you should consider requesting a Fitness Determination from TREC.

Incomplete coursework

Students who missed part of the course, who did not take the exam, or who fail the course exam will be issued an incomplete and will be permitted to make up missed coursework and the exam. Students with an incomplete who later complete the course and exam makeup can receive credit by submitting their completion certificate to TREC.

Students who attend less than two-thirds of a class, who voluntarily terminate their enrollment, or whose enrollment is terminated for cause by an association/board will be dropped. Students listed as incomplete who do not subsequently complete course and exam makeup work within the 90-day allotted timeframe also will be dropped from the class. Attendees identified as dropped must complete the entire course again and remit any registration fees to the association to receive credit for the course.

Makeup provisions

Students who miss part of a course for any reason may not take the exam until they have completed the course makeup work. A student who misses part of any course day must make up the entire day or a recording of the exact class time they missed. It is the student's responsibility to find and schedule the appropriate makeup topic with the association hosting the new class, coordinate with the local association to schedule taking the exam, and to pay all related exam fees.

All course and exam makeup sessions must be completed within 90 days of the completion of the original course, or the student will be dropped. Once the makeup work and exam are completed, the student is responsible for submitting his completion certificate to TREC.

Texas REALTORS® charges a $50 fee to make up any missed coursework and the exam. The local association may charge up to an additional $50 for the participant to make up any missed coursework and take the exam at their association.

Texas REALTORS® and the local association each charge a $25 fee to retake a failed exam. When retaking a failed exam, the new exam will contain questions not found on the original test. A student who fails the exam a second time must retake the course at full price as set by the local association.

Online course evaluations

A student may complete an instructor evaluation online at TREC's Web site at the following address: http://www.trec.state.tx.us/education/InstructorEval/. Student may complete the evaluation anonymously.

I have read and understood the above policies.

Signature_____

Printed Name_____

Date_____

TACS 3: Commercial Real Estate Marketing & Negotiation



PARTICIPANT WORKBOOK

CHAPTER		PAGE
1	**NEGOTIATION**	13
	Property Pro-Forma	
	Use of Data Aggregation Resources	
	Negotiating the Deal	
2	**COMMERCIAL BROKERAGE**	70
	CRE Exit Strategies	
	Non-Disclosure and Confidentiality Agreements	
	Letters of Intent to Purchase and Lease (LOI)	
	Contract Forms	
	Information about Brokerage Services Notice IABS 1-0	
	Commercial Property Management Agreement TXR-2202	
	Commercial Amendment To Property Management Agreement TXR-2203	
	Commercial Property Condition Statement TXR-1408	
	Commercial Real Estate Listing Agreement - Exclusive Right To Sell TXR-1301	

CHAPTER **PAGE**

Contract Forms cont

Commercial Real Estate Listing Agreement - Exclusive Right To Lease TXR-1302

Commercial Real Estate Listing Agreement - Exclusive Right To Sublease TXR-1303

Commercial Buyer/Tenant Representation Agreement TXR-1502

Amendment To Buyer/Tenant Representation Agreement TXR-1505

Registration Agreement Between Brokers TXR-2402

Commercial Registration Agreement Between Broker And Owner TXR-2403

3 CONTRACT FORMS & ADDENDA **150**

Commercial Contract - Improved Property TXR-1801

Commercial Contract - Unimproved Property TXR-1802

Non-Realty Items Addendum TREC NO. OP-M

Notice Of Information From Other Sources TXR-2502

Addendum For Reservation Of Oil, Gas, And Other Minerals TXR-1905

Addendum For Seller's Disclosure Of Information On Lead-Based Paint Hazards TXR-1906

Addendum For Coastal Area Property TREC No. 33-2

Addendum For Property Located Seaward Of The Gulf Intracoastal Waterway TXR-1916

Commercial Contract Special Provisions Addendum TXR-1940

Commercial Contract Assignment of Buyer's Interest TXR-1943

Commercial Contract Condominium Addendum TXR-1930

Commercial Contract Condominium Addendum (incomplete construction) TXR-1946

Commercial Contract Financing Addendum TXR-1931

Commercial Contract Amendment TXR-1932

Contract Forms cont

Commercial Tenant Estoppel Certificate TXR-1938

Commercial Contract Critical Date List TXR-1942

Commercial Contract Termination Notice TXR-1939

Commercial Lease Application TXR-2120

Commercial Lease TXR-2101 Part 1

Commercial Lease TXR-2101 Part 2

CHAPTER		PAGE
	Contract Forms & Addenda, cont.	
	Commercial Lease Amendment TXR-2114	
	Commercial Lease Addendum For Expense reimbursement TXR-2103	
	Commercial Lease Addendum For Percentage Rent TXR-2106	
	Commercial Lease Addendum For Optional Space TXR-2110	
	Commercial Lease Guaranty TXR-2109	
	Commercial Landlord's Rules And Regulations TXR-2108	
	Commercial Lease addendum For Parking TXR-2107	
	Commercial Lease Addendum For Contingencies TXR-2119	
	Commercial Lease Exhibit TXR-2115	
	Commercial Lease Acceptance Form TXR-2113	
4	**COMPLETING THE TRANSACTION & PERSONAL DEVELOPMENT**	
	Commercial Lease Forms	**238**
	Commercial Lease Construction addendum (Tenant To Complete Construction) TXR-2112	
	Commercial Lease Construction Addendum (Landlord To Complete Construction) TXR-2111	
	Commercial Lease Addendum For Right Of First Refusal TXR-2105	
	Commercial Lease Addendum For Broker's Fee TXR-2102	
	Commercial Lease Addendum For Extension Of Term TXR-2104	
	Commercial Lease Inventory And Condition Form TXR-2121	
	Commercial Lease Special Provisions Addendum TXR-2125	
	Commercial Sublease TXR-2116	
	Commercial Sublease Addendum For Broker's Fee TXR-2118	
	Commercial Sublease Guaranty TXR-2124	
	Agent Development & Marketing	**266**
	Manage your Time Well	
	Productive Use	
	Non-productive use	
	CRE Networking	
	Social Media & Marketing	
	Agent Development & Marketing cont	

CHAPTER	PAGE
Regulatory Oversight	
TREC Rules on Advertising	
CAN-SPAM Act	
Business Plan	
Executive Summary	
Business Description	
Financial Plan	
Marketing & Advertising	
Positioning Yourself for Success	
Review Period	
SWOT Analysis	
Capstone Project	**279**

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Texas REALTORS® Commercial Committee

Les Sweetow
Managing Member
Real Capital Insights, LLC

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LEARNING OBJECTIVES

As a result of learning this material, students will be able to:

- Analyze a property's pro-forma statement
- Determine an appropriate strategy for negotiations
- Understand the use of a non-disclosure agreement (NDA)
- Draft a letter of intent (LOI) for leasing and purchase
- Understand how to use the various relevant Texas REALTORS® forms
- Conduct a SWOT analysis
- Develop a lead generation and marketing plan
- Become familiar with the regulatory requirements regarding marketing and advertising
- Learn about networking opportunities
- Create a student business plan
- Understand the benefits of a variety of data aggregation and listing services
- Conduct a market analysis for a sample property using RPR®
- Understand the various key strategies available to CRE owners
- Consolidate knowledge gained from all three courses into a scenario-based exercise designed to demonstrate proficiency and confidence as a new CRE agent

CAPSTONE PROJECT

On day 4 of this course, students will begin to apply their knowledge to real world scenarios. Each group will be assigned a scenario at the end of Day 1 that will require close collaboration between the individual group members to develop a thoughtful presentation to the class in support of their scenario-based thesis. On Days 2 and 3, groups will meet to assign roles, collect data, and develop a strategy for their presentation. On Day 4, groups will meet to finalize their presentation and then deliver a 15-20 minute presentation to the class.

CHAPTER 1: NEGOTIATION

PROPERTY PRO-FORMA

A CRE ***pro-forma statement*** represents the property's simplified financial statement. It is a means to quickly assess the income and cash flow performance of a property for the current year and expected performance of the holding period.

In the Due Diligence chapter of this manual, we covered the importance of reviewing the financial performance of a property regardless of whether you are representing the seller or the buyer. In this section, we will evaluate a typical pro-forma statement and incorporate a few extra items a buyer may consider when evaluating a property. Note that items highlighted in light green are typically not associated with a pro-forma statement, but were included here to illustrate some of the financial considerations we've already covered and its importance to investors when evaluating the feasibility of a purchase.

Before we begin to evaluate a sample pro-forma, we will need to define a few extra terms:

Equity Multiple

Recall that we determined the cash-on-cash (COC) return by diving CFBT by the total amount of cash invested. COC is a good measure for evaluating the efficiency of cash flows (cash yield), whereas equity multiple is found by dividing the total cash distributions paid to equity investors by the total amount of equity invested by investors:

$$\text{Equity Multiple} = \frac{\text{Total Cash Distributions}}{\text{Total Amount of Equity Invested}}$$

Equity multiple is a quick method for comparing investments by evaluating the **return** on the **cash invested**, rather than the **return** on the **cash flow** (as was the case with cash-on-cash returns). An equity multiple greater than 1 means that the cash returned to the investor is greater than the cash invested, whereas a multiple of less than 1 means that the property returned less cash than invested. All thing being equal, higher multiples are better investments because the cash invested is growing at a high rate.

Vacancy Adjustments
Recall that the turnover rate refers to the number of tenants, or amount of space vacated each year that needs to be relet (leased to another party). In a pro-forma statement, vacancy rates are characterized by both the historic vacancy rate, oftentimes referred to as general and annual vacancy rates, and the turnover vacancy, which is the vacancy period (months) for a space until it is relet to another party.

One big difference between the two is that turnover vacancy is expected to be temporary, whereas annual vacancy reflects a historic pattern of unleased space. Accordingly, turnover vacancy expenses are subtracted from the base rental income and reflected in the PGI number, whereas the annual vacancy adjustments are subtracted from PGI to obtain EGI. In either case EGI is the same, it's just a matter of where this line item is accounted for on the financial statement.

Reserves
In a prior chapter of this manual we covered the necessity for budgeting for CapEx expenses by annually allocating capital to a reserve fund. But other costs, such as tenant improvements (TIs) and future broker commissions, may also be held in reserve to address future expense demands.

Tenants can negotiate TIs into their lease that is paid for by the landlord. Depending on when tenant improvements are scheduled to begin (beginning of the lease and/or upon renewal), the costs to the landlord may be significant if multiple tenants negotiated TIs for the same fiscal year. Accordingly, landlords often allocate a part of the annual property cash flows as TI reserves in order to meet future TI requirements, especially when they have a large number of leases scheduled to terminate in the same year and the turnover rate is expected to be high.

Broker leasing commission fees will vary in amounts and timing. In some cases, brokers may be paid commissions at different time intervals over the lease term, rather than all at the beginning. As such, landlords will need to budget for those commission fees as a part of the property's operating expenses.

Recall that in a prior section we stated that commission fees are an expense after NOI because it isn't a required operating expense. This scenario, however, assumed that the full commission was actually paid upon signing. If commission obligations are required over future periods from existing lease commitments, it becomes a demand on revenue the same as with other operating expenses. Annual leasing commission expenditures on the pro-forma are listed below NOI and reflect scheduled commission expenses that were paid in that year.

NOI Margin
A measure of the efficiency of a property's cash flows. It is calculated by dividing NOI from EGI (NOI÷EGI). A higher margin means that the property's expenses are relatively small compared to the property's expected gross income. A lower margin indicates higher relative operating expenses. Higher margins are obviously preferred by investors.

Adjusted NOI
Incorporates certain expenditures such as commissions and CapEx as described above. On a pro-forma statement, the adjusted NOI reflects cash flow efficiency after those adjustments have been made.

Example
The following pro-forma statement represents the performance of an office building that your client is interested in purchasing. The seller has owned the property for 3 full years and is dissatisfied with its performance and wants to sell it. The seller acquired the building 3 years ago for $9,175,000, and is willing to sell it today for the same price, even though the market has increased by 3% since then. At the time of purchase, the seller borrowed 70% LTV at 6% fixed with a 20-year amortization and a balloon payment due after year 10. The loan is assumable and your buyer wants to assume the existing loan.

On the pro-forma statement, the full year 2019 reflects the year of purchase and assumes a full year's cash flow and expenses. The 2019 loan balance reflects 3 full years of P&I payments. The buyer intends to own the property for only 5 years and sell prior to the loan maturing. The buyer feels that the property is performing well below its potential and is evaluating whether the property can achieve a stabilized occupancy rate of 90% (currently 80%) by 2024 and be sold at a price high enough to justify the investment risk.

Note: Recall that the terminal CAP rate used to determine the reversion value for the property at the end of the holding period is found as follows:

Terminal Cap Rate = Expected rate of return – Expected growth rate

Since we assumed a 3% growth rate and the terminal cap rate was determined to be 9.30%, we can calculate the investor's required rate of return as follows: 9.30% + 3% = 12.30%.

EXERCISE 1 - SCENARIO-BASED LEARNING

As a group, review the following buyer's pro-forma statement (example 1) with estimates for the 5-year holding period and explain the following:

1. What may have been the reason(s) for the property's under-performance for the current owner?
2. What does the buyer intend to do to enhance the value of the property and what performance expectations are built into the pro-forma statement?

Hint: Observe any changes in the line items across the difference periods.

Example 1

Property Pro-Forma	Full Year 2019	Full Year 2020	Full Year 2021	Full Year 2022	Full Year 2023	Stabilized - Full Year 2024
Market rent/SF	$10.00	$9.75	$9.75	$12.00	$12.00	$12.25
Total leasable SF	100,000	100,000	100,000	100,000	100,000	100,000
Revenue:						
Base rental income	$1,000,000	$975,000	$975,000	$1,200,000	$1,200,000	$1,225,000
Turnover vacancy (months)	($50,000)	($24,375)	($24,375)	($45,000)	($15,000)	($15,313)
Concessions and abatements	($4,500)	($9,000)	($4,500)	$0	$0	$0
CAM reimbursements	$75,000	$80,000	$80,000	$100,000	$100,000	$100,000
PGI	**$1,020,500**	**$1,021,625**	**$1,026,125**	**$1,255,000**	**$1,285,000**	**$1,309,688**
Annual turnover rate	10%	5%	5%	15%	5%	5%
Annual vacancy adjustment	($200,000)	($146,250)	($146,250)	($120,000)	($120,000)	($122,500)
Annual vacancy rate	20%	15%	15%	20%	10%	10%
EGI	**$820,500**	**$875,375**	**$879,875**	**$1,135,000**	**$1,165,000**	**$1,187,188**
Expenses:						
Mgt	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)
Opex (tax,insur,maint)	($195,000)	($195,000)	($195,000)	($195,000)	($195,000)	($195,000)
CapEx reserves	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)
TI reserves	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)
Leasing commission reserves	($10,000)	($10,000)	($10,000)	($12,000)	($12,000)	($12,000)
Total Expenses	**($280,000)**	**($280,000)**	**($280,000)**	**($282,000)**	**($282,000)**	**($282,000)**
NOI	**$540,500**	**$595,375**	**$599,875**	**$853,000**	**$883,000**	**$905,188**
NOI margin	65.87%	68.01%	68.18%	75.15%	75.79%	76.25%
CapEx expenditures			($250,000)			
TI expenditures	($2,500)	($2,500)	($2,500)	($10,000)	($2,500)	($2,500)
Leasing commission expenditures	($4,500)	($4,500)	($4,500)	($15,000)	($5,000)	($5,000)
Adjusted NOI	**$533,500**	**$588,375**	**$342,875**	**$828,000**	**$875,500**	**$897,688**
Adjusted NOI margin	65.02%	67.21%	38.97%	72.95%	75.15%	75.61%
Debt Service						
Current loan balance starting year 4	($5,875,717)	($5,670,525)	($5,452,677)	($5,221,393)	($4,975,843)	($4,715,149)
Annual debt service expense	($552,153)	($552,153)	($552,153)	($552,153)	($552,153)	($552,153)
Principal reduction starting year 4	$546,783	$751,975	$969,823	$1,201,107	$1,446,657	$1,707,351
Cap Rate	**5.89%**					9.30%
Current Value	$9,175,000	$9,175,000	$9,175,000	$9,450,250	$9,450,250	$9,733,758
Current investor equity	$3,299,283	$3,504,475	$3,722,323	$4,228,857	$4,474,407	$5,018,609
CFBT	**($18,653)**	**$36,222**	**($209,278)**	**$275,847**	**$323,347**	**$345,534**
Required Investor Capital	**$3,317,936**		**$209,278**			
Investors Cash-on-Cash Return	**-0.56%**	**1.09%**	**-5.93%**	**7.82%**	**9.17%**	**9.80%**
Investor's IRR						**11.95%**
ROI						**6.09%**

Continued...

Example 2

Property Pro-Forma	Full Year 2019	Full Year 2020	Full Year 2021	Full Year 2022	Full Year 2023	Stabilized - Full Year 2024
Market rent/SF	$10.00	$9.75	$9.75	$9.75	$9.50	$9.50
Total leasable SF	100,000	100,000	100,000	100,000	100,000	100,000
Revenue:						
Base rental income	$1,000,000	$975,000	$975,000	$975,000	$950,000	$950,000
Turnover vacancy (months)	($50,000)	($24,375)	($24,375)	($24,375)	($23,750)	($23,750)
Concessions and abatements	($4,500)	($9,000)	($4,500)	($4,500)	($4,500)	($4,500)
CAM reimbursements	$75,000	$80,000	$80,000	$80,000	$80,000	$80,000
PGI	**$1,020,500**	**$1,021,625**	**$1,026,125**	**$1,026,125**	**$1,001,750**	**$1,001,750**
Annual turnover rate	10%	5%	5%	5%	5%	5%
Annual vacancy adjustment	($200,000)	($146,250)	($146,250)	($146,250)	($142,500)	($142,500)
Annual vacancy rate	20%	15%	15%	15%	15%	15%
EGI	**$820,500**	**$875,375**	**$879,875**	**$879,875**	**$859,250**	**$859,250**
Expenses:						
Mgt	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)
Opex (tax,insur,maint)	($195,000)	($195,000)	($195,000)	($195,000)	($195,000)	($195,000)
CapEx reserves	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)
TI reserves	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)
Leasing commission reserves	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)
Total Expenses	**($280,000)**	**($280,000)**	**($280,000)**	**($280,000)**	**($280,000)**	**($280,000)**
NOI	**$540,500**	**$595,375**	**$599,875**	**$599,875**	**$579,250**	**$579,250**
NOI margin	65.87%	68.01%	68.18%	68.18%	67.41%	67.41%
CapEx expenditures			$0			
TI expenditures	($2,500)	($2,500)	($2,500)	($2,500)	($2,500)	($2,500)
Leasing commission expenditures	($4,500)	($4,500)	($4,500)	($4,500)	($4,500)	($4,500)
Adjusted NOI	**$533,500**	**$588,375**	**$592,875**	**$592,875**	**$572,250**	**$572,250**
Adjusted NOI margin	65.02%	67.21%	67.38%	67.38%	66.60%	66.60%
Debt Service						
Current loan balance starting year 4	($5,875,717)	($5,670,525)	($5,452,677)	($5,221,393)	($4,975,843)	($4,715,149)
Annual debt service expense	($552,153)	($552,153)	($552,153)	($552,153)	($552,153)	($552,153)
Principal reduction starting year 4	$546,783	$751,975	$969,823	$1,201,107	$1,446,657	$1,707,351
Cap Rate	**5.89%**					6.44%
Current Value	$9,175,000	$9,175,000	$9,083,250	$9,083,250	$8,991,500	$8,991,500
Current investor equity	$3,299,283	$3,504,475	$3,630,573	$3,861,857	$4,015,657	$4,276,351
CFBT	**($18,653)**	**$36,222**	**$40,722**	**$40,722**	**$20,097**	**$20,097**
Required Investor Capital	**$3,317,936**					
Investors Cash-on-Cash Return	**-0.56%**	**1.09%**	**1.23%**	**1.23%**	**0.61%**	**0.61%**
Investor's IRR						**6.09%**
ROI						**-2.00%**

Example 3

Property Pro-Forma	Full Year 2019	Full Year 2020	Full Year 2021	Full Year 2022	Full Year 2023	Stabilized - Full Year 2024
Market rent/SF	$10.00	$9.75	$9.75	$12.00	$12.00	$12.25
Total leasable SF	100,000	100,000	100,000	100,000	100,000	100,000
Revenue:						
Base rental income	$1,000,000	$975,000	$975,000	$1,200,000	$1,200,000	$1,225,000
Turnover vacancy (months)	($50,000)	($24,375)	($24,375)	($45,000)	($15,000)	($15,313)
Concessions and abatements	($4,500)	($9,000)	($4,500)	$0	$0	$0
CAM reimbursements	$75,000	$80,000	$80,000	$100,000	$100,000	$100,000
PGI	**$1,020,500**	**$1,021,625**	**$1,026,125**	**$1,255,000**	**$1,285,000**	**$1,309,688**
Annual turnover rate	10%	5%	5%	15%	5%	5%
Annual vacancy adjustment	($200,000)	($146,250)	($146,250)	($120,000)	($120,000)	($122,500)
Annual vacancy rate	20%	15%	15%	20%	10%	10%
EGI	**$820,500**	**$875,375**	**$879,875**	**$1,135,000**	**$1,165,000**	**$1,187,188**
Expenses:						
Mgt	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)	($60,000)
Opex (tax,insur,maint)	($195,000)	($195,000)	($195,000)	($195,000)	($195,000)	($195,000)
CapEx reserves	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)	($10,000)
TI reserves	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)
Leasing commission reserves	($10,000)	($10,000)	($10,000)	($12,000)	($12,000)	($12,000)
Total Expenses	**($280,000)**	**($280,000)**	**($280,000)**	**($282,000)**	**($282,000)**	**($282,000)**
NOI	**$540,500**	**$595,375**	**$599,875**	**$853,000**	**$883,000**	**$905,188**
NOI margin	65.87%	68.01%	68.18%	75.15%	75.79%	76.25%
CapEx expenditures			($1,000,000)			
TI expenditures	($2,500)	($2,500)	($2,500)	($10,000)	($2,500)	($2,500)
Leasing commission expenditures	($4,500)	($4,500)	($4,500)	($15,000)	($5,000)	($5,000)
Adjusted NOI	**$533,500**	**$588,375**	**($407,125)**	**$828,000**	**$875,500**	**$897,688**
Adjusted NOI margin	65.02%	67.21%	-46.27%	72.95%	75.15%	75.61%
Debt Service						
Current loan balance starting year 4	($5,875,717)	($5,670,525)	($5,452,677)	($5,221,393)	($4,975,843)	($4,715,149)
Annual debt service expense	($552,153)	($552,153)	($552,153)	($552,153)	($552,153)	($552,153)
Principal reduction starting year 4	$546,783	$751,975	$969,823	$1,201,107	$1,446,657	$1,707,351
Cap Rate	**5.89%**					9.30%
Current Value	$9,175,000	$9,175,000	$9,175,000	$9,450,250	$9,450,250	$9,733,758
Current investor equity	$3,299,283	$3,504,475	$3,722,323	$4,228,857	$4,474,407	$5,018,609
CFBT	**($18,653)**	**$36,222**	**($959,278)**	**$275,847**	**$323,347**	**$345,534**
Required Investor Capital	**$3,317,936**		**$959,278**			
Investors Cash-on-Cash Return	**-0.56%**	**1.09%**	**-22.43%**	**6.45%**	**7.56%**	**8.08%**
Investor's IRR						**8.00%**
ROI						**6.09%**

Scenario-based Learning, Exercise 1, continued

Once you have completed questions 1 & 2 for Example 1 and discussed your findings with the class, reconvene with your group and evaluate the following:

1. The buyer has revised the 5 year estimates with two additional pro-forma scenarios (examples 2 and 3). What has changed?
2. Given the three scenarios, which makes the most sense for the buyer? Do any of them justify the investment risks?
3. What quality classification do you think the current property might be viewed as and why?

Hint: Look at the market rent pattern.

Classification By Quality

Office buildings are classified as A,B, or C depending on perceived value in the space market:

- Class A buildings demand the highest rents and offer many amenities and services to tenants. These buildings are professionally managed and located in highly desirable locations with excellent access; the condition of the building is either new, or competitive with new properties.
- Class B buildings are also professionally managed are located in a good location. These properties are in good condition and may offer amenities and services to tenants similar to Class A buildings, but the physical building is typically older with some obsolescence issues. Rents for these buildings are lower than Class A.
- Class C buildings are older buildings with some deterioration and functional obsolescence. These buildings command the lowest rents.

Before we close out this section, let's determine the investor's equity multiple from each example above:

$$\text{Equity Multiple} = \frac{\text{Total Cash Distributions}}{\text{Total Amount of Equity Invested}}$$

In order to find the total amount of cash distributions, simply add all of the periodic cash flows. The total amount of equity invested is the amount of capital invested over the entire holding period, which would also include any shortfalls resulting from a negative CFBT:

$$\text{Equity Multiple} = \frac{\$5{,}018{,}609}{\$3{,}527{,}214} = 1.42x$$

This example illustrates that for each $1 invested, the investor receives an additional $0.42

Example 1	
Full Year	CFBT
2019	($18,653)
2020	$36,222
2021	($209,278)
2022	$275,847
2023	$323,347
2024	$345,534
2024 Reversion	$5,018,609
TOTAL CASH DISTRIBUTIONS	$5,771,626
2019	$3,317,936
2021	$209,278
Equity Invested	$3,527,214

$$\text{Equity Multiple} = \frac{\$4{,}415{,}556}{\$3.317{,}936} = 1.33x$$

In this example, the equity multiple is worse than Example 1

Example 2	
Full Year	CFBT
2019	($18,653)
2020	$36,222
2021	$40,722
2022	$40,722
2023	$20.097
2024	$20.097
2024 Reversion	$4,726,351
TOTAL CASH DISTRIBUTIONS	$4.415,556
2019	$3,317,936
Equity Invested	$3,527,214

Example 3	
Full Year	CFBT
2019	($18,653)
2020	$36,222
2021	($959,278)
2022	$275,847
2023	$323,347
2024	$345,534
2024 Reversion	$5,018,609
TOTAL CASH DISTRIBUTIONS	$5,021,626
2019	$3,317,936
2021	$959,278
Equity Invested	$4,277,214

$$\text{Equity Multiple} = \frac{\$5,021,626}{\$4,277,214} = 1.17x$$

In this example, the equity multiple is the worst of the three examples.

It is correct to assume that this is a bad investment if the investor requires a multiple greater than 2.00x or even 3.00x? Not necessarily, but given the required capitol improvements necessary to enhance the occupancy and rental rates, the holding period may have to be re-evaluated to include more years of positive and growing CFBTs to determine whether the property is worthwhile.

Let's now assume that you are the listing agent. What could you do to try to put together a deal? The buyer could increase the leverage ratio by either obtaining financing with a higher LTV rather than assuming the existing loan, or obtain additional financing to supplement the existing loan. In either case, the equity invested would be less, thereby increasing the multiple. Note, however, that the debt service adjustment to CFBT would offset a part of that benefit.

If the buyer chose to increase the leveraged position, the seller could agree to carry-back a part of the equity as a loan to the seller thereby reducing the buyer's required equity investment.

Alternatively, the price would have to be reduced sufficiently enough such that with the current loan assumption balance, the amount of cash required from the buyer is low enough to increase the equity multiple. For example, suppose in Example 1 the price was $2,000,000 less ($7,175,000). What is the equity multiple now?

Equity Invested	$1,527,214

$$\text{Equity Multiple} = \frac{\$5,018,609}{\$1,527,214} = 3.29x$$

This is a much better result for the buyer, but most sellers would opt for a carry-back given the option, since it maximizes their return. The equity multiple result is the same to the buyer less an adjustment for the increase in debt service. Once again, this highlights the power of leverage.

One final point about equity multiple is that it can be a complementary measure to IRR when evaluating the merits of a deal. We have already covered importance of IRR to the investor and that a higher IRR suggests that the property's likelihood for success is greater.

Equity multiple is an additional measure that can be factored into the decision process. In the three examples above, the IRR values are 11.95%, 6.09%, and 8% and their respective equity multiples are 1.42x, 1.33x, and 1.17x. Notice that in Example 2, the investor's IRR is the worst of the three examples, but its equity multiple is better than Example 3. Depending on the investor's requirements, Example 2 could be a better choice than Example 3 (even though its IRR is lower) because its equity multiple is higher.

USE OF DATA AGGREGATION RESOURCES

In the first part of this course we spent a great deal of time learning about the composition of space markets and the factors that define it. In part two, we meticulously identified the various components associated with a CMA and the due diligence elements associated with property selection to include its financial and operating performance. We also emphasized the importance of understanding the fundamentals of these processes as the basis for any third party application, but promised that in practice easier methods will be available to streamline the data collection and reconciliation processes.

Commercial real estate is a big business with a lot of money at stake and, oftentimes, time is of the essence. CRE professionals rarely have the time to painstakingly pursue market data and as such many companies have developed analytics software and online market resources that are updated in real-time to provide CRE professionals and investors with the information they need quickly and seamlessly. For the remainder of this section, students will be introduced to a variety of resources that are frequently used in the industry.

CRE Management Software

ARGUS DCF

ARGUS DCF is an expensive software program used for CRE asset and portfolio management. The program includes powerful cash flows analysis and other analytics, as well as budgeting and forecasting functioning.

The ARGUS Enterprise program has remained an industry leader for these types of applications. Given its high costs, many of their customers work with high value CRE assets and large property portfolios. Most agents will find that less expensive alternatives exist from commercial listing services such as REIS®, CoStar Group®, and CIE/RPR®.

Listing Services

Commercial Information Exchange and Commercial/Industrial MLS

The National Association of Realtors® provides commercial agents with two types of listing services that are specifically designed to support the broker/agent community. The first type is a commercial information exchange (CIE) which is a great marketing tool for brokers to list properties for sale and/or to list buyer property needs making it a two-way informational exchange between buyer/tenant reps and seller/landlord reps. A CIE is not an MLS, therefore no commissions related to broker compensation are listed.

A commercial/industrial MLS by comparison acts similarly to the residential MLS for listings to include offers of cooperation and compensation.

Several commercial information exchange and commercial/industrial MLS providers have partnered with various REALTOR® Associations across the country. A few of the popular ones include Catylist, CIMLS, Digsy, and LDCRE.

CoStar®
The most popular CRE listing and information service provider is CoStar Group®. CoStar® is a subscription-based platform that is frequently used by most CRE brokerages and their agents. Their platform provides real-time listing information and data analytics and is forward-looking with extensive research-based insights on value and market trends. One of the key strengths of CoStar® is its strength in delivering excellent property level information for non-institutional properties. It is often viewed as the most reliable source for transactional information for properties under $10,000,000.

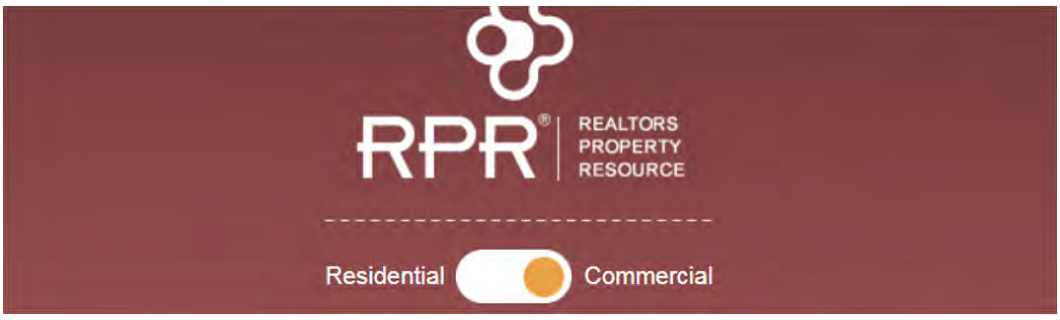
REIS®
REIS® also provides subscription based real-time forward looking information. REIS® was acquired by Moody's Analytics and as such, the combined platform provides a very high level of market and sub-market data analysis offered through their industry leading research and analytics departments.

LoopNet®
LoopNet® is a free listing resource available to anyone. CoStar Group® acquired LoopNet® and according to their website, LoopNet®'s purpose is "to provide information about commercial real estate and CoStar® (https://www.costar.com/about/terms-conditions)." While LoopNet® is a free resource, it's not a real-time listing service and as such may not reflect current information.

Real Capital Analytics (RCA)
Real Capital Analytics (RCA) provides accurate institutional level private market property sales information by subscription. RCA's strength is in providing non-listed private transactional sales information and global economic trends analysis. Many professionals view RCA as more accurate than CoStar® for transactional data associated with high priced CRE assets that often are not listed for sale, but instead transacted directly between buyer and seller.

The Realtors Property Resource (RPR®)
RPR® is a powerful data and analytics resource for agents owned by The National Association of REALTORS® (https://www.narrpr.com/). Listing information is provided by BREVITAS and CREXI who have partnered with NAR to integrate their platforms into RPRr®.

Prior to beginning any search, make sure you select the Commercial button on the home page:

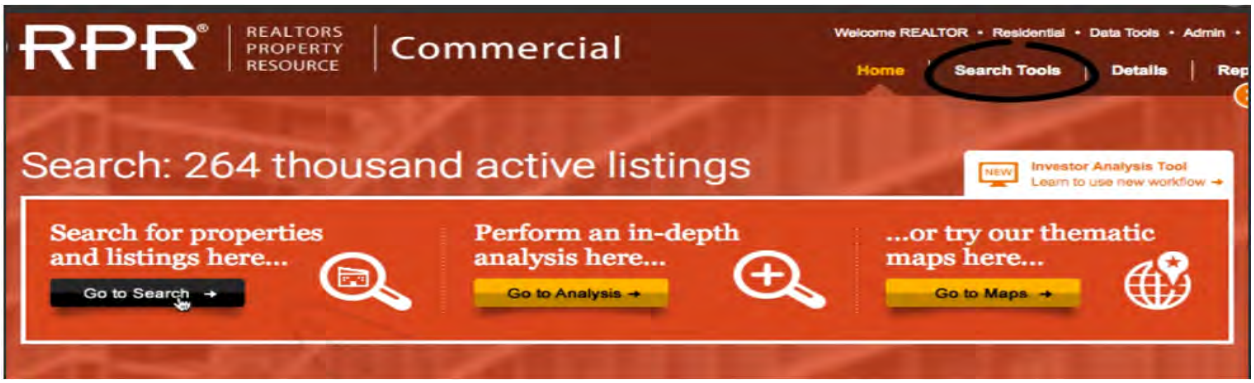


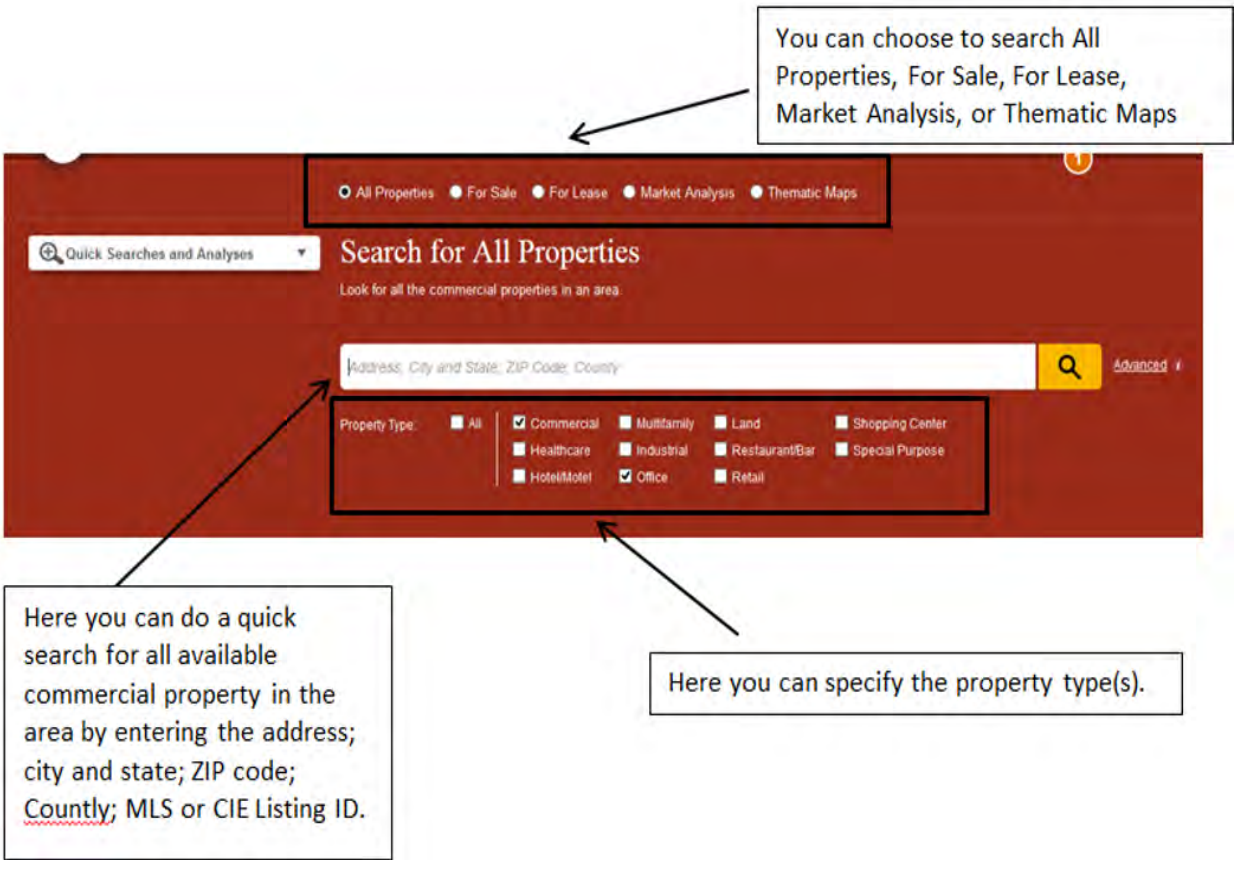
RPR® continued:

Once you login, you will be able to access the following options:

1. Search for properties
2. Perform an in-depth analysis
3. Thematic maps
4. Investment analysis for a property

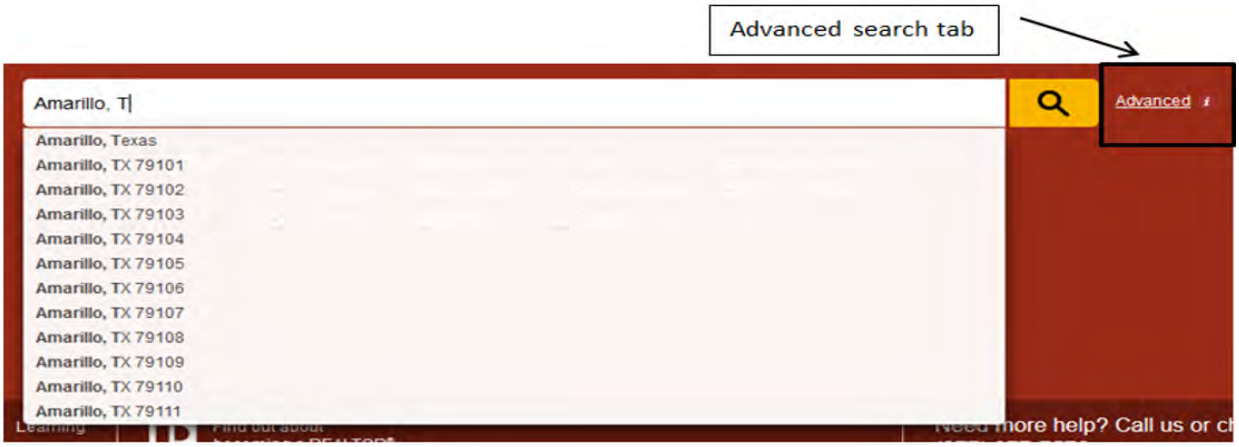
Search for Properties
Click on "Go to Search" or "Search Tools" on the main screen





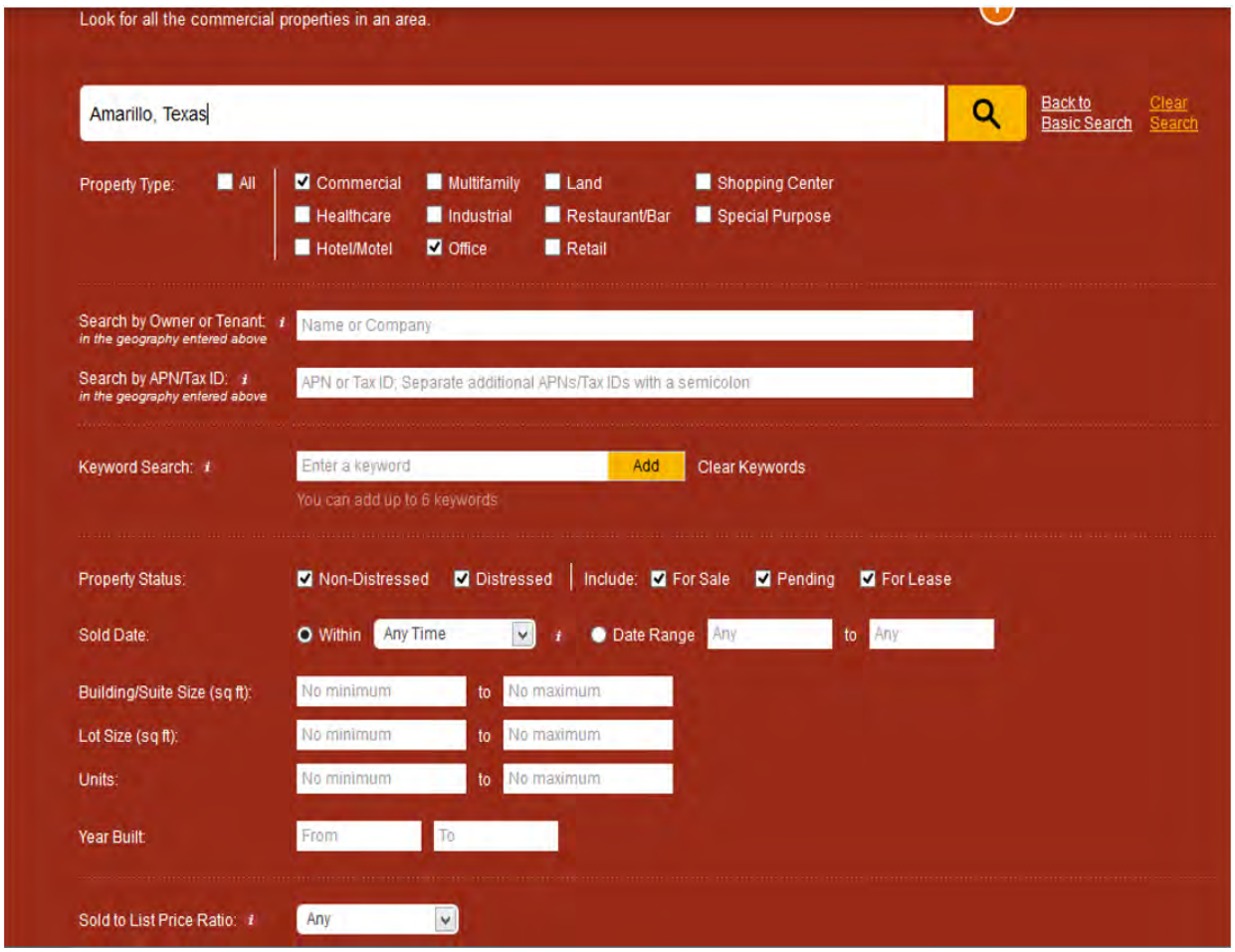
RPR® continued:

Another method: Use the "Advanced" button next to the yellow magnifying glass to apply more filters to further narrow your search:



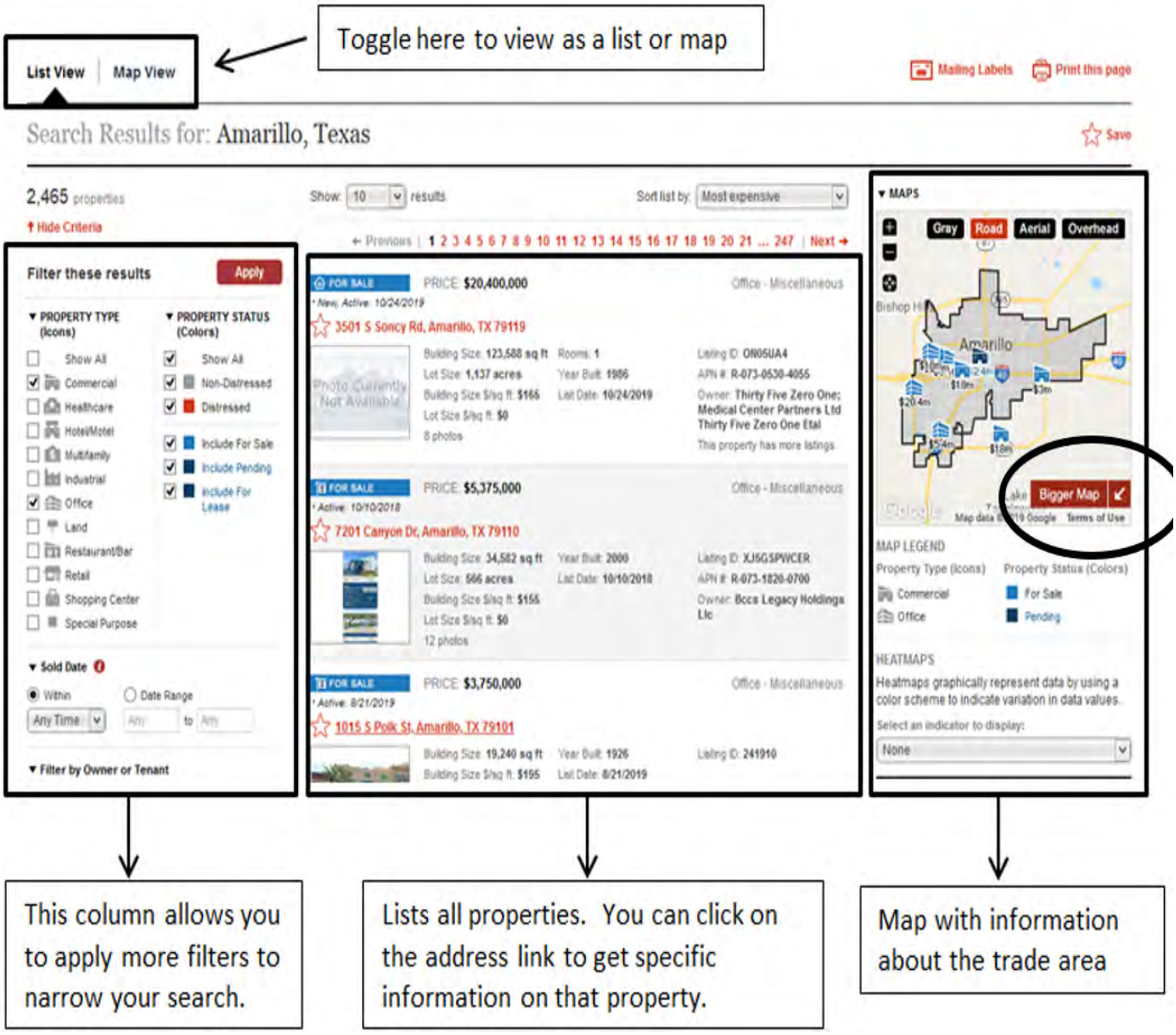
Advanced Search Screen

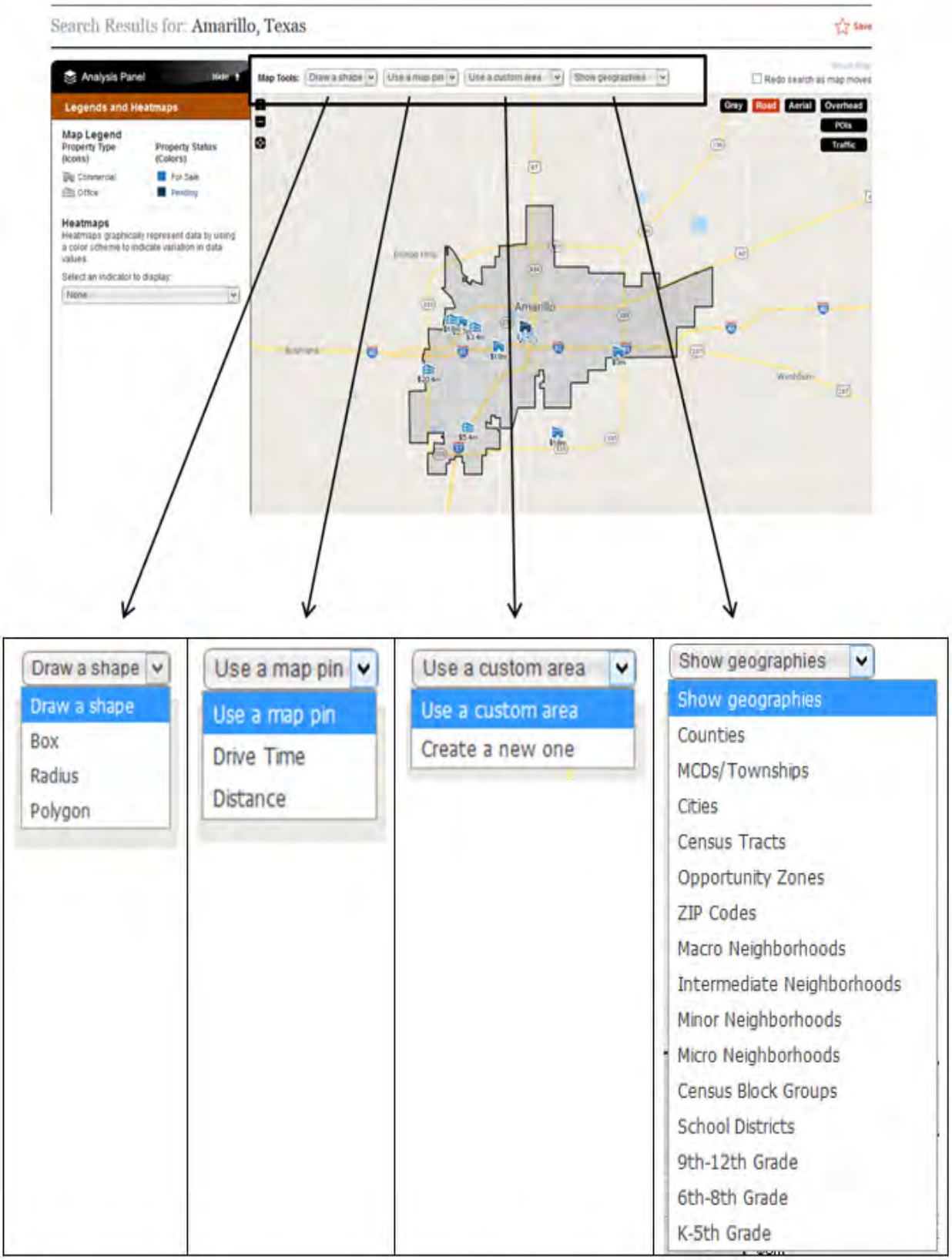
You can enter specific requirements or criteria using the advanced search screen. Once your requirements are entered, click on the yellow search button to obtain your results. In this example, there are 2.465 properties in Amarillo, TX.



RPR® continued:

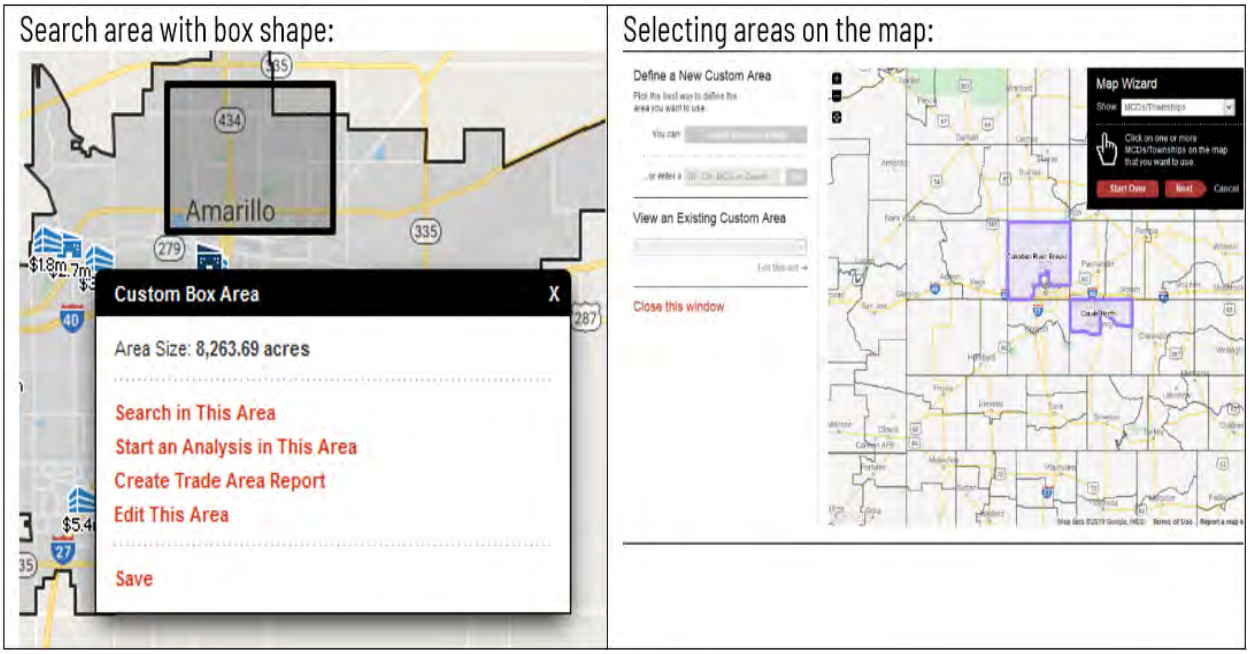
By clicking on "Bigger Map," you can expand the map and apply filters to refine your search results.




Search Results for: Amarillo, Texas
Save
Analysis Panel
Hide
Legends and Heatmaps
Map Legend
Property Type (Icons)
Property Status (Colors)
Commercial
Office
For Sale
Pending
Heatmaps
Heatmaps graphically represent data by using a color scheme to indicate variation in data values.
Select an indicator to display:
None
Map Tools:
Draw a shape
Use a map pin
Use a custom area
Show geographies
Redo search as map moves
Gray
Road
Aerial
Overhead
POIs
Traffic
Amarillo
Draw a shape
Box
Radius
Polygon
Use a map pin
Drive Time
Distance
Use a custom area
Create a new one
Show geographies
Counties
MCDs/Townships
Cities
Census Tracts
Opportunity Zones
ZIP Codes
Macro Neighborhoods
Intermediate Neighborhoods
Minor Neighborhoods
Micro Neighborhoods
Census Block Groups
School Districts
9th-12th Grade
6th-8th Grade
K-5th Grade

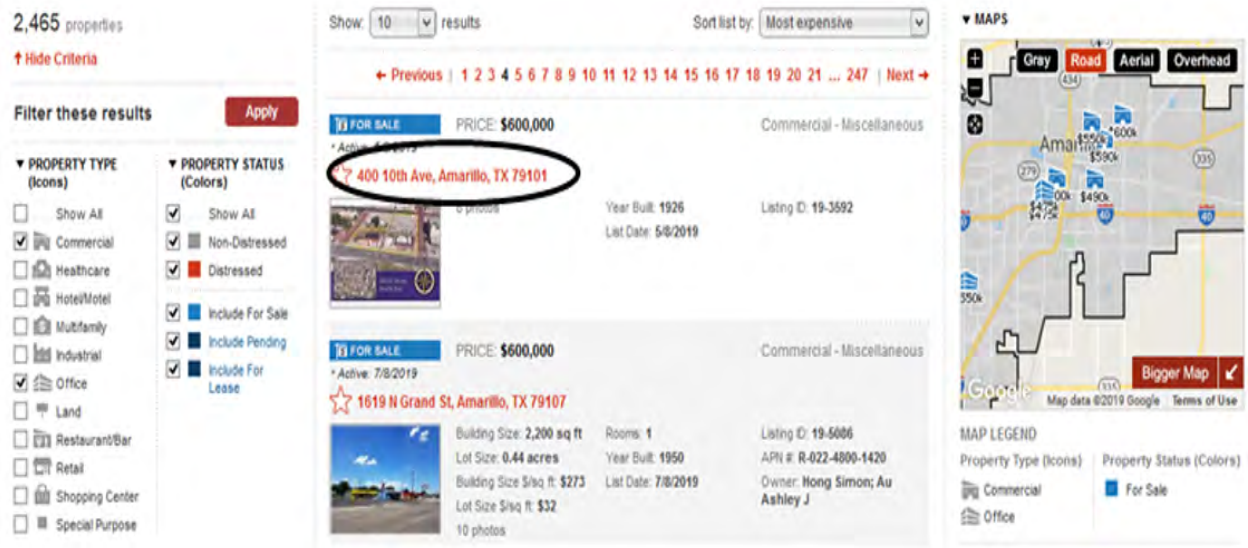
RPR® continued:

Examples:



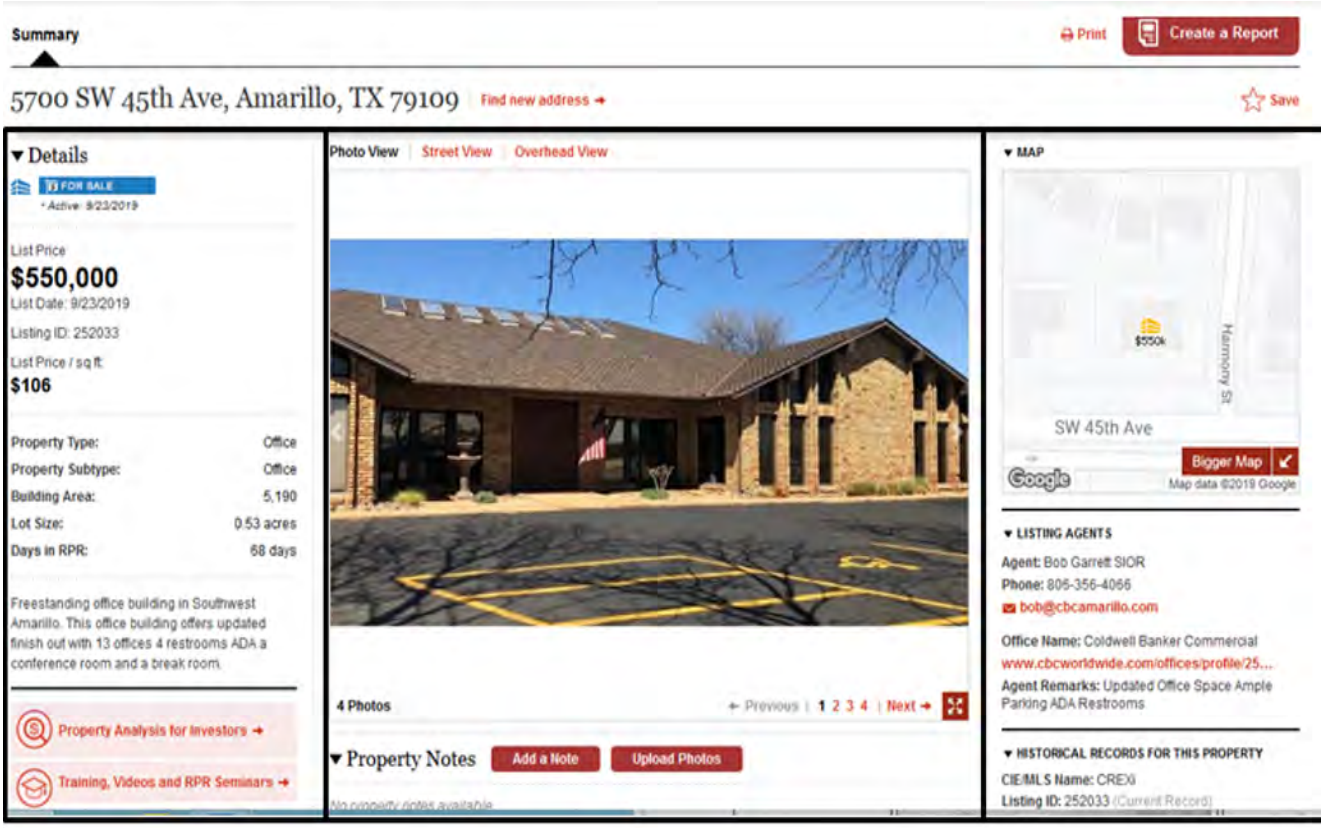
Property Details

1. To get property details, click on the property address link



RPR® continued:

2. When you click on the property address link, it will direct you to a page that provides you with details of the property.



Property price, type, subtype, year built, days in RPR, description	Photos, street view, overhead view, property notes, tenant data, property facts, price change history, listing details, structural details, exterior features, location details, school info, legal description, tax information.	Listing agents, historical records, trade area information

RPR® continued:

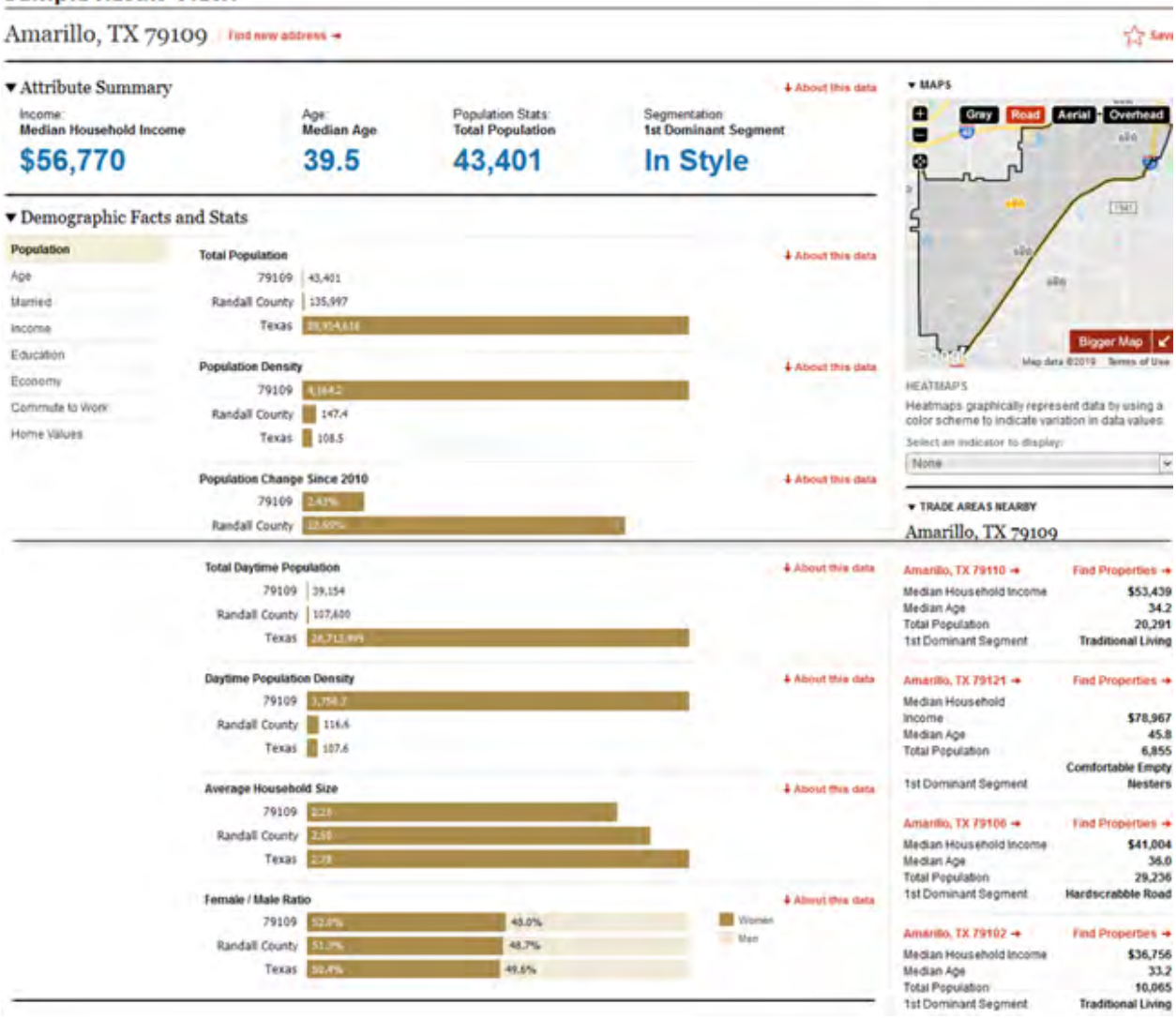
Trade area information and tapestry data

There are several ways to obtain trade area information and tapestry data:

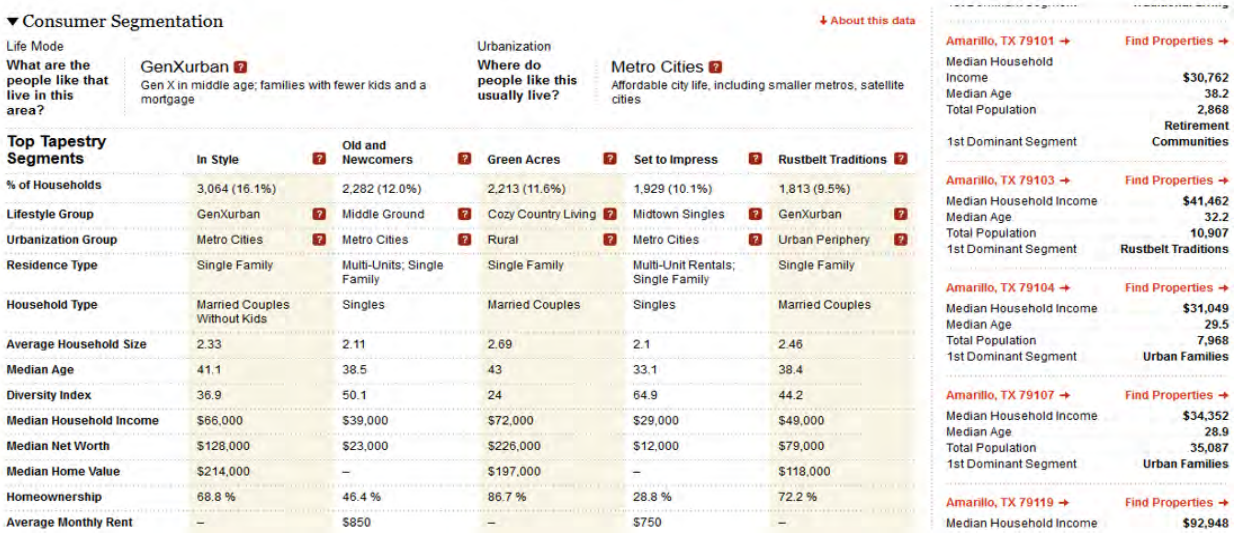
1. Click on the "More About this Trade Area" button located at the bottom of the property listing page on the right lower column.



Sample Result View:



RPR® continued:



▼ Consumer Segmentation

About this data

Life Mode

What are the people like that live in this area?

GenXurban

Gen X in middle age; families with fewer kids and a mortgage

Urbanization

Where do people like this usually live?

Metro Cities

Affordable city life, including smaller metros, satellite cities

Top Tapestry Segments	In Style	Old and Newcomers	Green Acres	Set to Impress	Rustbelt Traditions
% of Households	3,064 (16.1%)	2,282 (12.0%)	2,213 (11.6%)	1,929 (10.1%)	1,813 (9.5%)
Lifestyle Group	GenXurban	Middle Ground	Cozy Country Living	Midtown Singles	GenXurban
Urbanization Group	Metro Cities	Metro Cities	Rural	Metro Cities	Urban Periphery
Residence Type	Single Family	Multi-Units; Single Family	Single Family	Multi-Unit Rentals; Single Family	Single Family
Household Type	Married Couples Without Kids	Singles	Married Couples	Singles	Married Couples
Average Household Size	2.33	2.11	2.69	2.1	2.46
Median Age	41.1	38.5	43	33.1	38.4
Diversity Index	36.9	50.1	24	64.9	44.2
Median Household Income	$66,000	$39,000	$72,000	$29,000	$49,000
Median Net Worth	$128,000	$23,000	$226,000	$12,000	$79,000
Median Home Value	$214,000	–	$197,000	–	$118,000
Homeownership	68.8 %	46.4 %	86.7 %	28.8 %	72.2 %
Average Monthly Rent	–	$850	–	$750	–

Amarillo, TX 79101 → Find Properties →

Median Household Income $30,762
Median Age 38.2
Total Population 2,868
1st Dominant Segment Retirement Communities

Amarillo, TX 79103 → Find Properties →

Median Household Income $41,462
Median Age 32.2
Total Population 10,907
1st Dominant Segment Rustbelt Traditions

Amarillo, TX 79104 → Find Properties →

Median Household Income $31,049
Median Age 29.5
Total Population 7,968
1st Dominant Segment Urban Families

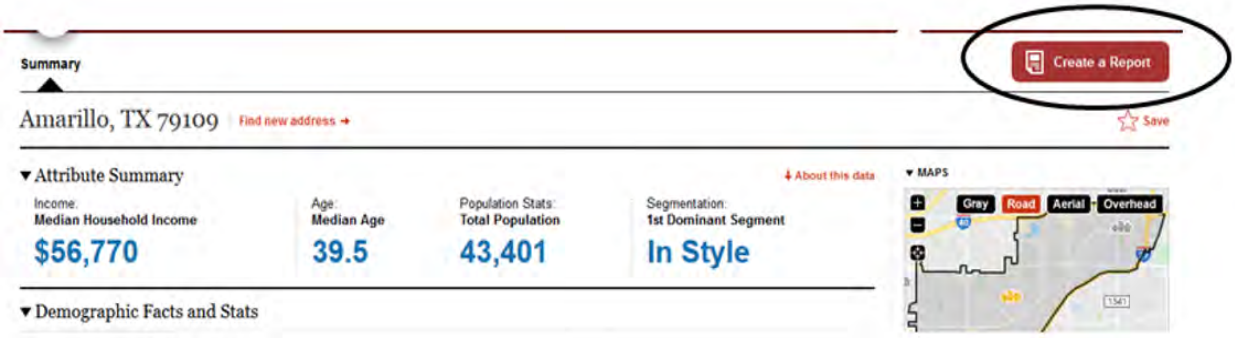
Amarillo, TX 79107 → Find Properties →

Median Household Income $34,352
Median Age 28.9
Total Population 35,087
1st Dominant Segment Urban Families

Amarillo, TX 79119 → Find Properties →

Median Household Income $92,948

To create a commercial property report, a trade area report, a trade area analysis, or best businesses report, click on the "Create a Report" button:

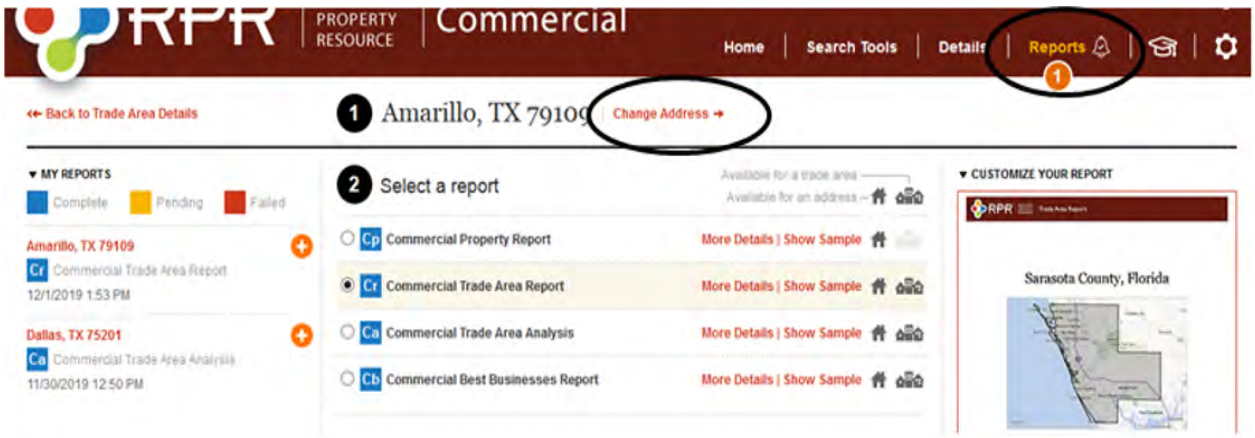


RPR® continued:

Then choose a report to create and click "Run Report." You can personalize this report, create a PDF, or send the report via email.



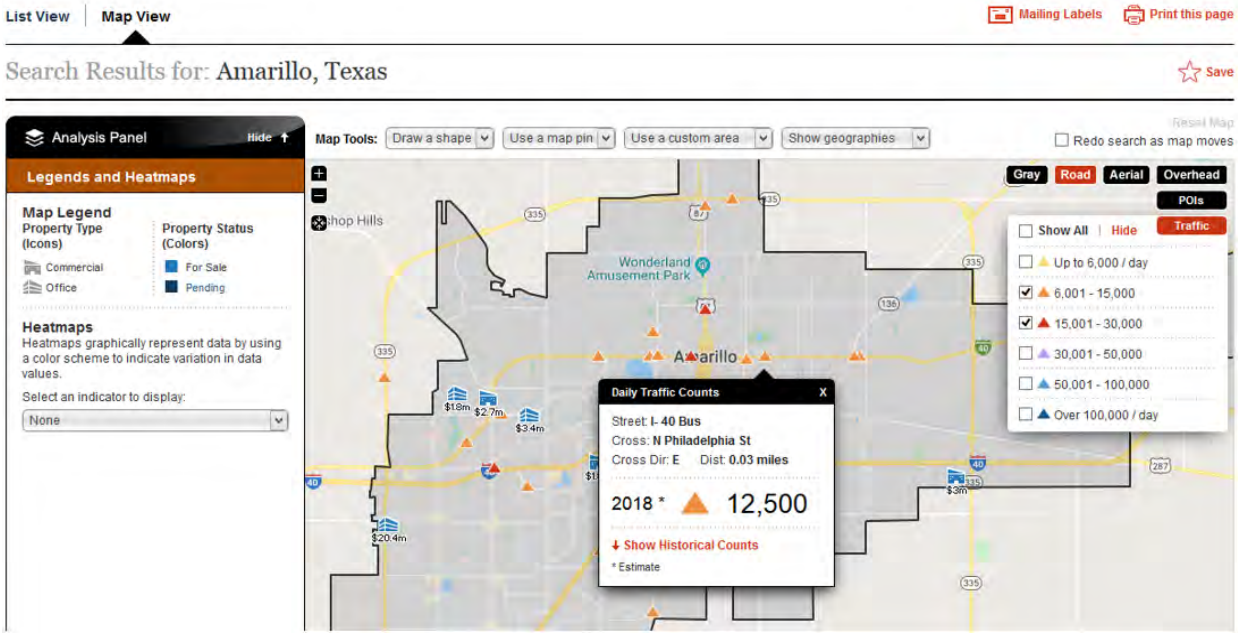
2. You can obtain Trade Area reports on any city or area by choosing "Reports." Click on the link "Change Address" and enter area of interest. Select a report and "Run Report" to obtain results.



RPR® continued:

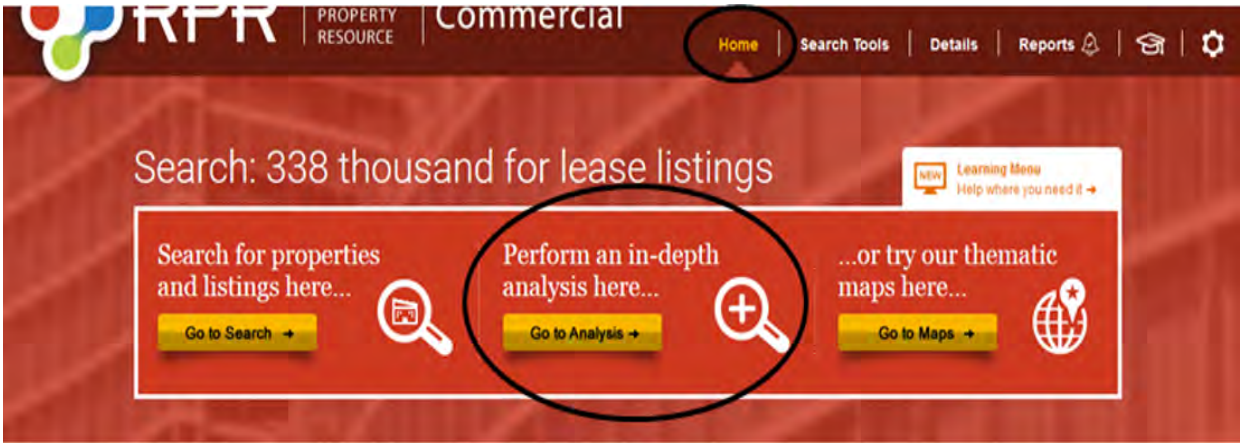
Traffic Counts

1. Click on Map View to access Traffic Counts
2. Locate the Traffic button on the upper right corner of the map and click on it.
3. Choose which volume counts to display. Then select any street level pin (triangles). This will provide you with average and history traffic data.

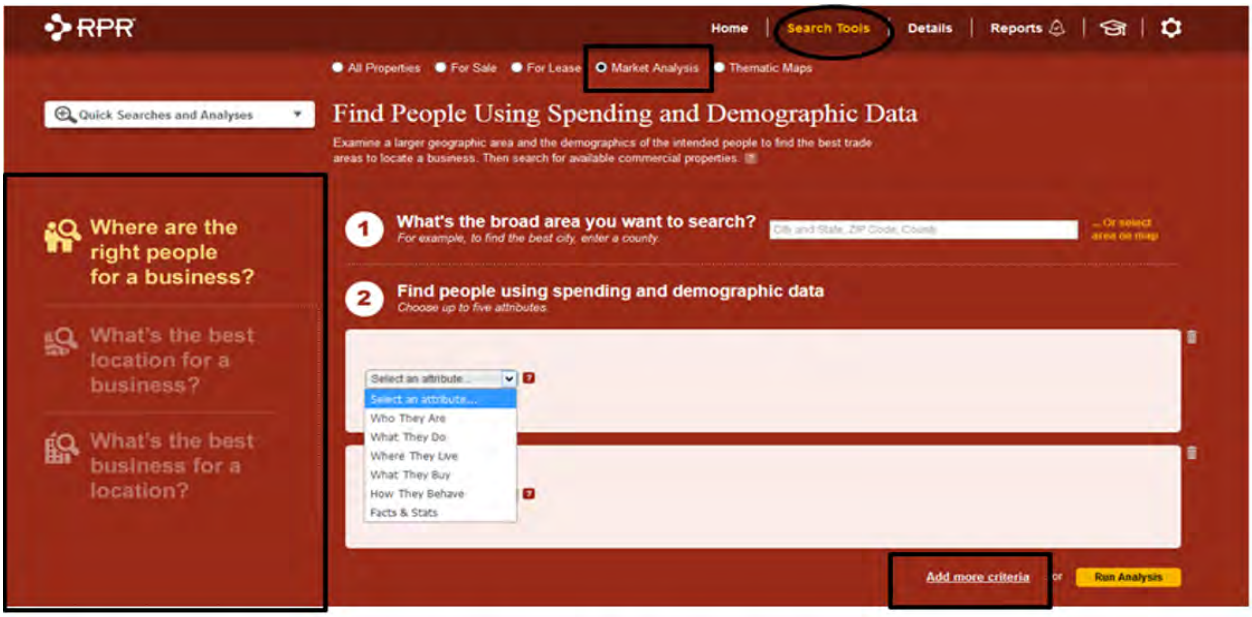


Performing an in-depth analysis

You can perform an in-depth analysis on the area by choosing Perform an In-Depth Analysis box on the home page or go to Search Tools, then click on "Market Analysis."

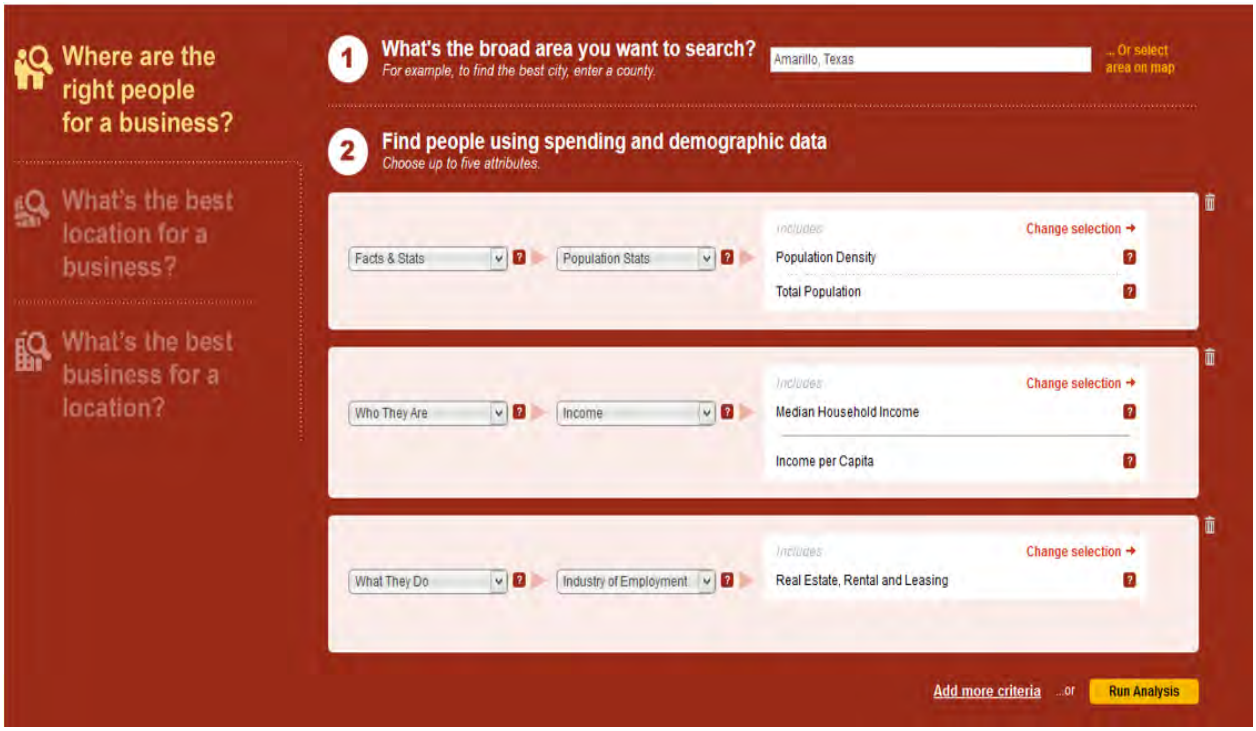


RPR® continued:



You can search for personnel resources, best location for a business, or best business for a location.	In the Find people using spending and demographic data, you can select up to 5 total attributes. Just click on the "Add more criteria" button located on the right lower corner. Then Run Analysis to obtain the report.

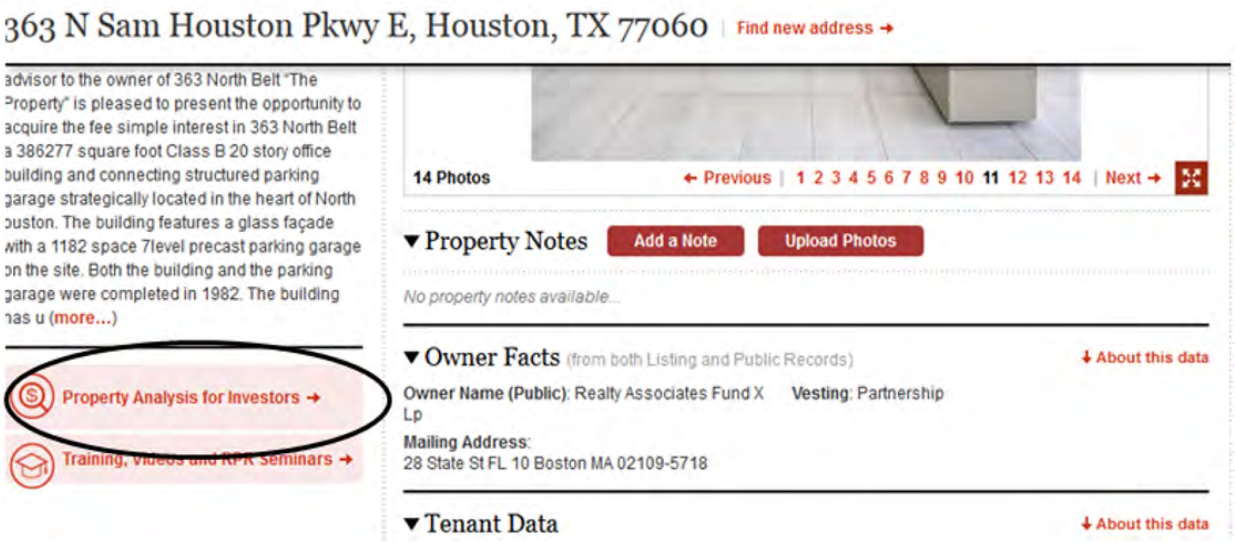
Example of Report



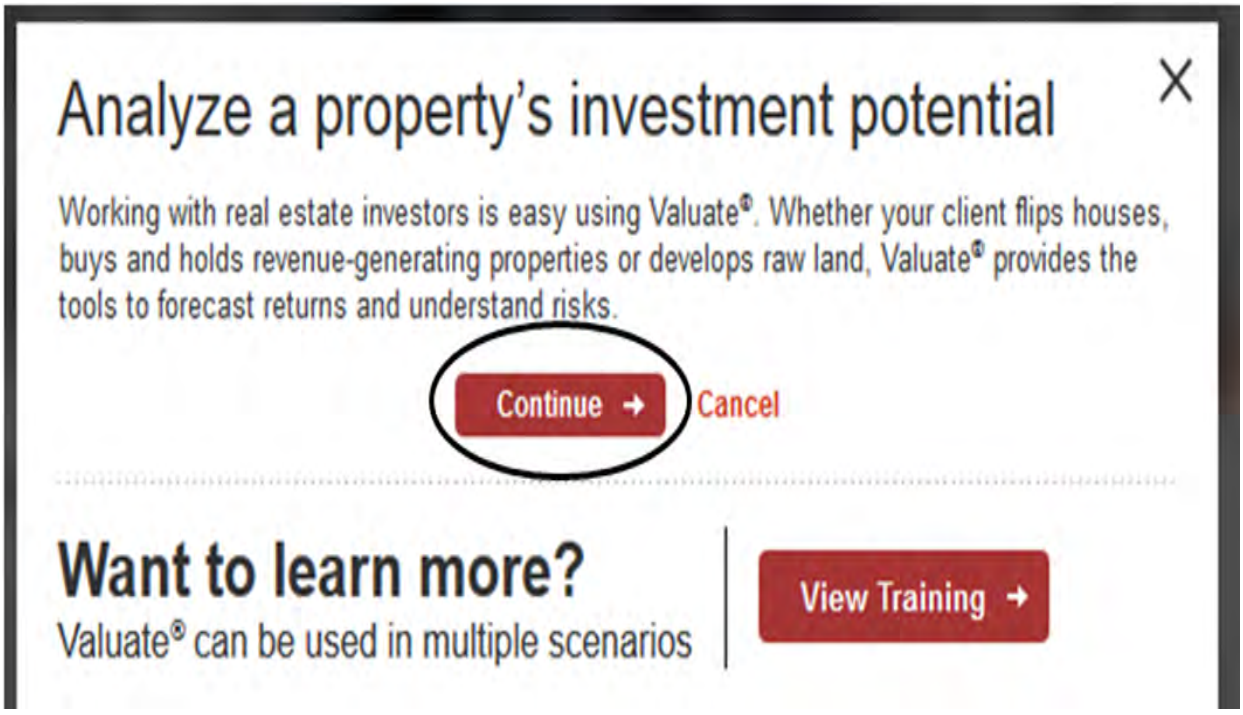
RPR® continued:

Property Analysis for Investors

1. On the left column of your property listing page under Details tab, click on Property Analysis for Investors' button.

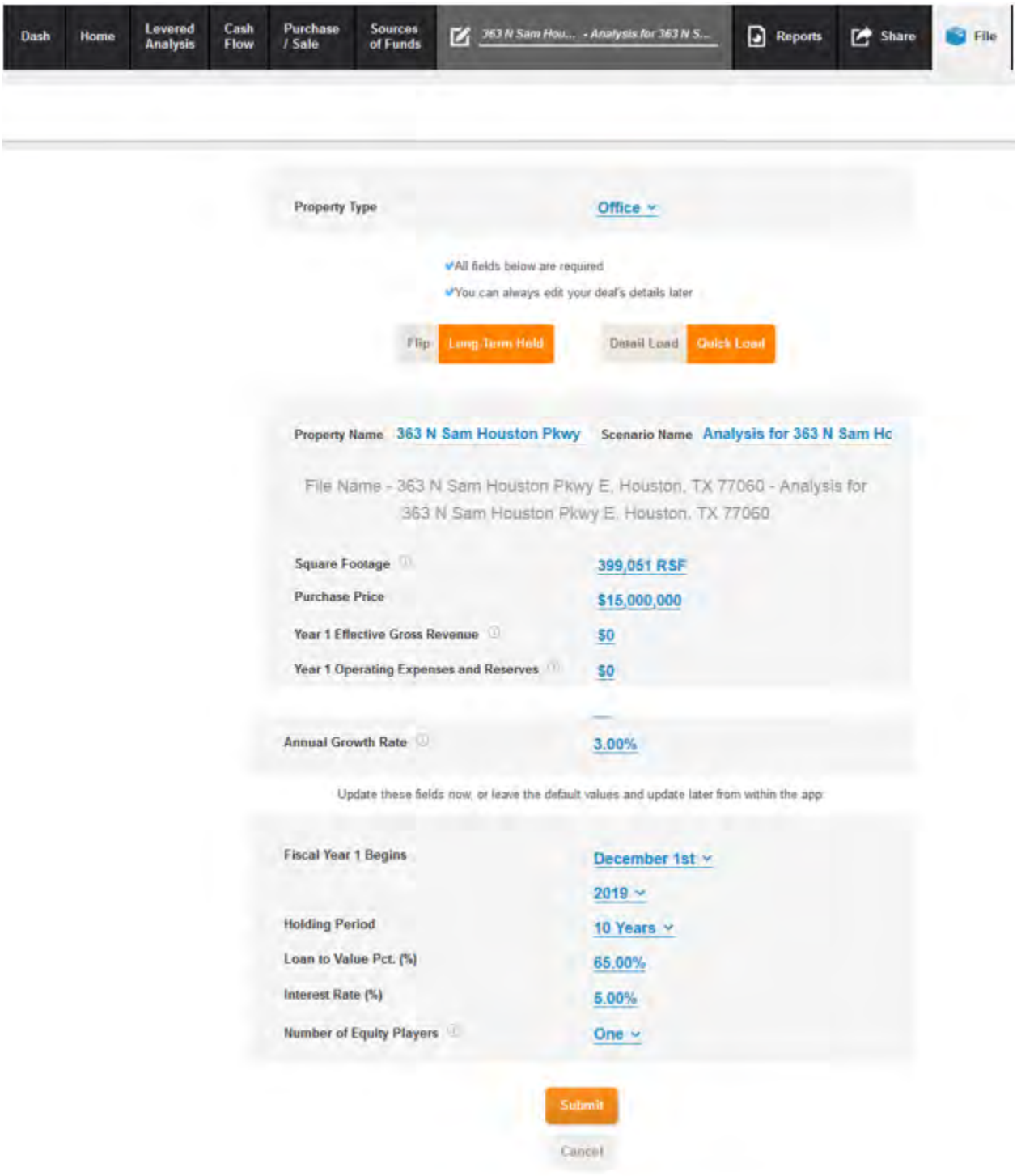


2. Click Continue



RPR® continued:

The following screen will appear:

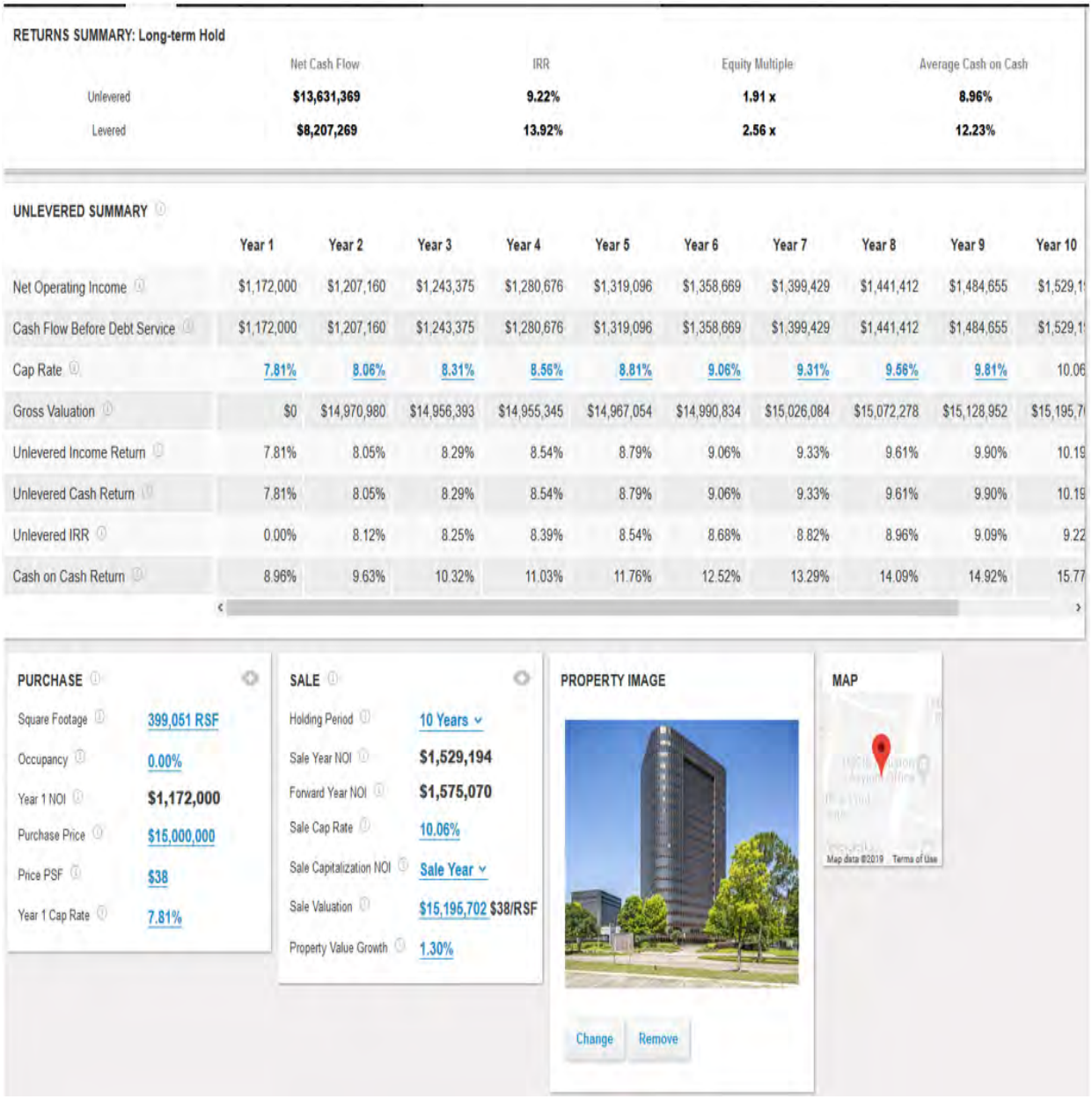


RPR® continued:

Here you will enter or adjust values as applicable. For example, let's enter:

- $1,622,000 as Year 1 Effective Gross Revenue
- $450,000 as Year 1 Operating Expenses and Reserves
- We will keep the Annual Growth Rate as 3%
- Fiscal Year Begins January 1st, 2020
- Keep Holding Period of 10 years and Loan to Value Pct as 65%
- Change interest rate to 6% and keep the number of Equity Players as One
- Click Submit

The result of this analysis looks like this:



RETURNS SUMMARY: Long-term Hold

	Net Cash Flow	IRR	Equity Multiple	Average Cash on Cash
Unlevered	$13,631,369	9.22%	1.91 x	8.96%
Levered	$8,207,269	13.92%	2.56 x	12.23%

UNLEVERED SUMMARY

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Net Operating Income	$1,172,000	$1,207,160	$1,243,375	$1,280,676	$1,319,096	$1,358,669	$1,399,429	$1,441,412	$1,484,655	$1,529,1
Cash Flow Before Debt Service	$1,172,000	$1,207,160	$1,243,375	$1,280,676	$1,319,096	$1,358,669	$1,399,429	$1,441,412	$1,484,655	$1,529,1
Cap Rate	7.81%	8.06%	8.31%	8.56%	8.81%	9.06%	9.31%	9.56%	9.81%	10.06
Gross Valuation	$0	$14,970,980	$14,956,393	$14,955,345	$14,967,054	$14,990,834	$15,026,084	$15,072,278	$15,128,952	$15,195,7
Unlevered Income Return	7.81%	8.05%	8.29%	8.54%	8.79%	9.06%	9.33%	9.61%	9.90%	10.19
Unlevered Cash Return	7.81%	8.05%	8.29%	8.54%	8.79%	9.06%	9.33%	9.61%	9.90%	10.19
Unlevered IRR	0.00%	8.12%	8.25%	8.39%	8.54%	8.68%	8.82%	8.96%	9.09%	9.22
Cash on Cash Return	8.96%	9.63%	10.32%	11.03%	11.76%	12.52%	13.29%	14.09%	14.92%	15.77

PURCHASE

Square Footage	399,051 RSF
Occupancy	0.00%
Year 1 NOI	$1,172,000
Purchase Price	$15,000,000
Price PSF	$38
Year 1 Cap Rate	7.81%

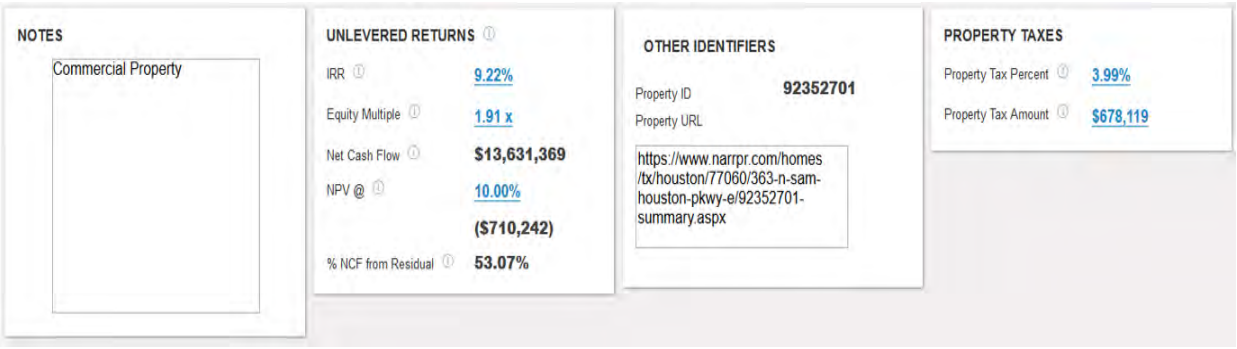
SALE

Holding Period	10 Years
Sale Year NOI	$1,529,194
Forward Year NOI	$1,575,070
Sale Cap Rate	10.06%
Sale Capitalization NOI	Sale Year
Sale Valuation	$15,196,702 $38/RSF
Property Value Growth	1.30%

PROPERTY IMAGE

Change Remove

MAP

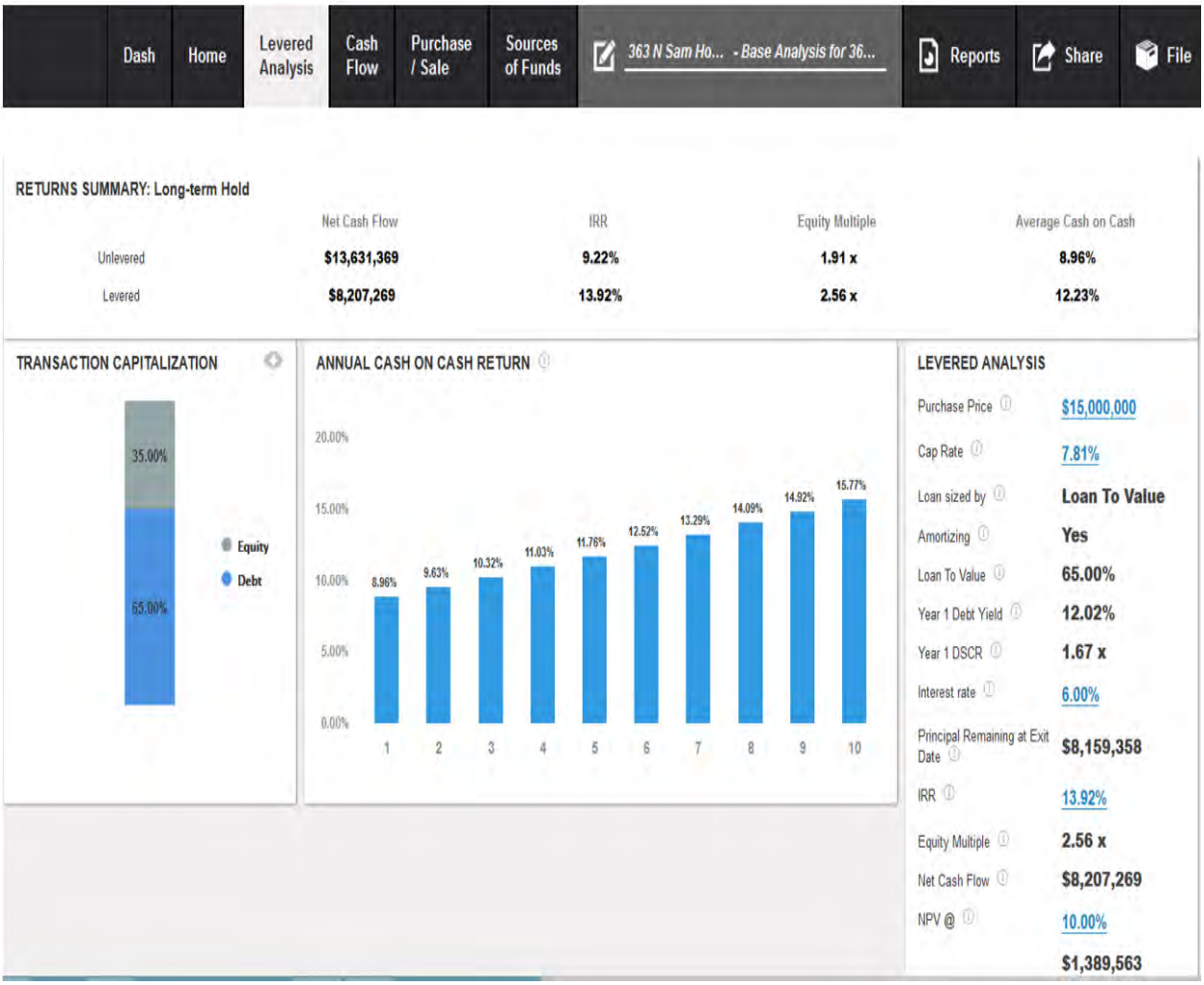


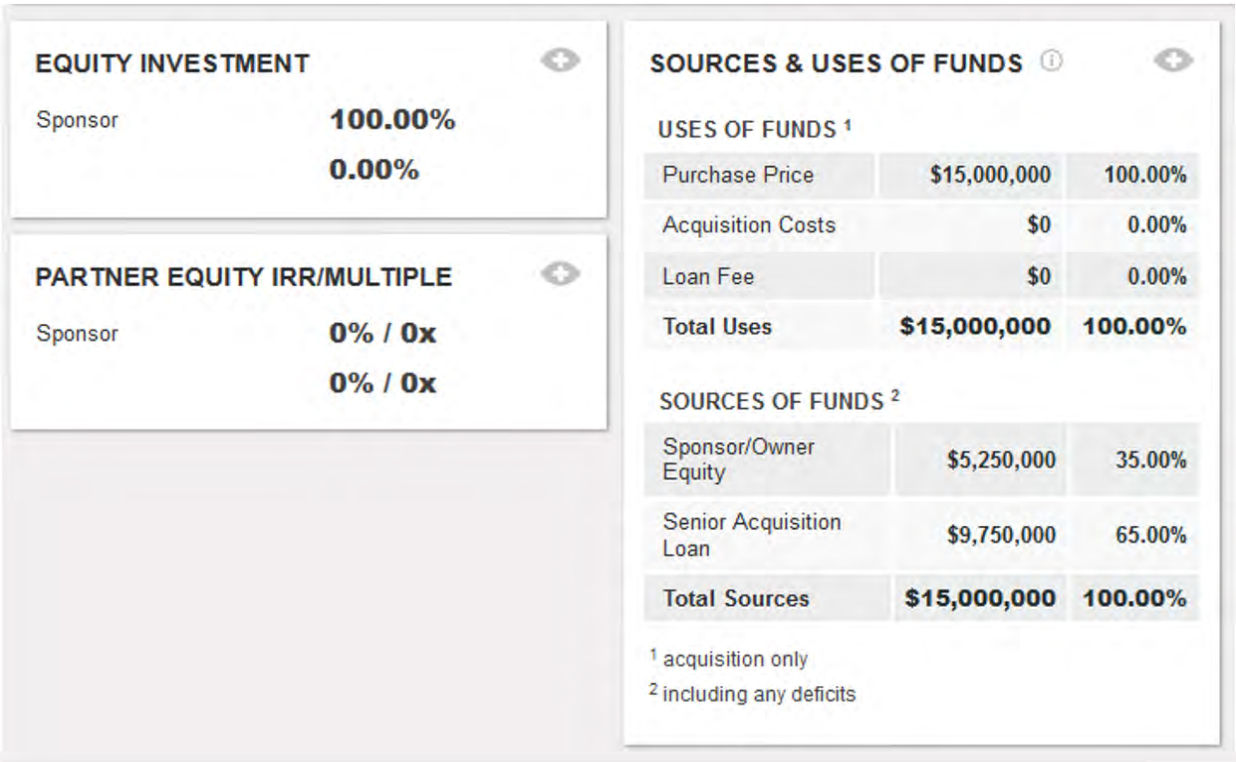
Note: All values in fields marked in blue can be adjusted to changed

RPR® provides different tabs on the menu that allows you to review investment aspects of the property, and/or adjust/manipulate values.

Levered Analysis

Provides you an overview of how debt affects your cash on cash return, and allows manipulation or adjustment of values, such as the purchase price, CAP rate, interest rate, IRR, etc.





EQUITY INVESTMENT

Sponsor	100.00%
	0.00%

PARTNER EQUITY IRR/MULTIPLE

Sponsor	0% / 0x
	0% / 0x

SOURCES & USES OF FUNDS

USES OF FUNDS [1]

Purchase Price	$15,000,000	100.00%
Acquisition Costs	$0	0.00%
Loan Fee	$0	0.00%
Total Uses	**$15,000,000**	**100.00%**

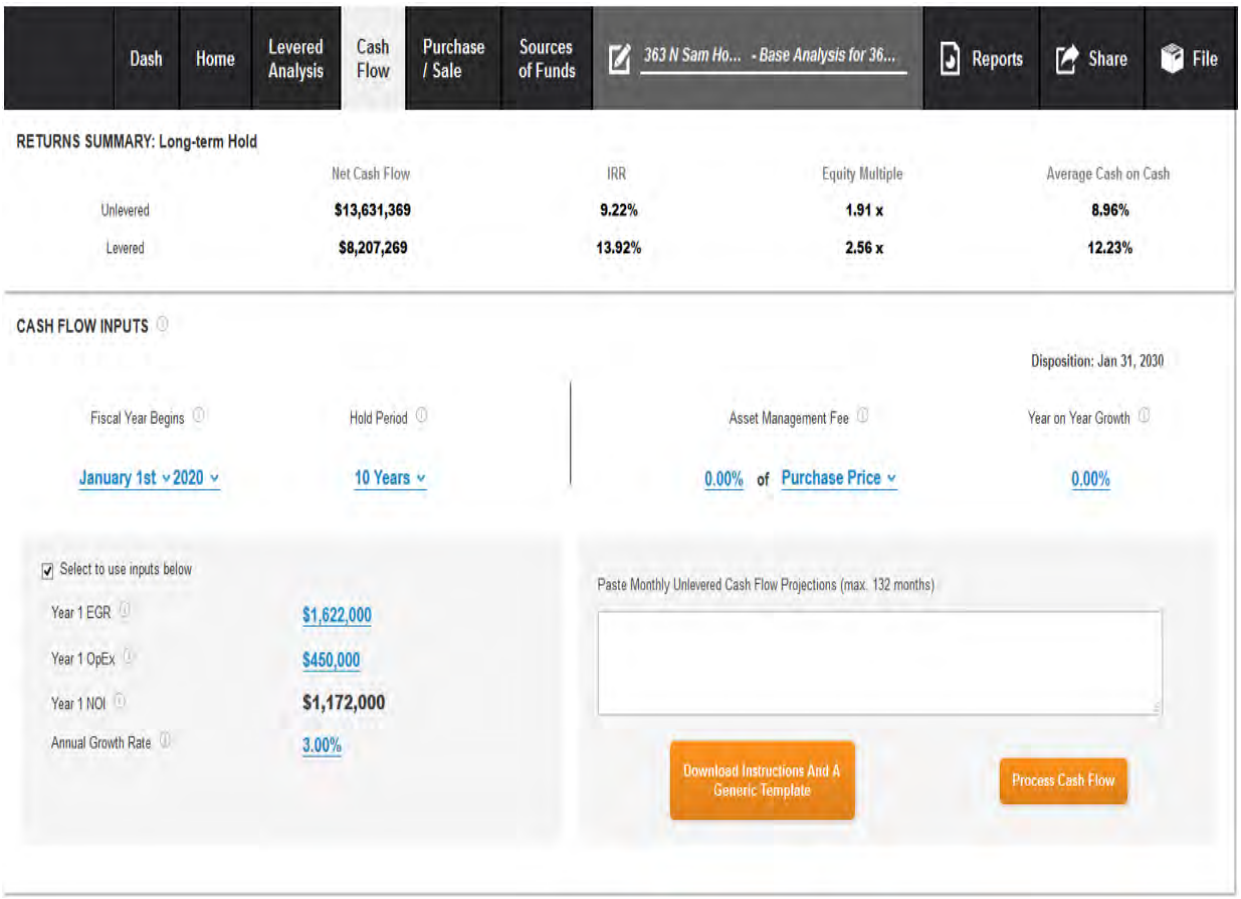
SOURCES OF FUNDS [2]

Sponsor/Owner Equity	$5,250,000	35.00%
Senior Acquisition Loan	$9,750,000	65.00%
Total Sources	**$15,000,000**	**100.00%**

[1] acquisition only
[2] including any deficits

Cash Flow

You can change/adjust inputs that affect valuation.



Note: any blue value below can be overridden by clicking on the cell and typing a new value. All inputs must be made as positive values.

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9
Potential Gross Revenue									
Total Reimbursement Revenue	$0	$0	$0	$0	$0	$0	$0	$0	
Total Potential Gross Revenue	$0	$0	$0	$0	$0	$0	$0	$0	
Effective Gross Revenue (Calculated)**	$135,167	$135,167	$135,167	$135,167	$135,167	$135,167	$135,167	$135,167	$13
Total Operating Expenses (Calculated)**	$37,500	$37,500	$37,500	$37,500	$37,500	$37,500	$37,500	$37,500	$3
Net Operating Income	$97,667	$97,667	$97,667	$97,667	$97,667	$97,667	$97,667	$97,667	$9

** Effective Gross Revenue and Total Operating Expense line item data is being calculated using the inputs, and any values for these lines in pasted data are ignored

Purchase/Sale

You can change/adjust purchase price, CAP rate, closing costs, renovation budgets, holding period, etc.

Dash | Home | Levered Analysis | Cash Flow | Purchase / Sale | Sources of Funds | 363 N Sam Ho... - Base Analysis for 36... | Reports | Share | File

RETURNS SUMMARY: Long-term Hold

	Net Cash Flow	IRR	Equity Multiple	Average Cash on Cash
Unlevered	$13,631,369	9.22%	1.91 x	8.96%
Levered	$8,207,269	13.92%	2.56 x	12.23%

PURCHASE

Year 1 NOI	$1,172,000		
Purchase Price	$15,000,000		
Price PSF	$38		
Cap Rate	7.81%		
		Include in loan sizing	
Renovation Budget	$0	☑	
Closing Costs	$0	☑	
Capital Reserve Escrow	$0	☑	$/RSF $0
Eligible Loan Cost	$15,000,000		

FEES & TAXES

(as % of purchase price)

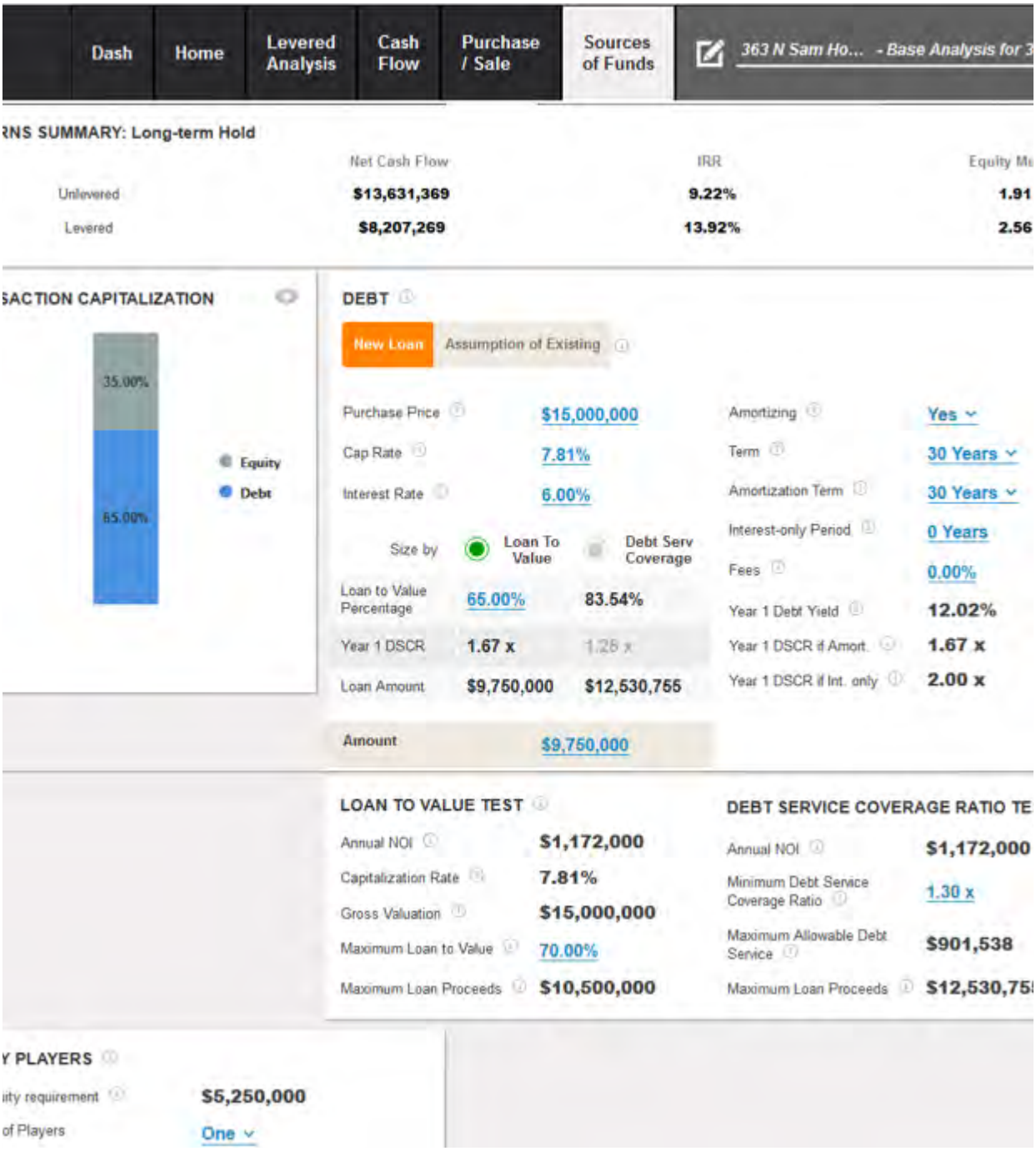
Equity / Debt Broker Fee	0.00%	$0
Recording Fees / Misc	0.00%	$0

SALE 1-31-2030

Holding Period	10 Years
Sale Capitalization NOI	Sale Year
Annual NOI in Year 10	$1,529,194
Sale Capitalization Rate	10.06%
Gross valuation sale price	$15,195,702
Sale Price PSF	$38 per RSF
Sale Valuation Deducts Next Buyer's Year 1 Capital Costs	No
Selling costs (incl. sales broker fee)	0.00%
Net Sales Proceeds	$15,195,702
Remaining Senior Loan Principal at sale	$8,159,358

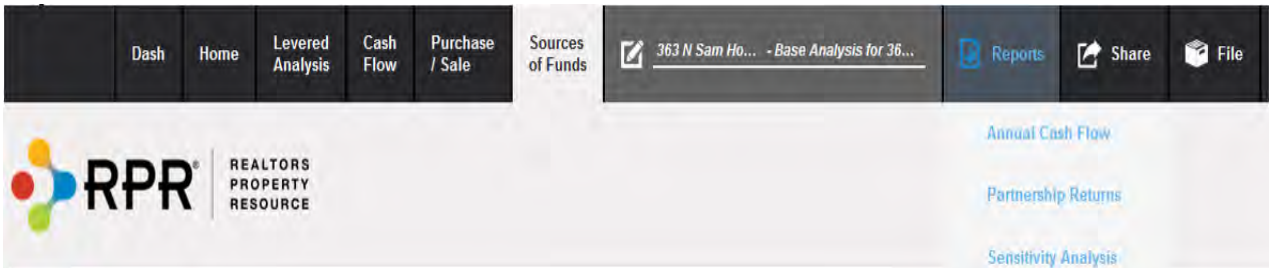
Source of Funds

Provides an overview of debt breakdown. Debt terms can be adjusted here. You can also add equity players or multiple investors and equity share. You can do multi-tier waterfalls or single residual splits.



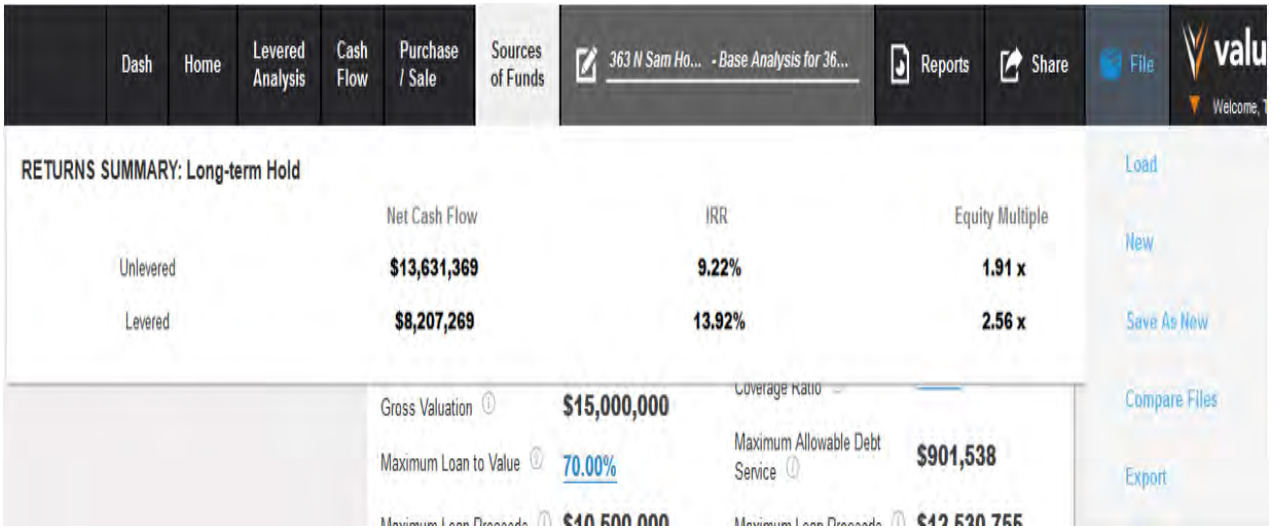
Reports Tab

Annual Cash Flow Report: Cash flows, total expenses fees, acquisition/disposition of the property, unlevered/levered cash flows, IRR, debt service, etc.
Partnership Returns Report: Share of total profits amongst investors, breakdown of investor's equity share, profits, waterfall structure
Sensitivity Analysis: Looks at project risks

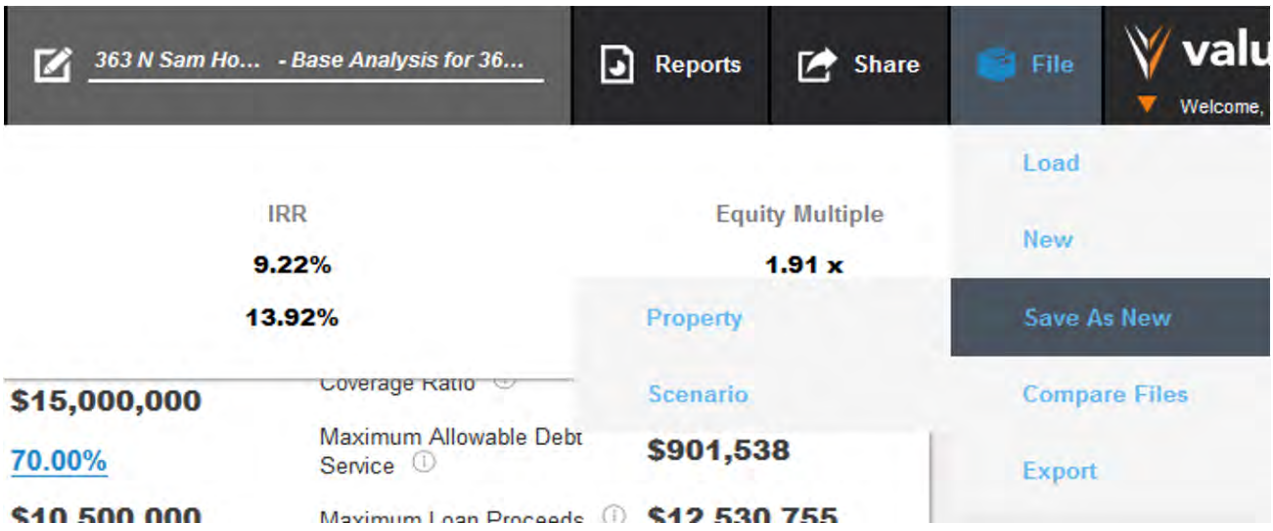


File Tab

Allows you to save files

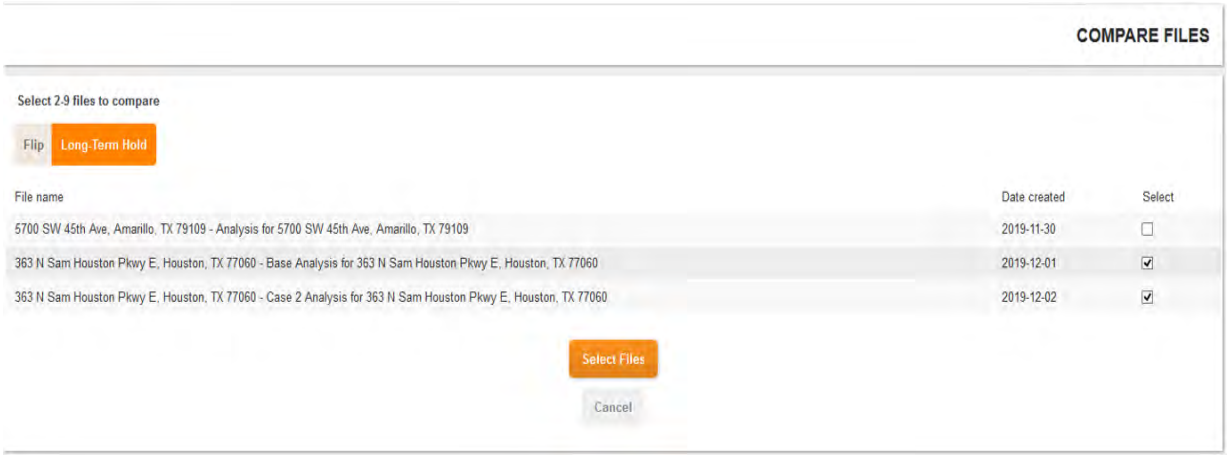


New: Saves a new file
Save as New: Saves file as a duplicate. This allows you to update assumptions and play with different scenarios on the same property and compare them together.



Comparing Files

Compare Files: Allows side-by-side comparison of the same properties with different scenarios or two or three different properties.
Export: export files to PDF, Excel



Output of same property comparison with different assumptions/scenarios:

PROPERTY & SCENARIO COMPARISONS

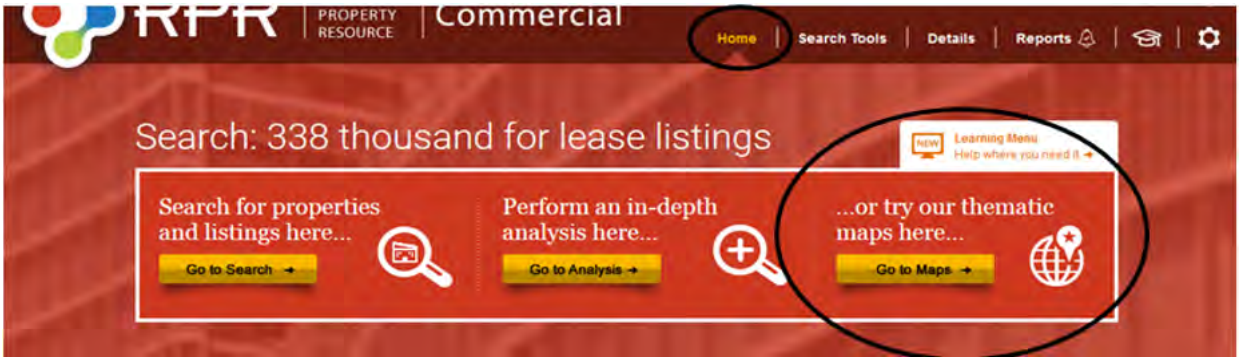
Property name	363 N Sam Houston Pkwy E, Houston, TX 77060	363 N Sam Houston Pkwy E, Houston, TX 77060
Scenario name	Base Analysis for 363 N Sam Houston Pkwy E, Houston, TX 77060	Case 2 Analysis for 363 N Sam Houston Pkwy E, Houston, TX 77060
Address	363 N Sam Houston Pkwy E Houston TX 77060	363 N Sam Houston Pkwy E Houston TX 77060
		
PURCHASE		
Square footage	399051	399051 RSF
Purchase price	$15,000,000	$16,742,857
Price/RSF	$38 Per RSF	$42 Per RSF
Year 1 Cap Rate	7.81%	7.00%
SALE		
Holding period	10 Years	10 Years
Sale Year NOI	$1,529,194	$1,529,194
Forward Year NOI	$1,575,070	$1,575,070
Sale Cap Rate	10.06%	8.50%
Sale Capitalization NOI	Sale year	Sale year
Sale valuation	$15,195,702 | $38/RSF	$17,990,519 | $45/RSF
UNLEVERED ANALYSIS		
	Year 1 / Year 2	Year 1 / Year 2
Net Operating Income	$1,172,000 / $1,207,160	$1,172,000 / $1,207,160
Cash Flow Before Debt Service	$1,172,000 / $1,207,160	$1,172,000 / $1,207,160
Cap Rate	7.81% / 8.06%	7.00% / 8.06%
Gross Valuation	$0 / $14,970,980	$0 / $14,970,980

PURCHASE				
Square footage		399051 RSF		399051 RSF
Purchase price		$15,000,000		$16,742,857
Price/RSF		$38 Per RSF		$42 Per RSF
Year 1 Cap Rate		7.81%		7.00%
SALE				
Holding period	10 Years		10 Years	
Sale Year NOI		$1,529,194		$1,529,194
Forward Year NOI		$1,575,070		$1,575,070
Sale Cap Rate		10.06%		8.50%
Sale Capitalization NOI	Sale year		Sale year	
Unlevered Income Return	7.81%	8.05%	7.00%	7.21%
Unlevered Cash Return	7.81%	8.05%	7.00%	7.21%
Unlevered IRR	0.00%	8.12%	0.00%	1.93%
Cash on Cash Return	8.96%	9.63%	6.64%	7.24%
UNLEVERED RETURNS				
IRR		9.22%		8.67%
Equity Multiple		1.91 x		1.88 x
Net Cash Flow		$13,631,369		$14,683,329
NPV	10.00%	-$710,241	10.00%	-$1,375,575
% NCF from Residual		53.07%		57.25%

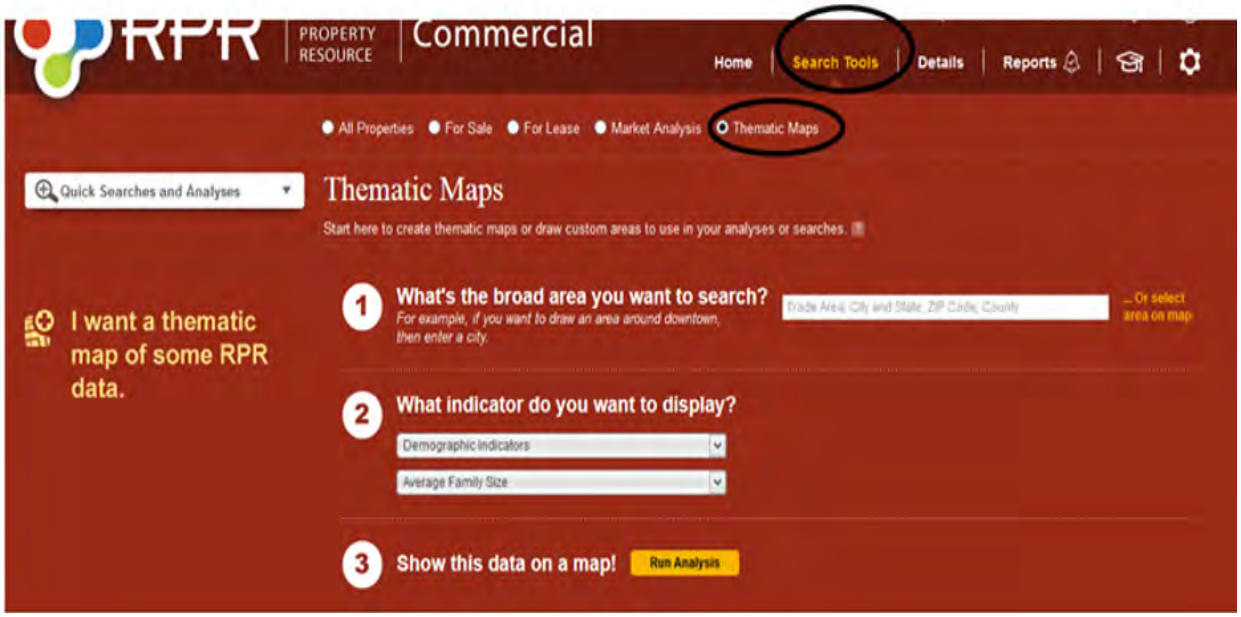
LEVERED RETURNS		
Loan sized by	Loan To Value	Loan To Value
Amortizing	Yes	Yes
Loan to Value	65.00%	65.00%
Year 1 DSCR	**1.67 x**	**1.50 x**
Year 1 Debt Yield	12.02%	10.77%
Loan Amount	$9,750,000	$10,882,857
Interest Rate	6.00%	6.00%
Principal Remaining at Exit Date	$8,159,358	$9,107,398
IRR	13.92%	12.32%
Equity Multiple	**2.56 x**	**2.47 x**
Net Cash Flow	$8,207,269	$8,629,001
NPV	10.00% : -$1,389,563	10.00% : -$968,206
PARTNER EQUITY IRR / MULTIPLE		
Sponsor	0.00% / 0.00x	0.00% / 0.00x
Investor	0.00% / 0.00x	0.00% / 0.00x

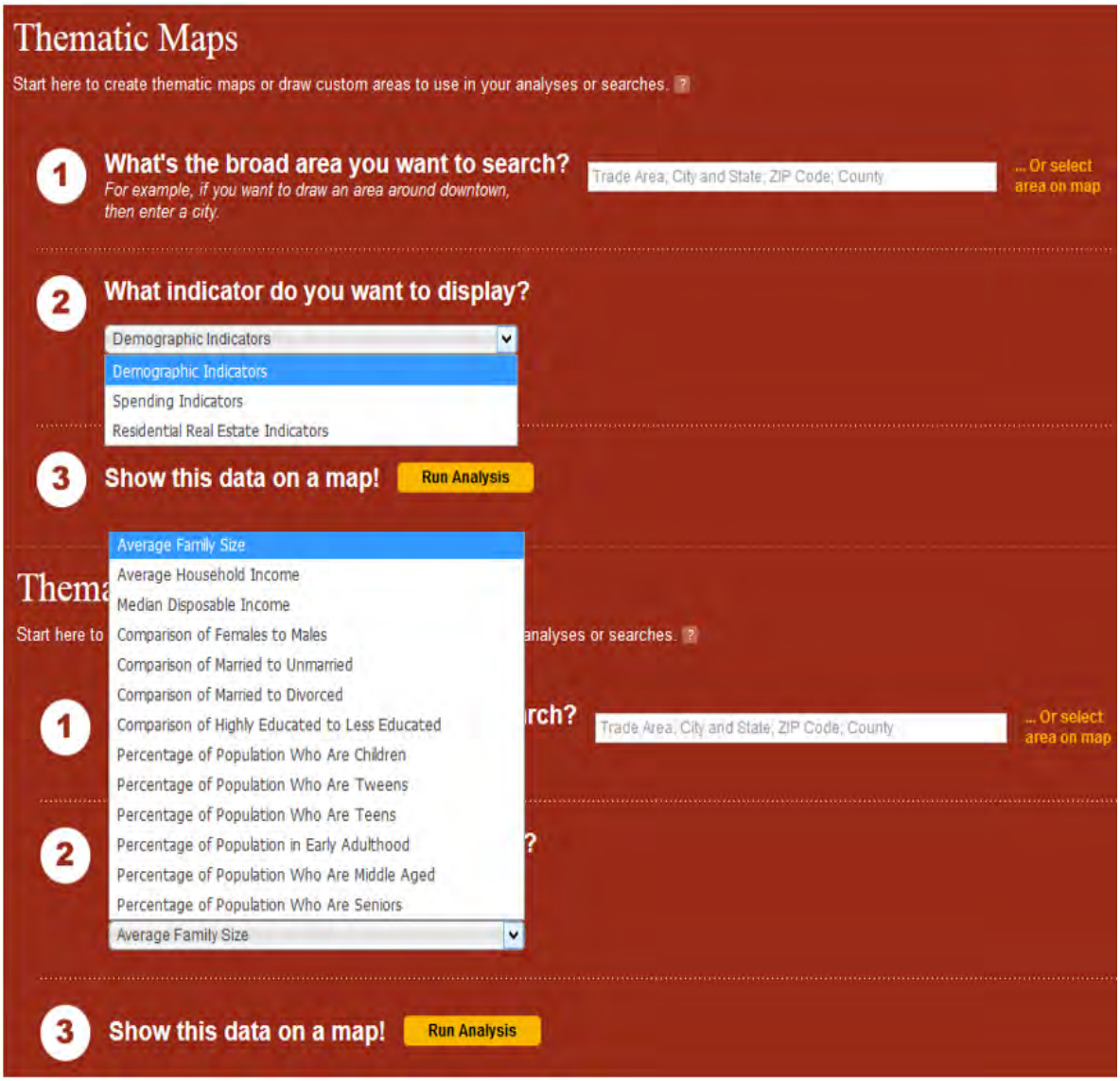
Thematic Maps
Allows you to display and collect the data for specific locations on a map.

1. Go to the homepage and then choose Go To Maps, or to Search Tools, and choose Thematic Maps.



On this screen, you can broaden your search options; choose indicators to display; and show the data on a map. Once you enter your indicators, click on Run Analysis:




Thematic Maps
Start here to create thematic maps or draw custom areas to use in your analyses or searches.
1
What's the broad area you want to search?
For example, if you want to draw an area around downtown, then enter a city.
Trade Area, City and State; ZIP Code; County
... Or select area on map
2
What indicator do you want to display?
Demographic Indicators
Demographic Indicators
Spending Indicators
Residential Real Estate Indicators
3
Show this data on a map!
Run Analysis
Average Family Size
Average Household Income
Median Disposable Income
Comparison of Females to Males
Comparison of Married to Unmarried
Comparison of Married to Divorced
Comparison of Highly Educated to Less Educated
Percentage of Population Who Are Children
Percentage of Population Who Are Tweens
Percentage of Population Who Are Teens
Percentage of Population in Early Adulthood
Percentage of Population Who Are Middle Aged
Percentage of Population Who Are Seniors
Average Family Size
Trade Area, City and State; ZIP Code; County
... Or select area on map
Show this data on a map!
Run Analysis

The RPR® websites provide you with a wealth of information and tutorials that you can access for free at: https://blog.narrpr.com/workshops

Additional Resources can also be found at:

- Postcards, flyers, infographics, etc: https://blog.narrpr.com/resources/?_choose_resources=flyers%2Cgraphics%2Cinfographics%2Cpostcards
- Videos: https://blog.narrpr.com/workshops/?_choose_audience=commercial&_type=webinars
- PPT: https://www.dropbox.com/s/9139hlp7mjdrpip/RPR%20Commercial%202019%20.pptx?dl=0

EXERCISE 2 - SCENARIO-BASED LEARNING

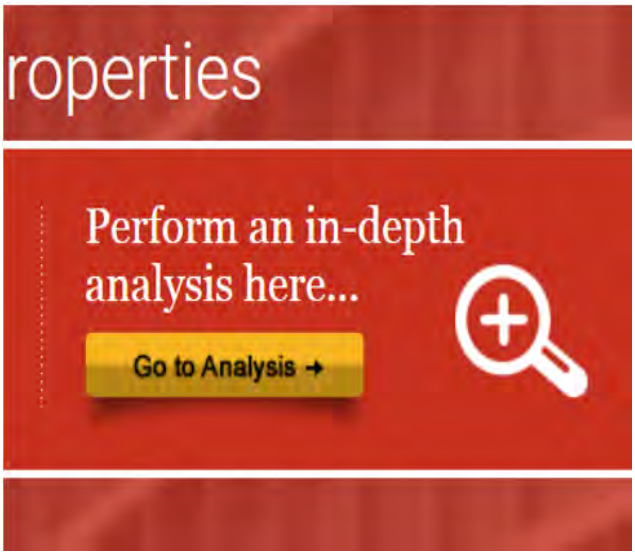
Suppose a client wants to open up a children's apparel store within 10 miles of Randolph Air Force Base near San Antonio. Your client wants to determine the best location to open the shop within the 10-mile radius which will be based on the average amount of household spending on children's clothes in the area, as we as the degree of competition from other retailers.

Your client is looking for 2000-2500 square feet of retail space with an annual budget of $10/sf/yr NNN. The ideal customer falls within the "Soccer Moms" tapestry classification in RPR® with a median household income greater than $50,000.

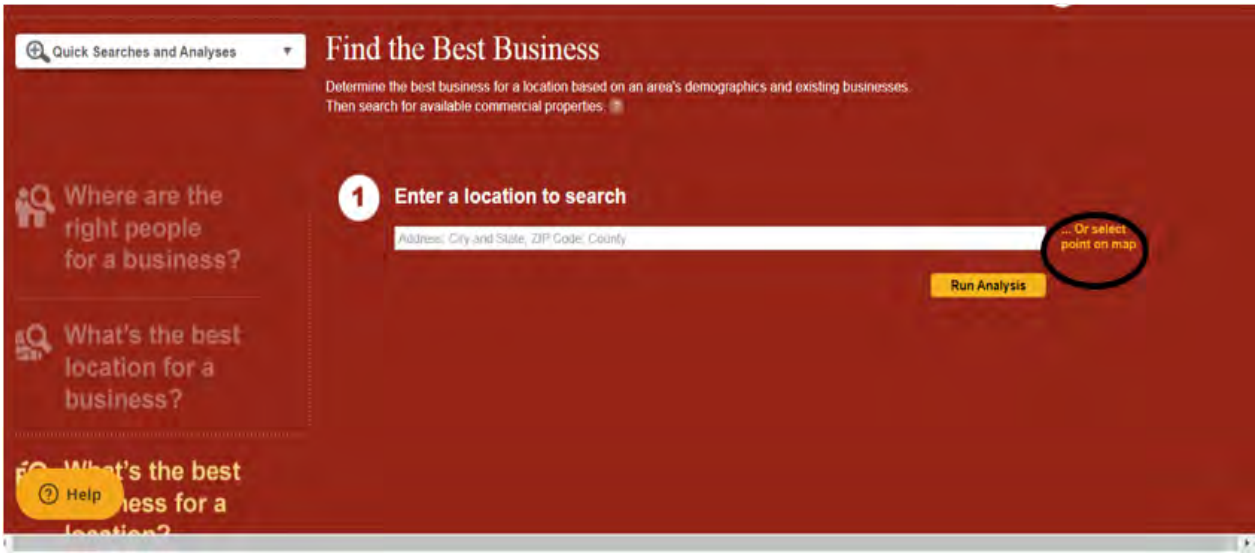
To begin:

Select a 10-mile radius around Randolph Air Force Base as follows

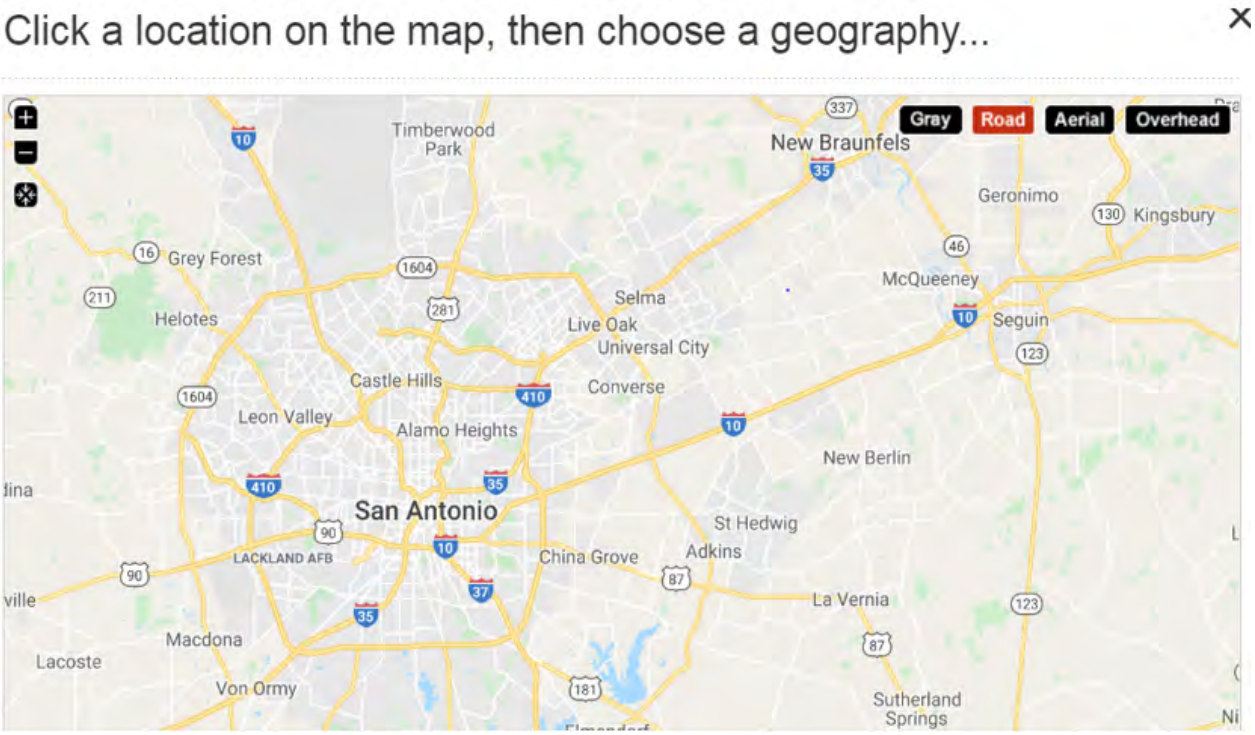
Select Go to Analysis:



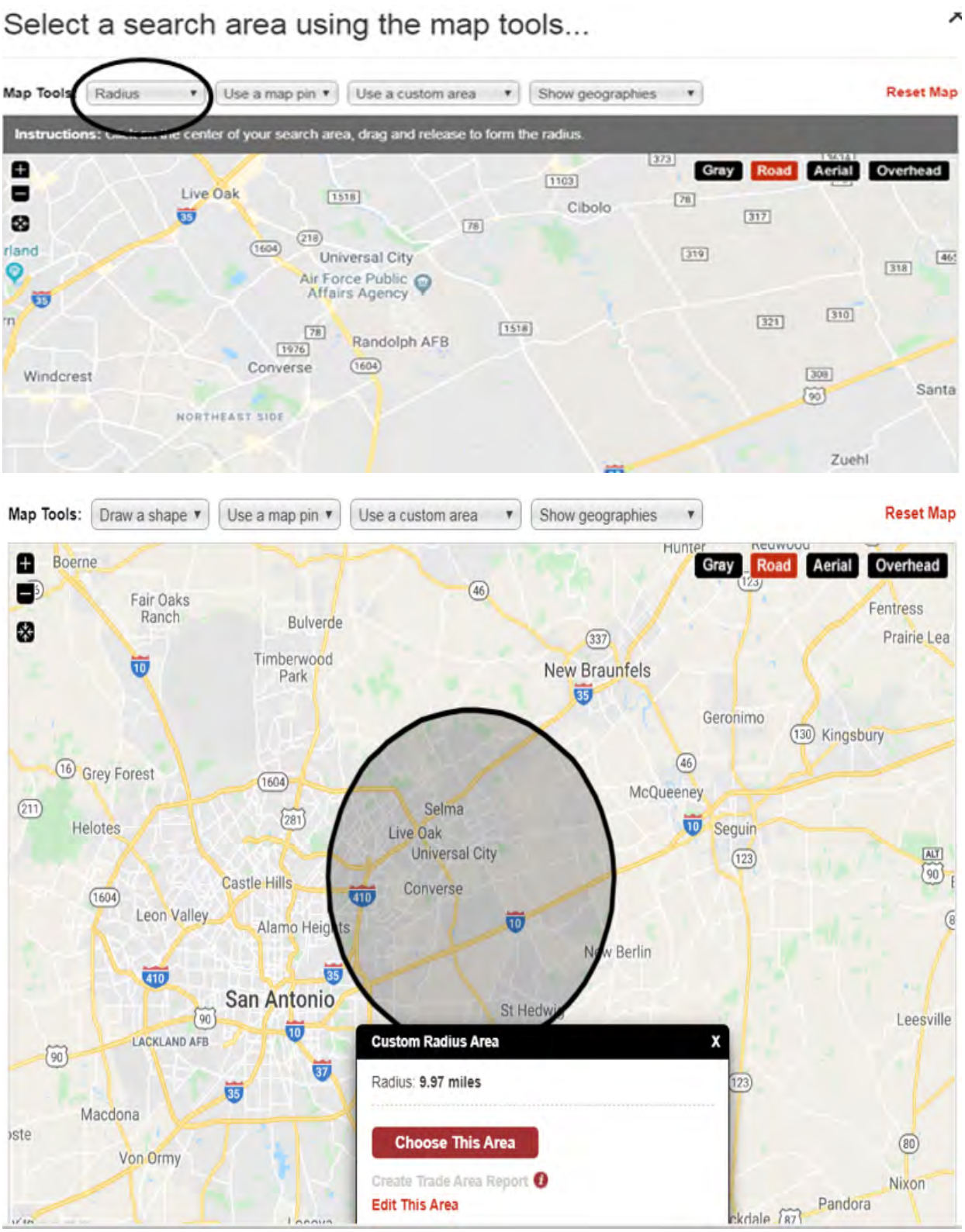
Select Point on the Map



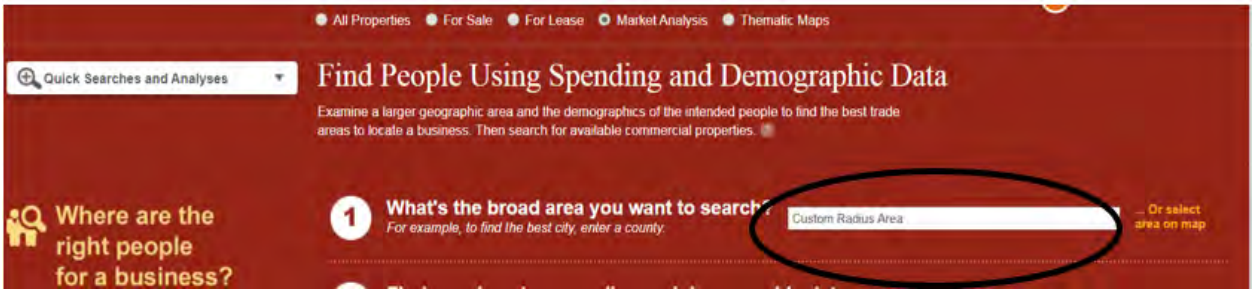
Here we selected San Antonio from the US map and zoomed in under Universal City was visible:



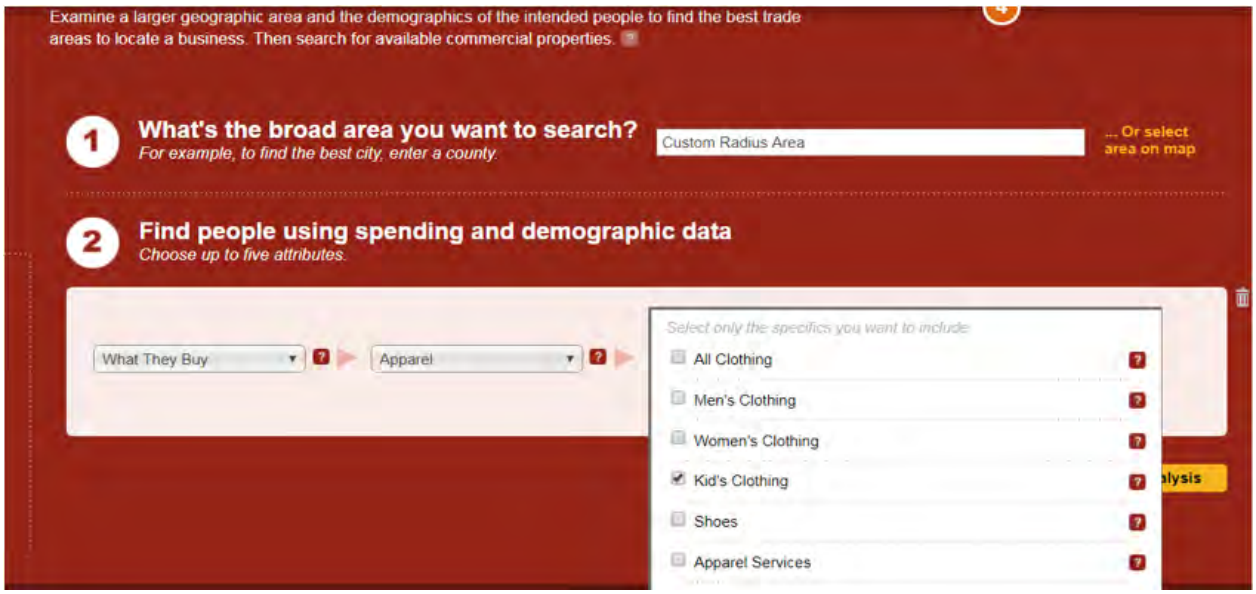
Draw the radius of 10 miles by selecting Radius using Map tools and clicking on the center of your point of interest (Randolph Air Force Base) and dragging your mouse until the desired radius is displayed:



Then choose this area to return to the search page. This time, notice that Custom Radius Area is already displayed in the Step 1 box:



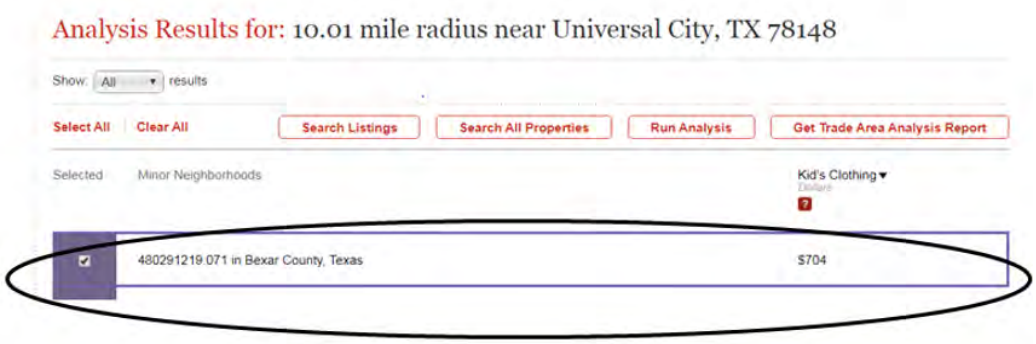
For step 2, let's choose What They Buy since the client wants to determine if the area can support a children's apparel store. The drop-down boxes to the right will help you narrow our search and, in this case, Kid's Clothing is listed, so let's select that one and click OK:



Now Run the Analysis:



It looks like the first box has the highest average household spend for children's clothes; select that box. The select Commercial Trade Area Report and run the report.



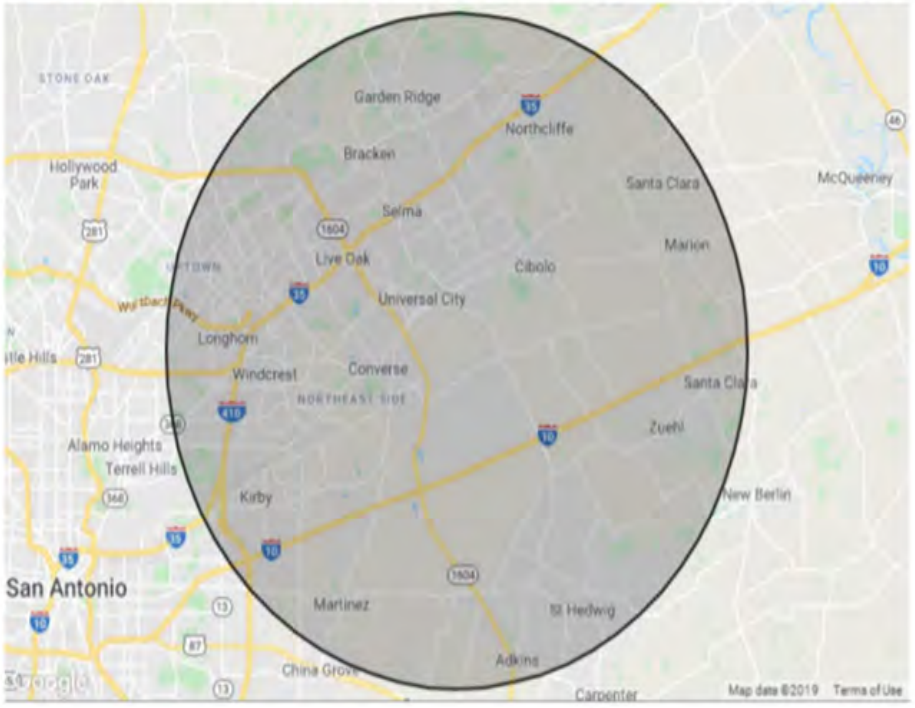


Here is the Trade Area Report Output

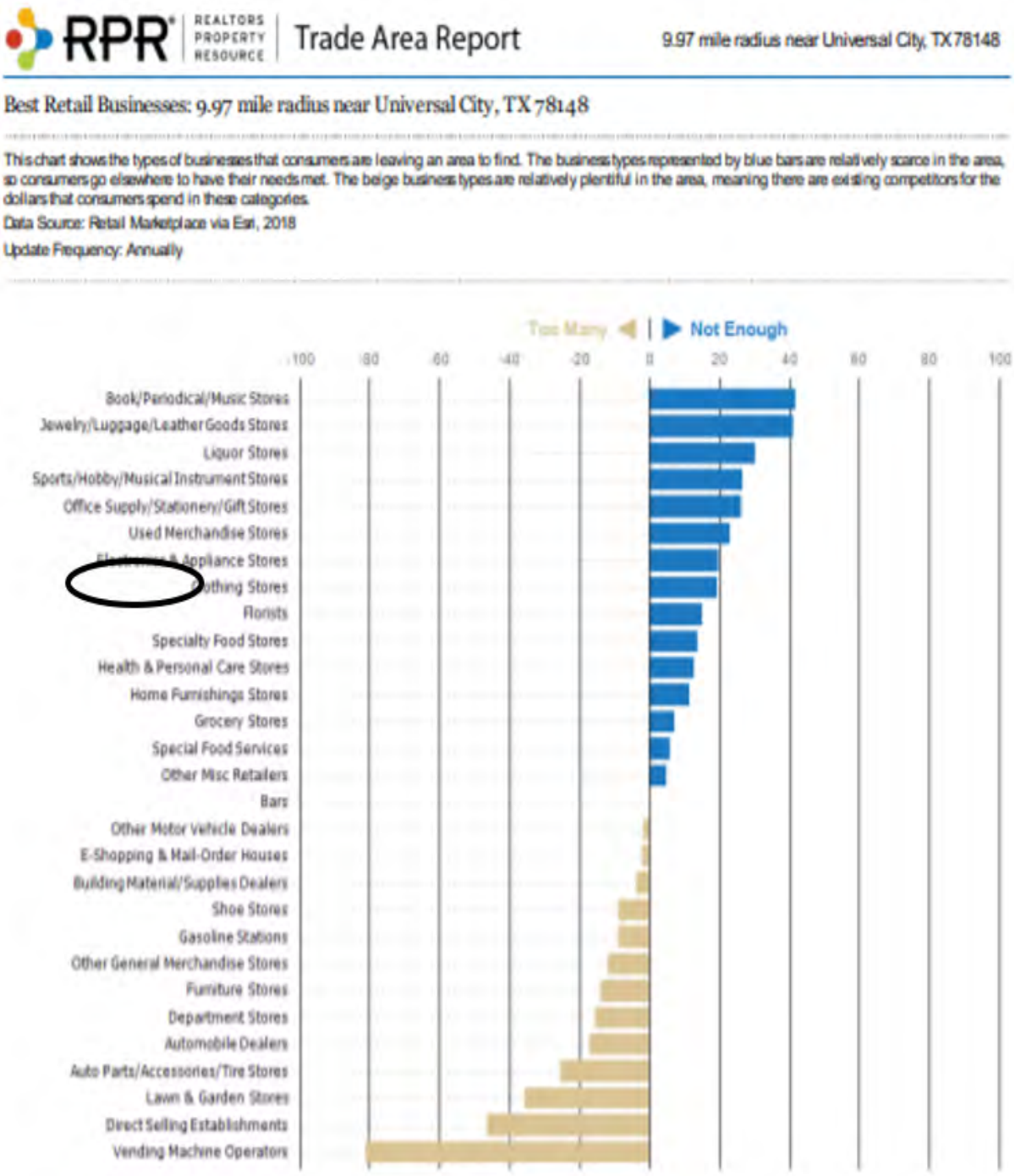
RPR® REALTORS PROPERTY RESOURCE

COMMERCIAL TRADE AREA REPORT

9.97 mile radius near Universal City, TX 78148



Notice that the clothing stores are needed in the area, although the data doesn't specify children's apparel:



Our client wants to target Soccer Moms and this area lists Soccer Moms as the second highest consumer segment:

Kid's Clothing
$313

Consumer Segmentation

Life Mode
What are the people like that live in this area? Middle Ground
Lifestyles of thirtysomethings

Urbanization
Where do people like this usually live? Urban Periphery
City life for starting families with single-family homes

Top Tapestry Segments	Bright Young Professionals	Soccer Moms	Metro Fusion	In Style	Midlife Constants
% of Households	2,291 (27.1%)	1,849 (21.8%)	914 (10.8%)	563 (6.7%)	562 (6.6%)
% of Bexar County	29,734 (4.2%)	23,221 (3.3%)	15,773 (2.2%)	7,702 (1.1%)	10,079 (1.4%)
Lifestyle Group	Middle Ground	Family Landscapes	Midtown Singles	GenXurban	GenXurban
Urbanization Group	Urban Periphery	Suburban Periphery	Urban Periphery	Metro Cities	Suburban Periphery
Residence Type	Multi-Units; Single Family	Single Family	Multi-Unit Rentals; Single Family	Single Family	Single Family
Household Type	Married Couples	Married Couples	Singles	Married Couples Without Kids	Married Without Kids
Average Household Size	2.4	2.96	2.63	2.33	2.3
Median Age	32.2	36.6	28.8	41.1	45.9
Diversity Index	65.4	48.3	84	36.9	34
Median Household Income	$50,000	$84,000	$33,000	$66,000	$48,000
Median Net Worth	$28,000	$252,000	$12,000	$128,000	$104,000
Median Home Value	--	$226,000	--	$214,000	$141,000
Homeownership	44.1 %	85.5 %	25 %	68.8 %	73.6 %
Average Monthly Rent	$1,000	--	$880	--	--
Employment	Professional or Services	Professional or Management	Services, Administration or Professional	Professional or Management	Professional or Services
Education	College Degree	College Degree	College Degree	College Degree	College Degree
Preferred Activities	Go to bars/clubs; attend concerts. Eat at fast food, family restaurants	Go jogging, biking, target shooting. Visit theme parks, zoos.	Spend money on what's hot unless saving for something specific. Follow football, soccer.	Support arts, concerts, theaters, museums. Use coupons, mobile coupons.	Attend church; are members of fraternal orders. Read; go fishing; play golf.
Financial	Own U.S. savings bonds; bank online	Carry high level of debt	Shop at discount grocery stores, Kmart, Walmart	Hold retirement savings, insurance policies	Have retirement income, Social Security
Media	Rent DVDs from Redbox or Netflix	Shop, bank online	Listen to R&B, rap, Latin, reggae music	Carry, use smartphones	Watch country, Christian TV channels
Vehicle	Own newer cars	Own 2+ vehicles (minivans, SUVs)	Owns used vehicles	Own late-model SUVs or trucks	Own domestic SUVs, trucks

RPR® REALTORS PROPERTY RESOURCE® | Trade Area Report

9.97 mile radius near Universal City, TX 78148

About this segment

Soccer Moms

This is the	In this area	In the United States
#2	21.8%	2.9%
dominant segment for this area	of households fall into this segment	of households fall into this segment

An overview of who makes up this segment across the United States

Who We Are

Soccer Moms is an affluent, family-oriented market with a country flavor. Residents are partial to new housing away from the bustle of the city but close enough to commute to professional job centers. Life in this suburban wilderness offsets the hectic pace of two working parents with growing children. They favor time-saving devices, like banking online or housekeeping services, and family-oriented pursuits.

Our Neighborhood

- Soccer Moms residents prefer the suburban periphery of metropolitan areas.
- Predominantly single family, homes are in newer neighborhoods, 36% built in the 1990s, 31% built since 2000.
- Owner-occupied homes have high rate of mortgages at 74%, and low rate vacancy at 5%.
- Median home value is $226,000.
- Most households are married couples with children; average household size is 2.96.
- Most households have 2 or 3 vehicles; long travel time to work including a disproportionate number commuting from a different county.

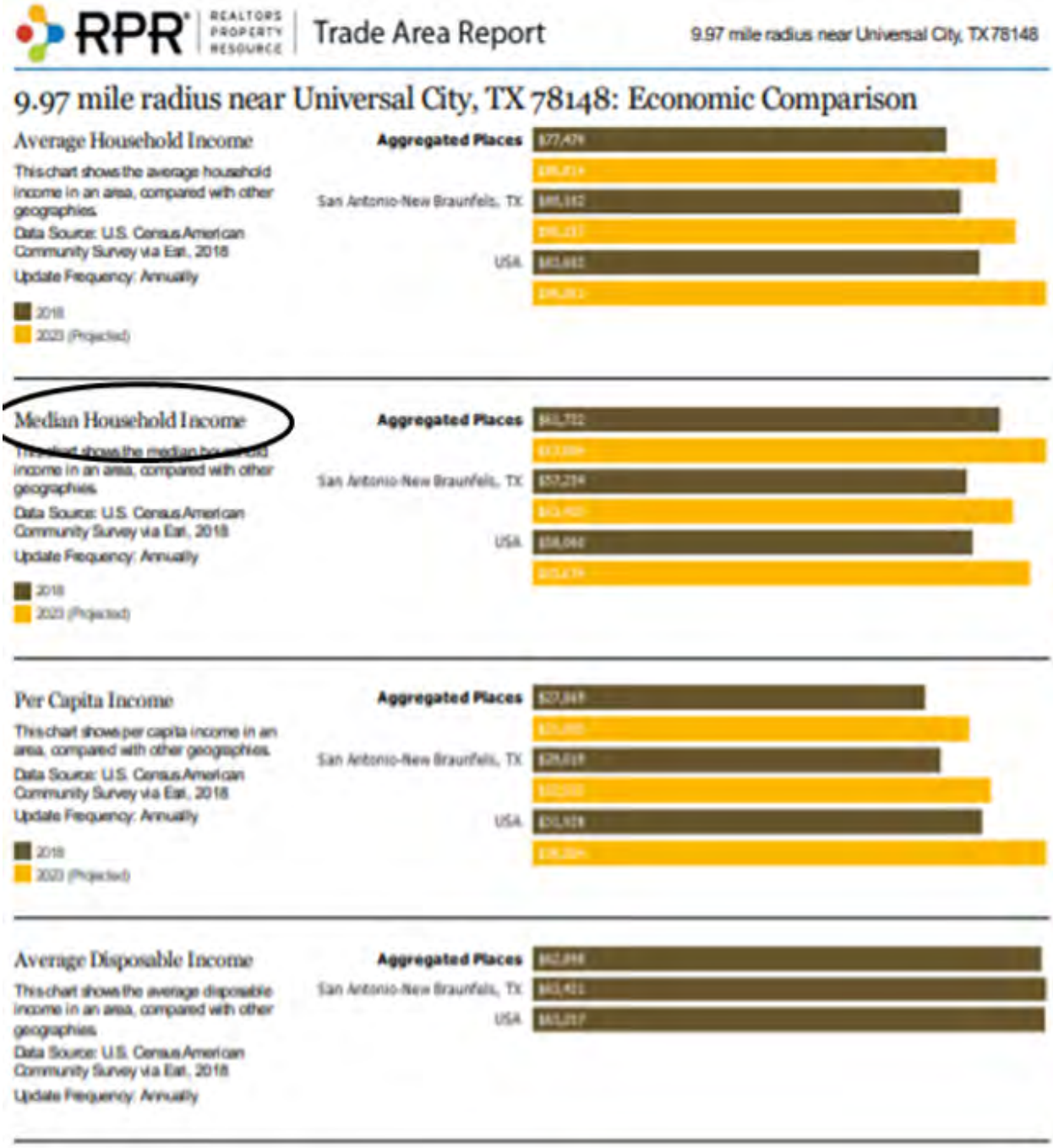
Socioeconomic Traits

- Education: 37.7% college graduates; more than 70% with some college education.
- Low unemployment at 5.9%; high labor force participation rate at 72%; 2 out of 3 households include 2+ workers.
- Connected, with a host of wireless devices from iPods to tablets-anything that enables convenience, like banking, paying bills or even shopping online.
- Well insured and invested in a range of funds, from savings accounts or bonds to stocks.
- Carry a higher level of debt, including first and second mortgages and auto loans.

Market Profile

- Most households own at least two vehicles; the most popular types are minivans and SUVs.
- Family-oriented purchases and activities dominate, like 4+ televisions, movie purchases or rentals, children's apparel and toys, and visits to theme parks or zoos.
- Outdoor activities and sports are characteristic of life in the suburban periphery, like bicycling, jogging, golfing, boating, and target shooting.
- Home maintenance services are frequently contracted, but these families also like their gardens and own the tools for minor upkeep, like riding mowers and tillers.

The client median household income requirement is $50,000 or more and this area is $61,722 which meets the client's demand:



RPR® REALTORS PROPERTY RESOURCE® | Trade Area Report

9.97 mile radius near Universal City, TX 78148

9.97 mile radius near Universal City, TX 78148: Economic Comparison

Average Household Income

This chart shows the average household income in an area, compared with other geographies.

Data Source: U.S. Census American Community Survey via Esri, 2018

Update Frequency: Annually

2018

2023 (Projected)

Aggregated Places

San Antonio-New Braunfels, TX

USA

Median Household Income

This chart shows the median household income in an area, compared with other geographies.

Data Source: U.S. Census American Community Survey via Esri, 2018

Update Frequency: Annually

2018

2023 (Projected)

Aggregated Places

San Antonio-New Braunfels, TX

USA

Per Capita Income

This chart shows per capita income in an area, compared with other geographies.

Data Source: U.S. Census American Community Survey via Esri, 2018

Update Frequency: Annually

2018

2023 (Projected)

Aggregated Places

San Antonio-New Braunfels, TX

USA

Average Disposable Income

This chart shows the average disposable income in an area, compared with other geographies.

Data Source: U.S. Census American Community Survey via Esri, 2018

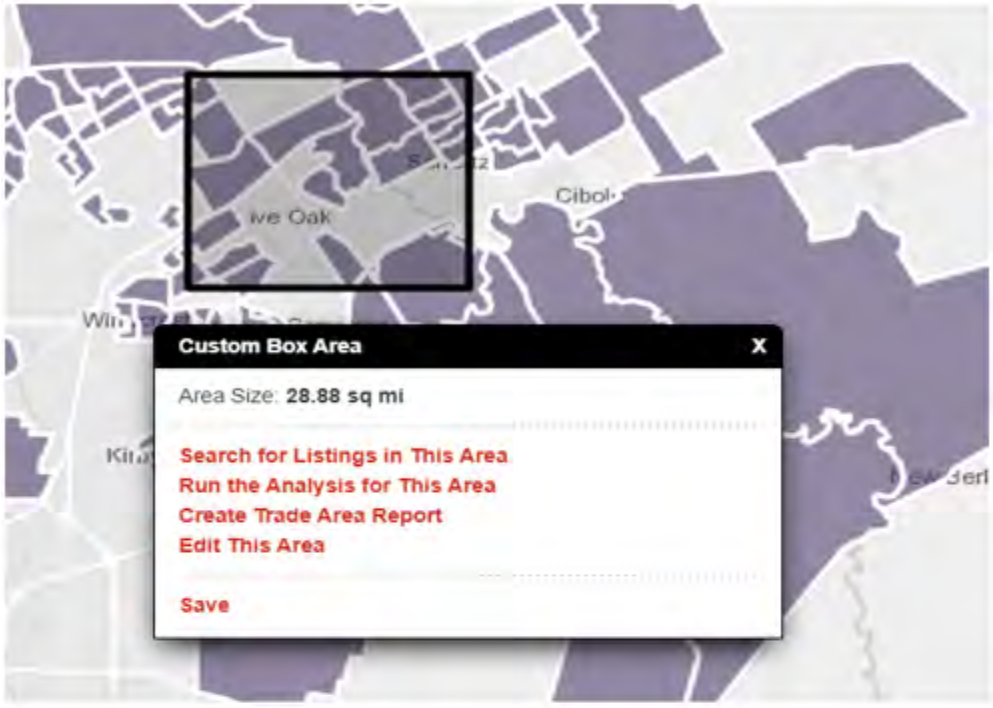
Update Frequency: Annually

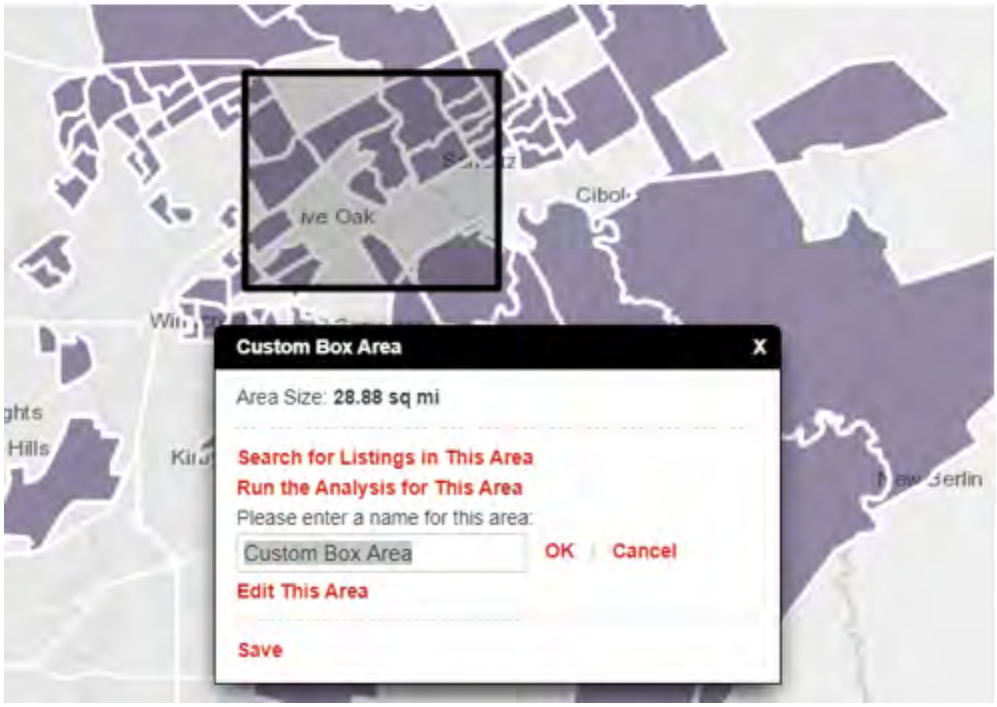
Aggregated Places

San Antonio-New Braunfels, TX

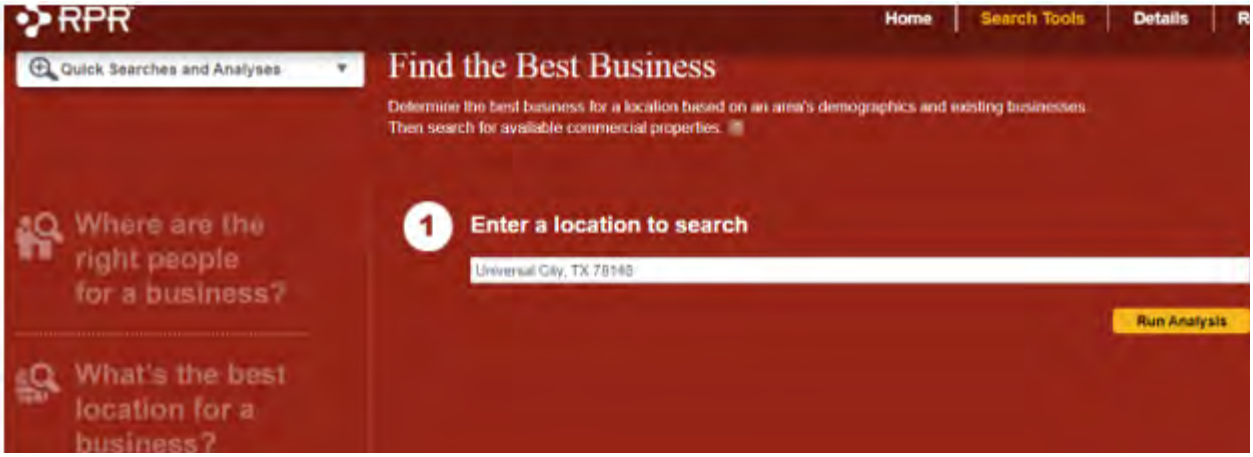
USA

Now, suppose we wanted to narrow our original search within the 10-mile radius. We can accomplish this by drawing a custom area. In this case, we chose to use a box, but other patterns are also available. Click Run the Analysis for this Area:

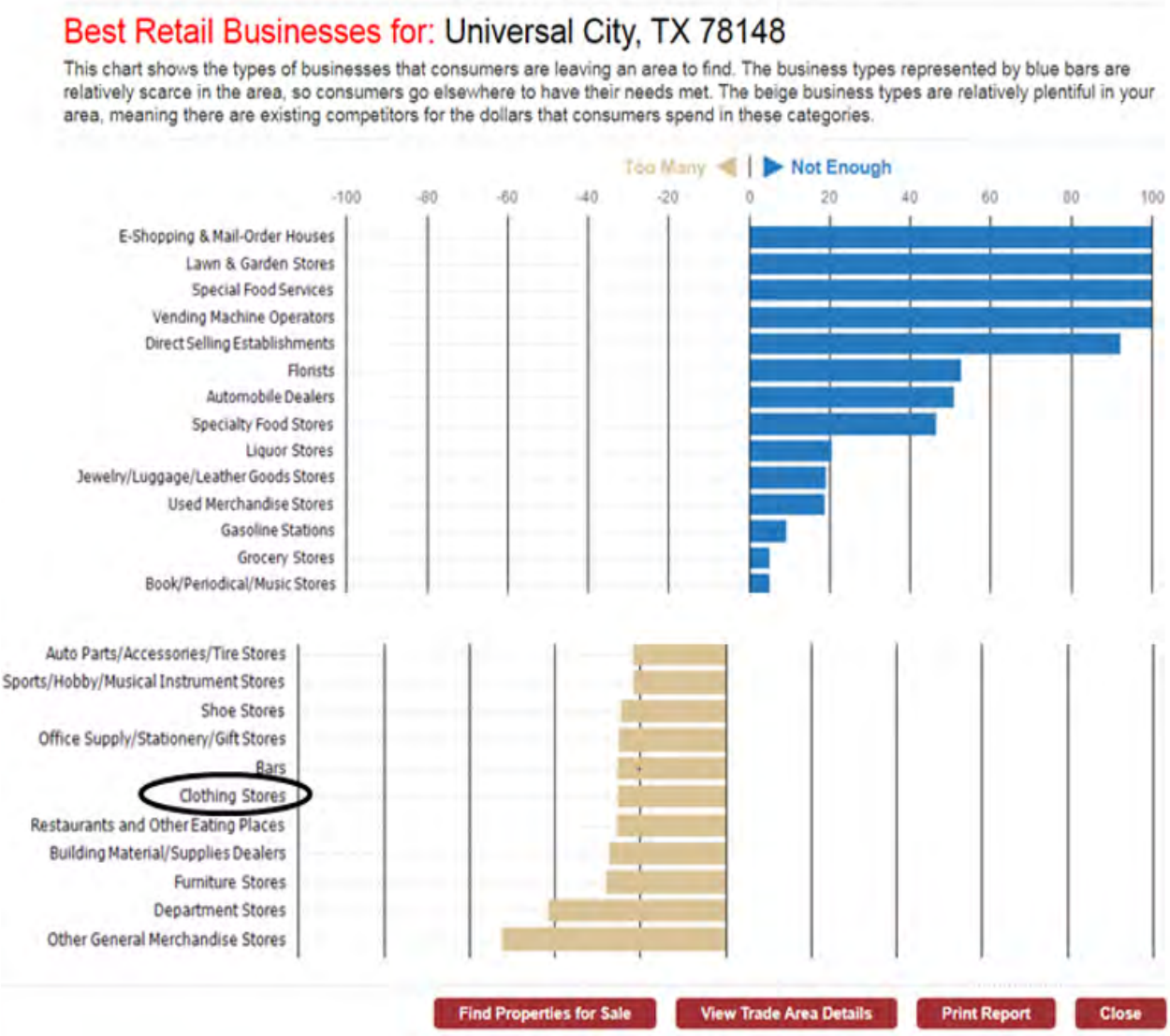




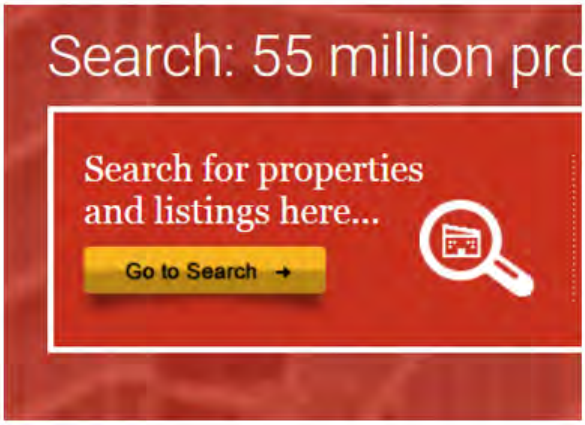
Click OK then run the Trade Area Report again:

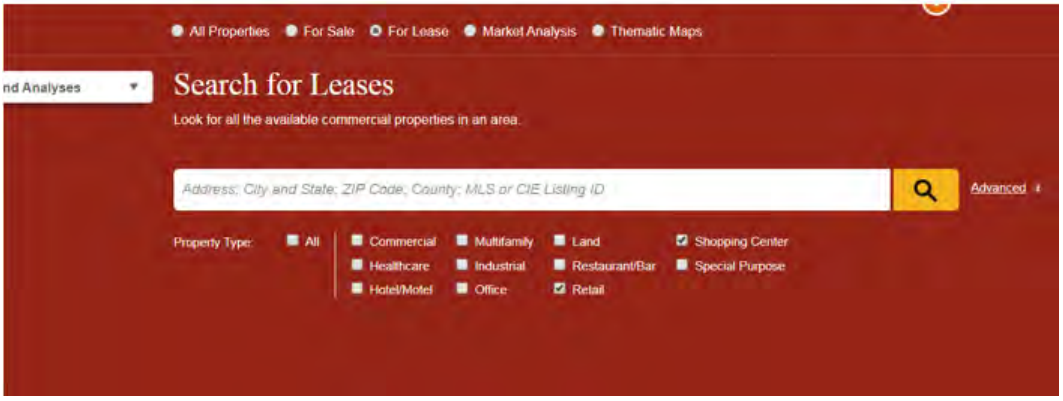


In the area we selected, Children's Apparel isn't listed, but clothing stores seem to be in excess;

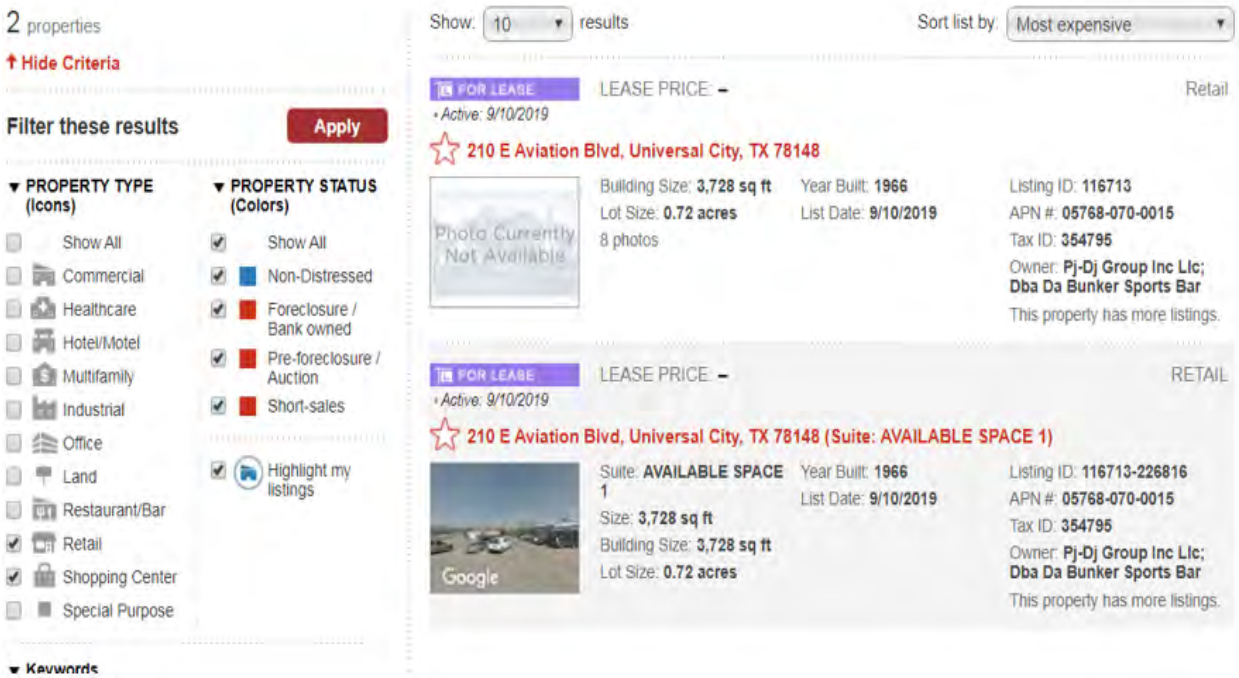


Now, let's locate a property to lease by returning to the homepage and selecting Search:

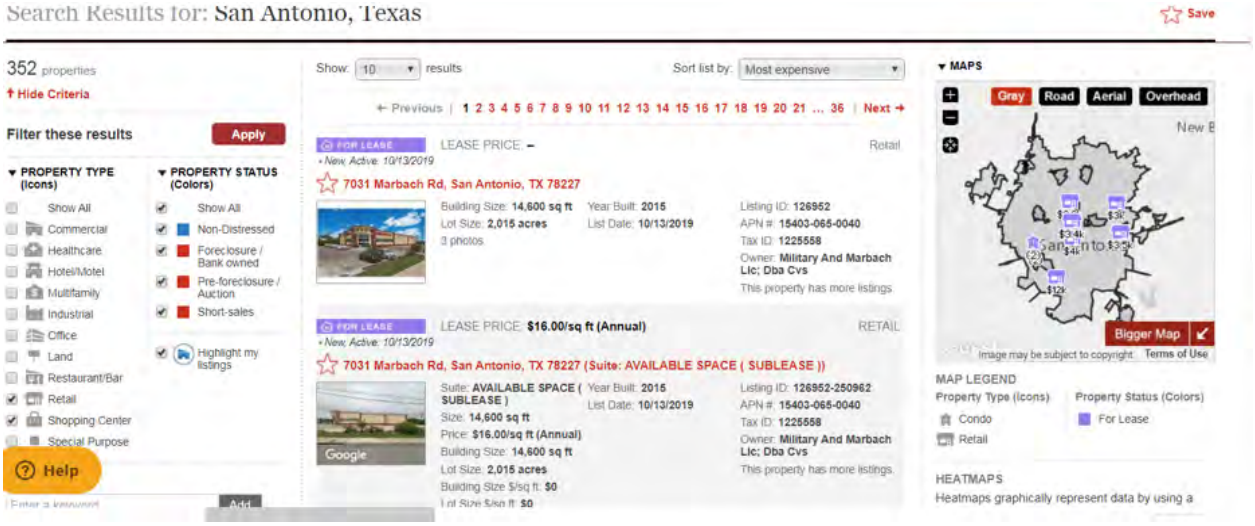




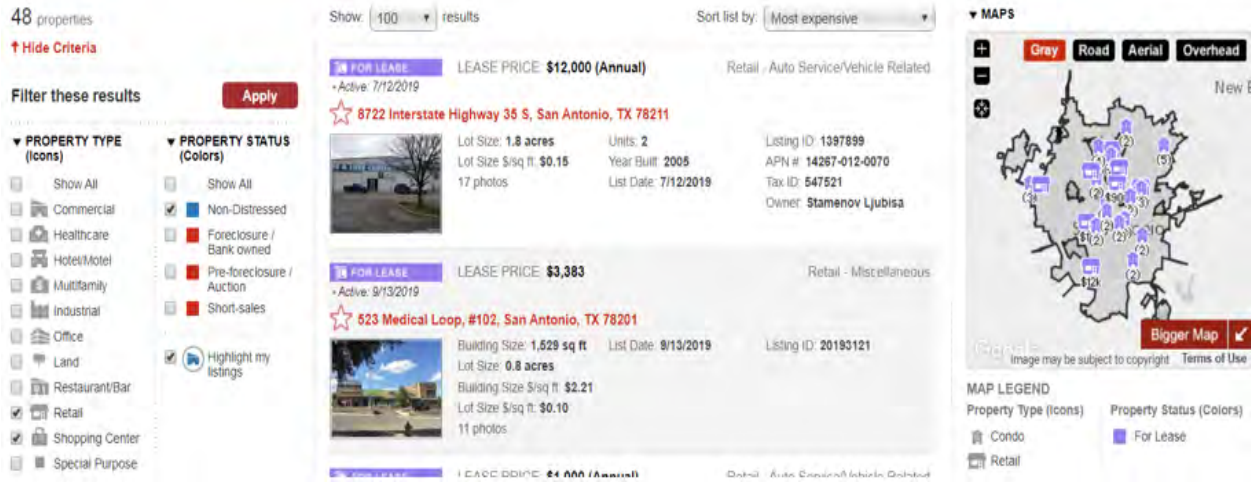
As you can see from the RPR® output, availability is limited for this sub area:



Since the available space for lease rendered only 2 results and neither of which appear to suit the client's needs. Let's try to broaden our search for retail and shopping properties for all of San Antonio:



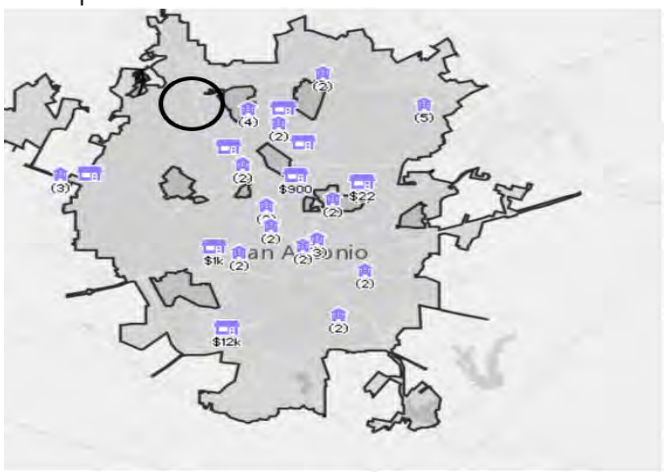
Here we have 352 results, so let's further define our criteria by selecting our price per square foot and desired square footage located in the left margin and clicking Apply. We have now narrowed the properties to 48.



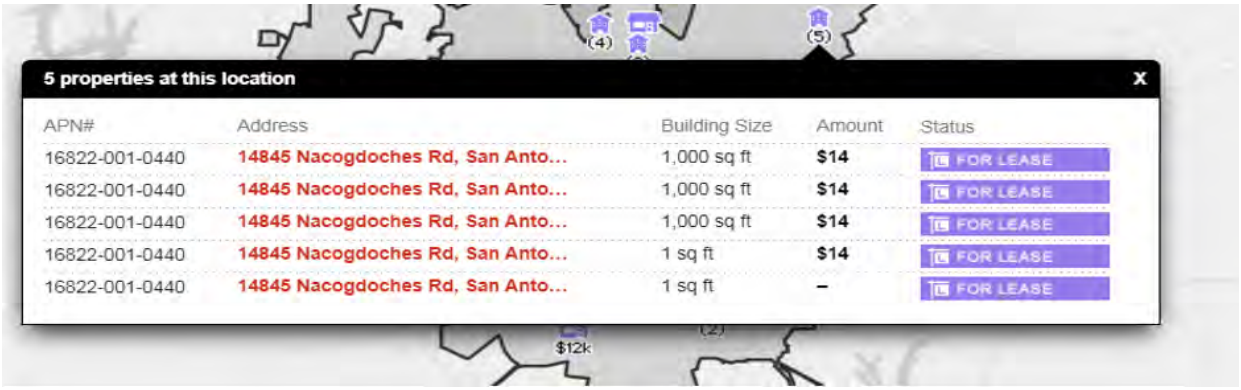
Let's see where the properties are located by selecting Bigger Map and at the bottom you can display all 48 by choosing to show 50 results.



Here's our new map:



Looks like there are 5 properties in the upper right corner near our desired area and when we click on the icon the following results are displayed:



But none of these results are suitable, so we'll have to keep looking.

Let's try using another resource for comparison. Since LoopNet™ is free, let's continue this exercise by going to www.loopnet.com , selecting Lease, Retail and zip code 78148 (our preferred location). Then enter the price/square foot at $10 and amount of space up to 2500 sf and view the results.

When we ran the data search, a suitable property was located in a large retail neighborhood center approximately 7 miles west of Randolph Air Force Base at a rental rate of $10/sf/year NNN with 1980 available sf. What did you come up with from today's search? If nothing appeared in your search, what can you do to modify the search criteria? If the results are still unacceptable, how would you address this with your client?

NEGOTIATING THE DEAL

As licensed agents you are well aware of the importance of having effective negotiation skills. Residential agents understand the needs and wants of their clients and act as a conduit between principals to negotiate the best deal for their client.

Commercial real estate agents act in a similar capacity, but unlike most residential principals who are basing their decisions largely on whether the property can serve their personal enjoyment needs, commercial principals are motivated by income opportunity; the opportunity cost of capital, the opportunity to build wealth through equity appreciation, the opportunity to create an income generating investment into retirement, the opportunity to sell at a profit and to reinvest that capital into other growth opportunities and more. Throughout this section we will introduce some of the basic negotiation practices undertaken by successful commercial agents.

The negotiation process is often referred to as an art form. The art of negotiation is a skilled process where negotiators attempt to capitalize on the strengths and weaknesses of competing parties to the benefit of their client. Since commercial real estate property principals are considered to be sophisticated and knowledgeable investors, the negotiation challenges for CRE agents can be more difficult and complex than for residential agents.

Strategy

One of the first lessons learned by effective negotiators is that the best deals incorporate elements from both parties. Agents should recognize that both parties will have already determined what they intend to achieve from a deal prior to entering into the negotiation process. Effective agents attempt to understand the desired outcomes and priorities of both parties so that a negotiation strategy can be framed.

The ability to understand where the negotiation boundaries lie for another other party is often challenging, but sometimes clues can be uncovered through careful observations about the nature of their inquiries and whether those inquiries were property specific or strictly related to the motivation of the principal. Oftentimes, knowledge pertaining to the party's prior investment behavior can provide agents with valuable information regarding patterns of negotiation behaviors and preferences.

An important element for agents to discuss with their client early on is that if negotiations reach an impasse, what alternative positions are they willing to accept to get the deal done? These positions can incorporate many scenarios. This is a great opportunity for agents to creatively work with their client to find theoretical common ground with the other party and to set the stage for successful negotiations with clearly defined expectations.

One effective negotiation method often used by agents is to provide the other party with a list of reasons why the deal is advantageous to them. It is important to note that the list should contain positive elements, not negative ones. Remember that one of the quickest ways to kill a deal is to offend the other party by telling them what's wrong with their arguments. If they claim the property is overvalued or the offer isn't worthy of a response, don't argue with them. Try to find some common ground by highlighting the points that both parties agree upon and tackle the differences later. If a concern is raised about a property that is factually incorrect, it is better to assuage their concerns by providing persuasive documentation to them as a means to assist them in their decision process rather than to simply object to their position.

Good communication skills are often the difference between a deal or no deal. Even though as an agent you represent only one of the parties, your communicative

conduct should not appear to be abrasive or unhelpful. It's important to ensure that your agency relationship is clearly understood by all parties at the outset, but in the course of negotiations and pre-negotiations, it is often helpful to spend more time listening rather than speaking, even if the other party or their agent are insisting upon a position that you know your client would reject. Face-to-face contact is often very effective as it conveys a sense of seriousness and sincerity and is usually more effective than using strictly non-personal negotiations such as phone or email.

Even if the other party is firm and seemingly unwavering in their position, ask them politely if they would consider an alternative position that would still accomplish their objectives. This is a way to create an opening where there wasn't one before. If they agree, ask them if they have any thoughts about alternatives and that you will also discuss this with your client to see what options may be available. It's often effective to remind the other party that all parties want to put together a deal and that your client appreciates their interest. Always maintain an even composure regardless of what is said. Never express emotions, enthusiasm or discouragement, put on your best poker face!

An important point to make here is that the negotiating methods used by agents must never work to the detriment of your client. Never misrepresent your client's motivations or suggest to the other party that your client's position is flexible unless your client has authorized you to do so. Negotiations are a diplomatic process whereby you must protect your client's interests, but the way information is communicated to other parties is often the difference between a successful negotiation and one that fails.

If the negotiations fail, always convey to the other party that the door remains open should they consider revisiting the negotiation process.

EXERCISE 3 - SCENARIO-BASED LEARNING

Part 1
As a group, list the possible pre-lease negotiating motivations, objectives, and priorities for one of the following client representation scenarios:

1. Tenant Rep - a prospective tenant is a title company that wants to lease 3,000 square feet of space in a popular and growing market area. In order to gain greater market visibility, the title company wants to lease space in a Class A office building where rents have been increasing 3% per year. Another title company has also expressed interest in the same building but has yet to act upon it. Assume market rent is $30/square foot/year.
2. Buyer's Rep - AN owner of a 50 unit Class C multifamily building has held the property for 20 years with no loan and relatively few capital improvements completed in a part of town that is decreasing in popularity. The current average rental rate per unit is $100/month with an occupancy rate of 74% which is below historic average is 85%. Rents have remained unchanged for 5 years. Assume market Cap rate for industrial warehouses is 6%. There is an existing loan on the property that balloons in 3 years.
3. Sellers Rep - An owner of an industrial warehouse with 50,000 leasable square feet has been 100% leased to a large brick and mortar retail tenant at $8/square foot/year with 5 years remaining in the current lease. The tenant uses the space for inventory but is facing increasing competition from online retailers and decreasing in-store demand forcing them to reduce inventory. The warehouse is currently being utilized to 35% of its full capacity. Assume market Cap rate for industrial warehouse is 6%. There is an existing loan on the property that balloons in 3 years.

Scenario-based Learning, cont

Part 2
As a group, now list the possible pre-lease negotiating motivations, objectives, and priorities for the scenario you chose in Exercise 2, but assume the role of **the counter-party** as follows:

1. Landlord Rep - A prospective tenant is a title company that wants to lease 3,000 square feet of office space in a popular and growing market area. In order to gain greater market visibility, the title company wants to lease space in a Class A office building where rents have been increasing 3% per year and another title company has expressed interest in the same building but has yet to act upon it. Assume market rent is $30/square foot/year.
2. Seller's Rep - An owner of a 50-unit Class C multifamily building has held the property from 20 years with no loan and relatively few capital improvements completed in a part of town that is decreasing in popularity. The current average rental rate per unit is $1100/month with an occupancy rate of 74% which is below historic average of 85%. Rents have remained unchanged for 5 years. Assume market Cap rate for Class C is 10%.
3. Buyer's Rep - An owner of an industrial warehouse with 50,000 leasable square feet has been 100% leased to a large brick and mortar retail tenant at $8/square foot/year for 10 years with 5 years remaining in the current lease. The tenant uses the space for inventory but is facing increasing competition from online retailers and decreasing in store demand, forcing them to reduce inventory. The warehouse is currently being utilized to 35% of its full capacity. Assume market Cap is industrial warehouses is 6%. There is an existing loan on the property that balloons in 3 years.

QUIZ 1

Choose the correct answers for the following questions:

1. A pro-forma statement used in CRE represents the building's:

   a) lease performance

   b) operating performance

   c) simplified financial statement

   d) all of the above

2. A property's NOI margin represents:

   a) after tax profit

   b) losses

   c) investor's IRR

   d) efficiency of the property's cash flows

3. Which of the following are effective negotiation strategies?

   a) always leave the door open for further negotiations

   b) convey to the other party that you will try to get your client to assume a more realistic view of the offer

   c) communicate exclusively via email with the other party

   d) all of the above

4. Which of the following is a proven method for addressing a negotiation stalemate?

   a) prior to negotiations, ask you client what alternative positions they may be willing to accept

   b) walk away and see if the party reaches out to you

   c) tell the other party their position is unreasonable

   d) none of the above

CHAPTER 2: COMMERCIAL BROKERAGE

CRE EXIT STRATEGIES

As we continue to develop the practical applications of what we have covered since the beginning of this course, students may find it peculiar that we introduce CRE exit strategies after the negotiation chapter and prior to covering the various contract forms necessary to make the deal. After all, it would appear that an exit strategy is only helpful after the property has been owned for a while. But in fact, an exit strategy should be considered prior to negotiation as a part of the buyer's financial analysis.

In many sections of this manual we have already applied several aspects of an exit strategy when we determined the investor's holding period to project future cash flows, property value at reversion and the terminal CAP rate. As we have learned, investors will determine an IRR based on these expected cash flows. However, a comprehensive exit strategy involves greater analysis.

No informed investor will undertake, nor should they undertake an investment without a viable exit plan. For example, suppose you invested in a stock trading for $10/share but you think its value could double in the next year based on new product initiatives and at the end of 10 months the price is $24/share. Would you hold it or sell it? You might be inclined to sell it because it has reached and even exceeded its anticipated value. But if you sell it prior to owning it for 1 year you will pay the higher short-term capital gains tax. Perhaps instead you'll hold it beyond a year to benefit from the lower long-term capital gains tax, or even consider holding it into the next calendar year to minimize the tax consequences of sale if other gains were taken in that same calendar year. Before you decide, you will evaluate the options for exiting the investment. Many of those options, such as the target price to sell, are made prior to investing.

Similarly, commercial real estate investors will consider many factors as a part of their exit strategy. Tax consequences of sale include state income tax, capital gains and depreciation recapture, all of which are significant factors for consideration prior to acquisition and sale.

In an earlier section of this manual we covered the depreciation tax benefit to the investor where the improvements are depreciated over a period of time as an adjustment to net income, thereby increasing the investor's net cash flow after taxes (CFAT). At time of sale, the depreciation deductions are recaptured and subject to tax. Some large institutional investors may be a tax exempt nonprofit entity under Section 501(c)(3) and as such will not be concerned about the tax consequences of sale. But most of the investors that agents will work with are not tax exempt and are subject to tax on the gain and depreciation recapture.

The tax liabilities to investors at time of sale can severely impact the net return to

the investor over the holding period and as such may discourage investment in CRE absent a method to defer the gains to a later period or indefinitely.

1031 Exchange

Many students may have heard of the term 1031 like-kind exchange as a means to exchange one property for another to avoid the tax consequences of sale. But in fact, the potential tax liabilities of sale are deferred into the future or indefinitely under the Internal Revenue Code §1031, rather than forgiven, as long as certain requirements are met.

The importance of the tax deferred exchange to CRE investors cannot be overstated. It is an effective tool for wealth creation and the fuel for CRE demand. Under its construct, a property owner can sell a property to a buyer and acquire a different property from a seller without realizing the capital gain and recapture taxes associated with the sold property.

The process appears simple enough, but in fact it is quite complex. The IRS has set forth a number of requirements that must be met in order to qualify for the exchange under a safe harbor protection ruling. Not surprisingly, the process should be carefully managed and is often completed under the guidance of legal and tax professionals. Agents working with sellers interested in deferring the taxes at sale should advise clients to seek legal and tax counsel prior to contract to ensure that the proper disclosures and other protocols are met. In essence, both the debt and the equity at time of sale must be exchanged into the new property in order to receive the full tax benefits associated with the exchange. The following is an excerpt from the IRS: "If, as part of the exchange, you also receive other (not like-kind) property or money, you must recognize a gain to the extent of the other property and money received. You can't recognize a loss." (https://www.irs.gov/businesses/small-businesses-self-employed/like-kind-exchanges-real-estate-tax-tips)

Another term commonly used to describe benefits to the seller that would not qualify for a like-kind exchange is ***boot.*** Boot is an old English term meaning "something given in addition to." If a seller receives boot as a part of the exchange, it wouldn't necessarily disqualify the exchange, but the boot would be taxable.

Exchange Process

Before we begin to describe the process of a like-kind exchange, a few terms should be clarified. The seller of a property is considered the "exchanger" since it is the seller's taxes that will be deferred. The property being sold is called the "relinquished property." The property being acquired by the exchanger (seller) is called the "replacement property." The property exchanged must be a "like-kind" replacement property.Many agents mistakenly believe "like-kind" means the same. For example, one misconception about the exchange process is that if an office property is sold, the replacement property must also be an office property. This is not correct. A "like-kind" property according to the IRS is defined as follows: "Properties are of like-kind if they're of the same nature or character, even if they differ in grade or quality. Real properties generally are of like-kind, regardless of whether they're improved

or unimproved." In other words, the term like-kind can describe many types of real property. Accordingly, the seller of an office building could exchange the property for an industrial building and if administered correctly, could still qualify as a like-kind exchange.

The exchange process begins with a contract for sale. Language is typically added to the contract obligating the principals to cooperate with the parties involved in the exchange process. In the Texas REALTORS® form TXR 1801 "Commercial Contract-Improved Property" Escrow section 18 (G), the cooperation language is already included and made a part of the agreement if selected.

An important next step is to ensure that the seller who is relinquishing the property does not receive any actual or constructive receipt of the funds which will be used to acquire the replacement property. One popular method to accomplish this is to utilize a ***qualified intermediary (QI)*** who will be responsible for actually selling the relinquished property and acquiring the replacement property and, accordingly, will act as principal for both transactions on behalf of the seller of the relinquished property. The Department of Treasury defines a qualified intermediary in the 1031 safe harbor protection section §1031(k)-1 (g)(4)(iii) as follows:

> (iii) A qualified intermediary is a person who—
> (A) Is not the taxpayer or a disqualified person (as defined in paragraph (k) of this section), and
> (B) Enters into a written agreement with the taxpayer (the "exchange agreement") and, as required by the ex-change agreement, acquires the relinquished property from the taxpayer, transfers the relinquished property, acquires the replacement property, and transfers the replacement property to the taxpayer.
> *https://www.govinfo.gov/content/pkg/CFR-2011-title26-vol11/pdf/CFR-2011-title26-vol11-part1-subjectgroup-id46.pdf*

Note that a real estate agent or broker may be a disqualified person for purposes of acting as a QI for the 1031 transaction as described below. Accordingly, sellers and buyers engaged in the 1031 exchange process hire outside agents or businesses engaged in 1031 exchange operations. The definition of a disqualified person is described by the Department of Treasury as follows: k) Definition of disqualified person.

> (1) For purposes of this section, **a disqualified person is a person described in paragraph (k)(2), (k)(3), or (k)(4)** of this section.
> (2) **The person is the agent of the tax-payer at the time of the transaction.** For this purpose, a person who has acted as the taxpayer's employee, attorney, accountant, investment banker or broker, **or real estate agent or broker within the 2-year period ending on the date of the transfer of the first of the relinquished properties is treated as an agent of the taxpayer at the time of the transaction.** Solely for purposes of this paragraph (k)(2), performance of the following services will not be taken into account—

(i) Services for the taxpayer with respect to exchanges of property intended to qualify for non-recognition of gain or loss under section 1031; and

(ii) Routine financial, title insurance, escrow, or trust services for the taxpayer by a financial institution, title insurance company, or escrow company.

(3) The person and the taxpayer bear a relationship described in either section 267(b) or section 707(b) (determined by substituting in each section "10 per-cent" for "50 percent" each place it appears).

(4)

(i) Except as provided in paragraph (k)(4)(ii) of this section, the person and a person described in paragraph (k)(2) of this section bear a relationship described in either section 267(b) or 707(b) (determined by substituting in each section "10 percent" for "50 percent" each place it appears).

(ii) In the case of a transfer of relinquished property made by a taxpayer on or after January 17, 2001, paragraph (k)(4)(i) of this section does not apply to a bank (as defined in section 581) or a bank affiliate if, but for this paragraph (k)(4)(ii), the bank or bank affiliate would be a disqualified person under paragraph (k)(4)(i) of this section solely because it is a member of the same controlled group (as determined under section 267(f)(1), substituting "10 percent" for "50 percent' where it appears) as a person that has provided in-vestment banking or brokerage services to the taxpayer within the 2-year period described in paragraph (k)(2) of this section. For purposes of this paragraph (k)(4)(ii), a bank affiliate is a corporation whose principal activity is rendering services to facilitate ex-changes of property intended to qualify for non-recognition of gain under section 1031 and all of whose stock is owned by either a bank or a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)).

*https://www.govinfo.gov/content/pkg/CFR-2011-title26-vol11/pdf/CFR-2011-title26-vol11-part1-subjectgroup-id46.pdf*Once the property is under contract, the seller will execute a deed to the actual buyer which will be recorded at close of escrow. The process of deeding directly to the buyer is called "direct deed."

But a replacement property still needs to be identified by the seller within 45 days of the closing date and cannot be changed once submitted. The replacement property must be a like-kind property and acquired within 180 days of closing. An important note here is that many times the sales of the relinquished property and acquisition of the replacement property take place as much as 180 days apart. There is no requirement that the entire exchange transaction be completed simultaneously. The proceeds received at closing will be held by the QI and the closing statement will reflect the QI as the seller. It is for this reason that the seller of the relinquished property carefully selects the QI. Many large exchange companies are bonded and as

such offer an added degree of security that the funds will be available when needed.

Once the replacement property is identified, the buyer who is now referred to as the "exchanger" will enter into a purchase agreement with the seller of the replacement property. Once again the cooperation clause contained in TXR-1801 (Commercial Contract – Improved Property) will be utilized. It is important to note that as we mentioned earlier, like-kind properties incorporate many property types including unimproved land. If unimproved land is either the relinquished or replacement property, agents should use Texas REALTORS® form TXR-1802 "Commercial Contract – Unimproved Property," section 18(G) pertains to a 1031 exchange.

At closing, the QI will provide the funds to the escrow agent and the closing statement will show the buyer as the QI. Throughout the sale and acquisition process the seller of the relinquished property and later as exchanger will assign their property rights to the QI to preserve the integrity of the process. The QI does not need to be in the chain of title, so final title will belong to the exchanger.

Other options available in a 1031 exchange are the ability to select one or multiple replacement properties. There are three rules regarding the selection of multiple properties:

1. Three property rule – 3 replacement properties that will serve as replacements for the relinquished property can be selected without regard to their fair market value.
2. 200% rule – any number of properties may be selected by the exchanger so long as the fair market value for the combined replacement properties doesn't exceed 200% of the fair market value of the relinquished property.
3. 95% exception – if the exchanger chooses more properties than allowed above, as long as the exchanger actually receives replacement property worth at least 95% of the fair market value of all of the identified replacement properties, the exchange will be allowed. In other words, as long as an exchanger identifies the properties (any number of properties) by the end of the 45 day identification period, if the aggregate sum value of those properties beyond rules 1 and 2 above accounts for 95% of the fair market of the relinquished property, then it will be allowed.

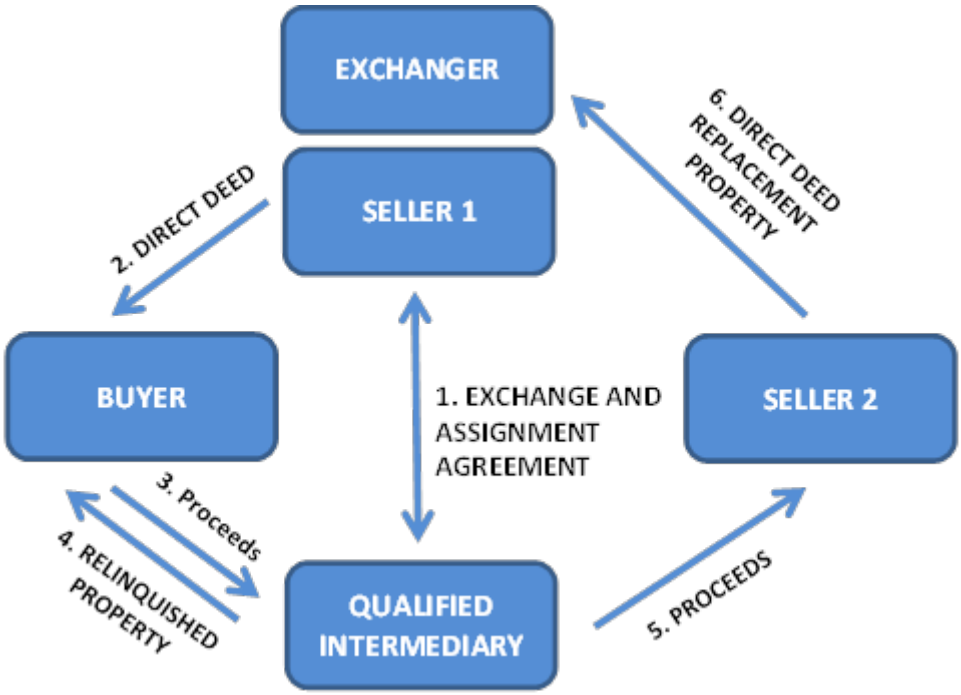
As you can already see, the process can be very complex and the number of 1031 exchange options numerous to include the popular reverse 1031 which is beyond the scope of this course. There are entire classes devoted to the 1031 exchange processes offered by CCIM and others.

One question that is often asked is whether a QI is necessary in the case of a simultaneous closing for both the relinquished and replacement property. The answer is probably no, but given the consequences of failing to comply with the IRS rules, the best answer is for clients to consult with their legal and tax advisors.

The following illustration demonstrates the 1031 exchange process:

1. Seller enters into an exchange and assignment agreement with a QI.
2. Seller direct deeds the property to the buyer
3. Proceeds are paid to the QI who acts as principal at closing
4. Relinquished property title granted to buyer
5. QI provides funds from the proceeds of the relinquished property and is credited at closing to seller 2 who is the owner of the replacement property
6. Seller 2 direct deeds the replacement property to the exchanger

1031 Exchange Process



Alternative Tax-Free Investments

Earlier in this section we defined the meaning of a like-kind property noting the broad definition of the term which can include may property types. But an active interest in a replacement property isn't always required. One type of passive 1031 exchange alternative is an investment into a syndicated Delaware Statutory Trust (DST). DST sponsors acquire institutional level CRE investment properties providing investors with the opportunity to exchange debt and equity for a share of the property returns. These types of securities carry high risks for the investor, are regulated by the Securities and Exchange Commission and are only open to accredited investors. DST investments are managed through a licensed securities broker. Real estate brokers cannot receive a referral fee for a DST investment unless licensed under Financial Industry Regulatory Authority (FINRA).

Qualified opportunity zones offer a tax free opportunity for investors to defer, or even forgive, capital gain and recapture taxes by investing in economically distressed areas certified by the U.S. Treasury that are in need of private capital for development. Opportunity zone investments while not a like-kind 1031 exchange, provide similar tax benefits to sellers of CRE properties.

FIRPTA

The Foreign Investment in Real Property Tax Act (FIRPTA) applies to non U.S. sellers of real estate held in the U.S. The act requires that 15% of the sales price be withheld by the seller at closing. The purpose of the withholding is to ensure that the foreign owner files a tax return and pays the appropriate taxes to the IRS prior to receiving those funds. The funds will eventually be released to the seller upon satisfaction with the IRS requirements.

Texas real estate is becoming increasingly more popular with foreign investors. Most foreign buyers and sellers of CRE assets in the U.S. are well aware of the FIRPTA requirements. Not unlike domestic investors, many foreign investors will prefer the 1031 exchange option to a straight sale for the reasons covered earlier in this section and to avoid FIRPTA withholding. Note, however, that certain foreign entities may be exempt from FIRPTA withholdings under qualified exception rules.

Renovation, Rehab, Or Repurposing The Property

We have covered the key exit strategy considerations for property owners. Another type of exit strategy is actually an exit alternative. In some cases sellers may benefit from a renovation or rehabilitation of the property to enhance the cash flow opportunities realized by offering a more competitive and desirable property to the space market. In other cases, an existing asset can be repurposed and transformed to a higher best use to gain greater market value. Regardless of the opportunities considered, a thoughtful exit plan can be crafted with the assistance of real estate agents to better understand the risks and opportunities prior to investment and throughout the holding period.

NON-DISCLOSURE & CONFIDENTIALITY AGREEMENTS (NDA)

The use of non-disclosure agreements (NDA) in commercial real estate is very common. Anytime principals provide sensitive information such as financials to the other party, the expectation is that the information will not be made available to others without authorization from the party that provided the information. Pro-forma statements given to prospective buyers are a typical example of when an NDA is required by the seller. NDAs can be mutual whereby both parties agree to maintain confidentiality, or unilateral where only one party is obligated.

NDAs are drafted by attorneys for their clients and as such agents may see a variety of different versions. A Commercial Request for Evaluation Materials and Confidentiality Agreement form TXR-1947 is available from Texas REALTORS® forms page on their website. Basic elements typically include the names of the parties and the specifics as to the material deemed confidential, and for how long the NDA remains in effect. Agents should consult with their managing broker for brokerage policies regarding the use of an NDA.

TEXAS REALTORS

COMMERCIAL REQUEST FOR EVALUATION MATERIALS AND CONFIDENTIALITY AGREEMENT

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Property: _____

Seller: _____

Broker: _____

Prospect: _____

The undersigned as a prospective purchaser of the Property ("Prospect") requests information for review regarding the Property ("Evaluation Materials"). Broker represents Seller in connection with the Property. In consideration of Seller and Broker making the Evaluation Materials available to Prospect, Prospect agrees as follows:

1. The Evaluation Materials will not be used for any purpose other than to evaluate a possible purchase of the Property. Prospect will hold the Evaluation Materials confidential pursuant to the terms of this agreement. The Evaluation Materials will at all times remain the property of Seller.
2. Prospect will not make any of the Evaluation Materials available, or disclose or distribute, either orally or in writing, any of the contents of the Evaluation Materials to any person other than Prospect's broker, counsel, analyst(s), partner(s), or potential lender(s) (collectively, "Prospect's Team").
3. Prospect will inform each member of Prospect's Team of the confidential nature of the Evaluation Materials and the existence and terms of this Agreement prior to making the Evaluation Materials available to such member of Prospect's Team. Prospect will cause each member of Prospect's Team, as Prospect's agents, to comply with all nondisclosure requirements and all other terms of this agreement.
4. Prospect and Prospect's Team will not disclose to any other person the fact that the Evaluation Materials have been made available to Prospect and Prospect's Team, that any discussion is taking place concerning a potential transaction involving the Property, or any of the terms, conditions or other facts with respect to any such transaction, including the status thereof.
5. Prospect will not contact any tenant or property management staff of the Property in connection with its review of the Evaluation Materials. Any and all questions related to the Evaluation Materials must be directed solely to Broker.
6. Prospect acknowledges that neither Seller nor Broker has made any representation, warranty or guarantee as to the completeness or accuracy of the Evaluation Materials. Prospect will defend, indemnify and hold Seller and Broker harmless from and against all loss, damage or expense sustained or incurred by Seller or Broker by reason of any unauthorized distribution or disclosure of the Evaluation Materials by Prospect or by any member of Prospect's Team, or any other violation of this agreement by Prospect or by any member of Prospect's Team.
7. Seller may elect at any time to terminate access to the Evaluation Materials. Prospect will, upon written request by Seller or Broker, promptly return all written Evaluation Materials. Prospect will not retain copies of the Evaluation Materials or any analysis of the information in the Evaluation Materials.

This agreement does not restrict disclosure or use of portions of the Evaluation Materials that are not confidential information. Information in the Evaluation Materials is not confidential information if that information (i) is now or hereafter becomes known to the public or in the public domain other than through Prospect's fault or breach or as a result of a disclosure or other act by any member of Prospect's Team, or (ii) was independently developed or acquired by Prospect or a member of Prospect's Team from a third party who

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rightfully obtained such information and was not itself bound by a confidentiality agreement with or other obligation of secrecy to Seller.

Disclosure of the confidential portions of the Evaluation Materials in violation of the agreement will cause irreparable injury to Seller. Seller is entitled, without waiving any other rights or remedies, to obtain an injunction against unauthorized disclosure or the use of the Evaluation Materials, whether threatened or actual.

This is not an agreement to sell or purchase the Property, nor an offer of sale or purchase. The Evaluation Materials are intended solely for Prospect's own limited use in considering whether to pursue negotiations to acquire the Property. No agreement will exist that is binding upon Seller, or any of its affiliates, until Seller or its affiliate executes a formal binding agreement of sale. Seller reserves the right in its sole discretion to reject any or all proposals or expressions or interest in the Property and to terminate discussions and negotiations with any party at any time.

Date executed: _____, 20____

Prospect: _____

_____

Address: _____

_____

Phone: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

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LETTER OF INTENT TO PURCHASE AND LEASE (LOI)

Unlike residential real estate where a party's intent to purchase or lease a property is made through a written offer, commercial real estate interests typically begin with a letter of intent (LOI). A LOI is non-binding and is written by the buyer or tenant. It simply details the intended actions required of both parties as the basis for starting negotiations.

Agents can access pre-printed LOI forms from the Texas REALTORS® website for their use. TXR-1803 - Commercial Letter of Intent to Purchase and TXR-2122 - Commercial Letter of Intent to Lease can be viewed on the following pages.

Once an LOI is accepted by both parties, the next step is to formalize the intent to purchase or lease through the use of a mutually acceptable contract form.

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COMMERCIAL LETTER OF INTENT TO PURCHASE

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This letter of intent summarizes the general terms of a proposed purchase and sale agreement between Seller and Buyer. The terms of this letter of intent are not binding upon either Seller or Buyer.

SELLER: _____

_____

Address: _____

Phone: _____ E-mail: _____

Fax: _____ Other: _____

BUYER: _____

_____

Address: _____

Phone: _____ E-mail: _____

Fax: _____ Other: _____

PROPERTY: _____

_____

_____

_____

SALES PRICE: $ _____, being:

- ❑ cash in the amount of .... $_____
- ❑ Third Party Financing totaling .... $_____
- ❑ Assumption of existing loan with a balance of .. $_____
- ❑ Seller Financing in the amount of .... $_____

EARNEST MONEY: $_____

TITLE COMPANY: _____

FEASIBILITY PERIOD: _____ days after the effective date.

FINANCING CONTINGENCY _____ days after the effective date.

CLOSING DATE:

- ❑ _____ days after the expiration of the feasibility period.
- ❑ _____ *(specific date)*.
- ❑ _____

TITLE POLICY: cost paid by ❑ Seller ❑ Buyer. The ❑ Seller ❑ Buyer shall pay the additional cost for the survey modification.

SURVEY:

- ❑ Buyer will obtain new survey at Buyer's expense. Seller will reimburse up to $_____ of cost.
- ❑ Seller will obtain new survey at Seller's expense. Buyer will reimburse up to $_____ of cost.
- ❑ Seller will provide Seller's existing survey.

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Letter of Intent concerning: _____

DEED TYPE: ❑ general ❑ special warranty deed.

BROKERS:

Representing Seller: _____

_____

Representing Buyer: _____

_____

Seller will pay fees: ❑ as specified by separate written commission agreement, or ❑ as follows

Seller's Broker a total cash fee of:	Buyer's Broker a total cash fee of:
❑ _____ % of the sales price.	❑ _____ % of the sales price.
❑ _____.	❑ _____.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

PROPERTY CONDITION: Buyer will accept the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

_____

_____

ASSIGNMENT: Buyer ❑ may ❑ may not assign the contract.

SPECIAL PROVISIONS: _____

_____

_____

_____

_____

_____

_____

_____

_____

NON-BINDING: THIS LETTER OF INTENT IS NOT INTENDED TO BE A LEGALLY-BINDING AGREEMENT OF PURCHASE AND SALE. NEITHER PARTY SHALL BE BOUND OR HAVE THE OBLIGATION TO PURSUE NEGOTIATIONS OR ANY OTHER OBLIGATIONS OF ANY KIND, UNLESS AND UNTIL A DEFINITIVE CONTRACT IS HEREAFTER SIGNED AND DELIVERED BY THE PARTIES. NO DEFINITIVE CONTRACT SHALL BE ENTERED INTO UNLESS IT IS SATISFACTORY TO BOTH BUYER AND SELLER, IN THEIR SOLE DISCRETION.

If this proposal is acceptable, please indicate by signing below and returning a fully executed copy of this letter to my attention.

❑ Seller ❑ Buyer will prepare a draft of a purchase and sale agreement utilizing the current Texas REALTORS® form 1801 (Improved), 1802 (Unimproved), or such other form as the parties agree.

EXPIRATION: If the party receiving this letter of intent desires to pursue negotiations along the terms detailed in this letter of intent, the party delivering this letter of intent requests that the receiving party sign a copy of this letter of intent, and deliver the signed copy to the delivering party by 5:00 p.m. on _____, _____.

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Letter of Intent concerning: _____

Seller: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

Buyer: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

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TEXAS REALTORS

COMMERCIAL LETTER OF INTENT TO LEASE

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This letter of intent summarizes the general terms of a proposed lease between Landlord and Tenant. The terms of this letter of intent are not binding upon either Landlord or Tenant.

LANDLORD: _____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

TENANT: _____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

LEASED PREMISES: _____

TERM: _____ ❑ days ❑ months ❑ years, commencing on: _____

BASE MONTHLY RENT:

Dates		Rate per rentable square foot *(optional)*		Base Monthly Rent $
From	To	$ Monthly Rate	$ Annual Rate	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	

ADDITIONAL RENT:

❑ (1) Expense Reimbursement of: ❑ taxes; ❑ insurance; ❑ CAM; ❑ structural; and ❑ _____
Payable as: ❑ full pro rata share
❑ pro rata share in excess of base year of _____
❑ pro rata share in excess of expense stop of $_____

❑ (2) Percentage Rent: _____% of Tenant's gross sales in excess of:
❑ Base Rent (natural break)
❑ _____

❑ (3) Parking $_____ for the following parking spaces:
❑ _____Common parking area spaces
❑ _____Restricted parking area spaces
❑ _____Reserved parking spaces

RENEWAL OPTIONS: _____

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Letter of Intent concerning: _____

_____

_____

_____

SECURITY DEPOSIT: $_____

TENANT'S USE: _____

_____

_____

TENANT IMPROVEMENTS: _____

_____

_____

❑ To be completed by Landlord on or before _____
Landlord's cost for completion of the Tenant improvements is limited to: $_____

❑ To be completed by Tenant. Landlord will reimburse Tenant the cost of the improvements in an amount that does not exceed _____

_____

BROKERS:

Representing Landlord: _____

_____

Representing Tenant: _____

_____

Landlord will pay fees: ❑ as specified by separate written commission agreement, or ❑ as follows

Landlord's Broker a total cash fee of:	Tenant's Broker a total cash fee of:
❑ _____ % of all base monthly rents and expense reimbursements	❑ _____ % of all base monthly rents and expense reimbursements
❑ _____.	❑ _____.

The fees are payable: ❑: one-half at lease execution and the remainder on the date the lease commences

❑ _____

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

SPECIAL PROVISIONS: _____

_____

_____

_____

_____

_____

_____

_____

_____

NON-BINDING: THIS LETTER OF INTENT IS NOT INTENDED TO BE A LEGALLY-BINDING LEASE AGREEMENT. NEITHER PARTY SHALL BE BOUND OR HAVE THE OBLIGATION TO PURSUE NEGOTIATIONS OR ANY OTHER OBLIGATIONS OF ANY KIND, UNLESS AND UNTIL A DEFINITIVE LEASE IS HEREAFTER SIGNED AND DELIVERED BY THE PARTIES. NO DEFINITIVE LEASE SHALL BE ENTERED INTO UNLESS IT IS SATISFACTORY TO BOTH LANDLORD AND TENANT, IN THEIR SOLE DISCRETION.

If this proposal is acceptable, please indicate by signing below and returning a fully executed copy of this letter to my attention with the Texas REALTORS® Commercial Lease Application (TXR-2120) or other application

Letter of Intent concerning: _____

form. Upon receipt of an executed copy of this letter of intent and approval of an application form, Landlord will immediately begin preparing a draft of the lease agreement utilizing the current Texas REALTORS® form 2101 or such other form as the parties agree.

EXPIRATION: If the party receiving this letter of intent desires to pursue negotiations along the terms detailed in this letter of intent, the party delivering this letter of intent requests that the receiving party sign a copy of this letter of intent, and deliver the signed copy to the delivering party by 5:00 p.m. on _____, _____,

Landlord: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Tenant: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

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CONTRACT FORMS & ADDENDA

TREC publishes a Contracts, Forms and Notices page on their website (https://www.trec.texas.gov/forms-and-contracts) where agents can download a variety of preprinted resources in support of their business and to meet regulatory requirements.

Texas REALTORS® members can access many helpful forms and addenda from the Texas REALTORS® website (https://www.texasrealestate.com/members/). The forms and addenda offered were created for the exclusive benefit of its members and as such may contain differences from the forms offered by TREC. Agents are free to utilize TREC forms, Texas REALTORS® forms or other forms as may be provided by the principal's attorneys and in conjunction with the policies of their brokerage.

In this section we will include many of the Texas REALTORS® forms utilized in commercial brokerage. While the classroom discussion will go over each form in its entirety, the remaining parts of this section will highlight some of the key points for consideration. Supplemental information and guidance provided in this section was obtained from **Rick M. Albers, Esq.** of Kuperman, Orr & Albers, P.C. Austin, Texas.

In Texas, agents are permitted to complete forms and addenda so long as they don't cross the line into the practice of law. In essence, any language written by an agent that deviates from "strictly business terms" can be interpreted as the illegal practice of law.

Many times agents have inserted into the forms "canned legal language" obtained from prior deals that they feel is relevant, only to find out later that the application was improper. Agents should be cognizant of the fact that inserting legal language into an agreement does not meet the standard for "strictly business terms" and may subject agents to disciplinary actions from TREC with potential legal liability. Unless directed to use specific language by their principal or principal's attorney, agents should refrain from this practice.

Common errors made by agents include the use of the wrong form(s) for the condition, or failing to use a form when its use was warranted. Improper application is another problem where agents insert incorrect information or write language into an additional provision section that fails to properly or fully account for its intended purpose(s). For example, the use of conditional statements such as "at the end of the feasibility period the earnest money is non-refundable" is not a complete legal statement as it fails to address issues related to performance and timing failures on the part of the seller.

The addition of a "cancellation/termination clause" by a tenant is often misunderstood by agents who believe that its use is not permitted under Texas law. This statement is incorrect. While its use in practice may be commonly rejected by landlords, it is not unlawful to include a cancellation clause if directed to do so by your principal, so long as the language is drafted by the principal or the principal's attorney.

Improper client communication is another problem where agents convey inaccurate or misleading information. Market assumptions about value trends or a property's condition are frequently made mistakes.

One final point to make is that fees paid to brokers provisions contained within a contract are typically added after the signature lines because a contract is an agreement between buyer and seller, not broker. The TREC contract form is no exception, however, agents using the Texas REALTORS® Commercial Contract forms will notice that the commission fees are listed in the BROKERS Paragraph 9(A)(B)(C) section, well before the signature lines. Texas REALTORS® chose to insert this provision within the body of the agreement because under Texas law, commercial brokers are permitted to place a lien on a property for unpaid commissions so long as the specified commission fees are contained within the body of the contract under Chapter 62 of the Texas Property Code. This is a protective covenant for the broker, but it is not a required element for a contract. Some buyer's and/or seller's attorneys may strike the language from the agreement to remove the trilateral language.

The following forms applicable to property management, property purchase and leasing, brokerage representation and select notices and disclosures have been added to this manual for class time review. They are to be used for instructional purposes only. Agents requiring the use of any of these forms should access it directly from the Texas REALTORS® website to ensure that the most recent version is utilized:

1. Information About Brokerage Services notice IABS 1-0
2. Commercial Property Management Agreement TXR-2202
3. Commercial Amendment To Property Management Agreement TXR-2203
4. Commercial Property Condition Statement TXR-1408
5. Commercial Real Estate Listing Agreement - Exclusive Right To Sell TXR-1301
6. Commercial Real Estate Listing Agreement - Exclusive Right To Lease TXR-1302
7. Commercial Real Estate Listing Agreement - Exclusive Right To Sublease TXR-1303
8. Commercial Buyer/Tenant Representation Agreement TXR-1502
9. Amendment To Buyer/Tenant Representation Agreement TXR-1505
10. Registration Agreement Between BrokersTXR-2402
11. Commercial Registration Agreement Between Broker And Owner TXR-2403

11-2-2015

Information About Brokerage Services

Texas law requires all real estate license holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

TYPES OF REAL ESTATE LICENSE HOLDERS:

- **A BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- **A SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of *each party* to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
  - that the owner will accept a price less than the written asking price;
  - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
  - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

Licensed Broker /Broker Firm Name or Primary Assumed Business Name	License No.	Email	Phone
Designated Broker of Firm	License No.	Email	Phone
Licensed Supervisor of Sales Agent/ Associate	License No.	Email	Phone
Sales Agent/Associate's Name	License No.	Email	Phone

Buyer/Tenant/Seller/Landlord Initials _____ _____ Date _____

TEXAS REALTORS

COMMERCIAL PROPERTY MANAGEMENT AGREEMENT

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1. PARTIES:

A. The parties to this agreement are:

Owner: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Broker: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

B. If Owner is not an individual, Owner is an: ❑ estate ❑ corporation ❑ limited liability company (LLC) ❑ trust ❑ partnership ❑ limited liability partnership (LLP) , which entity was chartered or created in _____ (State). The individual signing this agreement for the owner represents to Broker that he or she has the authority to bind Owner to this agreement, to act for Owner, and is acting under his capacity as _____ (title) for the Owner.

C. Owner appoints Broker as Owner's sole and exclusive agent of the real property described in Paragraph 2 to:
❑ (1) manage the Property, but not lease the Property.
❑ (2) manage and lease the Property.

2. PROPERTY: "Property" means:

Address: _____

_____

legally described as: _____

_____

_____

in _____ County, Texas, together with the following non-real-property items: _____

_____.

"Property" also includes any other Property described in any attached Multiple Property Addendum.

3. TERM:

A. Primary Term: The primary term of this agreement begins and ends as follows:

Commencement Date: _____ Expiration Date: _____

B. Automatic Extension: Unless either party provides written notice of termination to the other party at least 30 days before the Expiration Date, this agreement will automatically extend on a monthly basis until either party terminates by providing at least 30 days written notice to the other party.

Management Agreement concerning:_____

4. AUTHORITY OF BROKER:

A. Management Authority: Owner grants to Broker the following authority which Broker may exercise when and to the extent Broker determines to be in Owner's interest:
   (1) collect and deposit for Owner rents and other charges (for example, returned check charges and late charges) from tenants in the Property in a trust account;
   (2) collect and deposit security deposits from tenants in:
   ❑ (a) a trust account separate from the account described under Paragraph 4A(1);
   ❑ (b) the same trust account described under Paragraph 4A(1);
   (3) pay from the account described under Paragraph 4A(1) expenses to operate the Property, including but not limited to, maintenance, taxes, insurance, utilities, repairs, security, management fees, leasing fees, and expenses authorized under this agreement;
   (4) hire contractors to renovate, remodel, or redecorate the Property provided that Broker does not expend more than $_____ for any single renovation, remodel, or redecoration without Owner's consent;
   (5) terminate leases for the Property, negotiate lease terminations, and serve notices of termination;
   (6) institute and prosecute, at Owner's expense, actions to: (a) evict tenants in the Property; or (b) recover possession of the Property;
   (7) settle, compromise, or withdraw any action described in Paragraph 4A(6);
   (8) negotiate and make reasonable concessions to tenants or former tenants in the Property;
   (9) report payment histories of tenants in the Property to consumer reporting agencies;
   (10) obtain information from any holder of a note secured by a lien on the Property and any insurance company insuring all or part of the Property;
   (11) authorize inspectors, appraisers, contractors, and other brokers and their associates to access the Property at reasonable times for purposes contemplated by this agreement and to lend keys and disclose security codes to such persons to enter the Property;
   (12) display or remove signs, as broker determines appropriate, on the Property in accordance with applicable laws, ordinances, and restrictions; and
   (13) perform other necessary services related to the management of the Property.

B. Leasing Authority: This Paragraph 4B applies only if Broker has the authority to lease the Property under Paragraph 1C. Owner grants to Broker the following authority which Broker may exercise when and to the extent Broker determines to be in Owner's interest:
   (1) advertise the Property for lease by means and methods that Broker determines are reasonably competitive, including but not limited to creating and placing advertisements with interior and exterior photographic and audio-visual images of the Property and related information in any media, including the Internet;
   (2) place "For Lease" signs, "For Information" signs, or other signs on the Property in accordance with applicable laws, regulations, ordinances, restrictions, and owners' association rules;
   (3) remove all other signs offering the Property for sale or lease;
   (4) submit the Property as a listing with one or more listing services at any time the Property is marketed for lease and to change or terminate such listings;
   (5) authorize other brokers, their associates, and their clients to access the Property at reasonable times and to lend keys and disclose security codes to such persons to enter the Property;
   (6) duplicate keys and access devices to facilitate convenient and efficient showings of the Property and to lease the Property;
   (7) verify information and references in rental applications from prospective tenants;
   (8) offer to pay another broker from the compensation Broker receives under this agreement a portion of the compensation received by Broker;

(9) negotiate and execute leases on Owner's behalf for the Property at market rates and on competitively reasonable terms for initial terms of not less than _____ months and not more than _____ months and in accordance with any instructions in Paragraph 20;
(10) negotiate and execute any amendments, extensions, or renewals to any leases for the Property on Owner's behalf;
(11) collect application fees from prospective tenants; and
(12) perform other necessary services related to the leasing of the Property.

C. Record Keeping: Broker will:
(1) maintain accurate records related to the Property and retain such records for not less than 4 years;
(2) file reports with the Internal Revenue Service which Broker may be required to file concerning funds received on behalf of Owner under this agreement (for example, Form 1099);
(3) send to Owner each ❑ quarter ❑ month a statement of receipts, disbursements, and charges; and
(4) remit to Owner the funds collected by Broker for Owner under this agreement, less authorized deductions:
❑ (a) on a ❑ quarterly ❑ monthly basis;
❑ (b) as Owner may instruct from time to time.

D. Security Deposits:
(1) Broker will:
(a) maintain security deposits received from tenants in the trust account described under Paragraph 4A(2); and
(b) in accordance with applicable law and the leases for the Property, account to the tenants for the security deposits, make lawful deductions from the security deposits, and return the security deposit balances to the tenants from the trust account.
(2) After this agreement ends, Broker will deliver to Owner or the Owner's designee the security deposits held by Broker under leases of the Property, less deductions authorized by this agreement, and will send written notices to the tenants that state:
(a) that this agreement has ended;
(b) the contact information for the Owner or the Owner's designee; and
(c) that Owner is responsible for accounting for and returning the tenant's security deposit.
(3) If Broker complies with this Paragraph 4D, Owner will indemnify Broker from any claim or loss from a tenant for the return of a security deposit. This Paragraph 4D survives termination of this agreement.

E. Performance Standard: Broker will:
(1) use reasonable care when exercising Broker's authority and performing under this agreement; and
(2) exercise discretion when performing under this agreement in a manner that Broker believes to be in Owner's interest, provided that Broker will treat any tenant honestly and fairly.

F. Deductions and Offset: Broker may disburse from any funds Broker holds in trust for Owner:
(1) any compensation due Broker under this agreement;
(2) any funds Broker is authorized to expend under this agreement; and
(3) any reimbursement Broker is entitled to receive under this agreement.

G. Insurance and Attorneys:
(1) Broker may not file a claim for a casualty loss with the carrier insuring the Property. Broker may communicate with the carrier to facilitate the processing of any claim Owner may file or other matters that Owner instructs Broker to communicate to the carrier.
(2) Broker may not directly or indirectly employ or pay a lawyer to represent Owner. Broker may communicate with Owner's attorney in accordance with Owner's instructions.

Management Agreement concerning:_____

5. **RELATIONSHIP OF THE PARTIES:** This agreement does not create a partnership or joint venture between the parties. Broker is an independent contractor.

6. **LEGAL COMPLIANCE:** The parties will comply with all obligations, duties, and responsibilities under the Texas Property Code, fair housing laws, and any other statute, administrative rule, ordinance, or restrictive covenant applicable to the use, leasing, management, or care of the Property.

7. **RESERVES:** Upon execution of this agreement, Owner will deposit the following amount with Broker to be held in a trust account as a reserve for Owner: $_____. Broker may, at Broker's discretion, use the reserve to pay any expense related to the management of the Property (including but not limited to Broker's fees). If the balance of the reserve becomes less than the amount stated, Broker may: (a) deduct an amount that will bring the balance to the amount stated from any subsequent rent received on behalf of Owner and deposit the amount into the reserve; or (b) notify Owner that Owner must promptly deposit additional funds with Broker to bring the balance to the amount stated.

8. **ADVANCES:** Owner will, in advance, provide Broker all funds necessary for the leasing and management of the Property. Broker is not obligated to advance any money to Owner or to any other person.

9. **OWNER'S REPRESENTATIONS:**

A. General: Except as disclosed in Paragraph 20, Owner represents that:
(1) Owner has fee simple title to and peaceable possession of the Property and all its improvements and fixtures, unless rented, and the legal capacity to lease the Property;
(2) Owner is not bound by another agreement for the management of the Property that is or will be in effect during this agreement;
(3) if Broker has the authority to lease the Property under Paragraph 1C, Owner is not bound by: (a) another agreement with another broker for the lease of the Property that will be in effect during this agreement; or (b) any agreement or covenant that prohibits owner from leasing the Property;
(4) Owner is not delinquent in the payment of any property taxes, owners' association fees, property insurance, mortgage, or any encumbrance on or affecting the Property;
(5) the Property is not subject to the jurisdiction of any court; and
(6) all information related to the Property that Owner provides to Broker is true and correct to the best of Owner's knowledge.

B. Property Condition: (*select (1) or (2) below*)

❑ (1) Except as stated below, in this agreement, or in any addendum, Owner is not aware of: (1) any condition affecting the Property that materially affects the health or safety of an ordinary tenant; (2) any environmental hazard on the Property; or (3) any violation of any ordinance, statute, restriction, or law related to the Property. _____
_____
_____.

❑ (2) Owner has completed a Commercial Property Condition Statement (TXR-1408) which is attached to this Agreement.

10. **OWNER'S COOPERATION:**

A. Owner agrees to:
(1) cooperate with Broker to facilitate the management of the Property;
(2) not deal with or negotiate with any tenant in the Property concerning any matter related to the management of the Property but refer all such dealings to Broker;

(3) not enter into a management agreement with another broker for the management of the Property to become effective during this agreement;
(4) provide Broker with copies of any existing leases or rental agreements related to the Property;
(5) provide Broker with keys and access devices to the Property;
(6) provide Broker with copies of all warranties related to the Property or any item in the Property;
(7) tender to Broker any security deposits paid by any existing tenants in the Property;
(8) complete any disclosures or notices required by law or a lease of the Property;
(9) amend applicable notices and disclosures if a material change occurs during this agreement; and
(10) notify Broker if Owner becomes delinquent in the payment of: (a) any mortgage or other encumbrance secured by the Property; (b) property taxes; (c) property insurance; or (d) owners' association fees.

B. If Broker has the authority to lease the Property under Paragraph 1C, Owner further agrees to
(1) cooperate with Broker to facilitate the showing, marketing, and lease of the Property;
(2) not rent or lease the Property to anyone without Broker's prior written approval;
(3) not negotiate with any prospective tenant who might contact Owner directly, but refer all prospective tenants to Broker;
(4) not deal with or negotiate with any tenant in the Property concerning any matter related to the leasing of the Property but refer all such dealings to Broker; and
(5) not enter into a listing agreement with another broker for the rental or leasing of the Property to become effective during this agreement.

11. INSURANCE:

A. At all times during this agreement, Owner must maintain in effect:
(1) a public liability insurance policy that names Broker as a co-insured or additional insured and covers losses related to the Property in an amount of not less than $_____ on an occurrence basis; and
(2) an insurance policy for the Property in an amount equal to the reasonable replacement cost of the Property's improvements and that contains endorsements which contemplate the leasing of the Property with vacancies between lease terms.
(3) rental replacement insurance in an amount not less than the annual expected rentals of the Property.

B. Not later than the 15th day after the Commencement Date, Owner must deliver to Broker copies of certificates of insurance evidencing the coverage required under Paragraph 11A. If the coverage changes at any time during this agreement, Owner must deliver to Broker a copy of the insurance certificate evidencing the change not later than 10 days after the change.

C. If Owner fails to comply with Paragraphs 11A or 11B, Broker may:
(1) purchase insurance that will provide Broker the same coverage as the required insurance under Paragraph 11A(1) and Owner must promptly reimburse Broker for such expense; or
(2) exercise Broker's remedies under Paragraph 17.

D. Owner will comply with all the requirements of the insurance policies obtained in compliance with Paragraph 11A.

12. BROKER'S FEES: All fees to Broker under this agreement are payable in _____ County, Texas. This Paragraph 12 survives termination of this agreement with regard to fees earned during this agreement which are not payable until after its termination. Broker may deduct any fees under this Paragraph 12 from any funds Broker holds in trust for Owner. If more than one property or unit is made part of and subject to this agreement, each of the provisions below will apply to each property or unit separately.

❑ A. Management Fees: Each month Owner will pay Broker the greater of $_____ (minimum management fee) or: *(Check one box only.)*
❑ (1) _____% of the base monthly rents ❑ and additional rents, collected that month.

Management Agreement concerning:_____

❑ (2) _____.
A vacancy in the Property or failure by a tenant to pay rent does not excuse payment of the minimum management fee. Management fees under this Paragraph 12A are earned daily and are payable not later than the last day of each month.

❑ B. Leasing Fees for New Tenancies: Each time the Property is leased to a new tenant, Owner will pay Broker a leasing fee equal to: *(Check one box only.)*
❑ (1) _____% of the base rents ❑ and additional rents, to be paid under the lease.
❑ (2) _____.
The leasing fees under this Paragraph 12B are earned and payable at the time the lease is executed.

❑ C. Renewal or Extension Fees: Each time a tenant in the Property renews or extends a lease, Owner will pay Broker a renewal or extension fee equal to: *(Check one box only.)*
❑ (1) _____% of the base rents ❑ and additional rents, to be paid under the renewal or extension.
❑ (2) _____.
The renewal or extension fees under this Paragraph 12C are earned at the time the renewal or lease is executed by the parties to the lease and are payable at the time the renewal or extension is effective. For the purposes of this paragraph, a new lease for the same Property with the same tenant then occupying the Property is an extension or renewal. This Paragraph 12C does not apply to month-to-month renewals or month-to-month extensions.

❑ D. Fees in the Event of a Sale:

(1) Fee if a Tenant Purchases Property: If at any time during this agreement or within _____ days after it ends, Owner sells the Property to a tenant who occupied the Property during the term of this agreement, Owner will pay Broker a fee equal to: *(Check one box only.)*
❑ (a) _____% of the sales price.
❑ (b) _____.
Fees under this Paragraph 12D(1) are earned at the time Owner agrees to sell the Property and are payable at the time the sale closes.

(2) Fee if Buyer is Procured through Broker: If during this agreement, Owner agrees to sell the Property to a person other than a tenant who occupied the Property and Broker procures the buyer, directly or through another broker, Owner will pay Broker a fee equal to: *(Check one box only.)*
❑ (a) _____% of the sales price.
❑ (b) _____.
Fees under this Paragraph 12D(2) are earned at the time Owner agrees to sell the Property and are payable at the time the sale closes.

(3) Sale Coordination Fees: If at any time during this agreement Owner agrees to sell the Property and Broker is not paid a fee under Paragraph 12D(1) or (2), Owner will pay Broker _____ _____ for Broker's time and services to coordinate showings, inspections, appraisals, repairs, and other related matters. Fees under this Paragraph 12D(3) are earned at the time such services are rendered and payable upon Owner's receipt of Broker's invoice.

(4) Definition: "Sell" means to agree to sell, convey, transfer or exchange any interest in the Property whether by oral or written agreement or option.
(5) Separate Listing Agreement Controls: If Owner sells the Property and pays Broker the fee under a separate written listing agreement between Owner and Broker this Paragraph 12D will not apply.

❑ E. Service Fees: Each time Broker arranges for the Property to be repaired, maintained, redecorated, or altered as permitted by this agreement, Owner will pay Broker a service fee equal to: *(Check one box only.)*
❑ (1) _____% of the total cost of each repair, maintenance, alteration, or redecoration.
❑ (2) _____.

The service fees under this Paragraph 12E are earned at the time the repair, maintenance, redecoration, or alteration is made and are payable upon Owner's receipt of Broker's invoice.

❑ F. Interest on Trust Accounts: Any trust account Broker maintains under this agreement may be an interest-bearing or income producing account. Broker may retain any interest or income from such account as compensation under this agreement. Broker will remove any interest or income payable under this Paragraph 12F from the trust account not later than the 30th day after the interest or income is paid.

❑ G. Administrative Fees: If Broker collects administrative charges from tenants or prospective tenants, including but not limited to, application fees, returned check fees, or late charges (as authorized under Paragraph 4A), Broker will retain such fees as compensation under this agreement. The administrative fees under this Paragraph 12G are earned and payable at the time Broker collects such fees.

❑ H. Fees Related to Legal Proceedings: If Owner requests or instructs Broker to appear in any legal proceeding or deposition related to the Property (including, but not limited to, evictions, tenant disputes, security deposit disputes, and suits for damages), Owner will pay Broker $_____ per _____ for Broker's time expended in such matters and in preparation of such matters. Fees under this Paragraph 12H are earned at the time the services are rendered and payable upon Owner's receipt of Broker's invoice.

❑ I. Other:_____
_____
_____.

13. RESERVED.

14. EXPENSE REIMBURSEMENT: Upon Owner's receipt of Broker's invoice, Owner will reimburse Broker the following expenses that are related to the leasing or management of the Property: (a) copy charges; (b) charges for long distance telephone calls or facsimile transmissions; (c) regular, express, or certified mail charges; (d) notary fees; (e) photos and videos; (f) reasonable travel expenses, including but not limited to mileage reimbursement (at the standard mileage rate published by the IRS), parking expenses, and tolls; and (g) any other expenditures Broker is authorized to make under this agreement for Owner or that Owner otherwise authorizes Broker to make for Owner.

15. FUNDS RECEIVED AFTER TERMINATION: If Broker receives any funds on behalf of Owner after this agreement ends (for example, rent, damages, past due amounts, and others), Broker will deposit those funds in Broker's trust account and will: (a) pay ____% of the funds received to Broker as compensation for services (for example, research, accounting, communicating, and processing) rendered at that time; and (b) pay the balance of the funds to Owner. This provision survives termination of this agreement.

16. LIABILITY AND INDEMNIFICATION:

A. Broker is not responsible or liable in any manner for personal injury to any person or for loss or damage to any person's real or personal property resulting from any act or omission not caused by Broker's negligence, including but not limited to injuries or damages caused by:
(1) other brokers, their associates, inspectors, appraisers, and contractors who are authorized to access the Property;
(2) acts of third parties (for example, vandalism, theft, or other criminal acts);
(3) freezing or leaking water pipes;
(4) a dangerous condition or environmental condition on the Property; or
(5) the Property's non-compliance with any law or ordinance.

B. Broker is not responsible or liable in any manner for:
(1) any late fees or other charges Owner incurs to any creditor caused by late or insufficient payments by any tenant in the Property; or

(2) damages to Owner caused by a tenant's breach of a lease.

C. Owner agrees to protect, defend, indemnify, and hold Broker harmless from any damage, costs, attorney's fees, and expenses that:
(1) are caused by Owner, negligently or otherwise;
(2) arise from Owner's failure to disclose any material or relevant information about the Property;
(3) are caused by Owner giving incorrect information to any person; or
(4) are related to the management of the Property and are not caused by Broker, negligently or otherwise.

D. Owner is responsible and liable for all contracts and obligations related to the Property (for example, maintenance, service, repair and utility agreements) entered into before or during this agreement by Owner or by Broker under Broker's authority under this agreement. Owner agrees to hold Broker harmless from all claims related to any such contracts.

17. DEFAULT: A party is in default of this agreement if the party fails to cure a breach or any violation of this agreement within 10 days after receipt of written demand to cure the breach from the other party. If either party is in default, the non-defaulting party may: (a) terminate this agreement by providing at least 10 days written notice; (b) recover all amounts due to the non-defaulting party under this agreement; (c) recover reasonable collection costs and attorney's fees; and (d) exercise any other remedy available at law. Broker is also entitled to recover any compensation Broker would have been entitled to receive if Owner did not breach this agreement.

18. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this agreement that may arise between the parties. If the dispute cannot be resolved by negotiation, the dispute will be submitted to mediation. The parties to the dispute will choose a mutually acceptable mediator and will share the cost of mediation equally.

19. ATTORNEY'S FEES: If Owner or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this agreement or any transaction related to or contemplated by this agreement, such party will be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

20. SPECIAL PROVISIONS:

21. ADDENDA: Incorporated into this agreement are the following addenda, exhibits, and other information:
☑ A. Information About Brokerage Services (TXR-2501)
❑ B. Multiple Property Addendum (TXR-2204)
❑ C. Addendum for Authorization to Act for Owner before Owners' Association (TXR-2205)
❑ D. Copy of Rules and Regulations of an Owners' Association
❑ E. Copy of the Owners' Association Bylaws and Deed Restrictions affecting the Property

Management Agreement concerning: _____

- ❑ F. Commercial Property Condition Statement (TXR-1408)
- ❑ G. Documents authorizing execution of this agreement by the person signing
- ❑ H. _____

Note: Complete and deliver to Broker IRS W-9 Form or similar form.

22. AGREEMENT OF PARTIES:

A. Entire Agreement: This document contains the entire agreement of the parties and may not be changed except by written agreement.

B. Assignments: Neither party may assign this agreement without the written consent of the other party.

C. Binding Effect: Owner's obligation to pay Broker an earned fee is binding upon Owner and Owner's heirs, administrators, executors, successors, and permitted assignees.

D. Joint and Several: All Owners executing this agreement are jointly and severally liable for the performance of all its terms. Any act or notice to, refund to, or signature of, any one or more of the Owners regarding any term of this agreement, its extension, its renewal, or its termination is binding on all Owners executing this agreement.

E. Governing Law: Texas law governs the interpretation, validity, performance, and enforcement of this agreement.

F. Severability: If a court finds any clause in this agreement invalid or unenforceable, the remainder of this agreement will not be affected and all other provisions of this agreement will remain valid and enforceable.

G. Context: When the context requires, singular nouns and pronouns include the plural.

H. Notices: Notices between the parties must be in writing and are effective when sent to the receiving party's address, fax, or e-mail address specified in Paragraph 1.

23. INFORMATION:

A. Broker's fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by the Association of REALTORS® or any listing service.

B. The Property must be shown and made available to all persons without regard to race, color, religion, national origin, sex, disability, or familial status. Local ordinances and the National Association of REALTORS® Code of Ethics may provide for additional protected classes (for example, creed, status as a student, marital status, sexual orientation, or age).

C. Broker cannot give legal advice. READ THIS AGREEMENT CAREFULLY. If you do not understand the effect of this agreement, consult an attorney BEFORE signing.

Owner: _____	**Broker:**
_____	Broker / Company Name: _____
	_____
By: _____	License No. _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____ Date: _____	Title: _____ License No. _____

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Shiloh Modisett

Management Agreement concerning:_____

By:_____ Date: _____

By (signature):_____

Printed Name: _____

Title: _____ Date:_____

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TEXAS REALTORS

COMMERCIAL AMENDMENT TO PROPERTY MANAGEMENT AGREEMENT

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CONCERNING THE COMMERCIAL PROPERTY MANAGEMENT AGREEMENT BETWEEN

_____
_____ **(Broker)**
AND _____
_____ **(Owner)**
FOR THE FOLLOWING PROPERTY: _____
_____

The above-referenced Commercial Property Management Agreement is amended as follows.

❑ A. Paragraph 1 of the agreement is changed to read as follows.

1. PARTIES:

A. The parties to this agreement are:

Owner: _____
_____
Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

Broker: _____
_____
Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

B. If Owner is not an individual, Owner is a: ❑ estate ❑ corporation ❑ limited liability company (LLC) ❑ trust ❑ partnership ❑ limited liability partnership (LLP) , which entity was charted or created in _____ (State). The individual signing this agreement for the owner represents to Broker that he or she has the authority to bind Owner to this agreement, to act for Owner, and is acting under his capacity as _____ (title) for the Owner.

C. Owner appoints Broker as Owner's sole and exclusive leasing and managing agent of the real property described in Paragraph 2 of the agreement and in any addendum to the agreement.

❑ B. Paragraph 3A of the agreement is changed to read as follows.

A. Primary Term: The primary term of this agreement begins and ends as follows:

Commencement Date: _____ Expiration Date: _____

Amendment of Agreement concerning: _____

❑ C. Paragraph(s) _____ are changed as follows:

❑ D. Owner notifies Broker of the following changes affecting Owner's ownership of the Property. _____

_____

_____

_____

Owner: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Broker: _____

_____

License No. _____

By (signature): _____

Printed Name: _____

Title: _____ License No. _____

Date: _____

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TEXAS REALTORS

COMMERCIAL PROPERTY CONDITION STATEMENT

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CONCERNING THE PROPERTY AT: _____

THIS IS A DISCLOSURE OF THE SELLER'S OR LANDLORD'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED. IT IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES A BUYER OR TENANT MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER, SELLER'S AGENTS, LANDLORD, LANDLORD'S AGENTS OR ANY OTHER AGENT.

PART 1 – Complete if Property is Improved or Unimproved

Are you (Seller or Landlord) aware of:	Aware	Not Aware
(1) any of the following environmental conditions on or affecting the Property:		
(a) radon gas?	❑	❑
(b) asbestos components:		
(i) friable components?	❑	❑
(ii) non-friable components?	❑	❑
(c) urea-formaldehyde insulation?	❑	❑
(d) endangered species or their habitat?	❑	❑
(e) wetlands?	❑	❑
(f) underground storage tanks?	❑	❑
(g) leaks in any storage tanks (underground or above-ground)?	❑	❑
(h) lead-based paint?	❑	❑
(i) hazardous materials or toxic waste?	❑	❑
(j) open or closed landfills on or under the surface of the Property?	❑	❑
(k) external conditions materially and adversely affecting the Property such as nearby landfills, smelting plants, burners, storage facilities of toxic or hazardous materials, refiners, utility transmission lines, mills, feed lots, and the like?	❑	❑
(l) any activity relating to drilling or excavation sites for oil, gas, or other minerals?	❑	❑
(2) previous environmental contamination that was on or that materially and adversely affected the Property, including but not limited to previous environmental conditions listed in Paragraph 1(a)-(l)?	❑	❑
(3) any part of the Property lying in a special flood hazard area (A or V Zone)?	❑	❑
(4) any improper drainage onto or away from the Property?	❑	❑
(5) any fault line at or near the Property that materially and adversely affects the Property?	❑	❑
(6) air space restrictions or easements on or affecting the Property?	❑	❑
(7) unrecorded or unplatted agreements for easements, utilities, or access on or to the Property?	❑	❑

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Commercial Property Condition Statement concerning_____

	Aware	Not Aware
(8) special districts in which the Property lies (for example, historical districts, development districts, extraterritorial jurisdictions, or others)?……..	❑	❑
(9) pending changes in zoning, restrictions, or in physical use of the Property? …… The current zoning of the Property is:_____	❑	❑
(10) your receipt of any notice concerning any likely condemnation, planned streets, highways, railroads, or developments that would materially and adversely affect the Property (including access or visibility)? …….	❑	❑
(11) lawsuits affecting title to or use or enjoyment of the Property? ……..	❑	❑
(12) your receipt of any written notices of violations of zoning, deed restrictions, or government regulations from EPA, OSHA, TCEQ, or other government agencies? …..	❑	❑
(13) common areas or facilities affiliated with the Property co-owned with others? ……	❑	❑
(14) an owners' or tenants' association or maintenance fee or assessment affecting the Property? ……. If aware, name of association:_____ Name of manager:_____ Amount of fee or assessment: $_____ per _____ Are fees current through the date of this notice? ❑ yes ❑ no ❑ unknown	❑	❑
(15) subsurface structures, hydraulic lifts, or pits on the Property?……	❑	❑
(16) intermittent or weather springs that affect the Property? …….	❑	❑
(17) any material defect in any irrigation system, fences, or signs on the Property?……..	❑	❑
(18) conditions on or affecting the Property that materially affect the health or safety of an ordinary individual?……	❑	❑
(19) any of the following rights vested in others:		
(a) outstanding mineral rights? ……	❑	❑
(b) timber rights? ……	❑	❑
(c) water rights? ……..	❑	❑
(d) other rights? ……..	❑	❑
(20) any personal property or equipment or similar items subject to financing, liens, or lease(s)? …… If aware, list items:_____ _____	❑	❑

If you are aware of any of the conditions listed above, explain. *(Attach additional information if needed.)*___

_____
_____
_____
_____
_____
_____
_____
_____

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Commercial Property Condition Statement concerning_____

PART 2 – Complete only if Property is Improved

A. Are you (Seller or Landlord) aware of any material defects in any of following on the Property?

	Aware	Not Aware	Not Appl.
(1) Structural Items:			
(a) foundation systems (slabs, columns, trusses, bracing, crawl spaces, piers, beams, footings, retaining walls, basement, grading)?.....	❑	❑	❑
(b) exterior walls?……	❑	❑	❑
(c) fireplaces and chimneys? ……	❑	❑	❑
(d) roof, roof structure, or attic (covering, flashing, skylights, insulation, roof penetrations, ventilation, gutters and downspouts, decking)?……...	❑	❑	❑
(e) windows, doors, plate glass, or canopies ……	❑	❑	❑
(2) Plumbing Systems:			
(a) water heaters or water softeners? ……	❑	❑	❑
(b) supply or drain lines?……	❑	❑	❑
(c) faucets, fixtures, or commodes? ……	❑	❑	❑
(d) private sewage systems? ……	❑	❑	❑
(e) pools or spas and equipments? ……	❑	❑	❑
(f) sprinkler systems (fire, landscape)?……	❑	❑	❑
(g) water coolers?……	❑	❑	❑
(h) private water wells?……...	❑	❑	❑
(i) pumps or sump pumps?……...	❑	❑	❑
(3) HVAC Systems: any cooling, heating, or ventilation systems?……	❑	❑	❑
(4) Electrical Systems: service drops, wiring, connections, conductors, plugs, grounds, power, polarity, switches, light fixtures, or junction boxes? ……	❑	❑	❑
(5) Other Systems or Items:			
(a) security or fire detection systems?……	❑	❑	❑
(b) porches or decks?……	❑	❑	❑
(c) gas lines?……	❑	❑	❑
(d) garage doors and door operators? ……	❑	❑	❑
(e) loading doors or docks?……...	❑	❑	❑
(f) rails or overhead cranes? ……	❑	❑	❑
(g) elevators or escalators?……	❑	❑	❑
(h) parking areas, drives, steps, walkways?……...	❑	❑	❑
(i) appliances or built-in kitchen equipment?……	❑	❑	❑

If you are aware of material defects in any of the items listed under Paragraph A, explain. *(Attach additional information if needed.)*_____

_____

_____

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Commercial Property Condition Statement concerning_____

B. Are you (Seller or Landlord) aware of:

	Aware	Not Aware
(1) any of the following water or drainage conditions materially and adversely affecting the Property:		
(a) ground water?.....	❑	❑
(b) water penetration?	❑	❑
(c) previous flooding or water drainage?.....	❑	❑
(d) soil erosion or water ponding?.....	❑	❑
(2) previous structural repair to the foundation systems on the Property?.....	❑	❑
(3) settling or soil movement materially and adversely affecting the Property?.....	❑	❑
(4) pest infestation from rodents, insects, or other organisms on the Property?.....	❑	❑
(5) termite or wood rot damage on the Property needing repair?	❑	❑
(6) mold to the extent that it materially and adversely affects the Property?.....	❑	❑
(7) mold remediation certificate issued for the Property in the previous 5 years?..... *if yes, attach a copy of the mold remediation certificate.*	❑	❑
(8) previous termite treatment on the Property?.....	❑	❑
(9) previous fires that materially affected the Property?.....	❑	❑
(10) modifications made to the Property without necessary permits or not in compliance with building codes in effect at the time?.....	❑	❑
(11) any part, system, or component in or on the Property not in compliance with the the Americans with Disabilities Act or the Texas Architectural Barrier Statute?	❑	❑

If you are aware of any of conditions described under Paragraph B, explain. *(Attach additional information, if needed.)*_____

_____

The undersigned acknowledges receipt of the foregoing statement.

Seller or Landlord: _____

_____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

Buyer or Tenant: _____

_____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

NOTICE TO BUYER OR TENANT: The broker representing Seller or Landlord, and the broker representing you advise you that this statement was completed by Seller or Landlord, as of the date signed. The brokers have relied on this statement as true and correct and have no reason to believe it to be false or inaccurate. YOU ARE ENCOURAGED TO HAVE AN INSPECTOR OF YOUR CHOICE INSPECT THE PROPERTY.

TEXAS REALTORS

COMMERCIAL REAL ESTATE LISTING AGREEMENT
EXCLUSIVE RIGHT TO SELL

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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1. PARTIES: The parties to this agreement (this Listing) are:

Seller: _____
_____
Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Broker: _____
_____
Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Seller appoints Broker as Seller's sole and exclusive real estate agent and grants to Broker the exclusive right to sell the Property.

2. PROPERTY:

A. "Property" means the following real property in Texas:
Address: _____
City: _____ County: _____ Zip: _____
Legal Description *(Identify exhibit if described on attachment)*: _____
_____
_____
_____
_____
_____
_____

B. Except as otherwise provided in this Listing, Broker is to market the Property together with:
(1) all buildings, improvements, and fixtures;
(2) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, easements and rights-of-way;
(3) Seller's interest in all leases, rents, and security deposits for all or part of the Property;
(4) Seller's interest in all licenses and permits related to the Property;
(5) Seller's interest in all third party warranties or guaranties, if transferable, relating to the Property or any fixtures;
(6) Seller's interest in any trade names, if transferable, used in connection with the Property; and
(7) all Seller's tangible personal property located on the Property that is used in connection with the Property's operations except: _____
_____.

(Describe any exceptions, reservations, or restrictions in Special Provisions or an addendum. If the Property is a condominium, attach Condominium Addendum to Listing (TXR-1401).)

Commercial Listing concerning _____

3. LISTING PRICE:

A. Seller instructs Broker to market the Property at the following gross sales price: $_____ _____ (Listing Price).

B. Seller agrees to sell the Property for the Listing Price or any other price acceptable to Seller. Seller will pay all typical closing costs charged to sellers of commercial real estate in Texas (seller's typical closing costs are those set forth in the commercial contract forms published by Texas REALTORS®) except _____ _____.

4. TERM:

A. This Listing begins on _____ and ends at 11:59 p.m. on _____. Seller may terminate this Listing on notice to Broker any time after _____.

B. If Seller enters into a binding written contract to sell the Property before the date this Listing begins and the contract is binding on the date this Listing begins, this Listing will not commence and will be void.

5. BROKER'S FEE:

A. Fee: When earned and payable, Seller will pay Broker a fee of:

❑ (1) _____% of the sales price.

❑ (2) _____ _____ _____ _____.

B. Earned: Broker's fee is earned when any one of the following occurs during this Listing:
(1) Seller sells, exchanges, agrees to sell, or agrees to exchange all or part of the Property to anyone at any price on any terms;
(2) Broker individually or in cooperation with another broker procures a buyer ready, willing, and able to buy all or part of the Property at the Listing Price or at any other price acceptable to Seller;
(3) Seller grants or agrees to grant to another person an option to purchase all or part of the Property;
(4) Seller transfers or agrees to transfer all or part of Seller's interest (stock or shares) in any entity that holds title to all or part of the Property for the purpose of conveying all or part of the Property to another person; or
(5) Seller breaches this Listing.

C. Payable: Once earned, Broker's fee is payable either during this Listing or after it ends at the earlier of:
(1) the closing and funding of any sale or exchange of all or part of the Property;
(2) Seller's refusal to sell the Property after Broker's Fee has been earned;
(3) Seller's breach of this Listing; or
(4) at such time as otherwise set forth in this Listing.

Broker's fee is not payable if a sale of the Property does not close or fund as a result of: (i) Seller's failure, without fault of Seller, to deliver to a buyer a deed or a title policy as required by the contract to sell; (ii) loss of ownership due to foreclosure or other legal proceeding; or (iii) Seller's failure to restore the Property, as a result of a casualty loss, to its previous condition by the closing date set forth in a contract for the sale of the Property.

Commercial Listing concerning _____

D. Other Fees:

(1) Lease of Property: If, during this Listing, Broker procures a tenant to lease all or part of the Property and Seller agrees to lease all or part of the Property to the tenant, Seller will pay Broker at the time the lease is executed the fee described below. If, during the term of the lease, the tenant agrees to purchase all or part of the Property, Seller will pay Broker the fee specified in Paragraph 5A in addition to the amount described below.

❑ (a) _____% of all base rents to be paid over the term of the lease and the same percentage of the following items to be paid over the term of the lease: ❑ expense reimbursements; and ❑ _____.

❑ (b) _____
_____
_____
_____.

(2) Renewals, Extensions, or Expansions of Property: If, during this Listing or after it ends, Seller renews, extends, or expands the lease, Seller will pay Broker, at the time the renewal, extension, or expansion becomes effective, a fee of:

❑ (a) _____% of all base rents to be paid over the term of the renewal or extension and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____;

❑ (b) _____% of all base rents to be paid over the term of the expansion and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____; or

❑ (c) _____.

In addition to their ordinary meanings, "extensions, "renewals," and "expansions" include new leases for more, less, or different space in the building or complex in which the property is located.

(3) Breach by Buyer Under Contract: If Seller collects earnest money, the sales price, or damages by suit, compromise, settlement or otherwise from a buyer who breaches a contract for the sale of all or part of the Property entered into during this Listing, Seller will pay Broker, after deducting attorney's fees and collection expenses, an amount equal to the lesser of one-half of the amount collected after deductions or the amount of the Broker's Fee stated in Paragraph 5A. Any amount paid under this Paragraph 5D(3) is in addition to any amount that Broker may be entitled to receive for subsequently selling the Property.

(4)Service Providers: If Broker refers Seller or a prospective buyer or tenant to a service provider (e.g., mover, cable company, telecommunications provider, utility, or contractor) Broker may receive a fee from the service provider for the referral. Any referral fee Broker receives under this Paragraph 5D(4) is in addition to any other compensation Broker may receive under this Listing.

(5)Other Fees and/or Reimbursable Expenses: _____
_____
_____
_____.

E. Protection Period:

(1) "Protection period" means that time starting the day after this Listing ends and continuing for _____ days.

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(2) Not later than 10 days after this Listing ends Broker may send Seller written notice specifying the names of persons whose attention Broker has called to the Property during this Listing. If Seller agrees to sell or lease all or part of the Property during the protection period to a person named in the notice or to a relative or business associate of a person named in the notice, Seller will pay Broker, upon the closing of the sale or upon execution of the lease, the amount Broker would have been entitled to receive if this Listing were still in effect.

(3) "Person" means any person in any capacity whether an individual or entity. "Sell" means any transfer of any interest in the Property whether by agreement or option.

(4) This Paragraph 5E survives termination of this Listing.

F. County: All amounts payable to Broker are to be paid in cash in _____ County, Texas.

G. Escrow Authorization: Seller authorizes, and Broker may so instruct, any escrow or closing agent authorized to close a transaction for the purchase or acquisition of the Property to collect and disburse to Broker all amounts payable to Broker under this Listing.

NOTICE: Under Chapter 62, Texas Property Code, Broker is entitled to claim a lien against the Property to secure payment of an earned commission.

6. EXCLUSIONS:

A. Under a prior listing agreement Seller is obligated to pay another Texas licensed broker a fee if Seller sells or leases all or part of the Property before _____ to any of the following persons: _____ _____ (named exclusions).

B. If Seller enters into a contract to sell or lease all or part of the Property to a named exclusion before the date specified in Paragraph 6A, Seller will not be obligated to pay Broker the fees under Paragraph 5 of this Listing, but Seller will pay Broker, upon the closing of the sale or upon execution of the lease, a fee equal to:
(1) ____% of the sales price if Seller sells the Property;
(2) ____% of all base rents to be paid over the term of the lease if Seller leases the Property and the same percentage of the following items to be paid over the term of the lease: ❑ expense reimbursements; ❑ _____; and
(3) _____ _____.

C. If Seller enters into a contract to sell or lease all or part of the Property to a named exclusion, Broker ❑ will ❑ will not assist Seller in negotiating and closing the sale or lease to the named exclusion.

7. ACCESS TO THE PROPERTY: Authorizing access to the Property means giving permission to another person to enter the Property, disclosing security codes necessary to enter the Property to such person, and lending a key to the Property to such person. To facilitate the showing and sale of the Property, Seller instructs Broker and Broker's associates to: (i) access the Property at reasonable times; (ii) authorize other brokers, inspectors, appraisers, lenders, engineers, surveyors, and repair persons to enter the Property at reasonable times; and (iii) duplicate keys to facilitate convenient and efficient showings.

8. COOPERATION WITH OTHER BROKERS: Broker will allow other brokers to show the Property to prospective buyers. If the other broker procures a buyer who purchases the Property, Broker will offer to pay the other broker a portion of Broker's fee under Paragraph 5.

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Commercial Listing concerning _____

9. INTERMEDIARY: *(Check A or B only.)*

❑ A. Intermediary Status: Broker may show the Property to interested prospective buyers or tenants who Broker represents. If a prospect who Broker represents offers to buy or lease the Property, Seller authorizes Broker to act as an intermediary and Broker will notify Seller that Broker will service the parties in accordance with one of the following alternatives.

(1) If a prospect who Broker represents is serviced by an associate other than the associate servicing Seller under this Listing, Broker may notify Seller that Broker will: (a) appoint the associate then servicing Seller to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Seller; and (b) appoint the associate then servicing the prospect to the prospect for the same purpose.

(2) If a prospect who Broker represents is serviced by the same associate who is servicing Seller, Broker may notify Seller that Broker will: (a) appoint another associate to communicate with, carry out instructions of, and provide opinions and advice during negotiations to the prospect; and (b) appoint the associate servicing the Seller under this Listing to the Seller for the same purpose.

(3) Broker may notify Seller that Broker will make no appointments as described under this Paragraph 9A and, in such an event, the associate servicing the parties will act solely as Broker's intermediary representative, who may facilitate the transaction but will not render opinions or advice during negotiations to either party.

❑ B. No Intermediary Status: Seller agrees that Broker will not show the Property to prospects who Broker represents.

Notice: If Broker acts as an intermediary under Paragraph 9A, Broker and Broker's associates:

- **may not disclose to the prospect that Seller will accept a price less than the asking price unless otherwise instructed in a separate writing by Seller;**
- **may not disclose to Seller that the prospect will pay a price greater than the price submitted in a written offer to Seller unless otherwise instructed in a separate writing by the prospect;**
- **may not disclose any confidential information or any information Seller or the prospect specifically instructs Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Real Estate License Act or a court order or if the information materially relates to the condition of the property;**
- **may not treat a party to the transaction dishonestly; and**
- **may not violate the Real Estate License Act.**

10. CONFIDENTIAL INFORMATION: During this Listing or after it ends, Broker may not knowingly disclose information obtained in confidence from Seller except as authorized by Seller or required by law. Broker may not disclose to Seller any information obtained in confidence regarding any other person Broker represents or may have represented except as required by law.

11. BROKER'S AUTHORITY:

A. Broker will use reasonable efforts and act diligently to market the Property for sale, procure a buyer, and negotiate the sale of the Property.

B. In addition to other authority granted by this Listing, Broker may:
(1) advertise the Property by means and methods as Broker determines is appropriate in any media, including but not limited to:
(a) placing a "For Sale" sign or similar marketing sign on the Property; and
(b) creating and placing information about the Property (including interior and exterior photographs or videos):

(i) on the Internet on Broker's website and on other websites as Broker determines;
(ii) in any advertisements whether in print or electronic media; and
(iii) into listing services that may publicize the information on the Internet or by other means;

(2) reproduce, display, and distribute information about the Property, including the information described under Paragraph 11B(1), for the purposes of marketing the Property;
(3) furnish comparative marketing and sales information about other properties to prospects;
(4) disseminate information about the Property to other brokers and prospects, including applicable disclosures, notices, or other information that Seller is required to make under law or a contract;
(5) obtain information from any holder of any note secured by a lien on the Property;
(6) accept, in trust, any earnest money, option fee, security deposit, or other money related to the purchase or lease of the Property and deliver such money for deposit in accordance with a contract for the sale or lease of the Property;
(7) disclose the sales price and terms of a sale or a lease to other brokers, appraisers, other real estate professionals, and any listing services into which information about the Property is placed;
(8) place information about this Listing and a transaction for the Property on an electronic platform (an electronic platform is typically an Internet-based system where professionals related to the transaction, such as title companies and lenders, may receive, view, and input information); and
(9) advertise that Broker "sold" or "leased" the Property after the closing of a sale or execution of a lease of the Property in which Broker was involved.

NOTICE: Any submission of information to a listing service must be made in accordance with listing service's rules.

C. Broker is not authorized to execute any document in the name of or on behalf of Seller concerning the Property.

D. Photographs, videos, and compilations of information submitted to a listing service are the property of the listing service for all purposes.

12. REPRESENTATIONS:

A. Except as provided otherwise in this Listing, Seller represents that:
(1) Seller has fee simple title to and peaceable possession of the Property and all its improvements and fixtures thereon, unless rented, and the legal capacity to convey the Property;
(2) Seller is not bound by a listing agreement with another broker for the sale, exchange, or lease of the Property that is or will be in effect during this Listing;
(3) no person or entity has any right to purchase, lease, or acquire the Property by an option, right of refusal, or other agreement;
(4) there are no delinquencies or defaults under any deed of trust, mortgage, or other encumbrance on the Property;
(5) the Property is not subject to the jurisdiction of any court;
(6) Seller owns sufficient intellectual property rights in any materials which Seller provides to Broker related to the Property (for example, brochures, photographs, drawings, or articles) to permit Broker to reproduce and distribute such materials for the purposes of marketing the Property or for other purposes related to this agreement; and
(7) all information relating to the Property Seller provides to Broker is true and correct to the best of Seller's knowledge.

B. Seller and Broker must disclose any known material defect in the Property to a prospective buyer. *(Check only one box.)*

❑ (1) Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408). Seller authorizes Broker to furnish prospective buyers and other brokers with a copy of the Commercial Property Condition Statement (TXR-1408).

❑ (2) Except as otherwise provided in this Listing, Seller is not aware of:
(a) any subsurface: structures, pits, wastes, springs, or improvements;
(b) any pending or threatened litigation, condemnation, or assessment affecting the Property;
(c) any environmental hazards or conditions that materially affect the Property;
(d) whether the Property is or has ever been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
(e) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants) or other pollutants or contaminants of any nature now exist or have ever existed on the Property;
(f) any wetlands, as defined by federal or state law or regulation, on the Property;
(g) any threatened or endangered species or their habitat on the Property;
(h) any present or past infestation of wood-destroying insects in the Property's improvements;
(i) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
(j) any material physical defects in the improvements on the Property; or
(k) any condition on the Property that violates any law or ordinance.

(List any exceptions to (a)-(k) in Special Provisions or an addendum.)

13. SELLER'S ADDITIONAL PROMISES: Seller agrees to:
A. cooperate with Broker to facilitate the showing and marketing of the Property;
B. not negotiate with any prospective buyer who may contact Seller directly, but refer all prospective buyers to Broker;
C. not enter into a listing agreement with another Broker for the sale or exchange of the Property to become effective during this Listing;
D. not enter into a listing agreement for the lease of all or part of the Property with another broker to become effective during this Listing without Broker's written permission;
E. provide Broker with copies of the following, if any, relating to the Property: a current rent roll, all leases including any amendments, architectural plans and drawings, renderings, survey, a current operating statement, environmental inspection reports, engineering reports, and other relevant information that Broker may request during this Listing;
F. advise Broker of any tenants moving in or out of the Property;
G. complete any disclosures or notices required by law or a contract to sell the Property;
H. amend any applicable notices and disclosures if any material change occurs during this Listing; and
I. at Seller's expense, remove from the Property all:
(1) "For Sale" (or similarly worded) signs other than Broker's signs;
(2) "For Lease" (or similarly worded) signs from the Property unless the Property is listed for lease with another broker; and
(3) "For Information" (or similarly worded) signs other than Broker's signs.

14. LIMITATION OF LIABILITY:

A. If the Property is or becomes vacant during this Listing, Seller must notify Seller's casualty insurance company and request a "vacancy clause" to cover the Property. Broker is not responsible for the security of the Property nor for inspecting the Property on any periodic basis.

B. Broker is not responsible or liable in any manner for personal injury to any person or for loss or damage to any person's real or personal property resulting from any act or omission not caused by Broker, including but not limited to injuries or losses caused by:
(1) other brokers, inspectors, appraisers, lenders, contractors, surveyors, engineers, and other persons who are authorized to access the Property;
(2) acts of third parties (for example, vandalism or theft);
(3) freezing or broken water pipes;
(4) a dangerous condition on the Property; and
(5) the Property's non-compliance with any law or ordinance.

Commercial Listing concerning _____

C. Seller agrees to indemnify and hold Broker and Broker's associates harmless from any damages, costs, attorney's fees, and expenses:
(1) that arise from Seller's failure to disclose any material information about the Property;
(2) that are caused by Seller giving incorrect information to Broker, other brokers, or prospects;
(3) that arise from any claim for misuse of intellectual property in any materials or information that Seller provided to Broker related to the Property or this agreement; or
(4) that are otherwise caused by Seller or Seller's negligence.

15. SPECIAL PROVISIONS:

16. DEFAULT: If Seller breaches this Listing, Seller is in default and will be liable to Broker for the amount of Broker's fee specified in Paragraph 5A and any other fees Broker is entitled to receive under this Listing. If a sales price is not determinable in the event of an exchange or breach of this Listing, the Listing Price will be the sales price for the purpose of calculating Broker's fee. If Broker breaches this Listing, Broker is in default and Seller may exercise any remedy at law.

17. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute that may arise between the parties. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation. The parties to the dispute will choose a mutually acceptable mediator and will share the costs of mediation equally.

18. ATTORNEY'S FEES: If Seller or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing or any transaction related to or contemplated by this Listing, such party may recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

19. ADDENDA: Addenda or information that are part of this Listing are:
☒ A. Information About Brokerage Services (TXR-2501)
❑ B. Property Description Exhibit identified in Paragraph 2
❑ C. Condominium Addendum to Listing (TXR-1401)
❑ D. Commercial Property Condition Statement (TXR-1408)
❑ E. Information About On-Site Sewer Facility (TXR-1407)
❑ F. Information about Special Flood Hazard Areas (TXR-1414)
❑ G _____

20. AGREEMENT OF THE PARTIES:

A. Entire Agreement: This Listing is the entire agreement of the parties and may not be changed except by written agreement.

B. Assignability: Neither party may assign this Listing without the written consent of the other party.

C. Binding Effect: Seller's obligations to pay Broker an earned fee is binding upon Seller and Seller's heirs, administrators, executors, successors, and permitted assigns.

D. Joint and Several: All Sellers executing this Listing are jointly and severally liable for the performance of all its terms.

E. Governing Law: Texas law governs the interpretation, validity, performance, and enforcement of this Listing.

Commercial Listing concerning _____

F. Severability: If a court finds any clause in this Listing invalid or unenforceable, the remainder of this Listing will not be affected and all other provisions of this Listing will remain valid and enforceable.

G. Partial Sales or Leases: If Seller sells or leases part of the Property before the date this Listing ends, this Listing will continue for the remaining part of the Property through the term of this Listing.

H. Notices: Notices between the parties must be in writing and are effective when sent to the receiving party's address, fax, or e-mail specified in Paragraph 1.

21. ADDITIONAL NOTICES:

A. Broker's fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by Texas REALTORS®, its local affiliates, or any listing service. Broker's fees are negotiable.

B. The Property must be shown and made available to all persons without regard to race, color, religion, national origin, sex, disability, or familial status. Local ordinances and the National Association of REALTORS® Code of Ethics may provide for additional protected classes (e.g., creed, status as a student, marital status, sexual orientation, or age).

C. If the Property contains a residential dwelling built before 1978, federal law requires the Seller to: (1) provide the buyer with the promulgated lead hazard information pamphlet (TXR-2511); and (2) disclose the presence of any known lead-based paint or lead-based paint hazards.

D. Broker cannot give legal advice. This is a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this Listing, consult your attorney BEFORE signing.

Seller: _____

_____

By:_____

By (signature):_____

Printed Name: _____

Title: _____ Date: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____ Date: _____

Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____

Printed Name: _____

Title: _____ License No. _____

Date: _____

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TEXAS REALTORS

COMMERCIAL REAL ESTATE LISTING AGREEMENT
EXCLUSIVE RIGHT TO LEASE

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1. PARTIES: The parties to this agreement (this Listing) are:

Landlord: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Broker: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Landlord appoints Broker as Landlord's sole and exclusive real estate agent and grants to Broker the exclusive right to lease the Property.

2. PROPERTY: "Property" means the following real property in Texas along with all its improvements:

Building or Complex: _____
Address: _____
City: _____ County: _____ Zip: _____
Legal Description of land on which Property lies *(Identify exhibit if described on attachment)*: _____

_____
_____
_____
_____
_____

The Property contains approximately _____ square feet of rentable area. The rentable area of the Property may not equal the actual useable area within the Property and may include an allocation of common areas in the building or complex.
(If the Property is a condominium, attach Condominium Addendum to Listing (TXR-1401.)

3. LISTING PRICE:

A. Landlord instructs Broker to market the Property at the following base rental rate: $_____

_____
_____.

B. At the rental rate stated in Paragraph 3A, Broker is to market the Property under the following terms:

❑ (1) Landlord will lease the Property for a term of not fewer than _____ months and not more than _____ months.

❑ (2) Expense Reimbursements calculated under the following method: *(Check only one box)*:

Commercial Listing concerning _____

❑ (a) Base-year expenses: A tenant is to pay the tenant's pro rata share of the following expenses for the Property that exceed the amount of base-year expenses for: ❑ taxes, ❑ insurance, ❑ CAM, and ❑ _____.

❑ (b) Expense-stops: A tenant is to pay the tenant's pro rata share of the following expenses for the Property that exceed $_____ per square foot per year for: ❑ taxes, ❑ insurance, ❑ CAM, and ❑ _____.

❑ (c) Net: A tenant is to pay the tenant's pro rata share of expenses for the following expenses: ❑ taxes, ❑ insurance, ❑ CAM, and ❑ _____.

Unless Landlord provides Broker with written definitions otherwise, the phrases "base-year expenses", "expense stops," "CAM," "insurance", and "taxes" have the meanings assigned to those terms in the Commercial Lease Addendum for Expense Reimbursement (TXR-2103) published by Texas REALTORS®.

❑ (3) Percentage Rent equal to _____% multiplied by tenant's gross sales that exceed _____.

❑ (4) Parking Rental calculated as follows: _____.

❑ (5) Rent Increases in the base rent calculated as follows: _____.

❑ (6) Tenant Improvement Allowance that Landlord will provide as follows: _____.

❑ (7) _____.

4. TERM: This Listing begins on _____ and ends at 11:59 p.m. on _____. Landlord may terminate this Listing on notice to Broker any time after _____.

5. BROKER'S FEE:

A. Fee: When earned and payable, Landlord will pay Broker a fee of:

❑ (1) _____% of all base rents to be paid over the term of the lease and the same percentage of the following items to be paid over the term of the lease: ❑ expense reimbursements, and ❑ _____.

❑ (2) _____.

B. Earned: Broker's fee is earned when any one of the following occurs during this Listing:
(1) Landlord leases or agrees to lease all or part of the Property to anyone on any terms;
(2) Broker, individually or in cooperation with another broker, procures a tenant ready, willing, and able

to lease all or part of the Property on the terms stated in Paragraph 3 or on any other terms acceptable to Landlord;

(3) Landlord grants or agrees to grant to another person an option to lease all or part of the Property on any terms; or

(4) Landlord breaches this Listing.

C. Payable:

(1) Once earned, Broker's fee is payable according to the following schedule: *(Check one box only.)*

❑ (a) in one payment upon _____.

❑ (b) one-half of Broker's fee at the time Landlord and a tenant execute a lease and the remainder on the date the lease commences.

❑ (c) _____
_____
_____
_____.

(2) If Landlord breaches this Listing or refuses to lease the Property to a prospective tenant after Broker's fees have been earned, Broker's fees are immediately payable in full.

D. Other Fees:

❑ (1) Renewal Fees:

❑ (a) Tenants Procured by Broker: If, during this Listing or after it ends, Landlord extends, renews, or expands a lease with a tenant procured by Broker, either individually or in cooperation with another broker, Landlord will pay Broker an additional fee of:

❑ (1) _____% of all base rents to be paid over the term of the renewal or extension and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____;

❑ (2) _____% of all base rents to be paid over the term of the expansion and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____; or

❑ (3) _____
_____.

❑ (b) Existing Tenants: If, during this Listing, Landlord extends, renews, or expands a lease with a tenant who is occupying all or part of the Property on the date this Listing begins, Landlord will pay Broker an additional fee of:

❑ (1) _____% of all base rents to be paid over the term of the renewal or extension and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____
_____;

❑ (2) _____% of all base rents to be paid over the term of the expansion and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____
_____; or

Commercial Listing concerning _____

❑ (3) _____
_____.

In addition to their ordinary meanings, "extensions," "renewals," and "expansions" include new leases for more, less, or different space in the building or complex in which the Property is located. The fees under Paragraph 5D(1)(a) and (b) are earned and payable in full at the time the extension, renewal, or expansion commences.

❑ (2) Fees in Event of a Sale:

❑ (a) If, during this Listing, Landlord sells the Property, Landlord will pay Broker an additional fee equal to _____% of the sales price for the Property.

❑ (b) If Landlord sells the Property to a tenant procured by Broker not later than the time the tenant vacates the Property, Landlord will pay Broker an additional fee equal to _____% of the sales price for the Property.

"Sell" means to sell, agree to sell, convey, agree to convey, exchange, agree to exchange, transfer, or agree to transfer a legal or equitable interest (excluding a lease or rental) either by written or oral agreement or by option. The fee for a sale under this Paragraph 5D(2) is earned at the time Landlord agrees to sell the Property and is payable at the closing of the sale regardless of whether closing occurs during the term of this Listing or after its termination.

❑ (3) Service Providers: If Broker refers Landlord or a prospective tenant to a service provider (e.g., mover, cable company, telecommunications provider, utility, or contractor) Broker may receive a fee from the service provider for the referral. Any referral fee Broker receives under this Paragraph 5D(3) is in addition to any other compensation Broker may receive under this Listing.

❑ (4) Other Fees and/or Reimbursable Expenses: _____
_____
_____
_____.

E. Protection Period:

(1) "Protection period" means that time starting the day after this Listing ends and continuing for _____ days.

(2) Not later than 10 days after this Listing ends Broker may send Landlord written notice specifying the names of persons whose attention Broker has called to the Property during this Listing. If Landlord agrees to lease or sell all or part of the Property during the protection period to a person named in the notice or to a relative or business associate of a person named in the notice, Landlord will pay Broker, upon the execution of the lease or upon closing of the sale (whichever applies), the amount Broker would have been entitled to receive if this Listing were still in effect.

(3) "Person" means any person in any capacity whether an individual or entity.

(4) This Paragraph 5E survives termination of this Listing.

F. County: All amounts payable to Broker are to be paid in cash in _____ County, Texas.

NOTICE: Under Chapter 62, Texas Property Code, Broker is entitled to claim a lien against the Property to secure payment of an earned commission.

Commercial Listing concerning _____

6. EXCLUSIONS:

A. Under a prior listing agreement Landlord is obligated to pay another Texas licensed broker a fee if Landlord leases or sells all or part of the Property before _____ to any of the following persons: _____

_____

_____ (named exclusions).

B. If Landlord enters into a contract to lease or sell all or part of the Property to a named exclusion before the date specified in Paragraph 6A, Landlord will not be obligated to pay Broker the fees under Paragraph 5 of this Listing, but Landlord will pay Broker, upon the closing of the sale or upon execution of the lease, a fee equal to:

(1) _____% of the sales price if Landlord sells the Property;

(2) _____% of all base rents to be paid over the term of the lease if Landlord leases the Property and the same percentage of the following items to be paid over the term of the lease: ❑ expense reimbursements, and ❑ _____; and

(3) _____

_____.

C. If Landlord agrees to lease or sell all or part of the Property to a named exclusion, Broker ❑ will ❑ will not assist Landlord in negotiating and closing the transaction to the named exclusion.

7. ACCESS TO THE PROPERTY: Authorizing access to the Property means giving permission to another person to enter the Property, disclosing any security codes necessary to enter the Property to such person and lending a key to the Property to such person. To facilitate the efficient showing and lease of the Property, Landlord instructs Broker and Broker's associates to: (i) access the Property at reasonable times; (ii) authorize other brokers, inspectors, appraisers, lenders, surveyors, engineers, and repair persons to enter the Property at reasonable times; and (iii) duplicate keys to facilitate convenient and efficient showings.

8. COOPERATION WITH OTHER BROKERS: Broker will allow other brokers to show the Property to prospective tenants. If the other broker procures a tenant who leases the Property, Broker will offer to pay the other broker a portion of Broker's fee under Paragraph 5.

9. INTERMEDIARY: *(Check A or B only.)*

❑ A. Intermediary Status: Broker may show the Property to interested prospective tenants or buyers who Broker represents. If a prospect who Broker represents offers to lease or buy the Property, Landlord authorizes Broker to act as an intermediary and Broker will notify Landlord that Broker will service the parties in accordance with one of the following alternatives.

(1) If a prospect who Broker represents is serviced by an associate other than the associate servicing Landlord under this Listing, Broker may notify Landlord that Broker will: (a) appoint the associate then servicing Landlord to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Landlord; and (b) appoint the associate then servicing the prospect to the prospect for the same purpose.

(2) If a prospect who Broker represents is serviced by the same associate who is servicing Landlord, Broker may notify Landlord that Broker will: (a) appoint another associate to communicate with, carry out instructions of, and provide opinions and advice during negotiations to the prospect; and (b) appoint the associate servicing the Landlord under this Listing to the Landlord for the same purpose.

(i) on the Internet on Broker's website and on other websites as Broker determines;
(ii) in any advertisements whether in print or electronic media; and
(iii) into listing services that may publicize the information on the Internet or by other means;

(2) reproduce, display, and distribute information about the Property, including the information described under Paragraph 11B(1), for the purposes of marketing the Property;
(3) furnish comparative marketing and sales information about other properties to prospects;
(4) disseminate information about the Property to other brokers and prospects, including applicable disclosures, notices, or other information that Seller is required to make under law or a contract;
(5) obtain information from any holder of any note secured by a lien on the Property;
(6) accept, in trust, any earnest money, option fee, security deposit, or other money related to the purchase or lease of the Property and deliver such money for deposit in accordance with a contract for the sale or lease of the Property;
(7) disclose the sales price and terms of a sale or a lease to other brokers, appraisers, other real estate professionals, and any listing services into which information about the Property is placed;
(8) place information about this Listing and a transaction for the Property on an electronic platform (an electronic platform is typically an Internet-based system where professionals related to the transaction, such as title companies and lenders, may receive, view, and input information); and
(9) advertise that Broker "sold" or "leased" the Property after the closing of a sale or execution of a lease of the Property in which Broker was involved.

NOTICE: Any submission of information to a listing service must be made in accordance with listing service's rules.

C. Broker is not authorized to execute any document in the name of or on behalf of Seller concerning the Property.

D. Photographs, videos, and compilations of information submitted to a listing service are the property of the listing service for all purposes.

12. REPRESENTATIONS:

A. Except as provided otherwise in this Listing, Seller represents that:
(1) Seller has fee simple title to and peaceable possession of the Property and all its improvements and fixtures thereon, unless rented, and the legal capacity to convey the Property;
(2) Seller is not bound by a listing agreement with another broker for the sale, exchange, or lease of the Property that is or will be in effect during this Listing;
(3) no person or entity has any right to purchase, lease, or acquire the Property by an option, right of refusal, or other agreement;
(4) there are no delinquencies or defaults under any deed of trust, mortgage, or other encumbrance on the Property;
(5) the Property is not subject to the jurisdiction of any court;
(6) Seller owns sufficient intellectual property rights in any materials which Seller provides to Broker related to the Property (for example, brochures, photographs, drawings, or articles) to permit Broker to reproduce and distribute such materials for the purposes of marketing the Property or for other purposes related to this agreement; and
(7) all information relating to the Property Seller provides to Broker is true and correct to the best of Seller's knowledge.

B. Seller and Broker must disclose any known material defect in the Property to a prospective buyer. *(Check only one box.)*

❑ (1) Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408). Seller authorizes Broker to furnish prospective buyers and other brokers with a copy of the Commercial Property Condition Statement (TXR-1408).

(8) advertise that Broker "leased" or "sold" the Property after the execution of a lease or closing of a sale of the Property in which Broker was involved.

NOTICE: Any submission of information to a listing service must be made in accordance with the listing service's rules.

C. Broker is not authorized to execute any document in the name of or on behalf of Landlord concerning the Property.

D. Photographs, videos, and compilations of information submitted to a listing service are the property of the listing service for all purposes.

12. REPRESENTATIONS:

A. Except as provided otherwise in this Listing, Landlord represents that:
(1) Landlord has fee simple title to and peaceable possession of the Property and all its improvements and fixtures thereon, unless rented, and the legal capacity to lease the Property;
(2) Landlord is not bound by a listing agreement with another broker for the sale, exchange, or lease of the Property that is or will be in effect during this Listing;
(3) no person or entity has any right to purchase, lease, or acquire the Property by an option, right of refusal, or other agreement;
(4) there are no delinquencies or defaults under any deed of trust, mortgage, or other encumbrance on the Property;
(5) the Property is not subject to the jurisdiction of any court;
(6) Landlord owns sufficient intellectual property rights in any materials which Landlord provides to Broker related to the Property (for example, brochures, photographs, drawings, or articles) to permit Broker to reproduce and distribute such materials for the purposes of marketing the Property or for other purposes related to this agreement; and
(7) all information relating to the Property Landlord provides to Broker is true and correct to the best of Landlord's knowledge.

B. Landlord and Broker must disclose any known condition on the Property that would materially affect the health or safety of an ordinary tenant. *(Check (1) or (2) only.)*

❑ (1) Landlord is not aware of any condition on the Property that would materially affect the health or safety of an ordinary tenant, except as stated in the attached Commercial Property Condition Statement (TXR-1408). Landlord authorizes Broker to furnish prospective tenants and other brokers with a copy of the Commercial Property Condition Statement (TXR-1408).

❑ (2) Except as otherwise provided in this Listing, Landlord is not aware of:
(a) any subsurface: structures, pits, wastes, springs, or improvements;
(b) any pending or threatened litigation, condemnation, or assessment affecting the Property;
(c) any environmental hazards or conditions that materially affect the Property;
(d) whether the Property is or has ever been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
(e) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants) or other pollutants or contaminants of any nature now exist or have ever existed on the Property;
(f) any wetlands, as defined by federal or state law or regulation, on the Property;
(g) any threatened or endangered species or their habitat on the Property;
(h) any present or past infestation of wood-destroying insects in the Property's improvements;
(i) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
(j) any condition on the Property that violates any law or ordinance; and

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(k) any condition on the Property that would affect the health or safety of an ordinary tenant.

(List any exceptions to (a)-(k) in Special Provisions or an addendum.)

13. LANDLORD'S ADDITIONAL PROMISES: Landlord agrees to:

A. cooperate with Broker to facilitate the showing and marketing of the Property;
B. not negotiate with any prospective tenant who may contact Landlord directly, but refer all prospective tenants to Broker;
C. not enter into a listing agreement with another broker for the lease of the Property to become effective during this Listing;
D. not enter into a listing agreement for the sale of all or party of the Property with another broker to become effective during this listing without Broker's written permission;
E. provide Broker with copies of the following, if any, relating to the Property: a current rent roll, all leases including any amendments, architectural plans and drawings, renderings, survey, a current operating statement, environmental inspection reports, engineering reports, and other relevant information that Broker may request during this Listing;
F. advise Broker of any tenants moving in or out of the Property;
G. complete any disclosures or notices required by law or a contract to lease the Property;
H. amend any applicable notices and disclosures if any material change occurs during this Listing; and
I. at Landlord's expense, remove from the Property all:
   (1) "For Lease" (or similarly worded) signs other than Broker's signs;
   (2) "For Sale" signs from the Property unless the Property is listed for sale with another broker; and
   (3) "For Information" signs or similarly worded) signs other than Broker's signs.

14. LIMITATION OF LIABILITY:

A. If the Property is or becomes vacant during this Listing, Landlord must notify Landlord's casualty insurance company and request a "vacancy clause" to cover the Property. Broker is not responsible for the security of the Property nor for inspecting the Property on any periodic basis.

B. Broker is not responsible or liable in any manner for personal injury to any person or for loss or damage to any person's real or personal property resulting from any act or omission not caused by Broker, including but not limited to injuries or losses caused by:
   (1) other brokers, inspectors, appraisers, lenders, contractors, surveyors, engineers, and other persons who are authorized to access the Property;
   (2) acts of third parties (for example, vandalism and theft);
   (3) freezing or broken water pipes;
   (4) a dangerous condition on the Property; and
   (5) the Property's non-compliance with any law or ordinance.

C. Landlord agrees to indemnify and hold Broker and Broker's associates harmless from any damages, costs, attorney's fees, and expenses:
   (1) that arise from Landlord's failure to disclose any material information about the Property;
   (2) that are caused by Landlord giving incorrect information to Broker, other brokers, or prospects;
   (3) that arise from any claim for misuse of intellectual property in any materials or information that Landlord provided to Broker related to the Property or this agreement; or
   (4) that are otherwise caused by Landlord or Landlord's negligence.

15. SPECIAL PROVISIONS:

16. DEFAULT: If Landlord breaches this Listing, Landlord is in default and will be liable to Broker for the amount of the Broker's fee specified in Paragraph 5A and any other fees Broker is entitled to receive under this Listing. If a rental rate is not determinable in the event of a breach, the Listing Price will be the rental rate for the purpose of calculating Broker's fee. If Broker breaches this Listing, Broker is in default and Landlord may exercise any remedy at law.

17. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute that may arise between the parties. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation. The parties to the dispute will choose a mutually acceptable mediator and will share the costs of mediation equally.

18. ATTORNEY'S FEES: If Landlord or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing or any transaction related to or contemplated by this Listing, such party may recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

19. ADDENDA: Addenda or information that are part of this Listing are:

- ☒ A. Information About Brokerage Services (TXR-2501)
- ❑ B. Property Description Exhibit identified in Paragraph 2
- ❑ C. Condominium Addendum to Listing (TXR-1401)
- ❑ D. Commercial Property Condition Statement (TXR-1408)
- ❑ E. Information About On-Site Sewer Facility (TXR-1407)
- ❑ F. Information about Special Flood Hazard Areas (TXR-1414)
- ❑ G. _____
  _____.

20. AGREEMENT OF THE PARTIES:

A. Entire Agreement: This Listing is the entire agreement of the parties and may not be changed except by written agreement.

B. Assignability: Neither party may assign this Listing without the written consent of the other party.

C. Binding Effect: Landlord's obligations to pay Broker an earned fee is binding upon Landlord and Landlord's heirs, administrators, executors, successors, and permitted assigns.

D. Joint and Several: All Landlords executing this Listing are jointly and severally liable for the performance of all its terms.

E. Governing Law: Texas law governs the interpretation, validity, performance, and enforcement of this Listing.

F. Severability: If a court finds any clause in this Listing invalid or unenforceable, the remainder of this Listing will not be affected and all other provisions of this Listing will remain valid and enforceable.

G. Partial Leases or Sales: If Landlord leases or sells part of the Property before the date this Listing ends, this Listing will continue for the remaining part of the Property through the term of this Listing.

Commercial Listing concerning _____

H. Notices: Notices between the parties must be in writing and are effective when sent to the receiving party's address, fax, or e-mail specified in Paragraph 1.

21. ADDITIONAL NOTICES:

A. Broker's fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by Texas REALTORS®, its local affiliates, or any listing service. Broker's fees are negotiable.

B. The Property must be shown and made available to all persons without regard to race, color, religion, national origin, sex, disability, or familial status. Local ordinances and the National Association of REALTORS® Code of Ethics may provide for additional protected classes (e.g., creed, status as a student, marital status, sexual orientation, or age).

C. Broker cannot give legal advice. This is a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this Listing, consult your attorney BEFORE signing.

Landlord: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____

Printed Name: _____

Title: _____ License No. _____

Date: _____

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TEXAS REALTORS

COMMERCIAL REAL ESTATE LISTING AGREEMENT
EXCLUSIVE RIGHT TO SUBLEASE

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc., 2014

1. PARTIES: The parties to this agreement (this Listing) are:

Tenant: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Broker: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Tenant appoints Broker as Tenant's sole and exclusive real estate agent and grants to Broker the exclusive right to sublease the Property.

2. DEFINITIONS:

A. "Property" means the following real property in Texas along with all its improvements:

Building or Complex: _____ Suite(s): _____
Address: _____
City: _____ County: _____ Zip: _____
Legal Description of land on which Property lies *(Identify exhibit if described on attachment)*: _____

_____

_____

_____

The Property contains approximately _____ square feet of rentable area as shown on the attached _____ *(Identify exhibit, floor plan, or schematic).* The rentable area of the Property may not equal the actual useable area within the Property and may include an allocation of common areas in the building or complex.

(If the Property is a condominium, attach Condominium Addendum to Listing (TXR-1401).)

B. "Master Lease" means the written lease under which Tenant leases the Property from _____

_____ (Landlord).
The Master Lease expires on _____ ❑ including ❑ not including renewal options.

C. "Sublease" means: (1) a lease from Tenant to another person(s) for all or part of the Property for a term that expires on or before the date the Master Lease ends; or (2) an assignment of all or part of Tenant's interest in the Master Lease.

D. "Sublessee" means: (1) another person who receives by lease all or part of the Property from Tenant; or (2) an assignee of all or part of Tenant's interest in the Master Lease.

Commercial Listing concerning _____

3. LISTING PRICE:

A. Tenant lists the Property for sublease at a base rental rate of $_____ _____.

B. At the rent stated in 3A, Broker is to market the Property under terms where a sublessee is to pay:

❑ (1) Expense Reimbursements as follows: _____ _____ _____.

❑ (2) Percentage Rent equal to _____% multiplied by sublessee's gross sales that exceed _____ _____.

❑ (3) Parking Rental calculated as follows: _____ _____.

❑ (4) Rent Increases in the base rent calculated as follows: _____ _____.

❑ (5) _____ _____ _____.

C. Tenant will sublease the Property for a term that expires on or before the date that the Master Lease ends and on terms, in all other respects, identical to the Master Lease except as follows and as otherwise stated in this Listing: _____ _____ _____.

4. TERM: This Listing begins on _____ and ends at 11:59 p.m. on _____. Tenant may terminate this Listing on notice to Broker any time after _____.

5. BROKER'S FEE:

A. Fee: When earned and payable, Tenant will pay Broker a fee of:

❑ (1) _____% of all base rents to be paid over the term of the sublease and the same percentage of the following items to be paid over the term of the sublease: ❑ expense reimbursements, and ❑ _____.

❑ (2) _____ _____ _____ _____.

B. Earned: Broker's fee is earned when any one of the following occurs during this Listing:
(1) Tenant subleases or agrees to sublease all or part of the Property to anyone on any terms;
(2) Broker, individually or in cooperation with another broker, procures a sublessee ready, willing, and able to sublease all or part of the Property on the terms stated in Paragraph 3 or on any other terms acceptable to Tenant;
(3) Tenant grants or agrees to grant to another person an option to sublease all or part of the Property on any terms; or
(4) Tenant breaches this Listing.

Commercial Listing concerning _____

C. Payable:

(1) Once earned, Broker's fee is payable according to the following schedule: *(Check one box only.)*

❑ (a) in one payment upon _____
_____.

❑ (b) one-half of Broker's fee at the time Tenant and a sublessee execute a sublease and the remainder on the date the sublease commences.

❑ (c) _____
_____
_____.

(2) If Tenant breaches this Listing or refuses to sublease the Property to a prospective sublessee after Broker's fees have been earned, Broker's fees are immediately payable in full.

(3) Broker's fee is not payable if Landlord's prior consent to Tenant subleasing the Property is not obtained.

D. Other Fees:

❑ (1) Renewal Fees: If, during this Listing or after it ends, Tenant extends, renews, or expands a sublease with a sublessee procured by Broker, either individually or in cooperation with another broker, Tenant will pay Broker an additional fee of:

❑ (a) _____% of all base rents to be paid over the term of the renewal or extension and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____;

❑ (b) _____% of all base rents to be paid over the term of the expansion and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____; or

❑ (c) _____
_____.

In addition to their ordinary meanings, "extensions," "renewals," and "expansions" include new subleases for more, less, or different space in the Property. The fees under this Paragraph 5D(1) are earned and payable at the time the extension, renewal, or expansion commences.

❑ (2) Master Lease Cancellation: If Tenant and Landlord agree to cancel the Master Lease, Tenant will pay Broker a fee of:

❑ (a) _____% of all base rents that Tenant would have paid over the term of the Master lease and the same percentage of the following items that Tenant would have paid over the term of the Master lease: ❑ expense reimbursements ❑ _____
_____.

❑ (b) _____
_____.

The fees under this Paragraph 5D(2) are earned and payable at the time the Tenant and Landlord agree to cancel the Master Lease.

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Shiloh Modisett

Commercial Listing concerning _____

❑ (3) Service Providers: If Broker refers Tenant or a prospective sublessee to a service provider (e.g., mover, cable company, telecommunications provider, utility, or contractor) Broker may receive a fee from the service provider for the referral. Any referral fee Broker receives under this Paragraph 5D(3) is in addition to any other compensation Broker may receive under this Listing.

❑ (4) Other Fees and/or Reimbursable Expenses: _____
_____
_____
_____.

E. Protection Period:

(1) "Protection period" means that time starting the day after this Listing ends and continuing for _____ days.

(2) Not later than 10 days after this Listing ends Broker may send Tenant written notice specifying the names of persons whose attention Broker has called to the Property during this Listing. If Tenant agrees to sublease all or part of the Property during the protection period to a person named in the notice or to a relative or a business associate of a person named in the notice, Tenant will pay Broker, upon the execution of the sublease, the amount Broker would have been entitled to receive if this Listing were still in effect.

(3) "Person" means any person in any capacity whether an individual or entity.

(4) This Paragraph 5E survives termination of this Listing.

F. County: All amounts payable to Broker are to be paid in cash in _____ County, Texas.

NOTICE: Under Chapter 62, Texas Property Code, Broker is entitled to claim a lien against Tenant's interest in the Property to secure payment of an earned commission.

6. EXCLUSIONS:

A. Under a prior listing agreement Tenant is obligated to pay another Texas licensed broker a fee if Tenant subleases all or part of the Property before _____ to any of the following persons: _____
_____
_____ (named exclusions).

B. If Tenant enters into a sublease for all or part of the Property to a named exclusion before the date specified in 6A, Tenant will not be obligated to pay Broker the fees under Paragraph 5 of this Listing, but Tenant will pay Broker, upon execution of the sublease, a fee equal to:

❑ (1) _____% of all base rents to be paid over the term of the sublease and the same percentage of the following items to be paid over the term of the sublease: ❑ expense reimbursements, and ❑ _____; or

❑ (2) _____.

C. If Tenant desires to sublease all or part of the Property to a named exclusion, Broker ❑ will ❑ will not assist Tenant in negotiating the sublease to the named exclusion.

7. ACCESS TO THE PROPERTY: Authorizing access to the Property means giving permission to another person to enter the Property, disclosing any security codes necessary to enter the Property to such person and lending a key to the Property to such person. To facilitate the efficient showing and sublease of the

Property, Tenant instructs Broker and Broker's associates to: (i) access the Property at reasonable times; (ii) authorize other brokers, inspectors, appraisers, lenders, surveyors, engineers, and repair persons to enter the Property at reasonable times; and (iii) duplicate keys to facilitate convenient and efficient showings.

8. COOPERATION WITH OTHER BROKERS: Broker will allow other brokers to show the Property to prospective sublessees. If the other broker procures a sublesee who subleases the Property, Broker will offer to pay the other broker a portion of Broker's fee under Paragraph 5.

9. INTERMEDIARY: *(Check A or B only.)*

❑ A. Intermediary Status: Broker may show the Property to interested prospective sublessees who Broker represents. If a prospect who Broker represents offers to sublease the Property, Tenant authorizes Broker to act as an intermediary and Broker will notify Tenant that Broker will service the parties in accordance with one of the following alternatives.

(1) If a prospect who Broker represents is serviced by an associate other than the associate servicing Tenant under this Listing, Broker may notify Tenant that Broker will: (a) appoint the associate then servicing Tenant to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Tenant; and (b) appoint the associate then servicing the prospect to the prospect for the same purpose.

(2) If a prospect who Broker represents is serviced by the same associate who is servicing Tenant, Broker may notify Tenant that Broker will: (a) appoint another associate to communicate with, carry out instructions of, and provide opinions and advice during negotiations to the prospect; and (b) appoint the associate servicing the Tenant under this Listing to the Tenant for the same purpose.

(3) Broker may notify Tenant that Broker will make no appointments as described under this Paragraph 9A and, in such an event, the associate servicing the parties will act solely as Broker's intermediary representative, who may facilitate the transaction but will not render opinions or advice during negotiations to either party.

❑ B. No Intermediary Status: Tenant agrees that Broker will not show the Property to prospects who Broker represents.

Notice: If Broker acts as an intermediary under Paragraph 9A, Broker and Broker's associates:

- **may not disclose to the prospect that Tenant will accept a price less than the asking price unless otherwise instructed in a separate writing by Tenant;**
- **may not disclose to Tenant that the prospect will pay a price greater than the price submitted in a written offer to Tenant unless otherwise instructed in a separate writing by the prospect;**
- **may not disclose any confidential information or any information Tenant or the prospect specifically instructs Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Real Estate License Act or a court order or if the information materially relates to the condition of the property;**
- **may not treat a party to the transaction dishonestly; and**
- **may not violate the Real Estate License Act.**

10. CONFIDENTIAL INFORMATION: During this Listing or after it ends, Broker may not knowingly disclose information obtained in confidence from Tenant except as authorized by Tenant or required by law. Broker may not disclose to Tenant any information obtained in confidence regarding any other person Broker represents or may have represented except as required by law.

Commercial Listing concerning _____

11. BROKER'S AUTHORITY:

A. Broker will use reasonable efforts and act diligently to market the Property for sublease, procure a sublessee, and negotiate the sublease of the Property.

B. In addition to other authority granted by this Listing, Broker may:
(1) advertise the Property by means and methods as Broker determines is appropriate in any media, including but not limited to:
(a) placing a "For Lease" sign or similar marketing sign on the Property if permitted under the Master Lease or by the Landlord; and
(b) creating and placing information about the Property (including interior and exterior photographs and videos):
(i) on the Internet on Broker's website and on other websites as Broker determines;
(ii) in any advertisements whether in print or electronic media; and
(iii) into listing services that my publicize the information on the Internet or by other means;
(2) reproduce, display, and distribute information about the Property, including the information described under Paragraph 11B(1), for the purposes of marketing the Property;
(3) furnish comparative marketing and lease information about other properties to prospects;
(4) disseminate information about the Property to other brokers and prospects, including applicable disclosures, notices, or other information that Tenant is required to make under law or a contract;
(5) accept security deposits and other funds in trust in accordance with the terms of a sublease for all or part of the Property;
(6) disclose the terms of the sublease to other brokers, appraisers, other real estate professionals, and any listing services into which information about the Property is placed;
(7) place information about this Listing and a transaction for the Property on an electronic platform (an electronic platform is typically an Internet-based system where professionals related to the transaction, such as title companies and lenders, may receive, view, and input information); and
(8) advertise that Broker subleased the Property after the execution of a sublease of the Property in which Broker was involved.

NOTICE: Any submission of information to a listing service must be made in accordance with the listing service's rules.

C. Broker is not authorized to execute any document in the name of or on behalf of Tenant concerning the Property.

D. Photographs, videos, and compilations of information submitted to a listing service are the property of the listing service for all purposes.

12. REPRESENTATIONS:

A. Except as provided otherwise in this Listing, Tenant represents that:
(1) Tenant has peaceable possession of the Property and all its improvements and fixtures thereon, unless subleased, and the legal capacity to sublease the Property;
(2) Tenant is not bound by a listing agreement with another broker for the sublease of all or part of the Property that is or will be in effect during this Listing;
(3) no person or entity has any right to sublease the Property by an option, right of refusal, or other agreement;
(4) Tenant is not in breach of the Master Lease;
(5) the Property is not subject to the jurisdiction of any court;

(6) Tenant owns sufficient intellectual property rights in any materials which Tenant provides to Broker related to the Property (for example, brochures, photographs, drawings, or articles) to permit

Broker to reproduce and distribute such materials for the purposes of marketing the Property or for other purposes related to this agreement; and

(7) all information relating to the Property Tenant provides to Broker is true and correct to the best of Tenant's knowledge.

B. Tenant and Broker must disclose any known condition on the Property that would materially affect the health or safety of an ordinary subtenant. *(Check (1) or (2) only.)*

❑ (1) Tenant is not aware of any condition on the Property that would materially affect the health or safety of an ordinary sublessee, except as stated in the attached Commercial Property Condition Statement (TXR-1408). Tenant authorizes Broker to furnish prospective sublessees and other brokers with a copy of the Commercial Property Condition Statement (TXR-1408).

❑ (2) Except as otherwise provided in this Listing, Tenant is not aware of:

(a) any subsurface: structures, pits, wastes, springs, or improvements;
(b) any pending or threatened litigation, condemnation, or assessment affecting the Property;
(c) any environmental hazards or conditions that materially affect the Property;
(d) whether the Property is or has ever been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
(e) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants) or other pollutants or contaminants of any nature now exist or have ever existed on the Property;
(f) any wetlands, as defined by federal or state law or regulation, on the Property;
(g) any threatened or endangered species or their habitat on the Property;
(h) any present or past infestation of wood-destroying insects in the Property's improvements;
(i) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
(j) any condition on the Property that violates any law or ordinance; and
(k) any condition on the Property that would affect the health or safety of an ordinary tenant.

(List any exceptions to (a)-(k) in Special Provisions or an addendum.)

13. TENANT'S ADDITIONAL PROMISES: Tenant agrees to:

A. cooperate with Broker to facilitate the showing and marketing of the Property;
B. not negotiate with any prospective sublessee who may contact Tenant directly, but refer all prospective sublessees to Broker;
C. not enter into a listing agreement with another broker for the sublease of all or part of the Property to become effective during this Listing;
D. provide Broker with relevant information about the Property that Broker may request during this Listing;
E. advise Broker of any sublessees moving in or out of the Property;
F. complete any disclosures or notices required by law or a contract to sublease the Property;
G. amend any applicable notices and disclosures if any material change occurs during this Listing; and
H. at Tenant's expense, remove from the Property all "For Lease," "For Information," or similarly worded signs other than Broker's signs; and
I. at Tenant's expense, remove all of Tenant's signs on or before the date a sublease commences.

14. LIMITATION OF LIABILITY:

A. If the Property is or becomes vacant during this Listing, Tenant must notify Tenant's casualty insurance company and request a "vacancy clause" to cover the Property. Broker is not responsible for the security of the Property nor for inspecting the Property on any periodic basis.

B. Broker is not responsible or liable in any manner for personal injury to any person or for loss or damage to any person's real or personal property resulting from any act or omission not caused by Broker, including but not limited to injuries or losses caused by:

(1) other brokers, inspectors, appraisers, lenders, contractors, surveyors, engineers, and other persons who are authorized to access the Property;
(2) acts of third parties (for example, vandalism and theft);
(3) freezing or broken water pipes;
(4) a dangerous condition on the Property; and
(5) the Property's non-compliance with any law or ordinance.

C. Tenant agrees to indemnify and hold Broker and Broker's associates harmless from any damages, costs, attorney's fees, and expenses:
(1) that arise from Tenant's failure to disclose any material information about the Property;
(2) that are caused by Tenant giving incorrect information to Broker, other brokers, or prospects;
(3) that arise from any claim for misuse of intellectual property in any materials or information that Tenant provided to Broker related to the Property or this agreement; or
(4) that are otherwise caused by Tenant or Tenant's negligence.

15. SPECIAL PROVISIONS:

16. DEFAULT: If Tenant breaches this Listing, Tenant is in default and will be liable to Broker for the amount of the Broker's fee specified in Paragraph 5A and any other fees Broker is entitled to receive under this Listing. If a rental rate is not determinable in the event of a breach, the Listing Price will be the rental rate for the purpose of calculating Broker's fee. If Broker breaches this Listing, Broker is in default and Tenant may exercise any remedy at law.

17. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute that may arise between the parties. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation. The parties to the dispute will choose a mutually acceptable mediator and will share the costs of mediation equally.

18. ATTORNEY'S FEES: If Tenant or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing or any transaction related to or contemplated by this Listing, such party may recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

19. ADDENDA: Addenda or information that are part of this Listing are:
☒ A. Information About Brokerage Services (TXR-2501)
❑ B. Property Description Exhibit identified in Paragraph 2
❑ C. Master Lease
❑ D. Condominium Addendum to Listing (TXR-1401)
❑ E. Commercial Property Condition Statement (TXR-1408)
❑ F. Information About On-Site Sewer Facility (TXR-1407)
❑ G. Information about Special Flood Hazard Areas (TXR-1414)
❑ H. _____
_____.

20. AGREEMENT OF THE PARTIES:

A. Entire Agreement: This Listing is the entire agreement of the parties and may not be changed except by written agreement.

Commercial Listing concerning _____

B. Assignment: Neither party may assign this Listing without the written consent of the other party.

C. Binding Effect: Tenant's obligations to pay Broker an earned fee is binding upon Tenant and Tenant's heirs, administrators, executors, successors, and permitted assigns.

D. Joint and Several: All Tenants executing this Listing are jointly and severally liable for the performance of all its terms.

E. Governing Law: Texas law governs the interpretation, validity, performance, and enforcement of this Listing.

F. Severability: If a court finds any clause in this Listing invalid or unenforceable, the remainder of this Listing will not be affected and all other provisions of this Listing will remain valid and enforceable.

G. Partial Leases: If Tenant subleases part of the Property before the date this Listing ends, this Listing will continue for the remaining part of the Property through the term of this Listing.

H. Notices: Notices between the parties must be in writing and are effective when sent to the receiving party's address, fax, or e-mail specified in Paragraph 1.

21. ADDITIONAL NOTICES:

A. Broker's fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by Texas REALTORS®, its local affiliates, or any listing service. Broker's fees are negotiable.

B. The Property must be shown and made available to all persons without regard to race, color, religion, national origin, sex, disability, or familial status. Local ordinances and the National Association of REALTORS® Code of Ethics may provide for additional protected classes (e.g., creed, status as a student, marital status, sexual orientation, or age).

C. Under §91.005, Property Code, a tenant may not sublease a leasehold without the prior consent of the landlord. Consent may be obtained in the master lease or by a separate consent.

D. Broker cannot give legal advice. This is a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this Listing, consult your attorney BEFORE signing.

Tenant: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____

Printed Name: _____

Title: _____ License No. _____

Date: _____

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TEXAS REALTORS

COMMERCIAL BUYER/TENANT REPRESENTATION AGREEMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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1. PARTIES: The parties to this agreement are:

Client: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Broker: _____

_____

Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

2. APPOINTMENT: Client grants to Broker the exclusive right to act as Client's real estate agent for the purpose of acquiring property in the market area.

3. DEFINITIONS:

A. "Acquire" means to purchase or lease.

B. "Closing" in a sale transaction means the date legal title to a property is conveyed to a purchaser of property under a contract to buy. "Closing" in a lease transaction means the date a landlord and tenant enter into a binding lease of a property.

C. "Market area" means that area in the State of Texas within the perimeter boundaries of: _____

_____

_____

_____

_____

_____.

D. "Property" means any interest in real estate. Client intends to acquire _____ properties in the market area. If Client intends to acquire more than one property, the terms "property", "price", "purchase", and "lease" will be read to include the plural.

4. TERM: This agreement begins on _____ and ends at the earlier of:
A. 11:59 p.m. on _____; or
B. the closing of the transaction of the last property that Client intends to acquire.

5. BROKER'S OBLIGATIONS: Broker will:
A. use Broker's best efforts to assist Client in acquiring property in the market area;
B. assist Client in negotiating the acquisition of property in the market area; and
C. comply with other provisions of this agreement.

6. CLIENT'S OBLIGATIONS: Client will:
A. work exclusively through Broker when acquiring property in the market area and negotiate the acquisition of property in the market area only through Broker;

B. inform other brokers, salespersons, sellers, and landlords with whom Client may have contact that Broker exclusively represents Client for the purpose of acquiring property in the market area and refer all such persons to Broker; and
C. comply with other provisions of this agreement.

7. REPRESENTATIONS:
A. Each person signing this agreement represents that the person has the legal capacity and authority to bind the respective party to this agreement.
B. Client represents that Client is not now a party to another buyer or tenant representation agreement with another broker for the acquisition of property in the market area.
C. Client represents that all information relating to Client's ability to acquire property in the market area Client gives to Broker is true and correct.

8. INTERMEDIARY: *(Check A or B only.)*

❑ A. Intermediary Status: If Client wishes to acquire one of Broker's listings, Client authorizes Broker to act as an intermediary and Broker will notify Client that Broker will service the parties in accordance with one of the following alternatives.
(1) If the owner of the property is serviced by an associate other than the associate servicing Client under this agreement, Broker may notify Client that Broker will: (a) appoint the associate then servicing the owner to communicate with, carry out instructions of, and provide opinions and advice during negotiations to the owner; and (b) appoint the associate then servicing Client to the Client for the same purpose.
(2) If the owner of the property is serviced by the same associate who is servicing Client, Broker may notify Client that Broker will: (a) appoint another associate to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Client; and (b) appoint the associate servicing the owner under the listing to the owner for the same purpose.
(3) Broker may notify Client that Broker will make no appointments as described under this Paragraph 8A and, in such an event, the associate servicing the parties will act solely as Broker's intermediary representative, who may facilitate the transaction but will not render opinions or advice during negotiations to either party.

❑ B. No Intermediary Status: Client does not wish to be shown or acquire any of Broker's listings.

Notice: If Broker acts as an intermediary under Paragraph 8A, Broker and Broker's associates:
- **may not disclose to Client that the seller or landlord will accept a price less than the asking price unless otherwise instructed in a separate writing by the seller or landlord;**
- **may not disclose to the seller or landlord that Client will pay a price greater than the price submitted in a written offer to the seller or landlord unless otherwise instructed in a separate writing by Client;**
- **may not disclose any confidential information or any information a seller or landlord or Client specifically instructs Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Real Estate License Act or a court order or if the information materially relates to the condition of the property;**
- **shall treat all parties to the transaction honestly; and**
- **shall comply with the Real Estate License Act.**

9. COMPETING CLIENTS: Client acknowledges that Broker may represent other prospective buyers or tenants who may seek to acquire properties that may be of interest to Client. Client agrees that Broker may, during the term of this agreement and after it ends, represent such other prospects, show to the other prospects the same properties that Broker shows to Client, and act as a real estate broker for such other prospects in negotiating the acquisition of properties that Client may seek to acquire.

10. CONFIDENTIAL INFORMATION: Broker may not knowingly disclose information obtained in confidence from Client except as authorized by Client or required by law. Broker may not disclose to Client any

information obtained in confidence regarding any other person Broker represents or may have represented except as required by law.

11. BROKER'S FEES:

A. Broker's fees under this agreement are as follows: *(Check all that apply.)*

❑ (1) Commission: Broker will receive a commission calculated as follows:

if Client purchases a property:	and if Client leases a property:
_____% of the gross sales price; or	_____% of all base rents to be paid over the term of the lease and the same percentage of the following items to be paid over the term of the lease: ❑ expense reimbursements based on initial amounts; ❑ _____; or

(a) Source of Commission Payment:

❑ (1) Broker will seek to obtain payment of the commission specified in Paragraph 11A(1) first from the seller, landlord, or their agents. If such persons refuse or fail to pay Broker the amount specified, Client will pay Broker the amount specified less any amounts Broker receives from such persons.

❑ (2) Client will pay Broker the commission specified in Paragraph 11A(1).

(b) Earned and Payable: A person is not obligated to pay Broker a commission until such time as Broker's commission is *earned* and *payable*.
(1) Broker's commission is *earned* when Client enters into an agreement to acquire property in the market area.
(2) Broker's commission is *payable*, either during the term of this agreement or after it ends, upon the earlier of:
(A) the closing of the transaction to acquire property in the market area;
(B) Client's breach of a written contract to acquire property in the market area; or
(C) Client's breach of this agreement.
(3) If Client acquires more than one property, Broker's commissions for each property acquired are earned as each property is acquired and are payable at each closing.

(c) Additional Compensation: If a seller, landlord, or their agents offer compensation in excess of the amount stated in Paragraph 11A(1) (for example, marketing incentives or bonuses to cooperating brokers) Broker may retain the additional compensation in addition to the commission specified above. Client is not obligated to pay any such additional compensation to Broker.

(d) Acquisition of Broker's Listing: Notwithstanding any provision to the contrary, if Client acquires a property listed by Broker, Broker will be paid in accordance with the terms of Broker's listing agreement with the owner and Client will have no obligation to pay Broker unless specified by a subsequent separate agreement.

❑ (2) Hourly Fees: Client will pay Broker fees at the rate of $_____ per hour. If Broker also receives fees under Paragraph 11A(1) or if Client acquires one of Broker's listings, Broker will refund the hourly fees upon receipt of the fees under Paragraph 11A(1) or the listing. Broker's hourly fees are earned when Broker's services are rendered and are payable when billed.

Buyer/Tenant Representation Agreement with _____

❑ (3) Advance Fee: Before this agreement begins, Client will pay Broker an advance fee of $_____. The advance fee is earned at the time it is paid. Broker will credit the advance fee against any other fee Broker receives under this agreement at the time Broker receives the other fee.

❑ (4) Client's Purchase of Property Leased by Client: If Client agrees to lease property in the market area during the term of this agreement or any applicable protection period, and subsequently, during the term of the lease, including any renewal, extension, or expansion of the lease, Client agrees to purchase all or part of the property in which the leased property is located by oral or written agreement or option, Client assures Broker that the seller or Client will pay Broker, at the time the sale closes, a fee of:
❑ (i) _____% of the sales price; or
❑ (ii) _____.
This Paragraph 11A(4) survives termination of this agreement. This Paragraph 11A(4) does not apply if another Texas-licensed real estate broker represents Client in the negotiations for the purchase and the other broker receives a fee for negotiating the purchase.

❑ (5) Renewals, Extensions, or Expansions of Property Leased by Client: If Client agrees to lease property in the market area during the term of this agreement or any applicable protection period, and subsequently, during the primary term of the lease, Client and the landlord agree to renew, extend, or expand the lease, Client assures Broker that the landlord or Client will pay Broker, at the time the renewal, extension, or expansion becomes effective, a fee of:
❑ (i) _____% of all base rents to be paid over the term of the renewal or extension and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____;
❑ (ii) _____% of all base rents to be paid over the term of the expansion and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____; or
❑ (iii) _____.
This Paragraph 11A(5) does not apply if another Texas-licensed real estate broker represents Client in the negotiations for the renewal, extension, or expansion and the other broker receives a fee for negotiating the renewal, extension, or expansion. In addition to their ordinary meanings, "extensions, "renewals," and "expansions" include new leases for more, less, or different space in the building or complex in which the property is located.

❑ (6) Construction: If Client uses Broker's services to procure or negotiate the construction of improvements to property that Client owns or may acquire, Client will pay Broker at the time the construction is substantially complete a fee equal to: _____. This Paragraph 11A(6) does not apply if the contractor pays Broker the amount specified in this paragraph under a separate agreement.

❑ (7) Service Providers: If Broker refers Client or any party to a transaction contemplated by this agreement to a service provider (for example, mover, cable company, telecommunications provider, utility, or contractor) Broker may receive a fee from the service provider for the referral.

❑ (8) Other: _____

B. Protection Period: "Protection period" means that time starting the day after this agreement ends and continuing for _____ days. Not later than 10 days after this agreement ends Broker may send Client written notice identifying the properties in the market area called to Client's attention during this

agreement. If during the protection period Client agrees to acquire all or part of any such property, Client will pay Broker, upon closing, an amount equal to the fees Broker would have been entitled to receive had Client acquired the property during the term of this agreement. This Paragraph 11B survives termination of this agreement.

C. Excluded Properties: Under a prior representation agreement Client is obligated to pay another Texas licensed broker a fee if Client acquires, before _____, any of the following properties in the market area: _____

_____

_____

(excluded properties). If Client enters into a contract to acquire all or part of an excluded property before the date specified, Broker will not be entitled to receive the compensation specified in this agreement, but Client will pay Broker, upon closing, a fee equal to _____% of the sales price if Client buys an excluded property and _____% of all rents to be paid for the term of the lease if Client leases an excluded property.

D. County: All amounts payable to Broker are to be paid in cash in _____ County, Texas.

E. Escrow Authorization: Client authorizes, and Broker may so instruct, any escrow or closing agent authorized to close a transaction for the acquisition of property contemplated by this agreement to collect and disburse to Broker all amounts payable to Broker.

NOTICE: Under Chapter 62, Texas Property Code, Broker is entitled to claim a lien against the Property to secure payment of an earned commission

12. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute that may arise related to this ☐agreement or any transaction related to or contemplated by this agreement. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator.

13. DEFAULT: If either party fails to comply with this agreement or makes a false representation in this agreement, the non-complying party is in default. If Client is in default, Client will be liable for the amount of compensation that Broker would have received under this agreement if Client was not in default. If Broker is in default, Client may exercise any remedy at law.

14. ATTORNEY'S FEES: If Client or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this agreement or any transaction related to or contemplated by this agreement, such party will be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

15. LIMITATION OF LIABILITY: Neither Broker nor any other broker, or their associates, is responsible or liable for Client's personal injuries or for any loss or damage to Client's property that is not caused by Broker. Client will hold broker, any other broker, and their associates, harmless from any such injuries or losses. Client will indemnify Broker against any claims for injury or damage that Client may cause to others or their property.

16. ADDENDA: This agreement will be automatically amended to include the legal description of any properties Client acquires or attempts to acquire under this agreement. Addenda and other related documents which are part of this agreement are:

☑ A. **Information about Brokerage Services (TXR-2501)**
❑ B._____
❑ C._____
❑ D._____

17. SPECIAL PROVISIONS:

18. AGREEMENT OF THE PARTIES:

A. Entire Agreement: This document contains the entire agreement of the parties and may not be changed except by written agreement.

B. Assignment: Neither party may assign this agreement without the written consent of the other party.

C. Binding Effect:
(1) Client's obligations to pay Broker earned fees are binding upon Client and Client's heirs, administrators, executors, successors, and permitted assigns.
(2) If Client does not acquire a property under this agreement, but a related party of Client acquires (within the applicable periods under this agreement) a property that Broker brings to Client's attention, Broker will be entitled to all compensation under this agreement as if Client had acquired property. "Related party" means any assignee of Client, any family member or relation of Client, any officer, director, or partner of Client, any entity owned or controlled, in whole or part, by Client, and any entity that owns or controls Client, in whole or part.

D. Joint and Several: All Clients signing this agreement are jointly and severally liable for the performance of all its terms.

E. Governing Law: Texas law governs the interpretation, validity, performance, and enforcement of this agreement.

F. Severability: If a court finds any clause in this agreement invalid or unenforceable, the remainder of this agreement will not be affected and all other provisions of this agreement will remain valid and enforceable.

G. Notices: Notices between the parties must be in writing and are effective when sent to the receiving party's address, fax, or e-mail specified in Paragraph 1.

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Buyer/Tenant Representation Agreement with _____

19. ADDITIONAL NOTICES:

A. Broker's fees and fees between brokers are not fixed, controlled, recommended, or suggested by Texas REALTORS®, its local affiliates, or any listing service. Broker's fees are negotiable.

B. Broker's services are made available without regard to race, color, religion, national origin, sex, disability, or familial status. Local ordinances and the National Association of REALTORS® Code of Ethics may provide for additional protected classes (e.g., creed, status as a student, marital status, sexual orientation, or age).

C. Broker is not a property inspector, surveyor, engineer, or environmental assessor. Client should seek experts to render such services for any property Client seeks to acquire.

D. If Client purchases property, Client should have an abstract covering the property examined by an attorney of Client's selection, or Client should be furnished with or obtain a title policy.

CONSULT AN ATTORNEY: Broker cannot give legal advice. This is a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this agreement, consult your attorney BEFORE signing.

Client: _____

_____

By:_____

By (signature):_____

Printed Name: _____

Title: _____ Date: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____ Date: _____

Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____

Printed Name: _____

Title: _____ License No. _____

Date: _____

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TEXAS REALTORS

AMENDMENT TO BUYER/TENANT REPRESENTATION AGREEMENT

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On or about _____, Client and Broker entered into a Buyer/Tenant Representation Agreement (the agreement):

Effective _____, Client and Broker amend the agreement as follows:

❑ A. The market area in Paragraph 3C is redefined as _____
_____
_____
_____.

❑ B. The date the agreement ends specified in Paragraph 4 is changed to _____.

❑ C. Client instructs Broker to cease providing services under the agreement on _____ and to resume providing services on: ❑ (1) receipt of further instructions from Client; or ❑ (2) _____ _____. The agreement is not terminated and remains in effect for all other purposes.

❑ D. Paragraph(s) _____ are changed as follows:

Broker's (Company's) Printed Name	Client Date
By: Broker's Associate's Signature Date	Client Date

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TEXAS REALTORS

REGISTRATION AGREEMENT BETWEEN BROKERS

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1. PARTIES: The parties to this agreement are:

Listing/Principal Broker: _____
Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____
E-Mail: _____

Cooperating Broker: _____
Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____
E-Mail: _____

2. PROPERTY: "Property" means the following real property in Texas, together with all its improvements and fixtures:

Address: _____
City: _____ County: _____ Zip: _____
Legal Description *(Identify exhibit if described on attachment)*: _____
_____
_____

3. REGISTRATION: Broker registers _____ _____ (Prospect) with Listing/Principal Broker. Listing/Principal Broker represents the owner of the Property and Cooperating Broker represents Prospect.

4. COOPERATING BROKER'S FEE: Listing/Principal Broker is not obligated to pay Cooperating Broker a fee until such time as Cooperating Broker's fee is earned and payable. Cooperating Broker's fees are earned when Prospect enters into a binding agreement to buy or lease all or part of the Property at any price. Cooperating Broker's fees are payable in the amounts stated below at the specified times.

A. Sales:
(1) If Prospect enters into a binding agreement to buy all or part of the Property at any price on or before _____, Listing/Principal Broker will pay Cooperating Broker a fee equal to:
❑ (a) _____% of the sales price.
❑ (b) _____.
(2) The fee is payable when Listing/Principal Broker receives Listing/Principal Broker's fee under a separate agreement with the owner of the Property. Any escrow or closing agent may pay Cooperating Broker's fee from Listing/Principal Broker's fee at closing.

B. Leases:

(1) Primary Lease:
(a) If Prospect leases all or part of the Property on or before _____, Listing/Principal Broker will pay Cooperating Broker a fee equal to:
❑ (1) _____% of all rents to be paid for the term of the lease.
❑ (2) _____.

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Registration Agreement concerning _____

(b) The fee under Paragraph 4B(1) is payable when Listing/Principal Broker receives Listing/Principal Broker's fee under a separate agreement with the owner of the Property according to the following schedule:

❑ (1) in one payment upon _____.

❑ (2) in two payments as follows: one-half of the fee at the time the lease is executed and the remainder on the date the lease commences.

❑ (3) _____
_____.

(2) Renewals:

(a) If Prospect leases all or part of the Property and subsequently extends, renews, or expands the lease (including new leases for more, less, or different space in the same building or complex for commercial properties), Listing/Principal Broker will pay Cooperating Broker a fee equal to:

❑ (1) _____% of all rents to be paid for the term of the extension, renewal, or expansion.

❑ (2) _____.

(b) The fee under this Paragraph 4B(2) is payable when Listing/Principal Broker receives Listing/Principal Broker's fee for the extension, renewal, or expansion under a separate agreement with the owner of the Property. This Paragraph 4B(2) survives termination of this agreement.

(3) Subsequent Sale to a Tenant:

(a) If Prospect leases all or part of the Property and later agrees to buy all or part of the Property within the term of the lease or within 180 days after the date the lease ends, Listing/Principal Broker will pay Cooperating Broker a fee equal to:

❑ (1) _____% of the gross sales price.

❑ (2) _____.

(b) The fee under this Paragraph 4B(3) is payable at the time Listing/Principal Broker receives Listing/Principal Broker's fee under a separate agreement with the owner of the Property. This provision survives termination of this agreement.

C. Related Parties: If a related party of Prospect agrees to buy or lease all or part of the Property within the term of this agreement, Cooperating Broker will be entitled to all compensation under this agreement as if Prospect had acquired the Property. "Related party" means any assignee of Prospect, any family member or relation of Prospect, any officer, director, or partner of Prospect, any entity owned or controlled, in whole or part, by Prospect, and any entity that owns or controls Prospect, in whole or part.

5. ADDENDA: Addenda made part of this agreement are: _____
_____.

Listing/Principal Broker: _____
By: _____
Printed Name & Title: _____
Date: _____

Cooperating Broker: _____
By: _____
Printed Name & Title: _____
Date: _____

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TEXAS REALTORS

COMMERCIAL REGISTRATION AGREEMENT BETWEEN BROKER AND OWNER

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1. PARTIES: The parties to this agreement are:

Owner: _____

_____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

Broker: _____

_____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

2. PROPERTY: "Property" means the following real property in Texas, together with all its improvements and fixtures:

Address: _____
City: _____ County: _____ Zip: _____
Legal Description *(Identify exhibit if described on attachment)*: _____

_____

_____

_____

_____

3. REGISTRATION: Broker registers _____

_____

(Prospect) with Owner.

4. TERM: This agreement begins on _____ and ends on _____.

5. BROKER'S FEE: Owner is not obligated to pay Broker a fee until such time as Broker's fee is *earned* and *payable*. Broker's fees are *earned* when Owner enters into a binding agreement to sell or lease all or part of the Property at any price to Prospect or if Owner breaches this agreement. Broker's fees are *payable* in the amounts stated below at the specified times.

A. Sales:
(1) If Owner agrees to sell all or a part of the Property to Prospect at any price on or before the date this agreement ends, Owner will pay Broker a fee equal to:
❑ (a) _____% of the gross sales price; or
❑ (b) _____.
(2) The fee is payable, either during the term of this agreement or after its termination, at the earlier of:
(a) the closing and funding of the sale or exchange of the Property;
(b) Owner's breach of this agreement; or
(c) Owner's breach of a binding contract to sell the Property to Prospect.

Registration Agreement concerning: _____

B. Leases:

(1) Primary Lease:
(a) If Owner agrees to lease all or part of the Property to Prospect, on any terms, on or before the date this agreement ends, Owner will pay Broker a fee equal to:
❑ (1) _____% of all base rents to be paid over the term of the lease and the same percentage of the following items to be paid over the term of the lease: ❑ expense reimbursements, and ❑ _____.
❑ (2) _____
_____
_____.
(b) The fee is payable during the term of this agreement or after its termination:
❑ (1) in one payment upon _____.
❑ (2) in two payments as follows: one-half of the fee at the time the lease is executed and the remainder on the date the lease commences.
❑ (3) _____
_____.

(2) Renewals: If Prospect leases all or part of the Property and subsequently renews, extends, or expands the lease, (including new leases for more, less, or different space in the same building or complex), Owner will pay Broker a fee equal to:
❑ (a) _____% of all base rents to be paid over the term of the renewal or extension and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____;
❑ (b) _____% of all base rents to be paid over the term of the expansion and the same percentage of the following items to be paid over the same term: ❑ expense reimbursements based on initial amounts ❑ _____; or
❑ (c) _____
_____
_____.

In addition to their ordinary meanings, "extensions," "renewals," and "expansions" include new leases for more, less, or different space in the building or complex in which the Property is located. The fees under Paragraph 5B(2) are earned and payable in full at the time the extension, renewal, or expansion commences.

(3) Subsequent Sale to Prospect: If Prospect leases all or part of the Property and Owner later agrees to sell all or part of the Property to Prospect within the term of the lease or within 180 days after the date the lease ends, Owner will pay Broker a fee equal to:
❑ (a) _____% of the gross sales price; or
❑ (b) _____.

"Sell" means to sell, agree to sell, convey, agree to convey, exchange, agree to exchange, transfer, or agree to transfer a legal or equitable interest (excluding a lease or rental) either by written or oral agreement or by option. The transfer of Owner's interest (stock or shares) in any entity that holds title to the Property for the purpose of conveying the Property to another person is a sale. The fee for a sale under this Paragraph 5B(3) is earned at the time Landlord agrees to sell the Property and is payable at the closing of the sale regardless of whether closing occurs during the term of this Registration or after its termination.

NOTICE: Under Chapter 62, Property Code, Broker is entitled to claim a lien against the Property to secure payment of an earned commission.

6. SPECIAL PROVISIONS: _____
_____

Registration Agreement concerning: _____

_____
_____
_____
_____
_____
_____.

7. BROKER'S REPRESENTATION:

A. Owner acknowledges receipt of the attached **Information About Brokerage Services** (TXR-2501) which is incorporated into this agreement for all purposes. During negotiations for the sale or lease of the Property, Broker:

8. ❑ (1) will represent Owner only.
9. ❑ (2) will represent Prospect only.
10. ❑ (3) will act as an intermediary between Owner and Prospect.

B. If Broker acts as an intermediary, Broker will assist both Prospect and Owner in the sale or lease of the Property. Broker's fees will be paid by Owner as provided in Paragraph 6. Broker may appoint a licensed associate(s) of Broker to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Owner and appoint another licensed associate(s) for the same purposes to Prospect. **As an intermediary, Broker:**

(1) may not disclose to Prospect that Owner will accept a price less than the asking price unless otherwise instructed in a separate writing by Owner;
(2) may not disclose to Owner that Prospect will pay a price greater than the price submitted in a written offer to Owner unless otherwise instructed in a separate writing by Prospect;
(3) may not disclose any confidential information or any information Owner or Prospect specifically instruct Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Real Estate License Act or a court order or if the information materially relates to the condition of the Property.
(4) shall treat all parties to the transaction honestly; and
(5) shall comply with the Real Estate License Act.

11. ADDENDA: Addenda or information that are part of this Registration are:

☒ A. Information About Brokerage Services (TXR-2501)
❑ B. Property Description Exhibit identified in Paragraph 2
❑ C. _____
_____
_____

12. OTHER:

A. Entire Agreement: This document contains the entire agreement between the parties and may not be changed except by written agreement.

B. Notices: Notices between the parties must be in writing and are effective when sent to the receiving party's address, fax, or e-mail specified in Paragraph 1.

C. Disbursements: All fees to Broker under this agreement are payable in cash in the county in which the Property is located. Owner authorizes Broker to instruct any escrow or closing agent to collect and disburse to Broker at closing the Broker's fees due under this agreement. Paragraphs 5B(2) and 5B(3) survive termination of this agreement. In the event of an exchange or breach of this agreement, the asking price will be the sales price or rental rate(s) for computing Broker's fees.

Registration Agreement concerning: _____

D. Related Parties: If a related party of Prospect agrees to buy or lease all or part of the Property within the term of this agreement, Broker will be entitled to all compensation under this agreement as if Prospect had acquired or leased the Property. "Related party" means any assignee of Prospect, any family member or relation of Prospect, any officer, director, or partner of Prospect, any entity owned or controlled, in whole or part, by Prospect, and any entity that owns or controls Prospect, in whole or part.

E. Additional Notices:
(1) Broker's fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by the Association of REALTORS® or any listing service. Broker's fees are negotiable.
(2) If the Property contains a residential dwelling built before 1978, federal law requires the Owner to: (a) provide the buyer with the promulgated lead hazard information pamphlet; and (b) disclose the presence of any known lead-based paint or lead-based paint hazards.
(3) Broker cannot give legal advice. This is a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this Registration, consult your attorney BEFORE signing.

Owner: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Broker: _____

_____

License No. _____

By (signature): _____

Printed Name: _____

Title: _____ License No. _____

Date: _____

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QUIZ 2

Choose the correct answers for the following questions:

1. When should investors develop an exit strategy?
   a) just prior to listing the property for sale
   b) prior to acquisition
   c) once the property is under contract
   d) none of the above

2. What type of special tax consideration is relevant for many foreign investors:
   a) DST
   b) CFAT
   c) FIRPTA
   d) all of the above

3. Which of the following parties are involved in a 1031 exchange?
   a) exchanger
   b) qualified intermediary
   c) real estate agent for the seller
   d) both a & b are correct

4. What are the key advantages of a like-kind 1031 exchange?
   a) defer recapture taxes
   b) defer capital gains
   c) avoid FIRPTA
   d) all of the above

CHAPTER 3: CONTRACT FORMS & ADDENDA

Chapter 3 continues with reviewing the contract forms that follow:

1. Commercial Contract - Improved Property TXR-1801
2. Commercial Contract - Unimproved Property TXR-1802
3. Non-Realty Items Addendum TREC NO. OP-M
4. Notice of Information from Other Sources TXR-2502
5. Addendum For Reservation of Oil, Gas, and Other Minerals TXR-1905
6. Addendum for Seller's Disclosure of Information On Lead-Based Paint Hazards TXR-1906
7. Addendum for Coastal Area Property TREC No. 33-2
8. Addendum for Property Located Seaward of the Gulf Intracoastal Waterway TXR-1916
9. Commercial Contract Special Provisions Addendum TXR-1940
10. Commercial Contract Assignment of Buyer's Interest TXR-1943
11. Commercial Contract Condominium Addendum TXR-1930
12. Commercial Contract Condominium Addendum (incomplete construction) TXR-1946
13. Commercial Contract Financing Addendum TXR-1931
14. Commercial Contract Amendment TXR-1932
15. Commercial Tenant Estoppel Certificate TXR-1938
16. Commercial Contract Critical Date List TXR-1942
17. Commercial Contract Termination Notice TXR-1939
18. Commercial Lease Application TXR-2120
19. Commercial Lease TXR-2101
20. Commercial Lease Amendment TXR-2114
21. Commercial Lease Addendum for Expense Reimbursement TXR-2103
22. Commercial Lease Addendum for Percentage Rent TXR-2106
23. Commercial Lease Addendum for Optional Space TXR-2110
24. Commercial Lease Guaranty TXR-2109
25. Commercial Landlord's Rules and Regulations TXR-2108
26. Commercial Lease Addendum for Parking TXR-2107
27. Commercial Lease Addendum for Contingencies TXR-2119
28. Commercial Lease Exhibit TXR-2115
29. Commercial Lease Acceptance Form TXR-2113

TEXAS REALTORS

COMMERCIAL CONTRACT - IMPROVED PROPERTY

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1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: _____

_____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

Buyer: _____

_____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

2. PROPERTY:

A. "Property" means that real property situated in _____ County, Texas at _____ *(address)* and that is legally described on the attached Exhibit _____ or as follows:

B. Seller will sell and convey the Property together with:
(1) all buildings, improvements, and fixtures;
(2) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
(3) Seller's interest in all leases, rents, and security deposits for all or part of the Property;
(4) Seller's interest in all licenses and permits related to the Property;
(5) Seller's interest in all third party warranties or guaranties, if transferable, relating to the Property or any fixtures;
(6) Seller's interest in any trade names, if transferable, used in connection with the Property; and
(7) all Seller's tangible personal property located on the Property that is used in connection with the Property's operations except: _____.
Any personal property not included in the sale must be removed by Seller prior to closing.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
(If mineral rights are to be reserved an appropriate addendum should be attached.)
(If the Property is a condominium, attach Commercial Contract Condominium Addendum (TXR-1930) or (TXR-1946).)

3. SALES PRICE: At or before closing, Buyer will pay the following sales price for the Property:

A. Cash portion payable by Buyer at closing. . . . . $ _____

B. Sum of all financing described in Paragraph 4 . . . . . $ _____

C. Sales price (sum of 3A and 3B). . . . . $ _____

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Deb Hernandez

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3B as follows:

❑ A. Third Party Financing: One or more third party loans in the total amount of $_____. This contract:
❑ (1) is not contingent upon Buyer obtaining third party financing.
❑ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TXR-1931).

❑ B. Assumption: In accordance with the attached Commercial Contract Financing Addendum (TXR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be $_____.

❑ C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum (TXR-1931) in the amount of $_____.

5. EARNEST MONEY:

A. Not later than 3 days after the effective date, Buyer must deposit $_____ as earnest money with _____ (title company) at _____ (address) _____ (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of $_____ with the title company to be made part of the earnest money on or before:
❑ (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
❑ (ii) _____.
Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY, SURVEY, AND UCC SEARCH:

A. Title Policy:

(1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
(a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
(b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.

(2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
❑ (a) will not be amended or deleted from the title policy.
❑ (b) will be amended to read "shortages in areas" at the expense of ❑ Buyer ❑ Seller.

(3) Within _____ days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

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Deb Hernandez

B. Survey: Within _____ days after the effective date:

❑ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer _____ *(insert amount)* of the cost of the survey at closing, if closing occurs.

❑ (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.

❑ (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, ❑ Seller ❑ Buyer (updating party), will, at the updating party's expense, obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to the other party and the title company within 30 days after the title company notifies the parties that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 30 days if necessary for the updating party to deliver an acceptable survey within the time required. The other party will reimburse the updating party _____ *(insert amount or percentage)* of the cost of the new or updated survey at closing, if closing occurs.

C. UCC Search:

❑ (1) Within _____ days after the effective date, Seller, at Seller's expense, will furnish Buyer a Uniform Commercial Code (UCC) search prepared by a reporting service and dated after the effective date. The search must identify documents that are on file with the Texas Secretary of State and the county where the Property is located that relate to all personal property on the Property and show, as debtor, Seller and all other owners of the personal property in the last 5 years.

❑ (2) Buyer does not require Seller to furnish a UCC search.

D. Buyer's Objections to the Commitment, Survey, and UCC Search:

(1) Within _____ days after Buyer receives the last of the commitment, copies of the documents evidencing the title exceptions, any required survey, and any required UCC search, Buyer may object to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title to the real or personal property described in Paragraph 2 other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If the commitment or survey is revised or any new document evidencing a title exception is delivered, Buyer may object to any new matter revealed in such revision or new document. Buyer's objection must be made within the same number of days stated in this paragraph, beginning when the revision or new document is delivered to Buyer. If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date Buyer actually receives the survey; or (ii) the deadline specified in Paragraph 6B.

(2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.

(3) Buyer's failure to timely object or terminate under this Paragraph 6D is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____
_____
_____.

B. Feasibility Period: Buyer may terminate this contract for any reason within _____ days after the effective date (feasibility period) by providing Seller written notice of termination.

(1) Independent Consideration. *(Check only one box and insert amounts.)*

❑ (a) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less $_____ that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

❑ (b) Not later than 3 days after the effective date, Buyer must pay Seller $_____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Feasibility Period Extension: Prior to the expiration of the initial feasibility period, Buyer may extend the feasibility period for a single period of an additional _____ days by depositing additional earnest money in the amount of $_____with the title company. If no dollar amount is stated in this Paragraph or if Buyer fails to timely deposit the additional earnest money, the extension of the feasibility period will not be effective.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Seller, at Seller's expense, will turn on all utilities necessary for Buyer to make inspections, studies, or assessments.

(3) Buyer must:
(a) employ only trained and qualified inspectors and assessors;
(b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
(c) abide by any reasonable entry rules or requirements of Seller;
(d) not interfere with existing operations or occupants of the Property; and
(e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(4) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from

Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

(1) Delivery of Property Information: Within _____ days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)*

- ❑ (a) a current rent roll of all leases affecting the Property certified by Seller as true and correct;
- ❑ (b) copies of all current leases, including any mineral leases, pertaining to the Property, including any modifications, supplements, or amendments to the leases;
- ❑ (c) a current inventory of all personal property to be conveyed under this contract and copies of any leases for such personal property;
- ❑ (d) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
- ❑ (e) copies of all current service, utility, maintenance, and management agreements relating to the ownership and operation of the Property;
- ❑ (f) copies of current utility capacity letters from the Property's water and sewer service provider;
- ❑ (g) copies of all current warranties and guaranties relating to all or part of the Property;
- ❑ (h) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;
- ❑ (i) copies of all leasing or commission agreements that currently relate to the tenants of all or part of the Property;
- ❑ (j) a copy of the "as-built" plans and specifications and plat of the Property;
- ❑ (k) copies of all invoices for utilities and repairs incurred by Seller for the Property in the 24 months immediately preceding the effective date;
- ❑ (l) a copy of Seller's income and expense statement for the Property from _____ to _____;
- ❑ (m) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
- ❑ (n) real and personal property tax statements for the Property for the previous 2 calendar years;
- ❑ (o) Tenant reconciliation statements including, operating expenses, insurance and taxes for the Property from _____ to _____; and
- ❑ (p) _____
_____
_____.

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*

- ❑ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
- ❑ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied in any format; and
- ❑ (c) deliver to Seller copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES:

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
(1) any failure by Seller to comply with Seller's obligations under the leases;
(2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
(3) any non-occupancy of the leased premises by a tenant;
(4) any advance sums paid by a tenant under any lease;
(5) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
(6) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TXR Form 1938 – Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: _____	**Cooperating Broker**: _____
_____	_____
Agent: _____	Agent: _____
Address: _____	Address: _____
_____	_____
Phone & Fax: _____	Phone & Fax: _____
E-mail: _____	E-mail: _____
License No.: _____	License No.: _____

Principal Broker: *(Check only one box)*
❑ represents Seller only.
❑ represents Buyer only.
❑ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

B. Fees: *(Check only (1) or (2) below.)*
(Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

❑ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

❑ (2) At the closing of this sale, Seller will pay:

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Principal Broker a total cash fee of:
❑ _____ % of the sales price.
❑ _____.

Cooperating Broker a total cash fee of:
❑ _____ % of the sales price.
❑ _____.

The cash fees will be paid in _____ County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

A. The date of the closing of the sale (closing date) will be on or before the later of:
(1) ❑ _____ days after the expiration of the feasibility period.
❑ _____ *(specific date)*.
❑ _____.
(2) 7 days after objections made under Paragraph 6D have been cured or waived.

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

C. At closing, Seller will execute and deliver to Buyer, at Seller's expense, a ❑ general ❑ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
(1) with no liens, assessments, or Uniform Commercial Code or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
(2) without any assumed loans in default; and
(3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
(1) tax statements showing no delinquent taxes on the Property;
(2) a bill of sale with warranties to title conveying title, free and clear of all liens, to any personal property defined as part of the Property in Paragraph 2 or sold under this contract;
(3) an assignment of all leases to or on the Property;
(4) to the extent that the following items are assignable, an assignment to Buyer of the following items as they relate to the Property or its operations:
(a) licenses and permits;
(b) service, utility, maintenance, management, and other contracts; and
(c) warranties and guaranties;
(5) a rent roll current on the day of the closing certified by Seller as true and correct;
(6) evidence that the person executing this contract is legally capable and authorized to bind Seller;
(7) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law; and (ii) deliver the amount to the Internal Revenue Service together with appropriate tax forms; and
(8) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issuance of the title policy, all of which must be completed and executed by Seller as necessary.

E. At closing, Buyer will:
(1) pay the sales price in good funds acceptable to the title company;

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(2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
(3) sign and send to each tenant in the Property a written statement that:
(a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
(b) specifies the exact dollar amount of the security deposit;
(4) sign an assumption of all leases then in effect; and
(5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

13. SALES EXPENSES:

A. Seller's Expenses: Seller will pay for the following at or before closing:
(1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
(2) release of Seller's loan liability, if applicable;
(3) tax statements or certificates;
(4) preparation of the deed and any bill of sale;
(5) one-half of any escrow fee;
(6) costs to record any documents to cure title objections that Seller must cure; and
(7) other expenses that Seller will pay under other provisions of this contract.

B. Buyer's Expenses: Buyer will pay for the following at or before closing:
(1) all loan expenses and fees;
(2) preparation fees of any deed of trust;
(3) recording fees for the deed and any deed of trust;
(4) premiums for flood and hazard insurance as may be required by Buyer's lender;
(5) one-half of any escrow fee; and
(6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

A. Prorations:

(1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.

(2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
(3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

B. Rollback Taxes: If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(4) which Seller may pursue, or
(Check if applicable)
❑ enforce specific performance, or seek such other relief as may be provided by law.

B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) extend the time for performance up to 15 days and the closing will be extended as necessary.

C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

16. CASUALTY LOSS AND CONDEMNATION:

A. If any part of the Property is damaged or destroyed by fire or other casualty after the effective date, Seller must restore the Property to its previous condition as soon as reasonably possible and not later than the closing date. If, without fault, Seller is unable to do so, Buyer may:
(1) terminate this contract and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer;
(2) extend the time for performance up to 15 days and closing will be extended as necessary; or
(3) accept at closing: (i) the Property in its damaged condition; (ii) an assignment of any insurance proceeds Seller is entitled to receive along with the insurer's consent to the assignment; and (iii) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.

B. If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
   (1) terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer; or
   (2) appear and defend the condemnation proceedings and any award will, at Buyer's election, belong to: (a) Seller and the sales price will be reduced by the same amount; or (b) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.

B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.

C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.

D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursal of the earnest money.

E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.

F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

G. ❑ Seller ❑ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

❑ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408).

❑ B. Except as otherwise provided in this contract, Seller is not aware of:
   (1) any subsurface: structures, pits, waste, springs, or improvements;
   (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;

(3) any environmental hazards or conditions that materially affect the Property;
(4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
(5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
(6) any wetlands, as defined by federal or state law or regulation, on the Property;
(7) any threatened or endangered species or their habitat on the Property;
(8) any present or past infestation of wood-destroying insects in the Property's improvements;
(9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
(10) any material physical defects in the improvements on the Property; or
(11) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(11) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

❑ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
❑ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.

B. This contract contains the entire agreement of the parties and may not be changed except in writing.

C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
D. Addenda which are part of this contract are: *(Check all that apply.)*
❑ (1) Property Description Exhibit identified in Paragraph 2;
❑ (2) Commercial Contract Condominium Addendum (TXR-1930) or (TXR-1946);
❑ (3) Commercial Contract Financing Addendum (TXR-1931);
❑ (4) Commercial Property Condition Statement (TXR-1408);
❑ (5) Commercial Contract Addendum for Special Provisions (TXR-1940);
❑ (6) Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (TXR-1906);
❑ (7) Notice to Purchaser of Real Property in a Water District (MUD);
❑ (8) Addendum for Coastal Area Property (TXR-1915);
❑ (9) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916);
❑ (10) Information About Brokerage Services (TXR-2501);
❑ (11) Information About Mineral Clauses in Contract Forms (TXR-2509); and
❑ (12) _____
_____.

(Note: Counsel for Texas REALTORS® has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by Texas REALTORS® are appropriate for use with this form.)

E. Buyer ❑ may ❑ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all of Buyer's obligations under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included as part of this contract *(the Addendum for Coastal Area Property (TXR-1915) may be used)*.

E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract *(the Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916) may be used)*.

F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.

G. If apartments or other residential units are on the Property and the units were built before 1978, federal law requires a lead-based paint and hazard disclosure statement to be made part of this contract *(the Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (TXR-1906) may be used)*.

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H. Section 1958.154, Occupations Code requires Seller to provide Buyer a copy of any mold remediation certificate issued for the Property during the 5 years preceding the date the Seller sells the Property.

I. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.

J. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

K. LICENSE HOLDER DISCLOSURE: Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____.

26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on _____. the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.

Seller: _____	**Buyer**: _____
_____	_____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____

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Commercial Contract - Improved Property concerning _____

AGREEMENT BETWEEN BROKERS

(*use only if Paragraph 9B(1) is effective*)

Principal Broker agrees to pay _____ (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:

- ❑ $_____, or
- ❑ _____% of the sales price, or
- ❑ _____% of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: _____ Cooperating Broker: _____

By: _____ By: _____

ATTORNEYS

Seller's attorney: _____ Buyer's attorney: _____

Address: _____ Address: _____

Phone & Fax: _____ Phone & Fax: _____

E-mail: _____ E-mail: _____

Seller's attorney requests copies of documents, notices, and other information:
❑ the title company sends to Seller.
❑ Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:
❑ the title company sends to Buyer.
❑ Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:

❑ A. the contract on this day _____ (effective date);
❑ B. earnest money in the amount of $_____ in the form of _____ on _____.

Title company: _____ Address: _____

By: _____ Phone & Fax: _____

Assigned file number (GF#): _____ E-mail: _____

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TEXAS REALTORS

COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: _____

_____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

Buyer: _____

_____

Address: _____
Phone: _____ E-mail: _____
Fax: _____ Other: _____

2. PROPERTY:

A. "Property" means that real property situated in _____ County, Texas at _____ *(address)* and that is legally described on the attached Exhibit _____ or as follows:

B. Seller will sell and convey the Property together with:
(1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
(2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
(3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
(If mineral rights are to be reserved an appropriate addendum should be attached.)

3. SALES PRICE:

A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing. . . . . $ _____

(2) Sum of all financing described in Paragraph 4 . . . . . $ _____

(3) Sales price (sum of 3A(1) and 3A(2)) . . . . . $ _____

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B. Adjustment to Sales Price: *(Check (1) or (2) only.)*

❑ (1) The sales price will not be adjusted based on a survey.
❑ (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of $_____ per:
❑ (i) square foot of ❑ total area ❑ net area.
❑ (ii) acre of ❑ total area ❑ net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:
❑ (i) public roadways;
❑ (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and
❑ (iii) _____
_____.

(c) If the sales price is adjusted by more than _____% of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

❑ A. Third Party Financing: One or more third party loans in the total amount of $_____. This contract:
❑ (1) is not contingent upon Buyer obtaining third party financing.
❑ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TXR-1931).

❑ B. Assumption: In accordance with the attached Commercial Contract Financing Addendum (TXR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be $_____.

❑ C. Seller Financing: The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TXR-1931) in the amount of $_____.

5. EARNEST MONEY:

A. Not later than 3 days after the effective date, Buyer must deposit $_____ as earnest money with _____ (title company) at _____ (address) _____(closer).
If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of $_____ with the title company to be made part of the earnest money on or before:
❑ (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
❑ (ii) _____.
Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY AND SURVEY:

A. Title Policy:

(1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
(a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
(b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.

(2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
❑ (a) will not be amended or deleted from the title policy.
❑ (b) will be amended to read "shortages in areas" at the expense of ❑ Buyer ❑ Seller.

(3) Within _____ days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within _____ days after the effective date:

❑ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer _____ *(insert amount)* of the cost of the survey at closing, if closing occurs.

❑ (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.

❑ (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, ❑ Seller ❑ Buyer (updating party), will, at the updating party's expense, obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to the other party and the title company within 20 days after the title company notifies the parties that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for the updating party to deliver an acceptable survey within the time required. The other party will reimburse the updating party _____ *(insert amount or percentage)* of the cost of the new or updated survey at closing, if closing occurs.

C. Buyer's Objections to the Commitment and Survey:

(1) Within _____ days after Buyer receives the last of the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If the commitment or survey is revised or any new document evidencing a title exception is delivered, Buyer may object to any new matter revealed in such revision or new document. Buyer's objection must be made within the same number of days stated in this paragraph, beginning when the revision or new

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document is delivered to Buyer. If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

(2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.

(3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____
_____
_____
_____
_____.

B. Feasibility Period: Buyer may terminate this contract for any reason within _____ days after the effective date (feasibility period) by providing Seller written notice of termination.

(1) Independent Consideration. *(Check only one box and insert amounts.)*

❑ (a) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less $_____ that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

❑ (b) Not later than 3 days after the effective date, Buyer must pay Seller $_____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Feasibility Period Extension: Prior to the expiration of the initial feasibility period, Buyer may extend the feasibility period for a single period of an additional _____ days by depositing additional earnest money in the amount of $_____ with the title company. If no dollar amount is stated in this Paragraph or if Buyer fails to timely deposit the additional earnest money, the extension of the feasibility period will not be effective.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Buyer must:
(a) employ only trained and qualified inspectors and assessors;
(b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
(c) abide by any reasonable entry rules or requirements of Seller;
(d) not interfere with existing operations or occupants of the Property; and
(e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

(1) Delivery of Property Information: Within _____ days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)*
❑ (a) copies of all current leases, including any mineral leases, pertaining to the Property, including any modifications, supplements, or amendments to the leases;
❑ (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
❑ (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
❑ (d) copies property tax statements for the Property for the previous 2 calendar years;
❑ (e) plats of the Property;
❑ (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
❑ (g) _____
_____
_____.

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*
❑ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
❑ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied in any format; and
❑ (c) deliver to Seller copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.
This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES:

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller

must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
(1) any failure by Seller to comply with Seller's obligations under the leases;
(2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
(3) any advance sums paid by a tenant under any lease;
(4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
(5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TXR Form 1938 – Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: _____	**Cooperating Broker**: _____
_____	_____
Agent: _____	Agent: _____
Address: _____	Address: _____
_____	_____
Phone & Fax: _____	Phone & Fax: _____
E-mail: _____	E-mail: _____
License No.: _____	License No.: _____

Principal Broker: *(Check only one box)*
❑ represents Seller only.
❑ represents Buyer only.
❑ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

B. Fees: *(Check only (1) or (2) below.)*
(Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

❑ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

❑ (2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:	Cooperating Broker a total cash fee of:
❑ _____ % of the sales price.	❑ _____ % of the sales price.
❑ _____.	❑ _____.

The cash fees will be paid in _____ County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

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NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

A. The date of the closing of the sale (closing date) will be on or before the later of:
(1) ❑ _____ days after the expiration of the feasibility period.
❑ _____ *(specific date)*.
❑ _____.
(2) 7 days after objections made under Paragraph 6C have been cured or waived.

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

C. At closing, Seller will execute and deliver, at Seller's expense, a ❑ general ❑ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
(1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
(2) without any assumed loans in default; and
(3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
(1) tax statements showing no delinquent taxes on the Property;
(2) an assignment of all leases to or on the Property;
(3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
(4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
(5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
(6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.

E. At closing, Buyer will:
(1) pay the sales price in good funds acceptable to the title company;
(2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
(3) sign and send to each tenant in a lease for any part of the Property a written statement that:
(a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
(b) specifies the exact dollar amount of the security deposit;
(4) sign an assumption of all leases then in effect; and
(5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

13. SALES EXPENSES:

A. Seller's Expenses: Seller will pay for the following at or before closing:
(1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
(2) release of Seller's loan liability, if applicable;
(3) tax statements or certificates;
(4) preparation of the deed;
(5) one-half of any escrow fee;
(6) costs to record any documents to cure title objections that Seller must cure; and
(7) other expenses that Seller will pay under other provisions of this contract.

B. Buyer's Expenses: Buyer will pay for the following at or before closing:
(1) all loan expenses and fees;
(2) preparation of any deed of trust;
(3) recording fees for the deed and any deed of trust;
(4) premiums for flood insurance as may be required by Buyer's lender;
(5) one-half of any escrow fee;
(6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

A. Prorations:
(1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
(2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
(3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

B. Rollback Taxes: If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue, or
(Check if applicable)
❑ enforce specific performance, or seek such other relief as may be provided by law.

B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) extend the time for performance up to 15 days and the closing will be extended as necessary.

C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or

B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
(1) Seller and the sales price will be reduced by the same amount; or
(2) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.

B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.

C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.

D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursal of the earnest money.

E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.

F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

G. ❑ Seller ❑ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

❑ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408).

❑ B. Except as otherwise provided in this contract, Seller is not aware of:
(1) any subsurface: structures, pits, waste, springs, or improvements;
(2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
(3) any environmental hazards or conditions that materially affect the Property;
(4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
(5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
(6) any wetlands, as defined by federal or state law or regulation, on the Property;
(7) any threatened or endangered species or their habitat on the Property;
(8) any present or past infestation of wood-destroying insects in the Property's improvements;
(9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
(10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

❑ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
❑ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.

B. This contract contains the entire agreement of the parties and may not be changed except in writing.

C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

D. Addenda which are part of this contract are: *(Check all that apply.)*
❑ (1) Property Description Exhibit identified in Paragraph 2;
❑ (2) Commercial Contract Financing Addendum (TXR-1931);
❑ (3) Commercial Property Condition Statement (TXR-1408);
❑ (4) Commercial Contract Addendum for Special Provisions (TXR-1940);
❑ (5) Notice to Purchaser of Real Property in a Water District (MUD);
❑ (6) Addendum for Coastal Area Property (TXR-1915);
❑ (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916);
❑ (8) Information About Brokerage Services (TXR-2501);
❑ (9) Information About Mineral Clauses in Contract Forms (TXR-2509); and
❑ (10) _____
_____.

(Note: Counsel for Texas REALTORS® has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by Texas REALTORS® are appropriate for use with this form.)

E. Buyer ❑ may ❑ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you

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Deb Hernandez

will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract *(the Addendum for Coastal Area Property (TXR-1915) may be used)*.

E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract *(the Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916) may be used)*.

F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.

G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.

H. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

I. LICENSE HOLDER DISCLOSURE: Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____.

26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on _____, the offer will lapse and become null and void.

Commercial Contract - Unimproved Property concerning _____

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.

Seller: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Buyer: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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Commercial Contract - Unimproved Property concerning _____

AGREEMENT BETWEEN BROKERS

(*use only if Paragraph 9B(1) is effective*)

Principal Broker agrees to pay _____ (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:

- ❑ $_____, or
- ❑ _____% of the sales price, or
- ❑ _____% of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: _____ Cooperating Broker: _____

By: _____ By: _____

ATTORNEYS

Seller's attorney: _____ Buyer's attorney: _____

Address: _____ Address: _____

Phone & Fax: _____ Phone & Fax: _____

E-mail: _____ E-mail: _____

Seller's attorney requests copies of documents, notices, and other information:
- ❑ the title company sends to Seller.
- ❑ Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:
- ❑ the title company sends to Buyer.
- ❑ Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:

- ❑ A. the contract on this day _____ (effective date);
- ❑ B. earnest money in the amount of $_____ in the form of _____ on _____.

Title company: _____ Address: _____

By: _____ Phone & Fax: _____

Assigned file number (GF#): _____ E-mail: _____

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EQUAL HOUSING OPPORTUNITY

APPROVED BY THE TEXAS REAL ESTATE COMMISSION (TREC)
FOR VOLUNTARY USE

10-10-11

NON-REALTY ITEMS ADDENDUM

TO CONTRACT CONCERNING THE PROPERTY AT

_____
(Address of Property)

A. For an additional sum of $_____and other and good valuable consideration, Seller shall convey to Buyer at closing the following personal property (specify each item carefully, include description, model numbers, serial numbers, location, and other information):

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

B. Seller represents and warrants that Seller owns the personal property described in Paragraph A free and clear of all encumbrances.

C. Seller does not warrant or guarantee the condition or future performance of the personal property conveyed by this document.

Buyer	Seller
Buyer	Seller

This form has been approved by the Texas Real Estate Commission for voluntary use by its licensees. Copies of TREC rules governing real estate brokers, salesperson and real estate inspectors are available at nominal cost from TREC. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov)

NOTICE OF INFORMATION FROM OTHER SOURCES

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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To: _____

_____

From: _____ (Broker)

Property Address: _____

Date: _____

(1) Broker obtained the attached information, identified as _____

_____

_____

_____,

from _____

_____

_____.

(2) Broker has relied on the attached information and does not know and has no reason to know that the information is false or inaccurate except: _____

_____

_____

_____

(3) **Broker does not warrant or guarantee the accuracy of the attached information. Do not rely on the attached information without verifying its accuracy.**

_____
Broker

By: _____

Receipt of this notice is acknowledged by:

_____
Signature Date

_____
Signature Date

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

11-18-14

EQUAL HOUSING OPPORTUNITY

ADDENDUM FOR RESERVATION OF OIL, GAS, AND OTHER MINERALS

ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT

_____

(Street Address and City)

NOTICE: For use ONLY if Seller reserves all or a portion of the Mineral Estate.

A. "Mineral Estate" means all oil, gas, and other minerals in and under and that may be produced from the Property, any royalty under any existing or future mineral lease covering any part of the Property, executive rights (including the right to sign a mineral lease covering any part of the Property), implied rights of ingress and egress, exploration and development rights, production and drilling rights, mineral lease payments, and all related rights and benefits. The Mineral Estate does NOT include water, sand, gravel, limestone, building stone, caliche, surface shale, near-surface lignite, and iron, but DOES include the reasonable use of these surface materials for mining, drilling, exploring, operating, developing, or removing the oil, gas, and other minerals from the Property.

B. *Subject to Section C below,* the Mineral Estate owned by Seller, if any, will be conveyed unless reserved as follows (check one box only):

❑ (1) Seller reserves all of the Mineral Estate owned by Seller.

❑ (2) Seller reserves an undivided _____ interest in the Mineral Estate owned by Seller. *NOTE: If Seller does not own all of the Mineral Estate, Seller reserves only this percentage or fraction of Seller's interest.*

C. Seller ❑ does ❑ does *not* reserve and retain implied rights of ingress and egress and of reasonable use of the Property (including surface materials) for mining, drilling, exploring, operating, developing, or removing the oil, gas, and other minerals. *NOTE: Surface rights that may be held by other owners of the Mineral Estate who are not parties to this transaction (including existing mineral lessees) will NOT be affected by Seller's election. Seller's failure to complete Section C will be deemed an election to convey all surface rights described herein.*

D. If Seller does not reserve all of Seller's interest in the Mineral Estate, Seller shall, within 7 days after the Effective Date, provide Buyer with the contact information of any existing mineral lessee known to Seller.

IMPORTANT NOTICE: The Mineral Estate affects important rights, the full extent of which may be unknown to Seller. A full examination of the title to the Property completed by an attorney with expertise in this area is the only proper means for determining title to the Mineral Estate with certainty. In addition, attempts to convey or reserve certain interest out of the Mineral Estate separately from other rights and benefits owned by Seller may have unintended consequences. Precise contract language is essential to preventing disagreements between present and future owners of the Mineral Estate. If Seller or Buyer has any questions about their respective rights and interests in the Mineral Estate and how such rights and interests may be affected by this contract, they are strongly encouraged to consult an attorney with expertise in this area.

CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate licensees from giving legal advice. READ THIS FORM CAREFULLY.

Buyer	Seller
Buyer	Seller

The form of this addendum has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov) TREC No. 44-2. This form replaces TREC No. 44-1.

APPROVED BY THE TEXAS REAL ESTATE COMMISSION 10-10-11

EQUAL HOUSING OPPORTUNITY

ADDENDUM FOR SELLER'S DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS AS REQUIRED BY FEDERAL LAW

CONCERNING THE PROPERTY AT _____
(Street Address and City)

A. LEAD WARNING STATEMENT: "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-paint hazards is recommended prior to purchase."

NOTICE: Inspector must be properly certified as required by federal law.

B. SELLER'S DISCLOSURE:

1. PRESENCE OF LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS (check one box only):
   - ❑ (a) Known lead-based paint and/or lead-based paint hazards are present in the Property (explain): _____ _____.
   - ❑ (b) Seller has no actual knowledge of lead-based paint and/or lead-based paint hazards in the Property.
2. RECORDS AND REPORTS AVAILABLE TO SELLER (check one box only):
   - ❑ (a) Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the Property (list documents): _____ _____.
   - ❑ (b) Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the Property.

C. BUYER'S RIGHTS (check one box only):

- ❑ 1. Buyer waives the opportunity to conduct a risk assessment or inspection of the Property for the presence of lead-based paint or lead-based paint hazards.
- ❑ 2. Within ten days after the effective date of this contract, Buyer may have the Property inspected by inspectors selected by Buyer. If lead-based paint or lead-based paint hazards are present, Buyer may terminate this contract by giving Seller written notice within 14 days after the effective date of this contract, and the earnest money will be refunded to Buyer.

D. BUYER'S ACKNOWLEDGMENT (check applicable boxes):

- ❑ 1. Buyer has received copies of all information listed above.
- ❑ 2. Buyer has received the pamphlet *Protect Your Family from Lead in Your Home*.

E. BROKERS' ACKNOWLEDGMENT: Brokers have informed Seller of Seller's obligations under 42 U.S.C. 4852d to: (a) provide Buyer with the federally approved pamphlet on lead poisoning prevention; (b) complete this addendum; (c) disclose any known lead-based paint and/or lead-based paint hazards in the Property; (d) deliver all records and reports to Buyer pertaining to lead-based paint and/or lead-based paint hazards in the Property; (e) provide Buyer a period of up to 10 days to have the Property inspected; and (f) retain a completed copy of this addendum for at least 3 years following the sale. Brokers are aware of their responsibility to ensure compliance.

F. CERTIFICATION OF ACCURACY: The following persons have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Buyer	Date	Seller	Date
Buyer	Date	Seller	Date
Other Broker	Date	Listing Broker	Date

The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not suitable for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov)

EQUAL HOUSING OPPORTUNITY

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 12-05-11

ADDENDUM FOR COASTAL AREA PROPERTY

(SECTION 33.135, TEXAS NATURAL RESOURCES CODE)

TO CONTRACT CONCERNING THE PROPERTY AT

_____

(Address of Property)

NOTICE REGARDING COASTAL AREA PROPERTY

1. The real property described in and subject to this contract adjoins and shares a common boundary with the tidally influenced submerged lands of the state. The boundary is subject to change and can be determined accurately only by a survey on the ground made by a licensed state land surveyor in accordance with the original grant from the sovereign. The owner of the property described in this contract may gain or lose portions of the tract because of changes in the boundary.

2. The seller, transferor, or grantor has no knowledge of any prior fill as it relates to the property described in and subject to this contract except: _____
_____
_____.

3. State law prohibits the use, encumbrance, construction, or placing of any structure in, on, or over state-owned submerged lands below the applicable tide line, without proper permission.

4. The purchaser or grantee is hereby advised to seek the advice of an attorney or other qualified person as to the legal nature and effect of the facts set forth in this notice on the property described in and subject to this contract. Information regarding the location of the applicable tide line as to the property described in and subject to this contract may be obtained from the surveying division of the General Land Office in Austin.

Buyer	Seller
Buyer	Seller

This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not suitable for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov) TREC No. 33-2 This form replaces TREC No. 33-1.

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 12-05-11

EQUAL HOUSING OPPORTUNITY

ADDENDUM FOR PROPERTY LOCATED SEAWARD OF THE GULF INTRACOASTAL WATERWAY

(SECTION 61.025, TEXAS NATURAL RESOURCES CODE)

TO CONTRACT CONCERNING THE PROPERTY AT

_____

(Address of Property)

DISCLOSURE NOTICE CONCERNING LEGAL AND ECONOMIC RISKS OF PURCHASING COASTAL REAL PROPERTY NEAR A BEACH

WARNING: THE FOLLOWING NOTICE OF POTENTIAL RISKS OF ECONOMIC LOSS TO YOU AS THE PURCHASER OF COASTAL REAL PROPERTY IS REQUIRED BY STATE LAW.

- READ THIS NOTICE CAREFULLY. DO NOT SIGN THIS CONTRACT UNTIL YOU FULLY UNDERSTAND THE RISKS YOU ARE ASSUMING.
- BY PURCHASING THIS PROPERTY, YOU MAY BE ASSUMING ECONOMIC RISKS OVER AND ABOVE THE RISKS INVOLVED IN PURCHASING INLAND REAL PROPERTY.
- IF YOU OWN A STRUCTURE LOCATED ON COASTAL REAL PROPERTY NEAR A GULF COAST BEACH, IT MAY COME TO BE LOCATED ON THE PUBLIC BEACH BECAUSE OF COASTAL EROSION AND STORM EVENTS.
- AS THE OWNER OF A STRUCTURE LOCATED ON THE PUBLIC BEACH, YOU COULD BE SUED BY THE STATE OF TEXAS AND ORDERED TO REMOVE THE STRUCTURE.
- THE COSTS OF REMOVING A STRUCTURE FROM THE PUBLIC BEACH AND ANY OTHER ECONOMIC LOSS INCURRED BECAUSE OF A REMOVAL ORDER WOULD BE SOLELY YOUR RESPONSIBILITY.

The real property described in this contract is located seaward of the Gulf Intracoastal Waterway to its southernmost point and then seaward of the longitudinal line also known as 97 degrees, 12', 19" which runs southerly to the international boundary from the intersection of the centerline of the Gulf Intracoastal Waterway and the Brownsville Ship Channel. If the property is in close proximity to a beach fronting the Gulf of Mexico, the purchaser is hereby advised that the public has acquired a right of use or easement to or over the area of any public beach by prescription, dedication, or presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom.

The extreme seaward boundary of natural vegetation that spreads continuously inland customarily marks the landward boundary of the public easement. If there is no clearly marked natural vegetation line, the landward boundary of the easement is as provided by Sections 61.016 and 61.017, Natural Resources Code.

Much of the Gulf of Mexico coastline is eroding at rates of more than five feet per year. Erosion rates for all Texas Gulf property subject to the open beaches act are available from the Texas General Land Office.

State law prohibits any obstruction, barrier, restraint, or interference with the use of the public easement, including the placement of structures seaward of the landward boundary of the easement. OWNERS OF STRUCTURES ERECTED SEAWARD OF THE VEGETATION LINE (OR OTHER APPLICABLE EASEMENT BOUNDARY) OR THAT BECOME SEAWARD OF THE VEGETATION LINE AS A RESULT OF PROCESSES SUCH AS SHORELINE EROSION ARE SUBJECT TO A LAWSUIT BY THE STATE OF TEXAS TO REMOVE THE STRUCTURES.

The purchaser is hereby notified that the purchaser should: (1) determine the rate of shoreline erosion in the vicinity of the real property; and (2) seek the advice of an attorney or other qualified person before executing this contract or instrument of conveyance as to the relevance of these statutes and facts to the value of the property the purchaser is hereby purchasing or contracting to purchase.

_____	_____
Buyer	Seller
_____	_____
Buyer	Seller

This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not suitable for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (http://www.trec.texas.gov) TREC No. 34-4. This form replaces TREC No. 34-3.

TEXAS REALTORS

COMMERCIAL CONTRACT SPECIAL PROVISIONS ADDENDUM

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ADDENDUM TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE PROPERTY AT:

_____

The following special provisions apply and will control in the event of a conflict with the other provisions of the contract:

Seller: _____

_____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

Buyer: _____

_____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

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Deb Hernandez

TEXAS REALTORS

COMMERCIAL CONTRACT ASSIGNMENT OF BUYER'S INTEREST

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ASSIGNOR: _____

_____

ASSIGNEE: _____

_____

Address: _____

Phone: _____ E-mail: _____

Fax: _____ Other: _____

SELLER: _____

_____

PROPERTY: _____

_____

_____

CONTRACT: A Commercial Contract – ❑ Improved Property ❑ Unimproved Property executed by Assignor (as Buyer) and Seller concerning the Property, having an effective date of _____, _____.

For and in consideration of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration paid by Assignee to Assignor, Assignor hereby assigns Assignor's interest in the Contract, including Assignor's interest as Buyer and Assignor's interest in the earnest money in the amount of $_____ to Assignee, and Assignee hereby assumes all of Assignor's responsibilities and obligations associated with Assignor's interest in the Contract.

SPECIAL PROVISIONS: _____

_____

_____

_____

_____

_____

_____

_____

This Assignment shall be effective as of _____, _____.

Texas Association of REALTORS®, PO Box 2246, Austin, TX 78768 | (512) 480-8200 | (512) 480-8200
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Commercial Contract Assignment concerning: _____

Assignor: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Assignee: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Seller consents to the assignment of Assignor's interest in the Contract to Assignee.

Seller: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

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TEXAS REALTORS

COMMERCIAL CONTRACT CONDOMINIUM ADDENDUM

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ADDENDUM TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED SELLER AND BUYER CONCERNING THE PROPERTY AT _____

A. Paragraph 2 of the contract is amended by adding the following to be included as part of the Property: "the Property's (the unit) undivided interest in the common elements designated by the recorded condominium declaration, including those areas reserved as limited common elements appurtenant to the unit and such other rights to use the common elements which have been specifically assigned to the unit in any other manner, including but not limited to parking and storage areas assigned to the unit, which are: _____
_____.

B. The present periodic expense or assessment for the unit is $_____ per _____, which pays for the expenses necessary for the operation and maintenance of common areas and the following services to the unit: ❑ water; ❑ security; ❑ sewer; ❑ garbage; ❑ electricity; ❑ gas; ❑ cable; ❑ _____.

C. Any transfer or processing fee payable to the owners' association will be paid by ❑ Seller ❑ Buyer.

D. Condominium information is provided to Buyer as follows *(check only (1) or (2) below)*:

❑ (1) If Seller is the condominium declarant or successor declarant.

"Condominium information statement" means a statement prepared by the declarant that contains, at a minimum, the information required by §82.153, Property Code.

❑ (a) Buyer has received a copy of the condominium information statement. Buyer is advised to read the condominium information statement before signing the contract.

❑ (b) Buyer has not received a copy of the condominium information statement. Within _____ days after the effective date of the contract, Seller, at Seller's expense, will furnish Buyer the condominium information statement. Buyer may cancel the contract before the 6th day after Buyer receives the condominium information statement by delivering written notice of cancellation to Seller by hand-delivery or certified mail, return receipt requested.

❑ (2) If Seller is not the condominium declarant or successor declarant (resale).

"Resale certificate" means a certificate completed by the owners' association that contains, at a minimum, the declaration, bylaws, and rules of the Property's owners' association, and the other information required by §82.157, Property Code.

❑ (a) Buyer has received a resale certificate completed no earlier than 3 months before the effective date of the contract.

❑ (b) Buyer has not received a resale certificate. Within _____ days after the effective date of the contract, Seller, at Seller's expense, will furnish Buyer a resale certificate prepared not earlier than 3 months before the date it is delivered to Buyer. Buyer may cancel the contract before the 6th day after Buyer receives the resale certificate by delivering written notice of cancellation to Seller by hand-delivery or certified mail, return receipt requested.

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Commercial Contract Condominium Addendum concerning _____

❑ (c) Buyer has received Seller's affidavit that Seller requested information from the owners' association concerning its financial condition as required by the Property Code and that the owners' association did not provide the resale certificate or information required in the resale certificate. Buyer and Seller agree to waive the requirement to furnish the resale certificate.

Seller: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Buyer: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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COMMERCIAL CONTRACT CONDOMINIUM ADDENDUM

(Incomplete Construction)

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ADDENDUM TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED SELLER AND BUYER CONCERNING THE PROPERTY AT _____

A. PROPERTY. Paragraph 2 of the contract is amended by adding the following to be included as part of the Property: the improvements, fixtures, and all other property described in the Construction Documents (the unit), the unit's undivided interest in the common elements designated by the recorded condominium declaration, including those areas reserved as limited common elements appurtenant to the unit and such other rights to use the common elements which have been specifically assigned to the unit in any other manner, including but not limited to parking and storage areas assigned to the unit, which are: _____ _____.

B. CONDOMINIUM INFORMATION STATEMENT. "Condominium information statement" means the information described by §82.153, Texas Property Code. *(Check one box only.)*

❑ (1) Buyer has received a copy of the Condominium information statement. Buyer is advised to read the Condominium information statement before signing the contract.

❑ (2) Buyer has not received a copy of the Condominium information statement. Within ___ days after the effective date of the contract, Seller, at Seller's expense, will furnish Buyer the Condominium information statement. Buyer may cancel the contract before the 6th day after Buyer receives the Condominium information statement by delivering written notice of cancellation to Seller by hand-delivery or certified mail, return receipt requested.

C. CONSTRUCTION ISSUES:

(1) CONSTRUCTION DOCUMENTS: Seller will complete all improvements to the Property with due diligence in accordance with the Construction Documents. "Construction Documents" means the Property's plans and specifications, the finish-out schedules, any change orders, and any allowances related to the plans and specifications, finish-out schedules, and change orders. The Construction Documents have been signed by the parties and are incorporated into this contract by reference.

(2) COST ADJUSTMENTS: All change orders must be in writing. An increase in costs resulting from any change orders or items selected by Buyer which exceed the allowances specified in the Construction Documents will be paid by Buyer as follows: _____ _____. A decrease in costs resulting from change orders and unused allowances will reduce the Sales Price, with proportionate adjustments to the amounts in Paragraphs 3A and 3B of the contract as required by any lender.

(3) BUYER'S SELECTIONS: If the Construction Documents permit selections by Buyer, Buyer's selections will conform to Seller's normal standards as set out in the Construction Documents or will not, in Seller's judgment, adversely affect the marketability of the Property. Buyer will make required selections within ___ days after notice from Seller.

(4) COMPLETION: Seller must commence construction no later than ___ days after the effective date of this contract. The improvements will be substantially completed in accordance with the Construction Documents and ready for occupancy not later than _____, 20___. The improvements will be deemed to be substantially completed in accordance with the Construction Documents upon the final inspection and approval by all applicable governmental authorities and any lender (Substantial Completion Date). Construction delays caused by acts of God, fire or other casualty, strikes, boycotts, or nonavailability of materials for which no substitute of comparable quality and price is

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Commercial Contract Condominium Addendum concerning: _____

available, will be added to the time allowed for substantial completion of the construction. However, in no event may the time for substantial completion extend beyond the Closing Date. Seller may substitute materials, equipment, and appliances of comparable quality for those specified in the Construction Documents.

(5) WARRANTIES: Except as expressly set forth in this contract, a separate writing, or provided by law, Seller makes no other express warranties. Seller will assign to Buyer at closing all assignable manufacturer warranties.

D. CONDOMINIUM ASSOCIATION FEES. Buyer will pay any deposits for reserves required at closing by the condominium owners' association. Any other transfer or processing fee payable to the condominium owners' association will be paid by ❑ Seller ❑ Buyer.

E. SPECIAL PROVISIONS.

Seller: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Buyer: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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TEXAS REALTORS

COMMERCIAL CONTRACT FINANCING ADDENDUM

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ADDENDUM TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE PROPERTY AT

_____

The portion of the Sales Price not payable in cash will be paid as follows: *(Check all that apply.)*

❑ A. THIRD PARTY FINANCING:

(1) The contract is contingent upon Buyer obtaining a third party loan(s) secured by the Property in the amount of $_____ for not less than _____ years with the initial interest rate not to exceed _____% per annum and payments calculated on an amortization period of no less than _____ years.

(2) Buyer will apply for the third party loan(s) described in Paragraph A(1) promptly after the effective date. If Buyer cannot obtain the loan(s), Buyer may give Seller written notice within _____ days after the effective date and the contract will terminate and the earnest money, less any independent consideration under Paragraph 7B(1) of the contract, will be refunded to Buyer. **If Buyer does not give such notice within the time required, this contract will no longer be subject to the contingency described in this Paragraph A.**

(3) Each note to be executed under this addendum is to be secured by vendor's and deed of trust liens.

❑ B. ASSUMPTION:

(1) Buyer will assume the unpaid principal balance of the existing promissory note secured by the Property payable to _____ dated _____ which balance at closing will be $_____.

(2) Buyer's initial payment will be the first payment due after closing. Buyer's assumption of the existing note includes all obligations imposed by the deed of trust securing the note, recorded in _____ *(recording reference)* in the real property records of the county where the Property is located.

(3) If the unpaid principal balance of the assumed loan as of the date of closing varies from the loan balance stated in Paragraph B(1), the cash payable at closing will be adjusted by the net amount of any variance; provided, if the total principal balance of the assumed loan varies in an amount greater than $_____ at closing, either party may terminate this contract and the earnest money will be refunded to Buyer unless either party elects to eliminate the excess in the variance by an appropriate adjustment at closing.

(4) Buyer may terminate the contract and the earnest money, less any independent consideration under Paragraph 7B(1) of the contract, will be refunded to Buyer if the note holder on assumption requires:
(a) Buyer to pay an assumption fee in excess of $_____ and Seller declines to pay such excess;
(b) an increase in the interest rate to more than _____%; or
(c) any other modification of the loan documents.

(5) Unless Seller is released of liability on any assumed note, Seller requires a vendor's lien and deed of trust to secure assumption, which will be automatically released on execution and delivery of a release by the note holder.

(6) If assumption approval is required by the note holder, Buyer will apply for assumption approval within _____ days after the effective date of the contract and will make every reasonable effort to obtain assumption approval. If Buyer cannot obtain assumption approval, Buyer may give Seller written notice within _____ days after the effective date and the contract will terminate and the earnest money, less any independent consideration under Paragraph 7B(1) of the contract, will be refunded to Buyer. **If Buyer does not give such notice within the time required and Buyer does not close because Buyer is not able to assume the existing note, Buyer will be in default.**

❑ C. SELLER FINANCING:

(1) At closing, Buyer will execute and deliver a promissory note (the note) from Buyer to Seller in the amount of $_____ , bearing _____% interest per annum. Matured, unpaid amounts will bear interest at the maximum rate of interest allowed by law.

(2) The note will be payable as follows

❑ (a) In one payment, due _____ after the date of the note, with interest payable: ❑ (i) monthly ❑ (ii) _____.

❑ (b) In installments of $_____ ❑ including interest ❑ plus interest beginning _____ after the date of the note and continuing at ❑ monthly ❑ _____ intervals thereafter for _____ when the entire balance of the note will be due and payable.

❑ (c) Interest only in ❑ monthly ❑ _____ installments for the first _____ years and thereafter in installments of $_____ ❑ including interest ❑ plus interest beginning _____ after the date of the note and continuing at ❑ monthly ❑ _____ intervals thereafter for _____ when the entire balance of the note will be due and payable.

(3) The note will be secured by vendor's and deed of trust liens and an assignment of leases payable at the place designated by Seller.

(4) The note will provide that if Buyer fails to timely pay an installment within 10 days after the installment is due, Buyer will pay a late fee equal to 5% of the installment not paid.

(5) The note ❑ will ❑ will not provide for liability (personal or corporate) against the maker in the event of default.

(6) The note may be prepaid in whole or in part at any time without penalty. Any prepayments are to be applied to the payment of the installments of principal last maturing and interest will immediately cease on the prepaid principal.

(7) The lien securing payment of the note will be inferior to any lien securing any superior note described in this addendum. If an owner's policy of title insurance is furnished, Buyer, at Buyer's expense, will furnish Seller with a mortgagee title policy in the amount of the note at closing.

(8) If all or any part of the Property is sold or conveyed without Seller's prior written consent, Seller, at Seller's option, may declare the outstanding principal balance of the note, plus accrued interest, immediately due and payable. Any of the following is not a sale or conveyance of the Property:
(a) the creation of a subordinate lien;
(b) a sale under a subordinate lien;
(c) a deed under threat or order of condemnation;
(d) a conveyance solely between the parties; or
(e) the passage of title by reason of death of a maker or operation of law.

(9) Deposits for Taxes and Insurance: Together with the principal and interest installments, Buyer ❑ will ❑ will not deposit with Seller a pro rata part of the estimated annual ad valorem taxes on the Property and a pro rata part of the estimated annual insurance premiums for the improvements on the Property.

(a) If Buyer deposits taxes and insurance deposits with Seller, Buyer agrees that the taxes and insurance deposits are only estimates and may be insufficient to pay total taxes and insurance premiums. Buyer agrees to pay any deficiency within 30 days after Seller notifies Buyer of any deficiency. Buyer's failure to pay the deficiency is a default under the deed of trust.

(b) If any superior lien holder on the Property collects payments for taxes and insurance, any requirement to deposit taxes and insurance deposits with Seller under this addendum is inoperative so long as payments are being made to the superior lien holder.

(10) Any event that constitutes a default under any superior lien constitutes a default under the deed of trust securing the note.

(11) The note will include a provision for reasonable attorney's fees for any collection action.

(12) Unless the parties agree otherwise, the form of the note and loan documents will be as found in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

❑ D. CREDIT APPROVAL ON ASSUMPTION OR SELLER FINANCING:

(1) To establish Buyer's creditworthiness for assumption approval or seller financing, Buyer will deliver to Seller the following information (Buyer's documentation) within _____ days after the effective date of the contract:

❑ (a) verification of employment, including salary;
❑ (b) verification of funds on deposit in financial institutions;
❑ (c) current financial statement;
❑ (d) credit report;
❑ (e) tax returns for the following years _____;
❑ (f) _____
_____.

(2) If Buyer does not timely deliver Buyer's documentation or Seller determines, in Seller's sole discretion, that Buyer's creditworthiness is not acceptable, Seller may terminate the contract by giving written notice to Buyer not later than _____ days after the date Buyer must deliver Buyer's documentation under Paragraph D(1) and the earnest money, less any independent consideration under Paragraph 7B(1) of the contract, will be refunded to Buyer. If Seller does not timely terminate the contract under this paragraph, Seller will be deemed to have accepted Buyer's credit.

❑ E. SPECIAL PROVISIONS:

Commercial Contract Financing Addendum concerning _____

Seller: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Buyer: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

TEXAS REALTORS

COMMERCIAL CONTRACT AMENDMENT

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AMENDMENT TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED BUYER AND SELLER CONCERNING THE PROPERTY AT

_____

Effective _____, Seller and Buyer amend the contract as follows: *(Check all applicable boxes.)*

❑ A. Sales Price: The sales price in Paragraph 3 of the contract is changed to:

Cash portion payable by Buyer at closing. . . . . $_____

Sum of all financing described in the contract . . . . . $_____

Sales price (sum of cash portion and sum of all financing). . . . . $_____

❑ B. Property Description: The Property's legal description in Paragraph 2A of the contract is changed to the legal description described on the attached Exhibit _____ or as follows:

❑ C. Repairs: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing:

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Amendment to Commercial Contract concerning _____

❑ D. Extension of Feasibility Period: For nominal consideration, the receipt of which Seller acknowledges, and the consideration described under (1) or (2) below, if any, Buyer's right to terminate under Paragraph 7B of the contract is extended until 11:59 p.m. on _____.

❑ (1) The independent consideration for Buyer's right to terminate that will be deducted from the earnest money if Buyer terminates the contract under Paragraph 7B(1) is increased to a total amount of $_____. *(Insert an amount greater than the amount in Paragraph 7B(1) of the contract.)*

❑ (2) Buyer has paid Seller additional consideration of $_____ for the extension. This additional consideration ❑ will ❑ will not be credited to the sales price upon the closing of the sale.

❑ E. Closing: The closing date in Paragraph 10A of the contract is changed to _____.

❑ F. Expenses: At closing Seller will pay the first $_____ of Buyer's expenses under Paragraph 13 of the contract.

❑ G. Waiver of Right to Terminate: Upon final acceptance of this Amendment, Buyer waives the right to terminate under Paragraph 7B of the contract.

❑ H. Counterparts: If this amendment is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

❑ I. Other Modifications:

Seller: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Buyer: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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TEXAS REALTORS

COMMERCIAL TENANT ESTOPPEL CERTIFICATE

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A. This estoppel certificate concerns the lease described below:

Landlord: _____
Tenant: _____
Leased Premises: _____
Commencement Date of Lease: _____

B. Tenant certifies that:

(1) as of the date Tenant signs this certificate, neither Landlord nor Tenant is in default of the lease;

(2) the base monthly rent to be paid through the end of the lease is as follows: _____
_____;

(3) the current additional charges payable by Tenant are: _____
_____;

(4) the next rent payment is due _____;

(5) Tenant has not paid Landlord any rent more than 30 days in advance except: _____
_____;

(6) Tenant deposited $_____ with Landlord as a security deposit under the lease;

(7) as of the date Tenant signs this certificate, Tenant has no claim of offset against rent except for: _____
_____;

(8) the current term of the lease expires on _____;

(9) Tenant has the option to renew the lease or expand the leased premises as follows: _____
_____;

(10) Tenant has a right of first refusal or option to purchase as follows: _____
_____;

(11) Tenant has accepted the leased premises, is in possession of the leased premises, and all improvements to the leased premises have been made;

(12) Tenant has no ownership interest in the property in which the leased premises are located; and

(13) _____
_____

Tenant understands that this certificate will be delivered to _____
_____ and that this party(ies) is relying on the representations in this certificate.

Tenant: _____ Date: _____

By: (signature) _____

Printed Name: _____

Title: _____

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TEXAS REALTORS

COMMERCIAL CONTRACT CRITICAL DATE LIST

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FOR THE COMMERCIAL CONTRACT CONCERNING THE PROPERTY AT

_____

Seller: _____

Buyer: _____

The following list of critical dates is provided as a service. The dates are not a legal interpretation of the contract and do not amend or modify the terms of the contract. There may be a different legal interpretation of the dates. There may be other critical dates contained in the contract. Contact your attorney for verification of the critical dates. Broker assumes no liability in connection with the accuracy of the dates listed below.

EFFECTIVE DATE: *(Paragraph 24)* ..... _____

EARNEST MONEY

Buyer's delivery of earnest money *(Paragraph 5.A.)* ..... _____
Buyer's delivery of additional earnest money *(Paragraph 5.B.)* ..... _____

FINANCING: *(from Commercial Contract Financing Addendum (TXR-1931))*

Buyer's termination for failure to obtain third party financing *(Par. A(2))* ... _____
Buyer's application for assumption approval *(Par. B(6))*..... _____
Buyer's termination for failure to obtain assumption approval *(Par. B(6))* .. _____
Buyer's delivery of credit information for Seller financing *(Par. D(1))*..... _____
Seller's termination due to Buyer's unacceptable credit *(Par. D(2))* ..... _____

TITLE POLICY, SURVEY, AND UCC SEARCH

Seller's delivery of title commitment and documents *(Paragraph 6.A.(3))*.. _____
Delivery of survey *(Paragraph 6.B.)* ..... _____
Seller's delivery of UCC search *(Paragraph 6.C.(1))* ..... _____
Buyer's notification of objections *(Paragraph 6.D.(1))* ..... _____ **
Seller's cure of objections *(Paragraph 6.D.(2))* ..... _____ **
Buyer's acceptance or rejection of limited cure *(Paragraph 6.D.(2))* ..... _____ **

FEASIBILTY PERIOD

Buyer pays independent consideration *(Paragraph 7.B.(2))* ..... _____
Seller delivers property information *(Paragraph 7.D.(1))* ..... _____
Expiration of Feasibility Period *(Paragraph 7.B.)* ..... _____

ESTOPPEL CERTIFICATES

Seller's delivery of estoppel certificates *(Paragraph 8.B)* ..... _____

CLOSING DATE *(Paragraph 10.A)* ..... _____

** deadline to be adjusted based upon completion of preceding events

dates falling on Saturday, Sunday or legal holiday are extended to the next business day *(Paragraph 23)*

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COMMERCIAL CONTRACT TERMINATION NOTICE

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TO: _____, ❑ Buyer ❑ Seller

FROM: _____, ❑ Buyer ❑ Seller

RE: The contract concerning the Property at _____

_____

dated _____ (effective date of contract).

Check all that apply.

❑ A. Buyer notifies Seller that Buyer terminates the contract in accordance with Paragraph 7B of the contract and requests the escrow agent to refund the earnest money to Buyer in accordance with the terms of the contract.

❑ B. The contract is terminated in accordance with Paragraph _____ of the contract.

❑ C. Attached to this notice is a release of earnest money executed by the undersigned instructing the escrow agent to release the earnest money. *(Attach TXR-1904 Release of Earnest Money or other form.)*

❑ (1) After you and your broker (if applicable) sign the release, please return it to the following person who will deliver it to the escrow agent and request that the escrow agent disburse the earnest money accordingly:

Name: _____

Address: _____

❑ (2) You may deliver the release to the escrow agent and request the escrow agent to disburse the earnest money accordingly.

❑ D. Other:

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

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TEXAS REALTORS

COMMERCIAL LEASE APPLICATION

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1. INDIVIDUAL:

Name: _____
E-mail: _____ Home Phone: _____
Work Phone: _____ Mobile/Pager: _____
Soc. Sec. No.: _____ Driver License No.: _____
Date of Birth: _____
Home Address: _____ How long at this address? _____
_____
Bank Name: _____
Bank Address: _____
Type Account: _____ Account No.: _____
Type Account: _____ Account No.: _____
Bank Officer: _____ Telephone: _____
Your Employer: _____ Telephone: _____
Employer Address: _____
If employed less than two years, please list previous employer: _____
Previous Employer Address and Telephone: _____
_____

2. BUSINESS:

Name: _____
E-mail: _____ Phone: _____
Tax I.D. No.:_____ ❑ C Corp ❑ S Corp ❑ Gen'l Partnership ❑ L.T.D. ❑ L.L.C. ❑ P.A.
Other Operating Name or DBA: _____
Address: _____ How long at this address? _____
_____
Current Landlord or Management Company: _____
Contract & Telephone No.:_____
If less than two years at current address, please list previous Landlord: _____
Previous Address & Telephone No.:_____
_____
Bank Name: _____
Bank Address: _____
Type Account: _____ Account No.: _____
Type Account: _____ Account No.: _____
Bank Officer: _____ Telephone: _____
Please list two Credit References, their telephone numbers, and your account number for those references:
_____
_____

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Deb Hernandez

Commercial Lease Application _____

Emergency Contact Information:

Name: _____
Phone: _____
E-mail: _____

Attach or deliver in a secure manner within 5 days after the date of this Application the following:

- ❑ Balance sheet
- ❑ Income statement
- ❑ Federal income tax returns for the past _____ years
- ❑ Proof of funds on deposit
- ❑ _____

Authorization: Applicant authorizes Landlord and Landlord's agent, at any time before, during, or after any tenancy, to:

(1) obtain a copy of Applicant's credit report;
(2) obtain a criminal background check related to Applicant and any other occupant; and
(3) verify any rental or employment history or verify any other information related to this application with persons knowledgeable of such information.

Notice of Landlord's Right to Continue to Show the Property: Unless Landlord and Applicant enter into a separate written agreement, otherwise the Property remains on the market until a lease is signed by all parties and Landlord may continue to show the Property to other prospective tenants and accept another offer.

Privacy Policy: Landlord's agent or property manager maintains a privacy policy that is available upon request.

Applicant represents that the statements in this application are true and complete. Applicant understands that providing inaccurate or incomplete information is grounds for rejection of this application and that Landlord is relying on the truthfulness and completeness of the information in making Landlord's decision whether to enter into a lease with Applicant.

Data Security: If Applicant attaches or delivers nonpublic personal information, like bank account numbers or other financial information, it is recommended that Applicant do so in a secure manner to reduce the risk of fraud or theft.

Date: _____

Applicant: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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TEXAS REALTORS

AUTHORIZATION TO RELEASE INFORMATION RELATED TO A LEASE APPLICANT

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I, _____ (Applicant), have submitted an application to lease a property at _____ _____ (address, city, state, zip).

The Landlord, Broker, or Landlord's representative is:

_____ (name)
_____ (address)
_____ (city, state, zip)
_____ (phone) _____ (email)

I give my permission:

(1) to my current and former employers to release any information about my employment history and income history to the above named person;

(2) to my current and former landlords to release any information about my rental history to the above named person;

(3) to my current and former mortgage lenders on property that I own or have owned to release any information about my mortgage payment history to the above named person;

(4) to my bank, savings and loan, or credit union to provide verification of funds that I have on deposit to the above named person; and

(5) to the above named person to obtain a copy of my consumer report (credit report) from any consumer-reporting agency and to obtain background information about me.

Date: _____

Applicant: _____

_____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

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COMMERCIAL LEASE

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Table of Contents

No.	Paragraph Description	Pg.
1.	Parties	2
2.	Leased Premises	2
3.	Term	
	A. Term	2
	B. Delay of Occupancy	2
	C. Certificate of Occupancy	3
4.	Rent and Expenses	
	A. Base Monthly Rent	3
	B. Additional Rent	3
	C. First Full Month's Rent	3
	D. Prorated Rent	3
	E. Place of Payment	3
	F. Method of Payment	3
	G. Late Charges	4
	H. Returned Checks	4
5.	Security Deposit	4
6.	Taxes	4
7.	Utilities	4
8.	Insurance	5
9.	Use and Hours	6
10.	Legal Compliance	6
11.	Signs	6
12.	Access By Landlord	7
13.	Move-In Condition	7
14.	Move-Out Condition	7
15.	Maintenance and Repairs	
	A. Cleaning	7
	B. Conditions Caused by a Party	8
	C. Repair & Maintenance Responsibility	8
	D. Repair Persons	8
	E. HVAC Service Contract	9
	F. Common Areas	9
	G. Notice of Repairs	9
	H. Failure to Repair	9
16.	Alterations	9
17.	Liens	9
18.	Liability	9
19.	Indemnity	10
20.	Default	10
21.	Abandonment, Interruption of Utilities, Removal of Property & Lockout	10
22.	Holdover	10
23.	Landlord's Lien & Security Interest	11
24.	Assignment and Subletting	11
25.	Relocation	11
26.	Subordination	11
27.	Estoppel Certificates & Financial Info.	11
28.	Casualty Loss	12
29.	Condemnation	12
30.	Attorney's Fees	12
31.	Representations	12
32.	Brokers	13
33.	Addenda	13
34.	Notices	13
35.	Special Provisions	14
36.	Agreement of the Parties	14

ADDENDA & EXHIBITS *(check all that apply)*

- ❑ Exhibit _____
- ❑ Exhibit _____
- ❑ Commercial Lease Addendum for Broker's Fee (TXR-2102)
- ❑ Commercial Lease Addendum for Expense Reimbursement (TXR-2103)
- ❑ Commercial Lease Addendum for Extension Option (TXR-2104)
- ❑ Commercial Lease Addendum for Percentage Rent (TXR-2106)
- ❑ Commercial Lease Addendum for Parking (TXR-2107)
- ❑ Commercial Landlord's Rules and Regulations (TXR-2108)
- ❑ Commercial Lease Guaranty (TXR-2109)
- ❑ Commercial Lease Addendum for Right of First Refusal (TXR-2105)
- ❑ Commercial Lease Addendum for Optional Space (TXR-2110)
- ❑ Commercial Lease Addendum for Construction (TXR-2111) or (TXR-2112)
- ❑ Commercial Lease Addendum for Contingencies (TXR-2119)
- ❑ _____
- ❑ _____
- ❑ _____
- ❑ Information About Brokerage Services (TXR-2501)

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1. PARTIES: The parties to this lease are:

Landlord: _____
_____; and

Tenant: _____
_____.

2. LEASED PREMISES:

A. Landlord leases to Tenant the following described real property, known as the "leased premises," along with all its improvements *(Check only one box)*:

❑ (1) Multiple-Tenant Property: Suite or Unit Number _____ containing approximately _____ square feet of rentable area in _____ *(project name)* at _____ *(address)* in _____ *(city)*, _____ *(county)*, Texas, which is legally described on attached Exhibit _____ or as follows:
_____
_____
_____.

❑ (2) Single-Tenant Property: The real property containing approximately _____ square feet of rentable area at: _____
_____ *(address)* in _____ _____ *(city)*, _____ *(county)*, Texas, which is legally described on attached Exhibit _____ or as follows: _____
_____
_____
_____.

B. If Paragraph 2A(1) applies:
(1) "Property" means the building or complex in which the leased premises are located, inclusive of any common areas, drives, parking areas, and walks; and
(2) the parties agree that the rentable area of the leased premises may not equal the actual or useable area within the leased premises and may include an allocation of common areas in the Property. The rentable area ❑ will ❑ will not be adjusted if re-measured.

3. TERM:

A. Term: The term of this lease is _____ months and _____ days, commencing on:

_____ (Commencement Date) and ending on

_____ (Expiration Date).

B. Delay of Occupancy: If Tenant is unable to occupy the leased premises on the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially complete or a prior tenant's holding over of the leased premises, Landlord will not be liable to Tenant for such delay and this lease will remain enforceable. In the event of such a delay, the

Commercial Lease concerning: _____

Commencement Date will automatically be extended to the date Tenant is able to occupy the Property and the Expiration Date will also be extended by a like number of days, so that the length of this lease remains unchanged. If Tenant is unable to occupy the leased premises after the 90th day after the Commencement Date because of construction on the leased premises to be completed by Landlord that is not substantially complete or a prior tenant's holding over of the leased premises, Tenant may terminate this lease by giving written notice to Landlord before the leased premises become available to be occupied by Tenant and Landlord will refund to Tenant any amounts paid to Landlord by Tenant. This Paragraph 3B does not apply to any delay in occupancy caused by cleaning or repairs.

C. Certificate of Occupancy: Unless the parties agree otherwise, Tenant is responsible for obtaining a certificate of occupancy for the leased premises if required by a governmental body.

4. RENT AND EXPENSES:

A. Base Monthly Rent: On or before the first day of each month during this lease, Tenant will pay Landlord base monthly rent as described on attached Exhibit _____ or as follows:

Dates		Rate per rentable square foot *(optional)*		Base Monthly Rent $
From	To	$ Monthly Rate	$ Annual Rate	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	

B. Additional Rent: In addition to the base monthly rent, Tenant will pay Landlord all other amounts, as provided by the attached *(Check all that apply.)*:
- ❑ (1) Commercial Lease Addendum for Expense Reimbursement (TXR-2103)
- ❑ (2) Commercial Lease Addendum for Percentage Rent (TXR-2106)
- ❑ (3) Commercial Lease Addendum for Parking (TXR-2107)
- ❑ (4) _____

All amounts payable under the applicable addenda are deemed to be "rent" for the purposes of this lease.

C. First Full Month's Rent: The first full monthly rent is due on or before _____
_____.

D. Prorated Rent: If the Commencement Date is on a day other than the first day of a month, Tenant will pay Landlord as prorated rent, an amount equal to the base monthly rent multiplied by the following fraction: the number of days from the Commencement Date to the first day of the following month divided by the number of days in the month in which this lease commences. The prorated rent is due on or before the Commencement Date.

E. Place of Payment: Tenant will remit all amounts due to Landlord under this lease to the following person at the place stated or to such other person or place as Landlord may later designate in writing:

Name: _____
Address: _____
_____

F. Method of Payment: Tenant must pay all rent timely without demand, deduction, or offset, except as permitted by law or this lease. If Tenant fails to timely pay any amounts due under this lease or if any check of Tenant is returned to Landlord by the institution on which it was drawn, Landlord after providing written notice to Tenant may require Tenant to pay subsequent amounts that become due

under this lease in certified funds. This paragraph does not limit Landlord from seeking other remedies under this lease for Tenant's failure to make timely payments with good funds.

G. Late Charges: If Landlord does not actually receive a rent payment at the designated place of payment within 5 days after the date it is due, Tenant will pay Landlord a late charge equal to 10% of the amount due. In this paragraph, the mailbox is not the agent for receipt for Landlord. The late charge is a cost associated with the collection of rent and Landlord's acceptance of a late charge does not waive Landlord's right to exercise remedies under Paragraph 20.

H. Returned Checks: Tenant will pay $_____ for each check Tenant tenders to Landlord which is returned by the institution on which it is drawn for any reason, plus any late charges until Landlord receives payment.

5. SECURITY DEPOSIT:

A. Upon execution of this lease, Tenant will pay $_____ to Landlord as a security deposit.

B. Landlord may apply the security deposit to any amounts owed by Tenant under this lease. If Landlord applies any part of the security deposit during any time this lease is in effect to amounts owed by Tenant, Tenant must, within 10 days after receipt of notice from Landlord, restore the security deposit to the amount stated.

C. Within 60 days after Tenant surrenders the leased premises and provides Landlord written notice of Tenant's forwarding address, Landlord will refund the security deposit less any amounts applied toward amounts owed by Tenant or other charges authorized by this lease.

6. TAXES: Unless otherwise agreed by the parties, Landlord will pay all real property ad valorem taxes assessed against the leased premises.

7. UTILITIES:

A. The party designated below will pay for the following utility charges to the leased premises and any connection charges for the utilities. *(Check all that apply.)*

	N/A	Landlord	Tenant
(1) Water	❑	❑	❑
(2) Sewer	❑	❑	❑
(3) Electric	❑	❑	❑
(4) Gas	❑	❑	❑
(5) Telephone	❑	❑	❑
(6) Internet	❑	❑	❑
(7) Cable	❑	❑	❑
(8) Trash	❑	❑	❑
(9) _____	❑	❑	❑
(10) All other utilities	❑	❑	❑

B. The party responsible for the charges under Paragraph 7A will pay the charges directly to the utility service provider. The responsible party may select the utility service provider, except that if Tenant selects the provider, any access or alterations to the Property or leased premises necessary for the utilities may be made only with Landlord's prior consent, which Landlord will not unreasonably withhold. If Landlord incurs any liability for utility or connection charges for which Tenant is responsible to pay and Landlord pays such amount, Tenant will immediately upon written notice from Landlord reimburse Landlord such amount.

Commercial Lease concerning:_____

C. **Notice: Tenant should determine if all necessary utilities are available to the leased premises and are adequate for Tenant's intended use**.

D. After-Hours HVAC Charges: "HVAC services" mean heating, ventilating, and air conditioning of the leased premises. *(Check one box only.)*

☐ (1) Landlord is obligated to provide the HVAC services to the leased premises only during the Property's operating hours specified under Paragraph 9C.

☐ (2) Landlord will provide the HVAC services to the leased premises during the operating hours specified under Paragraph 9C for no additional charge and will, at Tenant's request, provide HVAC services to the leased premises during other hours for an additional charge of $_____ per hour. Tenant will pay Landlord the charges under this paragraph immediately upon receipt of Landlord's invoice. Hourly charges are charged on a half-hour basis. Any partial hour will be rounded up to the next half hour. Tenant will comply with Landlord's procedures to make a request to provide the additional HVAC services under this paragraph.

☐ (3) Tenant will pay for the HVAC services under this lease.

8. INSURANCE:

A. During all times this lease is in effect, Tenant must, at Tenant's expense, maintain in full force and effect from an insurer authorized to operate in Texas:
(1) public liability insurance naming Landlord as an additional insured with policy limits on an occurrence basis in a minimum amount of: *(check only (a) or (b) below)*
☐ (a) $1,000,000; or
☐ (b) $2,000,000.
If neither box is checked the minimum amount will be $1,000,000.
(2) personal property damage insurance for the business operations being conducted in the leased premises and contents in the leased premises in an amount sufficient to replace such contents after a casualty loss; and
☐ (3) business interruption insurance sufficient to pay 12 months of rent payments.

B. Before the Commencement Date, Tenant must provide Landlord with a copy of insurance certificates evidencing the required coverage. If the insurance coverage is renewed or changes in any manner or degree at any time this lease is in effect, Tenant must, not later than 10 days after the renewal or change, provide Landlord a copy of an insurance certificate evidencing the renewal or change.

C. If Tenant fails to maintain the required insurance in full force and effect at all times this lease is in effect, Landlord may:
(1) purchase insurance that will provide Landlord the same coverage as the required insurance and Tenant must immediately reimburse Landlord for such expense; or
(2) exercise Landlord's remedies under Paragraph 20.

D. Unless the parties agree otherwise, Landlord will maintain in full force and effect insurance for: (1) fire and extended coverage in an amount to cover the reasonable replacement cost of the improvements of the Property; and (2) any public liability insurance in an amount that Landlord determines reasonable and appropriate.

E. If there is an increase in Landlord's insurance premiums for the leased premises or Property or its contents that is caused by Tenant, Tenant's use of the leased premises, or any improvements made by or for Tenant, Tenant will, for each year this lease is in effect, pay Landlord the increase immediately

after Landlord notifies Tenant of the increase. Any charge to Tenant under this Paragraph 8E will be equal to the actual amount of the increase in Landlord's insurance premium.

9. USE AND HOURS:

A. Tenant may use the leased premises for the following purpose and no other: _____
_____
_____
_____.

B. Unless otherwise specified in this lease, Tenant will operate and conduct its business in the leased premises during business hours that are typical of the industry in which Tenant represents it operates.

C. The Property maintains operating hours of *(specify hours, days of week, and if inclusive or exclusive of weekends and holidays)*: _____
_____
_____.

10. LEGAL COMPLIANCE:

A. Tenant may not use or permit any part of the leased premises or the Property to be used for:
(1) any activity which is a nuisance or is offensive, noisy, or dangerous;
(2) any activity that interferes with any other tenant's normal business operations or Landlord's management of the Property;
(3) any activity that violates any applicable law, regulation, zoning ordinance, restrictive covenant, governmental order, owners' association rules, tenants' association rules, Landlord's rules or regulations, or this lease;
(4) any hazardous activity that would require any insurance premium on the Property or leased premises to increase or that would void any such insurance;
(5) any activity that violates any applicable federal, state, or local law, including but not limited to those laws related to air quality, water quality, hazardous materials, wastewater, waste disposal, air emissions, or other environmental matters;
(6) the permanent or temporary storage of any hazardous material; or
(7) _____
_____.

B. "Hazardous material" means any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent, or oil as defined by any federal, state, or local environmental law, regulation, ordinance, or rule existing as of the date of this lease or later enacted.

C. Landlord does not represent or warrant that the leased premises or Property conform to applicable restrictions, zoning ordinances, setback lines, parking requirements, impervious ground cover ratio requirements, and other matters that may relate to Tenant's intended use. Tenant must satisfy itself that the leased premises may be used as Tenant intends by independently investigating all matters related to the use of the leased premises or Property. Tenant agrees that it is not relying on any warranty or representation made by Landlord, Landlord's agent, or any broker concerning the use of the leased premises or Property.

11. SIGNS:

A. Tenant may not post or paint any signs or place any decoration outside the leased premises or on the Property without Landlord's written consent. Landlord may remove any unauthorized sign or decorations, and Tenant will promptly reimburse Landlord for its cost to remove any unauthorized sign or decorations.

B. Any authorized sign must comply with all laws, restrictions, zoning ordinances, and any governmental order relating to signs on the leased premises or Property. Landlord may temporarily remove any authorized sign to complete repairs or alterations to the leased premises or the Property.

C. By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant's expense, to remove, without damage to the Property or leased premises, any or all signs or decorations that were placed on the Property or leased premises by or at the request of Tenant. Any signs or decorations that Landlord does not require Tenant to remove and that are fixtures, become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

12. ACCESS BY LANDLORD:

A. During Tenant's normal business hours Landlord may enter the leased premises for any reasonable purpose, including but not limited to purposes for repairs, maintenance, alterations, and showing the leased premises to prospective tenants or purchasers. Landlord may access the leased premises after Tenant's normal business hours if: (1) entry is made with Tenant's permission; or (2) entry is necessary to complete emergency repairs. Landlord will not unreasonably interfere with Tenant's business operations when accessing the leased premises.

B. During the last _____ days of this lease, Landlord may place a "For Lease" or similarly worded sign on the leased premises.

13. MOVE-IN CONDITION: Tenant has inspected the leased premises and accepts it in its present (as-is) condition unless expressly noted otherwise in this lease or in an addendum. Landlord and any agent have made no express or implied warranties as to the condition or permitted use of the leased premises or Property.

14. MOVE-OUT CONDITION AND FORFEITURE OF TENANT'S PERSONAL PROPERTY:

A. At the time this lease ends, Tenant will surrender the leased premises in the same condition as when received, except for normal wear and tear. Tenant will leave the leased premises in a clean condition free of all trash, debris, personal property, hazardous materials, and environmental contaminants.

B. If Tenant leaves any personal property in the leased premises after Tenant surrenders possession of the leased premises, Landlord may: (1) require Tenant, at Tenant's expense, to remove the personal property by providing written notice to Tenant; or (2) retain such personal property as forfeited property to Landlord.

C. "Surrender" means vacating the leased premises and returning all keys and access devices to Landlord. "Normal wear and tear" means deterioration that occurs without negligence, carelessness, accident, or abuse.

D By providing written notice to Tenant before this lease ends, Landlord may require Tenant, upon move-out and at Tenant's expense, to remove, without damage to the Property or leased premises, any or all fixtures that were placed on the Property or leased premises by or at the request of Tenant. Any fixtures that Landlord does not require Tenant to remove become the property of the Landlord and must be surrendered to Landlord at the time this lease ends.

15. MAINTENANCE AND REPAIRS:

A. Cleaning: Tenant must keep the leased premises clean and sanitary and promptly dispose of all garbage in appropriate receptacles. ☐Landlord ☐Tenant will provide, at its expense, janitorial services to the leased premises that are customary and ordinary for the property type. Tenant will maintain any grease trap on the Property which Tenant uses, including but not limited to periodic emptying and

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cleaning, as well as making any modification to the grease trap that may be necessary to comply with any applicable law.

B. Repairs of Conditions Caused by a Party: Each party must promptly repair a condition in need of repair that is caused, either intentionally or negligently, by that party or that party's guests, patrons, invitees, contractors or permitted subtenants.

C. Repair and Maintenance Responsibility: Except as otherwise provided by this Paragraph 15, the party designated below, at its expense, is responsible to maintain and repair the following specified items in the leased premises (if any). The specified items must be maintained in clean and good operable condition. If a governmental regulation or order requires a modification to any of the specified items, the party designated to maintain the item must complete and pay the expense of the modification. The specified items include and relate only to real property in the leased premises. Tenant is responsible for the repair and maintenance of its personal property. *(Check all that apply.)*

		N/A	Landlord	Tenant
(1)	Foundation, exterior walls, roof, and other structural components….	❑	❑	❑
(2)	Glass and windows……	❑	❑	❑
(3)	Fire protection equipment ……	❑	❑	❑
(4)	Fire sprinkler systems……	❑	❑	❑
(5)	Exterior & overhead doors, including closure devices, molding, locks, and hardware……	❑	❑	❑
(6)	Grounds maintenance, including landscaping and irrigation systems……	❑	❑	❑
(7)	Interior doors, including closure devices, frames, molding, locks, and hardware……..	❑	❑	❑
(8)	Parking areas and walks……	❑	❑	❑
(9)	Plumbing systems, drainage systems and sump pumps…….……..	❑	❑	❑
(10)	Electrical systems, mechanical systems……	❑	❑	❑
(11)	Ballast and lamp replacement……	❑	❑	❑
(12)	Heating, Ventilation and Air Conditioning (HVAC) systems……..	❑	❑	❑
(13)	HVAC system replacement……	❑	❑	❑
(14)	Signs and lighting: ……			
	(a) Pylon……..	❑	❑	❑
	(b) Facia……	❑	❑	❑
	(c) Monument……..	❑	❑	❑
	(d) Door/Suite……..	❑	❑	❑
	(e) Other: _____……	❑	❑	❑
(15)	Extermination and pest control, excluding wood-destroying insects..	❑	❑	❑
(16)	Fences and Gates……..	❑	❑	❑
(17)	Storage yards and storage buildings…….……	❑	❑	❑
(18)	Wood-destroying insect treatment and repairs……..	❑	❑	❑
(19)	Cranes and related systems……..	❑	❑	❑
(20)	_____……....		❑	❑
(21)	_____……....		❑	❑
(22)	All other items and systems……		❑	❑

D. Repair Persons: Repairs must be completed by trained, qualified, and insured repair persons.

Commercial Lease concerning:_____

E. HVAC Service Contract: If Tenant maintains the HVAC system under Paragraph 15C(12), Tenant ❑ is ❑ is not required to maintain, at its expense, a regularly scheduled maintenance and service contract for the HVAC system. The maintenance and service contract must be purchased from a HVAC maintenance company that regularly provides such contracts to similar properties. If Tenant fails to maintain a required HVAC maintenance and service contract in effect at all times during this lease, Landlord may do so and Tenant will reimburse Landlord for the expense of such maintenance and service contract or Landlord may exercise Landlord's remedies under Paragraph 20.

F. Common Areas: Landlord will maintain any common areas in the Property in a manner as Landlord determines to be in the best interest of the Property. Landlord will maintain any elevator and signs in the common area. Landlord may change the size, dimension, and location of any common areas, provided that such change does not materially impair Tenant's use and access to the leased premises. Tenant has the non-exclusive license to use the common areas in compliance with Landlord's rules and regulations. Tenant may not solicit any business in the common areas or interfere with any other person's right to use the common areas. This paragraph does not apply if Paragraph 2A(2) applies.

G. Notice of Repairs: Tenant must promptly notify Landlord of any item that is in need of repair and that is Landlord's responsibility to repair. All requests for repairs to Landlord must be in writing.

H. Failure to Repair: Landlord must make a repair for which Landlord is responsible within a reasonable period of time after Tenant provides Landlord written notice of the needed repair. If Tenant fails to repair or maintain an item for which Tenant is responsible within 10 days after Landlord provides Tenant written notice of the needed repair or maintenance, Landlord may: (1) repair or maintain the item, without liability for any damage or loss to Tenant, and Tenant must immediately reimburse Landlord for the cost to repair or maintain; or (2) exercise Landlord's remedies under Paragraph 20.

16. ALTERATIONS:

A. Tenant may not alter (including making any penetrations to the roof, exterior walls or foundation), improve, or add to the Property or the leased premises without Landlord's written consent. Landlord will not unreasonably withhold consent for the Tenant to make reasonable non-structural alterations, modifications, or improvements to the leased premises.

B. Tenant may not alter any locks or any security devices on the Property or the leased premises without Landlord's consent. If Landlord authorizes the changing, addition, or rekeying of any locks or other security devices, Tenant must immediately deliver the new keys and access devices to Landlord.

C. If a governmental order requires alteration or modification to the leased premises, the party obligated to maintain and repair the item to be modified or altered as designated in Paragraph 15 will, at its expense, modify or alter the item in compliance with the order and in compliance with Paragraphs 16A and 17.

D. Any alterations, improvements, fixtures or additions to the Property or leased premises installed by either party during the term of this lease will become Landlord's property and must be surrendered to Landlord at the time this lease ends, except for those fixtures Landlord requires Tenant to remove under Paragraph 11 or 14 or if the parties agree otherwise in writing.

17. LIENS: Tenant may not do anything that will cause the title of the Property or leased premises to be encumbered in any way. If Tenant causes a lien to be filed against the Property or leased premises, Tenant will within 20 days after receipt of Landlord's demand: (1) pay the lien and have the lien released of record; or (2) take action to discharge the lien. Tenant will provide Landlord a copy of any release Tenant obtains pursuant to this paragraph.

18. LIABILITY: To the extent permitted by law, Landlord is NOT responsible to Tenant or Tenant's employees, patrons, guests, or invitees for any damages, injuries, or losses to person or property caused by:

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C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.

D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursal of the earnest money.

E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.

F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

G. ❑ Seller ❑ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

❑ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408).

❑ B. Except as otherwise provided in this contract, Seller is not aware of:
(1) any subsurface: structures, pits, waste, springs, or improvements;
(2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
(3) any environmental hazards or conditions that materially affect the Property;
(4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
(5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
(6) any wetlands, as defined by federal or state law or regulation, on the Property;
(7) any threatened or endangered species or their habitat on the Property;
(8) any present or past infestation of wood-destroying insects in the Property's improvements;
(9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
(10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

❑ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
❑ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

indemnify Landlord and any prospective tenants for any and all damages caused by the holdover. Rent for any holdover period will be 150% of the base monthly rent plus any additional rent calculated on a daily basis and will be immediately due and payable daily without notice or demand.

23. LANDLORD'S LIEN AND SECURITY INTEREST: To secure Tenant's performance under this lease, Tenant grants to Landlord a lien and security interest against all of Tenant's nonexempt personal property that is in the leased premises or on the Property. This lease is a security agreement for the purposes of the Uniform Commercial Code. Landlord may file a financing statement to perfect Landlord's security interest under the Uniform Commercial Code.

24. ASSIGNMENT AND SUBLETTING: Landlord may assign this lease to any subsequent owner of the Property. Tenant may not assign this lease or sublet any part of the leased premises without Landlord's written consent. An assignment of this lease or subletting of the leased premises without Landlord's written consent is voidable by Landlord. If Tenant assigns this lease or sublets any part of the leased premises, Tenant will remain liable for all of Tenant's obligations under this lease regardless if the assignment or sublease is made with or without the consent of Landlord.

25. RELOCATION:

❑ A. By providing Tenant with not less than 90 days advanced written notice, Landlord may require Tenant to relocate to another location in the Property, provided that the other location is equal in size or larger than the leased premises then occupied by Tenant and contains similar leasehold improvements. Landlord will pay Tenant's reasonable out-of-pocket moving expenses for moving to the other location. "Moving expenses" means reasonable expenses payable to professional movers, utility companies for connection and disconnection fees, wiring companies for connecting and disconnecting Tenant's office equipment required by the relocation, and printing companies for reprinting Tenant's stationery and business cards. A relocation of Tenant will not change or affect any other provision of this lease that is then in effect, including rent and reimbursement amounts, except that the description of the suite or unit number will automatically be amended.

❑ B. Landlord may not require Tenant to relocate to another location in the Property without Tenant's prior consent.

26. SUBORDINATION:

A. This lease and Tenant's leasehold interest are and will be subject, subordinate, and inferior to:
(1) any lien, encumbrance, or ground lease now or hereafter placed on the leased premises or the Property that Landlord authorizes;
(2) all advances made under any such lien, encumbrance, or ground lease;
(3) the interest payable on any such lien or encumbrance;
(4) any and all renewals and extensions of any such lien, encumbrance, or ground lease;
(5) any restrictive covenant affecting the leased premises or the Property; and
(6) the rights of any owners' association affecting the leased premises or Property.

B. Tenant must, on demand, execute a subordination, attornment, and non-disturbance agreement that Landlord may request that Tenant execute, provided that such agreement is made on the condition that this lease and Tenant's rights under this lease are recognized by the lien-holder.

27. ESTOPPEL CERTIFICATES & FINANCIAL INFORMATION:

A. Within 10 days after receipt of a written request from Landlord, Tenant will execute and deliver to Landlord an estoppel certificate that identifies the terms and conditions of this lease.

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B. Within 30 days after receipt of a written request from Landlord, Tenant will provide to Landlord Tenant's current financial information (balance sheet and income statement). Landlord may request the financial information no more frequently than once every 12 months.

28. CASUALTY LOSS:

A. Tenant must immediately notify Landlord of any casualty loss in the leased premises. Within 20 days after receipt of Tenant's notice of a casualty loss, Landlord will notify Tenant if the leased premises are less than or more than 50% unusable, on a per square foot basis, and if Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss.

B. If the leased premises are less than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord will restore the leased premises to substantially the same condition as before the casualty. If Landlord fails to substantially restore within the time required, Tenant may terminate this lease.

C. If the leased premises are more than 50% unusable and Landlord can substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty, Landlord may: (1) terminate this lease; or (2) restore the leased premises to substantially the same condition as before the casualty. If Landlord chooses to restore and does not substantially restore the leased premises within the time required, Tenant may terminate this lease.

D. If Landlord notifies Tenant that Landlord cannot substantially restore the leased premises within 120 days after Tenant notifies Landlord of the casualty loss, Landlord may: (1) choose not to restore and terminate this lease; or (2) choose to restore, notify Tenant of the estimated time to restore, and give Tenant the option to terminate this lease by notifying Landlord within 10 days.

E. If this lease does not terminate because of a casualty loss, rent will be reduced from the date Tenant notifies Landlord of the casualty loss to the date the leased premises are substantially restored by an amount proportionate to the extent the leased premises are unusable.

29. CONDEMNATION: If after a condemnation or purchase in lieu of condemnation the leased premises are totally unusable for the purposes stated in this lease, this lease will terminate. If after a condemnation or purchase in lieu of condemnation the leased premises or Property are partially unusable for the purposes of this lease, this lease will continue and rent will be reduced in an amount proportionate to the extent the leased premises are unusable. Any condemnation award or proceeds in lieu of condemnation are the property of Landlord and Tenant has no claim to such proceeds or award. Tenant may seek compensation from the condemning authority for its moving expenses and damages to Tenant's personal property.

30. ATTORNEY'S FEES: Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this lease is entitled to recover prejudgment interest, reasonable attorney's fees, and all other costs of litigation from the nonprevailing party.

31. REPRESENTATIONS:

A. Tenant's statements in this lease and any application for rental are material representations relied upon by Landlord. Each party signing this lease represents that he or she is of legal age to enter into a binding contract and is authorized to sign this lease. If Tenant makes any misrepresentation in this lease or in any application for rental, Tenant is in default.

B. Landlord is not aware of any material defect on the Property that would affect the health and safety of an ordinary person or any environmental hazard on or affecting the Property that would affect the

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Commercial Lease concerning: _____

health or safety of an ordinary person, except: _____
_____.

C. Each party and each signatory to this lease represents that: (1) it is not a person named as a Specially Designated National and Blocked Person as defined in Presidential Executive Order 13224; (2) it is not acting, directly or indirectly, for or on behalf of a Specially Designated and Blocked Person; and (3) is not arranging or facilitating this lease or any transaction related to this lease for a Specially Designated and Blocked Person. Any party or any signatory to this lease who is a Specially Designated and Blocked person will indemnify and hold harmless any other person who relies on this representation and who suffers any claim, damage, loss, liability or expense as a result of this representation.

32. BROKERS:

A. The brokers to this lease are:

Principal Broker: _____	**Cooperating Broker**: _____
_____	_____
Agent: _____	Agent: _____
Address: _____	Address: _____
_____	_____
Phone & Fax: _____	Phone & Fax: _____
E-mail: _____	E-mail: _____
License No.: _____	License No.: _____

Principal Broker: *(Check only one box)*
❑ represents Landlord only.
❑ represents Tenant only.
❑ is an intermediary between Landlord and Tenant.

Cooperating Broker represents Tenant.

B. Fees:

❑ (1) Principal Broker's fee will be paid according to: *(Check only one box).*
  ❑ (a) a separate written commission agreement between Principal Broker and: ☐Landlord ☐Tenant.
  ❑ (b) the attached Commercial Lease Addendum for Broker's Fee (TXR-2102).

❑ (2) Cooperating Broker's fee will be paid according to: *(Check only one box).*
  ❑ (a) a separate written commission agreement between Cooperating Broker and: ☐Principal Broker ☐Landlord ☐Tenant.
  ❑ (b) the attached Commercial Lease Addendum for Broker's Fee (TXR-2102).

33. ADDENDA: Incorporated into this lease are the addenda, exhibits and other information marked in the Addenda and Exhibit section of the Table of Contents. If Landlord's Rules and Regulations are made part of this lease, Tenant agrees to comply with the Rules and Regulations as Landlord may, at its discretion, amend from time to time.

34. NOTICES: All notices under this lease must be in writing and are effective when hand-delivered, sent by mail, or sent by facsimile transmission to:

Landlord at: _____
Address: _____

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Commercial Lease concerning: _____

Phone: _____ Fax: _____
and a copy to: _____
Address: _____
Phone: _____ Fax: _____
❑ Landlord also consents to receive notices by e-mail at: _____

Tenant at the leased premises,
and a copy to: _____
Address: _____
Phone: _____ Fax: _____
❑ Tenant also consents to receive notices by e-mail at: _____

35. SPECIAL PROVISIONS:

36. AGREEMENT OF PARTIES:

A. Entire Agreement: This lease contains the entire agreement between Landlord and Tenant and may not be changed except by written agreement.

B. Binding Effect: This lease is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, successors, and permitted assigns.

C. Joint and Several: All Tenants are jointly and severally liable for all provisions of this lease. Any act or notice to, or refund to, or signature of, any one or more of the Tenants regarding any term of this lease, its renewal, or its termination is binding on all Tenants.

D. Controlling Law: The laws of the State of Texas govern the interpretation, performance, and enforcement of this lease.

E. Severable Clauses: If any clause in this lease is found invalid or unenforceable by a court of law, the remainder of this lease will not be affected and all other provisions of this lease will remain valid and enforceable.

F. Waiver: Landlord's delay, waiver, or non-enforcement of acceleration, contractual or statutory lien, rental due date, or any other right will not be deemed a waiver of any other or subsequent breach by Tenant or any other term in this lease.

Commercial Lease concerning: _____

G. Quiet Enjoyment: Provided that Tenant is not in default of this lease, Landlord covenants that Tenant will enjoy possession and use of the leased premises free from material interference.

H. Force Majeure: If Landlord's performance of a term in this lease is delayed by strike, lock-out, shortage of material, governmental restriction, riot, flood, or any cause outside Landlord's control, the time for Landlord's performance will be abated until after the delay.

I. Time: Time is of the essence. The parties require strict compliance with the times for performance.

Brokers are not qualified to render legal advice, property inspections, surveys, engineering studies, environmental assessments, tax advice, or compliance inspections. The parties should seek experts to render such services. READ THIS LEASE CAREFULLY. If you do not understand the effect of this Lease, consult your attorney BEFORE signing.

Landlord: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

Tenant: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

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TEXAS REALTORS

COMMERCIAL LEASE AMENDMENT

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AMENDMENT TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

Effective on _____, Landlord and Tenant amend the above-referenced lease as follows.

❑ A. Leased Premises: The suite or unit number identified in Paragraph 2A(1) is:

❑ (1) changed to _____.

❑ (2) contains approximately _____ square feet.

❑ B. Term:

❑ (1) The length of the term stated in Paragraph 3A is changed to _____ months and _____ days.

❑ (2) The Commencement Date stated in Paragraph 3A is changed to _____.

❑ (3) The Expiration Date stated in Paragraph 3A is changed to _____.

❑ C. Rent: The amount of the base monthly rent specified in Paragraph 4A is changed to:

$_____ from _____ to _____;
$_____ from _____ to _____;
$_____ from _____ to _____;
$_____ from _____ to _____;
$_____ from _____ to _____.

❑ D. Security Deposit: The amount of the security deposit in Paragraph 5 is changed to $_____.

❑ E. Maintenance and Repairs: The following item(s) specified in the identified subparagraph of Paragraph 15C will be maintained by the party designated below:

Para. No.	Description	Responsible Party		
_____	_____	❑ N/A	❑ Landlord	❑ Tenant
_____	_____	❑ N/A	❑ Landlord	❑ Tenant
_____	_____	❑ N/A	❑ Landlord	❑ Tenant
_____	_____	❑ N/A	❑ Landlord	❑ Tenant

❑ F. Parking:

❑ (1) Common Parking: The number of vehicles identified in Paragraph A(1) of the Commercial Lease Parking Addendum is changed to _____ vehicles.

Amendment to Commercial Lease concerning _____

- ❑ (2) Restricted Common Parking for Tenants: The number of vehicles identified in Paragraph A(2) of the Commercial Lease Parking Addendum is changed to _____ vehicles.
- ❑ (3) Assigned Parking: Tenant's assigned parking areas identified in Paragraph A(3) of the Commercial Lease Parking Addendum is changed to _____ _____ _____ _____.
- ❑ (4) Parking Rental: The amount of rent identified in Paragraph B of the Commercial Lease Parking Addendum is changed to $_____.

❑ G. Other: Paragraph(s) _____ are changed to read *(cite specific paragraphs and copy the applicable paragraphs verbatim, making any necessary changes)*:

Landlord: _____

By:_____

By (signature):_____

Printed Name:_____

Title: _____ Date: _____

By:_____

By (signature):_____

Printed Name:_____

Title: _____ Date: _____

Tenant: _____

By:_____

By (signature):_____

Printed Name:_____

Title: _____ Date: _____

By:_____

By (signature):_____

Printed Name:_____

Title: _____ Date: _____

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TEXAS REALTORS

COMMERCIAL LEASE ADDENDUM FOR EXPENSE REIMBURSEMENT

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

In addition to rent stated in the lease, Tenant will pay Landlord the additional rent described in this addendum. Tenant will pay the additional rent each month at the time the base-monthly rent in the lease is due.

A. Definitions:

(1) *"Tenant's pro rata share"* is _____%.

(2) *"CAM"* means all of Landlord's expenses reasonably incurred to maintain, repair, operate, manage, and secure the Property (for example, security, lighting, painting, cleaning, decorations, utilities, trash removal, pest control, promotional expenses, and other expenses reasonably related the Property's operations); CAM does not include capital expenditures, interest, depreciation, tenant improvements, insurance, taxes, or brokers' leasing fees Notwithstanding the foregoing, CAM does include the amortized costs incurred by Landlord in making capital improvements or other modifications to the Property to the extent such improvements or modifications reduce CAM overall. These costs will be amortized over the useful life of the improvement or modification on a straight-line basis; however, in no event will the charge for such amortization included in CAM exceed the actual reduction in CAM achieved by the improvements and modifications.

(3) *"Insurance"* means Landlord's costs to insure the leased premises and the Property including but not limited to insurance for casualty loss, general liability, and reasonable rent loss.

(4) *"Taxes"* means the real property ad valorem taxes assessed against the leased premises and Property inclusive of all general and special assessments and surcharges.

(5) *"Structural"* means all of Landlord's expenses reasonably incurred to maintain, repair, and replace the roof, foundation, exterior walls, load bearing walls and other structural components of the Property.

B. Method: The additional rent will be calculated under the following method:

Note: "CAM" does not include taxes and insurance costs.

❑ (1) Base-year expenses: Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed the amount of the monthly base-year expenses for the calendar year _____ for: ❑ taxes; ❑ insurance; ❑ CAM; ❑ structural; and ❑ _____ _____.

❑ (2) Expense-stop: Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed $_____ per square foot per year for: ❑ taxes; ❑ insurance; ❑ CAM; ❑ structural; and ❑ _____.

❑ (3) Net: Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property for: ❑ taxes; ❑ insurance; ❑ CAM; ❑ structural; and ❑ _____ _____.

C. Projected Monthly Expenses: On or about December 31 of each calendar year, Landlord will project the applicable monthly expenses (those that Tenant is to pay under this addendum) for the following calendar

Expense Reimbursement Addendum concerning _____

year and will notify Tenant of the projected expenses. The projected expenses are based on Landlord's estimates of such expenses. The actual expenses may vary.

Notice: The applicable projected expenses at the time which the above-referenced lease commences are shown in the table below. The total area of the Property presently used by Landlord for calculating expense reimbursements is _____ rentable square feet (including any add on factor for common areas).

Projected Expenses	
$ Monthly Rate	$ Annual Rate
/ rsf / month	/ rsf / year

D. Reconciliation: Within a reasonable time after the end of each calendar year, Landlord will notify Tenant of the actual costs of the applicable expenses (those that Tenant is to pay under this addendum) for the previous year. If the actual costs of the applicable expenses exceed the amounts paid or owed by Tenant for the previous year, Tenant must pay the deficient amount to Landlord within 30 days after Landlord notifies Tenant of the deficient amount. If the actual costs of the applicable expenses are less than the amounts paid by Tenant for the previous year, Landlord will refund the excess to Tenant or will credit the excess to Tenant's next rent payment. Tenant may audit or examine those items in Landlord's records that relate to Tenant's obligations under this addendum. Landlord will promptly refund to Tenant any overpayment revealed by an audit or examination. If the audit or examination reveals an error of more than 5% over the amounts Landlord collected in a calendar year from Tenant under this addendum, Landlord will pay the reasonable cost of the audit or examination. Landlord may not seek a deficiency from Tenant under this paragraph if Landlord fails to timely provide the required notice.

E. Special Provisions:

Landlord: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

Tenant: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

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TEXAS REALTORS

COMMERCIAL LEASE ADDENDUM FOR PERCENTAGE RENT

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

A. "Gross sales" means the total of all receipts of any business conducted on or from the leased premises. Gross sales includes the total sales price of any sales of merchandise, products, or services, but does not include any sales or excise taxes. A credit or installment sale is a sale for the full price in the month that the sale was made regardless of when Tenant receives payment.

B. In addition to any other rent, Tenant will pay, on or before the 10th day of each month, percentage rent that is equal to _____% (percentage rental rate) multiplied by Tenant's gross sales in the previous month that exceed:

❑ (1) the Base Monthly Rent.

❑ (2) _____
_____.

C. With the percentage rent payment, Tenant will provide Landlord an accurate written statement of gross sales for the previous month and copies of all sales and excise tax reports required to be filed by Tenant, subtenants, or concessionaires with any governmental agency.

D. Tenant will maintain accurate financial books and records regarding gross sales. Landlord may inspect the books and records at any time during Tenant's normal business hours.

E. At the end of each calendar year the total gross sales for the year will be multiplied by the percentage rental rate and reconciled with the amount of percentage rent actually paid. Additional amounts due from Tenant will be paid to Landlord and excess payments will be refunded by Landlord to Tenant.

F. Special Provisions:

Landlord: _____	**Tenant**: _____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____

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TEXAS REALTORS

COMMERCIAL LEASE ADDENDUM FOR OPTIONAL SPACE

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

A. "Optional space" means the following described property along with all its improvements:

Containing approximately _____ square feet of rentable area, located within the Property and more particularly described as _____
_____
_____
_____
_____
_____
_____.

The parties agree that the rentable area of the optional space may not equal the actual or useable area within the optional space and may include an allocation of common areas in the Property.

B. Tenant may, by providing Landlord 30 days advance written notice before _____, add the optional space to the leased premises defined in the lease. Any addition of the optional space to the leased premises is effective on the first day of the month following the 30th day after Tenant provides notice.

C. If Tenant adds the optional space to the leased premises:

(1) the base-monthly rental in the lease will be automatically amended to $_____;

(2) Tenant's pro rata share as defined in any expense reimbursement addendum will be automatically amended to _____%;

(3) _____
_____
_____
_____
_____; and

(4) _____
_____
_____
_____
_____.

D. Unless otherwise agreed in writing by the parties, Tenant will accept the optional space in its present condition. Landlord is not obligated to complete any improvements to the optional space.

E. If Landlord receives an acceptable written offer from another person to lease the optional space before the time specified in Paragraph B, Landlord will notify Tenant of the offer. Within 7 days after Tenant receives

Lease Addendum for Optional Space concerning _____

Landlord's notice of the offer, Tenant may add the optional space to the leased premises by providing Landlord with written notice and the lease will be amended as provided by Paragraph C. If Tenant fails to add the optional space within the time required, Landlord may lease the optional space to the person who made the offer. If Tenant does not exercise the right to add the optional space and Landlord does not lease the optional space to the person who made the offer, Tenant ❑ does ❑ does not retain the right to lease the optional space under this addendum.

F. Special Provisions:

Landlord: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Tenant: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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TEXAS REALTORS

COMMERCIAL LEASE GUARANTY

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GUARANTY TO COMMERCIAL LEASE CONCERNING THE LEASED PREMISES AT _____ _____ between _____ (Landlord) and _____ (Tenant).

A. In consideration for Landlord leasing the leased premises to Tenant, the undersigned Guarantor (whether one or more) guarantee Tenant's performance under the above-referenced lease.

B. If Tenant fails to timely make any payment under the lease, Guarantor will promptly make such payment to Landlord at the place of payment specified in the lease. Guarantor is also responsible for any property damage to the leased premises or Property (as defined in the lease) for which Tenant is responsible under the lease. If Tenant breaches the lease, Guarantor will: (i) cure the breach as may be required of Tenant by the lease; or (ii) compensate Landlord for Landlord's loss resulting from the breach.

C. Guarantor guarantees Tenant's obligations under the lease regardless of any modification, amendment, renewal, extension, or breach of the lease. Guarantor waives any rights to notices of acceptance, modification, amendment, extension, or breach of the lease. Each Guarantor is jointly and severally liable for all provisions of this guaranty. This guaranty is binding upon Guarantor's heirs, executors, administrators, successors, and assigns. Filing for bankruptcy by Tenant will not diminish Guarantor's obligations under this guaranty.

D. The laws of the State of Texas govern the interpretation, validity, performance, and enforcement of this guaranty. Any person who is a prevailing party in any legal proceeding brought under or related to this guaranty is entitled to recover attorney's fees from the nonprevailing party.

E. Guarantor authorizes Landlord to obtain a copy of any consumer or credit report of Guarantor from any consumer reporting agency and to verify relevant information related to Guarantor's creditworthiness from other persons such as banks, creditors, employers, existing and previous landlords, and other persons.

F. Guarantor will provide Guarantor's current financial information (balance sheet and income statement) to Landlord within 30 days after request by Landlord. Landlord may request the financial information no more frequently than once every 12 months.

G. Special Provisions:

Guarantor:

Signature:_____

Printed Name:_____

Address:_____

_____

Phone:_____ Fax:_____

SS# or Tax ID#:_____ Date:_____

Witness:_____

Guarantor:

Signature:_____

Printed Name:_____

Address:_____

_____

Phone:_____ Fax:_____

SS# or Tax ID#:_____ Date:_____

Witness:_____

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TEXAS REALTORS

COMMERCIAL LANDLORD'S RULES AND REGULATIONS

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REGARDING THE COMMERCIAL LEASE CONCERNING THE LEASED PREMISES AT _____

NOTICE: These rules and regulations are adopted to maintain and enhance the safety and appearance of the Property. From time to time Landlord, at its discretion, may amend these rules and regulations for the purposes for which they were adopted. Under the above-referenced lease, Tenant agrees to comply with these rules and regulations as they may be amended. Exceptions or waivers must be authorized by Landlord in writing. "Property" means the building or complex in which the leased premises are located, inclusive of any common areas, drives, parking areas, walks, and landscaped areas.

A. Goods, merchandise, equipment, or any personal property may not be stored on the Property, except for inventory within the leased premises necessary for Tenant's normal business operations.

B. Food is not permitted on the Property, except as inventory for sale and for a small amount of food for Tenant's personal consumption.

C. Other than those provided by Landlord or specifically authorized by Landlord, no vending machines are permitted on the Property.

D. The Property may not be used for lodging or sleeping quarters in any manner.

E. Unless authorized by law or the lease, no animals may be brought or kept on the Property.

F. No obstruction or interference that impedes use of the common areas, walks, drives, loading areas, parking areas, corridors, hallways, vestibules, and stairs is permitted on the Property.

G. Persons parking on the Property must comply with all posted signs and directions regulating the parking areas.

H. No flammable, toxic, noxious, or hazardous materials may be kept on the Property except for over-the-counter cleaning materials kept in enclosed storage closets or cabinets.

I. Tenants moving in or out of the Property must use only the service entrances and service elevators during the move. All moves must be made at times that do not cause inconvenience in the normal use of the Property.

J. Deliveries and shipping of goods and merchandise in or out of the Property must be made only through the service entrances, service elevators, loading docks, or other designated shipping and receiving areas. Shipments and deliveries must be made at times that do not cause inconvenience to tenants or patrons on the Property.

K. Leased premises must be kept clean and free of debris. Trash must be deposited into appropriate receptacles. Trash receptacles controlled by Tenant must not be allowed to overflow, attract rodents or vermin, or emit odors.

Landlord's Rules and Regulations concerning _____

L. Repair requests must be submitted to Landlord in writing in compliance with the lease.

M. No modification to the Property and leased premises may be made unless authorized by Landlord, in writing, or permitted by the lease.

N. No illegal or offensive activity is permitted on the Property nor is any activity that constitutes a nuisance or interferes with the rights of other tenants.

O. Unless specifically authorized by Landlord, no solicitation or business operations are permitted in the common areas.

P. Other:

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COMMERCIAL LANDLORD'S CONSENT TO SUBLEASE

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ADDENDUM TO THE COMMERCIAL SUBLEASE BETWEEN THE SUBLESSOR AND SUBLESSEE IDENTIFIED BELOW CONCERNING THE SUBLEASED PREMISES AT:

_____

A. The undersigned Landlord, consents to the sublease dated _____ (*commencement date*) for the above-referenced subleased premises between:

Sublessor: _____
_____; and

Sublessee: _____
_____.

B. Sublessor remains liable for all obligations under the lease between Landlord and Sublessor (master lease).

C. Rent Payments: (*select (1) or (2) below*)

❑ (1) Landlord will accept rental payments from Sublessee as being made on behalf of Sublessor.

❑ (2) All rental payments must be made to Landlord by Sublessor (not Sublessee).

D. Sublessor's Default: *(select any that apply)*

❑ (1) In the event of Sublessor's default under the master lease, Landlord will provide notice to Sublessee and allow Sublessee an additional _____ days to cure Sublessor's default prior to exercising Sublessor's remedies.

❑ (2) If Landlord terminates the master lease Landlord will, if requested by Sublessee, enter into a new lease with Subtenant upon the same terms and conditions as the sublease (including but not limited to any broker's fee obligations) without any interruption in the payment of rent. The rental rate will be:
❑ (a) the same as in the sublease
❑ (b) the same as in the master lease
❑ (c) _____
_____

E. Other:

Commercial Landlord's Consent to Sublease concerning _____

Landlord: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

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TEXAS REALTORS

COMMERCIAL LEASE ADDENDUM FOR PARKING

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

A. Parking Type:

❒ (1) Common Parking: Tenant and Tenant's employees may park no more than _____ vehicles on the Property in the common parking areas located on the Property.

❒ (2) Restricted Common Parking for Tenants: Tenant and Tenant's employees may park no more than _____ vehicles on the Property in the areas restricted for use by tenants of the Property.

❒ (3) Assigned Parking: Tenant's assigned parking areas are identified as follows:

❑ (a) _____
_____
_____
_____
_____.

❒ (b) as shown on the attached Exhibit _____.

B. In addition to any other rent, Tenant will pay, on or before the first day of each month during the term of the above-referenced lease, $_____ as rent for the parking areas.

C. Tenant may not assign, sublet, or trade any parking space or parking area.

D. Tenant may not use any parking spaces or areas on the Property to store any vehicle, boats, trailers motor homes, storage containers, or any other personal property.

E. Tenant's guests, patrons, or invitees may park only in those areas designated by Landlord for Tenant's guests, patrons, or invitees.

F. Landlord may, but is not obligated to, institute controlled-access systems to the parking areas, including but not limited to systems such as vehicle identification stickers, license numbers, or controlled-access devices. At the time the lease ends, Tenant must return all access devices to Landlord and pay the amounts in (2) and (3) below if Tenant fails to return an access device. If Landlord issues controlled-access devices to Tenant, Tenant will:
(1) promptly report any lost device to Landlord;
(2) reimburse Landlord its cost to replace the lost access device; and
(3) pay Landlord a service fee of $_____ for each lost access device.

Parking Addendum concerning _____

G. If Tenant fails to timely pay the rent stated in Paragraph B, Landlord may: (i) exercise Landlord's remedies under the default provisions of the lease; or (ii) terminate Tenant's access to the restricted or assigned parking areas by providing Tenant with not less than 5 days written notice of Landlord's intent to terminate Tenant's access. If Landlord terminates Tenant's access to the parking areas under this paragraph, the parking areas will be deemed to be released by Tenant for all purposes and Landlord may assign or lease the parking areas to others.

H. Special Provisions:

Landlord: _____	**Tenant**: _____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____

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TEXAS REALTORS

COMMERCIAL LEASE ADDENDUM FOR CONTINGENCIES

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

The lease may be terminated by Tenant upon notice to Landlord prior to the expiration of the applicable contingency period if the contingencies indicated below are not fulfilled. In the event of such termination, Landlord will return the security deposit and any prepaid rent to Tenant.

❑ A. Lender Subordination Agreement

(1) The lender subordination agreement contingency expires on: _____.

(2) Tenant may terminate the lease in the event Landlord fails to obtain a subordination, non-disturbance and attornment agreement (SNDA) on terms reasonably acceptable to Tenant from the holder of any existing mortgage, deed of trust or other lien. Tenant will sign the SNDA to evidence the subordinate position of the lease and Tenant's agreement to attorn to such holder.

❑ B. Occupancy Certificate

(1) The Occupancy Certificate contingency expires on: _____.

(2) Tenant may terminate the lease in the event a certificate of occupancy or similar certificate is not obtained and such certificate is required by a local governmental agency prior to occupancy or operation in the leased premises by Tenant. If Tenant is responsible for obtaining the certificate, this paragraph will only be applicable if Tenant has used diligent, good faith, commercially reasonable efforts to obtain the certificate.

❑ C. Permits and Licenses

(1) The permits and licenses contingency expires on: _____.

(2) Tenant may terminate the lease in the event Tenant is unable, after using diligent, good faith, commercially reasonable efforts to obtain all governmental issued licenses, permits and approvals for the operation of Tenant's business in the leased premises.

❑ D. Sign Permits

(1) The sign permit contingency expires on: _____.

(2) Tenant may terminate the lease in the event Tenant is unable, after using diligent, good faith, commercially reasonable efforts to obtain all governmental issued licenses, permits and approvals for the operation of Tenant's business in the leased premises.

❑ E. Title Review

(1) The title review contingency expires on: _____.

Addendum for Contingencies concerning _____

(2) Tenant, at Tenant's expense may obtain a title insurance commitment and a survey of the leased premises. Tenant may terminate the lease in the event the title insurance commitment or the survey discloses any matters that constitute a defect or encumbrance to title, or other matters that would limit Tenant's use of the leased premises and Landlord fails to satisfy such items 10 days prior to the expiration of the title review contingency period.

❑ E. Other

Landlord: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

Tenant: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

By:_____

By (signature):_____

Printed Name: _____

Title: _____

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COMMERCIAL LEASE EXHIBIT

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EXHIBIT _____

TO COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

Landlord: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Tenant: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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TEXAS REALTORS

COMMERCIAL LEASE ACCEPTANCE FORM

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ACCEPTANCE OF THE LEASED PREMISES AT _____

_____

REGARDING THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES.

A. The parties have inspected the leased premises. The parties acknowledge that any improvements, construction, repairs, or other items required by the lease have been substantially completed. Tenant acknowledges that Tenant has inspected the leased premises and that the condition of the leased premises is acceptable to Tenant for the purposes of the lease. On or before _____, ❑ Landlord ❑ Tenant will complete the following (punch list):

B. The parties ratify the lease and confirm the following:
   (1) The term of the lease is for _____ months and _____ days.
   (2) The Commencement Date of the lease is _____.
   (3) The Expiration Date of the lease is _____.
   (4) Other than as indicated on this Commercial Lease Acceptance Form, neither Landlord nor Tenant is in default of the terms and conditions of the lease.

C. Special Provisions:

Landlord: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Tenant: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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QUIZ 3

Choose the correct answers for the following questions:

1. When is an NDA used?
   a) prior to listing the property for sale
   b) prior to the release of confidential information
   c) once the property is under contract
   d) none of the above

2. Which of the following is true regarding an LOI?
   a) it is binding
   b) it is non-binding
   c) it states the details of the intended actions
   d) both b & c are correct

3. Which of the following describes an agent's role in the contract process?
   a) a CRE agent is a principal to the transaction
   b) CRE agents are permitted to practice law but are limited to real estate matters
   c) agents may insert "business terms" into the language of the contract
   d) both b & c are correct

4. Which of the following are not true?
   a) fiduciary deeds are rarely, if ever, used in Texas
   b) disclosures such as lead based paint are not required in CRE
   c) TREC forms and Texas REALTORS® forms are always identical
   d) both b & c are correct

CHAPTER 4: COMPLETING THE TRANSACTION & PERSONAL DEVELOPMENT

Chapter 4 is a continuation of the many forms and addenda that may be used or involved in a commercial transaction. We will then cover agent development, marketing, business plans, and SWOT analysis. We will wrap up the day with the exercises for the group project.

1. Commercial Lease Construction addendum (Tenant To Complete Construction) TXR-2112
2. Commercial Lease Construction Addendum (Landlord To Complete Construction) TXR-2111
3. Commercial Lease Addendum For Right Of First Refusal TXR-2105
4. Commercial Lease Addendum For Broker's Fee TXR-2102
5. Commercial Lease Addendum For extension Of Term TXR-2104
6. Commercial Lease Inventory And Condition Form TXR-2121
7. Commercial Lease Special Provisions Addendum TXR-2125
8. Commercial Sublease TXR-2116
9. Commercial Sublease Addendum For Broker's Fee TXR-2118
10. Commercial Sublease Guaranty TXR-2124

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COMMERCIAL LEASE CONSTRUCTION ADDENDUM
(Tenant to Complete Construction)

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

The following provisions apply and will control in the event of a conflict with other provisions stated in the lease:

A. Execution and License to Enter: This addendum is executed as a part of the above-referenced lease. Landlord authorizes Tenant to construct the improvements described in this addendum provided that Tenant complies with all of the terms of this addendum. In the event the term of the lease has not yet commenced, Landlord grants Tenant a license to enter into the Property and the leased premises effective _____ for the purposes of constructing the improvements described under this addendum. This license is made under all the terms and provisions in the lease, except as to the covenant to pay rent.

B. Construction Costs: Tenant will pay the full cost to construct the improvements that Tenant is to construct under this addendum, including but not limited to the cost of material, engineering studies, environmental studies, contractors, permits, plans, architects, inspectors, subcontractors, and materialmen. Not later than 10 days after the construction is complete and Tenant has satisfied all of Tenant's obligations under this addendum, Landlord will reimburse Tenant the cost to construct the improvements in an amount that does not exceed _____
_____.

C. Approval of Plans:

(1) Not later than _____, Tenant will submit to Landlord plans and specifications detailing the improvements Tenant desires to complete to the leased premises. The plans must detail all architectural, mechanical, electrical, and plumbing requirements for the improvements and must describe the proposed improvements along with the materials to be used and the interior floor plan of the leased premises. The plans must be drawn by a licensed professional architect in accordance with generally accepted architectural standards or by another person approved by Landlord and must be sufficient for a contractor to use to construct the desired improvements.

(2) Within _____ days after Landlord receives the plans in accordance with Paragraph C(1), Landlord will notify Tenant whether the plans are "approved" or "disapproved" by marking such on the plans and delivering the plans back to Tenant. Landlord will not unreasonably withhold approval of the plans. If Landlord does not notify Tenant of a disapproval within the time specified, the plans will be deemed approved.

(3) If the plans are disapproved, Landlord will detail the reasons for the disapproval either on the plans or in a separate notice to Tenant. If the plans are disapproved, Tenant will, within ____ days after receipt of the disapproval notice from Landlord, submit amended plans to Landlord that incorporate revisions necessary to satisfy Landlord's reasons for the disapproval. Landlord will not unreasonably withhold approval of any amended plans. If Tenant is unable or unwilling to satisfy Landlord's reasons for disapproval by _____, and:
(a) if this addendum is executed after the lease commenced, then Tenant will not construct the improvements and this Addendum will have no further effect; or

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(b) if this addendum is executed before the lease commences the lease will terminate and Landlord will refund any security deposit and advanced rent paid by Tenant.

(4) "Final plans" means the plans that Landlord approves under this Paragraph C.

D. Change Orders: Tenant must obtain Landlord's advanced written approval of any proposed changes to the final plans. Landlord will approve or disapprove any proposed change within _____ days after Landlord receives a copy of the proposed change order from Tenant. Landlord will not unreasonably withhold approval of any proposed change order. If Landlord does not notify Tenant of a disapproval of a proposed change order within the time specified, the proposed change order is deemed approved.

E. Contractor: Before construction begins Tenant will enter into a written construction contract with a contractor(s) acceptable to Landlord to construct the improvements in accordance with the final plans. Any subcontractors employed by Tenant or Tenant's contractors must be acceptable to Landlord. Landlord will not unreasonably withhold approval of contractors and subcontractors.

F. Construction:

(1) Tenant will diligently complete the improvements in accordance with the final plans and will satisfy any requirements of any governmental authorities having jurisdiction over the improvements. The construction of the improvements must be performed in a good workmanlike manner and must comply with all applicable laws, ordinances, rules, and governmental orders and regulations. Construction of the improvements may not:
(a) damage the Property except as specifically permitted by the final plans, including but not limited to damage to or interference with any structural component, system, or part of the Property;
(b) interfere with the rights or operations of any other tenant in the Property or with Landlord's management of the Property; and
(c) not obstruct any common area, walk, or drive except as Landlord permits.

(2) Landlord and Landlord's designees may inspect the construction of the improvements from time to time. If Landlord notifies Tenant of any construction defect or non-compliance with the final plans, Tenant must promptly correct the defect or non-compliance.

(3) All construction staging areas and dumpster locations are subject to Landlord's approval. Construction debris will not be allowed to accumulate on the Property. All construction debris will be completely removed from the Property upon completion of construction.

G. Completion:

(1) Tenant must substantially complete the construction of the improvements to the leased premises in accordance with this addendum on or before _____. Except as provided in this paragraph, the failure to complete construction of the improvements by the date specified does not relieve Tenant of Tenant's obligations to pay rent or satisfy other terms and conditions of the lease. The time by which Tenant must complete construction may be extended only if: (a) Landlord causes the delay; (b) governmental authorities delay issuing permits or performing inspections through no fault of Tenant; or (c) a construction delay is caused by strike, lock-out, shortage of material, governmental restriction, riot, flood, or a cause outside Tenant's control. Any extension under this paragraph may be exercised by Tenant only if Tenant promptly notifies Landlord in writing of the extension after Tenant knows or has reason to know of any applicable delay which is cause for an extension. Any extension under this paragraph may not exceed the lesser of: the number of days of the delay caused by the specified cause for the delay or _____ days. If a delay authorized by this Paragraph applies, the Commencement Date and Expiration Date of the lease shall likewise be extended along with an appropriate adjustment in the rent due dates. If a delay is caused by Landlord and the delay exceeds the time for which an extension is permitted under this paragraph, Tenant may exercise its remedies under the default provision of the lease.

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(2) Construction is complete when all the improvements are constructed in accordance with the final plans and Tenant provides Landlord with: (a) a final certificate executed by the supervising person; and (b) if required by a governmental body, a certificate of occupancy permitting Tenant to occupy the leased premises for the purposes set forth in the lease.

(3) The supervising person is _____. The certificate of the supervising person is conclusive in any dispute involving the construction performed or required to be performed under this addendum.

H. No Liens:

(1) Tenant guarantees that Tenant will pay all costs of any liability related to the construction of the improvements described in this addendum and further guarantees the lien-free completion of the improvements against the leased premises and Property. Tenant may not create or place any lien or encumbrance, of any kind, upon the leased premises or Property that encumbers Landlord's interest in the leased premises or Property.

(2) Before Landlord reimburses Tenant for the cost of the improvements, Tenant must:
(a) deliver to Landlord a waiver of liens in recordable form acceptable to Landlord from each contractor, subcontractor, and materialman. The waivers must specify that: (a) the contractor, subcontractor, or materialman waive any and all claims against Landlord and waive any and all lien rights against Landlord's interest in the leased premises and Property; and (b) the contractor or subcontractor agree to hold Landlord harmless from any and all claims arising from or in connection with its work or materials;
(b) obtain any required certificate of occupancy; and
(c) commence business in the leased premises.

(3) If any lien is filed or asserted against any portion of the leased premises or Property as a result of the acts of Tenant or Tenant's contractors, subcontractors, or materialmen, Tenant must remove any such lien or lien claim within 20 days after receipt of notice from Landlord.

(4) Tenant will indemnify and keep Landlord harmless from all damages, costs, expenses, and attorney's fees that may arise from any lien or claim that may be filed or threatened as a result of the improvements to be constructed under this addendum.

I. Bonds: Before commencement of any construction, Tenant and Tenant's contractors, at no cost to Landlord, must post the following bonds in favor of the Landlord in the amounts specified: _____
_____
_____.

J. Insurance:

(1) Before any construction commences, Tenant must deliver to Landlord evidence that the insurance required by Paragraph 8A of the lease will be in effect not later than the day construction begins.

(2) Before any construction commences, Tenant must deliver to Landlord certificates of insurance, from insurers acceptable to Landlord, evidencing that any contractor maintains insurance to protect Landlord, Tenant, and the contractor from:

❑ (a) workman compensation claims and other employee benefit acts in an amount not less than $_____ per occurrence;

❑ (b) claims for damages from bodily injury or death to employees and others in an amount not less than $_____ per person and $_____ per occurrence; and

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❑ (c) property damage in an amount not less than $_____ per occurrence.

(3) The insurance required by this Paragraph J must cover any and all claims that may arise out of or as a result of the operations of the contractor or the contractor's subcontractor(s).

(4) The coverage required by this Paragraph J must be maintained by Tenant or Tenant's contractors, at Tenant's or the contractors' sole expense, during all times of any construction period. If Tenant fails or if any of Tenant's contractors fail to maintain the required insurance in full force and effect at all required times, Landlord may:
(a) purchase such insurance on behalf of Tenant or the contractor(s) and Tenant must immediately reimburse Landlord for such expense; or
(b) exercise Landlord's remedies for Tenant's default under the lease.

K. Tenant's Assumption of Liability: Tenant must promptly pay and discharge all costs, expenses, claims for damages, liens, lien claims, and any other liabilities which may arise from or in connection with the construction of the improvements described in this addendum. Tenant agrees to hold Landlord harmless from all costs, expenses, damages, liens, lien claims, and any other liabilities, which may arise from or in connection with the construction of the improvements described in this addendum.

L. Special Provisions: *(If applicable, include any business details, factual statements, or any requirements the parties must satisfy [for example, Landlord's obligation to complete shell construction by a certain date or by the time the license under Paragraph A commences].)*

Landlord: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Tenant: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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TEXAS REALTORS

COMMERCIAL LEASE CONSTRUCTION ADDENDUM
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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

The following provisions apply and will control in the event of a conflict with other provisions stated in the lease:

A. On or before _____, Landlord will substantially complete the improvements to the leased premises as described below.

❑ (1) Landlord will complete the following improvements:

❑ (2) On or before _____, Tenant will specify in a separate written notice to Landlord the improvements that Tenant desires Landlord to complete. If Landlord objects to any desired improvement, Tenant will promptly amend Tenant's notice to comply with Landlord's objections. Landlord will not unreasonably object to Tenant's desired improvements.

B. On or before _____, Landlord will notify Tenant of the total cost to complete the improvements described in Paragraph A, including but not limited to costs of construction, permits, and plans. The total cost to complete the improvements may not exceed _____ _____ (maximum cost). Landlord will pay _____ of the cost to complete the improvements and Tenant will pay the remainder. If the total cost to complete the improvements exceeds the maximum cost, the lease will terminate and have no further effect unless a party notifies the other party within _____ days after Landlord notifies Tenant of the cost to complete the improvements that it will pay the excess.

C. Unless otherwise agreed by the parties in writing, any amount required to be paid by Tenant under this addendum must be paid by Tenant to Landlord before construction of the improvements commences.

D. All construction required by this addendum will be performed by trained and qualified persons in a good workman-like manner and will comply with applicable building codes, local ordinances, governmental regulations, and statutes (e.g. ADA, Architectural Barriers). Landlord will obtain any required certificate of occupancy.

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Leasehold Construction Addendum concerning _____

E. Tenant may, at reasonable times during construction, inspect the construction of the improvements. Tenant may object to any deficiencies in the completion of the improvements by providing specific written notice to Landlord and Landlord will promptly cure the deficiencies. Upon completion of the improvements, Tenant will acknowledge in writing that the improvements have been completed and that Tenant accepts the leased premises for the purposes of the lease *(the Commercial Lease Acceptance Form (TXR-2113) may be used)*.

F. Paragraph 3B of the lease governs any delay in the commencement of the lease or occupancy by Tenant caused by the construction of the improvements.

G. Special Provisions:

Landlord: _____	**Tenant**: _____
_____	_____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
By: _____	By: _____
By (signature): _____	By (signature): _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____

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TEXAS REALTORS

COMMERCIAL LEASE ADDENDUM FOR RIGHT OF FIRST REFUSAL

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

A. "Additional space" means all or part of the following areas along with all its improvements:

❑ (1) the following floors in the Property: _____.

❑ (2) the following suites in the Property, presently identified, as: _____
_____.

❑ (3) _____
_____.

The parties agree that the rentable area of the additional space may not equal the actual or useable area within the additional space and may include an allocation of common areas in the Property.

B. If Landlord receives an acceptable written offer from another person to lease the additional space at a time when the above-referenced lease is in effect, Landlord will notify Tenant of the offer. Not later than 7 days after Tenant receives Landlord's notice of the offer, Tenant may notify Landlord that Tenant will lease the additional space identified in the offer under the same terms and conditions in the offer. If Tenant notifies Landlord that Tenant will lease the additional space identified in the offer, Tenant must execute a written lease for the additional space identified in the offer or amend the above-referenced lease, as Landlord may require, not later than _____ days after Tenant receives Landlord's notice. If Tenant fails to timely comply with this paragraph, Landlord may lease the additional space identified in the offer to the person who made the offer. If Tenant does not exercise its right to lease the additional space identified in the offer and Landlord does not lease the additional space identified in the offer to the person who made the offer, Tenant ❑ does ❑ does not retain the right of refusal under this addendum for any subsequent offers Landlord receives for the additional space identified in the offer.

C. An offer for part of the additional space affects the parties' rights and obligations only to the part of the additional space identified in the offer. Rights and obligations to parts of the additional space not identified in the offer are not affected. An offer to renew a lease for the additional space from a tenant occupying the additional space is not an offer to lease the additional space for the purposes of this addendum.

D. Special Provisions:

Commercial Lease Addendum for Right of Refusal concerning _____

Landlord: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Tenant: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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COMMERCIAL LEASE ADDENDUM FOR BROKER'S FEE

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED LANDLORD AND TENANT CONCERNING THE LEASED PREMISES AT _____

A. Leasing Fees: All leasing fees are earned when the above referenced lease is executed.

(1) _____ will pay Principal Broker a leasing fee calculated and payable as follows:

❑ (a) _____% of all base monthly rents to be paid for the term of the lease and the same percentage of the expense reimbursements stated or estimated in the lease, payable as follows: one-half of such amount at the time Landlord and Tenant execute the lease and the remainder on the date the lease commences.

❑ (b) _____% of all base monthly rents to be paid for the term of the lease and the same percentage of the expense reimbursements stated or estimated in the lease, payable as follows: _____
_____
_____.

❑ (c) _____.

(2) _____ will pay Cooperating Broker a leasing fee calculated and payable as follows:

❑ (a) _____% of all base monthly rents to be paid for the term of the lease and the same percentage of the expense reimbursements stated or estimated in the lease, payable as follows: one-half of such amount at the time Landlord and Tenant execute the lease and the remainder on the date the lease commences.

❑ (b) _____% of all base monthly rents to be paid for the term of the lease and the same percentage of the expense reimbursements stated or estimated in the lease, payable as follows: _____
_____
_____.

❑ (c) _____.

B. Renewal and Expansion Fees: If Landlord and Tenant subsequently renew, extend, or expand the lease, including a new lease for more, less, or different space in the Property or in any other property owned, controlled, or managed by Landlord, the brokers will be paid the fees set forth below. The fees will be earned and payable when the extension, renewal, expansion, or new lease is executed or commences, whichever is earlier.

(1) _____ will pay Principal Broker a renewal fee of:

❑ (a) _____% of all base monthly rents to be paid for the term of the renewal, extension, or new lease and the same percentage of the expense reimbursements stated or estimated in the lease governing the renewal, extension, or new lease;

❑ (b) _____% of all base monthly rents to be paid for the term of the expansion and the same percentage of the expense reimbursements stated or estimated in the lease governing the expansion; or

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Addendum for Broker's Fee concerning _____

❑ (c) _____
_____.

(2) _____ will pay Cooperating Broker a renewal fee of:

❑ (a) _____% of all base monthly rents to be paid for the term of the renewal, extension, or new lease and the same percentage of the expense reimbursements stated or estimated in the lease governing the renewal, extension, or new lease;

❑ (b) _____% of all base monthly rents to be paid for the term of the expansion and the same percentage of the expense reimbursements stated or estimated in the lease governing the expansion; or

❑ (c) _____
_____.

C. Fees in the Event of a Sale: If, during any time the lease is in effect or during any time Tenant occupies the leased premises, including any extension, renewal, or expansion, Tenant agrees to purchase the leased premises or Property by oral or written agreement or option, brokers will be paid the additional fees set forth below. The additional fees will be earned at the time Landlord and Tenant enter into an agreement for the sale, purchase, or option for the leased premises or Property, and are payable at the time the sale or purchase closes.

(1) _____ will pay Principal Broker an additional fee of:

❑ (a) _____% of the sales price for the purchase.
❑ (b) _____.

(2) _____ will pay Cooperating Broker an additional fee of:

❑ (a) _____% of the sales price for the purchase.
❑ (b) _____.

D. County: All fees under this addendum are payable in _____ County, Texas.

E. Attorney's Fees: If Landlord, Tenant, or any broker is a prevailing party in any legal proceeding brought as a result of a dispute under this addendum or any transaction related to or contemplated by this addendum, such party will be entitled to recover from the non-prevailing parties all costs of such proceeding, prejudgment interest, and reasonable attorney's fees.

F. Special Provisions:

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Addendum for Broker's Fee concerning _____

NOTICE: Under Chapter 62, Texas Property Code, Broker is entitled to claim a lien against the Property to secure payment of an earned commission.

Landlord: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Tenant: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Principal Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____
Printed Name: _____
Title: _____ License No. _____

Cooperating Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____
Printed Name: _____
Title: _____ License No. _____

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COMMERCIAL LEASE ADDENDUM FOR EXTENSION OF TERM

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ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT _____

A. At Tenant's option, Tenant may extend the term of above-referenced lease for _____ additional term(s) of _____ months each. The first additional term commences upon the expiration of the term stated in the lease and any subsequent additional term commences upon the expiration of the then applicable extended term.

B. Tenant may exercise Tenant's option(s) to extend under Paragraph A only by providing written notice to Landlord at least _____ days before the end of the then current term of the lease.

C. Tenant may not exercise Tenant's option(s) to extend under Paragraph A if the lease is terminated before Tenant exercises its option to extend or Tenant is in breach of the lease at the time Tenant exercises its option to extend.

D. During the additional term(s), all provisions of the lease will continue as in effect immediately before the extension(s) commences except the base monthly rent during the additional term(s) will be:
(Check (1), (2) or (3) only.)

❑ (1)

Dates		Rate per rentable square foot *(optional)*		Base Monthly Rent $
From	To	$ Monthly Rate	$ Annual Rate	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	

❑ (2) adjusted to reflect increases in the Consumer Price Index for "All Urban Consumers, U.S. City Average, All Items", issued by the Bureau of Labor Statistics of the U.S. Department of Labor. The adjustment will be determined by multiplying the base monthly rent for the last month of the lease by the following fraction: (i) the numerator will be the published index number for January in the year the additional term commences; and (ii) the denominator will be the published index number for January in the year in which the original lease term commences.

❑ (3) the prevailing rental rate on the 45th day before the additional term commences for premises of comparable size, quality, condition, improvements, utility, location, and length of term for tenant's of similar credit standing as Tenant.

E. If Paragraph D(3) applies and the parties do not agree on the amount of the prevailing rental rate for the additional term before the 30th day before the additional term commences, each party will employ a state-certified appraiser and deliver the appraiser's written opinion of the prevailing rental rate to the other party not later than the 15th day before the additional term commences. If the appraisers' opinions do not vary

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Addendum for Extension Option concerning _____

by more than 10%, the prevailing rental rate will be the average of the two opinions. If the appraisers' opinions vary by more than 10%, the appraisers will jointly select a third appraiser whose fees will be shared equally by the parties. If a third appraiser is engaged, the prevailing rental rate will be the average of the two opinions that are closest in amount. If either party fails to employ or timely deliver an appraiser's opinion as required by this paragraph, the opinion rendered by the appraiser employed by the other party will determine the prevailing rental rate.

F. Special Provisions:

Landlord: _____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

Tenant: _____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

By:_____

By (signature):_____
Printed Name: _____
Title: _____

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COMMERCIAL LEASE INVENTORY AND CONDITION FORM

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CONCERNING THE LEASED PREMISES AT _____

The condition of the leased premises is clean, undamaged, in good working order and sufficient for Tenant's use unless otherwise noted below.

A. Exterior Items	Move-In Comments	Landlord's Move-Out Comments
Mailbox		
Fences & Gates		
Driveway & Parking		
Exterior Doors		

B. Interior Common Area	Move-In Comments	Landlord's Move-Out Comments
Ceilings & Walls		
Floor		
Doors		
Restrooms		
Elevator		
Stairs		

C. Interior of Leased Premises	Move-In Comments	Landlord's Move-Out Comments
Ceilings & Walls		
Paint & Wallpaper		
Doors & Door Stops		
Door Locks & Knobs		
Flooring		
Lights & Ceiling Fans		

Inventory and Condition Form concerning _____

Windows & Screens	_____	_____
Window Latches	_____	_____
Drapes/Blinds/Shutters	_____	_____
Plugs & Switches	_____	_____
_____	_____	_____
_____	_____	_____

D. Other	Move-In Comments	Landlord's Move-Out Comments
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

E. Number of Keys:	Received	Returned
Door Keys:	_____	_____
Mailbox Keys:	_____	_____
Security Cards:	_____	_____
_____:	_____	_____

Date: _____

Tenant: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

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COMMERCIAL LEASE SPECIAL PROVISIONS ADDENDUM

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ADDENDUM TO COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE PROPERTY AT:

_____

The following special provisions apply and will control in the event of a conflict with the other provisions of the lease:

Landlord: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

Tenant: _____

_____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

By: _____

By (signature): _____

Printed Name: _____

Title: _____

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COMMERCIAL SUBLEASE

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1. PARTIES: The parties to this sublease are:

Sublessor: _____
_____; and

Sublessee: _____
_____.

2. SUBLEASED PREMISES:

A. Sublessor leases to Sublessee the following described real property, known as the "subleased premises," along with all its improvements:

Suite or Unit Number _____ containing approximately _____ square feet of rentable area in _____ *(project name)* at _____ _____ *(address)* in _____ *(city)*, _____ *(county)*, Texas, which is legally described on attached Exhibit _____ or as follows: _____
_____
_____
_____
_____
and which is shown on the attached _____ *(Identify schematic, floor plan or exhibit)*. The rentable area of the subleased premises may not equal the actual useable area within the subleased premises and may include an allocation of common areas in the building in which the subleased premises are located. The rentable area will not be adjusted if re-measured except to conform to the area measurement under the master lease.

B. "Master lease" means the written lease dated _____, under which Sublessor leases the subleased premises from _____ (Landlord), a copy of which is attached to this sublease and incorporated by reference.

3. TERM: The term of this sublease is _____ months and _____ days, commencing on _____ and ending on _____.

4. RENT AND EXPENSES:

A. Base Monthly Rent: On or before the first day of each month during this sublease, Sublessee will pay base monthly rent as described on attached Exhibit _____ or as follows:

Dates		Rate per rentable square foot *(optional)*		Base Monthly Rent $
From	To	$ Monthly Rate	$ Annual Rate	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	
		/ rsf / month	/ rsf / year	

Commercial Sublease concerning: _____

B. First Full Month's Rent: Sublessee will pay the first full base monthly rent on or before _____ _____.

C. Prorated Rent: If this sublease begins on a day other than the first day of a month, Sublessee will pay Sublessor, as prorated rent, an amount equal to the base monthly rent multiplied by the following fraction: the number of days from the date this sublease begins to the first day of the following month divided by the number of days in the month in which this sublease begins. Sublessee will pay the prorated rent on or before the date this sublease begins.

D. Additional Rent: In addition to the base monthly rent and prorated rent, Sublessee will pay, as additional rent at the times required under the master lease, the following:

❑ (1) all amounts that the master lease identifies as additional rent or as expense reimbursements that Sublessor is obligated to pay under the master lease except: _____ _____.

❑ (2) _____% of Sublessor's pro rata share of expense reimbursements that Sublessor is obligated to pay under the following paragraphs or addenda of the master lease: _____ _____.

❑ (3) _____ _____

E. Place of Payment: Except when this Sublease provides otherwise, Sublessee will remit all amounts due under this sublease to the following person at the place stated:

Name: _____
Address: _____
_____

F. Method of Payment: Sublessor must pay all rent timely without demand, deduction, or offset, except as permitted by law or this sublease.

G. Late Charges: If rent is not actually received by the person designated to receive the rent at the place of payment within 5 days after the date it is due, Sublessee will pay a late charge equal to the amount of the late charge stated in the master lease. In this paragraph, the mailbox is not the agent for receipt for the person named to receive payment. Acceptance of a late charge does not waive Sublessor's right to exercise its remedies under Paragraph 15.

H. Returned Checks: For each check that Sublesee tenders and is returned by the institution on which it is drawn for any reason, Sublessee will pay: (1) any late charges until payment is made in full; and (2)an amount equal to the charge in the master lease for a returned check.

5. SECURITY DEPOSIT:

A. Upon execution of this sublease, Sublessee will pay $_____ to Sublessor as a security deposit.

B. Sublessor may apply the security deposit to any amounts owed by Sublessee under this sublease. If Sublessor applies any part of the security deposit during any time this sublease is in effect to amounts owed by Sublessee, Sublessee must, within 10 days after receipt of notice from Sublessor, restore the security deposit to the amount stated.

C. Within 60 days after Sublessee surrenders the leased premises and provides Sublessor written notice of Sublessee's forwarding address, Sublessor will refund the security deposit less any amounts applied toward amounts owed by Sublessee or other charges authorized by this sublease.

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Commercial Sublease concerning:_____

6. UTILITIES, MAINTENANCE, AND REPAIRS:

A. Sublessee will pay for all amounts that Sublessor is obligated to pay under the master lease for utilities, connection charges, maintenance of the subleased premises, and repairs to the subleased premises except: _____

_____

_____. Sublessee will remit the amounts due under this paragraph to the persons who are to be paid for such services under the master lease.

B. If any condition needing repair or maintenance is the Landlord's obligation under the master lease:

❑ (1) Sublessee will notify Sublessor of the condition and Sublessor will then notify Landlord as provided in the master lease.

❑ (2) Sublessee will notify the Landlord of the condition and provide a copy of the notice to Sublessor.

7. INSURANCE:

A. During all times this sublease is in effect, Sublessee must, at Sublessee's expense, maintain in full force and effect from an insurer authorized to operate in Texas insurance policies that are equivalent in coverage and amounts to the insurance policies that Sublessor is required to maintain under the master lease.

B. The insurance policies under this Paragraph 7 must name Sublessor and Landlord as additional insureds. Sublessee must provide Sublessor with a copy of the insurance certificates evidencing the required coverage before the date this sublease begins.

C. Sublessee must promptly notify Landlord and Sublessor of any casualty loss.

8. USE AND HOURS:

A. Sublessee may not use the subleased premises in any manner or at any time that conflicts with the permitted use and time in the master lease or that cause Sublessor to be in default of the master lease.

B. Sublessee will comply with:
(1) all of the terms of the master lease;
(2) all of Landlord's rules and regulations; and
(3) all laws, ordinances, and governmental orders and regulations that relate to the occupancy and use of the subleased premises.

9. ALTERATIONS: Sublessee may not alter (including making any penetrations to the roof, exterior walls or foundation), improve, or modify the subleased premises and may not post any signs on or around the subleased premises without Sublessor's written consent. Sublessee may not alter any locks or any security devices in the subleased premises without Sublessor's consent. Any permitted alteration, improvement, modification, or sign and the removal of such items must comply with the master lease.

10. ACCESS BY SUBLESSOR: Sublessor may enter the subleased premises for any reasonable purpose at reasonable times by providing Sublessee reasonable notice.

11. MOVE-IN CONDITION:

A. Sublessee has inspected the subleased premises and accepts it in its present ("as-is") condition unless expressly noted otherwise in this sublease.

Commercial Sublease concerning:_____

B. Sublessor and any broker make no express or implied warranties as to the condition or permitted use of the subleased premises.

12. MOVE-OUT CONDITION:

A. At the time this sublease ends, Sublessee will surrender the subleased premises in the same condition as when received, except for normal wear and tear. Sublessee will leave the subleased premises in a clean condition free of all trash, debris, personal property, hazardous materials, and environmental contaminants. "Surrender" and "normal wear and tear" have the meanings assigned to those terms under the master lease.

B. If Sublessee leaves any personal property in the subleased premises after Sublessee surrenders possession of the subleased premises, Sublessor may, in addition to any remedy that Landlord may exercise under the master lease:
(1) require Sublessee, at Sublessee's expense, to remove the personal property by providing written notice to Sublessee; or
(2) retain such personal property as forfeited property to Sublessor.

C. Any fixtures that Sublessor does not require Sublessee to remove under this sublease or as provided by this paragraph become the property of Sublessor and must be surrendered to Sublessor at the time this sublease ends.

(1) Signs: Unless Sublessor or Landlord notify Sublessee otherwise, Sublessee will remove, upon move-out and without damage to the subleased premises, all permitted signs that Sublessee places or causes to be placed on the subleased premises.

(2) Other Fixtures: By providing written notice to Sublessee before this sublease ends, Sublessor may require Sublessee to remove, upon move-out and without damage to the subleased premises, any or all fixtures that are placed on the subleased premises by or at the request of Sublessee.

13. LIENS: Sublessee may not do anything that will cause the title of the property on which the subleased premises are located to be encumbered in any way.

14. INDEMNITY: Each party will indemnify and hold the other party harmless from any damage or liability caused by the non-indemnifying party or that party's employees, patrons, guests, or invitees, including but not limited to damage to the subleased premises, damage to the project in which the leased premises are located, personal injury, or any other loss

15. DEFAULT:

A. Default by Sublessee:

(1) Sublessee will be in default of this sublease if Sublessee:
(a) fails to pay rent at the place designated for payment by the time required;
(b) substantially vacates or abandons the subleased premises;
(c) causes Sublessor to be in default of the master lease; or
(d) fails to comply with any provision in this sublease and fails to cure the non-compliance within 10 days after Sublessor notifies Sublessee of its failure to comply.

(2) If Sublessee is in default Sublessor may, with at least 3 days written notice to Sublessee: (i) terminate this sublease, or (ii) terminate Sublessee's right to occupy the subleased premises without terminating this sublease and may accelerate all rents which are payable during the remainder of this sublease. Sublessor will attempt to mitigate any damage or loss caused by Sublessee's breach by using commercially reasonable means and Sublessee will be liable for

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Sublessor's damages, including but not limited to, lost rent, reletting expenses, repairs, cleaning costs, eviction costs, collection costs, attorney's fees, court costs, and prejudgment interest.

(3) If Sublessee is in default under Paragraph 15A(1)(c), Sublessor may, in addition to or as an alternative to the remedy under Paragraph 15A(2), enter the subleased premises and perform whatever action is required to be performed under the master lease and Sublessee must, upon demand, reimburse Sublessor the expenses it incurs in bringing Sublessee into compliance.

B. Default by Sublessor:

(1) Sublessor will be in default of this sublease if:
(a) Sublessor fails to comply with any provision in this sublease and fails to cure the non-compliance within 10 days after Sublessee notifies Sublessor of its failure to comply; or
(b) Sublessor's actions or omissions cause it to be in default of the master lease.

(2) If Sublessor is in default for any reason, Sublessee may exercise any remedy available at law. If Sublessor is in default under Paragraph 15B(1)(b), Sublessee may, in addition to or as an alternative to its other available remedies, perform whatever action Sublessor is required to perform under the master lease and Sublessor must, on demand, reimburse Sublessee the expenses it incurs in bringing Sublessor into compliance.

16. CONTRACTUAL LIEN AND SECURITY INTEREST: To secure Sublessee's performance under this sublease, Sublessee grants to Sublessor a lien and security interest against all of Sublessee's nonexempt personal property that is in the subleased premises or project in which the subleased premises are located. This sublease is a security agreement for the purposes of the Uniform Commercial Code. Sublessor may file a financing statement to perfect Sublessor's security interest under the Uniform Commercial Code.

17. ASSIGNMENT AND SUBLETTING:

A. Unless the provisions of the master lease permit Sublessor to sublease the subleased premises, Sublessor will, before this sublease begins, deliver to Sublessee evidence of Landlord's consent to this sublease. If the evidence is not delivered by the time required, this sublease will be void and unenforceable.

B. Sublessee may not assign this sublease or sublet any part of the subleased premises without Sublessor's written consent. If the master lease requires Landlord's permission for an assignment or sublease, Landlord's permission will also be required before Sublessee may assign or sublease the subleased premises.

18. SUBORDINATION: This sublease and Sublessee's interest are and will be subject, subordinate, and inferior to the master lease and all items to which the master lease is subordinate.

19. ATTORNEY'S FEES: Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this sublease is entitled to recover prejudgment interest, reasonable attorney's fees, and all other costs of litigation from the nonprevailing party.

20. REPRESENTATIONS:

A. Each party signing this sublease represents that he or she is of legal age to enter into a binding contract and is authorized to sign this sublease.

B If Sublessee makes any misrepresentation in this sublease or in any application for rental, Sublessee is in default.

Commercial Sublease concerning: _____

C. Sublessor is not aware of any condition on the subleased premises that would affect the health and safety of an ordinary person except: _____
_____
_____.

21. BROKERS:

A. The brokers to this sublease are:

Principal Broker: _____	**Cooperating Broker**: _____
_____	_____
Agent: _____	Agent: _____
Address: _____	Address: _____
_____	_____
Phone & Fax: _____	Phone & Fax: _____
E-mail: _____	E-mail: _____
License No.: _____	License No.: _____

Principal Broker: *(Check only one box)*
❑ represents Sublessor only.
❑ represents Sublessee only.
❑ is an intermediary between Sublessor and Subtenant.

Cooperating Broker represents Tenant.

B. Fees:

❑ (1) Principal Broker's fee will be paid according to: *(Check only one box).*
❑ (a) a separate written commission agreement between Principal Broker and:
❑ Sublessor ❑ Sublessee.
❑ (b) the attached Commercial Sublease Addendum for Broker's Fee (TXR-2118).

❑ (2) Cooperating Broker's fee will be paid according to: *(Check only one box).*
❑ (a) a separate written commission agreement between Cooperating Broker and:
❑ Principal Broker ❑ Sublessor ❑ Sublessee.
❑ (b) the attached Commercial Sublease Addendum for Broker's Fee (TXR-2118).

22. ADDENDA: Incorporated into this sublease are:
☒ A. the master lease;
❑ B. Commercial Landlord's Consent to Sublease (TXR-2117);
❑ C. Commercial Sublease Addendum for Broker's Fee (TXR-2118); and
❑ D. _____.

23. NOTICES: All notices under this sublease must be in writing and are effective when hand-delivered, sent by mail, or sent by facsimile transmission to:

Sublessor at: _____
Address: _____
Phone: _____ Fax: _____
and a copy to: _____
Address: _____
Phone: _____ Fax: _____
❑ Sublessor also consents to receive notices by e-mail at: _____

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Commercial Sublease concerning: _____

Sublessee at the leased premises,
and a copy to: _____
Address: _____
Phone: _____ Fax: _____
❑ Sublessee also consents to receive notices by e-mail at: _____

24. SPECIAL PROVISIONS:

25. AGREEMENT OF PARTIES:

A. Entire Agreement: This sublease contains the entire agreement between Sublessor and Sublessee and may not be changed except by written agreement.

B. Time: Time is of the essence. The parties require strict compliance with the times for performance.

Brokers are not qualified to render legal advice, property inspections, surveys, engineering studies, environmental assessments, tax advice, or compliance inspections. The parties should seek experts to render such services. READ THIS SUBLEASE CAREFULLY. If you do not understand the effect of this sublease, consult your attorney BEFORE signing.

Sublessor: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

Sublessee: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____ Date: _____

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TEXAS REALTORS

COMMERCIAL SUBLEASE ADDENDUM FOR BROKER'S FEE

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ADDENDUM TO THE COMMERCIAL SUBLEASE BETWEEN THE UNDERSIGNED SUBLESSOR AND SUBLESSEE CONCERNING THE SUBLEASED PREMISES AT _____

A. Leasing Fees: All leasing fees are earned when the above-referenced sublease is executed.

(1) _____ will pay Principal Broker a leasing fee calculated and payable as follows:

❑ (a) _____% of all base monthly rents to be paid for the term of the sublease and the same percentage of the expense reimbursements stated or estimated in the sublease, payable as follows: one-half of such amount at the time Sublessor and Sublessee execute the sublease and the remainder on the date the sublease commences.

❑ (b) _____% of all base monthly rents to be paid for the term of the sublease and the same percentage of the expense reimbursements stated or estimated in the sublease, payable as follows: _____
_____
_____.

❑ (c) _____.

(2) _____ will pay Cooperating Broker a leasing fee calculated and payable as follows:

❑ (a) _____% of all base monthly rents to be paid for the term of the sublease and the same percentage of the expense reimbursements stated or estimated in the sublease, payable as follows: one-half of such amount at the time Sublessor and Sublessee execute the sublease and the remainder on the date the sublease commences.

❑ (b) _____% of all base monthly rents to be paid for the term of the sublease and the same percentage of the expense reimbursements stated or estimated in the sublease, payable as follows: _____
_____
_____.

❑ (c) _____.

B. Renewal and Expansion Fees: If Sublessor and Sublessee subsequently renew, extend, or expand the sublease, including a new sublease for more, less, or different space owned, controlled, or managed by Sublessor, the brokers will be paid the fees set forth below. The fees will be earned and payable when the renewal, extension, expansion, or new sublease is executed or commences, whichever is earlier.

(1) _____ will pay Principal Broker a renewal fee of:

❑ (a) _____% of all base monthly rents to be paid for the term of the renewal, extension, or new sublease and the same percentage of the expense reimbursements stated or estimated in the sublease governing the renewal, extension, or new sublease;

❑ (b) _____% of all base monthly rents to be paid for the term of the expansion and the same percentage of the expense reimbursements stated or estimated in the lease governing the expansion; or

❑ (c) _____
_____.

(2) _____ will pay Cooperating Broker a renewal fee of:

❑ (a) _____% of all base monthly rents to be paid for the term of the renewal, extension, or new sublease and the same percentage of the expense reimbursements stated or estimated in the sublease governing the renewal, extension, or new lease;

❑ (b) _____% of all base monthly rents to be paid for the term of the expansion and the same percentage of the expense reimbursements stated or estimated in the lease governing the expansion; or

❑ (c) _____
_____.

D. County: All fees under this addendum are payable in _____ County, Texas.

NOTICE: Under Chapter 62, Texas Property Code, Broker is entitled to claim a lien against the Property to secure payment of an earned commission.

E. Attorney's Fees: If Sublessor, Sublessee, or any broker is a prevailing party in any legal proceeding brought as a result of a dispute under this addendum or any transaction related to or contemplated by this addendum, such party will be entitled to recover from the non-prevailing parties all costs of such proceeding, prejudgment interest, and reasonable attorney's fees.

F. Special Provisions:

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Sublease Addendum for Broker's Fee concerning _____

Sublessor: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Sublessee: _____

_____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

By: _____

By (signature): _____
Printed Name: _____
Title: _____

Principal Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____
Printed Name: _____
Title: _____ License No. _____

Cooperating Broker:

Broker / Company Name: _____

_____

License No. _____

By (signature): _____
Printed Name: _____
Title: _____ License No. _____

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TEXAS REALTORS

COMMERCIAL SUBLEASE GUARANTY

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GUARANTY TO COMMERCIAL SUBLEASE CONCERNING THE SUBLEASED PREMISES AT _____ _____ between _____ (Sublessor) and _____ (Sublessee).

A. In consideration for Sublessor subleasing the subleased premises to Sublessee, the undersigned Guarantor (whether one or more) guarantee Sublessee's performance under the above-referenced sublease.

B. If Sublessee fails to timely make any payment under the sublease, Guarantor will promptly make such payment to Sublessor at the place of payment specified in the sublease. Guarantor is also responsible for any damage to the subleased premises or other property for which Sublessee is responsible under the sublease. If Sublessee breaches the sublease, Guarantor will: (i) cure the breach as may be required of Sublessee by the sublease; or (ii) compensate Sublessor for Sublessor's loss resulting from the breach.

C. Guarantor guarantees Sublessee's obligations under the sublease regardless of any modification, amendment, renewal, extension, or breach of the sublease. Guarantor waives any rights to notices of acceptance, modification, amendment, extension, or breach of the sublease. Each Guarantor is jointly and severally liable for all provisions of this guaranty. This guaranty is binding upon Guarantor's heirs, executors, administrators, successors, and assigns. Filing for bankruptcy by Sublessee will not diminish Guarantor's obligations under this guaranty.

D. The laws of the State of Texas govern the interpretation, validity, performance, and enforcement of this guaranty. Any person who is a prevailing party in any legal proceeding brought under or related to this guaranty is entitled to recover attorney's fees from the nonprevailing party.

E. Guarantor authorizes Sublessor to obtain a copy of any consumer or credit report of Guarantor from any consumer reporting agency and to verify relevant information related to Guarantor's creditworthiness from other persons such as banks, creditors, employers, existing and previous landlords, and other persons.

F. Guarantor will provide Guarantor's current financial information (balance sheet and income statement) to Sublessor within 30 days after request by Sublessor. Sublessor may request the financial information no more frequently than once every 12 months.

G. Special Provisions:

Guarantor:

Signature:_____
Printed Name:_____
Address:_____
_____
Phone:_____ Fax:_____
SS# or Tax ID#:_____ Date:_____

Witness:_____

Guarantor:

Signature:_____
Printed Name:_____
Address:_____
_____
Phone:_____ Fax:_____
SS# or Tax ID#:_____ Date:_____

Witness:_____

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AGENT DEVELOPMENT & MARKETING

At this point of the course we are now ready to shift gears from the fundamentals of commercial real estate to the business of CRE brokerage. While the knowledge you have gained thus far will prepare you well for working with key stakeholders on a variety of CRE brokerage functions, no matter how knowledgeable you are about the industry, as an independent contractor you are still responsible for generating your own business.

As was mentioned at the beginning of this course, effective use of your time is imperative to the success of your business. Time management skills can make the difference between business efficiency and non-efficiency, success and failure.

As you begin your CRE practice, we thought it would be helpful to provide you with some comments and suggestions from a few experienced CRE brokers.

Gayle Berkbigler, CCIM is a prominent commercial broker in central Texas and the Senior Vice President with St. Croix Capital Realty Advisors in Austin. She has served as the 2019 CCIM Central Texas President and as a member of the Texas REALTORS® commercial committee.

When asked about what advice she would like to pass on to new agents, Gayle encouraged agents to seek out experienced practitioners for advice and guidance. She also recommended affiliating with professional networking organizations such as CCIM, CREW Network, and local commercial boards, NAIOP, ULI, BOMA and SIOR depending on the agent's intended area(s) of specialty.

When agents look for the right brokerage to hang their license, Gayle suggests that agents first inquire about which expenses will be covered by the brokerage and which ones will be their responsibility. Signage and listing service subscriptions (such as with CoStar) are very expensive. Some brokers will cover all or part of those costs (many times tied to the commission split); some will cover none.

Equally important is the commission split with the agent. Agents should balance the benefits of one brokerage with another in its totality, to include splits, education and training as well as other covered expenses and benefits. Sometimes the better split agreement isn't necessarily the best option unless an agent has a ready book of business. Try to negotiate the best deal that you can, keeping in mind the degree of supporting services you'll require.

One last point that Gayle made is for agents to realize that deals are slower to close in commercial real estate and your first deal may take a while. Be prepared to be without income for up to 2 years, but in the end it will have been worth the wait.

Chris Rosprim is a successful CRE broker with KW Commercial in Denton, Texas and a member of the Texas REALTORS® commercial committee and education sub-committee. He has been in the business for nearly 50 years offering his experience and valuable insights to his clients. He has generously offered to share some of these

insights to assist students as they begin their new career in commercial real estate:

- **Effective use of social media and marketing for CRE agents**
  Pull out all the stops with social media, especially if you are new or newer to the business. Take advantage of any and all networking platforms that you can to include Facebook and LinkedIn. Seek out additional platforms that are both regional and national, especially REALTOR® organizations such as CCIM and the like. Keep them up to date with current information, photo, bio, etc.

- **Networking ideas**
  Be active in your community. Be a member of the local chamber of commerce, or more than one depending on where you are and what you consider to be your marketing area. Attend functions, volunteer to be on committees, get listed on their websites for added market visibility, and above all, be involved.

  Seek out local networking groups if there are some in your area or create one. Be active in your house of worship. Volunteer to serve on committees or to assist with charity functions. Get involved in groups such as Kiwanis, Rotary, Lions, Knights of Columbus, etc. and be active there. Join your local board of REALTORS® and be active, attend their events. Get involved in your area commercial overlay group such as NTCAR in DFS, STCAR in San Antonio / S Texas, CTCAR in Austin / Central Texas, etc., and participate in their events and programs. The intended purpose is to get YOU, your name and your face out to the community and among your peers, family, friends, etc.

- **How to get started in business, what every new CRE agent should know**
  Be realistic about the CRE business. Success does not come overnight. The only place where success comes before work is in the dictionary. So, get busy and get active as described above and get out there!

  Lead generation - Until you find yourself overwhelmed with business, lead generate. Set aside X number of hours a day devoted exclusively for lead generation. There are many ways to lead generate. Not all will work for everyone, but surely out of the 100 there are a few that will work for you. Choose the methods first that you enjoy doing; you will find that maintaining consistency in those efforts will be easier. Continually re-evaluate and seek out new methods if the one's you have tried haven't been successful, if they work, great!

  If they don't, move on to something else. Do this religiously every day. Make a commitment to achieve X per day or XX per week. If you can't do it today, then you still have the rest of the week to make it up. If you say you will lead generate 20 times a day which adds up to 100 per week. Do it! It WILL start to pay off and you will start to get business.

Any successful contacts you make through your lead generating methods or, for that matter, through your sphere of influence, add them to your contact database and set up a "drip" campaign that will generate some form of regular contact with them on a monthly basis. You need to keep reminding them that you're in the business. Keep it fresh; offer some variety to the monthly campaigns so that it's not the same old message.

Don't be afraid to ask your sphere of influence if they have any CRE real estate needs specific to your area of specialty, or if they KNOW of anyone who might. You can actually approach it statistically.... If you want to achieve 10 good contacts, for example, you may have to make 100 calls to get those 10. Then out of those 10, expect to set up a meeting with maybe 4 or 5. Then out of that 4 or 5, hope to get 2 or 3 that agree to list with you or represent them to buy or lease something, or both. Do this day in and day out, week in and week out, and eventually the numbers will start to add up to where you are getting listings and/or assignments to help them buy or lease something. Keep in mind that listings will get you market visibility and publicity. Signs in the dirt will get you lots of publicity!

Once you begin to get listings, utilize the various services available to market your properties. Use your growing database to market your listing and again ask if they know of anyone that may be interested and/or in need of your services. In the DFW area there is a group called the CIB list where you can send out "haves and wants" on a regular basis and it goes out to some 1800 area brokers, agents, investors. NTCAR also offers a similar service. LoopNet™ and CoStar offer similar ways to add visibility to your listings. The MLS also offers agents the ability to market their properties and EVERYTHING you have should always be listed in the local MLS. In the DFW area, the local MLS system has 35,000 members. Certainly most of those are residential but you can get your name out there to 35,000 agents who may at some time require a commercial agent, and if they keep seeing your name, they are more likely to talk to you. It happens!

Common mistakes

The biggest mistake is the false idea that being a real estate agent, residential or commercial, is easy... it is not. It takes hard work to be successful and to become a knowledgeable expert in your field, and it won't happen overnight. Don't expect to get your license and become rich overnight from commissions.

A license does not mean you are ready and able to go out and be a successful real estate agent. It merely means you have passed the test and are now ready to practice real estate. The learning process doesn't end after you're licensed or complete this course. Continue to learn and seek out courses that will help you grow your business. Many brokerage

firms offer such courses. Most of the boards of REALTORS® and/or commercial overlay boards, as well as title companies offer classes and training. Act like a sponge, take every course you can, you will gain greater knowledge and at the same time learn from other students you will meet in class. It's a great networking opportunity and you can add them to your sphere of influence database. Don't knock it, it works!

- **How to find the right broker to hang your license, what types of questions should you ask?**
  Check around and see who is active in the area in the area of specialty you want to practice. Drive around. See what commercial RE signs you see up and around town. Ask around. Check online for commercial real estate brokers in your city or town by Googling commercial real estate for sale or lease in your city or town to see which offices and brokers are the most active. Call the ones that are the most active fist.

  Check with the local chamber of commerce for commercial RE brokerage members. Call those brokerages. Go to their office. Make sure they have a physical presence in your community and aren't just claiming that they do business in your city. If in reality the office is a long way away, you'll be on your own without much support.

  Talk to whoever is in charge (i.e. managing broker, team leader, etc.). You will want to know how many agents they have. How many are residential, how many are commercial. What is their market share? How long has the outfit been in business? How long in the community? Is it a small office, large office? Good location for office? Do they have office space available? Do they have office meetings and sales meetings? Do they offer training courses and classes? Do they have available brokers to assist, guide, answer questions, etc.? What assistance will they provide to help you get started? How can they help YOU to become successful? What sorts of fees are involved to be a member of their organization? What are the commission splits? Who pays for what, such as CoStar®?

- **Other comments that would be helpful to someone starting out**
  We have ALL been there at one point in time. Don't hesitate to reach out and ask for help, tips, ideas, etc. from those that have been around for a while. Most will be happy to assist you. Some may not, but that's OK, then you will know. Find the ones who will. Talk to them, get to know them. Realize that commercial deals take a while to go from start to fruition, and hang in there.

Bisnow

Another networking opportunity frequently attended by CRE agents are Bisnow events (http://www.bisnow.com/events). Bisnow is a CRE information and networking vehicle for active CRE professionals.

Regulatory Oversight

Before we begin to describe the framework for developing a business plan, it's important to recognize that certain activities related to advertising and marketing are governed by various regulatory bodies that include TREC and the Federal Trade Commission (FTC). TREC advertising rules were revised on May 15, 2018 and are applicable to all agents, commercial and residential. The FTC oversees all commercial messages including bulk emails under the CAN-SPAM Act.

TREC Advertising Rules

TREC advertising rules state that "an advertisement is misleading if it fails to include the name of the broker or implies that a sales agent is responsible for the operation of a brokerage" (https://www.trec.texas.gov/article/trecs-advertising-rules-what-you-need-know). The following are a few references from TREC's advertising rules:

- ***Chapter 1101.652(b)(23)*** "clearly states that license holder's advertising cannot be misleading, cannot imply that a sales agent is the responsible party, and must include the name of the broker".
- ***Chapter 1101.156(b)*** "appropriately limits the commission from regulating certain forms, size or duration of advertising, personal appearance or voice, or the use of a registered assumed business name. Language was added to restrict the Commission from requiring the use of the term "broker," "agent," or a similar designation or term, a reference to the commission, or the person's license number in an advertisement".
- ***TREC Rule §535.154*** "changed the rules regarding team names: "A team name is not an assumed business name of the broker, and cannot contain terms that imply that the team is offering brokerage services independent of the broker. Team names must end with the terms "team" or "group"."
- ***Chapter 1101.652(b)(23)*** "clearly states that license holder's advertising cannot be misleading, cannot imply that a sales agent is the responsible party, and must include the name of the broker".
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- ***TREC Rule §535.155*** added language pertaining to the use of social media: "An advertisement on social media will comply with the rule as long as the license holder has linked from the advertisement to the account profile page or a separate page, and that page contains the required information for an advertisement."
  "Subsection (d) lays out 20 ways a license holder may violate statutory advertisement requirements:

(d)For purposes of this section and §1101.652(b)(23) of the Act, an advertisement that misleads or is likely to deceive the public, tends to create a misleading impression, or implies that a sales agent is responsible for the operation of the broker's real estate brokerage business includes, but is not limited to, any advertisement:

- (1)that is inaccurate in any material fact or representation;
- (2)that does not comply with this section;
- (3)that identifies a sales agent as a broker;
- (4)that uses a title, such as owner, president, CEO, COO, or other similar title, email or website address that implies a sales agent is responsible for the operations of a brokerage;
- (5)that contains a team name with terms that imply that the team is offering brokerage services independent from its sponsoring broker, including, but not limited to, "realty", "brokerage", "company", and "associates";
- (6)that contains the name of a sales agent that is not the name as shown on the sales agent's license issued by the Commission or an alternate name registered with the Commission;
- (7)that contains the name of a sales agent whose name is, in whole or in part, used in a broker's name and that implies that the sales agent is responsible for the operation of the brokerage;
- (8)that causes a member of the public to believe that a person not licensed to conduct real estate brokerage is engaged in real estate brokerage;
- (8)that causes a member of the public to believe that a person not licensed to conduct real estate brokerage is engaged in real estate brokerage;
- (9)that contains the name or likeness of an unlicensed person that does not clearly disclose that the person does not hold a license;
- (10)that creates confusion regarding the permitted use of a property;
- (11)about the value of a property, unless it is based on an appraisal that is disclosed and readily available upon request by a party or it is given in compliance with §535.17;
- (12)that implies the person making the advertisement was involved in a transaction regarding a property when the person had no such role;
- (13)about a property that is subject to an exclusive listing agreement without the permission of the listing broker and without disclosing the name of the listing broker unless the listing broker has expressly agreed in writing to waive disclosure;
- (14)offering a listed property that is not discontinued within 10 days after the listing agreement is no longer in effect;
- (15)about a property 10 days or more after the closing of a transaction unless the current status of the property is included in the advertisement;
- (16)that offers to rebate a portion of a license holder's

compensation to a party if the advertisement does not disclose that payment of the rebate is subject to the consent of the party the license holder represents in the transaction;

- (17)that offers to rebate a portion of a license holder's commission contingent upon a party's use of a specified service provider, or subject to approval by a third party such as a lender, unless the advertisement also contains a disclosure that payment of the rebate is subject to restrictions;
- (18)that offers or promotes the use of a real estate service provider other than the license holder and the license holder expects to receive compensation if a party uses those services, if the advertisement does not contain a disclosure that the license holder may receive compensation from the service provider;
- (19)that ranks the license holder or another service provider unless the ranking is based on objective criteria disclosed in the advertisement; or
- (20) that states or implies that the license holder teaches or offers Commission approved courses in conjunction with an approved school or other approved organization unless the license holder is approved by the Commission to teach or offer the courses."

CAN-SPAM Act

One last regulatory item to note pertains to CAN-SPAM Act which is enforced by the Federal Trade Commission (https://www.ftc.gov/tips-advice/business-center/guidance/can-spam-act-compliance-guide-business). The Act sets forth rules pertaining to email marketing campaigns and more, whether between business and consumer or business to business. The following was extracted from the FTC website listed above:

> "The CAN-SPAM Act doesn't apply just to bulk email. It covers all commercial messages, which the law defines as "any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service," including email that promotes content on commercial websites. The law makes no exception for business-to-business email. That means all email – for example, a message to former customers announcing a new product line – must comply with the law.
>
> Each separate email in violation of the CAN-SPAM Act is subject to penalties of up to $42,530, so non-compliance can be costly. But following the law isn't complicated. Here's a rundown of CAN-SPAM's main requirements:
>
> 1. **Don't use false or misleading header information.** Your "From," "To," "Reply-To," and routing information – including the originating domain name and email address – must be accurate and identify the person or business who initiated the message.
> 2. **Don't use deceptive subject lines.** The subject line must accurately reflect the content of the message.

3. **Identify the message as an ad.** The law gives you a lot of leeway in how to do this, but you must disclose clearly and conspicuously that your message is an advertisement.
4. **Tell recipients where you're located.** Your message must include your valid physical postal address. This can be your current street address, a post office box you've registered with the U.S. Postal Service, or a private mailbox you've registered with a commercial mail receiving agency established under Postal Service regulations.
5. **Tell recipients how to opt out of receiving future email from you.** Your message must include a clear and conspicuous explanation of how the recipient can opt out of getting email from you in the future. Craft the notice in a way that's easy for an ordinary person to recognize, read, and understand. Creative use of type size, color, and location can improve clarity. Give a return email address or another easy Internet-based way to allow people to communicate their choice to you. You may create a menu to allow a recipient to opt out of certain types of messages, but you must include the option to stop all commercial messages from you. Make sure your spam filter doesn't block these opt-out requests.
6. **Honor opt-out requests promptly.** Any opt-out mechanism you offer must be able to process opt-out requests for at least 30 days after you send your message. You must honor a recipient's opt-out request within 10 business days. You can't charge a fee, require the recipient to give you any personally identifying information beyond an email address, or make the recipient take any step other than sending a reply email or visiting a single page on an Internet website as a condition for honoring an opt-out request. Once people have told you they don't want to receive more messages from you, you can't sell or transfer their email addresses, even in the form of a mailing list. The only exception is that you may transfer the addresses to a company you've hired to help you comply with the CAN-SPAM Act.
7. **Monitor what others are doing on your behalf.** The law makes clear that even if you hire another company to handle your email marketing, you can't contract away your legal responsibility to comply with the law. Both the company whose product is promoted in the message and the company that actually sends the message may be held legally responsible.

Business Plan

As you begin your new career as a commercial agent, it is helpful to first organize your thoughts about your business development plan, and then to prioritize those activities by those that are most likely to lead to your success. Chris Rosprim offered great tips on how to accomplish that earlier in the section. Make sure you don't try to do it all. Define your market area and/or market to specialty and develop a strategy to generate business.

In this section we will discuss the basic elements of a business plan. You should

create a plan that encompasses expectations for the first 6 months, then one year, then two, etc. Keep in mind that a business plan should never be set in stone. As you begin to discover what works and what doesn't work, adjust your plan accordingly. In reality, your business plan should be a "work in progress" until the day you retire. So, don't worry if you find yourself adjusting it often, especially in the beginning. It is designed to help you focus on your business priorities.

- **Executive Summary**
  The first section of your plan should contain an executive summary. Your summary shouldn't be more than a paragraph or two describing, as a business, the market you intend to serve (i.e. retail tenant rep), who you intend to target (i.e. existing retail tenants), and how you intend to differentiate your business offerings from the competition.
- **Business Description**
  In this section you will describe your chosen market area and specialty (i.e. retail CBD) and why you think the opportunities in that space will present great opportunities for your business. Describe in detail the various elements of your business, such as the location of the properties you intend to target, their size, quality, and degree of market competition from competing properties in the same or adjacent market areas. Now describe your client service offerings. How do you intend to differentiate your services from competitors? What makes you different and better?
- **Financial Plan**
  This is an opportunity for you to define your budget and project future income. Be realistic, don't set unrealistic expectations. Set a timeline for profitability. Reach out to seasoned agents and ask them what you can expect in the first few years. Remember that it takes time to build a business. It's possible that for the first year or two your revenue expectations are low or $0. That's OK; just make sure you've set aside enough operating capital to get you through those first few years. Create a budget identifying all of your costs, i.e. CoStar, marketing, advertising, etc.
- **Marketing & Advertising**
  In this section define how you intend to reach your clients to build your sphere of influence. Don't make the mistake of spending a lot of money on marketing and advertising for short bursts of market visibility with historically low success rates. It takes time to gain market recognition, so spending your time doing the tedious work of lead generation, as Chris Rosprim described, is a cost-effective method for building business. Other paid marketing and advertising opportunities should be carefully measured for its long-term effectiveness and return on your investment.
- **Positioning Yourself for Success**
  Once you have defined your market, learn about your competition, particularly the successful ones. Try to find out why they're so successful and think about how you can compete effectively. Remember, just because they may have more experience doesn't necessarily make them better. Your computer will point out to a prospective client that you lack

experience which is why they should go with that agent. But you need to have an answer for that prospective client before the question comes up. Don't fall into the trap of playing on an equal plane, be creative! Yes, that agent has more transactions, but you're the better choice, because... That agent may be able to share their prior success stories with that prospective client claiming that their prior successes will always lead to future successes. But you can change that narrative. Tell them how you are uniquely able to position their property for success because you will do the following...rather than simply listing it and hoping for the best. Always emphasize that their property will receive your full attention and that many times that can make the difference between a good deal and a great one.

- **Review Period**
  As with any other business, establish dates to review your progress, successes, and failures. Revise your plan as necessary.

SWOT Analysis
The final part of this component involves a SWOT analysis. SWOT stands for:

Strengths • **W**eaknesses • **O**pportunities • **T**hreats

A SWOT analysis is a great opportunity for you to incorporate the various SWOT components into your business strategy by leveraging your strengths and developing a plan to manage your weaknesses. It is an honest assessment of your business goals and whether your plan to achieve those goals is realistic in light of your analysis. If it isn't, change your plan until it is highly correlated to your SWOT results.

The strengths and weaknesses sections should be associated with your business plans and any personal characteristics that can affect its successful implementation. You do not need to list any personal traits that are not related to your business. The same can be said about opportunities and threats. Define the opportunities for successes as a CRE agent and the threats to becoming successful. You can use the following matrix to complete your SWOT analysis.



A SWOT analysis requires a great deal of self-reflection, so take the time to be thoughtful in your answers. The better you can understand your strengths, weaknesses, opportunities, and threats, the better you'll be able to achieve success.

Quiz 4

Choose the correct answers for the following questions:

8. Which of the following are effective networking opportunities:
   a) CCIM
   b) local commercial boards
   c) Chamber of Commerce
   d) All of the above

9. Which regulatory body publishes advertising rules for agents?
   a) ULI
   b) FTC
   c) TREC
   d) Agent advertising is not regulated

10. The CAN-SPAM Act relates to what types of business activities?
    a) bulk email between business and consumer
    b) bulk email business to business
    c) email messages to former clients
    d) all of the above

11. SWOT analysis stands for:
    a) strengths, weaknesses, options, and threats
    b) strengths, working capitol, opportunities, and threats
    c) is a strong personal and/or business assessment tool
    d) all of the above are correct

CAPSTONE PROJECT

EXERCISE 3 - SCENARIO-BASED LEARNING

As a group, you will be assigned to one of the following scenarios. Carefully review the client's objectives and decide upon what methods you will apply to determine a suitable set of properties for the client to consider. Apply as much as possible from what you have learned throughout the course to include a financial analysis of any proposed property. You can utilize any resources including RPR. You may find it helpful to assign certain tasks to individual group members over the days to maximize your efficiency.

Scenario 1:

ABC Financial Advisors is a mid-size financial services firm headquartered in California with regional offices throughout the U.S. and abroad. ABC offers a wide range of investment products and investment management solutions for 401ks, public and private pensions, as well as retail clients.

Due to the high cost of living in California for their employees and the growing corporate tax expense to the company, ABC has decided to move its headquarters from California to Texas. ABC currently occupies 350,000 sf as a single tenant in a class A office building for their 1400 employees working in their headquarters and wants to increase their footprint in Texas to 400,000 sf. Their average amount of office space use is 250 sf per employee, so ABC expects to grow the number of employees from 1400 to 1600 at their new facility.

70% of ABC's employees are paid $85,000 - $110,000 per year, 15% are paid $40,000 - $50,000 per year, and 12% are paid $250,000 - $500,000 while the remaining 3% are paid more than $500,000 per year.

ABC expects 80% of all of its employees will move to Texas, while 20% will terminate their employment or retire and remain in California. New employees are mostly well educated with degrees in finance, mathematics, and the physical sciences. As such, ABC wants to locate to an area where the pool of available talent is sufficient to meet their growing needs.

ABC has budgeting $70/sf to purchase a building in Texas and will operate the building as single tenant, but is willing to spend more for the "right" building. Garage parking with the number of spaces equivalent to 4 per 1,000 sf is important. They are looking for a prominent property that will serve as an iconic representation of their established brand.

ABC vendors, customers, and clients visit their headquarters frequently and ABC hosts a number of high-profile functions at their headquarters annually, so image is very important to them. A LEED certified building is equally important with no obsolescence issues and full ADA compliance.

Proximity to major transportation arteries is important for easy access to their headquarters building, and the property must be located close to a major international airport for the convenience of their customers and clients, as well as for their sales and executive teams that travel frequently.

Presentation
You will be meeting with the senior leadership of ABC in the afternoon session on Day 4. Be prepared to present a compelling case for the market area you have chosen for them and why it supports their corporate objectives. Offer ABC executives one or more suitable properties and make the case why those buildings were chosen and whether the market supports the seller's value assessment.

Scenario 2:
VSA is a major manufacturer of street trusses used to build large commercial warehouses, airport hangars, and industrial/manufacturing facilities. VSA's only assembly and distribution facility is located in Ohio. When VSA began operations in 1968, a significant amount of the business came from the rust belt in the upper Midwest, but for the past 10 years their market has grown in the southern U.S., particularly in Texas, Tennessee, Florida, and Georgia. As such, VSA is looking to lease approximately 100,000 sf of industrial space to assemble their trustees and to distribute them throughout Texas and across the southern region of the U.S. The property selected must have a large open space for fabrication and assembly, and large bay doors for loading the trusses onto flatbed trucks. VSA's budget calls for spending up to $4/sf/yr NNN.

The process of constructing the steel trusses has a low environmental footprint, as the steel is manufactured by other companies and shipped to VSA in bulk. VSA production facilities cut the steel to the required specifications and assemble the trusses onsite. Bulk steel shipments are most easily transported by containers on a ship or rail. The finished trusses are loaded onto oversized flatbed trucks and delivered to the construction site.

VSA plans to hire 800 workers from the local area to assemble the trusses. Only a small team of trainers, engineers, and executives will be relocated to Texas. The average wage per employee to assemble the trusses is $45,000 per year.

Presentation:
You will be meeting with the senior leadership of VSA in the afternoon session on Day 4. Be prepared to present a compelling case for the market area you have chosen for them and why it supports their corporate objectives. Offer VSA executives one or more suitable properties and make the case why those properties were chosen and whether the market supports the landlord's value assessment.

EXERCISE: CAPSTONE PRESENTATION

As a group, present to the class your case for the conclusions you decided upon, the methods used, the rationale applied, and why if they were your client, the results would have achieved the stated objectives.