

FORM: Adding/Dropping Broker ReciprocitySM

This form permits you to opt in or out of the Broker ReciprocitySM (BR) program. If you opt in, you are considered a Broker ReciprocitySM Subscriber (BRS). Becoming a BRS does not cost you anything, and it does not require you to do anything else. It is only if you wish to display BR Data on your web site that you need to take any further steps. See CARMLS's *Broker ReciprocitySM: Broker Informational Packet* for further details. **This form must be filled out completely and signed by the Designated Broker for your office. There are no exceptions.** Once you have filled it out and signed it, fax or mail it to CARMLS at 201 Natural Resources Drive, Little Rock, AR 72205, Fax: (501) 325-0598.

Firm Name: _____ Firm MLS ID: _____

Designated Broker: _____ Broker MLS ID: _____

E-mail address: _____

(If you are becoming a BRS, you **must** supply an e-mail address here. This address will be CARMLS's primary means of communicating with you about BR developments.)

Firm Street Address: _____

Firm City, ST, ZIP: _____

Firm Phone: _____ Fax: _____

Should this form apply to any other offices of your firm? If so attach a separate page with a list of the offices to which this form should apply.

CHECK ONE OF THESE TWO BOXES. By so doing, you are agreeing to the understandings indicated next to it.

MY FIRM IS A BROKER RECIPROCITYSM SUBSCRIBER. I understand that I am hereby giving every other Broker ReciprocitySM Subscriber in CARMLS permission to advertise my active MLS listings on its own web site, subject to the Rules and Regulations of CARMLS. Other BRSs are not obliged to display my listings. I authorize CARMLS to distribute my active listing data to other Broker ReciprocitySM Subscribers pursuant to its Rules and policies.

MY FIRM IS NOT A BROKER RECIPROCITYSM SUBSCRIBER. I understand that this means that other Broker ReciprocitySM Subscribers will not be permitted to display my listings on their web sites. I further understand that my firm will receive no benefits under the Broker ReciprocitySM program of CARMLS. My firm is not allowed to display the listings of other brokers unless I receive permission from them individually to do so.

I am the Designated Broker for the MLS office whose ID number first appears above. I represent that I have authority to execute this form on behalf of my own office and all other offices listed above (if any).

Signature: _____ Date: _____

CONTRACT: **Access to Broker ReciprocitySM data feed**

Note: This form is a legally binding contract between you and CARMLS. Simultaneously or prior to submitting this form/contract, you must become a Broker Reciprocity Subscriber (BRS). See CARMLS's *Broker Reciprocity: Broker Informational Packet* for further details. **This form/contract must be filled out completely and signed by an owner of your firm. There are no exceptions.** Once you have filled it out and signed it, fax or mail it to CARMLS 201 Natural Resources Drive, Little Rock, AR 72205, Fax: (501) 325-0598. CARMLS will sign the form/contract and return a copy to you with information on how to access the data feed.

AGREEMENT

1. This **AGREEMENT** is made and entered into by and among Cooperative Arkansas REALTORS[®] Multiple Listing Services, Inc. ("**CARMLS**"), the real estate firm whose name and contact information appear on the signature page of this Agreement designated "Firm Information and Signature" (the "**Firm**"), and the companies/individuals whose names and contact information appear on the signature pages of this Agreement designated "Consultant Information and Signature" (collectively, "**the Consultants**"), if any.

RECITALS

2. Firm wishes to obtain, and CARMLS wishes to provide, data for Firm's web site, including the listing data of other real estate brokerages participating in CARMLS. Firm may wish to engage Consultants, i.e., other companies or individuals who are not employees of Firm, to perform data downloading, manipulation, and formatting, as well as programming and web design.

DEFINITIONS

3. For purposes of this Agreement, the following terms shall have the meanings set forth below.

Affiliated Association: Any association or board of REALTORS to which CARMLS provides Multiple Listing Services.

Broker Reciprocity Database or BR Data: The current aggregate compilation of all active exclusive right to sell listings of all Broker Reciprocity Subscribers except those listings where the property seller has opted out of Internet publication by so indicating on the listing contract. CARMLS owns the BR Data.

Broker Reciprocity Subscriber or BRS: A Subscriber who gives permission to other Subscribers to display its active listings on their web sites in return for their permission to advertise their listings on its web site.

Multiple Listing Service: A means for collecting and disseminating information about real property that is or has been for sale, including a means for real estate brokers to make offers of cooperation and compensation to each other. Multiple Listing Services may also include, without limitation, the provision of data processing, technical support, consulting, and other information technology services to real estate brokers and appraisers in connection with the sale and appraisal of real property.

Rules: The Rules and Regulations of CARMLS, as amended from time to time, and any operating policies relating to the BR Data and BRSs promulgated by CARMLS.

Subscriber: Any real estate broker, appraiser, or other real estate related business professional that purchases Multiple Listing Services from an Affiliated Association or from CARMLS directly.

Subscriber Data: Data relating to real estate for sale, previously sold or listed for sale, including the Broker Reciprocity Database, and data relating to Subscribers and Affiliated Associations, entered into the MLS System by Subscribers, the Affiliated Associations, and CARMLS. CARMLS owns the Subscriber Data.

CARMLS'S OBLIGATIONS

4. During the term of this Agreement, CARMLS grants to Firm a non-exclusive, world-wide, revocable license to make copies of, display, perform, and make derivative works of the BR Data, only to the extent permitted by and subject at all times to the terms and restrictions of this Agreement. This agreement is a non-exclusive license, and not a sale, assignment, or exclusive license. CARMLS retains all rights not expressly granted herein.
5. During the term of this Agreement, CARMLS agrees to provide to Firm and its Consultants:
 - a. access to the BR Data via the Internet using File Transfer Protocol (“**FTP**”) or other protocol designated by CARMLS in its sole discretion under the same terms and conditions CARMLS offers to other Subscribers;
 - b. seven days' advance notice of changes to the file and record formats of the BR Data; and
 - c. seven days' advance notice of changes to the Rules.

FIRM'S OBLIGATIONS

6. Firm shall comply with the Rules at all times.
7. Firm acknowledges CARMLS's ownership of the copyrights in the Subscriber Data and the BR Data.
8. Firm shall comply with the requirements relating to Confidential Information set forth below.
9. In the event that Firm desires to make the BR Data or the Confidential Information available to any third party, Firm agrees to require such third party to execute this Agreement and become a Consultant.
10. If CARMLS notifies Firm of a breach of the Rules or this Agreement, Firm must cure such breaches as pertain to documentation of the agreement. If the notification of violation pertains to technical issues, CARMLS will seek cure from the Consultants. Firm, as the customer of the Consultant, will assist CARMLS in affecting required changes.
11. Firm shall notify CARMLS within five (5) business days of any change to the information relating to Firm on the Firm Information and Signature page below.

CONSULTANT'S OBLIGATIONS

12. If CARMLS notifies Consultant of a breach of the Rules or this Agreement, Consultant must cure such breaches within five (5) business days.

13. Each Consultant acknowledges CARMLS's ownership of the copyrights in the Subscriber Data and the BR Data.
14. Each Consultant shall comply with the requirements relating to Confidential Information set forth below.
15. Each Consultant shall notify CARMLS within five business days of any change to the information relating to it on the Consultant Information and Signature page below.

CONFIDENTIAL INFORMATION

16. **"Confidential Information"** is information or material proprietary to CARMLS or designated "confidential" by CARMLS and not generally known to the public, that Firm or Consultants or any one of them (the "Receiving Party") may obtain knowledge of or access to as a result of access under this Agreement. Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature (whether in oral, visual, audio, written or other form):
 - a. all Subscriber Data, except the BR Data to the extent to which this Agreement and the Rules permit its disclosure;
 - b. all documentation and other tangible or intangible discoveries, ideas, concepts, designs, drawings, specifications, models, information;
 - c. software, source code, object code, diagrams, flow charts;
 - d. techniques, procedures;
 - e. IP addresses, access codes and passwords;
 - f. any information that CARMLS obtains from any third party that CARMLS treats as proprietary or designates as Confidential Information, whether or not owned or developed by CARMLS; and
 - g. Any information deemed confidential or private from time to time by any applicable state, federal, local or other law, regulation or directive.
17. **Exceptions.** The Confidential Information does not include information that:
 - a. is in the public domain at the time of disclosure;
 - b. is known to the Receiving Party at the time of disclosure;
 - c. is used or disclosed by the Receiving Party with the prior written consent of CARMLS, to the extent of such consent;
 - d. becomes known to the Receiving Party from a source other than CARMLS without breach of this Agreement by the Receiving Party and provided that such source is not known by the Receiving Party to be bound by a confidentiality agreement with CARMLS.
18. **Title.** The Receiving Party acknowledges that title to the Confidential Information remains at all times with CARMLS or with the third parties in whom title existed prior to this Agreement or prior to disclosure by CARMLS.

19. **Restrictions on Use – Scope of Use.** The Receiving Party will use or access the Confidential Information only as expressly permitted under this Agreement and the Rules and the Receiving Party will not use its access or the Confidential Information for any other purpose. The Receiving Party will employ measures to protect the Confidential Information from disclosure at least as rigorous as those it uses to protect its own trade secrets, but in no event less than reasonable care.
20. **Restrictions on Use – Unauthorized Uses.** The Receiving Party will not make copies of the Confidential Information. The Receiving Party will not directly or indirectly disclose, display, provide, transfer or otherwise make available the Confidential Information to any person or entity, unless the Receiving Party has received prior written consent of CARMLS to do so. At no time and under no circumstances will the Receiving Party reverse engineer, decompile, or disassemble any software constituting part of the Confidential Information. The Receiving Party will not incorporate the Confidential Information into any other work or product.
21. **Restrictions on Use – No Third Party Access.** Only the Receiving Party's own employees will access the Confidential Information. The Receiving Party will not provide access to the Confidential Information to third parties, including consultants or independent contractors, without prior written consent from CARMLS. If CARMLS grants consent, the Receiving Party will execute an agreement with the third party that imposes at least as strict a confidentiality obligation on the third party as that imposed by this Agreement on the Receiving Party.
22. **Restrictions on Use – Location restriction.** The Receiving Party will not remove the Confidential Information from its principal place of business without CARMLS's prior written consent. In the event CARMLS grants consent, the Receiving Party is not relieved of any of its obligations under this Agreement.
23. **Termination and Return of Materials.** Within five days of the end of the term of this Agreement or receipt of notice of termination by CARMLS, the Receiving Party will return to CARMLS all Confidential Information and all other materials provided by CARMLS to the Receiving Party. The Receiving Party will also erase, delete, or destroy any Confidential Information stored on magnetic media or other computer storage, including system backups. Upon the request of CARMLS, an officer of the Receiving Party will certify in writing that all materials have been returned to CARMLS and all magnetic or computer data have been destroyed.

TERM AND TERMINATION

24. The term of this Agreement begins on the "Effective Date" set forth on the "CARMLS Information and Signature Page" below. CARMLS has the right at any time and in its sole discretion to terminate this Agreement. This Agreement shall terminate upon the occurrence of any of the following events:
 - a. CARMLS's notice to Firm that this Agreement is terminated.
 - b. Firm's notice to CARMLS that it no longer intends to display BR Data on its web site.
 - c. Termination of Firm's privileges as a Subscriber either by CARMLS or an Affiliated Association from which Firm purchases Multiple Listing Services.

GENERAL PROVISIONS

25. **Survival of Obligations.** The obligations of Firm set forth under "Firm's Obligations" above and the obligations of Consultants under "Consultants' Obligations" above shall survive the termination or expiration of this Agreement for five years.

26. **CARMLS's Remedies.** Because of the unique nature of the Subscriber Data and Confidential Information, Firm and Consultants acknowledge that CARMLS would suffer irreparable harm in the event that any of them breaches its obligation under this Agreement, and that monetary damages would be inadequate to compensate CARMLS for a breach. CARMLS is therefore entitled, in addition to all other forms of relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Firm or Consultants or any one of them, without showing or proving any actual damages sustained by CARMLS, and without posting any bond.
27. **Attorney's fees.** If CARMLS prevails in any action to enforce or interpret this Agreement or any provision hereof, the party against whom enforcement or interpretation was sought will pay CARMLS's reasonable attorney's fees and costs for such legal action.
28. **Limitation of Liability.** CARMLS's liability to Firm and Consultants for damages and costs for any claim or dispute arising out of or under this Agreement shall be limited to the aggregate amounts paid by Firm and Consultants to CARMLS, if any, under this Agreement during the 12 months immediately preceding the initiation of the claim or dispute. Firm's and Consultants' only other remedy shall be termination of this Agreement. CARMLS SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES, EVEN IF CARMLS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CARMLS DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE SUBSCRIBER DATA AND TO THE DATA INTERFACE. Without limiting the generality of the foregoing, CARMLS shall have no liability for inaccuracies in the BR Data or in the Subscriber Data.
29. **Notice.** All notices to be given under this Agreement shall be mailed, sent via facsimile transmission, or electronically mailed to the parties at their respective addresses set forth below or such other address of which any party may advise the others in writing during the term of this Agreement.
30. **No Waiver.** No waiver or modification of this Agreement or any of its terms is valid or enforceable unless reduced to writing and signed by the party who is alleged to have waived its rights or to have agreed to a modification.
31. **No Assignment.** Neither Firm nor Consultants, nor any of them, may assign, delegate, or otherwise transfer any of their rights or obligations under this Agreement to any party without the prior written consent of CARMLS. Any purported assignment or delegation in contravention of this paragraph shall be null and void *ab initio*.
32. **Entire Agreement.** This Agreement contains the full and complete understanding of the parties regarding the subject matter of this Agreement and supersedes all prior representations and understandings whether oral or written. The previous sentence notwithstanding, the Rules are expressly incorporated into this Agreement by reference.
33. **Applicable law.** This Agreement is governed by and enforced according to the laws of the State of Arkansas. The parties agree that any action to enforce or interpret this Agreement shall have venue in Pulaski County, Arkansas, and the parties hereby agree to submit to personal jurisdiction in that venue.

CARMLS Information and Signature

Entered into on behalf of CARMLS by

Signature

Print Name

Effective Date

This box is for CARMLS's use only. CARMLS will fill out the information in it after signing this Agreement. CARMLS will then return a copy of this Agreement to Firm and Consultants. The contents of this box are Confidential Information under this Agreement.

FTP URL: _____

FTP User ID: _____

FTP Password: _____

Consultants Identified: _____

Consultant(s) Name(s): _____

Listing Office ID: _____

Listing Office Name: _____

Broker or Contact Person: _____

Firm Information and Signature

Firm Name: _____ Firm MLS ID: _____

Designated Broker Name: _____ Broker MLS ID: _____

E-mail address: _____

(You **must** supply an e-mail address here. This address will be CARMLS's principal means of communicating with you for notices under this Agreement.)

Firm Street Address: _____

Firm City, ST, ZIP: _____

Firm Phone: _____ Fax: _____

Anticipated URL of your web site: _____

I hereby authorize my IDX vendor, _____, to forward my own/office listings to the following third party website(s): _____.

Entered into on behalf of Firm by

Signature

Print Name

Title

Date

Consultant Information and Signature

NOTE TO FIRM: Reproduce this page for each individual/company to whom you intend to provide access to the BR Data under this Agreement.

Consultant (company or individual) Name: _____

E-mail address: _____

(You **must** supply an e-mail address here. This address will be CARMLS's principal means of communicating with you for notices under this Agreement.)

Consultant Street Address: _____

Consultant City, ST, ZIP: _____

Phone: _____ Fax: _____

With specific authorization, our company will forward this customer's listing data to the following third party website(s): _____

Entered into on behalf of Consultant by

Signature

Print Name

Title

Date

Brokerage firm you are working with: _____

Anticipated URL of broker's web site: _____

NOTE TO CONSULTANT: EVERY site receiving CARMLS' data MUST be individually documented and authorized. Authorization for one office/agent does not provide you blanket authorization to feed this data to additional sites. See section 16.3.19

