
http://www.

Subscriber Entity

Entity Website

Subscriber Name

Title

Street Address

Suite

City

State

Zip

Subscriber's e-Mail address (This will be your user ID)

Preferred Password (up to 11 characters)

Office Tel. (____) _____ - _____ x _____ **Office Located in** _____ **County****Direct Tel.** (____) _____ - _____ x _____ **Cell Phone** (____) _____ - _____**Subscriber's TREC License Number:** _____ **Exp. Date:** ____ / ____ / ____

(Required for Broker, Agent and Appraiser Subscribers)

If Subscriber Entity is incorporated, please enter the Corporate Broker's TREC License No.: _____

The Commercial Gateway Subscriber fee is \$195 per quarter, inclusive of applicable sales tax ("Subscriber Fee"), for a Subscriber. Any billing is done by quarterly credit card charge unless the Subscriber opts to pay by annual invoice. Subscribers with 5 or more Users may also have the option to pay by monthly invoice. In the future, Commercial Gateway may increase the Subscriber Fee with no less than thirty (30) days prior written notice to Subscriber. After delivery of notice of the fee increase, Subscriber will have thirty (30) days to notify Commercial Gateway if it intends to terminate this Agreement due to the fee increase. Otherwise, this Agreement shall remain intact with the new Subscriber Fee in place. Users, as identified by Subscriber in the attached schedule, are covered by this Agreement, and will be charged a Subscriber Fee of \$195 per quarter, for which Subscriber is responsible.

Commercial Gateway will create invoices to be paid at <http://www.har.com/dues>. Commercial Gateway charges a **Quarterly Membership Fee** and payment must be received on the first day of each subsequent consecutive calendar month until this Subscription Agreement has been terminated.

For value received, including access to and use of the CIE Service, Subscriber warrants that it has read and agrees to be bound by this Subscription Agreement ("Agreement") and by the Rules and Regulations of the CIE as now in effect, and as either are hereafter amended or changed. The Subscriber also agrees to pay the fees as stated above.

"Subscriber":

Date: ____ / ____ / ____

If signing on behalf of an entity, I represent that I am a duly authorized representative of the entity shown at "Subscriber Entity" above.

Please Return Signed and Completed Subscription Agreement to Commercial Gateway
3693 Southwest Freeway • Houston, TX 77027 • (713) 629-1900 x 363 • Email: info@commgate.com

1.1 **TERMS AND CONDITIONS** – These Terms and Conditions as described below are hereby incorporated into the Agreement, and Subscriber and any Users acknowledge that they have read and understand them. Delivery of an executed Agreement by facsimile or other electronic acceptance or delivery will be effective as an original executed Agreement.

2. DEFINITIONS

2.1 **Access Code:** The log in code and password combination assigned to each Subscriber or User allowing access to the CIE Service.

2.2 **CIE (Commercial Information Exchange):** The CIE Service and the Database Content.

2.3 **CIE Service:** Commercial Gateway's web-based commercial real estate service operated by Catylist Real Estate Software, Inc. that provides Subscribers and Users a means to profile and access commercial real estate property, listing and transaction information.

2.4 **Database Content:** Any commercial real estate property listings, including but not limited to, transaction information, attachments, and images entered into the CIE by Subscribers or Users.

2.5 **Derivative Works:** Reports or any other products produced utilizing or derived from Database Content.

2.6 **User:** Designee of and/or affiliated with Subscriber.

2.7 **Commercial Gateway:** displays publicly the CIE Service using Commgate.com and is owned and operated by Houston Realtors Information Service, Inc. ("HRIS").

3. FEES AND PAYMENT

3.1 To the extent that the Subscription Fees for the CIE Service are quoted as a monthly or quarterly rate, Subscriber will be invoiced for such Subscription Fees. All fees are non-refundable.

3.2 Commercial Gateway will directly invoice Subscriber for all its Users.

4. TERM AND TERMINATION

4.1 If not otherwise terminated as herein provided, this Agreement shall automatically renew for successive Quarterly periods following the end of the initial term (each, a "Renewal Term", and together with the Initial Term, the "Term"). Either party may terminate this Agreement with written notice one (1) day prior to the end of the current term.

4.2 Either Subscriber or HRIS may provide the other notice of termination of this Agreement and exercise its rights and remedies provided in this Agreement and by law in the event of a material breach by the other party which remains uncured after 30 days written notice of such breach. The cure period will not apply to any breach by Subscriber of Sections 5.1, 5.2 or 7.1 of this Agreement. Additionally, Subscriber shall not have more than two (2) notice and cure opportunities in any twelve-month period.

4.3 HRIS or Subscriber may terminate this Agreement if any of the following occurs: (a) the other party becomes insolvent, (b) voluntary or involuntary proceedings by or against the other party are instituted in bankruptcy or under any insolvency law, (c) a receiver or custodian or similar agent is appointed for the other party, (d) the other party makes an assignment for the benefit of creditors, or (f) the other party has ceased its on-going business operations.

4.4 Except as specifically provided herein, termination of this Agreement shall be without prejudice to any right of the party seeking termination to also sue for damages resulting from any breach of this Agreement.

4.5 Upon the expiration or termination of this Agreement: (a) all rights granted to Subscriber under this Agreement will cease, except the following Sections of this Agreement will survive: 2, 3.1, 3.2, 4.5, 5, 6, 7, 8 (b) Subscriber shall immediately pay all amounts owed under this Agreement, and (c) Subscriber shall and shall cause all of its Users to cease using the CIE Service and no longer utilize and promptly destroy all Database Content not entered into by Subscriber or Subscriber's Users received hereunder.

5. WARRANTIES

5.1 Subscriber represents, warrants and covenants that, and Subscriber and its Users will comply with all applicable laws, rules and regulations. Subscriber, and on behalf of its Users, represents, warrants and covenants that (i) neither the execution of this Agreement by Subscriber nor its performance of its obligations hereunder violates any agreement to which it is a party or by which it is bound, (ii) it has the right to enter into this Agreement and perform its obligations hereunder and to grant to HRIS the rights set forth in this Agreement and legal rights in the Database Content submitted by Subscriber and its Users, (iii) no submission of information to the CIE by Subscriber or User will violate the rights of any third party, whether those rights arise by contract, copyright or otherwise, and (iv) Subscriber will insure that User will comply with all applicable laws and terms of this Agreement. Subscriber shall be liable for damages caused by any breach these warranties or of this Agreement by its User

5.2 **HRIS DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE CIE SERVICE AND ANY OTHER SERVICES PROVIDED, WHETHER EXPRESSED OR IMPLIED BY THE AGREEMENT, ARISING BY LAW, CUSTOM, ORAL OR WRITTEN STATEMENTS OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF NON-INFRINGEMENT, FREEDOM OF INTERFERENCE WITH ENJOYMENT, MERCHANTABILITY, QUALITY, ACCURACY, COMPLETENESS, FITNESS OF RESULTING WORK PRODUCT AND FITNESS FOR A PARTICULAR PURPOSE OR THAT THE CIE OR THE CIE SERVICE WILL GENERATE CERTAIN RESULTS, WORK IN COMBINATION WITH OTHER COMPONENTS OR AS AN**

INTEGRATED SYSTEM OR WILL FULFILL ANY SUBSCRIBER OR USER PARTICULAR NEEDS.

5.3 Access by Subscriber and Users to Database Content and modifications or additions thereto and related documentation, regardless of form, is provided "as is" and with all faults and the entire risk as to satisfactory quality, performance, accuracy and effort is with Subscriber and User.

6. INDEMNITIES

6.1 **THE SUBSCRIBER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CIE, HOUSTON ASSOCIATION OF REALTORS, INC., HOUSTON REALTORS INFORMATION SERVICE, INC., COMMERCIAL GATEWAY AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS AND AGENTS ("INDEMNITEES"), OF AND FROM ANY CLAIM, DEMAND, ACTION, LEGAL PROCEEDING, DAMAGES, LIABILITY, SETTLEMENTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPERT WITNESS FEES) AND OTHER COSTS INCURRED BY INDEMNITEES AND ARISING OUT OF OR RELATING TO (i) ALLEGED OR ACTUAL BREACH OF THE CIE RULES AND REGULATIONS OR OF THE AGREEMENT BY SUBSCRIBER OR ITS USER, (ii) ALLEGED OR ACTUAL NEGLIGENCE OR MISCONDUCT BY SUBSCRIBER OR ITS USER; (iii) LISTING OR OTHER INFORMATION PROVIDED BY SUBSCRIBER OR ITS USER THAT INFRINGES OR ALLEGEDLY INFRINGES THE COPYRIGHT, TRADEMARK, TRADE SECRET, PATENT OR OTHER PROPRIETARY OR INTELLECTUAL RIGHT OF A THIRD PARTY, AND (iv) USER USE OF THE CIE OR THE CIE SERVICE.**

7. LIMITATIONS OF LIABILITY

7.1 HRIS'S LIABILITY UNDER THIS AGREEMENT FOR ANY DAMAGES IN FAVOR OF SUBSCRIBER OR USER SHALL NOT EXCEED, IN THE AGGREGATE, THE AMOUNT OF SUBSCRIPTION FEES PAID BY SUBSCRIBER PURSUANT TO THIS AGREEMENT FOR THE TWELVE-MONTH PERIOD PRECEDING THE DATE OF THE ACTION OR OMISSION GIVING RISE TO SUBSCRIBER OR USER'S CLAIM.

7.2 Neither HRIS will not be liable for any indirect damages, consequential damages, damages for loss of profits or revenues, lost data, business interruption or loss of business information arising in connection with this Agreement, even if informed of the possibility of such damages by the Subscriber or User.

8. GENERAL

8.1 Subscriber may not assign this Agreement or any of Subscriber's rights or obligations hereunder without HRIS's prior written consent.

8.2 HRIS may assign this Agreement to another entity by providing Subscriber with thirty (30) days written notice, delivered to Subscriber at the email address provided above.

8.3 This Agreement may not be amended or modified except in a written document signed by authorized representatives of both HRIS and Subscriber.

8.4 Subscriber agrees to allow HRIS to use Subscriber's name and logo for the purpose of indicating Subscriber is a customer of CIE Service or Commercial Gateway without indicating any endorsement of any services provided.

8.5 Subscriber acknowledges that a violation of this Agreement by it may cause substantial and irreparable injury to HRIS for which HRIS's remedies at law may not be adequate. Accordingly, Subscriber agrees that HRIS shall be entitled to seek injunctive relief with respect to any breach, or threatened breach, of this Agreement, and that such right shall be in addition to, and not in limitation of, any other rights or remedies to which HRIS may be entitled at law or in equity. The rights and remedies provided for in this Agreement are cumulative and shall be in addition to any other rights and remedies provided by law or in equity.

8.6 All notices relating to this Agreement must be in writing and either delivered personally, by overnight courier or transmitted by email to Subscriber's email addresses set forth herein or to such other address as any party may substitute by written notice to the other.

8.7 This Agreement and all of the transactions contemplated hereby will be governed by and construed in accordance with the laws of the state of Texas, without regard to any conflict or choice of law principles. The parties expressly agree to submit all disputes concerning this Agreement to the exclusive personal jurisdiction and venue of the federal and state courts sitting in Harris County, Texas.

8.8 If any provision of this Agreement is for any reason held unenforceable or invalid, then this Agreement shall be construed as if such provision were not contained herein.

8.9 Subscriber has no right or authority to act on behalf of HRIS.

8.10 This Agreement constitutes the entire agreement, and supersedes all prior agreements, if any, with Commercial Gateway or CIE with respect to the subject matter hereof. In the event of a conflict between the terms of this Agreement and any other source, the provisions of this Agreement shall control.

8.11 HRIS will not be liable for delays or failure in performance where the delay or failure is due to an event beyond either's control, including acts of God, war, terrorism, civil disturbance or otherwise.

8.12 HRIS, in addition to its own rights under the Agreement, shall also be the party to enforce any terms in favor of CIE or Commercial Gateway under this Agreement.

8.13 If Subscriber displays any Database Content on the Internet, then Subscriber shall designate an agent to receive notifications of claimed copyright infringement with the United States Copyright Office under the Digital Millennium Copyright Act ("DMCA") (17 U.S.C. § 512), and otherwise comply with the requirements of the DMCA.

Users covered by this Agreement, as may be updated, in writing from time to time:					REALTOR® (optional)	
TREC Lic. No.	Last Name	First Name	Email Address	Password	Y/N	NRDS No.

(Attach another page if needed)